



BANGSAMORO HUMAN RIGHTS COMMISSION

CHILDREN OMBUD GUIDELINES

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In recognizing the pivotal rights and role of the Bangsamoro children, we must acknowledge that they are not merely recipients of the future, but active contributors to the strong foundation of our Region. Embracing their potential, listening to their voices, and fostering their rights as one of the most important stakeholders of our beloved region. In addition, the Bangsamoro children are not only the torchbearers of tomorrow but the foundation of the future. Giving vital to their significance and empowering them is not just a choice, but a necessity for a world that aspires to evolve, adapt, and thrive for the future of the Bangsamoro Region.





For every child. Whoever she is. Wherever he lives.
Every child deserves a childhood.
A future. A fair chance. That's why UNICEF is there.

For every child. Working day in and day out.
We are reaching the hardest to reach.
The furthest from help.
The most excluded. It's why we stay to the end.
And never give up

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BANGSAMORO AUTONOMY ACT NO. 04

SECTION 29. CHILDREN OMBUD

Without prejudice to Republic Act No. 9344 otherwise known as Juvenile Justice and Welfare Act of 2006, the BHRC shall act as the Children Ombud for the Bangsamoro. It shall ensure that the status, rights, and interests of children are upheld in accordance with the statutes, Constitution, and international instruments on human rights.”





THE CHILDREN OMBUD GUIDELINES OF THE BANGSAMORO HUMAN RIGHTS COMMISSION

Protection and Promotion of Children's
Rights in the Bangsamoro

Cotabato City, BARMM
April, 2024

TABLE OF CONTENTS

ABOUT THESE GUIDELINES	1
USING THE GUIDELINES	1
<u>THE NORMATIVE AND LEGAL FRAMEWORK ON THE PROTECTION AND PROMOTION OF CHILDREN'S RIGHTS</u>	<u>1</u>
INTERNATIONAL NORMATIVE FRAMEWORK	1
DEFINITION	1
CLUSTER OF RIGHTS UNDER THE CRC.....	1
OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT	3
PHILIPPINE DOMESTIC LEGAL AND POLICY FRAMEWORK	4
<u>CHILDREN'S OMBUDSMAN.....</u>	<u>5</u>
CONCEPT AND HISTORY	5
NATIONAL HUMAN RIGHTS INSTITUTIONS (NHRIS).....	5
THE WORK OF A CHILDREN'S OMBUD	6
A CHILDREN'S OMBUD IN THE BANGSAMORO.....	8
<u>THE BANGSAMORO CONTEXT.....</u>	<u>10</u>
<u>PROTECTION OF CHILDREN'S HUMAN RIGHTS</u>	<u>14</u>
I. INVESTIGATION	14
RULES OF PROCEDURE OF THE BANGSAMORO HUMAN RIGHTS COMMISSION IN THE INVESTIGATION OF HUMAN RIGHTS VIOLATIONS INVOLVING CHILDREN.....	14
RULE 1: GENERAL PROVISIONS.....	14
RULE 2: ENTRY POINTS TO INVESTIGATION.....	14
RULE 3: E-FILING, HOTLINE, AND QUICK RESPONSE TEAM TO REPORTS INVOLVING CHILD ABUSE, NEGLECT, AND EXPLOITATION.....	15
RULE 4: INITIAL EVALUATION	15
RULE 5: INVESTIGATION OF HUMAN RIGHTS VIOLATIONS INVOLVING CHILDREN.....	16
RULE 6: PUBLIC INQUIRIES.....	19
RULE 7: ISSUANCE OF PROCESSES.....	19
RULE 8: ADMINISTERING OATHS	19
RULE 9: CONTEMPT.....	20
RULE 10: DEPUTIZATION OF LAWYERS.....	20
II. MONITORING.....	21
GUIDELINES IN THE CONDUCT OF MONITORING OF CHILDREN'S HUMAN RIGHTS IN THE BANGSAMORO.....	21
CHAPTER 1: MONITORING OF DETENTION AND REHABILITATION FACILITIES OR INSTITUTIONS HOUSING CHILDREN IN CONFLICT WITH THE LAW	21

CHAPTER 2: MONITORING OF THE RIGHTS OF CHILDREN IN SITUATIONS OF ARMED CONFLICT.....	24
CHAPTER 3: MONITORING THE BANGSAMORO’S COMPLIANCE OF THE CONVENTION OF THE RIGHTS OF THE CHILD (CRC)	26
III. REFERRALS AND COORDINATION	28
CHAPTER 1: GENDER BASED VIOLENCE COMMITTED AGAINST CHILDREN	28
CHAPTER 2: GRAVE CHILD RIGHTS VIOLATIONS	28
CHAPTER 3: CASES INVOLVING THE IMPLEMENTATION OF THE JUVENILE JUSTICE AND WELFARE ACT.....	28
CHAPTER 4: CASES INVOLVING PROTECTION OF CHILDREN OUTSIDE THE BARMM.....	28
 PROMOTION OF CHILDREN’S HUMAN RIGHTS	 31
 I. BUILDING CAPACITIES ON CHILD PROTECTION.....	 31
II. RAISING AWARENESS ON CHILDREN’S RIGHTS	31
A. AMONG CHILDREN.....	31
B. AMONG PARENTS.....	32
C. AMONG THE GENERAL PUBLIC	32
III. ENSURING CHILDREN’S PARTICIPATION	32
IV. ADVISING THE BANGSAMORO GOVERNMENT.....	36
 LIST OF ANNEXES:.....	 37
 A – THE CONVENTION ON THE RIGHTS OF THE CHILD	 38
B – CHILD PROTECTION IN THE PHILIPPINES: A LEGAL AND POLICY REVIEW.....	53
C – CASE INTAKE FORM.....	69
D –YOUTH FACILITY MONITORING FORM.....	74
E – IHL MONITORING FORM.....	79
F – CRC – GENERAL COMMENTS / CONCLUDING OBSERVATIONS MONITORING FORM	82
G – CRC – INSTITUTIONAL MECHANISMS MAPPING FORM.....	83
H– CRC – SERVICE MAPPING FORM	84
I –RESOLUTION APPROVING THE REORGANIZATION OF THE BANGSAMORO REGIONAL JUVENILE JUSTICE AND WELFARE COMMITTEE (RRJWC) AND EXPANDING ITS MEMBERSHIP	85
J - RESOLUTION ADOPTING THE CHILDREN OMBUD GUIDELINES OF THE BANGSAMORO HUMAN RIGHTS COMMISSION.....	89



ABOUT THESE GUIDELINES

These Guidelines are primarily for the use of staff, management and leadership of the Bangsamoro Human Rights Commission to make use of as they perform their mandate of protection and promotion of children’s rights in the Bangsamoro. It lays down policy framework of the Commission in dealing with children’s human rights issues and concerns.

It contains Supplemental Rules to the BHRC Rules of Procedure in so far as children are concerned, setting policy standards for how children should be treated in the course of investigation, monitoring and training activities. In specific instances, checklists and guide questions re provided to ensure a comprehensive and standardized approach to investigation and monitoring.

However, while this document contains, in some portions, detailed how to’s and practical guides it is not meant to be a substitute for skills and capacity enhancement or good old common sense. Not all questions of the investigator or monitoring officer will be answered by this document. One will not find in this document an answer for every minutiae. However, one will know what should be the standard operating procedures and the expected outputs of activities commonly conducted by the Commission for children.

These Guidelines shall also be followed by external parties engaged by the Commission either on an ad-hoc, contractual, long-term or retainer basis, whether compensated or on a voluntary basis, such as deputized lawyers, translators, community monitors, and others.

These Guidelines will also inform BHRC’s partners and the general public, including children about what to expect from the BHRC in terms of procedure. Thus, these Guidelines will also have published in a child-friendly version.

USING THE GUIDELINES

These Guidelines are meant to be read in conjunction with the document *BHRC Rules of Procedure in the Conduct of Investigation and Guidelines in Monitoring Human Rights in the Bangsamoro* (2022), adopted by the Commission in December 2022.

Where supplemental rules are adopted to apply specifically to cases and issues involving children’s human rights, the original rule number is appended with “-A” to signify additional provision(s) to the same Rule or Chapter. These supplements to existing rules and guidelines are enclosed within a border to serve as visual guide to the user.

It is important that the user is familiarized with the BHRC Rules of Procedure to maximize the utilization of these Guidelines.

Baseline version 1.0 – APRIL 2024



THE NORMATIVE AND LEGAL FRAMEWORK ON THE PROTECTION AND PROMOTION OF CHILDREN'S RIGHTS

INTERNATIONAL NORMATIVE FRAMEWORK

The **Convention on the Rights of the Child**¹ was ratified by the Philippines in accordance with the Philippine Constitution on 21 August 1990, and entered into force 02 September 1990.

Since then, the county has passed laws relating both to general child protection as well as laws specific to particular human rights of children, in furtherance of its state obligations under the Convention.

DEFINITION

The CRC defines a child as “every human being below the age of eighteen years unless the law applicable to the child, majority is attained earlier.” Whereas, Philippine law defines children as “persons below eighteen (18) years of age or those over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition”²

CLUSTER OF RIGHTS UNDER THE CRC

The Committee on the Rights of the Child has grouped the provisions of the Convention in clusters: According to the Committee, "This approach reflects the Convention's holistic perspective of children's rights: that they are indivisible and interrelated, and that equal importance should be attached to each and every right recognized therein".³

I General measures of implementation

- Article 4 implementation obligations
- Article 41 respect for existing standards
- Article 42 making Convention widely known
- Article 44(6) making reports widely available

II Definition of a child

- Article 1

III General principles

- Article 2 non-discrimination
- Article 3(1) best interest to be a primary consideration
- Article 3(2) State's obligations to ensure necessary care and protection
- Article 3(3) standards for institutions services and facilities
- Article 6 the right to life, survival and development (see also: VI Basic health and welfare)
- Article 12 respect for the views of the child

IV Civil rights and freedoms


- Article 7 right to name, nationality and to know and be cared for by parents

¹ For the full text of the Convention, please see Annex A

² Republic Act 7610, Sec. 3 as further reinforced under Sec. 3 of RA 11596

³ CRC/C/58/REV.3

https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Download.aspx?symbolno=CRC/C/58/REV.3&Lang=en



Article 8 preservation of child's identity

Article 13 freedom of expression

Article 14 freedom of thought, conscience and religion

Article 15 freedom of association and peaceful assembly

Article 16 protection of privacy

Article 17 child's access to information, and role of mass media

Article 37(a) right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment

V Family environment and alternative care

Article 5 parental guidance and child's evolving capacities

Article 18(1) and (2) parental responsibilities and State's assistance

Article 9 separation from parents

Article 10 family reunification

Article 11 illicit transfer and non-return

Article 27(4) recovery of maintenance for the child

Article 20 children deprived of their family environment

Article 21 adoption

Article 25 periodic review of placement and treatment

Article 19 protection from all forms of violence

Article 39 rehabilitation and reintegration of victims of violence (see also: VIII - Special protection measures)

VI Basic health and welfare

Article 6 right to life, survival and development (see also: III - General principles)

Article 18(3) support for working parents

Article 23 rights of disabled children

Article 24 right to health and health services

Article 26 right to social security

Article 27(1)-(3) right to adequate standard of living

VII Education, leisure and cultural activities

Article 28 right to education

Article 29 aims of education

Article 31 right to leisure, play and participation in cultural and artistic activities

VIII Special protection measures

A - Children in situations of emergency

Article 22 refugee children

Article 38 children and armed conflict; internally displaced children due to conflict

Article 39 rehabilitation of child victims (see also: V Family environment and alternative care)

B - Children involved with the system of administration of juvenile justice

Article 40 administration of juvenile justice


Article 37(a) prohibition of capital punishment and life imprisonment

Article 37(b)-(d) restriction of liberty

Article 39 rehabilitation and reintegration of child victims (see also: V Family environment and alternative care)

C - Children in situations of exploitation

Article 32 child labour



Article 33 drug abuse

Article 40 administration of juvenile justice

Article 37(a) prohibition of capital punishment and life imprisonment

Article 37(b)-(d) restriction of liberty

Article 39 rehabilitation and reintegration of child victims (see also: V Family environment and alternative care)

C - Children in situations of exploitation

Article 32 child labour

Article 33 drug abuse

Article 34 sexual exploitation

Article 35 sale, trafficking and abduction

Article 36 other forms of exploitation

D - Children belonging to a minority or an indigenous group

Article 30

OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT

The Philippines is likewise a signatory to the Optional Protocol (OP) to the Convention on the Rights of the Child on The Involvement of Children In Armed Conflict, having ratified it in the year 2000. Entering into force on February 12, 2002, the OP sets out state obligations in protecting children from recruitment and use in hostilities.

The Optional Protocol sets out state obligations to:

- Not recruit children under the age of 18 to send them to the battlefield
- States will not conscript soldiers below the age of 18
- Take all possible measures to prevent such recruitment – including legislation to prohibit and criminalize the recruitment of children under 18 and involve them in hostilities.
- Demobilize anyone under 18 conscripted or used in hostilities and provide physical, psychological recover services and help their social integration
- Armed groups distinct from the armed forces of a country should not under any circumstances, recruit or use in hostilities anyone under 18.

In line with its obligations under the CRC and its Optional Protocol, the Philippines has enacted legislation for the protection of children's rights.

PHILIPPINE DOMESTIC LEGAL AND POLICY FRAMEWORK

In the Philippines, children's rights are assured to be protected and promoted through the following legislative enactments at the national level.

Law Number ⁴	Short Title
E.O 51	Philippine Milk Code
P.D. 603	Child Youth and Welfare Code (as amended)
P.D. 996	Providing for Compulsory Basic Immunization for Infants and Children Below Eight Years of Age
R.A. 6972	Barangay - Level Total Development and Protection of Children Act
R.A. 7610	Special Protection of Children Against Abuse, Exploitation and Discrimination Act
R.A. 8043	Inter-Country Adoption Act of 1995
R.A. 9231	An Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child
R.A. 9262	Anti-Violence Against Women and Their Children Act
R.A. 9288	Newborn Screening Act of 2004
R.A. 9344	Juvenile Justice and Welfare Act of 2006
R.A. 9858	An Act Providing for the Legitimation of Children Born to Parents Below Marrying Age, Amending for the Purpose the Family Code of the Philippines
R.A. 10165	Foster Care Act of 2012
R.A. 10354	The Responsible Parenthood and Reproductive Health Act of 2012
R.A. 10553	Enhanced Basic Education Act of 2013
R.A. 10627	Anti-Bullying Act of 2013
R.A. 10821	Children's Emergency Relief and Protection Act
R.A. 11188	Special Protection of Children in Situations of Armed Conflict (CSAC) Act
R.A. 11222	Simulated Birth Rectification Act
R.A. 11313	Safe Spaces Act
R.A. 11596	An Act Prohibiting the Practice of Child Marriage and Imposing Penalties for Violations Thereof
R.A. 11642	Domestic Administrative Adoption and Alternative Child Care Act
R.A. 11648	An Act Providing for Stronger Protection Against Rape and Sexual Exploitation and Abuse, Increasing the Age for Determining the Commission of Statutory Rape, Amending for the Purpose Act No. 3815, as amended, otherwise known as the "Revised Penal Code," Republic Act No. 8353, also known as the Republic Act No. 8353, also known as the "Anti-Rape Law of 1997," and Republic Act No. 7610, as amended, otherwise known as the "Special Protection of Children Against Abuse, Exploitation and Discrimination Act"
R.A. 11930	Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act

For a more information on the above laws and other issuances related to child protection utilizing the cluster of rights under the Convention of the Rights of the Child as a discussion framework, please see [Annex B](#).

⁴ E.O. – Executive Order; P.D. – Presidential Decree; R.A. – Republic Act

CHILDREN'S OMBUDSMAN

CONCEPT AND HISTORY

An Ombudsman for children is traditionally defined as a statutory body established to promote the rights and interests of children, and is in modern usage, used interchangeably with “Commissioner.”

The concept of an Ombudsman is of Scandinavian origin. The term originally meant something similar to an “ambassador”, or a person or office established to safeguard the rights of individual citizens or a particular group of citizens, in relation to the powers and actions of government. For example, Sweden established an Ombudsman for Justice in 1809. Currently, Sweden has a Consumer Ombudsman, Equal Opportunities Ombudsman, Ombudsman against Discrimination against Sexual Orientation.⁵

While Swedish NGO Radda Barnen (Save the Children) initiated this concept, it was Norway that legislated the establishment of an independent body for children (Barneombud) in 1981, predating the entry into force of the Convention on the Rights of the Child. In 1996, the Act was amended to link the Ombudsman functions to the implementation of the Convention.

Currently, Children's Ombud institutions take on various forms and names, such as “Commissioner for Children, national council for children's rights, defenders of children, child advocates, child rights delegate” and could be at the national/federal level or at a local (subnational, federal state) level.

Regardless of the categorization or nomenclature of the Children's Ombud institution, such institutions share common essential attributes that distinguish them from other statutory bodies created for the protection of children.

NATIONAL HUMAN RIGHTS INSTITUTIONS (NHRIS)

The Paris Principles (Principles relating to the Status of National Institutions)⁶ adopted through General Assembly Resolution 48/134 on December 20, 1003, sets out the standards that NHRIs must meet in order to be considered credible and to operate effectively. Among these are the following:

- Broad mandate, so that the NHRIs are able to promote and protect human rights
- Broad functions, so that the NHRIs are able to deliver on their mandate by providing advice, reporting and monitoring, handling complaints and human rights education, among other responsibilities
- Independence from government, set out in legislation or the Constitution
- Pluralism, to ensure that the composition of NHRIs reflects the social forces of civilian society involved in the promotion and protection of human rights
- Adequate powers, so that the NHRIs can initiate inquiries and investigations, gather the evidence they need, consult with NGOs and state institutions and publicize their reports, findings and recommendations
- Adequate resources so that NHRI have the funding, staffing, infrastructure, and institutional capacity to perform their function and discharge their responsibilities
- Cooperative work, recognizing that effective human rights work requires NHRIs to collaborate with other State institutions, NGOs and civil society groups
- International engagement, so that NHRIs can contribute their knowledge and expertise to international and regional human rights bodies and mechanisms.

⁵ European Network of Ombudspersons for Children (ENOC) Information and Training Pack, <https://resourcecentre.savethechildren.net/pdf/6702.pdf/>

⁶ Principles relating to the Status of National Institutions (The Paris Principles) <https://www.ohchr.org/en/instruments-mechanisms/instruments/principles-relating-status-national-institutions-paris>

National Human Rights institutions that adhere to the above standards are granted “A” Status by the Global Alliance of National Human Rights Institutions (GANHRI). In the Philippines, it is only the Commission on Human Rights of the Philippines (CHRP) that has this A status accreditation.

While the BHRC currently is not accredited by the GANHRI, it hold the stature of an independent human rights institution within the Bangsamoro Autonomous Region by virtue of Republic Act 11054 or the Bangsamoro Organic Law (BOL) and the Bangsamoro Autonomy Act No. 4, also known as the BHRC Charter.

THE WORK OF A CHILDREN’S OMBUD

In 1997 the UNICEF International Child Development Centre based in Italy, also known as the Inocenti Centre, first published the *Inocenti Digest*, with its first issue⁷ focusing on the work of Children’s Ombudsman around the world. In the issue, the Centre laid out the essential powers that a Children’s Ombud should have in order to more effectively perform its functions:

- Power to investigate breaches of children’s rights, which should include rights of access to documents, and the power to require individuals to give evidence and to enter and inspect institutions
- Powers to take or support legal action when it is not possible or appropriate for the child to do so on his or her own behalf
- Powers to issues reports, using all appropriate routes for their dissemination and publicity. Ombuds should ideally report regularly to parliament on their work and the state of children’s rights. While some may be required to report to Ministries, this should not prevent the Ombud from publishing independently
- Powers to require that the office be consulted by government and other bodies whenever Ministers are considering proposals to change or repeal existing legislation or to introduce new legislation likely to affect children’s lives
- Power to require that government departments and other bodies issue “child impact statements” indicating the likely repercussions of proposed legislation or policy on children
- Powers to be consulted over reporting obligations under the Convention. Governments should be required to consult Ombuds in the process of drafting their reports to the Committee on the Rights of the Child and to give due considerations to their comments

Five years later, the Committee of the Rights of the Child issued General Comment No. 2 (2002) setting out the characteristics of an independent human rights institution working on children’s rights. The table below sets out the key elements of the Paris Principles seen side-by-side with key features of independent HRIs working on children’s rights as set out in the General Comments:

A COMPARISON BETWEEN THE PARIS PRINCIPLES AND GENERAL COMMENT NO. 2 ⁸		
	Paris Principles	General Comment No. 2
LEGAL AND POLITICAL STATUS	<ul style="list-style-type: none"> ✓ Adopted by United Nations General Assembly (all United Nations Member States) ✓ Non-binding but strong political endorsement 	<ul style="list-style-type: none"> ✓ Adopted by the CRC Committee (independent experts monitoring States parties’ compliance with the CRC) ✓ Non-binding but significant practical guidance value
MANDATE	<ul style="list-style-type: none"> ✓ Generic reference to international human rights instruments 	<ul style="list-style-type: none"> ✓ CRC must be included in mandate

⁷ UNICEF International Child Development Center, Inocenti Digest, Florence Italy <https://www.unicef-irc.org/publications/pdf/digest1e.pdf>

⁸ From: Championing Children’s Rights: a global study of independent human rights institutions for Children <https://www.unicef-irc.org/publications/701-championing-childrens-rights-a-global-study-of-independent-human-rights-institutions.html>

COMPETENCY	✓ Monitoring public authorities (executive, legislative, judiciary and other bodies)	✓ Monitoring all relevant public and private authorities
ESTABLISHMENT PROCESS	✓ No mention	✓ Consultative, inclusive and transparent ✓ Supported at the highest level of government ✓ Participation of all relevant elements of the state, the legislature and civil society
COMPOSITION	✓ Pluralistic representation of the social forces	✓ Pluralistic representation of civil society ✓ Inclusion of child and youth-led organizations
INDIVIDUAL COMPLAINTS MECHANISM	✓ Optional	✓ Mandatory
ACCESSIBILITY AND INFORMATION	✓ Address public opinion directly or through any press organ	✓ Geographically and physically accessible to all children ✓ Proactive approach, in particular for the most vulnerable and disadvantaged children ✓ Duty to promote the views of children ✓ Direct involvement of children through advisory bodies ✓ Imaginative consultation strategies ✓ Appropriate consultation programmes
ACTIVITIES	✓ Advocate for and monitor human rights	✓ Promote visibility and best interests of the child in policy-making, implementation and monitoring ✓ Ensure that views of children are expressed and heard ✓ Promote understanding and awareness of children's rights ✓ Have access to children in care and detention

A CHILDREN'S OMBUD IN THE BANGSAMORO

In the Bangsamoro, the role of an independent human rights institution is given to the Bangsamoro Human Rights Commission (BHRC), a human rights institution established under Article IX **Section 7** of Republic Act No 11054, also known as the Bangsamoro Organic Law:

Section 7. Bangsamoro Human Rights Commission. - There is hereby created a Bangsamoro Human Rights Commission. The chairperson and two (2) commissioners of the Commission shall be appointed by the President upon recommendation of the Chief Minister. The composition of the Commission shall reflect the ethnic distribution of the population of the Bangsamoro Autonomous Region. The chairperson shall be a member of the Philippine Bar and a resident of the Bangsamoro Autonomous Region. A commissioner shall preferably be a member of the Philippine Bar or holder of bachelor's degree from colleges or universities recognized by the National Government, and a resident of the Bangsamoro Autonomous Region.

The functions, duties, and responsibilities of the Commission shall be provided by law to be enacted by the Parliament. It shall cooperate and closely coordinate with the national Commission on Human Rights.

The Parliament shall fix the salaries and perquisites of the chairperson and the Commissioners of the Commission in consonance with Republic Act No. 6758, as amended.

The BHRC's mandates as Children's Ombud in of. the BARMM are can be found in **Sections 29 and 30** of its Charter, the Bangsamoro Autonomy Act No. 4:


Section 29. Children Ombud. — Without prejudice to Republic Act No. 9344 otherwise known as Juvenile Justice and Welfare Act of 2006, the BHRC shall act as the Children Ombud for the Bangsamoro. It shall ensure that the status, rights, and interests of children are upheld in accordance with the statutes, Constitution, and international instruments on human rights."

Section 30. Powers of the Commission as Gender and Development Ombud and Children Ombud. - Pursuant to the foregoing two preceding sections, the Commission shall:

1. Monitor the government in developing indicators and guidelines in compliance with their duties related to respecting, promotion, and fulfillment of the human rights of women and children;
2. Investigate human rights violations relating to women and children;
3. Establish guidelines and mechanisms, among others, that will facilitate access of women and children to legal remedies and related laws, and enhance the protection and promotion of their rights, especially those who are marginalized;
4. Assist in the filing of cases against individuals, agencies, institutions, or establishments that violate the provision of the Magna Carta of Women and the Juvenile Justice and Welfare Act;
5. Recommend to the disciplining authority or the Civil Service Commission any possible administrative action based on non-compliance or failure to implement the provision of the Magna Carta of Women or the Juvenile Justice and Welfare Act.

As a Children's Ombud in the Bangsamoro, the BHRC is:

- Not responsible for the actual implementation of children's rights, instead, it monitors the compliance of the Bangsamoro Government and its instrumentalities of the provisions of the CRC and, as stated in **Section 30** of BAA No. 4, the Juvenile Justice and Welfare Act.
- Not an executive arm of the Bangsamoro Government responsible for executing policies for children but is tasked with the protection and promotion of children's rights through its mandate
- Not the coordinator of policies and programmes related to children's rights.



As the Children's Ombud in the Bangsamoro, the BHRC endeavors to be:

- The voice of children
- Child-centered and child-friendly
- Impartial and independent
- Embodies the best interests of the child
- Inclusive and equitable
- Gender-sensitive
- Adopt a non-discriminatory approach
- Context-based
- Collaborative and cooperates with other agencies
- Accessible to children

In addition to the above, being an institution situated in the Bangsamoro region, the BHRC considers itself one of the pillars of the Bangsamoro's assertion to the right to self-determination, and thus commits itself to the continuous advocacy for the recognition of this right, vis-à-vis the other human rights enshrined in international human rights instruments.

THE BANGSAMORO CONTEXT

The Bangsamoro region is recently emerging from decades- old conflict between secessionist movements, first with the Moro National Liberation Front, culminating in the signing of the Final Peace Agreement in 1996 and the establishment of the Autonomous Region in Muslim Mindanao (ARMM) and with the Moro Islamic Liberation Front (MILF) of the Comprehensive Agreement on the Bangsamoro in 2014. Pursuant to this agreement, a law⁹ establishing the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) was enacted, implementing majority of the provisions of the Agreement. Compared to its predecessor, the BARMM enjoys expanded autonomy in governing the affairs of the region, as exemplified by the receipt of block grant subject to its own appropriations law and auditing rules.

Almost four years since the official grant of expanded autonomy in 2019, the region still continue to reel from the legacy of the decades' old conflict in the Bangsamoro. While armed clashes between the MILF and the government forces have ceased due to the peace agreement, pockets of armed confrontation between small groups, clans and political rivals continue to endanger civilians including children and continue to result in forced displacement of residents of the affected areas. The fragile peace and order situation has prevented economic development in many areas of the region.

According to the 2020 National Census, young people aged below 20 years old made up 53% (2,593,330 out of the total 4,938,539) of the total BARMM population, whereas young persons aged 0-14 made up 41% (2,044,958 out of 4,938,539). According to the UNICEF¹⁰, child poverty in the Philippines is highest in BARMM at 63.1%, twice as high as the national average at 31.4%; 1.6 million out of 2.5 million children in BARMM are living below the poverty line. An estimated 260,000 children are not in school¹¹, and only one in five children from those enrolled complete elementary education. In terms of health, around 300,000 children below the age of 5 or one in two children are chronically malnourished and stunted, compared to one in three children stunted nationwide. Less than 30 per cent of infants are fully vaccinated.


Results of the children's and community consultations held by the BHRC in 2023 revealed concerns on early marriage, bullying (especially of indigenous children), child labor, education and nutrition – matters that were already touched in the UNICEF CIPRA. For indigenous children in the BARMM poverty and marginalization further limits opportunities for development and participation. Further community consultations revealed a growing concern on the exposure of children to harmful online content as internet becomes more and more accessible to the wider population.

On the other hand, some socio-cultural norms operate to the benefit of children, such as close-knit family ties that serve as the solid foundation of a child's sense of identity, as well as the protective tendencies of parents in the Bangsamoro over their children, given the context of the region as emerging from conflict. In some communities, the religious institutions in the community such as masjids reminding the faithful to pray five times a day and weekly madrasah classes help reinforce a sense of structure and provide a standard of acceptable behavior for children. There is great value given to preservation and appreciation of cultural heritage, strengthening a child's sense of identity and belongingness to a bigger community beyond his/her family or clan. Further, parents are

⁹ Republic Act No. 11054, also known as the Bangsamoro Organic Law

¹⁰ <https://www.unicef.org/philippines/press-releases/bangsamoro-government-joins-30th-anniversary-un-childrens-convention-special#:~:text=Child%20poverty%20is%20highest%20in,those%20enrolled%20complete%20elementary%20education.>

¹¹ <https://psa.gov.ph/statistics/income-expenditure/apis> For more information on Child Poverty in the Philippines, please see: <https://openstat.psa.gov.ph/Featured/National-Database-on-Child-Poverty/Statistical-Database-on-Child-Poverty-Indicators>



more inclined to make sacrifices for a child's schooling, as education is perceived as a key to social mobility, not only for the child but for the family as well.

With a very young population, it is critical that the BARMM invests heavily in the future of its children especially in nutrition, infant and maternal health, education and child protection. As can be gleaned from the 2023 Bangsamoro Expenditure Programme¹² the BARMM government has invested heavily on education, health and social services for children and vulnerable populations. The impact of these programs will hopefully be felt soon. Assessment and monitoring of such results is part of the BHRC's mandate to monitor the BARMM government's efforts to protect and fulfill children's rights as the Bangsamoro Children's Ombud.

BHRC will continue to engage with all sectors as it pursues its mandate for the protection and promotion of children's rights, including advising the Bangsamoro Parliament on the standards relating to the human rights of children as it sets to enact a Bangsamoro Children's Code. It will continue to conduct awareness raising sessions with communities to ensure that issues concerning children are resolved in a human-rights based manner.

¹² Bangsamoro Expenditure Program 2023, <https://mfbm.bangsamoro.gov.ph/mfbm-content/uploads/2022/10/FY-2023-Bangsamoro-Expenditure-Program.pdf>

PROTECTION OF CHILDREN'S HUMAN RIGHTS

BANGSAMORO
HUMAN RIGHTS
COMMISSION

A person is seen from the back, wearing a dark blue vest over a light blue shirt. The vest has the text 'BANGSAMORO HUMAN RIGHTS COMMISSION' printed in white. The person is standing in a room filled with children, many of whom are wearing white hijabs and green shirts. The room has educational posters on the walls and a large orange cloth hanging from the ceiling. The background is slightly blurred, focusing attention on the person in the foreground.

“Children are the heartbeat of our future, delicate yet resilient. Safeguarding their rights is a collective responsibility that transcends borders and beliefs. Nurture their dreams, shield them from harm's shadow, and cultivate an environment where their rights are protected. Empower them with protection and promotion forging a shield against adversity. By being vigilant guardians of the Bangsamoro children, we can stand tall firmly and strongly against exploitation and injustice. Cherish their purity in their laughter, for within it lies the essence of Hope of Protection.”





PROTECTION OF CHILDREN'S HUMAN RIGHTS

I. INVESTIGATION

RULES OF PROCEDURE OF THE BANGSAMORO HUMAN RIGHTS COMMISSION IN THE INVESTIGATION OF HUMAN RIGHTS VIOLATIONS INVOLVING CHILDREN

RULE 1: GENERAL PROVISIONS

Section 1. Applicability of the Rule.

These Rules shall apply to cases under investigation by the BHRC involving human rights violations against children.

Section 2. Objectives.

These Rules aims to provide a safe environment for child victims of human rights violations to give reliable and complete evidence, prevent re-traumatization, and encourage children and their adult caregivers to report and participate in investigation proceedings by the BHRC.

Section 3. Construction of the Rule.

These Rules shall be strictly construed in favor of the protection of children throughout the investigation process.

Section 4. Supplementary Application of the BHRC Rules of Procedure.

The provisions of the *Rules of Procedure of the Bangsamoro Human Rights Commission in the Investigation of Human Rights Violations* (hereinafter "BHRC Rules of Procedure") in the investigation of human rights violations shall be applied in a supplementary manner.

Section 5. Support to Bangsamoro children outside the BARMM.

While these Guidelines are primarily for use of the BHRC for the protection and promotion of children's human rights in the BARMM, the BHRC shall continue to undertake investigation, case monitoring and legal assistance of human rights cases involving Bangsamoro children outside the BARMM, in coordination and cooperation with the Commission on Human Rights of the Philippines.

Section 6. Periodic Review.


These Rules shall be subject to review every three (3) years or oftener subject to the discretion of the Commission. In such a case, the Commission shall consider the integration of these Rules with the BHRC Rules of Procedure.

RULE 2: ENTRY POINTS TO INVESTIGATION

Section 1. Complaints by Children

Complaints for alleged human rights violation or abuse may be filed by children together with their parent or legal guardian. However, when the alleged perpetrator of the violation is the parent or legal guardian, or when there is a showing that the parent or guardian is exerting pressure on the child to prevent the latter from filing a complaint, the investigating officer may allow the filing of the complaint sans the parent or legal guardian. The case shall be investigated *motu proprio*.

**Supplements Rule 2 of the Rules of Procedure of the Bangsamoro Human Rights Commission in the Investigation of Human Rights Violations (hereinafter "BHRC Rules of Procedure")*



RULE 3: E-FILING, HOTLINE, AND QUICK RESPONSE TEAM TO REPORTS INVOLVING CHILD ABUSE, NEGLECT, AND EXPLOITATION

Section 1. The Quick Response Team (QRT)

The Quick Response Team (QRT) is an urgent alert system set up at the Regional and Provincial Offices to provide immediate assistance to reported cases of human rights violation, including those committed against children.

Section 2. Responsibility of the QRT in urgent requests for assistance to children.

The primary responsibility of the Quick Response Team shall include immediately provision of necessary assistance to any child suspected of being a victim of abuse, exploitation, or neglect.

Section 3. Coordination with Other Agencies or Investigative Bodies

For urgent requests in possible cases of child abuse, neglect or exploitation, the Team shall coordinate with other duty-bearers especially local government units at the barangay and municipal level, social workers, and the police in responding to urgent calls.

In responding to urgent reports of child abuse, neglect or exploitation, such assistance shall primarily take the form of referral to the proper government agency with the mandates as first responders and service providers as laid down in the Protocol for Case Management of Child Victims of Abuse, Neglect, and Exploitation issued by the Committee for the Special Protection of Children¹³.

Section 4. Direct Response

The requirement for referral and coordination in the immediately preceding section shall be dispensed with when the case involves killing of a child, death of a child in custody, torture, or sexual assault including threats thereof that are allegedly committed by or with the acquiescence of persons in authority or agent of a person in authority.

**Supplements Rule 3 of the BHRC Rules of Procedure*

RULE 4: INITIAL EVALUATION

Section 1. Determination of appropriate action

Upon receipt of the complaint, the receiving investigator shall make a determination of the specific act complained of under Philippine laws and the specific human rights violated or not fulfilled under the Convention on the Rights of the Child. The investigator shall determine the alleged perpetrators and the circumstances of the case.

In such cases where the events involve death, torture, abuse, neglect or exploitation of a child while in custody of persons in authority, the Commission shall immediately commence investigation thereof.

In addition to the specific laws, investigator shall also refer to agency-specific protocols and protection policies such as the PNP Manual in Handling Children at Risk (CAR) and Children in Conflict with the Law (CICL)¹⁴, the AFP Handling Protocols on Children, and any protection policy document issued by the agency.

All other cases where the alleged perpetrators are private persons shall be subject to initial evaluation.

¹³ https://www.doj.gov.ph/files/transparency_seal/2016-Jan/CPN-CSPC%20Protocol%2026Nov2014.pdf

¹⁴ <https://napolcom.gov.ph/pdf/CHILDinCONFLICT.pdf>



Section 2. Referral

The investigating officer receiving the complaint shall immediately refer or endorse the complaint or report to the government agency who has the competence to resolve the matter, with proper notice to the complainant and/or the aggrieved party. The Investigator concerned may also refer the case to government service providers for assistance.

The investigator concerned shall refer cases of abuse, neglect, and exploitation to the Ministry of Social Services and Development for appropriate action, subject to case monitoring.

The Officer shall then update the **Case Intake Form**¹⁵ to reflect the referral or assistance requested from other agencies. The progress and updates on referred cases shall be duly monitored.

**Supplements Rule 4 of the BHRC Rules of Procedure*

RULE 5: INVESTIGATION OF HUMAN RIGHTS VIOLATIONS INVOLVING CHILDREN

Section 1. Assignment of Docket Number

Upon approval by the Provincial Director of the recommendation to proceed to investigation, the Investigating Officer shall assign a docket number to the case. Such docket number shall bear “-C” at the end of the number to tag it as a possible case involving children.

Section 2. The Investigation Plan; Contents of the Investigation Plan

In cases involving child-victims or witnesses, the Investigation Plan shall indicate what measures will be taken to ensure the best interests of the child in the conduct of the investigation including a plan or methodology for interviewing the child.

Section 3. Fact-finding missions and other information-gathering activities.

In investigating possible cases of human rights violations involving children, the investigating officer shall ensure that the child’s best interests are taken into consideration above all other considerations. Thus, in the conduct of interviews and in interacting with children in the context of an investigation, the measures in the following Sections shall be observed.

Section 4. Do no Harm.

Interviewing children should only be done after careful assessment of their best interests. Seeking full information and accuracy should be balanced against the child’s safety and well-being. No interviews should be conducted if there is a possibility of retaliation or punishment to the child for his/her testimony.

The Investigating Officer shall verify if a comprehensive interview has been previously conducted by a social worker from the Ministry of Social Welfare and Development. In such cases, the Investigating Officer shall dispense with the interview and seek to obtain a copy of the interview report / transcript of the interview conducted.

¹⁵ Please see Annex C



Section 5. Informed Consent prior to the interview

In the event that no interview has yet been conducted, the Investigating Officer shall obtain the informed consent of the parents or legal guardians before the interview. If the parents or legal guardians are unwilling or are the identified perpetrator in the case, clearance shall be obtained from the social worker assigned to the case or having jurisdiction of the case. In no case shall the interview proceed without clearance from the social worker.

Section 6. Introduction and Purpose of the Interview

Prior to asking for consent from the child and from the parents or guardians, the investigating officer shall ensure that the child and his/her guardian are informed of the purpose of the interview and the identity of the interviewer/s. BHRC staff must introduce themselves from the start and wear appropriate identification and gear.

Section 7. Recording, note-taking, and photo/videography.

Permission from the child and his/her guardian or social worker shall be obtained before recording (including taking notes) or taking photos or videos of the interview.

The investigator shall ensure that the child or the parent/guardian is not coerced or pressured into giving their consent. Interviewers must exercise care so that the photo or video-documentation is not perceived to be a requirement for accessing legal or financial assistance from the Commission or from any other agency.

Section 8. Limitation to the number of interviewers

Interviews with children shall be conducted by no more than three (3) persons, including the translator or photographer, if any. Staff shall take care to be as unobtrusive as possible when taking photos or videos, subject to the immediately preceding **Section**.

Section 9. Location of interview

In cases of alleged grave child rights violations, the investigator shall first ensure the safety of the child and his/her family or are removed away from the location of the armed conflict or from the presence of armed groups or individuals.


Section 10. Communicating with Children¹⁶

1. Always ensure confidentiality when interviewing children
2. Be sensitive and be aware of non-verbal cues when interviewing the child
3. Use simple child-friendly language. Adjust your way of speaking to the age of the child, taking into account their level of development
4. Be specific with the questions when interviewing children
5. Consider the evolving capacity and maturity of children when framing your questions
6. Do not force a child to answer a question he/she is not comfortable with
7. Towards the end of the interview, ask the child if he/she has any questions for the team
8. End the interview on a positive element, and make sure there is follow-up support available to the child, especially if painful and difficult issues have been discussed.

Section 11. Translators

Interviews with children shall be in the child's mother tongue. When the investigating officer is not conversant with the child's mother tongue, the investigator shall suspend the conduct of the interview until a reliable

¹⁶ OHCHR Training Manual 2000, P. 275-79



translator can be found. The translator shall be subject to the same rules of confidentiality and code of conduct as the regular staff of the BHRC.

Section 12. Gender of the Interviewer

In cases of sex and gender-based violence or human trafficking, the interviewer shall be of the same sex as the child victim or witness, unless initial information gathered by the investigator suggests that the perpetrators are the same sex as the child.

Section 13. Closing the Interview

At the end of each interview, the interviewer shall summarize the points shared by the child, taking care to minimize re-traumatization to the child. The interviewer shall inform the child and the parent/guardian of next steps that will be taken by the Commission in the investigation proceedings and actions that may be needed from their end.

Section 14. Clarificatory Conferences

The presence of children during clarificatory conferences where they will be face-to-face with alleged perpetrators shall not be required, as a general rule. However, the Investigating Officer or the Commission may, at his/her/its discretion, require the child together with his/her parent or guardian to answer clarificatory questions, taking into account the best interests of the child. In such cases, all other parties to the case shall be excluded from the proceedings.

The Rule on the Examination of a Child Witness (A.M. No. 004-07-SC)¹⁷ shall apply suppletorily in the conduct of the Clarificatory Conference.

Section 15. Use of Aliases in Investigation Reports, Documents and Case Conferences

Investigation reports, whether an initial evaluation report or a final investigation report, of human rights violations under investigation by the Commission shall not bear the real name of the child and instead contain their aliases. The provincial office shall maintain a separate record in a secure location of aliases used and their corresponding real names. References to such child victims or witnesses shall be made using the aliases assigned.

Section 16. Confidentiality of Records and Proceedings.

All cases of alleged human rights violations involving children shall be treated with the same level, if not higher level of confidentiality as with all other cases under investigation by the Commission. (Section 2).

Records of cases where victims are children shall be filed and stored separately from the main case docket of the BHRC. File folders for children shall be color-coded to distinguish it from the other cases under investigation. Access to records of cases at the investigation stage shall be limited to the investigating officer and his/her supervisor only. It shall not be open to persons, whether BHRC staff or otherwise, who do not have a direct role in the investigation, review or resolution of the case.

**Supplements Rule 5 of the BHRC Rules of Procedure*

¹⁷ https://lawphil.net/courts/supreme/am/am_004_07_sc_2000.html



RULE 6: PUBLIC INQUIRIES

Section 1. Terms of Reference of Public Inquiries into Issues Affecting Children

Prior to the conduct of public inquiries, the Commission on Inquiry Panel shall publish a Terms of Reference, couched in as general terms as possible, which shall contain:

1. The issues or matters to be inquired into;
2. Any temporal or geographic restrictions;
3. Call for resource persons or witnesses;
4. Measures to protect the privacy and uphold the best interests of children throughout the proceeding
5. Matters to be included in the Post-inquiry Report (such as recommendations)

Section 2. Children as Resource Persons in a Public Inquiry.

As provided under Rule 8, **Section 6 (c)** of the BHRC Rules of Procedure on Public Inquiries, the Commission Proper or the Inquiry Panel in may motu proprio exclude the public from attending the inquiry proceedings when the person providing a statement is a child who is a victim of abuse or an eyewitness to a case of child abuse or human rights violation committed against any member of his/her family or any person.

Section 2. Abusive conduct towards children is deemed contemptuous acts.

Abusive language, and other acts to harass or intimidate child witnesses shall not be condoned. Depending on the gravity of the action, the Inquiry Panel may deem such to constitute contempt.

**Supplements Rule 8 of the BHRC Rules of Procedure*

RULE 7: ISSUANCE OF PROCESSES

Section 1. Processes requiring the attendance of children

When processes are addressed to children, the document shall be written in simple language and together with the English text, translated in a language known to the child. It shall clearly set out the action expected from the child.

Section 2. Processes, to whom addressed

Processes shall be addressed to the child through his or her parent or guardian.

**Supplements Rule 9 of the BHRC Rules of Procedure*

RULE 8: ADMINISTERING OATHS

Section 1. Administering oaths to children

Before administering oaths to children, the investigating officer shall ensure that the child understands the significance of the oath. In simple language, the administering officer shall determine whether the child understands the consequences of telling falsehoods.

**Supplements Rule 10 of the BHRC Rules of Procedure*



RULE 9: CONTEMPT

Section 1. Restraint in Citing Children in Contempt

In the conduct of investigation, the investigating officer shall refrain from citing children in contempt of the commission. Contemptuous acts shall be dealt with through admonishments or reminders.

**Supplements Rule 11 of the BHRC Rules of Procedure*

RULE 10: DEPUTIZATION OF LAWYERS

Section 1. Assignment of Cases involving Children

In the deputization of lawyers to handle cases concerning children, the Commission shall ensure that the lawyers assigned to child's rights cases have the necessary training on children-related laws and jurisprudence. For this purpose, it shall actively include in its pool of lawyers such practitioners with a background in handling cases involving children.

Child protection and safeguarding commitments shall be made part of the Terms of Reference of deputized lawyers.

**Supplements Rule 14 of the BHRC Rules of Procedure*



II. MONITORING

GUIDELINES IN THE CONDUCT OF MONITORING OF CHILDREN'S HUMAN RIGHTS IN THE BANGSAMORO

All forms of monitoring of children's rights shall primarily utilize as standards the Convention of the Rights of the Child, whether focusing on particular themes or issues involving children, children sectors (such as children with disabilities, children from ethnic or religious minorities), or monitoring the progressive realization of children's human rights.

CHAPTER 1: MONITORING OF DETENTION AND REHABILITATION FACILITIES OR INSTITUTIONS HOUSING CHILDREN IN CONFLICT WITH THE LAW

In all monitoring activities conducted in facilities holding children, monitoring officers of the BHRC shall always be cognizant that, as provided for under international law and the Juvenile Justice and Welfare Act, detention should be for the shortest amount of time and only as a matter of last resort. Thus, facility monitoring under this Chapter shall include a review of the duration of stay of each child in the institution vis-à-vis the best interests of the child.

The Guidelines in the Conduct of Monitoring Human Rights in the Bangsamoro shall apply suppletory to all monitoring activities involving children.

Section 1. Facility Monitoring in General

Facility monitoring under these Supplemental Guidelines shall be the assessment and continued monitoring, without restriction¹⁸, of compliance with the standards set by the Juvenile Justice and Welfare Act (Republic Act No. 9344) by government facilities within the Bangsamoro Autonomous Region, such as:

1. government offices and government-managed civilian facilities such as hospitals, airports, and seaports;
2. police and military stations, installations, camps, and bases and their training schools; and
3. jails, prisons, detention facilities (including those inside military camps), police lock-up cells, youth homes, and any detention, rehabilitation, confinement, and other similar facilities.

In the conduct of facility monitoring, the Commission shall as far as practicable, conduct such in coordination and with the support of the Regional Juvenile Justice and Welfare Council and be guided by the "Guidelines on the Conduct of Monitoring of Detention Facilities issued by the Juvenile Justice and Welfare Council in 2022."¹⁹

Notwithstanding the foregoing, nothing in these Guidelines shall be interpreted as to diminish the independent nature of BHRC investigation and monitoring functions.

¹⁸ BAA No. 4, Sec 43 (f)

¹⁹ <https://www.jjwc.gov.ph/wp-content/uploads/2022/02/Guidelines-on-the-Conduct-of-Monitoring-of-Detention-Facilities.pdf>



Section 2. Coverage

This Chapter shall cover the monitoring of jails, prisons, detention facilities (including those inside military camps), police lock-up cells, youth homes, and any detention, rehabilitation, confinement, and other similar facilities that where children are detained or held in custody.

Section 3. Conditions to Evaluate

The Monitoring Officer shall assess the extent to which the conditions in the facility are met, as well as the measures taken by the management/administration toward their fulfillment:

1. Whether children who are below the age of criminal responsibility or not criminally liable due to absence of discernment are being held in jails for adults
2. Length of stay of children in the facility, and whether there are cases of children being detained for an unreasonable period
3. Whether children are accorded fair and humane treatment in the facility:
 - a. Are they separated from adult offenders?
 - b. Are they separated from the opposite sex?
 - c. Are there children who show signs of distress or physical signs of assault, torture, or degrading treatment?
 - d. Measures to provide adequate medical care to children, especially during emergencies
2. Whether children are accorded dignified conditions while in detention, such as: access to open air, water, food, hygiene supplies and other necessities in sufficient quantity and quality
3. Measures taken to ensure that the children are able to remain in contact with their families
4. Measures taken to ensure children are adequately informed of their rights, including access to legal aid and representation
5. Availability of intervention or services for children
6. Does the facility have a child protection policy
7. Staff-child ratio
8. Capacities of staff (training, certifications)
9. Visitation policy / privacy policy

The Monitoring Officer shall use a Facility Monitoring Tool (**Annex D**) for this Purpose.

Section 4. Phases of monitoring

The Monitoring Officer shall observe the following steps in the conduct of the facility monitoring:

1. Briefing
2. Interview with the personnel
3. Inspection of logbooks
4. Ocular inspection of the facilities
5. Interviews with the child residents
6. Debriefing

Section 5. Officers authorized to conduct monitoring in facilities where children are held or sheltered.

BHRC Personnel at the Provincial Office shall have the primary authority to conduct facility monitoring in their respective areas of responsibility. As much as practicable, monitoring teams shall endeavor to include a social worker in the team. In the absence of an in-house social worker, the BHRC may request the Ministry of Social Services and Development (MSSD) for staff to join the monitoring visit.



Section 6. Post-monitoring debriefing with the Head of the Facility.

Before returning to the duty station, the Monitoring team leader shall apprise the Head of the Facility or authorized representative of the team's general observations and shall provide recommendations for the Head's immediate action.

The Monitoring team shall ensure that recommendations are couched in as general terms as practicable, making no reference to any particular resident as the source of the information.

Section 7. Facility Monitoring Report.

Within five (5) days of return from the monitoring visit, the Provincial Director having supervision of the monitoring officer or team conducting the monitoring visit shall submit a Facility Monitoring Report to the Protection Division, which shall include the following:

- a) The office of the Facility subject of the Monitoring;
- b) Location and description of the facility, including its surrounding area;
- c) If the facility is among those listed in **Section 1 (c)**, observations on the following:
 - i. Number of detainees/inmates, number of political prisoners, number of child detainees, women detainees, if any;
 - ii. Reports and documents submitted by the Warden/Head of Facility to the BHRC/CHR in compliance with reportorial requirements under the Anti-Torture Law;²⁰
 - iii. Number of inmates vis-à-vis number of rooms or beds;
 - iv. Issues related to the conditions referred to under **Section 3(A)** of this Guideline, and measures being undertaken by management to address such issues;
 - v. Any matter requiring urgent attention (medical care, etc.);
 - vi. Possible cases of human rights violations observed, and recommendation of action (e.g., motu proprio investigation), including observation on whether or not the monitoring team was prevented from having one-on-one interviews with children housed the facility; and
- d) Recommendations to ensure compliance with human rights standards, the Convention on the Rights of the Child, and the provisions of the Juvenile Justice and Welfare Act, Anti-Child Abuse Law, and other relevant laws.

The Head of the Facility or Office shall be furnished with a copy of the Monitoring Report.

Section 8. Refusal to grant access to facility

When a Head of Facility or their subordinates acting on their instructions, refuse to grant access to facilities under this Rule, this shall be indicated in the Report of the Monitoring by team leader assigned. Such refusal shall be indicated in any future certification/clearance that the Commission may issue upon the request of such officer.

Section 9. Return visits and spot checks

The monitoring team shall regularly conduct monitoring visits to such facilities mentioned in **Section 1**.

²⁰ <https://chr.gov.ph/wp-content/uploads/2021/07/Human-Rights-Advisory-Reportorial-Duties-of-Duty-Bearers-Under-the-Anti-Torture-Act-of-2009-Anti-Enforced-Or-Involuntary-Disappearance-Act-of-2012-and-Anti-Terrorism-Act-of-2020.pdf>



Section 10. Unannounced visits

The BHRC through its investigating officers may conduct unannounced visits to facilities in the BARMM to verify reports or complaints pertaining to human rights incidents or issues involving children, especially when there is reason to believe that a child suspected to be detained therein is in danger of being tortured or disappeared.

CHAPTER 2: MONITORING OF THE RIGHTS OF CHILDREN IN SITUATIONS OF ARMED CONFLICT

Section 1. Preliminary Considerations.

In monitoring the rights of children in situations of Armed Conflict, the Commission shall be guided by the provisions of *An Act Providing for the Special Protection of Children in Situations of Armed Conflict and Providing Penalties for Violations Thereof* (Republic Act No. 11188).

Section 2. Children as Zones of Peace.


The Commission shall ensure that ensure the protection of children during armed conflict, in full consideration of their status as Zones of Peace under RA No. 11188 and Article X, **Section 22** of RA No. 7610.

Section 3. Rights of Children in Situations of Armed Conflict

The BHRC shall, in its monitoring during situations of armed conflict, assess the extent to which children in armed conflict situations are able to enjoy their rights, as well as its protection, as enumerated in **Section 7** of RA 11188.

For this purpose, any IHL monitoring activities to be conducted by the Commission shall endeavor to answer the following:

1. Whether there have been reports of any form of direct or indiscriminate attacks and acts of violence against children, especially:
 1. Killing and maiming of children
 2. Recruitment or use of children in armed forces and armed groups
 - i. Whether there have been reports of recruitment of children into government forces or armed groups.
 - ii. Whether there have been reports where unwillingness of children to be recruited or to participate in armed conflict has resulted in torture or cruel, degrading or inhuman treatment or punishment.
 3. Attacks on schools or hospitals
 4. Rape or other grave sexual violence
 5. Abduction of children
 6. Denial of humanitarian access for children
2. Whether there have been reports of any form of child abuse, neglect, exploitation especially in the context of the armed conflict and to what extent has protective measures been activated to address such reports.
3. Extent to which children are provided or have safe access to adequate and culturally appropriate food and nutrition; basic shelter and housing; culturally appropriate clothing; water, sanitation, and hygiene; basic health services including essential drugs, medicines and vaccines, minimum initial service package for reproductive health, health professional evaluation and appropriate intervention;

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- education, including religious and moral education; early childhood care and development programs; psychosocial support and social services
4. Whether there have been reports of children being prevented from expressing their thoughts or opinions, following their conscience, religion or belief; from speaking their language
 5. Whether there have been reports of being discriminated against such as receiving inferior or lesser quality of goods and services provided to displaced populations on account of race, color, religion or faith, sexual orientation gender identity and expression, birth, wealth or any other similar criteria
 6. Whether there have been reports of individuals or groups being interned or confined in a camp
 7. Whether there have been reports of the injured, wounded or sick as well as those with disabilities, unaccompanied children, expecting and lactating mothers not receiving protection and assistance required by their condition
 8. Whether there have been reports of children separated from their families, especially from their mothers, and measures taken to reunite them
 9. Extent to which the privacy of children are protected
 10. Whether there have been instances where children have been prevented from moving in and out of evacuation centers, together with their families or from travelling or exercising their freedom of movement
 11. Instances where children lost their civil documentation and school records and measures taken to rectify this
 12. Extent to which children are able to access the justice system

Monitoring staff shall make use of an IHL Monitoring Form²¹ reflecting the required information to be gathered.

Section 4. IHL Monitoring Report.


Within forty-eight (48) hours from the return of the team from the field mission, the focal Special Investigator shall draft an IHL Monitoring Report on Children in Situations of Armed Conflict. The Report, shall, in addition to the findings on the matters enumerated in the immediately preceding section, shall contain the following:

- a. Background information on the conflict
- b. Areas affected (sitio/barangay level);
- c. Number of displaced families/individuals if any, and the number of children affected, disaggregated by sex
- d. Responses made by duty-bearers in response to such issues/needs faced by children, if any;
- e. Recommendations on how these issues could be resolved, including referral to other agencies or programmes within the BHRC;
- f.
- g. Photos of the situation (taking care to obtain consent from persons to be photographed and to blur faces of minors and other vulnerable persons); and
- h. Whether or not a human rights investigation will be opened for specific cases that surfaced during the monitoring mission

Section 5. Investigation of allegations of human right violations surfaced during monitoring

When there is a finding in the IHL monitoring that violations of human rights of children or international humanitarian law may have occurred, the Investigator leading the monitoring mission shall initiate an investigation motu proprio. Such investigation shall be in accordance with the applicable rules of the BHRC Rules

²¹ Please see **Annex E**



of Procedure as well as the herein Supplemental Rules of Procedure of the Bangsamoro Human Rights Commission in the Investigation of Human Rights Violations Involving Children.

Section 6. Public Inquiry

The Commission may, at its discretion, authorize the conduct of Public Inquiries into situations affecting the human rights of children in situations of armed conflict, which shall be covered by Rule 8 of the BHRC Rules of Procedure and these Supplemental Guidelines.

CHAPTER 3: MONITORING THE BANGSAMORO'S COMPLIANCE OF THE CONVENTION OF THE RIGHTS OF THE CHILD (CRC)

Section 1. Monitoring CRC Compliance by the Bangsamoro Government

Monitoring the compliance by the Bangsamoro Government of the Philippines' state obligations enshrined in the CRC is a comprehensive and complex undertaking. Thus, prior to such undertaking, the Monitoring Section in cooperation with the Policy and Advisory Division shall draft a Terms of Reference with inputs from various stakeholders in the BARMM, such as BARMM Ministries, Offices and Agencies as well as civil society organizations in the region.

Section 2. Construction of CRC provisions in relation to duty-bearers in the Bangsamoro

When the CRC makes reference to "state parties" or "state obligations", the word state shall be interpreted in the Bangsamoro context to mean "the Bangsamoro Government" including all its instrumentalities.

Section 2. Cluster of Rights Approach

In accordance with Guidelines²² set by the Committee on the Rights of the Child, the monitoring of compliance with CRC obligations shall measure the extent to which the Bangsamoro government is protecting and promoting the rights of the child, clustered into the following:


- A. General measures of implementation
- B. Definition of a child
- C. General principles
- D. Civil rights and freedoms
- E. Family environment and alternative care
- F. Basic health and welfare
- G. Education, leisure and cultural activities
- H. Special protection measures

Specific Articles of the Convention included in each rights cluster is listed under the heading INTERNATIONAL NORMATIVE FRAMEWORK ON THE PROTECTION AND PROMOTION OF CHILDREN'S RIGHTS.

Section 3. Phases to the CRC Compliance Monitoring

- a. Development of Terms of Reference
 - i. Consultation with BARMM Agencies on indicators
 - ii. Design of Templates and Forms to be used
 - iii. Timeline and workplan
 - iv. Preparatory activities such as sending out letters to BARMM offices
- b. Desk Review:

²² <https://www.unicef-irc.org/CRC/cluster/>

- 
- i. Review of latest Concluding Observations by the Committee, taking into consideration specific observations and recommendations applicable to the Bangsamoro context²³
 - ii. Statistical data
 - iii. Study of Existing Institutional Mechanisms²⁴
 - c. Consultations and Information-gathering Activities
 - i. Mapping of Offices / Organizations and Services Provided²⁵
 - ii. Collation of reports from BARMM Ministries, Agencies, and Offices
 - iii. Consultations with Civil Society Groups
 - iv. Conversations with Children, Parents and Communities
 - d. Drafting of the Report
 - e. Publication of the Report

Section 3. Requiring the Assistance and Cooperation of Government Entities

The Commission, as provided under Rule 12 of the BHRC Rules of Procedure, may require the assistance and cooperation of government entities in the Bangsamoro for the successful conduct of the CRC Compliance Monitoring.

The Commission, through its Chairperson, Commissioners, Heads of Offices, or Provincial Directors, shall make the necessary communication to the BARMM agency or office having custody of information needed in the monitoring.

Section 4. Coordination with the Commission on Human Rights of the Philippines (CHRP)

As far as practicable, the timelines of the monitoring shall be aligned with the schedule of the Committee on the Rights of the Child's review of the Philippines. For this purpose, the Monitoring Section of the Protection Division shall coordinate closely with their counterparts at the Commission on Human Rights of the Philippines as to the timeline at the national

²³ Please see **Annex F** for the sample form: "[General Comments / Concluding Observations Monitoring Form](#)" from the *CHR Operational Guidelines and Rules and Procedures for Monitoring the Convention on the Rights of the Child* (2018)

²⁴ Please see **Annex G** for the sample form: "[Institutional Mechanism Mapping Form](#)", Ibid.

²⁵ Please see **Annex H** for the sample form: "[Service Mapping Form](#)", Ibid.

III. REFERRALS AND COORDINATION

CHAPTER 1: GENDER BASED VIOLENCE COMMITTED AGAINST CHILDREN

Section 1. The BARMM GBV Referral Pathway

The BHRC shall continue to participate and coordinate with other service providers in the BARMM GBV referral pathway. As provided in Rule 4 of the BHRC Rules of Procedure and Rule 4 herein, the investigating officer shall, at the initial evaluation stage, refer the case to other agencies for the provision of assistance such as medico-legal, psycho-social, financial, livelihood, temporary shelter and other forms of support.

The “Referral” portion of the Case Intake Form shall be used for this purpose. The investigating officer may likewise recommend in the Initial Evaluation Report that legal assistance be provided by the BHRC or by partner legal aid institutions, when necessary.

CHAPTER 2: GRAVE CHILD RIGHTS VIOLATIONS

Section 1. The Monitoring and Reporting Mechanism for Grave Child Rights Violations in situations of Armed Conflict

The BHRC shall continue to provide its support to the Country Task Force Monitoring and Reporting (CTFMR) of Grave Child Rights Violations. Through its focal person for Child Rights, the BHRC shall undertake the following activities:

- a. monitor GCRV cases in coordination with local stakeholders
- b. conduct verification missions
- c. conduct field monitoring and submit event forms / verification forms to the CTFMR.
- d. Provide financial support / legal assistance in appropriate cases
- e. Refer cases to other members of the Task Force for other forms of assistance.

CHAPTER 3: CASES INVOLVING THE IMPLEMENTATION OF THE JUVENILE JUSTICE AND WELFARE ACT

Section 1. The Regional Juvenile Justice and Welfare Council (RJJWC) All investigators and concerned staff of the BHRC shall continue to coordinate with the Regional Juvenile Justice and Welfare Council (RJJWC)²⁶ in the Bangsamoro in responding to reports of alleged violations of rights of children in conflict with the law or children at risk.

Section 2. Independent nature of BHRC Monitoring

Nothing herein shall be construed to limit the powers of the BHRC to conduct facility monitoring or publish reports of its findings from such monitoring visits independently of the council.

CHAPTER 4: CASES INVOLVING PROTECTION OF CHILDREN OUTSIDE THE BARMM

Section 1. Support to Bangsamoro children outside the BARMM

The BHRC shall continue to undertake investigation, case monitoring and legal assistance of human rights cases involving children outside the BARMM, in coordination and cooperation with the Commission on Human Rights of the Philippines.

²⁶ Please see **Annex I** for the Bangsamoro Economic and Development Council (BEDC) Resolution No. 07 series of 2020 Approving the Reorganization of the Bangsamoro Regional Juvenile Justice and Welfare Committee (RRJWC) and Expanding its Membership

PROMOTION OF CHILDREN'S HUMAN RIGHTS



“Championing the rights of children by promoting awareness ignites the flame of their potential within the spirit of Bangsamoro Children. Embrace their individualities and fostering their rights of living will have a big impact on the future of the Bangsamoro Region. We must promote and celebrate their uniqueness, nurture diverse talents that enrich our shared common goals, and respect their cultural environment. Promote their rights to live, both mentally and physically, for a healthy and progressive foundation that fuels our boundless growth. Because every child matters.”





PROMOTION OF CHILDREN'S HUMAN RIGHTS

I. BUILDING CAPACITIES ON CHILD PROTECTION

- A. When planning for training programmes on children's rights and child protection for duty bearers, the Education and Training Section of the Promotion Division and Provincial Offices shall prioritize the following:
 1. All new employees of the Commission
 - a. All investigators must undergo training on investigation protocols specific to child victims and witnesses as part of their onboarding process
 - b. Child rights advocates engaged by the Commission must undergo training on armed conflict monitoring and the CSAC law
 2. Police and members of the security sector, on grave child rights violations and protection of children in situations of armed conflict
 3. Anti- Violence Against Women (VAWC) desk officers at the barangay level
 4. Members of the Barangay Council for the Protection of Children (BCPC)
 5. Case workers and social workers working with children in conflict with the law and children at risk.
- B. The Education and Training Section of the Promotion Division shall ensure that training materials on child protection are standardized, updated, and easily accessible by all concerned staff of the Commission.
- C. The Commission, in consultation with the provincial offices and key divisions in the Regional Office, shall formulate a separate Child Protection and Safeguarding Policy.

II. RAISING AWARENESS ON CHILDREN'S RIGHTS

A. AMONG CHILDREN

1. Children are the priority sector for awareness raising campaigns on children's rights. Thus, information and education materials produced by the BHRC must be child-friendly – using simple and clear language understandable to children in their local language and formatted in such a way to be attractive and enjoyable for children to read.
2. BHRC staff who are tasked with conducting awareness-raising sessions for children must be supported with skills-enhancement trainings to equip them with the necessary skills and techniques in accordance with latest research developments in child pedagogy.
3. When conducting activities for children, whether trainings, focus group discussions or consultations, BHRC staff shall utilize the Child Participation Module of the CHR Operational Guidelines and Rules on Monitoring the Convention on the Rights of the Child (pp 47-52), copied verbatim under **III. Ensuring Children's Participation** herein.
4. For live-in or residential activities for children, consent of the parent or legal guardian shall be required. Children shall sleep in separate beds from others. Children of tender years shall always be accompanied by their primary caregiver.

B. AMONG PARENTS

1. While children are primary subjects of parents, guardians and/or primary caregivers.
2. The BHRC Promotion Division shall work together with parenting experts, social workers, and psychologists in developing awareness-raising modules and materials for parents, guardians and primary caregivers.
3. their human rights, it is primarily through the parents that their rights are realized. Thus, it is important that awareness-raising programmes of the Commission design specific modules for

C. AMONG THE GENERAL PUBLIC

1. Publication of reports, guidelines and other materials by the BHRC on children's rights including ways to access its services for children must always have a "child-friendly version."
2. BHRC shall from time-to-time release advisories or bulletins regarding recent legal or policy developments on the protection of children, also in a child-friendly manner.
3. BHRC shall utilize its existing network of grassroots human rights monitors in the dissemination of information materials on children's rights.
4. BHRC shall be guided by the Bangsamoro Darul ifta advisory on child's rights in Islam.
5. The Advocacy and Campaign Section shall maintain a child friendly page in the Commission website, with dedicated hotline / text line number for children, a complaints referral form and FAQs

III. ENSURING CHILDREN'S PARTICIPATION

- A. BHRC Staff shall adhere to the following general standards in promoting safe and meaningful child participation:²⁷
 - Child participation is transparent and informative
 - Children's participation has a clear purpose
 - Children understand how much impact they are able to have on decision-making
 - The roles and responsibilities of those involved are clear and well understood
 - Children agree with the goals and targets associated with their participation
 - Child participation is voluntary
 - Children are given time to consider their involvement and are able to provide informed consent
 - Children are aware and are able to withdraw anytime they wish;
 - Children's other commitments (such as work and school) are respected and accommodated
 - Child participation is respectful
 - Children are able to freely express their views and are treated with respect
 - Where children are selected as representatives, the selection process will be based on principles of democracy and will avoid discrimination
 - Children themselves are involved in selection processes
 - Children are able to choose how they want to express themselves

²⁷ General Comments No. 12, UN Committee on the Rights of the Child (July 2009), <https://www.refworld.org/docid/4ae562c52.html>
https://www.unicef.org/eca/sites/unicef.org.eca/files/2019-02/NHRI_Participation.pdf

- Ways of working build self-esteem and confidence, and enable children to feel that they have valid experience and views to contribute
- Child participation is relevant
 - Activities that children are involved in are of real relevance to their experiences, knowledge and abilities
 - Participation approaches and methods build on local knowledge and practices
- Child participation is child-friendly
 - Time and resources are available to support children effectively
 - Methods of involvement are developed in partnership with children
 - Meeting places and activity locations are child-friendly and accessible to children with disabilities and other minority groups
 - Children are given accessible information in child-friendly formats
- Child participation is inclusive
 - Children are not discriminated against on any grounds
 - Efforts are made to include children from all backgrounds
 - Participation is flexible enough to respond to the needs, expectations and situations of different groups of children
 - The age range, gender, and abilities of children are taken into account
 - Participation challenges and responds to existing patterns of discrimination
- Child participation is supported by training for adults
 - BHRC staff are sensitized to children's participation and understand its importance
 - Staff are provided with appropriate training and tools
 - Staff are effectively supported and supervised
 - Staff are able to express any views or anxieties involving children, in the expectation that these will be addressed in a constructive way
 - Specific technical skills or expertise are built up through a combination of recruitment, staff development and practice exchange
- Child participation is safe and sensitive to risk
 - The protection rights of children are paramount in how children's participation is planned and organized, with safeguards in place to minimize risks and prevent abuse;
 - Children are aware of their right to be safe from abuse and know where to go for help if needed;
 - Staff organizing participatory processes have a child protection strategy that is specific to each
 - process;
 - Consent is obtained for the use of all information provided by children, and information identified as confidential is safeguarded at all times;
 - A formal complaints procedure is set up to allow children involved in participatory activities to make complaints in confidence. Information about the procedure is available in relevant languages and formats;
 - No photographs, videos or digital images of a child can be taken or published without that child's explicit consent for a specific use; and
 - Responsibilities relating to liability, safety, travel and medical insurance are clearly delegated and effectively planned for.
- Child participation is accountable
 - Staff and partners are accountable to children for their commitments;
 - Children are supported to participate in follow-up and evaluation processes;

- Children are given rapid and clear feedback on their involvement, impact, outcomes and next steps; and
- Mistakes identified through evaluations are acknowledged and commitments given about how lessons learned will be used to improve participatory processes in the future.

B. In undertaking consultation activities that are child-friendly, BHRC staff and partners organizing such activities shall refer to the Child Participation Module of the CHR Operational Guidelines and Rules on Monitoring the Convention on the Rights of the Child²⁸, copied verbatim below:

CHILDREN'S CONSULTATION

Planning and designing the consultation process are important to ensure that the consultation is done in the most appropriate and child-friendly manner that meets the objectives for which it being conducted. A fully realized and meaningful children's participation mean children must be involved in all phases – before the consultation, during the consultation, and after the consultation. This section provides practical tips for organizing and conducting a children's consultation, most of which are based on the learning experience of CHR during their pilot regional inquiries from April to June 2018.

Before the Consultation

Design the consultation process. The objectives of the consultation must be clear at the outset. For monitoring purposes, the consultation may be designed to cover a specific thematic area of the CRC or a specific issue broadly affecting the children's sector. Set the consultation on a day most convenient for child participants. Allot enough time for each session, without going beyond 8 hours for the whole consultation activity.

Checklist to a child-friendly venue:

- Fire extinguishers are available in every room and in the function room
- Outside environment is not surrounded by red-light districts
- Venue has a non-smoking policy or is far from designated smoking areas
- Secured by guards 24-hour
- Accessible to children with disabilities
- Has designated emergency exits
- Cozy, serene and spacious enough to conduct child-friendly activities

Carefully plan the logistics and budget for the consultation. Do an ocular visit to the venue to ensure that it is child-friendly. It is recommended that the consultation be done in halls with wide open spaces to give room for participatory activities that may be done in the process. It should also be accessible to children with disabilities. Dietary restrictions of child participants should be considered. In addition, a prayer room should be provided for child Muslim participants.

Make sure that a child protection policy is always in place. A child protection team, which will act as the emergency contact persons during the consultation process, should always be designated.

²⁸ <https://chr.gov.ph/wp-content/uploads/2019/02/CHR-Operational-Guidelines-and-Rules-and-Procedures-for-Monitoring-the-Convention-on-the-Rights-of-Child.pdf> pp. 47-52

A signed copy of the Child Protection Policy must be required from the adult companion or guardian along with the consent form before the consultation.

Selection of child or youth facilitators. Children directly affected by the issues subject of the consultation should be well represented. Thus, children from indigenous people's communities must be present if the consultation is aimed at monitoring their situation. It is also advisable to seek participants who are able to confidently share ideas with other children and who are interested in the issues. A good regional and gender balance among the participants are also important. A child-friendly briefer about the objectives and background of the consultation should be provided in advance.

Schedule of child facilitators and child participants. Consider the schedules of the children when setting the consultation dates. If it falls on a class day, an excuse letter should be provided in advance. If the consultation falls on a weekend, consider if some children need to attend a religious event or practice on a Saturday or Sunday.

Few reminders to send to parents or legal guardians and to children before consultations:

- Registration Form
- Consent Form
- Letter invitation with the venue and the date
- Excuse letter (if applicable)
- Administrative notes (child-friendly) including list of things to bring
- Emergency contact number/s of child protection committee (ideally a lawyer or registered social worker)

During the consultation

Child protection policy. This should be explained at the beginning of the program. Reiterate the emergency contact details of the child protection committee members. There must be a complaint mechanism in place. Ensure that participants are aware of the safety and emergency protocols. Children must be informed if adults will be present during the consultation. Adults should also be reminded of the Child Protection Policy and be sensitive in the presence of children. Consent of the child must be secured whenever photographs or videos of them are to be taken during the consultation.

Methods. Throughout the consultation, use child-friendly language that children can understand. Make sure that the language used is similar, or close to if not exactly the same, to the conversational language that all child participants use. Creative and participatory activities such as drawing, collage making, letter writing, or other techniques that allow children to express their thoughts meaningfully should be used.

LESSON LEARNED: In cases of unforeseen events where the children may have felt that they were not heard by or were threatened by an adult, processing after every activity is advised.

Health. Basic first aid kits must always be available. Make sure that provisions for clean and sanitary toilet facilities are accessible.

Safety. Children and their accompanying adults or guardians should be provided with lodging when necessary. This is especially true when the consultation will be more than a day, or when it is not possible for children to return home before dark. Adult companions or guardians must always be reminded of the safety protocol for children.

After the consultation

Appreciation. Show the children your appreciation for their participation and involvement by giving tokens like certificates. Consider giving them t-shirts or any child-friendly souvenirs, If the budget allows for it.

Evaluation. Evaluation forms must be distributed to and filled-out by the children themselves. This will give them the chance to assess the different components of the activity including logistics, program design, activities which worked or did not work, and lessons learned. A separate evaluation session with the child facilitators on the strengths and weaknesses of the activities is also recommended after the consultation.

Follow up. Explain where the information gathered from the consultation will be used. This, children should be informed if their contributions are to be used by the CHR* in preparing an alternative report to the Committee. They should also be informed of the action taken by the CHR* relating to the recommendations by the participants.

IV. ADVISING THE BANGSAMORO GOVERNMENT

- A. In advising the Bangsamoro government towards taking measures for the increased protection and fulfillment of children's human rights, the BHRC shall endeavor to strike a balance between international normative frameworks, domestic legal and policy mandates, and moral principles in the rearing of children, with the primordial consideration of upholding the best interests of the child.
- B. The BHRC shall, in its work on policy advocacy, prioritize the following:
 - a) Advocacy on working on the recommendations set in the General Comments / Concluding Observations of the UN Committee on the Rights of the Child on the Philippines' 5th and 6th Reports (CRC/PHL/CO/5-6)²⁹ in so far as such actions are within the powers of the Bangsamoro government
 - b) Monitoring and advocacy for the establishment of child protection policy in schools through the Ministry of Basic, Higher and Technical Education (MBHTE).
 - c) Advocacy for ensuring children's participation in development of programs, projects and activities for children through the formation of children's forum or children's panels
 - d) Advocate for further research on children in conflict with the law and children at risk in the BARMM and other pressing issues involving children's human rights
 - e) Ensure humanitarian organizations working in the BARMM have child protection and safeguarding policies in place.

²⁹ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FCO%2FPHL%2FCO%2F5-6&Lang=en



LIST OF ANNEXES:

A – THE CONVENTION ON THE RIGHTS OF THE CHILD

B – CHILD PROTECTION IN THE PHILIPPINES: A LEGAL AND POLICY REVIEW

C – CASE INTAKE FORM

D – YOUTH FACILITY MONITORING FORM

E – IHL MONITORING FORM

F – CRC – GENERAL COMMENTS / CONCLUDING OBSERVATIONS MONITORING FORM

G – CRC – INSTITUTIONAL MECHANISMS MAPPING FORM

H – CRC – SERVICE MAPPING FORM

I – RESOLUTION APPROVING THE REORGANIZATION OF THE BANGSAMORO REGIONAL JUVENILE JUSTICE AND WELFARE COMMITTEE (RRJWC) AND EXPANDING ITS MEMBERSHIP

J – RESOLUTION ADOPTING THE CHILDREN OMBUD GUIDELINES OF THE BANGSAMORO HUMAN RIGHTS COMMISSION



Convention on the Rights of the Child

**Adopted and opened for signature, ratification, and accession by General Assembly resolution 44/25 of
20 November 1989**

entry into force 2 September 1990, in accordance with article 49 Preamble

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,


Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) ; and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict, Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,



Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child, Recognizing the importance of international cooperation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

PART I

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 6

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.



Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8


1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.
2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.
3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.
4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.
2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.



Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.
2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others; or
 - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 14


1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.
2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.



2. The child has the right to the protection of the law against such interference or attacks.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.
2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.
3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.



2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;

(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;

(c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it; (e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 22


1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or nongovernmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance



for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development

4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

(a) To diminish infant and child mortality;

(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;

(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

(d) To ensure appropriate pre-natal and post-natal health care for mothers;

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;


(f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.



Article 26


1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.
2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.
3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.
4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
 - (a) Make primary education compulsory and available free to all;
 - (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
 - (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
 - (d) Make educational and vocational information and guidance available and accessible to all children;
 - (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.
2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.
3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.



Article 29

1. States Parties agree that the education of the child shall be directed to:

- (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
- (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
- (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
- (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
- (e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30


In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language.

Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.
2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:
 - (a) Provide for a minimum age or minimum ages for admission to employment;
 - (b) Provide for appropriate regulation of the hours and conditions of employment;
 - (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.



Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.


Article 37

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.



2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.

3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.

4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

(i) To be presumed innocent until proven guilty according to law;

(ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defense;


(iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

(iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

(v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

(vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

(vii) To have his or her privacy fully respected at all stages of the proceedings.



3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

(a) The law of a State party; or

(b) International law in force for that State.

PART II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43


1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.

2. The Committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.

3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons



elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.

7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.

8. The Committee shall establish its own rules of procedure.

9. The Committee shall elect its officers for a period of two years.

10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights

(a) Within two years of the entry into force of the Convention for the State Party concerned;

(b) Thereafter every five years.

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.

4. The Committee may request from States Parties further information relevant to the implementation of the Convention.

5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities. 6. States Parties shall make their reports widely available to the public in their own countries.



Article 45

In order to foster the effective implementation of the Convention and to encourage international cooperation in the field covered by the Convention:

(a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;

(c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;

(d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

PART III

Article 46

The present Convention shall be open for signature by all States.

Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.


Article 49

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that



they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General.

Article 52

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 53

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 54

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations. IN WITNESS THEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective governments, have signed the present Convention.



CHILD PROTECTION IN THE PHILIPPINES: A LEGAL AND POLICY REVIEW

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INTRODUCTION

This report is a review of the legal and policy framework surrounding child protection in the Philippines, with an emphasis on the role of national human rights institutions in the protection and promotion of children's human rights. It will examine the existing legal standards at the domestic level on the protection of children.

This paper is commissioned by the Bangsamoro Human Rights Commission (BHRC) with funding from the UNICEF, under the Consultancy Agreement "Drafting of the BHRC Children Ombud Guidelines."

BACKGROUND

The BHRC, created under Article IX, Section 7 of the Bangsamoro Organic Law (RA No 11054) is the human rights institution in the Bangsamoro. As such, BHRC is tasked with the protection and promotion of human rights and upholding of international humanitarian law during situations of armed conflict.

BBHRC's mandate fully extends to the human rights of children. Under Section 29 of the RA 11054, the BHRC is designated as the Children Ombud of the Bangsamoro:

"Section 29. Children Ombud. — Without prejudice to Republic Act No. 9344 otherwise known as Juvenile Justice and Welfare Act of 2006, the BHRC shall act as the Children Ombud for the Bangsamoro. It shall ensure that the status, rights, and interests of children are upheld in accordance with the statutes, Constitution, and international instruments on human rights."

OBJECTIVES

This paper seeks to provide a brief summary of the legal and policy environment of the Philippines when it comes to Child Protection, utilizing the Convention on the Rights of the Child (CRC) as the framework of analysis. The discussion is divided into the following parts, which also approximates the thematic approach of the Committee of the Rights of the Child ("Committee") in its Concluding Statements and Observations³⁰ :

- A. General Principles
- B. Civil Rights and Freedoms
- C. Family Environment and Alternative Care

³⁰ Committee, on the Rights of the Child, *Consideration of Reports Submitted by States Parties under Article 44 of the Convention* <https://www2.ohchr.org/english/bodies/crc/docs/co/crc-c-phi-co4.pdf>

- D. Basic Health and Welfare
- E. Participation and Respect for the Views of the Child
- F. Best Interests of the Child.

This is to assist the Bangsamoro Human Rights Commission in its work in properly defining cases brought to it primarily in terms of rights and secondarily in terms of possible legal remedies in criminal law (felonies and offenses punishable) and civil remedies.

THE CONVENTION ON THE RIGHTS OF THE CHILD

The Convention on the Rights of the Child was ratified by the Philippines in accordance with the Philippine Constitution on 21 August 1990, and entered into force 02 September 1990.

Since then, the county has passed laws relating both to general child protection as well as laws specific to particular human rights of children, in furtherance of its state obligations under the Convention.

The following are summaries of relevant laws, policies, and jurisprudence on child's rights in the Philippines, as aligned with the rights set out in the CRC:

DEFINITION

The CRC defines a child as “every human being below the age of eighteen years unless the law applicable to the child, majority is attained earlier.” Whereas, Philippine law defines children as “persons below eighteen (18) years of age or those over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition” ³¹

A. GENERAL PRINCIPLES (ARTICLES 2, 3, 6, AND 12)

1. The Philippine Constitution

The following are relevant provisions of the Philippine Constitution on children:

Article II, Section 12

The State recognizes the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution. It shall equally protect the life of the mother and the life of the unborn from conception. The natural and primary right and duty of parents in the rearing of the youth for civic efficiency and the development of moral character shall receive the support of the Government.

Article V, Section 3


The State shall defend:

(1) xx

(2) The right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development;

Article XIII, Section 11

³¹ Republic Act 7610, Sec. 3 as further reinforced under Sec. 3 of RA 11596



The State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social services available to all the people at affordable cost. There shall be priority for the needs of the underprivileged sick, elderly, disabled, women, and children. The State shall endeavor to provide free medical care to paupers.

Article XIV, Section 2, paragraph 2

The state shall: (1) xxx

(2) Establish and maintain a system of free public education in the elementary and high school levels. Without limiting the natural right of parents to rear their children, elementary education is compulsory for all children of school age;

2. R.A. 7277 – Magna Carta for Persons with Disabilities

R.A. 7277 provides for the promotion and protection of the rights of persons with disabilities, including children with disabilities. It recognizes the right of children with disabilities to enjoy the same rights and opportunities as other children, without discrimination.

3. R.A. 9710 – An Act Providing for the Magna Carta of Women

This Act aims to eliminate all forms of discrimination against girl-children in education, health and nutrition, and skills development, among other facets of personal and social life. As such, it provides for equal access to comprehensive, culture-sensitive, and gender-responsive services and programs that promote education, health, nutrition, and skills development, among others.

4. R.A. 8371 – Indigenous People’s Rights Act (Sections 27, 28, 30)

These provisions of the IPRA recognize the role of the IP youth in nation-building. It mandates the promotion and protection of the IP youth’s physical, moral, spiritual, intellectual, and social well-being. To this end, the law provides for an integrated system of education relevant to the needs of IP youth, as well as equal access to various cultural opportunities like scholarships without prejudice to their right to establish and control their educational systems and institutions by providing education in their own language, in a manner appropriate to their cultural methods of teaching and learning.

B. CIVIL RIGHTS AND FREEDOMS (ARTICLES 7, 8, 13-17)


1. R.A. 386 – new civil code of the Philippines

Arts. 40-41

These articles protect the legal rights of the conceived child by establishing that the latter is considered born for all purposes that are favorable to it, provided it be delivered from the mother’s womb alive, unless it had an intra-uterine life of less than seven months, and it died within twenty-four hours after its delivery, in which case the foetus is not deemed born.

Arts. 535, 741, 760, 1044, 1107

These provisions of the Civil Code protect childrens’ rights to acquire possession of things or rights, and accept donations or inheritance and provides conditions therefor, such as the necessary assistance or acceptance of their parents or legal representatives, as the case may be.



Art. 1109

This article states that prescription as a way of acquiring possession of a property or right cannot run between parents and their children during the minority or insanity of the latter, and between guardian and ward during the continuance of the guardianship. As such, properties and rights placed upon the custody of parents and guardians do not accrue to their ownership by mere prescription or lapse of time during the child's minority or guardianship.

Art. 1327

This provision states that unemancipated minors cannot give consent to a contract. As such, as a general rule, contracts entered into by a minor are voidable. However, in Art. 1489, the same Code provides that where necessaries are sold and delivered to a minor or other person without capacity to act, he must pay a reasonable price therefor. A contract of sale of necessaries is one known exception to the general rule that contracts entered into by minors are voidable.

2. E.O. No. 209 - The Family Code of the Philippines

Arts. 163-182

These articles of the Family Code deal with paternity and filiation. They lay down the rules as to when a child may be deemed legitimate, illegitimate, or legitimated. These provisions also provide the grounds for which the legitimacy of a child may be impugned, along with the evidence that may be presented to establish filiation in favor of the minor. These articles also lay down the rules on the use of surnames by legitimate and illegitimate children.

Art. 173

This article provides that any action to claim legitimacy may be brought by the child during his or her lifetime and shall be transmitted to the heirs should the child die during minority or in a state of insanity. In these cases, the heirs shall have a period of five years within which to institute the action. The action already commenced by the child shall survive notwithstanding the death of either or both of the parties.

3. R.A. 9255 - Allowing Illegitimate Children to Use the Surname of Their Father, Amending for the Purpose Article 176 of Executive Order No. 209, Otherwise Known as the "Family Code of the Philippines"

Under this law, all illegitimate children born on or after March 19, 2004 may use their father's last name provided that an Authority to Use the Surname of the Father (AUSF) and the father acknowledges the child as his are executed.

4. P.D. 651 - Requiring the Registration of Births and Deaths in the Philippines Which Occurred from January 1, 1974, and thereafter

This decree mandated the registration of births and deaths in the country starting from 01 January 1974. It aimed to address the under-registration of the aforementioned events -- which hindered the promotion of healthcare and social welfare. This decree made the presentation of birth certificates a pre-requisite for enrolment in schools and for tax exemption for dependents. It also outlined procedures for the registration of births and deaths, imposed penalties for non-compliance.

5. Act No. 3753 – Law on Registry of Civil Status

Act No. 3753 establishes a civil register for recording births, deaths, marriages, divorces, adoptions, and other events. It provided the duties and powers of the Civil Registrar-General and local civil registrars, including the registration process for various events and the maintenance of civil register books. Act 3753 also specifies penalties for false statements, failure to report, and neglect of duty related to its provisions.

6. R.A. 9225 – Citizenship Retention and Reacquisition Act of 2003 (Sec. 4)

This law recognizes derivative citizenship, which means children below 18 years old can acquire Philippine citizenship automatically when their parents retain or reacquire Filipino citizenship.

7. R.A. 9858 – An Act Providing for the Legitimation of Children Born to Parents Below Marrying Age, Amending for the Purpose the Family Code of the Philippines

Prior to R.A. 9858, the Family Code provided that only children who were conceived and born outside of wedlock to parents who, at the time of the former's conception, were not disqualified by any impediment to marry each other may be legitimated through a subsequent valid marriage. Since minority is considered an impediment to a valid marriage, this meant children conceived when one or both parents are minors could not be legitimated and would perpetually have illegitimate status unless legally adopted. R.A. 9858 amended this law such that if the child were born to parents disqualified to marry each other simply because one or two of them were minors at the time of the child's conception, the latter may also be legitimated through the subsequent valid marriage of the parents, though their first marriage may be voidable.

8. R.A. 10172 - An Act Further Authorizing the City or Municipal Civil Registrar or the Consul General to Correct Clerical or Typographical Errors in the Day and Month in the Date of Birth or Sex of a Person Appearing in the Civil Register Without Need of a Judicial Order, amending for this purpose Republic Act No. 9048

This law amended R.A. 9048, which allowed the correction of clerical and typographical errors in the first name or nickname of a person appearing in the Civil Register without need of a judicial order. Under R.A. 10172, clerical or typographical errors in the day and month in the date of birth or sex of a person where it is patently clear that there was a clerical or typographical error or mistake in the entry, may also be corrected without need of a judicial order.

9. A.M. No. 004-07-SC – Rule on Examination of a Child Witness (Sec. 6)

This law provides that every child is presumed to be qualified as a witness. However, the courts may have the child perform a competency exam, either on its own accord or upon a motion by a party. This is applicable if the court determines that there is substantial doubt as to the child's ability to perceive, remember, communicate, distinguish truth from falsehood, or appreciate the duty to tell the truth in court. As such, if a party wants to have the child's competency examined, the same party shall bear the burden to prove the necessity of the examination. However, in no case shall age be considered as said proof.



C. Protection from Violence, Neglect, and Abuse

1. Philippine Constitution – Sec. 3(2), Article XV

This provision mandates the State to defend the right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development.

2. Act. No. 3815 – Revised Penal Code

Arts. 256-259

These provisions of the Revised Penal Code cherishes the unborn child's right to life by imposing penalties for intentional abortion, unintentional abortion, abortion practiced by the mother itself or by her parents, abortion practiced by a physician or midwife, and the dispensing of abortive.

Arts. 270-271, 276-277

These Revised Penal Code provisions protect the child's right to live with his/her family, guardian, or custodian by imposing penalties for kidnapping and failing to return a minor, inducing a minor to abandon his home, abandoning a minor, and abandoning of minor done by person entrusted with his custody.

Arts. 337-341

These penal code provisions protect the child's right to chastity by penalizing acts of seduction, acts of lasciviousness even with consent of the offended party, corruption of minors, and white slave trade.

3. R.A. 386 – New Civil Code of the Philippines (Art. 2180)

This article of the Civil Code aims to protect children against neglect by imposing vicarious liability on the father, and, in case of his death or incapacity, the mother, are responsible for the damages caused by the minor children who live in their company. Likewise, guardians are liable for damages caused by the minors or incapacitated persons who are under their authority and live in their company.

4. R.A. 7610 – Special Protection of Children Against Abuse, Exploitation and Discrimination Act

RA 7610 provides measures for the prevention, reporting, and prosecution of offenses committed against children, as well as promotes their welfare and development. It establishes the responsibilities of various sectors—including the government—to ensure the protection of children's rights against abuse, exploitation, and discrimination. This law clearly defines, treats, and punishes acts of child prostitution, other sexual abuse, child trafficking, exploitation of minors in obscene publications and indecent shows, and other acts of neglect, abuse, cruelty, exploitation, and other acts prejudicial to the child's development.

5. R.A. 9262 – Anti Violence Against Women and Their Children Act

This law was passed to protect women and children from violence, taking place in or out of the home. It provides penalties and remedies in cases where children are subjected to sexual, physical, psychological, and economic abuse by a parent, step-parent, or by someone who is in a sexual or dating relationship with the child's mother. This law provides the rights and remedies available to children who are victims of violence, which include, but are not limited to, free public legal assistance, psychosocial services, and counseling, among others.

6. R.A. 9344 – Juvenile Justice and Welfare Act of 2006

This law aims to protect the rights of children who conflict with the law. It emphasizes a restorative justice approach—prioritizing reform and reintegration of child offenders into society rather than punishment. The law also sets out procedures and interventions designed to address the specific needs of children within the criminal justice system. The law also protects children from being used or taken advantage of for the commission of a crime by providing penalties for anyone who shall exploit children in such commission.

7. R.A. 11596 – An Act Prohibiting the Practice of Child Marriage and Imposing Penalties for Violations Thereof

This law aims to provide a blanket ban on child marriages in the Philippines and imposes penalties for its violations. This law voids all child marriages and declares child marriage as a form of child abuse. It also directs various government agencies to implement programs and interventions to discourage child marriage and provide support to victims.

8. R.A. 9208 – Anti-Trafficking in Persons Act of 2003

This law was passed to eliminate trafficking in persons, especially of women and children. As such, it provides greater penalties for the trafficking of children, which elevates simple trafficking in persons to qualified trafficking.


9. R.A. 11648 - An Act Providing for Stronger Protection Against Rape and Sexual Exploitation and Abuse, Increasing the Age for Determining the Commission of Statutory Rape, Amending for the Purpose Act No. 3815, as amended, otherwise known as the “Revised Penal Code,” Republic Act No. 8353, also known as the Republic Act No. 8353, also known as the “Anti-Rape Law of 1997,” and Republic Act No. 7610, as amended, otherwise known as the “Special Protection of Children Against Abuse, Exploitation and Discrimination Act”

This Act further amended the Revised Penal Code by providing that there shall be no criminal liability on the part of a person having carnal knowledge of another person under sixteen years of age when the age difference between the parties is not more than three years, and the sexual act in question is proven to be consensual, non-abusive, and non-exploitative: *Provided, further,* That if the victim is under thirteen years of age, this exception shall not apply.

Related Jurisprudence: Lina Talocod vs People, G.R. No. 250671, Oct. 7, 2020

The Supreme Court held in this case that not every instance of the laying of hands on a child constitutes the crime of child abuse under Section 10 (a) of Republic Act No. 7610. Only when the laying of hands is shown beyond reasonable doubt to be intended by the accused to debase, degrade or demean the intrinsic worth and dignity of the child as a human being should it be punished as child abuse.

For one to be held criminally liable for the commission of acts of Child Abuse under Section 10(a), Article VI of RA 7610, "the prosecution [must] prove a specific intent to debase, degrade, or demean the intrinsic worth of the child; otherwise, the accused cannot be convicted [for the said offense]." The foregoing requirement was first established in the case of Bongalon v. People, where it was held that the laying of hands against a child, when done in the spur of the moment and in anger, cannot be deemed as an act of child abuse under Section 10 (a) of RA 7610, absent the essential element of intent to debase, degrade, or demean the intrinsic worth and dignity of the child as a human being on the part of the offender



10. R.A. 11930 - Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act

As its title suggests, this law aims to protect children from all forms of sexual violence, abuse, and exploitation, particularly those committed using information and communications technology by prohibiting various acts, including the creation, distribution, possession, and promotion of child sexual abuse materials, as well as the luring, grooming, and online sexual abuse or exploitation of children.

11. R.A. 11188 – Special Protection of Children in Situations of Armed Conflict (CSAC) Act (Sec. 2)

This section declares the policy of the State to provide special protection to children in situations of armed conflict from all forms of abuse, violence, neglect, cruelty, discrimination, and other conditions prejudicial to their development, taking into consideration their gender, cultural, ethnic, and religious backgrounds.

D. FAMILY ENVIRONMENT AND ALTERNATIVE CARE (ARTICLES 5,9-11, 18(1-2), 19-21, AND 25)

1. E.O. No. 209 – The Family Code of the Philippines

Art. 149

This article recognizes the family as the foundation of the nation, which the State must cherish and protect. As such, it provides that family relations must be governed by law. Under this provision, no custom, practice, or agreement destructive of the family are to be recognized or given effect.

Art. 159

Under this provision, the presence of a minor beneficiary shall cause the continuance of the family home despite the death of one or both spouses, or of the unmarried head of the family. For as long as such minor beneficiary exists, the heirs cannot partition the family home except for compelling reasons.

Arts. 209-233

These provisions encompass the rights of children to receive proper parental authority. These rights include being cared for, educated, and nurtured for their well-being and development. Under these provisions, parents jointly exercise authority, with the father's decision prevailing in case of disagreement, unless a court order states otherwise. Substitute parental authority is likewise designated for cases of absence or unsuitability of parents. Parents and those with authority have responsibilities such as providing love, guidance, and discipline. Schools and caregivers have special authority and responsibility. Parental authority may be suspended or terminated in certain circumstances, and corporal punishment is prohibited.

2. P.D. 603 – Child Youth and Welfare Code (Arts. 102-103), as amended

This provision of law states that the home shall aid the community in maintaining an atmosphere conducive to the proper upbringing of children, particularly with respect to their preparation for adult life and the conscientious discharge of their civic duties as a whole. The home and the community are expected to cooperate with each other in counteracting and eliminating unwholesome influences on children, including obscene exhibitions and programs, and other harmful amusements and activities.

3. R.A. 10165 - Foster Care Act of 2012

Repealing R.A. 8552 or the Domestic Adoption Act of 1998, this act provides for simpler and more inexpensive domestic administrative adoption proceedings. The law facilitates family care through foster parenting for abused, neglected, and abandoned children. A foster child is provided with an alternative family that will provide love and care as well as opportunities for growth and development. The law then allows for the adoption of a foster parent of his or her foster child subject to the conditions and procedures provided in the adoption laws in the Philippines. Foster parents found neglecting, abusing, or exploiting children under their care shall be penalized in accordance with RA 7610 and other applicable laws.

4. R.A. 11642 – Domestic Administrative Adoption and Alternative Child Care Act

This act aims to provide a comprehensive framework for domestic adoption and alternative care for children. It broadens the definition of adoption to include alternative child care arrangements that provide long-term parental care and support to children who cannot be cared for by their biological parents. By removing redundant requirements and procedures in the adoption process, the Act establishes streamlined guidelines for the selection, assessment, and placement of children in need of adoption or alternative care arrangements, with a focus on their best interests and overall well-being. It promotes legal safeguards, transparency, and accountability in the adoption process, emphasizing the importance of the child's rights, as well as the preservation of his/her identity, and cultural heritage. The Act also emphasizes the provision of appropriate support services to adoptive families and alternative caregivers to ensure the child's holistic development and successful integration into a nurturing and stable environment.

5. R.A. 8043 - Inter-Country Adoption Act of 1995

This law allows inter-country adoption of Filipino children to alien prospective adoptive parents on the conditions that the children cannot be adopted locally, and that the same is for the best interests of the child. Thus, it is considered as the last resort after all possibilities for domestic placement of the child have been exhausted. Due to the passage of RA 11642, the National Authority for Child Care (NACC) is now responsible for the approval of all inter-country adoption applications and placements.


6. R.A. 11222 - Simulated Birth Rectification Act

R.A. 11222 provides for the rectification of simulated birth records and a simplified administrative adoption proceeding, provided that requirements are met. This law allows the person who simulated the birth record to adopt the affected child as long as the simulation was made for the best interests of the child and that the child has been consistently treated as their own. Pursuant to RA 11642, adoptions under this Act shall be handled by the National Authority for Child care (NACC). Upon approval of the petition, the adopted child is to be considered a legitimate child and is thus entitled to all legal rights derived from such status.

E. BASIC HEALTH AND WELFARE (ARTICLES 6, 18,(3), 23, 24, AND 26)

1. PHILIPPINE CONSTITUTION – SEC. 11, ART. XIII

This Constitutional provision establishes priority for the healthcare needs of the underprivileged, including those of children. Thus, in adopting an integrated and comprehensive approach to health development, children are among those prioritized in making essential goods, health, and other social services available at affordable costs.



2. P.D. 603 – Child Youth and Welfare Code, as amended (Art. 11)

The promotion of the Child's health shall begin with adequate pre-natal and post-natal care both for him and his mother. All appropriate measures shall be taken to insure his normal total development.

3. R.A. 112233 - Universal Health Care Act

This law mandates for the automatic inclusion of all Filipino citizens, including children, in the National Health Insurance Program. Filipino children are thus entitled to an essential health benefit package, which comprises primary care, medicines, diagnostic, and laboratory tests and preventive, curative, and rehabilitative services. Notably, PhilHealth ID is not required for the availment of the benefits and services.

4. R.A. 10354 - The Responsible Parenthood and Reproductive Health Act of 2012

This law promotes responsible parenthood and youth education on sexual and reproductive health issues. It allows access to reproductive health information and services to enable couples to decide freely and responsibly whether to have children and how often, and if they can raise them in a truly humane way. It also mandates the State to provide age and development appropriate reproductive health education to adolescents which will be integrated in relevant subjects in accordance with the curriculum formulated by the Department of Education.

5. R.A. 10821 - Children's Emergency Relief and Protection Act

This law outlines the provision of emergency relief and protection for children before, during, and after disaster and other emergency situations. Other significant features of the law include increased child involvement and participation in disaster risk reduction planning, limited use of schools as evacuation centers, enhanced services for orphaned and separated children with measures on rapid family tracing and reunification, and nationwide training of responders on child protection and psychological intervention.

6. R.A. 11148 – Kalusugan at Nutrisyon ng Mag-Nanay Act

Under this law, mothers are to be given proper nutrition and health care before, during, and after giving birth. Health and nutrition services are likewise provided for children from conception up to two years old, which is considered the critical window of opportunity to prevent malnutrition and its life-long consequences. Nutrition intervention programs are implemented for the benefit of infants and children during their first 1,000 days of life, as well as their mothers and other nutritionally-at-risk individuals like pregnant women, lactating women, teenage mothers, and other mothers belonging to poorest families.

7. R.A. 6972 - Barangay - Level Total Development and Protection of Children Act

The law mandates the establishment of a day care center in every barangay. It institutes a day-care program that shall provide a support system for the total development and protection of the children's health, learning, and psychosocial needs for the first six years of their lives.

**8. R.A. 7610 - Special Protection of Children Against Abuse, Exploitation and Discrimination Act
(Arts. VIII(12), IX(19), X(22))**

These provisions of R.A. 7610 demand the protection of the health and welfare of the children especially the working ones, the children of Indigenous Cultural Communities, and the children in Situations of Armed Conflict. For the working children, the employer is mandated to ensure their protection, health, safety, and morals. Also, the delivery of basic social services, such as health and nutrition services for the children of Indigenous Cultural Communities is recognized and prioritized.

9. R.A. 9288 - Newborn Screening Act of 2004

This law legitimizes a comprehensive and sustainable national newborn screening program. It ensures that every infant born will have access to newborn screening through the National Newborn Screening System, protecting them from heritable conditions and disorders that can cause mental impairment, serious complications, and even death. As for the cost of the screening, the expenses will be covered by the PHIC's benefits package. The law also allows refusal of testing on the grounds of religious beliefs but with understanding that refusal for testing places the newborn at risk for undiagnosed heritable conditions.

10. P.D. 996 - Providing for Compulsory Basic Immunization for Infants and Children Below Eight Years of Age

This law mandates the compulsory basic immunization of infants and children below 8 years of age. It directs the DOH to provide free basic immunization services against certain diseases such as among others, tuberculosis, diphtheria, tetanus, polio, measles, and rubella. The law also orders schools and institutions to provide basic immunization services who have not received such immunization.

11. E.O 51 – Philippine Milk Code

The law aims to promote and protect breastfeeding. It intends families to receive adequate and accurate information, so they can properly use breast milk substitutes and supplements. Thus, it regulates not only the quality of breastmilk substitutes and supplements, but also the manufacturers' marketing strategies and materials. Violations of the EO are punishable by law and may be meted imprisonment or fine.

12. E.O. No. 209 – The Family Code of the Philippines (Arts. 194-195, 220)

Under the provisions of the Code, the parents are obliged to support their children on all things indispensable for their sustenance including dwelling and medical attendance, among others. Further, the parents and those who exercise parental authority over their children have the duty to prevent the latter from acquiring habits detrimental to their health, studies and morals.

F. PARTICIPATION AND RESPECT FOR THE VIEWS OF THE CHILD

1. Philippine Constitution – Sec. 13, Article II

This provision declares the State's policy of recognizing the vital role of youth in nation-building. Thus, it mandates the State to promote and protect children's physical, moral, spiritual, intellectual, and social well-being, as well as to encourage their involvement in public and civic affairs.

2. R.A. 11036 – Philippine Mental Health Law

This law provides for basic mental health services in community settings. The Act provides for 'Informed Consent', or consent voluntarily given for mental therapy or treatment. Accordingly, all persons, including children, are presumed to possess the legal capacity to give informed consent, regardless of the nature or effects of their mental health condition or disability. Here, the children's right to express their views on matters affecting themselves and their mental health is primarily recognized and is given due consideration.

3. R.A. 9344 – Juvenile Justice and Welfare Act of 2006 (Sec. 2(b))

In declaring the state’s policy on juvenile justice and welfare, this Act allows children in conflict with the law to participate and to express himself/herself freely. As such, the participation of children in the program and policy formulation and implementation related to juvenile justice and welfare shall be ensured by the concerned government agency. Under this law, the right of children to participate in all matters affecting their welfare, including legal proceedings.

4. R.A. 10627 – Anti-Bullying Act of 2013

Apart from aiming to address bullying by providing mechanisms for the prevention, reporting, and punishment of bullying in schools and other educational institutions, this law also recognizes the right of children to express their opinions and ideas without fear of retaliation or discrimination. This law also enables students to anonymously report bullying so that they won’t have to worry about retaliation.

G. BEST INTERESTS OF THE CHILD

1. Philippine Constitution – Sec. 2(2) Art. XIV

This Constitutional provision establishes a system of free public education in the elementary and high school levels. Without prejudicing the natural right of parents to raise their children as they see fit, this provision makes elementary education compulsory for all children of school age.

2. R.A. 386 – New Civil Code of the Philippines

Art. 24

This Civil Code provision lays down the mandate of the judiciary in maintaining vigilance in protecting individuals of tender age in all contractual, property, or other relations. This aims to counteract the natural disadvantage of children entering these civil relations.

Art. 220


Pursuant to the best interest principle, all presumptions favor the solidarity of the family in case of doubt. Thus, every intendment of law or facts leans toward the validity of marriage, the indissolubility of the marriage bonds, the legitimacy of children, the community of property during marriage, the authority of parents over their children, and the validity of defense for any member of the family in case of unlawful aggression.

Arts. 960-1105

These provisions of the Civil Code provide for the order of intestate succession, laying down the legitime’s of children and other descendants. A salient point in this Title would be Art. 992, which provides that an illegitimate child has no right to inherit intestate from the legitimate children and relatives of his father or mother; nor shall children or relatives inherit in the same manner from the illegitimate child. This is also referred to as the Iron Curtain Rule.

Related Jurisprudence: Aquino v. Aquino, G.R. No. 208912/209018, Dec. 7, 2021

In this case, the Court abandoned previous jurisprudence providing that nonmarital children are products of illicit relationships or that they are automatically placed in a hostile environment perpetrated by the marital family. Recognizing that the best interest of the child should prevail, the Supreme Court thus adopted a



construction of Article 992 that makes children, regardless of the circumstances of their births, qualified to inherit from their direct ascendants-such as their grandparent-by their right of representation. Both marital and nonmarital children, whether born from a marital or nonmarital child, are blood relatives of their parents and other ascendants. Nonmarital children are removed from their parents and ascendants in the same degree as marital children. Nonmarital children of marital children are also removed from their parents and ascendants in the same degree as nonmarital children of nonmarital children. Accordingly, when a nonmarital child seeks to represent their deceased parent to succeed in their grandparent's estate, Article 982 of the Civil Code on the descendant's right to representation shall apply. To emphasize, this ruling will only apply when the nonmarital child has a right of representation to their parent's share in her grandparent's legitime. It is silent on collateral relatives where the nonmarital child may inherit by themselves. We are not now ruling on the extent of the right of a nonmarital child to inherit in their own right. Those will be the subject of a proper case and, if so minded, may also be the subject of more enlightened and informed future legislation.

3. R.A. 9344 – Juvenile Justice and Welfare Act of 2006

Sec. 4(b)

This provision defines 'best interests' of the minor to be the totality of the circumstances and conditions as are most congenial to the survival, protection, and feelings of security of the minor and contributing to her physical, psychological, and emotional development.

Sec. 6


This provision of law sets the minimum age of criminal responsibility at 15. As such, a child 15 years of age or under at the time of the commission of an offense shall be exempt from criminal liability, and will only be subjected to an intervention program, instead of being made to suffer the full weight of penalties provided in the Revised Penal Code for their offense. Under the same provision, children above fifteen but below 18 years of age shall likewise be exempt from criminal liability and subject to an intervention program, unless he or she acted with discernment that what he/she did was wrong and punishable.

Sec. 7

This section establishes that children in conflict with the law shall enjoy the presumption of minority. As such, the offender shall enjoy all the rights of a child in conflict with the law until he or she is proven to be eighteen years old or older by pertinent documents like the offender's birth certificate or baptismal certificate, or by testimonies or a fair assessment of the offender's physical attributes, if such pertinent documents are not availing.

Sec. 12

This provision prohibits the employment of children below fifteen years old, except in two circumstances: when the child works directly under the sole responsibility of his/her parents or legal guardian in a workplace where only members of the family are employed; and when the child's employment or participation in public entertainment through cinema, theater, radio, television, or other forms of media is essential. The same provision lays down the requirements that employers must comply with when employing minors in the entertainment industry. These requirements include measures that ensure the protection, health, safety, morals, and normal development of the child; measures to prevent the child's exploitation or discrimination in terms of remuneration and duration/arrangement of working time; and a continuing program for the training and skills acquisition of the child. The same law provides that children under fifteen years old may not work for more than 4 hours a day and 20 hours a week, while children fifteen to eighteen years old may not work for more than 8 hours a day and 40 hours a week. Finally, the law provides that the wages, salaries, earnings, and other income of the working child shall be spent primarily for his/her support, education, or



skills acquisition, such that no more than 20% of the child's income may be used for the collective needs of the family.

Sec. 14

This provision prohibits the employment of minors as models in any advertisements directly or indirectly promoting alcoholic beverages, intoxicating drinks, tobacco and its byproducts, gambling, or any form of violence or pornography.

4. P.D. 442 – Labor Code of the Philippines (Art. 140)

This Labor Code provision prohibits the discrimination of any person in respect to the terms and conditions of his/her employment on account of age.

5. R.A. 10361 – Domestic Workers Act or Batas Kasambahay

This law prohibits the employment of minors below fifteen years of age as a domestic worker or *kasambahay*. However, it includes minors who are at least fifteen years old to in the definition of 'working children' under the Act. The same provides that children working as *kasambahays* shall be entitled to minimum wage, as well as all the benefits provided under this law, which includes access to education and training. Any employer found guilty of committing offenses against a working child under this law will face higher penalties and will be prohibited from employing and working child in the future.

6. R.A. 9231 – An Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child

This law upholds the best interests of the child by providing that working children below 15 years of age may not work for more than 20 hours a week, at most 4 hours a day, while night work is prohibited for all minor children allowed to work under the exceptional circumstances provided under the law. As for the disposition of the children's wages in these cases, the law provides that the child's earnings shall be set aside primarily for his/her support, education, or skill acquisition. Additionally, no more than 20% of the child's income may be allotted for the collective needs of the family.

7. R.A. 11188 – Special Protection of Children in Situations of Armed Conflict (CSAC) Act

This law declares children as Zones of Peace, which means the State and all sectors concerned shall have the responsibility to resolve armed conflict in order to promote the goal of children as Zones of Peace. To this end, the law prohibits an array of acts prejudicial to the welfare of children in situations of armed conflict, including, but not limited to, killing of children, torture committed against children, abduction of children, and acts of gender-based violence against children. It also provides for additional measures for the protection of victims and witnesses, as well as their rehabilitation, and reintegration following their rescue from such prejudicial situations of armed conflict, or the violation of their rights while in the said situation of armed conflict.

8. R.A. 10553 – Enhanced Basic Education Act of 2013

This law provides for the implementation of a K-12 basic education program in the country, with the goal of improving the quality of education and ensuring that all children have access to basic education, as it is deemed to be in the best interest of any child to receive formal, basic education during their formative years.

9. R.A. 11313 - Safe Spaces Act (Sec. 24)

Under this provision, minor students who are found to have committed acts of gender-based sexual harassment in a school setting or environment shall not be meted out with fines or other penalties, but only held liable for administrative sanctions based on the school's handbook.

10. P.D. 603 – Child Youth and Welfare Code, as amended (Art. 52)

This provision reminds parents of their duty to know their children's friends and activities to prevent them from falling into bad company. It also tells parents to encourage their children to associate with other children of their own age, with whom they can develop common interests of useful and salutary nature.

11. E.O. No. 209 – The Family Code of the Philippines

Arts. 63(3), 213

These provisions mandate that in case of separation of the parents, parental authority shall be exercised by the parent designated by the Court, taking into consideration all relevant factors, especially the choice of the child over seven years of age. In case of legal separation, the Family Code provides that custody of the minor child shall be awarded to the innocent spouse.

Art. 102(6)

Pursuant to the best interests of the child, this law provides that in the absence of an agreement by the parties, in the partition of the properties, the conjugal dwelling and the lot on which it is situated shall be adjudicated to the spouse with whom the majority of the common children choose to remain. Additionally, children below the age of seven years are deemed to have chosen the mother, unless the court has decided otherwise. In case there is no such majority, the court shall decide, taking into consideration the best interests of said children.

Related Jurisprudence: Laxamana vs. Laxamana, G.R. No. 144763, Sept. 3, 2002


In this case, the Supreme Court held that the fundamental policy of the State to promote and protect the welfare of children shall not be disregarded by mere technicality in resolving disputes which involve the family and the youth. As such, controversies involving the care, custody and control of their minor children, the contending parents stand on equal footing before the court, who shall make the selection according to the best interest of the child. The child, if over seven years of age, may be permitted to choose which parent he/she prefers to live with, but the court is not bound by such choice if the parent so chosen is unfit. In all cases, the sole and foremost consideration is the physical, educational, social and moral welfare of the child concerned, taking into account the respective resources as well as the social and moral situations of the opposing parents.

Art. 222

The courts may appoint a guardian of the child's property, or a guardian ad litem when the best interests of the child so require.

12. A.M. No. 004-07-SC – Rule on Examination of a Child Witness

Under this law, children shall only stand as witnesses in a court proceeding if the same is for their best interest. This rule is aimed at creating and maintaining an environment that allows children to give reliable and complete evidence, minimize trauma to children, encourage children to testify in legal proceedings, and facilitate the ascertainment of truth. The Rules also govern the examination of child witnesses who are victims of crime, accused of a crime, and witnesses to a crime. In such cases, all questions asked of the child must be age-appropriate and must correspond to the developmental level of the child. The Court may likewise appoint



guardian ad litem to ensure the best interest of the child during the latter's stint as a court witness. In criminal cases, the court may order that the testimony of the child be taken by live-link television if there is a substantial likelihood that the child would suffer trauma – which would impair the completeness or truthfulness of his or her testimony – from testifying in the presence of the accused, his counsel or the prosecutor.

CONCLUSION

The Philippines has a robust legislative and policy framework for the protection and fulfillment of children's rights. The Bangsamoro Human Rights Commission (BHRC) has sufficient legal basis in pursuing accountability in cases of violations of human rights of children, as well as in taking pro-active measures in ensuring the respect and fulfillment of children's rights.

ANNEX C**CASE INTAKE FORM**

BHRC CASE INTAKE FORM No: ___

CASE TITLE:		DOCKET NO.	BHRC - - -	DATE	
--------------------	--	-------------------	------------	-------------	--

COMMENCED BY:		<input type="checkbox"/> Complaint	<input type="checkbox"/> Motu Proprio
If Motu Proprio (Source of Information)			
<input type="checkbox"/> TV BROADCAST (SPECIFIC CHANNEL) Date received:	<input type="checkbox"/> RADIO BROADCAST (SPECIFIC STATION) Date received:	<input type="checkbox"/> PRINT MEDIA (SPECIFY) Date received:	<input type="checkbox"/> OTHER (SPECIFY) Date received:

COMPLAINANT'S DATA					
FIRST NAME	:		DATE OF BIRTH	:	AGE :
MIDDLE NAME	:		PLACE OF BIRTH	:	
LAST NAME	:		CIVIL STATUS	:	
VICTIM ALSO	:	YES <input type="checkbox"/> NO <input type="checkbox"/>	CONTACT NO.	:	
ADDRESS					
NO. & STREET	:		MUNICIPALITY OR CITY	:	
BARANGGAY	:		PROVINCE	:	
RELATIONSHIP WITH THE VICTIM					
FATHER	<input type="checkbox"/>	BROTHER	<input type="checkbox"/>	OTHER'S, SPECIFY:	
MOTHER	<input type="checkbox"/>	SISTER	<input type="checkbox"/>		

GENERAL INFORMATION					
HUMAN RIGHTS VIOLATED OR ABUSED					
NATURE OF THE ACT(S) PERPETRATED					
DATE OF INCIDENT					
PLACE OF INCIDENT					
NO. & STREET	:		MUNICIPALITY OR CITY	:	
BARANGGAY	:		PROVINCE	:	
HAVE YOU FILED THIS CASE WITH ANOTHER INSTITUTION?	YES <input type="checkbox"/> NO <input type="checkbox"/>		IF YES, SPECIFY:		

ANNEX C

BRIEF NARRATIVE OF THE INCIDENT	

VICTIM'S DATA						
NAME OF VICTIM(S)		AGE	SEX	CIVIL STATUS	ADDRESS	
FIRST NAME	LAST NAME				BARANGGAY	CITY OR MUNICIPALITY
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						
NO. OF VICTIMS	NO. OF MALE VICTIMS	NO. FEMALE VICTIMS	NO. OF MINOR VICTIMS			

ANNEX C

RESPONDENT'S DATA			
IS THE RESPONDENT A STATE ACTOR?		YES <input type="checkbox"/> NO <input type="checkbox"/>	IF YES, WHICH SERVICE GROUP:
IF STATE SECURITY, WHAT MEMBERSHIP?			
IF STATE SECURITY, WHAT BRANCH OF SERVICE			
BATALLION OR POLICE DISTRICT	COMPANY OR POLICE PRECINCT	DETACHMENT	LOCATION
1.			
2.			
3.			
4.			
5.			
IF NOT FROM THE PUBLIC SECTOR, IS HE/SHE/IT A DUTY BEARER IN REALATION TO THE VICTIM?			YES <input type="checkbox"/> NO <input type="checkbox"/>
IF YES ABOVE, IN WHAT CAPACITY IS HIS BEING A DUTY BEARER?		OTHERS:	
NAMES OF RESPONDENTS, IF KNOWN		ADDRESS OF RESPONDENTS, IF KNOWN	
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			

WITNESS' DATA						
NAME OF WITNESS(S)		AGE	SEX	CIVIL STATUS	ADDRESS	
FIRST NAME	LAST NAME				BARANGGAY	CITY OR MUNICIPALITY
1.						
2.						
3.						
4.						
5.						
NO. OF WITNESS ___ NO. OF MALE WITNESS ___ NO. FEMALE WITNESS ___ NO. OF MINOR WITNESS ___						

ANNEX C

Annex A:

AFFIDAVIT

REPUBLIC OF THE PHILIPPINES)

CITY OF _____) S.S.

SWORN STATEMENT

I, (_____), of legal age, (_____), of (_____), after having duly sworn in accordance with law, do hereby depose and state:

1. That I hereby submit that I respectfully filed a complaint for a human rights violation or abuse before the Bangsamoro Human Rights Commission (BHRC);
2. That I filed such complaint/s for human rights violations/abuses with the BHRC through the (_____);
3. That I am required to accomplish such Case Intake Form constituting the alleged human rights violations/abuses, the place/s of the commission as well as the possible date/s of commission of the alleged violation/abuse;
4. That I am also required to execute a sworn statement with the assistance of any duly authorized officer of the BHRC;
5. That I am executing this Sworn Statement to attest to the truthfulness of the aforesaid facts in the Case Intake Form and for whatever legal purpose this may serve best.

IN WITNESS THEREOF, I have hereunto set my hand this _____ day of _____, _____, in the City of _____, Philippines.

Affiant

SUBSCRIBE AND SWORN to before me, this ____ day of _____, at _____, affiant exhibited to me such _____, and declared to me that this affidavit is such person's free and voluntary act and deed.

Doc. No. _____;

Page No. _____;

Book No. _____;

Series of _____

FACILITY MONITORING TOOL FOR YOUTH HOMES

BASIS

The Bangsamoro Autonomy Act No. 4 empowers the Bangsamoro Human Rights Commission (BHRC) to conduct investigations and monitoring visits on detention facilities in pursuit of its mandate to protection and promote human rights. Further, its role as the Children Ombud of the Bangsamoro, as provided in the same law, mandates it to ensure that the provisions of the Juvenile Justice and Welfare Act are complied with in the region.

PURPOSE

The purpose of the monitoring tool is to determine the current level of compliance of the subject youth home or detention home to the standards set by the JJWA, to identify good practices as well as recommend measures for improvement. This tool is to be used by investigators and monitors of the BHRC in assessing and monitoring whether young residents of youth homes are provided care that allows them to maintain or attain their highest practicable physical, mental, and psychosocial well-being.

OVERVIEW OF THE MONITORING TOOL

This is a template provided for the conduct of facility monitoring of youth homes. It may be modified accordingly depending on the provincial context.

The tool is organized in three parts:

1. **Basic Information about the Facility**
2. **Comments by Residents and Observations by the Monitoring Team**
3. **Recommendations (from debriefing with the Facility Manager)**

GUIDELINES FOR CONDUCTING THE MONITORING

1. To ensure the required thoroughness, individuals involved in the facility monitoring should, at a minimum, include the head of the facility or social worker who is tasked of managing the day-to-day operations of the facility.
2. In conducting the debriefing session, make sure not to divulge any information related to the identities of those making complaints (if any) about the living conditions in the facility. Couch recommendations in general terms without referencing any particular resident, room, or group.
3. The investigator shall conduct return visits to update any assessment report made or whenever the facility has informed the team of any action taken to implement the recommendations

YOUTH FACILITY MONITORING TOOL

Facility Name	
Province, Municipality	
Agency / LGU Managing the Facility	
Contact Person and Number	
Date(s) of assessment or update	

PART 1: FACILITY INFORMATION

A.

Numbers

1. Indicate the total number of children who are committed to the facility and status of cases:

Age	Male	Female	Reason for commitment
Above 15 but below 18 years old			
12-15 years old			
9-11 years old			
6-8 years old			
5 years old and below			

3. *Diseases/conditions, physical and cognitive disabilities*

Number of residents needing specialized care: ____

Health Condition	Remarks

4. Has there been a situation where the facility declined to admit a child with physical/cognitive/psychological issues?

5. How does the facility address particular needs of children of varying religious affiliation or ethnicity?

6. Indicate length of stay of children in the facility:

Length of Stay	Number of Children	Remarks
6 months and below		
Above 6 months to below one year		
One year and above		

7. List the types of activities provided by the facility:

Activity	Remarks
Sports	
Occupational Skills Training	
Counselling	
Other interventions	

8. Does the Facility have a child protection policy?

9. what is the Visitation Policy of the Facility?

PART 2: OBSERVATIONS

1. Are the children separated from the opposite sex? Describe the living conditions of the children with regard to separation of the sexes.

2. Are the children accorded humane and dignified conditions while in detention?

Needs	Comments from child residents (quality, sufficiency, frequency)	Observations by Monitoring Staff
Food		
Drinking Water		
Water for baths and washing up		
Fresh air		
Hygiene supplies (toiletries)		
Contact with family		
Religious practice		
Access to legal representation (time with lawyer)		
Visitor Policy		
Capacity of Staff		
Recreational Activities		

3. Do the children feel safe in the facility? Why or why not?

(Note: This question is meant to elicit complaints or remarks from the children relative to experience of torture, abuse, harassment or deprivation of family visits, and sanctions made by the Center if any.



PART 3: DEBRIEFING

In sharing recommendations, take care not to divulge any sensitive information related to the identity of residents.

1. Recommendations

Initial Recommendations made to the Facility Manager	Remarks / Response from Facility Manager
1.	
2.	
3.	
4.	

2. Date of next visit:



ANNEX E

TOOL FOR MONITORING THE RIGHTS OF CHILDREN IN SITUATIONS OF ARMED CONFLICT

PART I: BACKGROUND INFORMATION

Date of the Armed Confrontation	
Location: Province, Municipality, Sitio	
Parties Involved	
Contact Person/s, Agency and Number	
Date(s) of assessment or update	

Provide a background of the armed confrontation, including drivers of the conflict, and flash points. Include information on affected populations

AFFECTED POPULATION

Note: if affected population has been forcibly displaced, use IDP Protection Monitoring Tool

Sitio / Barangay	Municipality	Remarks

ANNEX E

PART II:

A. OBSERVATIONS – GENERAL HUMAN RIGHTS SITUATION AND ADHERENCE TO IHL

B. REPORTED GRAVE CHILD RIGHTS VIOLATIONS

Have there been reports of any form of grave child rights violations, such as (encircle number as applicable):

1. Killing and maiming of children
2. Recruitment and use of children in armed forces/groups
3. Attacks on schools or hospitals
4. Rape or other grave sexual violence
5. Abduction of children
6. Denial of humanitarian access for children
7. Torture or inhuman, degrading treatment of children (RA 11188)
8. Taking children as hostages or human shield (RA 11188)

GRCV No	Name/s of Victim/s	Age	Details

Use this space to provide more information on the boce cases or other circumstances not falling under the definition of GCRV but may otherwise fall within the purview of RA 11188 e.g. Arrest, arbitrary detention or unlawful prosecution of children allegedly associated with armed groups or government forces.



ANNEX E

C. BHRC ACTION

Indicate here measures to be undertaken by the BHRC with regards to the matters reported above (investigation? Public inquiry? Referral? Advisory?)

III. RECOMMENDATIONS

Indicate here measures to be undertaken by government – specify which agency or office for specific cases mentioned above



ANNEX H

Thematic Cluster or Rights	Concluding Observations and applicability to the BARMM	Status / Progress	Gaps	Recommendations	Emerging Issues
General Measures of Implementation	1. 2.				
General Principles	1. 2.				
Civil Rights and Freedoms	1. 2. 3.				
Family Environment and Alternative Care					
Basic Health and Welfare					
Education, Leisure and Cultural Activities					

ANNEX G

Thematic Cluster or Rights	Rights under the CRC	Institutional Mechanisms for the Implementation of the UN CRC in the Bangsamoro Government		
		Status / Legislation	Executive Policies and Programs	Judicial Decisions (BARMM Shari'ah Courts)
General Measures of Implementation	1. 2.			
General Principles	1. 2.			
Civil Rights and Freedoms	1. 2. 3.			
Family Environment and Alternative Care				
Basic Health and Welfare				
Education, Leisure and Cultural Activities				
Special Protection Measures				



ANNEX H

NAME OF ORGANIZATION	TYPE (Government, NGO, CSO, INGO etc)	Name of Head of Office	Office Address	Contact No.	Email Address	Sectoral Target (PWD children, CSAC, etc)	Geographic Coverage	Core Programs	Data and Reports Available

ANNEX I



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO ECONOMIC AND DEVELOPMENT COUNCIL
Bangsamoro Government Center, Cotabato City
Tel. No.: (064) 557-2795 / (064) 557-2797
E-mail Add: bpda@bangsamoro.gov.ph



RESOLUTION NUMBER 07 Series of 2020

RESOLUTION APPROVING THE REORGANIZATION OF THE BANGSAMORO REGIONAL JUVENILE JUSTICE AND WELFARE COMMITTEE (RJJWC) AND EXPANDING ITS MEMBERSHIP

WHEREAS, it is the policy of the State to promote the well-being and total development of children and youth, and to protect them from exploitation, abuse, improper influence, hazards and other circumstances prejudicial to their physical, mental, emotional, social and moral development;

WHEREAS, under Republic Act 11054 or the Bangsamoro Organic Law, the Bangsamoro Government is mandated to fully address the children's education and development, both physical and mental, and to respect, protect and promote the rights of children, especially orphans of tender age, ensuring that the children are protected from exploitation, abuse or discrimination;

WHEREAS, the same law provides that the Bangsamoro Government and its constituent local government units shall provide for adequate funding and effective mechanisms for the execution of the above-mentioned mandates;

WHEREAS, the Republic Act No. 9344, as amended by RA 10630, established a comprehensive Juvenile Justice and Welfare System in the country. It also provides for the creation of an Inter-Agency Council, the Juvenile Justice and Welfare Council (JJWC) chaired by the Department of Justice (DOJ);

WHEREAS, Sec. 8 of R.A. 9344 as amended by R.A.10630 provides for the creation of the Regional Juvenile Justice and Welfare Committee (RJJWC) in every region in the country;

WHEREAS, as amended, the administrative supervision over the RJJWC was transferred from the DOJ to the Department of Social Welfare and Development (DSWD);

WHEREAS, the BARMM RJJWC shall serve as an institutional mechanism in the region, and shall promote and protect the rights of the children at risk and children in conflict with the law under a restorative justice and welfare system. It shall also oversee the implementation of R.A. 9344 as amended by R.A. 10630, and of any regional law that may be passed by the Bangsamoro Parliament pertaining to juvenile justice system in the BARMM, and coordination among the stakeholders in a protective and enabling environment;

WHEREAS, the proposed adoption of the RJJWC under the Social Development Committee (SDCom) of the Bangsamoro Economic and Development Council (BEDC) was discussed during the SDCom Meeting held on 12 November 2020;

ANNEX I

WHEREAS, the RJJWC has the following duties and functions:

- a) To oversee and ensure the effective implementation in the BARMM (at the regional and local levels) of R.A. No. 9344 as amended by R.A. No. 10630; and of any regional law that maybe passed by the Bangsamoro Parliament pertaining to juvenile justice system in the BARMM;
- b) To assist the concerned agencies in the implementation in compliance with the JJWC's adopted policies and regulations and provide substantial inputs to the JJWC in the formulation of new ones in line with the provisions of R.A. No. 10630;
- c) To assist in the development of the comprehensive 3 to 5-year local juvenile intervention program, with the participation of concerned local government units, non-government organizations, including youth organizations, within the region and monitor its implementation;
- d) To coordinate the implementation of the juvenile intervention programs and activities by national and BARMM government agencies;
- e) To oversee the programs and operation of the intensive juvenile intervention and support center established within the BARMM;
- f) To collect relevant regional information and conduct research and support evaluations and studies on all matters relating to juvenile justice and welfare within the region, such as, but not limited to:
 - 1) Performance and results achieved by juvenile intervention program and by activities of the LGUs and other government agencies within the region;
 - 2) The periodic trends, problems, and causes of juvenile delinquency and crimes from the LGU level to the regional level; and
 - 3) The particular needs of children in conflict with the law in custody within their regional jurisdiction.

The data gathered shall be forwarded by the RJJW to the JJWC on an annual basis and as may be deemed necessary by the JJWC, and to relevant Bangsamoro Government agencies.
- g) To conduct regular inspections in detention and rehabilitation facilities within the region and to undertake spot inspections on their own initiative in order to check compliance with the standards provided by law and regulations, and to make the necessary reports and recommendations to appropriate agencies and to the JJWC;
- h) To initiate and coordinate the conduct of trainings for the personnel of the agencies involved in the administration of the juvenile justice and welfare system and the juvenile intervention program within the region;
- i) To submit an annual report to the JJWC on the implementation of R.A. No. 9344 as amended by R.A. No. 10630, and to the Bangsamoro Government; and
- j) To perform such other functions as may be determined by the JJWC and the Bangsamoro Government to implement the provisions of R.A. No. 9344 as amended by R.A. No. 10630, and

ANNEX I

justice system in the BARMM;

WHEREAS, a permanent secretariat of the RJJWC shall be lodged with the Ministry of Social Services and Development, and shall have the following duties and functions:

- a) Support the RJJWC in performing its mandate, duties and functions, in accordance with R.A. 9344 as amended and its IRR, and such other laws that may be passed by the Bangsamoro Parliament pertaining to juvenile justice system in the BARMM;
- b) Prepare the periodic and annual reports for the RJJWC to be submitted to the JJWC National Secretariat and to the Bangsamoro Government;
- c) Prepare the proposed budget and *Work and Financial Plan* of the RJJWC to be submitted to the JJWC National Secretariat and to relevant Bangsamoro ministries;
- d) Regularly coordinate and consult with the JJWC National Secretariat; and
- e) Perform such other functions and tasks, as may be determined by the RJJWC, JJWC and the Bangsamoro Government.

WHEREAS, the RJJWC shall now be composed of the heads and/or representatives of the following agencies and entities:

Chairperson	:	Ministry of Social Services and Development
Co-Chairperson	:	Ministry of Interior and Local Government
Members	:	Ministry of Basic Higher Education and Technology
		Ministry of Labor and Employment
		Ministry of Public Order and Safety
		Ministry of Health
		Bangsamoro Human Rights Commission (BHRC)
		Bangsamoro Planning and Development Agency (BPDA)
		Bangsamoro Youth Commission
		Bangsamoro Attorney's General Office
		Bangsamoro Information Office
		Regional State Prosecutor's Office
		Regional Public Attorney's Office
		Police Regional Office – BAR
		Bureau of Jail Management and Penology - BARMM
		Philippine Drug Enforcement Agency - BARMM
		Representative from one of the Shari'ah Courts in the region
		One (1) representative from the children sector within the region;
		One (1) representative from the youth sector within the region; and
		One (1) representative each from the League of Provinces/Cities/ Municipalities/ Barangays in the region; and
		One representative from each of the two (2) NGOs working with children- at-risk and children in conflict with the law, or engaged in children's rights advocacy and operating within the Region.

ANNEX I

Committee, in accordance with existing laws, civil service rules and applicable regulations on government budgeting and accounting;

WHEREAS, the RJJWC, through the Regional Sub-Committee on the Welfare of Children and the *Bangsamoro Youth Commission (RSCWC)*, shall set the selection process in the designation of the representatives from the children and youth sectors, respectively. The representative from the children sector shall be identified and recommended by the RSCWC. The representative from the youth sector shall be identified and recommended by the BYC. Both representatives shall be designated by the RJJWC;

WHEREFORE, BE IT RESOLVED AS IT IS HEREBY RESOLVED, by this Committee to create the RJJWC as one of the Sub-Committees of the SDCom;

RESOLVED FINALLY, that copy of this resolution shall be furnished to the concerned regional line agencies and other appropriate agencies, offices and institutions in the Bangsamoro Autonomous Region, Department of Social Welfare and Development (DSWD) Central Office through its Juvenile Justice and Welfare Council (JJWC), and other stakeholders for information and appropriate action.


UNANIMOUSLY APPROVED.

Done in the City of Cotabato this 12th day of November 2020.

I hereby certify to the correctness of this resolution.


ENGR. MOHAJIRIN T. ALI
Bangsamoro Director General, BPDA and
Vice-Chairperson and Head Secretariat, BEDC

ATTESTED BY:


AHOD B. EBRAHIM
Chief Minister and
Chairperson, BEDC



RESOLUTION NO. 002

Series of 2024

**A RESOLUTION ADOPTING THE CHILDREN OMBUD
GUIDELINES OF THE BANGSAMORO HUMAN RIGHTS
COMMISSION**

WHEREAS, under Section 29, Article IV of the Bangsamoro Autonomy Act (BAA) No. 4, otherwise known as the "Bangsamoro Human Rights Act of 2019," provides thus:

"Section 29. Children Ombud. - Without prejudice to Republic Act No. 9344 otherwise known as Juvenile Justice and Welfare Act of 2006, the Commission shall act as the Children Ombud for the Bangsamoro. It shall ensure that the status, rights, and interests of children are upheld in accordance with the statutes, Constitution, and international instruments on human rights".

WHEREAS, under Section 30 (c) Article IV of BAA No. 4, provides thus:

***"Section 30. Powers of the Commission as x x x Children Ombud
x x x***

x x x

- (c) ***establish guidelines and mechanisms***, among others, that will facilitate access of x x x children to legal remedies and related laws, and enhance protection and promotion of their rights, especially those who are marginalized;

x x x"

The Commission shall establish guidelines and mechanisms, among others, that will facilitate access of children to legal remedies and related laws, and enhance the protection and promotion of their rights, especially those who are marginalized;



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Republic of the Philippines
BANGSAMORO HUMAN RIGHTS COMMISSION
Bangsamoro Autonomous Region in Muslim Mindanao
COMMISSION PROPER

WHEREAS, pursuant to this provision, the Commission shall adopt the attached guidelines to implement Sections 29 and 30 (c), Article IV of the Bangsamoro Human Rights Act of 2019;

WHEREAS, the implementation of the subject provision is crucial and indispensable in the fulfillment of the mandates of the Commission as the **Children Ombud** of the Bangsamoro;

NOW, THEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED, to adopt the attached Children Ombud Guidelines of the BHRC.

Adopted, April 01, 2024 / *Ramadhan 22, 1445 AH*.

ATTY. ABDUL RASHID P. KALIM

Commission Chairperson

ARCHIELO BUAYA, MPA

Commissioner

ATTESTATION

I HEREBY ATTEST that the foregoing is a Resolution regularly presented to, and adopted by, the Commission Proper of the Bangsamoro Human Rights Commission during its special meeting on April 01, 2024 / *Ramadhan 22, 1445 AH*.

BERNADETH B. EBRAHIM, RN, MPA

Acting Head, Office of the Commission Secretariat

#KAWW

FOR

A G I B

A L L

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BANGSAMORO HUMAN RIGHTS COMMISSION

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