

Sagip OR Huli ?

Rescue of Street Children in Caloocan, Manila,
Pasay and Quezon Cities



A report produced by
Bahay Tuluyan with support
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Sagip or Huli?:
Rescue of Street Children in Caloocan,
Manila, Pasay and Quezon City



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A research paper prepared by Catherine Scerri, BA/LLB (Hons)

with special assistance from:

Hope Basiao-Abella

Undersecretary Alicia R. Bala

Former Undersecretary Lourdes Balanon

Leopoldo M. Moselina

Belinda Parker

Melissa Rudd

Meg Smith

Editor: Geraldine Hughes

Junior Research Assistants from PILAK (Pinag Isang Lakas ng Kabataan):

Arnold Bautista, Mary Caspillo, Rachiel Neverio, Jomar Peñaojas, Marc

Pequero, Mark John Salinas, Rose Ann Vicente

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Illustrations by Arnold Bautista, Mary Caspillo, Rommel Fajardo, Jomar Peñaojas, Marc Pequero and Mark John Salinas

Bahay Tuluyan

2218 Leveriza St, Malate, Manila, 1004, Philippines

Telfax: +61 2 353 2350

info@bahaytuluyan.org

www.bahaytuluyan.org

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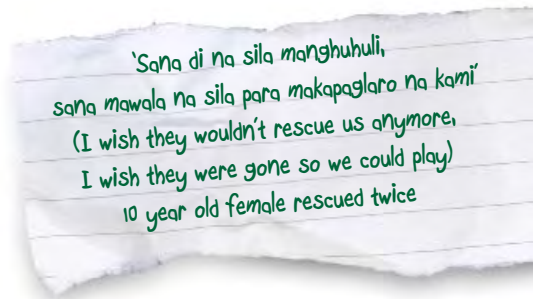
Acronyms

BCPC	Barangay Council for the Protection of Children
CSWD	City Social Welfare Department
CWC	Council for the Welfare of Children
DILG	Department of Interior and Local Government
DSWD	Department of Social Welfare and Development
EO	Executive Order
JFC	Jose Fabella Center
LCPC	Local Council for the Protection of Children
LGU	Local Government Unit
MMDA	Metropolitan Manila Development Authority
MSSO	Metropolitan Social Services Organization of MMDA
MSWD	Municipal Social Welfare Department
NGO	Non Government Organization
NEDA	National Economic Development Authority
NNSC	National Network on Street Children (formerly National Project on Street Children)
PD	Presidential Decree
PNP	Philippine National Police
RA	Republic Act
RAC	Reception and Action Center
SCO	Sidewalk Clearing Operations
SDCU	Street Dwellers Care Unit of MMDA
TARA	Technical Assistance and Resource Augmentation focal person
UNCRC	United Nations Convention on the Rights of the Child
WCD	Women's & Children's Desk at police stations

Executive Summary

This report is concerned with the rescue of street children in the cities of Caloocan, Manila, Pasay and Quezon. Rescue is the act of a government agency physically removing a child from the streets for the stated purpose of removing the child from danger.

This practice is primarily carried out by the Metropolitan Manila Development Authority (MMDA), City Social Welfare Departments (CSWD) in each city, Philippine National Police (PNP) and barangay police.



'Sana di na sila manghuhuli,
sana mawala na sila para makapaglaro na kami'
(I wish they wouldn't rescue us anymore,
I wish they were gone so we could play)
10 year old female rescued twice

The report relies upon information collected from interviews of 430 street children or their guardians, 93 rescuers, 10 policy makers, relevant NGOs and visits to processing / reception centers.

The aim of this research study was to evaluate the practice of 'rescue' of street children by government agencies in the cities of Caloocan, Manila, Pasay and Quezon and make recommendations for its improvement.

The impetus for this report to be written came from the publication of a research study entitled 'Sagip or Huli?: Indiscriminate Rescue of Street Children in the City of Manila' which was released in

January 2008. Following the release of the results of that study, the National Network on Street Children (NNSC) requested Bahay Tuluyan to validate the findings of that study across three further cities in Metro Manila – Caloocan, Pasay and Quezon cities. This report compiles the findings about rescue as it is carried out across all four cities – Caloocan, Manila, Pasay and Quezon.

Our research indicates that rescue operations as currently carried out in Caloocan, Manila, Pasay and Quezon cities are:

- **INDISCRIMINATE.** Rescue operations fail to consider the individual needs and circumstances of street children;
- **INVOLUNTARY.** The vast majority of street children interviewed and surveyed did not want to be rescued according to current practices;
- **HARMFUL.** Rescued children face a number of violations to their most basic rights, both as humans and as children, throughout nearly all stages of rescue operations;
- **INEFFECTIVE.** Generally, rescues not only fail to alleviate the problems faced by children in need of special protection, but also exacerbate such problems from a more long term perspective.

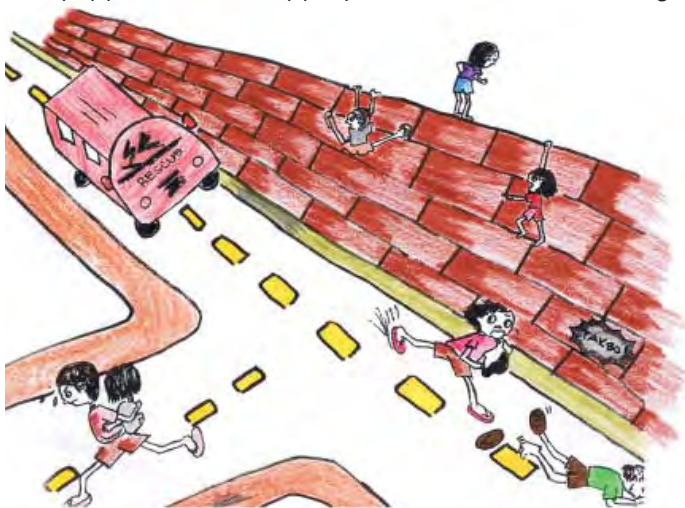
The research made the following general findings:

1. Rescue is being carried out by too many authorities, without coordination or clear objectives. There is a lack of accountability and training. There is a need to rationalise the roles of agencies involved in child protection and rescue and ensure appropriate training for all people involved.

2. There is a lack of consistent and clear policy guiding rescue operations leading to gaps in implementation and breaches of existing laws.
3. Rescue operations are frequently carried out indiscriminately and for reasons other than child protection. The best interests of the child are often secondary to other concerns. Rescuers are frequently unclear about their objectives in conducting rescue and therefore use inappropriate intervention techniques. This unnecessarily criminalises, stigmatises and traumatises children.
4. Rescue operations as currently practiced in the cities of Caloocan, Manila, Pasay and Quezon are failing to protect children from abuse and exploitation and are sometimes exposing them to these. Children's rights are violated at nearly all stages of the process.
5. There is an overall lack of monitoring of the rescue process that is caused by the absence of an adequate system and also a failure to recognise the problems. An independent complaints mechanism is not available or accessible to rescued children.
6. Rescue as is currently practised is an ineffective intervention for street children because it fails to address the root causes.

Finally, this research study has come up with a comprehensive list of recommendations for the improvement of services to street children in the three cities and throughout the Philippines. In summary, these recommendations call for:

1. A revision of laws and policies applicable to rescue to ensure that rescue practices are rights based, child friendly and transparent.
2. The design of programs for street children that focus on prevention, protection and rehabilitation, addressing root causes and keeping the best interests of the child as a paramount consideration.
3. Ensuring that all people involved in child protection and rescue are equipped with the appropriate skills and knowledge.



Introduction

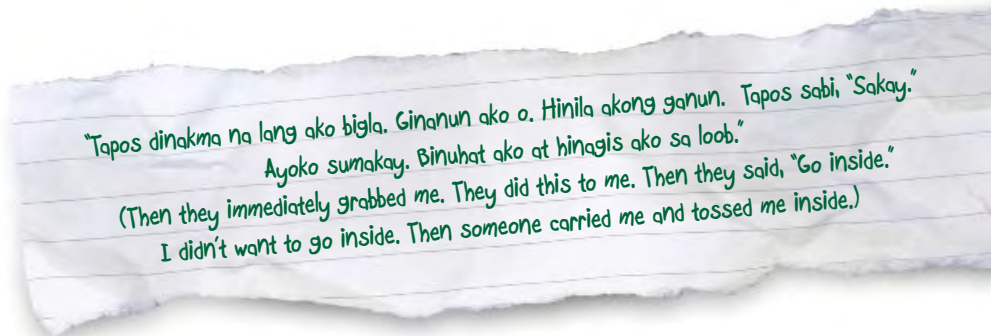
What is rescue?

This report deals with the practice of 'rescue' of street children by government agencies in the cities of Caloocan, Manila, Pasay and Quezon. For the purposes of this study, rescue is defined as:

the act of a government agency physically removing a child from the streets for the stated purpose of removing the child from danger.

Rescue is also known as 'rescue of indigents', 'clean-up of street dwellers', 'round-ups', 'sagip' and 'paghuli'. These rescues — being initiated by government agencies — can be contrasted with rescues that take place upon the request of a child or his/her family.

'Sagip' is a Tagalog word which can be translated to mean 'the act of saving someone from danger'. 'Huli' or 'paghuli' means 'the act of arresting or seizing'.



"Tapos dinakma na lang ako bigla. Ginanun ako o. Hinila akong ganun. Tapos sabi, "Sakay."
Ayoko sumakay. Binuhat ako at hinagis ako sa loob."
(Then they immediately grabbed me. They did this to me. Then they said, "Go inside."
I didn't want to go inside. Then someone carried me and tossed me inside.)

In many cases, the practice of rescue can be divided into a series of seven steps or stages¹. These are:

- a. **Identifying a need for rescue.** At this stage the decision to conduct a rescue operation is made, perhaps in response to:
 - An identified, observed need by the government agency;
 - A complaint or request by a member of the public;
 - A directive from a more senior government agency;
 - Regular, programmed activities; or
 - A political or social event occurring in the area.

- b. **Pre-rescue preparations,** during which the government agency prepares to conduct the rescue. This stage may, but does not always, involve:
 - Mobilising and briefing a rescue team;
 - Conducting a basic interview with the child to assess his/her needs;
 - Contacting the child's family;
 - Locating appropriate programs and services for the child; and
 - Building a relationship of trust with the child.

¹Note that in the first study, conducted in Manila, the rescue process was divided into three stages, rather than seven. The analysis of rescue was revised to consider seven stages to ensure that all parts of the process were adequately considered.

- c. **Removing the child from the street.** This normally involves a van with a team of rescuers approaching the child in the street. The rescuers then take physical custody of the child and put him/her in the van and transport him/her to a place for reception or processing.
- d. **Initial processing.** This stage may involve getting basic information about the child including his/her age, family background and socio-economic status. The child's immediate needs may be assessed and the child may undergo immediate medical and psychological evaluations. This normally takes place in a processing center.
- e. **Custody,** which involves the child being kept in protective custody for a period of time. Custody normally takes place at a processing or reception center.
- f. **Leaving custody.** At this stage the child's protective custody ends, because the child:
- is released into the custody of his/her parents/ guardians;
 - is referred to an alternative facility for further care / shelter;
 - is given permission to leave; or
 - leaves without permission.
- g. **Post-rescue.** This stage considers what happens to a child upon leaving custody.

People who are frequently targeted by rescue operations are 'street dwellers', 'vagrants', 'homeless people', 'street nomads', 'beggars', 'rugby boys' and 'sidewalk dwellers'. This research study focused particularly on street children (see chapter 3 for a profile of street children and the child participants of this study).

Background to this research study

In recent years, NGOs working with street children in Metro Manila have noted that the practice of 'rescue' being carried out by various government agencies has had a negative effect on children. The observation of NGOs has been that rescue has evolved from the way it was originally intended and now is defined by children as 'huli' or arrest.

In November 2006, a group of young people from Bahay Tuluyan formed a youth advocacy group called PILAK or Pinag Isang Lakas ng Kabataan (which means 'United Strength of Youth'). In response to the increasing number of concerns about rescue from children on the street, PILAK decided to adopt the issue of rescue for its advocacy campaign.

PILAK was supported in their efforts by a team of volunteers who conducted a research study entitled Sagip or Huli?: Indiscriminate Rescue of Street Children in the City of Manila in December 2007 and January 2008². This research study was presented to a

²Nugroho, Dita et al, Sagip or Huli? Indiscriminate Rescue of Street Children in Manila, 2008, Available at www.bahaytuluyan.org

representative of the Mayor of Manila at the first Street Children's Festival (hosted by Bahay Tuluyan and PILAK) on 26 January 2008.

The research study raised serious concerns about the practice of rescue of children in need of special protection in the city of Manila. In particular, the research found that rescue as currently practiced is indiscriminate, involuntary, harmful and ineffective. The study called for an immediate moratorium on rescue and a review of policies and practices.

Concerned by the issue of rescue and the reporting of a 'Zero Street People in Manila' policy in January 2008, Metrowest Network (a cluster of NGOs working with children in need of special protection in Manila, Makati, Mandaluyong and San Juan), began discussions about the practice of rescue with the LGU in Manila.

On 29 February 2008, the matter was raised in a special meeting of the National Network on Street Children. This group agreed that the research raised serious concerns that needed to be addressed. The NNSC requested Bahay Tuluyan to conduct sample research studies in three more cities in Metro Manila — Caloocan, Pasay and Quezon City — to determine if the issues observed in Manila are similar to those experienced in other cities.

UNICEF Philippines provided funding support to Bahay Tuluyan to conduct such a research study and the study was conducted in 2008. This report compiles the results of the research conducted through the initial study conducted in Manila and the most recent study conducted in Caloocan, Pasay and Quezon cities .

Aim and objectives of the research study

The aim of the research study was to evaluate the practice of 'rescue' of street children by government agencies in the cities of Caloocan, Manila, Pasay and Quezon and make recommendations for its improvement. The research objectives were to:

- a) identify the parties involved in the practice of rescue and outline the relationships that exist between them;
- b) collect and present data on children's experiences of rescue, including evidence of the benefits and/or harms;
- c) assess current practice against international legal standards of children's rights and local laws;
- d) identify key policy objectives of rescue and assess whether these objectives are being met;
- e) develop recommendations to ensure that rescues protect and assist children in need of special protection and prioritise their individual needs and concerns.

Figure 1 Map showing Caloocan, Manila, Pasay and Quezon Cities within Metro Manila



Research methodology

Research team

The research team for the first study, conducted in Manila, consisted of a team of six Australian volunteers assisted by local staff and translators.

The research team for the second study, conducted in Caloocan, Pasay and Quezon Cities, consisted of seven Junior Research Assistants, three Senior Research Assistants, a Research Coordinator and a Project Coordinator. The research team was assisted by eight Australian volunteers, NGO staff familiar with children in each area and a legal research team.

The Junior Research Assistants were young people from PILAK, Pinag Isang Lakas ng Kabataan, a youth advocacy group formed from amongst the children involved in the programs and services of Bahay Tuluyan. These Junior Research Assistants were chosen to be involved as part of Bahay Tuluyan's participatory research program.

Data Collection

Data was collected using interviews and surveys. Data relating to Manila was collected in December 2007 and January 2008. Data relating to Caloocan, Pasay and Quezon cities was collected in June, July and August 2008. Participants in the research fell into five groups, namely:

1. children who had experienced rescue, or where appropriate, their guardians;
2. 'rescuers' (government agencies or personnel involved in the conduct of one or more stages of rescue);
3. 'policy makers' (government agencies or personnel involved in the rescue of street children at a policy level);
4. NGOs working with children affected by rescue; and
5. processing centers where children were often taken after being rescued.

The tools used for data collection (interview and survey formats) were revised for the second study. Therefore there are some areas in which specifically comparable data is not available for Manila. In most cases the data gathered from Caloocan, Pasay and Quezon is generally indicative of the situation in Manila and is presented as representative of the four cities. Where the data from Manila differs substantively or is not available, this is noted.

Children and their guardians

A total of 599 children were interviewed or surveyed across the four cities: 119 in Caloocan, 169 in Manila, 149 in Pasay and 162 in Quezon. From this group of children a total of 584 rescues were documented in detail however the sample group had been rescued a total of more than 2300 times between them. Every child participant had been rescued at least once.

In relation to Caloocan, Pasay and Quezon cities, ninety-five percent (95%) of the rescues documented in this study took place between 2003 and 2008 and 82% occurred from 2006 onwards. 5% of rescues documented took place between 1997 and 2003. Generally only the children's more recent experiences of rescue were documented in detail.

Of the children involved in the study 31% were female and 69% were male. This disproportionate representation is indicative of a greater number of male children being on the street, experiencing rescue and being prepared to share their experiences.

During the period of data collection, the researchers visited areas frequented by street children. They were often accompanied by NGO street educators who were familiar with the children in the area. The children were interviewed using a standard interview format in Tagalog. All responses were anonymous. Verbal consent was required for interviews. Children who were very young were sometimes represented by their parents or guardians.

Rescuers

A total of 114 rescuers were interviewed across the four cities. Most of these interviews were pre-arranged. These participants are listed in Figure 2.

Figure 2 Rescuer participants per city

Interviewees	Caloocan	Manila	Pasay	Quezon
Barangays	14	2	15	18
Police	3	3	5	6
CSWD	3	4	3	1
NGOs	3	8	7	3
Processing / reception centers	6	2	4	2
TOTAL	29	19	34	30

Policy makers

Pre-arranged interviews were conducted with senior staff from the following national agencies:

- Commission on Human Rights – Chairperson and Officer in Charge of Child Rights Center
- Council for the Welfare of Children – Executive Director
- DSWD – Undersecretary and Social Technology Bureau
- MMDA – Directorate for Special Operations/Rescue
- Philippine National Police – HDRD & Women and Children’s Division

NGOs

Participating NGOs included Bahay Tuluyan, Batang QC Foundation, Childhope Asia Philippines Inc, ECPAT, His Hand Extended, Kanlungan sa ER-MA Ministry, KNK, Pangarap Foundation, SPECS Foundation, Sun for All Children Foundation, Unang Hakbang Foundation and Virlanie Foundation. These NGOs were chosen to participate because they have active programs in the target areas and their beneficiaries are frequently affected by rescue. Pre-arranged interviews were conducted with representatives from these organizations.

Processing center visits

Visits were conducted to five processing centers, namely:

1. Social Development Center, Pasay
2. Social Development Center, Caloocan (Tahanan Mapagpala)
3. Reception & Action Center, Manila
4. Reception & Action Center, Quezon City
5. Jose Fabella Center, Mandaluyong

Many rescued children were taken to these centers for processing and custody.

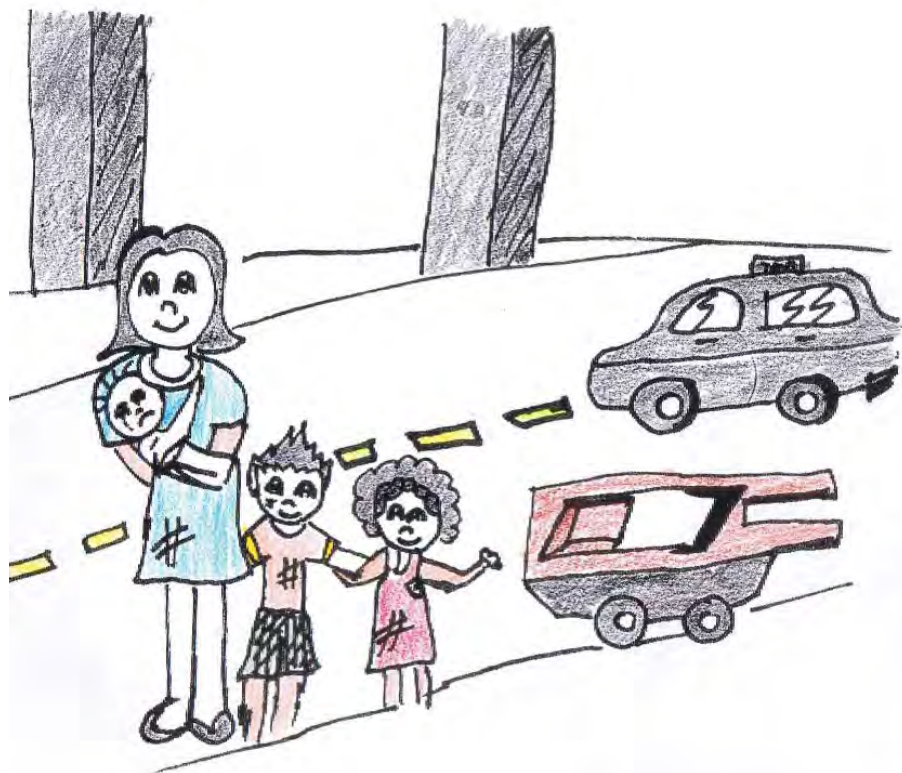
Validation of research

A draft of the report was presented in a validation workshop held on 24 February 2009. Results of this validation workshop were then incorporated into the final draft of the report. Representatives of the following agencies/organizations were present during the validation workshop:

- Childhope Asia Philippines Inc;
- City Social Welfare and Development Offices from the cities of Manila, Quezon, Caloocan and Pasay;
- College of St. Benilde – Social Action Office;
- Council for the Welfare of Children;
- DSWD (NCR and Central Office);
- MMDA;
- Research team
- SPECS Foundation;
- UCCP-Ellinwood;
- Unang Hakbang;
- Virланie Foundation;
- Women and Children Protection Center of the PNP; and
- Youth representatives from Metrowest Network for Children in Need of Special Protection;

Note on anonymity

In order to protect the anonymity, the names of all child participants have been excluded and some adult participants have been cited only by reference to their general occupation and/or role in rescues.



A profile of Street Children

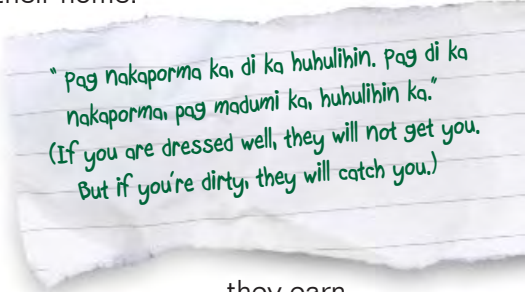
This chapter attempts to profile street children - who they are, what they do and why they are on the street. It also profiles the street children who were involved in this study.

Definition of street children

In the Philippines the term 'street child' is generally used to refer to children spending a large percentage of their time living, working or playing on the street.³ For these children the street is their playground, workplace and sometimes their home.

Street children are often classified into two groups:

1. Children on the street - these are children who spend a majority of their time on the street because that is where they earn their livelihood. These children normally return home to communities and/or their families on a regular basis. It is estimated that this group makes up approximately 70% of all street children. These children are often 'in school'.



"Pag nakaporma ka, di ka huhulihin. Pag di ka nakaporma, pag madumi ka, huhulihin ka."
(If you are dressed well, they will not get you. But if you're dirty, they will catch you.)

³This chapter draws on 'Ruiz, Henry, 'A Study of Policies and Programmes in the Philippines Addressing the Right of Street Children to Education', National Research Coordinator, Childhope Asia Philippines

2. Children of the street – these are children who spend most of their time on the street, living, working and playing. They have families in communities but return home infrequently or not at all. Generally children of the street are not in school. They have often chosen to live on the street because of problems at home including extreme poverty, violence and substance abuse. It is estimated that this group constitutes 30% of all street children. Children of the street includes two sub-groups:
 - 2.1. Abandoned and neglected children – this is a group of children who are on the street because they have no families, have been abandoned or neglected by their families, or have been displaced from their families. They maintain no connection with their families. They live and work on the streets and are normally out of school.
 - 2.2. Children of street families – these are children who live with their families on the street. Their families have often been homeless for a long period of time and they earn their livelihood on the streets. Many of these families make their homes in wooden pushcarts, moving from place to place around the city. There are no estimates as to how many street children fall into this category.

Male street children outnumber female street children at an estimated ratio of 4:1.⁴

⁴Lamberte, Exaltacion, PhD, Ours to Protect and Nurture: The Care of Children Needing Special Protection, DLSU – Social Development Research Center, 2001

The number of street children in the country is estimated to be three percent (3%) of the population aged between 0 and 17 years old.⁵ Based on this formula, the number of street children in 2001 was 246,111. Of this number, approximately 20% are estimated to be 'highly visible'. In 2001 it was estimated that there were between 45,000 and 50,000 highly visible street children in 22 cities nationwide. In that study it was estimated that there were 11,346 highly visible street children in Metro Manila with 1,530 street children in Caloocan, 3,266 in Manila, 1,420 in Pasay and 2,867 in Quezon City.⁶

In the 2001 study it was found that 25% of street children resided in cities outside of or different from the city where they were located indicating that many street children are highly mobile.

Children's activities on the street

Children on the street engage in a variety of activities that can be loosely categorised into three:

1. Work or income generation – this normally includes vending, washing or watching cars, buses or market stalls, begging, prostitution
2. Rest & play – playing, sleeping, socialising

⁵Ibid

⁶Lamberte, Exaltacion, PhD, Ours to Protect and Nurture: The Care of Children Needing Special Protection, DLSU – Social Development Research Center, 2001

3. High risk behaviours – sniffing solvents, gambling, stealing, unsafe sex

Some children work on their own while others are employed or commissioned to work by a neighbour, friend or acquaintance. Street children normally form groups with other street children with whom they spend much of their time. Approximately 25% of children in one study were with either one or both of their parents on the street.⁷

A study of street children in 2001 found that 34% of street children involved in the study had not gone to school in the previous year. This number had reduced since 1994 when it was estimated that as many as 53% of street children had not gone to school in the previous year. This decrease was attributed to the provision of educational assistance.⁸

Children tend to stay on the street for between 4 and 24 hours a day, with an average of nine hours a day. Approximately 8% of street children stay on the street all day.⁹

Street children have an average age of 14.6 years, with 46.9% being aged between 6 and 12 years old and 31.5% aged between 13 and 15 years. A majority of street children are from large families, with an average of 5 children.¹⁰

⁷Ibid

⁸Ibid

⁹Ibid

¹⁰Ibid

Reasons children are on the street

The most common reason for which children are on the street is poverty or the family's inability to meet the child's basic needs. Poverty places stresses on family that may induce or exacerbate other problems such as substance abuse, family break-up, child abuse and domestic violence.

Many street children are the sons or daughters of parents who have migrated from rural areas to urban areas in the search of work. However their lack of education has left them without the skills to compete effectively in the urban environment and as a result the children are often forced to help their parents earn a living on the street. Other children go to the street to escape the pressures of life at home and to seek solace, protection and support from their peers.

The reason for children going to the street may be summarised as follows:¹¹

Immediate Causes (factors which have to do with the children and family)

- Family's inability to meet children's material needs
- Unemployed/underemployed parents/children
- Irresponsible parents and/or lack of parenting skills
- Domestic violence
- Poor family environment

¹¹Based on Silva, Teresita, 2003 'A Situation of Street Children in the Philippines' A Paper presented at the Civil society Forum on Promoting and Protecting the Rights of Street Children in Southeast Asia', Bangkok, Thailand, 12 – 14 March 2003

- Substance abuse or gambling by parents
- Homelessness

Underlying Causes (Factors which have to do with the community)

- Ineffective access to basic services
- Inadequacy of employment opportunities
- Inequitable distribution of resources and opportunities in the community
- Nature and conditions of work/employment
- Congestion in slum areas
- High cost of living
- Inadequate housing/poor housing facilities
- Corruption
- Lack of law enforcement
- Inflexibility of education system and the high cost of education
- Lack of recreational and other opportunities for children
- Discrimination and stigmatization
- Government policies and priorities

Root Causes (Factors which have to do with society)

- Economic, political and ideological structures
- Structural poverty and underdevelopment
- Global inequality and the debt burden

The child participants of this study

Five hundred and ninety nine (599) children were interviewed or surveyed for this study. Of these 119 were from Caloocan, 169 from

Manila, 149 from Pasay and 162 from Quezon. Almost all of those children were on the street at the time of the interview or survey, while some were in NGOs.

A profile of children in each city is as follows:

Figure 3 Profile of child participants

	Caloocan	Manila	Pasay	Quezon
Age range	3 – 18 years	4 – 18 years	1 – 18 years	3 – 18 years
Average age	13 years	12 years	12 years	14 years
Sex	29% female, 71% male	44% female, 56% male	34% female, 66% male	16% female, 84% male
Place of residence ¹²	25% in the community 75% on the street	Not available	45% in the community 55% on the street	36% in the community 64% on the street
Education	26% in school 50% out of school	Not available	74% out of school 18% in school	50% in school 82% out of school

¹²Note that the statistics for place of residence and education were only gathered from children who were interviewed, not surveyed.

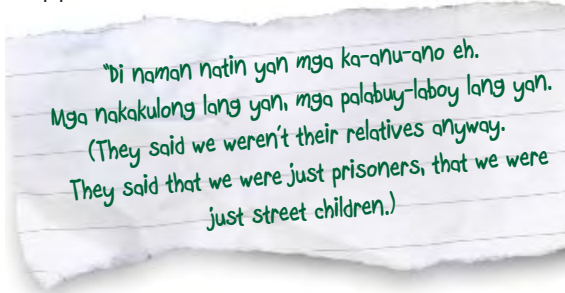


History of Rescue Operations

In order to place current rescue operations in context, this chapter documents the history of rescue and the important events in its development. These include the formation of the National Network on Street Children, round up operations initiated prior to the APEC Ministerial Meeting in Manila, MMDA rescue operations, the Ahon Bata sa Lansangan Project, Sagip Kalinga Project and the DSWD's Street Children Program.

National Network on Street Children

The phenomenon of street children started to be felt in the 1970s and was first acknowledged by the Philippine Government in 1985.¹³ In 1986 the NNSC (initially called the Joint Project on Street Children and then National Project on Street Children) was officially launched. This project was initially administered by Childhope Asia Philippines and then passed to the government. The NNSC was



*"Di naman natin yan mga ka-anu-ano eh.
Mga nakakulong lang yan, mga palabuy-laboy lang yan.
(They said we weren't their relatives anyway.
They said that we were just prisoners, that we were
just street children.)*

¹³Ruiz, Henry, 'Final Report: Evaluation of the Roles and Functions of the National Network for Streetchildren and its local Counterparts', 2007, Annex E, also Department Order No. 13 Series of 2000, Guidelines on Street Children Program, Department of Social Welfare and Development, 21 September 2000

not created by any government issuance but drew its mandate from a General Memorandum of Understanding between the UNICEF Philippines office and the Government of the Philippines, represented by NEDA.

The NNSC Governing Board was composed of the DSWD, the National Council for Social Development (NCSD), an alliance of NGOs (including Childhope and the Children's Laboratory for Drama in Education) and the UNICEF Philippines Office. NNSC was lodged at the office of the Department of Social Welfare and Development (DSWD) under the Bureau of Child and Youth Welfare (now called the Social Technology Bureau). UNICEF Philippines provided technical support as part of the Country Project for Children II under the Urban Basic Services (UBS).

The rescue of street children was not one of the programs or activities of the NNSC. Instead the NNSC provided direct intervention on the streets and in rehabilitation centers as needed. The NNSC propagated three major program interventions: street-based, community-based and center-based approaches in the cities with programs for street children.

Through the NNSC, taskforces on street children were established in 32 cities/municipalities nationwide. These taskforces were headed by the local Social Welfare Department or by NGOs and were encouraged to become members of the Local Council on the Protection of Children.¹⁴ Prior to the decentralization of government

¹⁴According to interviews with Pol Moselina (former UNICEF) and Lee Aguilar (CWC) 13 Aug 08

these taskforces reported directly to the NNSC. Where taskforces are still active and functioning today they report directly to the local government and may be involved in rescue operations, although monitoring by the NNSC is no longer conducted.

Some time before 2002 the NNSC became a member of the Council for the Welfare of Children (CWC).

APEC Ministerial Meeting – November 1996

In November 1996 the eighth APEC Ministerial Meeting was held in Manila under the presidency of Fidel V Ramos. The lead-up to the APEC Summit was marked by ‘cleaning up’ and ‘beautification’ of Metro Manila. This process involved the rounding up of street children, demolition of squats, eviction of squatters and the destruction of street stalls. Throughout 1996, there were allegations that police in Manila beat and harassed suspected squatters during forced evictions in poor residential areas designated for demolition and clearance.¹⁵

From the time of the APEC meeting, various government agencies continued, in various forms, the practice of removing children from the street. This rounding up was apparently done under the authority of the anti-vagrancy law.¹⁶

¹⁵Amnesty International, Amnesty International Report 1997 - Philippines, 1 January 1997.

¹⁶Vagrancy is criminalised under Article 202 of the Revised Penal Code. However in 2006, under the Juvenile Justice and Welfare Act (RA 9344) it became illegal to prosecute children for this crime.

MMDA Rescue Operations

The MMDA (and formerly the Metropolitan Manila Council – MMC) has been conducting rescues since 1990. According to the Director of the Directorate of Special Operations/Rescue, rescue operations, or ‘round ups’ as they were then called, initiated after ‘psychotic vagrants’ were observed on the street. Every three months the MMC would conduct simultaneous operations to gather or round up people in the street. These operations were conducted in partnership with the Bureau of Jail Management and Penology (BJMP), police and paramedics. The people rounded up would be taken to the National Medical Health Center (NMHC) for assessment.

During this period between 300 and 500 people were rounded up each quarter. Workers and street families were also frequently rounded up with the ‘psychotic vagrants’ due to their appearance – looking ‘like vagrants’. The children would be referred to the local SWDO or the DSWD. The role of the MMDA was to facilitate the round up, they were not involved in the treatment or integration process.

As a result of these round ups the taskforce identified a problem of transient workers who slept on the street or in public places because it was not economically efficient for them to return to their homes outside Manila every day. In response to this problem the MMDA established ‘Gwapotel’, an inn providing bed and bath at a very low price per night. Although Gwapotel has proved successful with transient workers, it does not accept children and therefore is not of benefit to street children.

In 2005 the MMDA launched the 'Metro-Gwapo' campaign, which is ongoing. According to a Director of MMDA, this campaign embodies all the mandates of the MMDA including development, public safety and traffic. It is modelled on the 'broken window' project of former Mayor of New York City, Rudy Giuliani, to fix window panes across New York as a way of restoring order and reducing crime.¹⁷ The idea behind the Metro Gwapo campaign is that if unsightly or negative things in the physical environment are fixed, this will encourage more people to be productive. The campaign, according to the MMDA, is not about beautification — it is to make everyone more positive in their outlook by improving the environment and 'removing things that when seen would provoke a negative emotion'.¹⁸ People moving aimlessly on the street are said to be amongst such 'negative things'.¹⁹

The MMDA gives two further justifications for removing children from the street; they put themselves at risk and they endanger motorists. According to the Directorate of Special Operations and Rescue, the MMDA believes that the streets are not for children but that children should be at home, at school or in playgrounds. Furthermore MMDA Chairman Fernando reportedly does not support programs that empower children to support their families in making a livelihood.²⁰

¹⁷For more information on the 'broken windows theory' see Kelling, George L and Catherine Coles, *Fixing Broken Windows: Restoring Order and Reducing Crime in Our Communities*. Note that there has been doubt raised over the effectiveness of this theory.

¹⁸Interview with Directorate for Special Operations/Rescue, MMDA, 10 September 2008

¹⁹Ibid

²⁰Ibid

In response to negative feedback from NGOs, the terminology of 'round up' was gradually phased out but the MMDA prefers not to use the word 'rescue' for the process of removing the children from the street because this is an emergency response term. Instead a new unit was introduced called the 'Street Dweller Care Unit' and the terminology was changed to refer to 'care' and 'humanitarian action'. The MMDA is continuing their routine rescue operations through their Street Dwellers Care Unit (discussed in more detail below) and as part of the Metro Gwapo campaign.

Ahon Bata sa Lansangan Project – October 1998

In 1998, then DSWD Secretary Gloria Macapagal Arroyo introduced 'Ahon Bata sa Lansangan' ('Uplifting Children from the Street'). This was an initiative designed to address the issue of street children in the 17 cities and municipalities of the National Capital Region (Metropolitan Manila) 'by strengthening the capability of LGUs to address the problem'.²¹

According to the official website of President Gloria Macapagal Arroyo, the *Ahon Bata sa Lansangan Project*

'...believes that the problem of street children demands a response from society as a whole. Government cannot simply do it alone. The DSWD, as the lead agency mandated to this task, will harness initiatives for this

²¹Department Order No. 13 Series of 2000, Guidelines on Street Children Program, Department of Social Welfare and Development, 21 September 2000

purpose from the public, the church and business sectors, the NGOs, as well as the other government agencies such as the Philippine National Police (PNP), the Department of Interior and Local Government (DILG), the Department of Health (DOH), and other agencies. Hopefully, in the next few years, with our concerted and sustained efforts, there will no longer be street children. We would want to see them back in schools, back with their families and leading more rewarding lives. In those happier days, the culture of poverty which strips them of their right to dignity and instills the sense of powerlessness will finally be overcome. Public order will be restored, homes will be secured and streets will be safe. There will be less criminality because street children who used to grow up as snatchers, extortionists and hatchet men of syndicates will have become productive and respectable citizens.²²

Under the Ahon Bata sa Lansangan Project 'street children and their families [are provided] with necessary social services to protect their rights and enjoy a new lease on life'. According to a PNP Letter of Instruction, the PNP's role in this project is 'to conduct preliminary activities in supporting DSWD and other concerned NGOs in reaching out to the street children for them to voluntarily submit/join the program of the government and partner NGOs with the consent of their parents or guardians and to be rescued permanently from the streets. Such preliminary activities may continue as the need arises

²²Gloria Macapagal Arroyo, Initiatives: Our Future is in the Future of Filipino Children. Available: www.macapagal.com/gma/initiatives/abata.php

with intensive information-gathering and surveillance of suspected criminal syndicates victimizing street children for their eventual neutralization'.²³

According to the children interviewed and surveyed as part of this research, the Ahon Bata sa Lansangan project is not currently active in rescuing children.

Sagip Kalinga Project – October 1999

In 1993 a project known as 'Sagip Kalinga' (to save and to care) was piloted by the DSWD in Metro Manila. This project aimed to reduce the number of street dwellers by bringing them to staging centers where their needs would be assessed and addressed.

In 1999 an inter-agency task force was formed under the presidency of Joseph E. Estrada to implement the Sagip Kalinga project.²⁴ The role of this inter-agency task force was to 'undertake a sustained campaign of bringing down and preventing the growing number of vagrants, mendicants, children and adults from frequenting the streets and have even [sic] taken shelter in the streets' in the National Capital Region.²⁵

²³Letter of Instruction 32/98 SAGIP-BATA, PNP, 25 September 1998

²⁴Note that according to Administrative Order No. 56, Guidelines on Sagip Kalinga Project, Department of Social Welfare and Development, 22 April 2003 this was done pursuant to an Executive Order issued on 6 October 1999. No such order exists but there is no dispute that an inter-agency taskforce was formed at around this time.

²⁵See Administrative Order No. 56, Guidelines on Sagip Kalinga Project, Department of Social Welfare and Development, 22 April 2003

The Sagip Kalinga taskforce was headed by the MMDA and composed of the DSWD, Philippine National Police National Capital Region Office (PNP-NCRO), local government units of Metro Manila (MMLGUs), Department of Tourism (DOT), Department of Health (DOH), Department of Transportation and Communication (DOTC), Department of National Defence, the Philippine Information Agency and the Commission on Human Rights (CHR).

Under the Sagip Kalinga, rescue was a last recourse after social preparation had been conducted. This social preparation was frequently done by Street Educators who knew the children on the street and would spend time assessing their needs and helping them to come to decisions about their lives. When rescue was conducted, children and adults were brought to staging centers. At the staging centers the rescued clients underwent a basic needs assessment and were given a medical examination. Basic needs such as food were provided while a decision was made by social workers as to the appropriate intervention. Families originating from other provinces were often given assistance to return home under the 'balik-probinsya' program. Families would undergo counselling and Parent Effectiveness Training. Children attended school during the process of referral and parents were given livelihood training.

The taskforce was collaborative and met regularly to assess the operations and the needs of clients. NGOs and the private sector were actively involved in the process. Those involved in carrying out rescues were given orientations and seminars about the process. Although the Sagip Kalinga project ran for several years guidelines for the project were not issued until April 2003. The *Guidelines on Sagip Kalinga Project* indicate that it was anticipated that the localisation in

administration and implementation of the Sagip Kalinga project would, firstly, respond 'to the growing demand to expand the services to highly urbanised cities with visible numbers of street dwellers'.²⁶

Street Children Program – 2000

In 2000 the DSWD passed 'Guidelines on the Street Children Program'²⁷ which was described as a 'comprehensive and integrated program addressing the plight of street children by taking them away from the streets to prevent further exposure to harm, exploitation, abuse and other hazards. It was intended to be a *'multi-sectoral initiative to enable government both in the national and local level, non-government agencies, business sectors, socio-civic-religious groups and communities to assume collective responsibility in protection of children'*.

There seems to be a lack of familiarity with these guidelines amongst agencies currently conducting rescue.



²⁶Guidelines on Sagip Kalinga Project

²⁷Department Order No. 13 Series of 2000, Guidelines on Street Children Program, Department of Social Welfare and Development, 21 September 2000

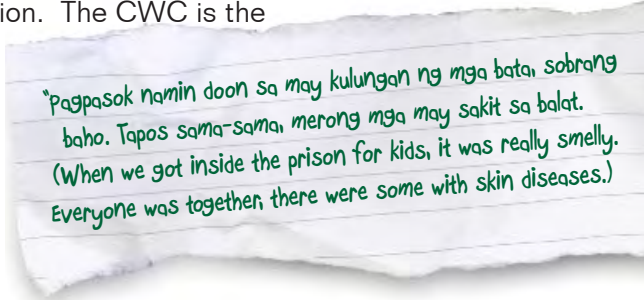
Government Agencies' Roles in Rescue

This chapter looks at the different agencies involved in rescue and their mandate in relation to rescue.

Responsibility for the protection of children is shared across the hierarchy of the Philippine government, beginning with the President and flowing down to the barangay. The division of responsibilities between these different government agencies is sometimes clear but often overlapping or inconsistent.

Council for the Welfare of Children and National Network on Street Children

The Council for the Welfare of Children is the main institutional mechanism for the formulation of all policies for children and for monitoring CRC implementation. The CWC is the lead national agency for children and is composed of seven line agencies (which includes the Department of Health, Department of Interior and



"pagpasok namin doon sa may kulungan ng mga bata, sobrang baho. Tapos sama-sama, merong mga may sakit sa balat.
(When we got inside the prison for kids, it was really smelly. Everyone was together, there were some with skin diseases.)

Local Government, Department of Education and DSWD) three coordinating bodies, three private individuals, including a child representative and 2 ECCD experts. The CWC was previously under the office of the President and then the DSWD. It is now an attached agency of the DSWD. The CWC operates through 17 Regional Sub Committees or Committees for the Welfare of Children (RSCWC / RCWC).²⁸

CWC is not an implementing agency and is therefore not directly involved in rescue operations. Policies which the CWC formulates are passed to the Council Board which is composed of the Secretaries of the line agencies. It is then the responsibility of these agencies to ensure the implementation of policies in their agencies. The CWC however does not have any authority to investigate or monitor the implementation of such policies. Instead the CWC can simply encourage agencies to provide feedback on implementation. CWC has four committees, one of which is the Committee on Children in Need of Special Protection (CNSP). The National Network on Street Children (NNSC) is a sub-committee of the Committee on CNSP. The Deputy Executive Director of CWC convenes as the Chair of this sub-committee.

As the peak body responsible for street children in the Philippines, the NNSC has the responsibility to provide oversight and set policy in relation to programs for street children, including rescue operations. The issue of rescue operations and MMDA's role in these activities has been discussed by the NNSC as early as June 2005.²⁹

²⁸Committee on the Rights of the Child Consideration of Reports Submitted by States Parties under Article 44 of the Convention – Philippines, 19 September 2007 paragraphs 25 & 27

²⁹Minutes of Meeting of Action Committee of NNSC, 10 June 2005 and 28 September 2005

Note that under EO 778, 'Transforming the Council for the Welfare of Children into the Early Childhood Care and Development Council' which was issued in February 2009, the CWC has been transformed into an Early Children Care and Development Council and many of its functions have been moved to the DSWD. At the time of publication EO 778 is being contested by a number of concerned groups. It is not yet clear what implications EO will have for the NNSC and its functions.

Department of Social Welfare and Development

As a result of the enactment of the Local Government Code of 1991,³⁰ direct responsibility for implementing social welfare programs and/or services shifted from the DSWD to the LGUs. The DSWD assumed a role of policy setting and technical assistance for LGUs. This is implemented both through the national and regional offices of the DSWD.

However where basic services and facilities assigned to a lower level of government (such as an LGU) are not made available or are inadequate, the DSWD may augment these services and facilities.³¹ National agencies such as the DSWD are able to provide financial, technical or other assistance at the request of the LGU, including policy guidance or advice.³² Such advice or guidelines are not necessarily binding on LGUs and must respect local autonomy.

³⁰Republic Act 7160 – Local Government Code of 1991

³¹Section 17(f), RA 7160

³²Section 25(c), RA 7160

The DSWD has various roles in relation to rescue:

- Operating the Jose Fabella Center and Haven for Children in Mandaluyong City. A large percentage of children who are rescued are taken to this center, particularly those children rescued by the MMDA. As manager of this reception center the DSWD provides direct services to children as part of rescue operations.
- Accrediting processing centers which are run by LGUs, such as Reception and Action Centers and Social Development Centers, who receive children as part of rescue operations.
- Providing assistance to LGUs both directly and through its position on the NNSC, including augmenting services where inadequate.

In relation to rescue, the DSWD is guided by the Guidelines of the Sagip Kalinga Project as well as other relevant laws and policies.

Philippine National Police

The Philippine National Police is established under the Department of the Interior and Local Government pursuant to RA 6975.³³ The members of the PNP are 'considered employees of the national government and draw their salaries there from' however 'PNP members assigned in Metropolitan Manila, chartered cities and first

³³Republic Act 6975 – An Act Establishing The Philippine National Police Under A Reorganised Department Of The Interior And Local Government, And For Other Purposes

class municipalities may be paid an additional monthly allowance by the local government unit concerned'.³⁴

The PNP is tasked to enforce laws and ordinances relative to the protection of lives and properties and to maintain peace and order and take all necessary steps to ensure public safety.³⁵

The PNP does not have a specific mandate over street children or for rescue except as where it may fall into the above mentioned areas. The PNP does not have any specific policies relating to rescue or the handling of street children.³⁶

The Women and Children Concerns Division of the PNP is concerned with all children but does not have a specific mandate over street children. Accordingly these children should only come in contact with the Women and Children Concerns Division if they are abused or in conflict with the law.³⁷

³⁴Section 36, RA 6975

³⁵Section 24, RA 6975

³⁶There is a 'Police Handbook on the Management of Children in especially Difficult Circumstances' but this does not provide any specific guidance as to rescue operations. A new manual has also recently been published entitled 'Investigation of Crimes Involving Women and Children' which also doesn't specifically relate to rescue.

³⁷Interview with Chief Superintendent Yolanda Tanigue, Women and Children Concerns Division, 28 August 2008

Metropolitan Manila Development Authority

The Metropolitan Manila Development Authority (MMDA) was created by RA 7924 to administer the special development and administrative region of Metropolitan Manila. The MMDA is tasked to perform planning, monitoring and coordinative functions and to exercise regulatory and supervisory authority over the delivery of metro wide services in Metro Manila, without diminishing the autonomy of local government units over purely local matters.³⁸

Metro-wide services are those which have metro-wide impact and transcend local boundaries or entail expenditures beyond the capacity of LGUs. These include development planning, transport and traffic management, solid waste disposal and management, flood control and sewerage management, urban renewal, zoning and land use planning, health and sanitation and public safety.

According to the MMDA website, two of its 12 programs are³⁹:

STREET NOMADS CARE PROGRAM

- *Removal of street nomads, beggars, vagrants and homeless persons, including "rugby boys" from the streets of Metro Manila; estimated of about 2,000*
- *Round-the-clock monitoring of street nomads; to be kept in MMDA-DSWD Care Facilities where they will be sheltered, fed, schooled, given livelihood training and medical care.*

³⁸Section 2, RA 7924

³⁹MMDA website, 9 September 2008 - www.mmda.gov.ph/main.htm

This is also known as the Street Dwellers Care Unit and is exclusively devoted to conducting rescue operations and implementing the Street Dweller's Care Program, 24 hours a day, 7 days a week. The stated goal of the MMDA's Street Dwellers Care Unit is that 'the presence of even one street dweller virtually negates the government's efforts to inspire its citizenry to be confident about a bright future'.⁴⁰

SIDEWALK DWELLERS INVENTORY AND ALLOCATION

- *Remove and relocate sidewalk dwellers to safe and liveable places*
- *Protect the sidewalk from all sorts of obstructions to ensure the convenience and safety of pedestrians*

According to the Directorate of Special Operations/Rescue, this is not part of routine round up operations of the MMDA.

Commission on Human Rights

The Commission on Human Rights (CHR) was established by the 1987 Constitution of the Philippines and Executive Order 163.

Amongst other things, the CHR is mandated to:

- investigate human rights abuses;
- provide preventive measures for under-privileged whose human rights have been violated or need protection;
- conduct campaigns to enhance respect for human rights; and

⁴⁰Working for a Gwapong Metro, Street Dwellers Care Program, Module 15, CD produced by MMDA

- monitor the Philippine Government's compliance with human rights treaties

The Sagip Kalinga Guidelines require the CHR to 'assist during the actual conduct of rescue operation to ensure the protection of the rights of the informal dwellers' and 'advocate for the promotion of human/children rights'.⁴¹

The Child Rights Center of the CHR is mandated to ensure that 'the status, rights and interests of children are upheld in accordance with the Constitution and international instruments on human rights'.⁴²

Local Government Units

Under the Local Government Code of 1991, the responsibility for social welfare services, including but not limited to 'community-based rehabilitation programs for vagrants, beggars, street children, scavengers, juvenile delinquents, and victims of drug abuse' was devolved from the DSWD to municipalities and cities.⁴³

All cities, municipalities and provinces are required to have a social welfare and development officer who shall be responsible for the social welfare and development services.⁴⁴ The powers given to a SWDO include 'the responsibility to identify the basic needs of the needy... and develop and implement appropriate measures to alleviate their problems and improve their living conditions' and 'facilitate the

⁴¹Section VI(h), Guidelines on Sagip Kalinga Project

⁴²Section 11, RA 9344

⁴³Section 17 (b) and (e) of Local Government Code of 1991, RA 7160

⁴⁴Section 483, RA 7160

implementation of welfare programs... and such other activities which would eliminate or minimize the ill-effects of poverty.⁴⁵ The SWDO reports directly to the local chief executive (mayor). Caloocan, Manila, Pasay and Quezon Cities all engage in rescue operations.

In Pasay the CSWD, PNP, Barangay and Public Operation Safety Unit are normally involved in rescue operations. Pasay City has a Social Development Center which provides shelter to rescued children.

In Caloocan an interagency taskforce including the CSWD, DILG, Department of Public Safety and Traffic Management (DPSTM), MMDA, PNP and Barangay officials often works together to conduct massive rescue operations. For smaller operations the CSWD works with the police and health workers. Caloocan City has a Social Development Center which provides shelter to rescued children – Tahanan Mapagpala.

In Manila, the CSWD, PNP and Barangay are normally involved in rescues. Manila has a Reception and Action Center (RAC Manila) which provides shelter to rescued children. Staff and volunteers from RAC Manila are frequently also involved in rescue operations.

In Quezon City the CSWD, PNP and Barangay are normally involved in rescue operations endorsed by the City Operations Division. Quezon City has a Reception and Action Center (RAC QC).

None of the cities involved in this study had a written policy guiding their rescue operations.

⁴⁵Section 483 (3)(i) & (iv), RA 7160

Barangays

Responsibility for 'health and social welfare services' was devolved to barangays by the Local Government Code.⁴⁶ The barangay does not have any specific or distinct authority over rescue or street children except as they may be a barangay issue rather than a city or municipality issue

Barangays play a variety of different roles in role in rescue operations. Sometimes they initiate rescues and sometimes they work with the LGU or MMDA to conduct a rescue.

None of the barangays involved in the current study had a written policy to guide their rescue operations. Some barangays relied on other ordinances, laws and policies as a basis for implementing rescue including:

- Ordinances and issuances relating to curfew
- RA 9262 – Anti-Violence Against Women and Their Children Act of 2004
- RA 7610 – Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act
- RA 9344 – Juvenile Justice and Welfare Act of 2006
- RA 9208 – Anti Trafficking in Persons Act of 2003
- Disaster Preparedness Plan

Each barangay is required to have a Barangay Council for the Protection of Children (BCPC) which should be involved with cases

⁴⁶Section 17(b)(1)(ii), RA 7160

of children experiencing abuse or neglect. In many barangays the BCPC is inactive. Through a program of the Commission on Human Rights, each barangay should also have a Barangay Human Rights Action Center for human rights protection and advocacy at the barangay level. Although BHRAC are organised in Caloocan (63%), Manila (13%), Pasay (29%) and Quezon cities (100%),⁴⁷ none of the barangays interviewed mentioned the BHRAC playing a role in relation to rescue.

Agencies conducting rescues in this study

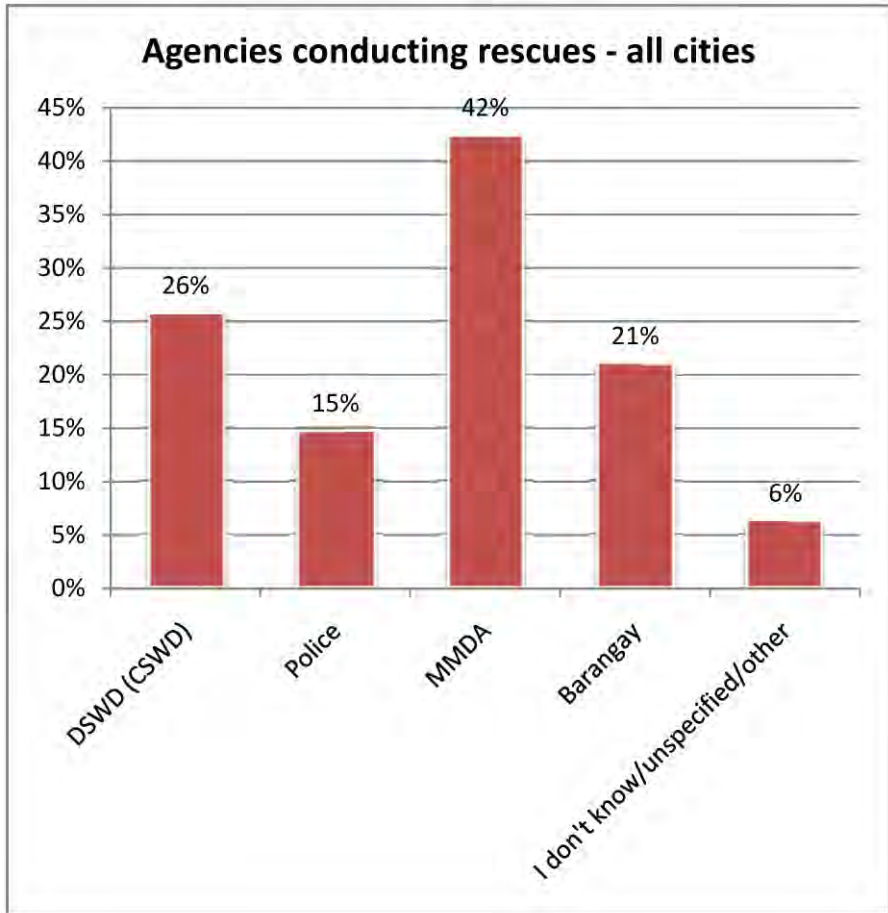
In the rescues documented in this study, rescues in the cities of Caloocan, Manila, Pasay and Quezon were carried out primarily by the following agencies:

- MMDA
- LGUs, through the City Social Welfare Department and/or Department of Public Safety
- PNP
- Barangays, and especially barangay police (tanod) (see Figure 4).

The DSWD has not been directly involved in carrying out rescues since 2003. Despite this, when children were asked who rescued them, many reported that they were rescued by 'DSWD'. This likely indicates that the children do not differentiate between the local social welfare department (CSWD) and the national agency (DSWD).

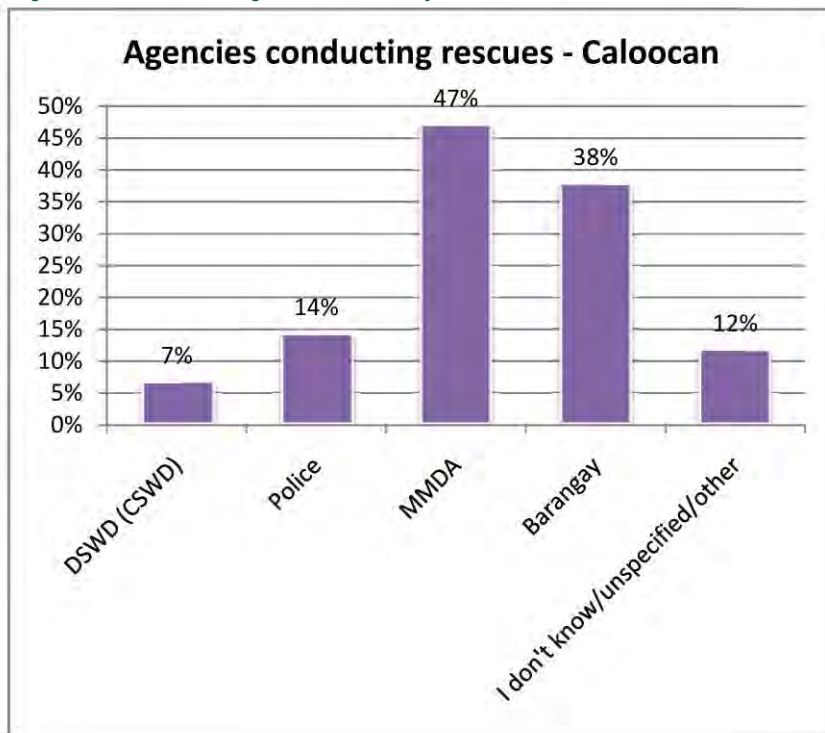
⁴⁷Commission on Human Rights, Summary of Organized BHRAOs as of December 11, 2006

Figure 4 Government agencies that carry out rescues in Caloocan, Manila, Pasay and Quezon cities.



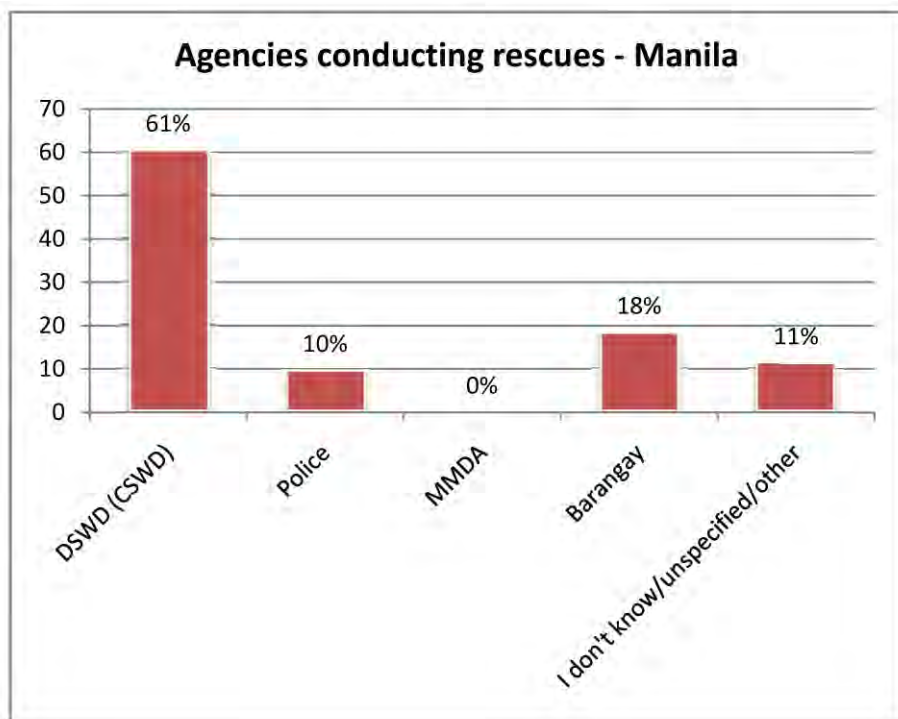
There were proportionately more rescues carried out by barangays in Caloocan than in either of the other cities (Figure 5).

Figure 5 Government agencies that carry out rescues in Caloocan



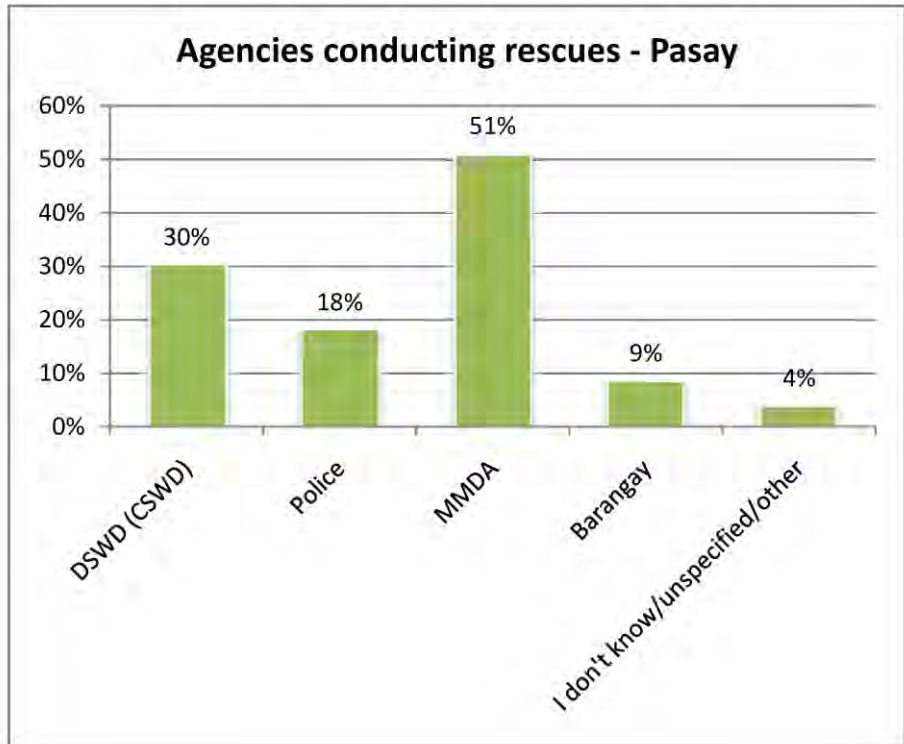
The MMDA was not conducting any rescues in Manila at the time of the research. The CSWD was much more involved in carrying out rescues in Manila than in any other city.

Figure 6 Government agencies that carry out rescues in Manila



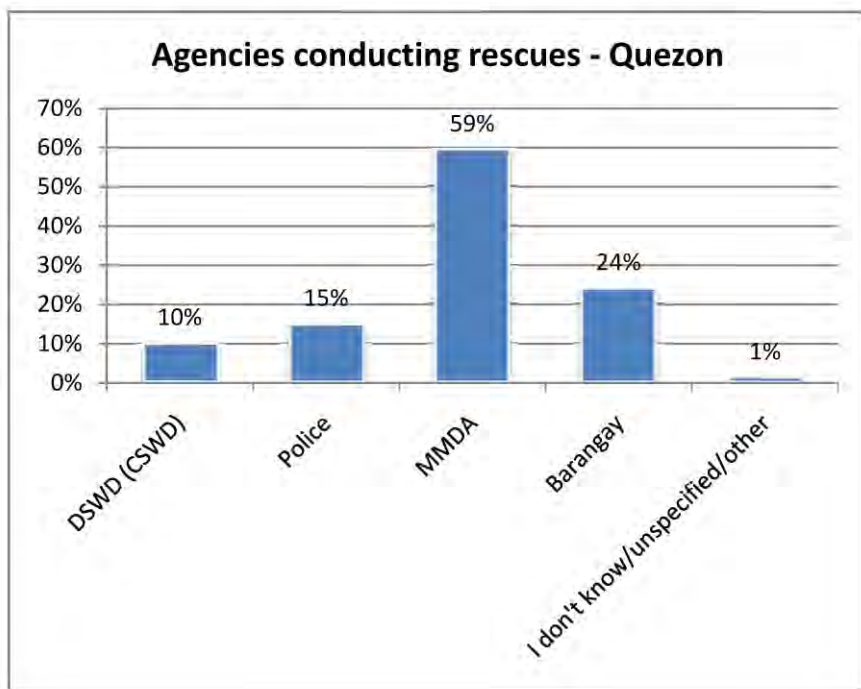
The DSWD (CSWD) and police were somewhat involved in rescues in Pasay however the MMDA conducted a majority of rescues. (7). Barangays had significantly less involvement.

Figure 7 Government agencies that carry out rescues in Pasay



The percentage of rescues in Quezon that were conducted by MMDA was noticeably greater than in the other cities (Figure 8). This may be because the other agencies carry out fewer rescues in Quezon than their counterparts in Pasay or Caloocan, or it may indicate that the MMDA is much more active in Quezon City.

Figure 8 Government agencies that carry out rescues in Quezon



In addition to the agencies mentioned above, agencies that were sometimes included in rescues, according to the 'rescuers', were:

In Caloocan,

- Department of Public Safety and Traffic Management; and
- Department of Interior and Local Government.

In Manila

- Reception and Action Center

In Pasay,

- Public Operation Safety Unit;
- Anti-Carnapping Group; and
- Mayor's 'Clean Team'.

In Quezon

- Department of Public Order and Safety;
- Barangay Operations Center;
- Quezon City Anti Drug Abuse Council; and
- Tahanan Rehabilitation Center.



Policy Guidelines and Laws Applicable to Rescue

This chapter reviews existing international, national and local laws, guidelines, conventions and policies which are applicable to rescue.

There is no clear or uniform policy governing the rescue of street children. Various laws exist at the local and national levels that are applicable to rescue however they are often conflicting and inconsistent with international standards. The application of existing laws tends to criminalise street children.

*Sinasaktan nila yung mga nahuhuli nila pag lumalaban sa kanila.
Pag dating sa loob ng RAC, sinasaktan nila, ginugulpi nila.
Tapos kapag lumaban pa rin sa kanila, hindi nila titigilan hanggang hindi dumudugo yung mukha,
walang pumuputok, hindi nasugatan o nababasag yung mukha.
(They beat up those who'd resist them. Once inside RAC, they'd beat them up.
If the kids continued to resist, they wouldn't stop beating them until their faces and bodies
are bloody and swollen, until their faces are all broken.)

International Laws and Policies

United Nations Convention on the Rights of the Child (UNCRC)

The UNCRC enshrines various rights which are critical in a consideration of the practice of rescue.⁴⁸ Article 3 provides that the 'best interests of the child' should be the primary consideration in all acts concerning children. Every individual rescue should address the individual needs of the child to be rescued.

Institutions responsible for the care and protection of children (such as shelters catering for rescued children) must comply with standards in relation to safety, health, staffing and supervision – in the case of the Philippines these standards are set by the DSWD.

Article 12 of the UNCRC guarantees that children should be able to participate in decisions which affect them, in accordance with their evolving capacities. Therefore at least with respect to the method of rescue and their treatment after the rescue, rescued children should have the right to provide feedback on the program and the relevant authority should be obliged to consider such views.

Children are protected from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation and sexual abuse (Articles 19 & 34). Measures to address such abuse should be in place. This right is significant to the physical act of rescue, and the post-rescue phase when the children are housed and under the supervision of the State.

⁴⁸The Philippines is a signatory to the UNCRC, Riyadh Guidelines and Beijing Rules.

Family integrity is protected for children by the right not to be separated from their parents. Children should not be separated from their parents except where it is determined, by a competent authority subject to judicial review, to be in the child's best interests (Article 9). Many street children remain in contact with their parent or guardian and therefore separation from such must comply with this right. Where deprived of his/her own family environment a child must be provided with an appropriate alternative family environment.

Protection from arbitrary deprivation of liberty, torture and degrading treatment is guaranteed for children under the UNCRC. Children deprived of their liberty are entitled to be treated with dignity and respect and to be separated from adults. Insofar as rescue constitutes a deprivation of liberty it must comply with the provisions of the UNCRC (Article 37).

Due to the interdependence and indivisibility of children's rights, many other rights also have relevance here including the rights to play, education, health and rehabilitation.

United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)

As the Beijing Rules deal with juvenile justice they don't specifically apply to street children or to rescue operations. However it is arguable that for street children who have NOT committed any offences, the Beijing Rules (where relevant) should apply as a MINIMUM standard. Street children should not be treated in a

manner that is inconsistent with the Beijing Rules for no other reason than that they are homeless or on the street. In other words, they should not be penalised because they have not committed an offence.

The Beijing Rules outline some fundamental principles to be applied in the administration of juvenile justice:

- Fair and humane treatment and hence promotion of the well being of children.
- Principle of proportionality – in particular the gravity of removing a child from the street, sometimes against his/her will, should be balanced against the child protection issues at stake.
- Use of detention only as a measure of last resort and only for the shortest period of time.
- Juveniles should be detained separately from adults.
- Deprivation of a child's liberty should be carefully considered and only for serious offences.

United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines)

The Riyadh Guidelines are intended to be applied to all 'young persons', whether or not they are offenders. The guidelines recognise that preventing juvenile delinquency is a critical part of crime prevention. The guidelines hold that 'by engaging in lawful, socially useful activities and adopting a humanistic orientation towards society

and outlook on life, young persons can develop non-criminogenic attitudes'.⁴⁹

Some important principles of the Riyadh Guidelines are:

- A child-centred orientation should be pursued wherein young people have an active role and partnership with society and are not mere objects of socialisation or control;⁵⁰
- The well-being of young persons from their early childhood should be the FOCUS of any preventive program;⁵¹
- Preventive policies should include:
 - (i) the provision of opportunities (including educational opportunities) to meet the varying needs of young persons;
 - (ii) specialised approaches for delinquency prevention;
 - (iii) official intervention to be pursued in the OVERALL interest of the young person and guided by fairness and equity;
 - (iv) protecting the well-being, development, rights and interests of all young persons;⁵²
- Community-based services and programs should be developed for the prevention of juvenile delinquency. Formal agencies of social control should only be utilised as a means of last resort.⁵³

⁴⁹Article 1, United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines)

⁵⁰Ibid, Article 3

⁵¹Ibid, Article 4

⁵²United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines), Article 5

⁵³Ibid, Article 6

Preventive policies should place emphasis on successful socialization and integration of young people, particularly through the family, education and community. Family should be preserved wherever possible and appropriate home-like facilities should be provided for those without a family. Education should be provided for all young people and should cater to the needs of young people at social risk. Comprehensive policies to combat substance abuse should be in place. The institutionalisation of young people should be a last resort, for the shortest possible time and in the best interests of the child. No young person should be subjected to harsh or degrading punishment at any time. Laws should be in place to ensure that young peoples' rights are respected, protected and fulfilled.

National Laws and Policies

The first, most important thing to note in relation to an analysis of the laws and policies governing rescue operations is that there is no overall policy for rescue. Many different government agencies are carrying out rescue under different policies, mandates, guidelines or instructions and for a variety of different objectives. In many instances rescue operations are not guided by any policy at all.

1987 Constitution of the Philippines

The 1987 Constitution of the Republic of the Philippines provides:

*No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.*⁵⁴

Rescue involves physically removing children, and sometimes their property, from the street and transferring them into a vehicle or facility where they come under the custody of the person/s rescuing them. At the point at which the children come under the custody of another person and they are not free to leave at will it can be said that they are deprived of their liberty, and sometimes also their property, albeit that this is sometimes only a temporary deprivation and may be in their own best interests.

Accordingly, in order to be legal, rescue must be done with 'due process of law'.

It is worthwhile noting that the United Nations has defined the concept of 'deprivation of liberty' to include all deprivations of liberty 'whether in criminal cases or in other cases such as, for example, mental illness, vagrancy, drug addiction...'.⁵⁵

⁵⁴Article 3, Section 1, Constitution of the Republic of the Philippines, 1987

⁵⁵UN Human Rights Committee, General Comment No. 8: Article 9 (Right to liberty and security of persons), 1982

Republic Act 7610 – Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act

All of the various agencies involved in rescue claim child protection to be at least one of the reasons for which rescue operations are conducted, despite the fact that other objectives, either explicit or otherwise, may also be present. Moreover, this study is focusing on the rescue as ‘the act of a government agency physically removing a child from the streets for the stated purpose of removing the child from danger’. It is important therefore to consider who has the legal authority to ‘rescue’ children for the purpose of child protection and under what circumstances this authority may be exercised.

RA 7610 provides a clear mandate for the State to protect children from living or working on the street:

‘It shall be the policy of the State to protect and rehabilitate children gravely threatened or endangered by circumstances which affect or will affect their survival and normal development and over which they have no control.’⁵⁶

Furthermore, there shall be a comprehensive and coordinated program of services and facilities to protect children against such circumstances.⁵⁷

⁵⁶Section 2, RA 7610

⁵⁷Section 4 & Section 3(d), RA 7610

'Working under conditions hazardous to life, safety and morals'⁵⁸ and 'living or fending for themselves in the streets... without the care of parents ... or any adult supervision needed for their welfare'⁵⁹ are included in the circumstances which affect survival and normal development.

According to RA 7610, children who have been 'offended' under this law (therefore presumably including street children) shall be 'immediately placed under the protective custody of the Department of Social Welfare and Development pursuant to Executive Order No. 56, series of 1986'.

Executive Order No. 56 – Authorizing the Ministry of Social Services and Development to Take Protective Custody of Child Prostitutes and Sexually Exploited Children, and for Other Purposes (6 November 1986)

EO 56 provides that;

'...any minor who is apprehended or taken into custody by any peace officer [or] by the duly authorised officers of the Ministry of Social Services and Development for engaging in prostitution or other illicit conduct punished by existing laws shall, immediately from such apprehension, be delivered by the arresting officer to the Ministry of Social Services and Development ...'

⁵⁸Section 3(c)(2), RA 7610

⁵⁹Section 3(c)(3), RA 7610

This order explicitly limits the DSWD's authority to take protective custody to those cases where the child has engaged in prostitution or other illegal activities. Accordingly, in the case of children who have been offended but have not engaged in illegal activities, EO 56 does not give the DSWD authority to assume protective custody.

Such a conclusion would lead to the untenable position that the DSWD is not authorised to assume custody of any children who have been abused but have not committed an offence, rendering many of their current practices illegal. It seems illogical that this would be the intention of the legislators in creating a law designed to protect children. Therefore it might be useful to proceed on the basis that the legislation did not intend to limit the DSWD authority in such a way, but intended to allow the protective custody of any child offended by the DSWD.

Assuming that the DSWD has taken legal custody of a child who has been offended, such as a child living or working on the street, RA 7610 requires that custody proceedings should be commenced in accordance with PD 603.⁶⁰

Presidential Decree No. 603 – The Child and Youth Welfare Code (10 December 1974)

Parents have the right to jointly exercise just and reasonable parental authority and responsibility over their children.⁶¹ Under the UNCRC

the Philippines is required to respect the responsibilities, rights and duties of parents to provide direction and guidance to their children.⁶² Further, the government should

'...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'.⁶³

Guardianship of a child who is dependent, abandoned or neglected by his or her parents may be transferred to someone other than his/her parents by virtue of a process of commitment.⁶⁴

- *A dependent child* is one who is without a parent, guardian or custodian; or one whose parents, guardian or other custodian for good cause desires to be relieved of his/her care and custody; and is dependent upon the public for support.
- *An abandoned child* is one who has no proper parental care or guardianship, or whose parents or guardians have deserted him/her for a period of at least six continuous months.

⁶⁰Section 28, RA 7610

⁶¹Article 17, PD 603

⁶²Article 5, United Nations Convention on the Rights of the Child

⁶³Article 9, UNCRC

⁶⁴Article 21 & 22, Presidential Decree No. 603 – The Child and Youth Welfare Code (10 December 1974)

- A *neglected child* is one whose basic needs have been deliberately unattended or inadequately attended. Neglect may be physical, where the child may be malnourished, ill clad or without proper shelter. Neglect may be emotional, where the child is exploited, made to beg or is raped, seduced or otherwise maltreated.

Commitment is the process of entrusting a child to the care of the DSWD or any duly licensed child placement agency or individual. This process may be done voluntarily or involuntarily.⁶⁵ In the case of voluntary commitment the parent/s or guardian must surrender the child in writing. Involuntary commitment may be done where parental or guardianship rights are terminated 'by reason of abandonment, substantial and continuous or repeated neglect and/or parental incompetence to discharge parental responsibilities'.⁶⁶ Where commitment is involuntary, a petition for custody of the child must be filed with the court. A hearing must be held at which the parents or guardian of the child should be present and during which the court must investigate whether the child is in fact dependent, abandoned or neglected. If a child is found to be dependent, abandoned or neglected, the court must make an order to commit him/her to the care and custody of the DSWD or any duly licensed agency or individual.⁶⁷

Once a child has been transferred to the care of the DSWD or a duly licensed agency or individual, that agency or individual shall be considered the guardian of the child for all intents and purposes.⁶⁸

⁶⁷Articles 141 – 152, PD 603

⁶⁸Article 22, PD 603

PD 603 is also relevant in that it relates to the licensing and management of child-caring institutions. Under this law child-caring institutions should be licensed by the DSWD and such licenses may be revoked if the institutions fail to meet standards.⁶⁹

Article 86 of PD 603 gives barangay councils the authority to enact ordinances and resolutions to provide for the proper development and welfare of the children in the community. Such ordinances should be made in consultation with representatives of national agencies concerned with child and youth welfare and should not be inconsistent with laws or municipal ordinances.

Republic Act 9344 – Juvenile Justice and Welfare Act of 2006

Under RA 9344, a 'child' means a person under the age of 18 years, and a street child is one of a number of defined categories of 'child at risk'. This law specifically adopts the 'Beijing Rules' (see above 6.1.2), 'Riyadh Guidelines' (above 6.1.3) and the UN Rules for the Protection of Juveniles Deprived of Liberty.

⁶⁹Article 117, 118 & 120, PD 603

Street children frequently engage in what are often seen as anti-social behaviours such as begging, prostitution and sniffing rugby (glue). Agencies conducting rescue frequently cite these as the reasons that children are rescued (see below 7.1.2). Various laws exist that penalise these behaviours:

- Mendicancy⁷⁰ is criminalised by Section 5 of PD 1563;
- Vagrancy is criminalised by Article 202 of the Revised Penal Code;
- Prostitution by women is criminalised by Article 202 of the Revised Penal Code; and
- Sniffing rugby and other volatile substances is criminalised by Section 2 of PD 1619.

However Section 58 of the Juvenile Justice and Welfare Act of 2006 provides that:

'persons below eighteen (18) years of age shall be exempt from prosecution for the crime of vagrancy and prostitution under Section 202 of the Revised Penal Code, of mendicancy under Presidential Decree No. 1563, and sniffing of rugby under Presidential Decree No. 1619, such prosecution being

⁷⁰Section 3 of PD 1563 defines a mendicant as 'any person... who has no visible and legal means of support, or lawful employment and who is physically able to work but neglects to apply himself to some lawful calling and instead uses begging as a means of living. However note that the definition of mendicant within the decree is circular and conflicting. The full definition contained in section 3 defines mendicants as 'any person except those enumerated in Section 4 who...'. Section 4 on the other hand enumerates all the possible types of mendicants – thereby the definition of a mendicant is essentially 'anyone who is a mendicant, except those who are mendicants'. This irregularity will be disregarded for the purpose of this report.

inconsistent with the United Nations Convention on the Rights of the Child. Provided, that said persons shall undergo appropriate counselling and treatment program.'

Accordingly the grounds on which a child may be removed from the streets for engaging in one of the above crimes is restricted. While RA 9344 prevents prosecution, it does not prevent contact with a child and in fact, by requiring persons to undergo counselling and treatment, actually implicitly requires some form of contact with the child. It is necessary then to investigate what kind of contact may be made and who is authorised to make such contact.

Section 57 of RA 9344 prevents children from being penalised for behaviour which, if conducted by an adult, would not be penalised. Such behaviour includes curfew violations, truancy and parental disobedience.⁷¹

Section 21 of RA 9344 regulates the process by which a child should be taken into custody. In particular, this process requires the law enforcement officer to:

- a) Give an explanation as to why s/he is being taken into custody and alleged offence
- b) Provide information about constitutional rights
- c) Show proper identification
- d) Refrain from using vulgar words and sexual harassment
- e) Avoid display of weapon or instrument of force
- f) Refrain from using greater restraint than necessary

⁷¹Section 4(r), RA Republic Act 9344 – Juvenile Justice and Welfare Act of 2006

- g) Avoid violence and unnecessary force
- h) Determine the child's age – a 'presumption of minority' should apply which means that if there is no proof of the person's age, it should be presumed that s/he is a child
- i) Immediately transfer the child to the custody of SWDO
- j) Facilitate physical and mental examination of child
- k) Ensure that, where detention is necessary, it should be separate from opposite sex and from adult offenders
- l) Keep a record of the investigation
- m) Ensure that all statements of the child are witnessed by parents/guardian, social worker or legal counsel.⁷²

As none of the cases above attract criminal responsibility for children, the 'authority which has the initial contact with the child has the duty to immediately release the child to the custody of his/her parents or guardian and an appropriate program should be devised by the local SWDO. If the child is found to be abandoned, neglected or abused by his/her parents or where the parents will not comply with the prevention program, proceedings for involuntary commitment should be commenced'.⁷³

PD 1563 requires proceedings for commitment under PD 603 to be commenced for children under 8 years old who are found begging or being used by a mendicant for begging and also for children between 9 and 15 years old who have been found engaged in mendicancy but have acted without discernment.⁷⁴

⁷²Section 21, RA 9344

⁷³Section 20, RA 9344

⁷⁴Section 4, PD 1563.

Department Order No. 13 / 2000 – Guidelines on Street Children Program

In 2000 the DSWD established a set of ‘Guidelines on Street Children Program’ ‘in recognition of the growing demand to expand the services’ previously implemented under the Ahon Bata sa Lansangan Project and NNSC.⁷⁵ The objectives of this program were to:

‘take away children from the streets, provide the children and their families with adequate social services and to protect their rights towards their physical, social, spiritual and emotional development as persons, thus preparing them to become productive members of the community where they belong.’⁷⁶

A specific objective of the program was to ‘rescue street children from the streets to protect them from further exposure to hazards, risks, abuse and exploitation.’ The program also aimed to help children access social services, provide intervention for families and organise those working with children for collaborative effort.

The program was to be ‘implemented in key cities and urban areas nationwide with high incidence of street children’.⁷⁷ The various components of the program included:

- a. Rescue Operation
- b. Social Mobilization and networking – the formation of city task forces

⁷⁵Guidelines on Street Children Program

⁷⁶Ibid, Part IV

⁷⁷Ibid, Part V.

- c. Basic Services Delivery
 - o Street based – outreach through street educators
 - o Center based – residential care including drop in centers and temporary shelters
 - o Community based for
 - i. Street children – including educational assistance, skills training, life skills development, peer support group, alternative family care
 - ii. Families – including parent effectiveness sessions, livelihood development, family counselling
 - iii. Communities – including BCPC, advocacy and social mobilization
- d. Capability Building of Implementers and Beneficiaries
- e. Data-Banking, Documentation and Research

Under the guidelines of this program, a rescue operation was described as:

'... an activity where street children are taken away from the streets. The LGU social workers, street educators, barangay officials, law enforcement authorities, among others shall be needed as part of the rescue team whenever this activity is implemented. At an appropriate time, the team shall rescue street children specifically to protect them from exploitation, syndicates and other forms of abuse. The operation is also a reaching out process where the children know that there is assistance available to them. Its ultimate purpose is to enable

*these children to come to a decision toward a better option and a clear direction in life.*⁷⁸

These guidelines provide that the LGU through the Street Children Task Forces (composed of government agencies, NGOs, church groups, civic associations and people's organizations) should take the lead role in coordinating programs for street children and the DSWD should provide technical assistance.

The DSWD is further mandated to monitor the implementation of reports and consolidate these. The LGUs should monitor and assess the project. The NNSC and DSWD shall provide technical assistance in relation to the implementation of the project.

Administrative Order No. 56/2003- Guidelines on Sagip Kalinga Project

The Guidelines on the Sagip Kalinga Project were issued some time after the program began and as a mechanism to allow for the expansion of the program beyond Metro Manila.

The Guidelines rely on various laws as their legal basis including:

- Executive Order No. 15 – requiring the DSWD to assist LGUs, NGOs, other national government agencies, people's organizations and other members of civil society to implement programs and services to alleviate poverty, empower disadvantaged individuals, families and communities for an improved quality of life

⁷⁸Guidelines on Street Children Program, Part VI, A

- RA 7610
- EO 56
- Administrative Code of 1997 – requiring the DSWD to take a balanced approach to welfare
- RA 7160 – the Local Government Code which devolves basic services to LGUs

The Sagip Kalinga project ‘aims to rescue informal dwellers through the provision of balik-probinsya program, counselling, educational assistance, medical/hospital referral, effective parenting and paralegal training program’.⁷⁹

The objective of the program is:

‘To protect the informal dwellers from the hazards of street life and provide them with appropriate social services until they are reintegrated into normal community life in their places of origin. It also aims to prevent the increase/influx of street dwellers by providing those rescued community based support services to hasten their reintegration into their respective communities and families.’⁸⁰

The project seeks to target ‘informal dwellers (individuals or families) of any age who spend significant amounts of time on streets, markets, parks, premises of malls and other public areas, adopting the said places as their homes, as a source of livelihood or both. They are considered as street dwellers, street children, mendicants, bush, indigenous people, beggars and the like’.

⁷⁹Guidelines on Sagip Kalinga Project, III

⁸⁰Ibid, IV

Under the Guidelines different agencies are designated different tasks:

- Office of the Mayor – financial & administrative support
- Local SWDO –
 - a) profiling of street dwellers
 - b) program development
 - c) mobilizing support services
 - d) manage processing centers
 - e) lead conduct of rescue
 - f) intake, assessment and referral
 - g) documentation
 - h) provision of basic and after care services
 - i) escort clients under balik-probinsya program
 - j) organise & train BCPC
 - k) monitoring & evaluation
- DSWD – technical assistance, capability building, coordination and assistance in resource generation
- PNP –security, escorting rescued children to centers, maintaining peace & order in centers
- Barangays – surveillance, monitoring, reporting, conduct of rescue
- NGO/Civic/Religious Sector – assistance in assessment & counselling, provision of resources
- Philippine Information Agency – social marketing/advocacy
- CHR – assist during conduct of rescue, advocate for rights
- Other agencies – assistance & resource augmentation as necessary

The LGU, with assistance of inter-agency task force and DSWD, is responsible for monitoring and evaluation.

PD 772 – Penalizing Squatting and Other Similar Acts

PD 772 penalizes squatting by imposing fines and or imprisonment.⁸¹ Children are not specifically excluded from criminal responsibility for this crime by RA 9344 as they are for mendicancy and vagrancy however in light of the policy of interpreting RA 9344 liberally in favour of the child,⁸² and the fact that the imposing penalties on children as a result of their homelessness is inconsistent with the UNCRC, it may be included as an offence not applicable to children. In any case, if a child who is of an age of criminal responsibility is suspected to have been committed this offence, s/he should be charged according to criminal law and not apprehended under the guise of 'rescue'.

Protecting Filipino Children from Abuse, Exploitation and Violence – A Comprehensive Programme on Child Protection, 2006 – 2010 – Building a Protective and Caring Environment for Filipino Children

The updated Comprehensive Programme on Child Protection (CPCP) for 2006 – 2010 was published by the Special Committee for the Protection of Children (SCPC) and is a companion document to the National Plan of Action. The SCPC was established to monitor the enforcement of RA 7610 and to create the CPCP.

⁸¹Section 1, Presidential Decree No. 772 – Penalizing Squatting and Other Similar Acts

⁸²Section 3, RA 9344

The CPCP does not specifically address the practice of rescue but instead establishes a holistic approach to combating abuse and exploitation of children in need of special protection, of which street children are a part.

The CPCP proposes that to address child abuse, exploitation and violence, a protective and caring environment for children must be created. Such an environment must permeate all levels of society including family, school, church, mass media, the justice system, local community or barangay, city or municipality and the wider community.

According to the CPCP there are 8 key elements to creating a protective and caring environment:

1. The government, national and local, is truly committed to child protection.
2. Laws are in place and are consistently enforced.
3. Attitudes, customs and practices, including gender discrimination, that facilitate or lead to abuse, exploitation and violence are challenged and changed.
4. Child protection issues are openly discussed in the mass media and among civil society partners.
5. Children are equipped with knowledge and skills to protect themselves from abuse, exploitation and violence.

6. All those who interact with children – parents, teachers, religious leaders, social workers, health workers, law enforcers, prosecutors, judges, etc. – know how to recognize and respond to abuse, exploitation and violence.
7. Basic and preventive social services as well as specialized services for rescue, recovery, healing and reintegration are available for all children without discrimination.
8. Monitoring systems are designed to identify, count and track children who are at risk and victims of abuse, exploitation and violence.

Under the CPCP there is a renewed shift from a needs-based to a rights-based approach to advocacy and programming and towards an integrated program which will address the different levels of causes – immediate, underlying and root. It is proposed that cross-cutting strategies and interventions are necessary and can be grouped into three sub-categories:

1. Preventive Actions and Early Interventions
2. Rescue, Psychosocial Recovery and Social Reintegration Services
3. Legal and Judicial Protection Measures

In the context of this study the CPCP is most useful as a guide for ideal interventions to protect children on the street.

RA 7924 – An Act Creating The Metropolitan Manila Development Authority, Defining Its Powers And Functions, Providing Funds Therefor And For Other Purposes.

RA 7924 establishes the MMDA and outlines its powers and responsibilities. It is clear from this law that the MMDA does not have explicit authority or power over social welfare services, street children or even children. Considering the considerable role that the MMDA plays in rescue operations it is important to consider if it has any imputed or implicit authority to be involved in rescues.

There are two provisions that may lend some indirect authority to the MMDA to affect street children — namely, urban renewal and public safety. These should be considered more closely:

Urban renewal

MMDA's mandate for urban renewal involves 'the rehabilitation and development of slum and blighted areas, the development of shelter and housing facilities and the provision of necessary social services thereof',⁸³ again in a regulatory or supervisory role.

It is conceivable that in the exercise of the MMDA's mandate to rehabilitate 'blighted areas', children may be affected. It is even possible that a need to protect such children from danger will arise

⁸³Section 3(e), Republic Act 7924 – An Act Creating The Metropolitan Manila Development Authority, Defining Its Powers And Functions, Providing Funds Therefor And For Other Purposes

through the course of such activities. If such an instance were to arise, as the regulatory and supervisory body, the MMDA should oversee an intervention by the appropriate agency but not directly intervene itself. In the case of social welfare services, the most appropriate agency to intervene would be the city Social Welfare and Development Office.

If the MMDA were to directly intervene in such a case it is unlikely that such an intervention would be justifiable under the mandate for urban renewal. Moreover direct intervention by the MMDA in relation to specific social welfare needs of children may even contravene RA 7924 by diminishing the autonomy of local government units in matters which should be considered purely local.⁸⁴

Public Safety

The MMDA also has power, under its public safety mandate to achieve 'preparedness for preventive or rescue operations during times of calamities or disasters... and the mobilization of resources and the implementation of contingency plans for the rehabilitation and relief operations in coordination with national agencies concerned'.⁸⁵

Rescue, as considered in this report, is '*the act of a government agency physically removing a child from the streets for the stated purpose of removing the child from danger*'. Children are at great

⁸⁴Section 2, RA 7924

⁸⁵Section 3(g), RA 7924

danger if they are on the street during a calamity or disaster and should be protected from this. Accordingly the MMDA may have some indirect authority over street children but this is merely indirect because the mandate:

- a) is for general public safety, not specifically for street children; and
- b) is to achieve 'preparedness', rather than directly implement rescue operations.

Even with the most liberal interpretation of RA 7924 it is unlikely that the MMDA has authority to directly intervene with street children, especially for the purposes of child protection. Although RA 7924 gives the MMDA some indirect authority over matters that may affect street children it seems unlikely that this could be construed as sufficient authority to independently remove children from the street through regular rescue operations, without the involvement of any other government agency.

Local Laws and Policies

Curfew ordinances

Many rescues are carried out by barangays under the authority of barangay ordinances which are normally enacted in conformity with municipal ordinances in relation to curfew. It is not possible here to review all the forms of barangay ordinance. It is worthwhile however considering a sample ordinance being used by a barangay in Quezon City.

The ordinance mandates 'discipline hours to minors within the territorial jurisdiction' of the barangay. Section 2 of the ordinance provides:

'It shall be unlawful for any minor or child under the age of 18 years to stay, roam around or meander from 10:00pm to 5:00am in public roads, streets or any public place within the territorial jurisdiction of this Barangay whether singly or in groups without lawful purpose or justification.'

The ordinance provides a list of 'lawful purposes' that would exempt a child from the curfew including children working or studying at night, those on lawful errands, children in company of their parents or guardians, children on their way home from special events and those unable to go home due to circumstances beyond their control.

The ordinance provides the following penalties:

1. First offence – the child should be accompanied home by the Barangay Public Safety Officer and turned over to parents who should be given a reminder of their responsibilities.
2. Second offence – the child should be turned over to the SSDD for appropriate counselling and proper disposition.
3. Third offence – the child's parents will be fined P500.

As mentioned above RA 9344 provides that curfew is a status offence and a child must not be punished for a status offence. It is thus important that ordinances such as the one above are not construed to punish children. If the effect of the implementation of the ordinance results in the child being punished, then the ordinance must be invalid for being in breach of RA 9344.

Whether or not the ordinance above punishes children is a matter that should be determined by a court of law, however some issues that are relevant are:

- the use of the terminology 'penalties' and 'offences';
- the fact that a fine enforced against a parent may in fact punish a child; and
- how the penalties for the first and second offences are implemented and whether in practice this constitutes punishment or is solely protective.

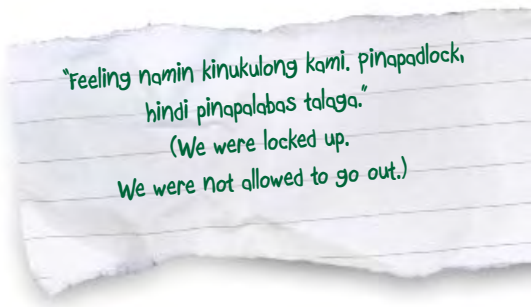
It is possible that many barangays have not had a chance to review their ordinances relating to curfew since the enactment of RA 9344. As a result it is likely that they are invalid in light of RA 9344.



Rescue in Practice

This chapter presents the findings about rescue as experienced by both children and rescuers at each of the seven stages of the rescue process:

1. Identifying a need for rescue
2. Pre-rescue preparations
3. Removing a child from the street
4. Initial Processing/Reception
5. Custody
6. Leaving custody
7. Post rescue



*"Feeling namin kinukulong kami. pinapadlock,
hindi pinapalabas talaga."
(We were locked up.
We were not allowed to go out.)*

Rescue as currently practiced in the cities of Caloocan, Manila, Pasay and Quezon is:

Indiscriminate – it fails to address the individual needs of children;

Involuntary – most children do not consent to being rescued according to current practices;

Harmful – children's rights are violated at nearly every stage of the rescue process due to violent and abusive actions; and

Ineffective – rescue is not effective in removing children from the street or at protecting them from harm.

Identifying a need for rescue

Location of rescue

Rescue operations tend to target specific areas which are highly visible and frequented by the public. The majority of child participants reported being taken from areas close to parks, colleges, squares, major highways, shopping centers, markets, fountains, tourist attractions and restaurants. In contrast, very few children reported being rescued from areas that are more out of sight, except in Caloocan where rescue operations were frequently conducted at the Sangandaan Cemetery.

In Caloocan, rescues were conducted in the following areas:

7 Eleven, Araneta, Bagong Barrio, Bagong Mayon, Balintawak, Boni Serrano, Barangay 15, Barangay Durata, City Hall, Gasak, Grand Central, KFC, Laloma, MacArthur, MCU, Monumento, palengke, Poming, Sangandaan Cemetery.

In Manila, children reported being rescued from the following areas:

Aristocrat Restaurant, Bacood Park, Baywalk, Binondo Plaza, Delpan, Divisoria, Ermita, Escolta, Intramuros, Lawton, Luneta, Mehan Garden, Osmena Highway, Paco, Padre Faura, Palengke, Pandacan, Paraiso, Pedro Gil, Quiapo Plaza, Quirino Ave, Rajah Sulayman Park, Remedios Circle, Roxas Boulevard, Sampaloc Bible Church, Sea/Sea Wharf, Sta Cruz, Tutuban Mall.

Children from Pasay reported being rescued from the following areas:

AIMS, Andok's, Baclaran, Banco, Bayanihan, Baywalk, Boulevard, Buendia, City Hall, CCP, Chowking, Cuneta Astrodome, Derham Park, DFA, flyover, Genesis, Jabus, Jollibee, Libertad, LRT, McDonald's, MIA, Miss Universal, Pricemart, Rotonda, Roxas Blvd, Sarimanok, Star City, under the overpass, vacant lots.

Many children from Pasay had had experiences of being rescued in Manila.

In Quezon City rescues were conducted in the following areas:

Alimall, Araneta Ave, Araneta Coliseum, Aurora Blvd, Balara, Balintawak, Bangko Pilipino Delta, Barangay Nakaitim, Barangay Paligsahan, BDO Cubao, C-5, Commonwealth, Congressional Road, Cubao, E Rodriguez, EDSA, Examiner, Farmers Cubao, Isetan Cubao, Jollibee, Kalaw, Kamias, Morato, McDo St Joseph, Munoz, Munoz Market, overpass, Pantranco, Puregold, San Roque, San Antonio, Scout Tuazon, SM Cubao, SM North, SM Paramount, Tambunting, Tandang Sora, Timog, Tobias, Tuazon, UP Diliman, vacant lots, Welcome Rotonda.

Why rescues are conducted

This study defines rescue as 'the act of a government agency physically removing a child from the streets for the stated purpose of removing the child from danger'. So while protecting children from danger is at least one of the reasons that rescue is conducted, the

interviews and policies show that rescues are conducted for a number of reasons including:

1. To protect the child from harmful work/activities such as prostitution, begging, sniffing rugby(glue) and from hazards of street life such as abuse, exploitation, early pregnancy, drugs and syndicates.⁸⁶
 - In Caloocan children were frequently rescued because they were living in the cemetery.
2. As an alternative to arresting a child who is performing illegal activities.
3. In enforcement of curfew laws .
4. To clean or beautify the city / project a clean, orderly and progressive community.⁸⁷
 - Eg: in Caloocan the LGU will issue a directive that ‘dapat linisin ang kalsada ng lahat ng pulubi’ (We must clean the streets of beggars.) – CSWD.
 -
5. Upon orders from a more senior official.
 - *‘Utos ng mayor, basta palaging galing sa taas ang order’ (Mayor’s orders, the orders always come from the top.) – CSWD.*
6. Remove negative elements from the community.

⁸⁶Guidelines on Sagip Kalinga Project, IV; Guidelines on Street Children Program

⁸⁷Working for a Gwapong Metro

- 'The idea is to remove negative things, that when seen would project a negative emotion. It is not for beautification, it is to make everyone more positive in their outlook by improving the environment.'⁸⁸ – MMDA
7. In preparation for a special event.
 - '*Usually manggaling sa head ang directives kung may events*' (*The directives normally come from the head if there are events.*)– Police Officer.
 -
 8. Protect the country from shame.
 - '*Ayaw mapahiya ang country. Secondary ang concern sa street children*' (*We don't want to embarrass the country. Concern for street children is secondary.*) – Police Officer.
 9. Prevent the influx of street dwellers.⁸⁹
 10. Improve the lives of children and provide them with appropriate services.⁹⁰
 - '*Matulungan silang maisaayos ang buhay nila*' (*Help them improve their life.*) – Social Worker.
 - Enable children to 'come to a decision toward a better option and a clear direction in life'.⁹¹

⁸⁸Ibid

⁸⁹Guidelines on Sagip Kalinga Project, IV

⁹⁰Ibid

⁹¹Guidelines on Street Children Program

11. To fulfil quotas.

- At MMDA rescue teams are required to accomplish a certain number of rescues per quarter in order to meet performance standards. The Jose Fabella Center reported that the MMDA delivered two vans of people to the Center every day, one in the morning and one in the afternoon. This normally amounted to approximately 50 people, both children and adults. In 2007 there were four 'deliveries' per day.

One woman collecting plastic bottles said she had never been rescued because she had 'friends in the MMDA'.

A rescue operation is commenced:

1. in response to a call or complaint from a member of the public;
2. in response to a 'sighting' from an agency employee;
 - *(eg: the Metrobase unit at MMDA informs the SDCU of 'sightings of nomads' so that the MMDA can go and pick them up)⁹²*
3. as part of regular activities / operations ; and
 - (eg: the SDCU's exclusive function is to conduct rescue operations while some barangays conduct rescues on a regular basis)
4. in preparations for a special visitor or event taking place in the area.

⁹²Working for a Gwapong Metro

Pre-rescue preparations

According to the Guidelines on the Sagip Kalinga Project, prior to a rescue the SWDO should 'scan and profile the population of informal street dwellers' and the Barangay should 'conduct surveillance in identified areas and monitor the incidence of street dwellers'.⁹³ The Guidelines on Street Children Program requires that 'surveillance is conducted'.⁹⁴ Before the SDCU is sent out on operation 'staff members are thoroughly briefed on the particulars of a mission'.⁹⁵

Of the interviewed children 37% said that they had contact with the rescuers prior to the rescue itself. The remaining 63% of children said that their first contact with the rescuers was at the time of the rescue.

Training

Seventy three percent (73%) of barangay officials involved in rescue reported that they were given training . The training or seminars that different officials reported receiving covered topics including:

- Crime Prevention
- Verbal Training
- Seminar on handling children
- Training about laws including RA 9262 (Violence against Women and Children), RA 9344(Juvenile Justice), RA 7610 (Child Abuse)

⁹³Guidelines on Sagip Kalinga Project, VI b & e

⁹⁴Guidelines on Street Children Program, Operating Procedures, A (2)

⁹⁵Working for a Gwapong Metro

- Children's rights
- Gender development
- Anti car-napping
- Strengthening BCPC
- Basic training in Peace and Order
- Human Rights

The MMDA reported that rescuers were given training in the following topics:

- How to handle different situations in the streets
- How to treat and physically handle street dwellers and nomads
- How to defend themselves when confronted by aggressive wards.

Some police officers said they were given training in the areas listed below while others said they received no training:

- Women's issues
- Children's rights
- Handling rescue
- Trafficking in persons
- Barangay training in Peace and Order
- Child-friendly investigations

Team

According to the CSWD of Caloocan, rescues are frequently conducted at the cemetery there. These massive operations normally target to rescue 100 – 300 people and are conducted by an inter-agency team (including the DILG, DPSTM MMDA, PNP and barangay officials). Prior to the rescue the team will meet and discuss the operation to ensure 'walang human rights violations' (no human rights violations).

In the city of Manila, it is normally the CSWD that conducts rescues. They are frequently accompanied by staff or volunteers from RAC Manila. The volunteers include Street Educators and client volunteers. Client volunteers are former clients who used to reside in RAC. They receive no allowance. Street Educators receive an allowance. Sometimes massive rescue operations are conducted involving teams from other departments within the LGU.

In Pasay, the CSWD, police and barangays are normally involved in rescues as well as the Public Operation Safety Unit, Anti-Carnapping Group and the Mayor's Clean Team. The team receives a briefing before the rescue takes place.

According to the SSDD of Quezon City, the police, MMDA, barangays, Department of Public Order and Safety, Barangay Operations Center, Quezon City Anti Drug Abuse Council and Tahanan Rehabilitation Center are involved in rescues. This inter-agency task force meets before a rescue to coordinate. There is surveillance before the rescue to identify the children to be rescued, in cooperation with the barangay.

Identifying children to be rescued

Across all of the agencies conducting rescue there was a consistent practice of identifying the children to be rescued only at the time of rescue and mostly based on their appearance.

'Mahahalata sa itsura' (It is obvious from their appearance.)

– Police Chief

'Alam mo na sa itsura. Saka itinatawag samin ng complainant kung sino yung mga street children' (You can tell from their appearance.

Complainants also call us to tell us who the street children are.)–

Police Chief

Some rescuers expressed frustration with this process with an employee at a shelter saying that there should be: 'step by step planning or a survey before rescue operation. *Tukuyin muna nila kung sino talaga ang dapat kunin hindi kung sino na mapagkakamalan nila' (They should first identify who they are going to get, not pick up the wrong person.)*

One street educator working with an NGO reported that she was rescued while she was conducting education for children on the street; *'Pati ako binitbit sa damit ng pulis sa harap pa ng 10 bata' (Me also. The police grabbed me by the clothes and carried me, in front of 10 children.)*

Contact with children prior to rescue

Many agencies conducting rescue said that they have no contact with the child prior to taking him/her from the street.

'Hindi na kasi yung iba makita pa lang ang mobile nagtatakbuhan na. Kaya deretso rescue na.' (We don't approach them because as soon as they see the mobile, some of them run. So we just rescue them straight away.) – Police Chief

'Walang approach. Deretso huli' (No approach. Just catch them.) – Police Chief

'Kailangan may element of surprise, tulog sila kapag may operation' (There should be an element of surprise. They are normally sleeping when we have our operations.) – CSWD Caloocan

Often the children were picked up while the agency was conducting 'patrol' or 'surveillance' operations. No agency reported conducting home visits or interviews with parents/guardians prior to taking the child into custody. Of those children who had prior contact with their rescuers, 61% said that the contact was on the day of or the day before the rescue. Only 4 children out of 103 had contact with the rescuers for longer than a week before the rescue took place.

Moreover, of the 31% children who were spoken to prior to the rescue operation, many of them still tried to run/hide or cried, felt nervous, scared, angry or afraid when rescued. One 'asked for mercy' and another 'did not know what to do' when they were rescued.

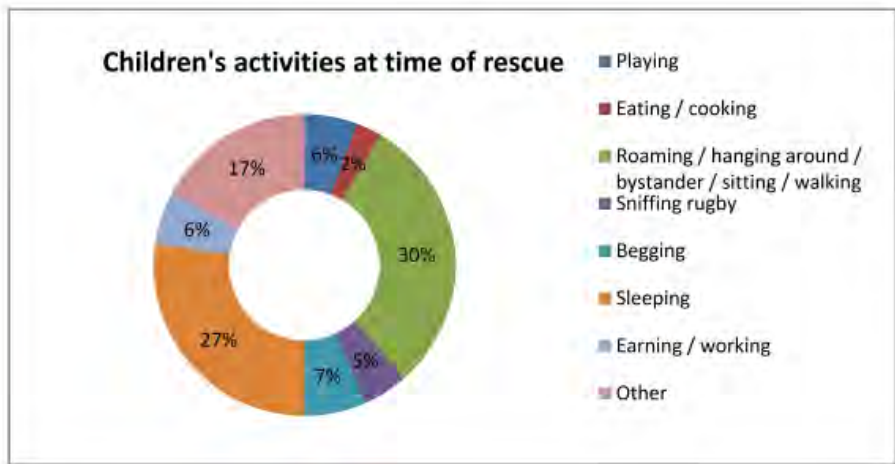
This indicates that the preparation done by the rescuers was vastly inadequate in ensuring that the children felt safe and happy to be rescued.

Removing the child from the street

Children's activities at the time of rescue

Twenty seven percent (27%) of rescued children said that they were sleeping at the time they were rescued. Many others were engaging in activities such as playing, eating, cooking, sitting or walking when they were rescued. Six percent (6%) of children were working on the street when they were rescued, engaging in activities such as selling fruit or flowers (sampaguita), collecting scrap iron or guarding cars and a further 7% were begging for money at the time of rescue. Five percent (5%) of children who were rescued said they were sniffing rugby (glue) when they were rescued. Of great concern is the fact that several children were washing themselves/bathing when they were rescued.

Figure 9 Children's activities at time of rescue

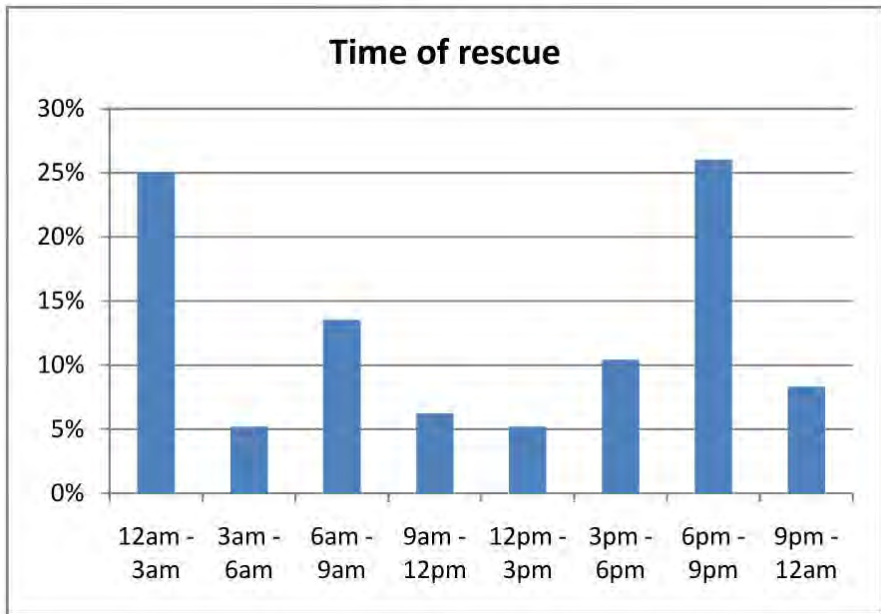


While children cannot be rescued while they are actually at school, it should be noted that 34% of children who were interviewed said that they were studying (mostly in elementary school but also some in high school). Rescue thus has the potential to take children away from school.

Timing of rescues

Rescue most commonly happens in the evening and at night. Sixty-five percent (65%) of the rescues studied took place between 6pm and 6am. Twenty-five percent (25%) occurred between 12am and 3am.

Figure 10 Time of rescue



Some rescuers said that they conduct rescues at night because they are targeting children involved in dangerous and exploitative behaviours (such as prostitution, substance abuse), as they are the ones in greatest need of protection.

'Night. Pag umaga tulog yang mga yan, sa gabi sila gumagala, nagru-rugby' (At night. In the morning they will be sleeping. At night they are hanging around, sniffing glue.) – Police Chief, Pasay

However, the proportion of children sleeping at the time of rescue (27%) is contraindicative to this claim.

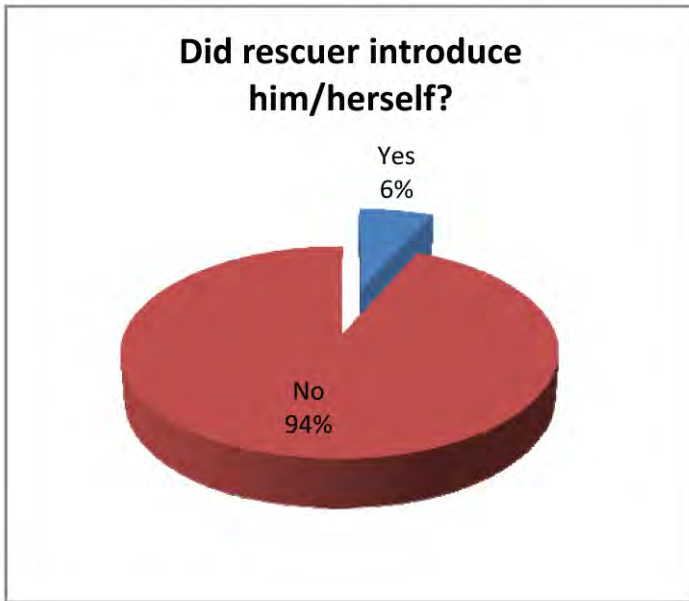
Many rescues are conducted in enforcement of curfew laws which normally require children to be off the streets between 10pm and 4am. Barangays reported that 72% of their rescues occurred at night, 19% took place anytime a call was received and only 8% conducted rescues during the day.

Introduction / uniform / ID etc

Rescuers did not introduce themselves to the children they were rescuing. Only in 16 instances (or 6% of almost 247 responses) did rescuers introduce themselves. Those who did introduce themselves were scattered across all groups of rescuers including MMDA, Barangay, PNP and DSWD. Therefore it does not appear that this practice is policy or common practice in any one group of rescuers more so than the others.

However it is important to note that of those rescuers who introduced to themselves, 80% of them had spoken with the child prior to the rescue. Therefore even though the rescuer could have decided not to introduce him/herself again on the grounds that s/he had already spoken to the child, a very high percentage chose to do so. This would appear to indicate sensitivity and a concern to alleviate the child's fears or apprehensions amongst those rescuers.

Figure 11 Did rescuer introduce him/herself?



One police superintendent felt that there was no need to introduce themselves because the children would recognize their uniform; *'pag may uniform alam na ng bata no need to introduce' (If they have a uniform the children know so there is no need to introduce themselves.)*

However children expressed their fear about being taken by someone they did not know, with one 15 year old boy saying *'I ran because they did not introduce themselves.'*

Another police superintendent, when asked if they explained to children why they are rescued said *'Hindi na. Understood na nila yun. Kaipokritohan lang yun. Basta wala ng explanation, sa presinto na lang.'* (No. They understand it. That's a waste of time (or hypocritical). There's no explanation – we just do it at the precinct.) A barangay BPSO reported that the rescue team from his barangay have identification and uniform but don't use them because if they used them they wouldn't catch any children.

Another group of children reported great fear about being rescued by people they did not know after an incident where one of their friends was kidnapped, allegedly for organ trafficking, by men in an unmarked white van.

Various different people/groups rescue street children. In addition to MMDA and DSWD staff, barangay and police, rescuers include security guards, volunteers, 'blue boys', 'red boys' and 'orange boys'. Fifty-three percent (53%) of children asked identified their rescuers as wearing uniform. Eight percent (8%) said their rescuers were wearing civilian clothes while 39% were not able to specify if it was a uniform or not but observed what may have been partial uniforms, such as the same colored t-shirts (34% of children said their rescuers were wearing 'blue').

According to the MMDA their policy is that their officers always wear uniforms. Police reported that they sometimes wore civilian clothes if conducting surveillance. Barangays reported that 77% of their rescuers wore uniforms and 62% showed identification.

Initial response to rescuers

Many children who were interviewed said that they were 'just suddenly' rescued and did not know that this was about to happen. They were shocked and surprised as they had not been adequately prepared or prepared at all, for the rescue. Across all cities, 46% of children said that they did 'nothing' when they first saw the person who rescued them. Some children did not know what to do when they were approached and others felt that they were overwhelmed or helpless and therefore unable to act, especially in instances when there were many rescuers present.

Another 40% of children said that their initial response was to try to escape, run or hide – children commonly reported running away and jumping over fences or walls to escape being rescued. Two children in Quezon City said that they even 'dumapa sa basurahan' (hid in a rubbish bin) to hide from MMDA rescuers.

The children's tendency to try and escape being rescued was recognised by rescuers and countered with strategies such as a very discrete approach or using the children's tendency to be scared: *'Very discrete ang approach dapat kasi magtatakbuhan.... May resistance at hesitance talaga pag bata' (The approach must be very discrete as they will run... There will definitely be resistance and hesitation if you are rescuing children.) – Social Worker*

'Maayos silang sumasama kasi alam naman nila na pulis ang magre-rescue. Hindi sa pilitan kasi ang bata madali naman yang takutin at maniwala' (They come along without any problems because

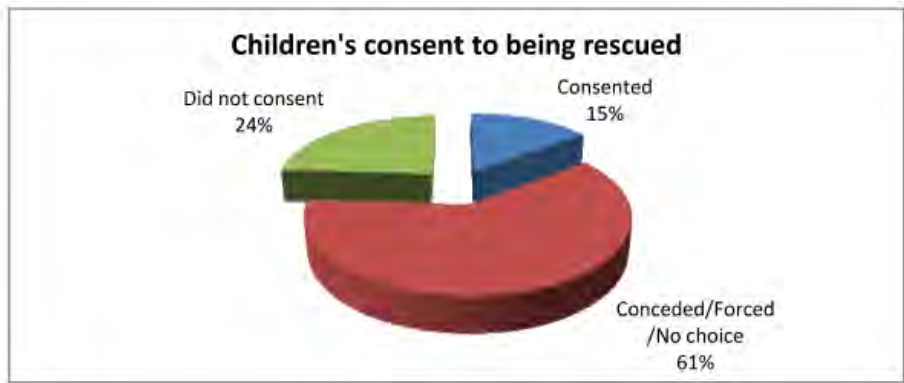
they know it is police rescuing them. We don't need to force them because children are easy to scare and trick.) – Police Officer

Approximately another 25% of rescued children's initial responses were negative. They:

- tried to fight back
- cried
- were shocked or surprised
- felt scared, nervous, afraid or angry.

Unfortunately, very few children initially responded to the rescuers in a positive manner. Furthermore, some children gave disturbing accounts of being rescued, including incidences of abuse and coercion by officials.

Figure 12 Children's consent to being rescued

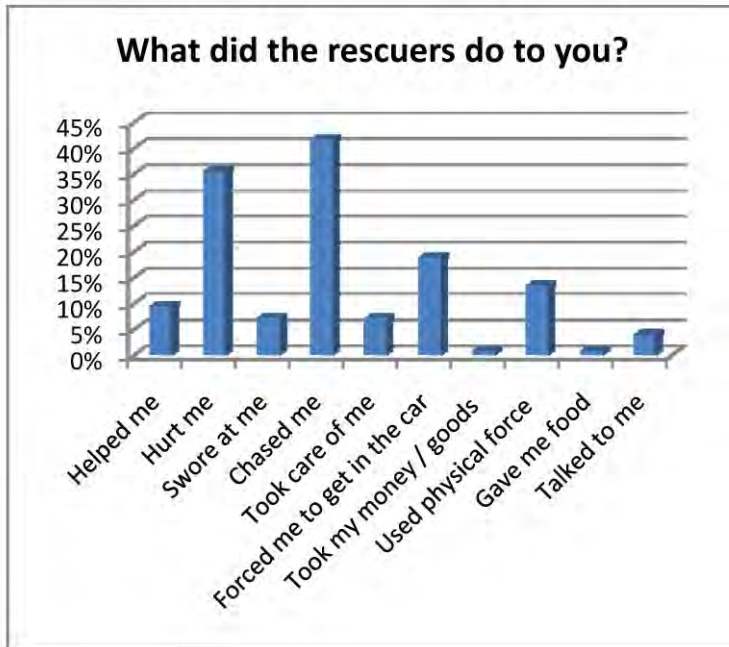


As shown in Figure 12 the vast majority of children (85%) did not willingly consent to being rescued. Twenty-four percent (24%) of the respondents said that they did not consent at all, while more than half (61%) conceded to the rescue. Most children conceded for fear of being hurt if they did not, or because they felt they could do nothing to stop the rescue proceeding.

Handling of children during rescue

Children's rights were often violated during the rescue process. Children who were surveyed were asked 'What did the rescuers do to you?'. They were able to give more than one answer. Thirty-five percent (35%) of children claimed that the rescuers 'hurt me' and 42% said that they were chased. Only 9% of children thought that the rescuers had helped them and a further 7% said that rescuers had taken care of them. Thirteen percent (13%) of children said the rescuers used some kind of force against them, one child said she was slapped by a female police woman and another was punched in the stomach. Seven percent (7%) of children said the rescuers swore at them.

Figure 13 What did the rescuers do to you?



Interviewees spoke of various forms of unacceptable treatment that they experienced at the hands of rescuers. Children were:

1. **Beaten (both with and without the use of weapons).**

'Pinagpapalo kami papasok'. (They hit us to get us into the van.) – Male, 16. Rescued by MMDA

When the chief of a police station in Pasay was asked whether the police had a policy on the use of force during rescue, he

said there is 'no such thing kasi may rights ang mga bata kaya nga mas malakas ang loob nila dahil sa RA 9344' (*there is no such policy because children have rights, that's why they are not scared – because of RA 9344.*)

2. Had money and possessions taken or destroyed

Besides the SDCU, the MMDA has another program of Sidewalk Clearing Operations (SCO). SCO involve clearing the sidewalks of vendors in the hope that if there is no more sidewalk vending 'legitimate' business will flourish and create more employment. It is a policy of the SCO to confiscate all of the possessions of vendors but not apprehend the offending people. By contrast, under the SDCU it is the policy to remove the people without confiscating their things.

There seems to be little awareness amongst rescued children about which program they were approached under. This may indicate either that there is little distinction between the two programs, that both programs are implemented simultaneously or that the policies are not implemented strictly. For example many children reported being rescued and having all of their possessions taken or burned.

'Kinuha nila ang pera namin para makabili sila ng sigarilyo'
(*They took our money and used it to buy cigarettes.*) –
Female, 13. Rescued by MMDA

'Sinunog nila ang tulugan at damit ko.' (*They burnt my bed and my clothes.*) – Female, 16. Rescued by MMDA

A 12 year old boy who was rescued by the MMDA had his clothing burnt. He said *'dapat hindi nila kinukuha ang mga damit namin dahil wala kaming pambili'* (they shouldn't take our clothes because we don't have any money to buy more.)

A 16 year old boy said that the MMDA took his clothes and necklace and sold them.

3. Tricked or coerced into going with the rescuers

Sinabi na kakain sa Jollibee kaya kusang sumama ako' (They told us we would eat at Jollibee (if we went with them.) – Female, 16. Rescued by MMDA

'Sana hindi na ako huhulihin pag tulog.' (I wish they hadn't rescued me in my sleep.) – Female, 16. Rescued by MMDA

4. Sexually assaulted or touched inappropriately.

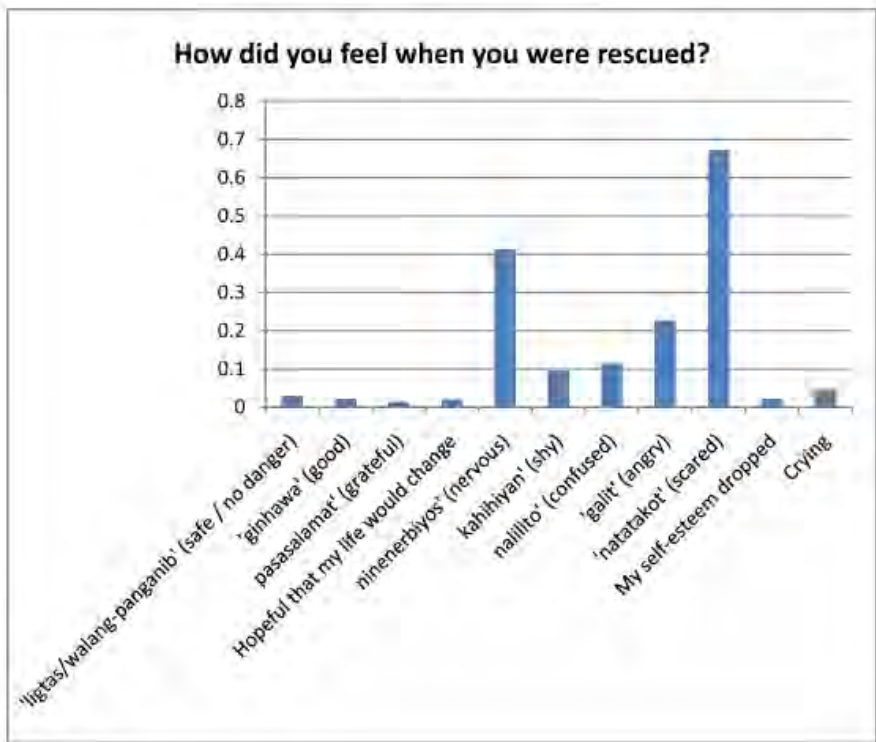
Reports of sexual abuse committed by people in positions of power are of particular concern. Children reported sexual assault committed during rescue and at facilities where they were held after rescue.

'Tumakbo ako dahil nahawakan' (I ran because I was being touched.) Male, 16. Rescued by MMDA

Of all children who were surveyed and interviewed, their experience of rescue predominantly made them nervous, scared or angry. As shown

in the graph, below, 67% of children felt scared, 46% felt nervous and 23% were angry (children could give more than one response to describe their emotions). Twelve percent (12%) of children said they felt confused. Only 12% of children said that they felt good, safe, grateful or hopeful when they had been rescued.

Figure 14 How did you feel when you were rescued?



Use of violence/force/weapons

Most rescuers reported that there was a policy of using no force against children during rescue, particularly because the children 'have rights'. Most rescuers who were interviewed had knowledge of the provisions of RA 9344 restricting the use of force against children. Nonetheless violence and force were often used in the process of rescuing children. This was true throughout the entire process, from the moment rescue was initiated to when the child was put in the rescue van.

'Kinaladkad – natanggal pa nga ang kuko ko' (They dragged me and my nail ripped off.) – Female, 16. Rescued by MMDA

'Hinawakan patalikod at sinipa' (They grabbed me from behind and kicked me.) – Male, 16. Rescued by Barangay Police

'Tinali sa leeg tas sinakay sa owner' (They tied me around my neck and took me to the van.) – Male, 18, Rescued by police

Weapons were generally carried by rescuers. Only 13% of children interviewed said that rescuers carried nothing, while 60% said they carried batons. Fifteen percent (15%) said that the rescuers carried guns and 18% said they had handcuffs. The MMDA reported that the SDCU carries cloth restraining ties. A number of children reported that rescuers used their weapons against the children:

'They (Barangay Police) kicked me and hit me with a baton (while taking me to the van.)' Male, 17.

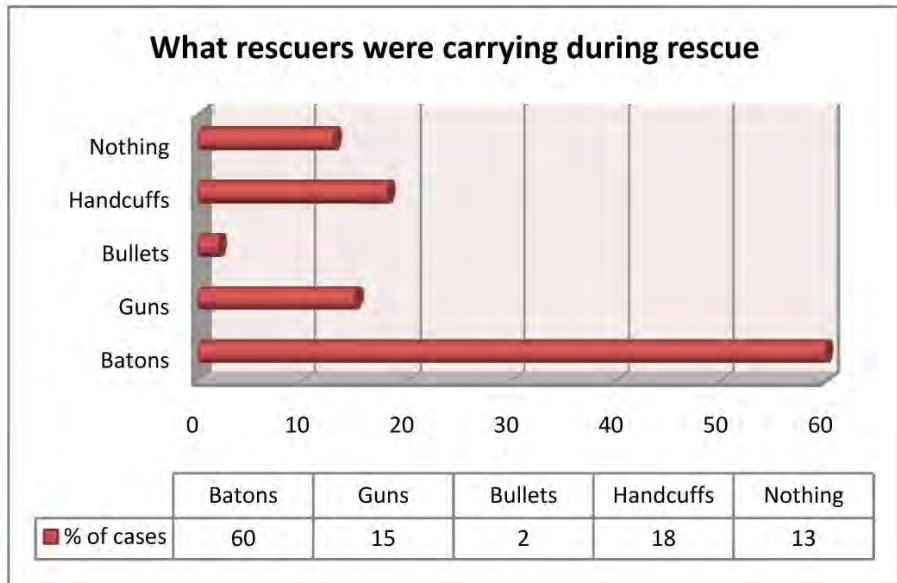
'They (MMDA) did not introduce themselves and used handcuffs (to get me into the van.)' Female, 16.

'Pinosasan ako' (I was handcuffed.) – Male, 16. Rescued by police

'Hinawakan sa paa at kamay saka hinagis' (Held by the hands and feet and then thrown.) – Father rescued with family. Rescued by MMDA

'Binugbog muna bago dalhin sa sasakyan' (They beat us first then took us to the vehicle.) – Male, 14 years old. Rescued by MMDA

Figure 15 What rescuers were carrying during the rescue



On the other hand, occasionally the rescuers encountered the use of deadly weapons from those to be rescued. The SWDO in Caloocan reported that if the people to be rescued have deadly weapons the police would go ahead of the social workers.

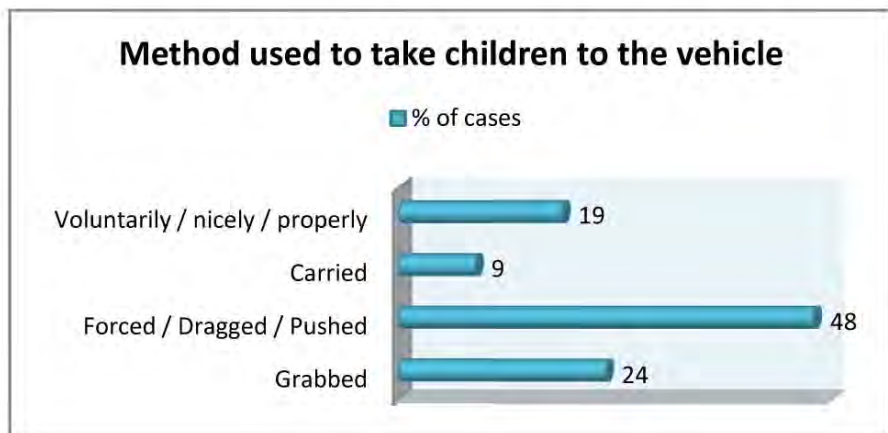
Transportation

Typically, rescued children were transported in a van from the site of the rescue to the processing facility, regardless of who was rescuing them. Children generally got into the rescue vans involuntarily. As can be seen in the graph below, 48% of children were 'forced', 'dragged' or 'pushed' into the van and another 24% were 'grabbed' to be put into the van.

Nine percent (9%) were carried, including at least one case of a child being carried to the van by rescuers before she had even been woken up. A 12 year old girl who was rescued in Pasay City by MMDA said that she woke up when she was already in the rescue van. There were strangers in the van and she cried while she was transported.

Only 19% of rescued children were taken 'voluntarily'/'nicely'/'properly' to the van. Some children were forced into vans violently.

Figure 16 Method used to take children to the vehicle

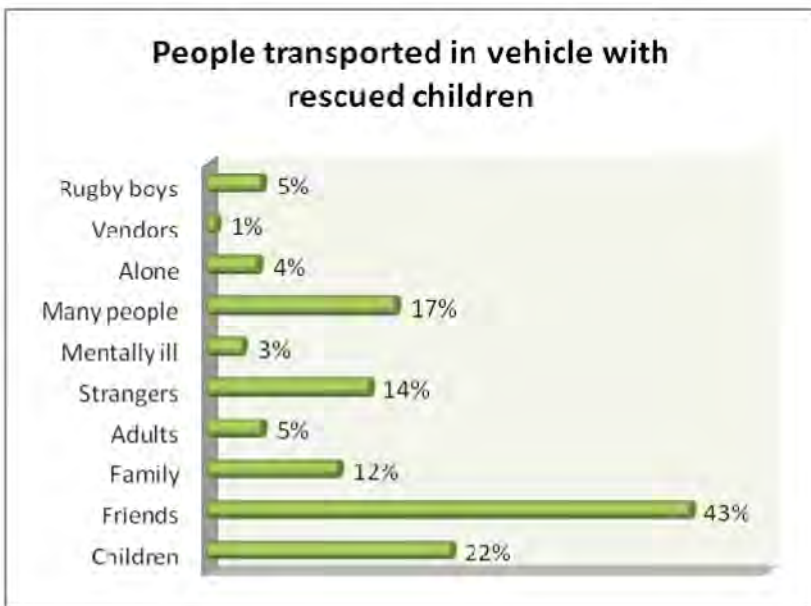


The trip in the van was a negative experience for many children interviewed. Over 80% of respondents said that the van was locked and some children said that the van was guarded.

'Ni la lock ang guard for their own safety kasi baka magtalunan sila at madisgrasya' (We lock the van for their own safety because they might jump and have an accident.) – Social Worker

While many children were transported with friends, family and other children, others were in the van with other adults, strangers and mentally ill people. Seventeen percent (17%) of children said that there were 'many people' in the van.

Figure 17 People transported in vehicle with rescued children



When asked what happened in the vehicle, over half of the interviewed children said that people were crying and another 10% said there was shouting or it was noisy. One child reported that people were tied up inside the van.

'May naiiyak, nagsasabi na palabasin' (There were people (in the van) crying and asking to get out.) Male, 11. Rescued by DSWD

'Gugulpinin' (Bashing) – Male, 13. Rescued by DSWD and Barangay
'Kinakausap kami sa loob, pinagalitan at sinisigawan pag hindi

nakikinig sinasaktan – pinapalo sa braso’ (We were talked to in the van. They got mad at us and yelled at us and if we didn’t listen they hurt us – hit us on the arm.) – Female, 10 years old.

Rescued by MMDA

‘Pag may umiiyak tinatakot pero pag hindi natakot pinapalo ng batuta’ (If someone was crying, they frighten them but if they aren’t scared they hit them with the baton.) – Male, 17. Rescued by MMDA

Fifty nine percent (59%) of children said they were crying in the van. Five percent (5%) said there was fighting and a further 4% said that people were hurt, hit or punched in the van. Only 1% of children (4 out of 283) received an explanation or interview to inform them of what was happening. Children also expressed details of being punished and mocked by others when they were in the van

‘We were crying one kid was hit in the head because he didn’t stop crying.’ – Female, 11.

‘Binabartulina, sik-sikan’ (Like a dungeon, crowded.) – Male, 16.

One 13 year old child said that people in the van were sniffing rugby (glue), which was given to them by MMDA.

Some police said they used a closed van to make sure that the media/press could not photograph children.

Reaction of bystanders

The children and rescuers were asked what the people in the vicinity of the rescue did during the rescue. A vast majority said that they did nothing and saw the rescue as routine operations.

One police chief said that

'Natutuwa [sila] kasi eye sore ang mga bata sa community. Mas gusto nila kesa pakalat-kalat ang mga bata' (They are happy because the children are an eye sore in the community. They prefer it [rescue] to having children scattered everywhere.)

A representative from the CSWD noted that it was more difficult to do rescues with media around;

'Mahirap mag rescue kapag may media, parang kawawang-kawawa sila o nagpapaawa sila' (It is hard to conduct rescues if there is media present, the children make themselves look so pitiful.)

Initial processing / reception

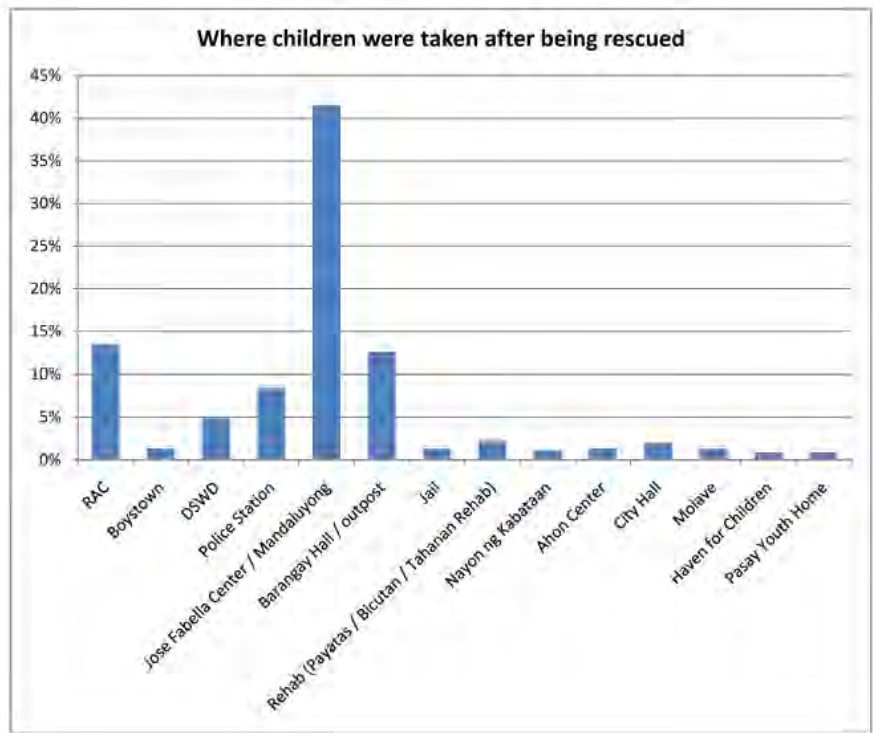
Of all children (interviewed and surveyed), 45% were taken to Jose Fabella Centre, 15% to RAC, 14% to Barangay Hall/outposts, 9% to police stations and 5% to 'DSWD'. Small minorities (between 1%-4%) were taken to other places including rehab, jail, city hall, NGOs, Boystown and Ahon Centre.

When asked where they were taken, a substantial number of children did not know the place or its name. One 15 year old child who was rescued by the MMDA said that:

'sinabihan na kakausapin lang tapos pinapirma hindi alam na babyahe pala kami sa Taguig. (He was told that they just wanted to talk to him and he had to sign something and he didn't know that he was on the way to a rehabilitation center.)

He stayed at the rehabilitation center for 1 year.

Figure 18 Where children were taken after being rescued



Some children described being released soon after arriving at the center, often after rescuers had taken their possessions. It has been suggested that children were released immediately because they were only rescued in order to fill a quota.

'Pagdating namin sa QC pinatakas agad lahat kami pagkatapos makuha lahat ng pera namin' (After we arrived in Q.C., they let us escape immediately, after taking all our money.) Female, 14. Rescued by MMDA

Of the 160 children interviewed who reported having something taken from them when they arrived at the centre (clothes, money, and food) only 8 had their possessions returned to them upon leaving.

Many children described their initial experiences at Jose Fabella Center as being brought to a beautiful building, but it being dirty inside, and reminding them of a prison.

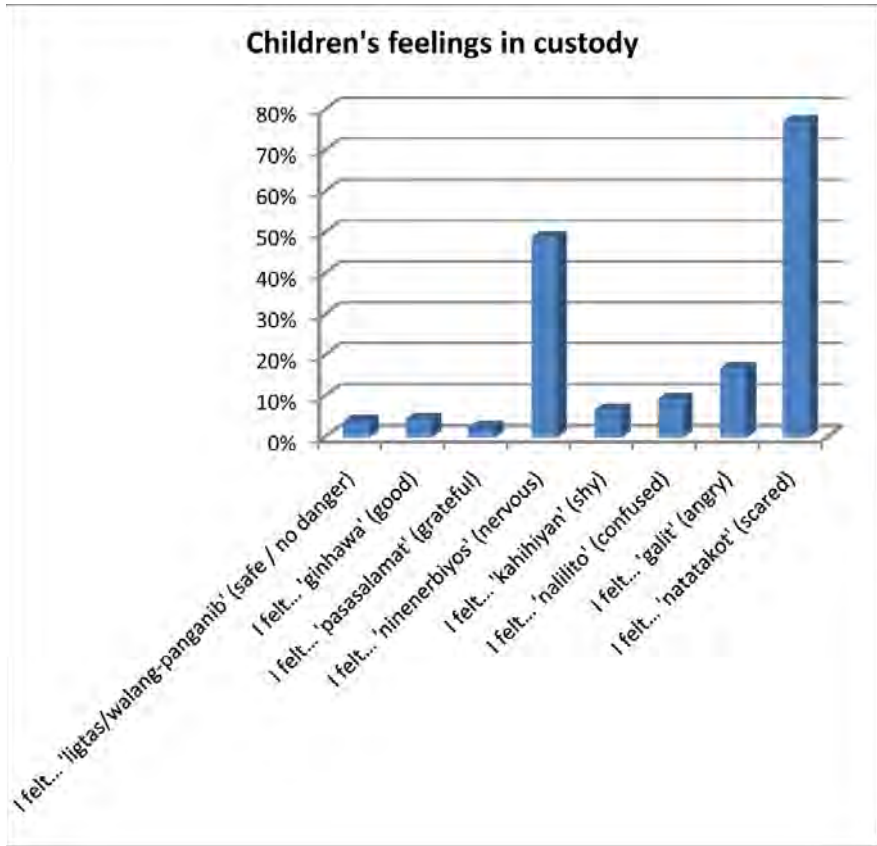
'Magulo, maghahalo ang baliw, may sakit, lock ang pinto... (Chaotic, mixed crazy people, sick people, locked door.) When asked what activities he did there he said 'minamasahe ng Mayores...' (Massaging the 'mayor'.) This boy also said that he had clothes taken from him by the 'mayor' who wore them. Male, 13.

'Jose Fabella is like a prison.' Male, 16.

Custody

On the whole children's experiences in custody were marked by negative feelings. Seventy-seven percent (77%) of children described feeling scared and 49% felt nervous. Other feelings such as anger, confusion and shyness were felt by a reasonable number of children. By contrast there were very few children who reported feeling positive emotions during their experiences of custody. Three percent (3%) felt safe, 4% felt good and 2% said they felt grateful.

Figure 19 Children's feelings in custody



Mistreatment and abuse

The overwhelming response from children interviewed concerning staff in the centers is their mistreatment of detainees. Children have described being beaten regularly.

'All the children were caught and there's also a child who got killed because of the torture.' Male, 17. Rescued by Barangay Police
'Laging sinasabihan ng tatanga-tanga pag nahuling nakikipag-usap pag may trabaho' (We always got told we were stupid if we got caught talking while we worked.) – Female, 10. Custody at Jose Fabella Center

'I'm nervous at the Centre because if there is trouble someone will get tortured'. Female, 17.

'They torture us and they point their gun at me'. Female, 14.
'Mapapalapit ka na sa mga bata ng husto. Ituturing mo rin silang sariling anak' (You get attached to the children, you treat them as your own children.) Houseparent

A street family described the 'Barangay Martians' as the worst agency to be rescued by. They described boys being beaten whilst in detention, any money they had being taken from them and used to buy alcohol for their rescuers. Girls were made to strip off their clothes, the reason being to 'check for tattoos'.

One 15 year old male who was rescued by the MMDA and taken to Taguig said that he didn't like *'yung kinuryente kami nung mga mas matatanda na nakakulong din'* (when we were electrocuted by the older detainees.)

Facilities & Services

Children were asked to describe some of the services and facilities made available to them while they were in custody.

75% of children said food was provided

51% of children said clothing was provided

75% of children said water was provided

81% of children said they were interviewed while in custody

36% of children said they were given counselling

34% of children said they were given a medical check-up

35% of children said sanitation products were available

61% of children said there was a separate dining area

74% of children said boys and girls sleeping areas were separated

52% of children said there were separate sleeping areas for children (from adults)

75% of children said there was a CR

75% of children said boys and girls CRs were separated

35% of children said there was a bath provided

29% of children said there was a separate room for counselling/interviews

The CRs were often described as being dirty, without running water, too few for the amount of children in the Center, and being shared between males and females and with adults and mentally unwell people.

*Madaming mga bulok bulok na bahay, may mga nakakulong na bata.
'(There are lots of decrepit houses and detained children.) – Male, 9.
Custody at Jose Fabella Center*

*'RAC was so hot, like hell...' – Male, 12. Custody at RAC Manila
'We all stay in one room and there's a lock. You cannot go on
your own outside. It's like a prison.' Male, 19, rescued as a child.
Custody at RAC Manila*

*'Malawak, madumi, mabaho, may baliw at maraming may sakit'
(Big, dirty, smelly, crazy people and many sick people) – Male, 12.
Custody at Jose Fabella Center*

*'The room we were in was so dirty, so many people, so many
children. The CR, there is only one. If we take a bath we are
together. Maybe ten persons for one CR.' Male, 19, rescued as a
child. Custody at RAC Manila*

Food

General comments about food in the facilities is that it is of poor quality, no cutlery or plates were given out and there was not enough, causing fights amongst the children.

'Nagaaway yung mga bata sa pagkain' (The children were fighting for food.) Male, 12. Custody at Jose Fabella Center

'Food in RAC is not enough. It's food for a pig... scrap food... kanin-baboy [leftover food].' DSWD Social Worker

'Pangit – baboy ang pagkain' (The Center (Jose Fabella) is ugly. The food is good for a pig.) – Male, 12. Custody at Jose Fabella Center. The same child was also held at Haven for Children and said it was 'maganda' (beautiful).

Bedding

Most children said they slept on the cement – no bedding was provided. A social worker at the SDC in Pasay said that the Center has a capacity of 50 children maximum, but there are only enough beds for 20 children.

A representative from Jose Fabella Center said that no beds were provided for the male children because they played with them, lifting them in the air with the feet and this was seen to be unsafe. Accordingly these children slept on the concrete floor or on plywood or mats if they could access them. Beds with metal springs were also

found to be inappropriate because some children made weapons out of the springs.

Activities

No child said they attended formal school whilst in the centers. However, children did participate in some activities, including 'study' or 'bible study'. Most commonly, children were responsible for cleaning and washing dishes and clothes. Children also mentioned sports, playing, dancing, writing and drawing.

Other activities included doing chores, such as cleaning, washing clothes, massaging, praying and kneeling in formation.

A large group of 12-14 year old boys rescued in Caloocan by Barangay Police were taken to a Rehab facility for three months. They all said that they were sometimes made to kneel in formation.

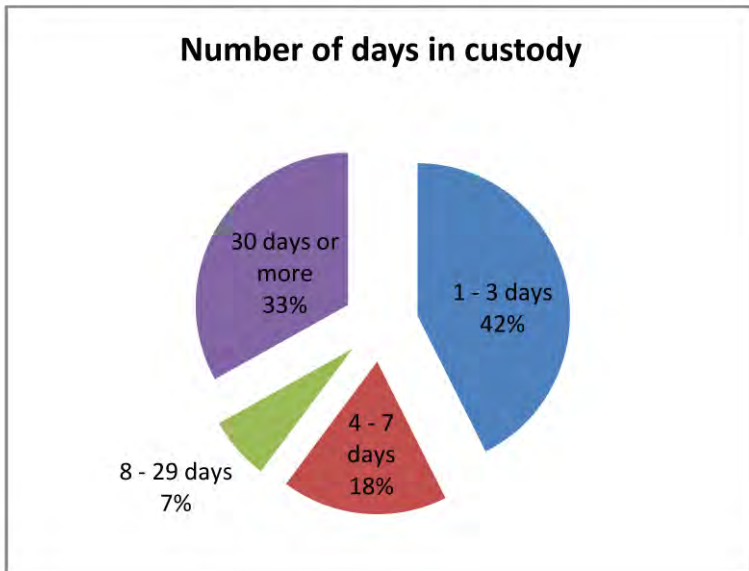
'Lagi kaming naka formation. Minsan pinapaluhod' (We always do formation. Sometimes they make us kneel down.) Male, 14. Custody at Payatas Rehabilitation Center

A teacher is assigned by the Department of Education to provide education for the children in Jose Fabella Center.

Leaving custody

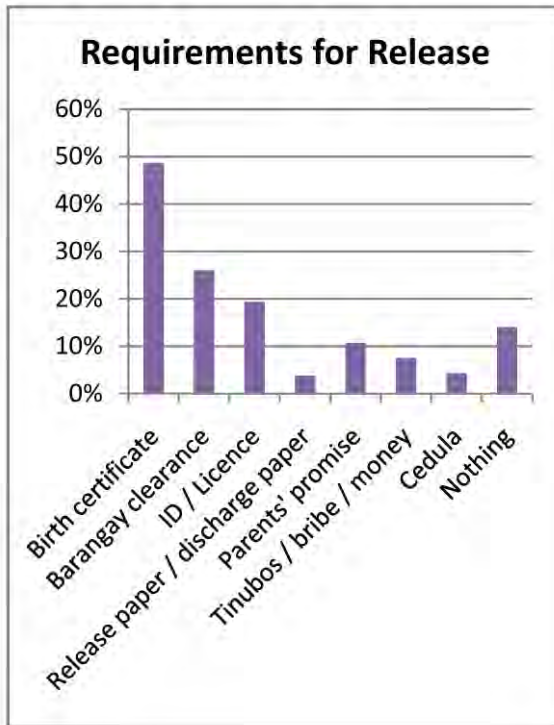
For 284 cases of rescue the average length of stay was 58 days. However there was a wide variation between the children who stayed for a very brief time and those who stayed for a long time. Almost two thirds of children (60%) were in custody for one week or less. While another third of children (33%) stayed for longer than a month, with 4% of children staying for a year or more. Of these nearly half were in NGOs and the rest were in various shelters including RAC, Molave and Tahanan Mapagpala.

Figure 20 Number of days in custody



The most common requirements for release were presentation of a birth certificate or identification and barangay clearance.

Figure 21 Requirements for release



As well as having to provide identification upon release from detention, children also described having to pay large sums of money. One family claimed they paid 1,000 pesos and another 3,000 pesos.

'Tinubos ako ng papa ko ng P3000.' (My father paid 3000 pesos to release me.) – Male, 16. Rescued by MMDA and Barangay Police, held at police station for seven days

The interviews also found that while 52% of the children were eventually released, 24% escaped, and 3% bribed their way out. Reasons for escape included mistreatment by staff members in the facilities and lack of food.

'I escaped because there was no food.' Male, 17.

'They took my money and food and didn't give it back [upon release]. [The requirements of release were] a bribe.' Female, 16.

One girl explained that she had been offered release from the detention center if she performed sexual favours to the MMDA staff, while others described having to take off their clothes and being beaten by staff.

'[Sana] wag silang manakot ng manakot at manghipo' (I wish they wouldn't scare me and touch my body.) – Female, 14. Rescued by Barangay Tanod

'Ayoko nang hinipo at pananakot nila' (I didn't like the way they touched me and scared me.) – Female, 12. Rescued by DSWD and taken to Barangay outpost

*'Yung pipi kaya nakatakas nagpapagalaw! Kapag nagalaw pwede nang tumakas pati yung magaganda' A deaf person was able to escape because she let them touch her. If you let someone touch you, you can escape, especially if you are beautiful.) – Male, 11.
Rescued by MMDA*

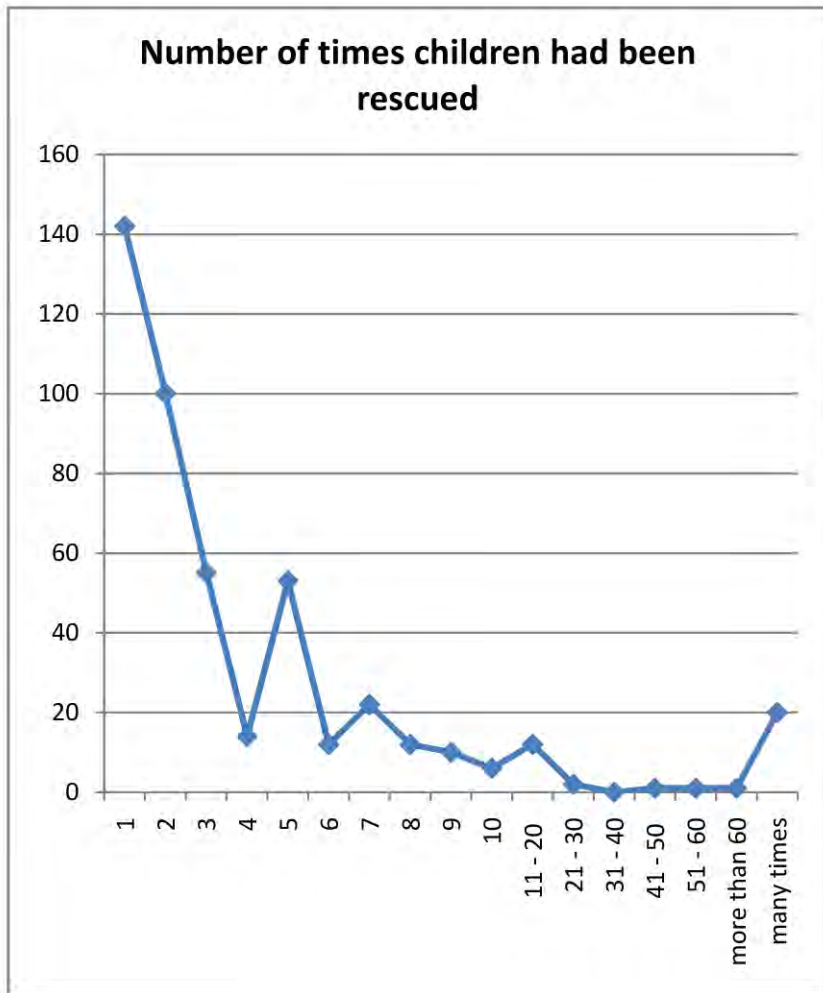
When children and families were released, they were often not provided with transport back to where they had come from. Some children said they were 'abandoned' on being released from the center. Particularly if people's belongings (including money) had been stolen, they had no way of returning home apart from walking long distances. Some children said they were taken to a bus terminal or required to commute home. A 17 year old female who had been rescued 20 times said that sometimes she was accompanied home and other times not.

Post-rescue

The effectiveness of rescue must to a certain extent be measured by whether the rescue intervention process causes a change in a child's life circumstances. The objective of rescue is to remove children from danger; therefore the change that should be achieved is that the child is no longer in a position of danger.

The high rate of children being rescued not only more than once but frequently more than five times (33% of children interviewed and surveyed), suggests that this change may not be being achieved. A small but significant minority of 4% of children reported being rescued 'many times' or so many times they could not remember. One boy, aged 13, had been rescued 59 times. A street family with 5 children reported that they had been rescued 125 times. Cumulatively the 430 children involved in this study had been rescued more than 2000 times – excluding the rescues of those children who had been rescued so many times they couldn't remember.

Figure 22 Number of times children had been rescued



After release, 74% of children stated that they returned home, whilst 18% returned to the streets, and 8% were abandoned. However all of the children interviewed or surveyed were living or working on the street at the time of the interview/survey indicating that even if they had returned home for a period of time they were still spending at least part of their time on the street.

Some rescuers expressed frustration at their 'success rate', of the children they felt they had really helped. This sentiment was also felt by many children who saw the rescue process as a continuous cycle that affected little change in their lives.

'Out of 100, 1 lang ang may success story. Dinala sa center for 3 years. Nasa Canada na siya ngayon...3 years old lang siya nung na-rescue' (Out of 100, we have only had 1 success story. She was at the center for 3 years. She is now in Canada... She was only 3 years old when she was rescued.) – Social Worker at CSWD

'It's just a cycle kasi yung mga batang na re-rescue, sila din ang mga anak ng dati ring mga street children. 'Tong mga batang 'to lalaki, magkakapamilya, magkaanak at magiging street children uli ang mga anak nila' (It's just a cycle because the children you are rescuing are the children of the former street children. This boy here, will make a family, have children and his children will become street children.) – Head of CSWD

'May continuous monitoring (pag alis sa Center) at least 3 months if needed' (We have continuous monitoring on the child upon their leaving the Center – at least 3 months if needed.) – CSWD

Interviewed children reflected on their experience of rescue as overwhelmingly negative. They felt as if they were treated like criminals and locked up in jail even though they were undeserving of that treatment.

'You should do rescue properly because it is like being kidnapped.'
Male, 7. Rescued by MMDA

Some children also felt that they were discriminated against because they were poor, or 'lower class.'

'Sinunog ang mga gamit namin... Galit kasi alam nila na mahirap sila lalo pang pinahirapan' (They burnt our things... I am angry because they know that we are poor and still they push us to become poorer.)
– Street family consisting of a mother and a three and seven year old child. Rescued by MMDA

Special issues

Gender sensitivity

The high rates of sexual abuse and harassment reported by the children in the study indicate that there is a great lack of understanding and sensitivity to gender issues amongst rescuers. Female children form a smaller percentage of the overall number of street children generally and in this study. However complaints of sexual abuse were much higher from female children than male children. Although some rescuers reported having training about

gender sensitivity there did not appear to be much application of this in practice. This was indicated throughout all stages of the practice, from preparation and identification to taking the child into custody, transport and accommodation.

Civilian Guards

During the research it was reported by children from the area of Cubao in Quezon City that the private security guards in that area were particularly aggressive towards them. The actions of private security forces do not come under the scope of this study. However the issues relating to private security forces are very important and relevant as there would appear to be even less accountability for private individuals than for government agencies if the corporations or individuals employing these guards are willing to condone their behaviour. An example of good practice is the SM foundation which has given seminars to all of their guards about children's rights and appropriate practices in handling children. The Council on the Welfare of Children has even recommended that shopping malls appoint 'child friendly officers' to deal exclusively with lost children, children in conflict with the law or other cases involving children.

Concept of 'dayuhan'

A frequent response by government agencies to the problem of street children is to say that they are 'dayo/dayuhan' or 'not from here'. Accordingly, there is a tendency for barangays and LGUs to absolve

themselves of responsibility for those children and try to return them to where they came from or shift the responsibility to someone else. As a consequence of rural-to-urban migration, large percentages not only of street children, but of Metro Manila's population, are from 'other places'. However normally the concept of 'dayuhan' only has a negative effect on those people who are seen not be providing a positive contribution to the community. These are the people that need to be 'moved on' and therefore the justification of 'dayuhan' is given. Rescue is conducted as a first step to repatriation to another place.

The concept of 'dayuhan' has particularly negative impacts on two **groups of people:**

1. Children of parents who originally came from another province, where the children have been born and grown up in Metro Manila and identify Metro Manila as their only home.
2. Squatters who have been living in an area for a long period of time but are not acknowledged by the local authorities and therefore are not given protection / services.

The tendency of local governments to disown a problem because of the concept of 'dayuhan' is in violation of basic rights of equality including the right to move freely within the country.

Indigenous children

Another disturbing issue that arose out of the research was the perception and treatment of indigenous children. There was a strong tendency by both children and rescuers to speak derogatively of and respond negatively to indigenous children, especially Aetas and Badjao.

Rescuers showed little understanding of or respect for cultural practices and identity of these groups, particularly issues which are very relevant to rescue. For example in the instance of Badjao people, nomadic practices are a strong part of their culture and often bring them to cities. However poverty, lack of education and other socio-economic factors often leave them homeless and especially vulnerable. Rather than address the problems facing these people in a culturally sensitive way, the response was instead to frequently degrade and label them.

In Pasay City a group of Badjao reported that they would be regularly picked up by rescuers, driven around for a short time and then released after paying a bribe of 200 – 300 pesos. In some cases rescues were targeted specifically at indigenous groups.

Use of the term 'recidivist'

Amongst rescuers there was a tendency to use the term 'recidivist' for a child who had been rescued more than once. Recidivism refers to a chronic tendency towards the repetition of criminal or antisocial

behaviour. A recidivist is a convicted criminal who re-offends. The use of this term in relation to children who are not being arrested but supposedly being taken into protective custody indicates that there is some confusion amongst rescuers as to their objectives in 'rescuing' children.

Using the same term for criminal behaviours and behaviour of rescued children blurs the distinction between 'rescue' and 'arrest' in the minds of both the rescuers and the rescues. Although the stated reason for rescuing children is 'child protection', it becomes less clear if this is the real reason for rescuing children when a term such as 'recidivism' is employed. The use of terms implying criminality in relation to taking people into protective custody for their own wellbeing may lead to a similar blurring in relation to procedures and attitudes employed in each case. Similarly, the frequent use of terms such as 'clean-up', 'round-up' and 'face-lift' by rescuers suggest that the objectives of rescues are often not connected to child protection.

Challenges identified by rescuers

The people conducting rescues identified various challenges in the implementation of rescue:

'Parang binabalewala ng magulang kahit paulit-ulit na nare-rescue ang mga anak nila.' (It's like the parents don't care, even if we rescue their children over and over again.) – Police Officer

'Parang walang paglalagyan sa mga bata kaya bumabalik sila sa streets. Talo sa pagod, sa gasoline, sa effort' (It's like there is nowhere to put the children so they keep going back to the streets. It's a waste of energy, gasoline, effort.) – Social Worker

'Ang mga NGOs na nagwowork sa issue ng street children nagkakaroon ng kompetensya, may NGO na ayaw ialis sa street ang mga bata...kami pa minsan ang sinisisi' (NGOS working on the issue of street children are competing. There are NGOs that don't want the children to get off the street...sometimes we are blamed.) – Social Worker

'Nagpapakamatay ng bata mahirap maghandle. Nagwawala, binabato ang lahat ng gamit' (Difficult children could kill you. They lose their temper, throw everything.) – Worker at shelter

'Parang ang sakit sa dibdib, hindi ko ma-take. Kapag nakikita ko sila sa kalye kasi nanay din ako' (My heart aches, I can't take it if I see them on the street because I am also a mother.) – Social Worker

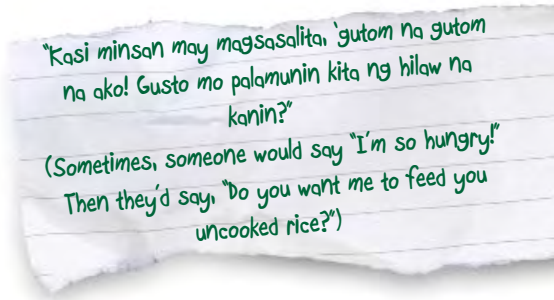
A nine year old boy from Quezon City was with his friend on his way to buy a pencil because he had a test at school the next day when he was suddenly rescued by the MMDA and police. He was pulled into the van which was then locked. He agreed to go along because he was scared of the police. He was taken to Jose Fabella Center which he said was dirty (although the bathroom was clean). He said people were being beaten and were fighting over food. He stayed there for 2 days until his mother brought his birth certificate, ID and barangay clearance and he was allowed to go home. He said he thinks his rescuers are crazy because he didn't do anything wrong but still got caught.

Analysis

This chapter analyses the data collected through the research study. The findings are discussed according to the following themes:

- Responsibility/authority/roles
- Policy & legal structure
- Objectives of rescue
- Rescue process
- Monitoring
- Rescue as an intervention approach

The findings of this study indicate the need for a complete overhaul of interventions for street children, particularly rescue.



*Kasi minsan may magsasalita, 'gutom na gutom na ako! Gusto mo palamunin kita ng hilaw na kanin?'

(Sometimes, someone would say "I'm so hungry! Then they'd say, "do you want me to feed you uncooked rice?")

Responsibility / Authority / Roles

Rescue is being carried out by too many authorities, without coordination or clear objectives. There is a lack of accountability and training. There is a need to rationalise the roles of agencies involved in child protection and rescue and ensure appropriate training for all people involved.

Lack of accountability of government agencies

- Most government agencies involved in rescue are subject to little, if any, scrutiny or overview of their practices – this has exacerbated the abuse which is taking place, allowing it to go unchecked.
- An emphasis on collaboration and collective responsibility makes it difficult to hold any particular government agency responsible for implementing programs for street children.

Overlapping Roles

- There are too many agencies involved in rescue.
- The roles of these agencies are overlapping, sometimes in conflict and not always appropriate to the mandate/expertise of the agency involved (eg: MMDA or Department of Public Safety being involved in rescue).

National agencies' lack of authority

- Agencies such as the DSWD, PNP and CWC are limited in their authority to require LGUs to comply with policies or guidelines, eg: DSWD's inability to sanction residential/reception centers run by LGUs even if they fail to meet minimum standards.
- MMDA, operating under the direct authority of the Office of the President does not appear to be likewise limited in its authority or resources.

Local autonomy can cause inconsistency

- Although the issue of street children is similar all over Metro Manila, responses to the issues are inconsistent due to the differing policies and priorities of LGUs.
- Frequent changes in staffing of LGUs, due to the political nature of appointments, hinder the creation of institutional knowledge about good practices.
- Even where a comprehensive child protection policy exists it will only be implemented when and if the LGU is amenable.
- As the political climate and priorities change so do the policies affecting street children and rescue.

Lack of coordination & information

- There is a clear lack of coordination between the agencies conducting rescues both between cities and even within cities. The lack of knowledge and/or understanding about existing laws and policies in relation to rescue is evidence of this.
- In some cases the lack of information means that barangays are enacting and enforcing ordinances which are illegal (such as ordinances relating to curfew where children are penalised – in breach of RA 9344).

Lack of training & resources

- Rescuers across all cities demonstrated a serious lack of training and understanding, particularly in relation to child protection and children's rights.
- LGUs predominantly carry the responsibility of providing basic services, including for street children and rescue, yet do not have sufficient resources to fulfil these responsibilities.

Policy & Legal Structure

There is a lack of consistent and clear policy guiding rescue operations leading to gaps in implementation and breaches of existing laws.

Lack of overall policy

- There is no overall comprehensive policy guiding how rescue operations should be conducted.
- The only existing policies – the Guidelines on Sagip Kalinga Project and the Guidelines on Street Children Program – are not familiar to, or in use by, rescuers.

Policies in existence are unclear, inconsistent

- The existing policies do not provide sufficient guidance as to the overall rescue process.

- The existing policies are internally inconsistent in terms of objectives.
- The existing policies are not in harmony with other laws protecting children such as the UNCRC, the Constitution, RA 7610 and PD 603.

Current rescue practices are in breach of existing laws

- Existing laws limit the authority to take children into protective custody to the DSWD and DSWD licensed agencies. Other agencies are frequently taking children into custody in breach of these laws.
- The process for taking children into protective custody involuntarily requires court sanction. This is rarely, if ever, done in rescue cases.
- Rescue as it is currently practiced is in breach of the most fundamental rights to security of person and protection from the deprivation of liberty.

Riyadh Guidelines and DOJ Comprehensive Program on Child Protection are good models.

- The Riyadh Guidelines provide a good model for the prevention of juvenile delinquency which may be applicable to the issue of street children and be a basis upon which rescue policies can be revised.
- Services for children should be preventive, protective and rehabilitative.

- DOJ's Comprehensive Programme on Child Protection sets out major strategies and core interventions for creating a protective environment for children. This forms a good guide for the revision of rescue practices.

Objectives of Rescue

Rescue operations are frequently carried out indiscriminately and for reasons other than child protection. The best interests of the child are often secondary to other concerns. Rescuers are frequently unclear about their objectives in conducting rescue and therefore use inappropriate intervention techniques. This unnecessarily criminalises, stigmatises and traumatises children.

Objectives are confused

- Rescuers are not always clear about what they are trying to achieve by conducting rescue operations.
- Often more than one objective is present in a rescue operation and these are conflicting (eg: trying to clean/beautify the city and provide children with appropriate social services).
- The stated objective is not always the real objective of a rescue.

Objectives frequently do not justify the intervention

- Activities implemented as part of rescue operations are often inappropriate or in conflict with objectives (eg: removal against will, use of weapons, beating and detention of children in the name of child protection).

Confusion of objectives leads to criminalisation and stigmatisation of children

- A confusion by rescuers as to what their objectives are means there is a tendency to criminalize children (eg: reference to people reporting street children as 'complainants', use of terms 'rules of engagement' in relation to rescue).
- Children's translation of the term 'rescue' into 'huli' which is the same term used for arrest means that distinction between rescue and arrest is not clear to them.
- Children's difficulty in distinguishing between times they were rescued, times they were arrested and times they had possessions taken as part of sidewalk clearing indicates that distinction in practice is not clear to them.
- Children's inability to understand why they were rescued when they had done nothing wrong suggests that objectives are not being made clear to children.

Rescue Process

Rescue operations as currently practiced in the cities of Caloocan, Manila, Pasay and Quezon are failing to protect children from abuse and exploitation and are sometimes exposing them to these. Children's rights are violated at nearly all stages of the process.

Identifying a need for rescue

- Rescues more frequently occur in highly visible locations than in areas that are more out of sight although the numbers of children needing protection are not restricted to these areas.
- Rescues are frequently conducted for reasons not related to child protection. These reasons are often incompatible with the child's best interests.

Pre-rescue preparations

- Many rescuers have received training in different areas but very few have received training specifically about the situation of street children and appropriate interventions.
- Rescues are often conducted by inter-agency teams from LGUs. Some of the members of these teams have no specific mandate to be involved in child protection.
- Children are frequently identified for rescue based solely on their appearance.
- Rescuers frequently have little or no contact with children before they rescue them, meaning that there is no chance for appropriate needs assessment or proper social coordination.

Removing the child from the street

- Most children were not engaged in dangerous or illegal activities at the time of their rescue.
- The fact that rescues are mostly conducted during the night can exacerbate the trauma for children.
- A failure by rescuers to wear uniforms and to introduce themselves properly is likely to confuse children and cause distrust of authorities. It may also make children more vulnerable to abuse by strangers.
- Children were not given sufficient information or opportunity to participate in the decision about the rescue. Many children's consent was vitiated by this lack of information or the force used against them.
- An excessive and unnecessary amount of force was used by rescuers and this caused anger and hurt for children.
- The use of weapons during rescue is incompatible with child-friendly practices.
- The transportation of children failed to protect them or make them feel safe. It frequently exposed them to more abuse or violence.

Initial processing

- The removal and destruction of children's possessions is unjustified and incompatible with the purpose of child protection.

Custody

- There is a lack of special purpose shelters for housing rescued children. The shelters that exist are inappropriately resourced and frequently below acceptable standards.
- Abuse within the centers is exacerbated by the fact that children are not appropriately separated from adults, mentally ill people and the opposite sex.
- High rates of abuse and mistreatment within centers demonstrates that staff is inadequately trained or monitored.

Leaving custody (discharge / termination)

- The discharge of children from custody often lacks appropriate planning and care.
- Allegations of the exchange of sexual favours for discharge are extremely alarming.

Post-rescue

- The great number of children who have been rescued many times indicates that rescue is not effective as an intervention for these children.

Special Issues

- The role of civilian guards and their contact with street children is an area that must be considered and addressed to ensure children's protection.
- The concept of 'dayuhan' impacts negatively on street children and results in governments disowning problems.
- Lack of awareness and sensitivity to the needs of indigenous people is widespread and highly discriminatory.

Monitoring

There is an overall lack of monitoring of the rescue process that is caused by the absence of an adequate system and also a failure to recognise the problems. An independent complaints mechanism is not available or accessible to rescued children.

Lack of awareness

- There is a lack of awareness amongst the general community about the practice of rescue which has allowed the practice to continue unabated.

Children's lack of knowledge/skills to be able to complain

- Children who have been rescued, although dissatisfied with the experience, lack the confidence, skill or ability to register their complaints.
- Authorities yield overwhelming power over children rendering them helpless to be able to complain or escape the situation.

Lack of existence of independent complaints mechanism

- There is a lack of avenues through which children can seek redress for their complaints in relation to rescue.
- Where such avenues exist (such as through the CHR) they are inaccessible to children for various reasons including lack of awareness and financial constraints (i.e.: the cost of getting somewhere or making a call to lodge a complaint is beyond the children's capacity).

Rescue as an intervention approach

Rescue as currently practised is an ineffective intervention for street children because it fails to address the root causes.

Fails to address root causes

- Rescue frequently fails to address the cause of why children are on the street and therefore is not successful in removing them from the street for good.
- Children are frequently on the street to earn a livelihood. Rescuing them and confiscating their livelihood without offering them a sustainable alternative only exacerbates their poverty, leading them back to the street.
- Homelessness leads many children to being on the street but rescue normally only provides shelter on a short term basis, failing to solve the long term problem of lack of shelter.
- Children who are on the street because they are escaping domestic violence or breakdown are not having their needs addressed through rescue.

Is not holistic

- Rescue as an intervention for street children fails to address three needs: prevention, protection and rehabilitation.

Rescue causes more damage to children

- Rescue sometimes removes children from school without providing an alternative, therefore threatening their ability to get an education.
- The experience of being rescued adds to the traumatic experiences of children that need to be treated and healed.
- Rescue practices are incubating distrust of authorities, making eventual rehabilitation of children more difficult.

International concern on issue of rescue

Concern about the issue of arbitrary rescue of children has been expressed by international bodies on several occasions.

Committee on the Rights of the Child

In its Concluding Observations to the Philippines in 2005, the Committee on the Rights of the Child said:

'The Committee notes the lack of a systematic and comprehensive strategy to address the situation [of children living in the streets and their vulnerability to various types of violence and abuse] and protect children living in the streets. The Committee emphasizes that unlawful arrest and detention of street children are serious violations of the provisions and principles of the Convention. Notwithstanding the efforts taken by the State party and, in particular many

*non-governmental organizations working with and for street children, for example ChildHope Asia Philippines, the Committee is concerned about street children's limited access to adequate nutrition, clothing, housing, social and health services and education. Furthermore, the Committee is concerned about health risks faced by street children, including environmental health risks, such as toxic and hazardous wastes and air pollution.*⁹⁷

The Committee went on to make recommendations to the Philippine government about strategies to combat the problem of street children:

- a) 'To develop a comprehensive strategy with active participation of street children, non-governmental organisations and other relevant professionals to address the high number of street children, with the aim of reducing and preventing this phenomenon;
- b) To secure that children living in the streets are not unlawfully arrested and detained, to protect them from police brutality and where needed, to secure their access to adequate legal services;
- c) To ensure that street children are reached through trained street educators and counsellors and provided with adequate nutrition, clothing and shelter as well as with social and health services and educational opportunities, including

⁹⁷Committee on the Rights of the Child, Concluding Observations of the Committee on the Rights of the Child: Philippines, UN Doc CRC/C/15/Add.259, [83] (21 September 2005).

- vocational and life-skills training, in order to support their full development and provide them with adequate protection and assistance;
- d) To provide street children with adequate recovery and social reintegration services for physical, sexual and substance abuse and to promote reunification with their families, when feasible;
 - e) To reduce and prevent the environmental health risks faced by children living in the streets, inter alia, through raising awareness about environmental health risks among these children and instructing appropriate behaviours protecting them from these risks;
 - f) To support the efforts of street children to organise themselves in order to enhance their self-esteem;
 - g) To collaborate with and support non-governmental organisations working with and for street children.'

Committee on Economic, Social and Cultural Rights

'The Committee is... 'concerned about the lack of resources devoted' to the issue of street children and is 'not convinced that the Government is doing enough to satisfy its obligations under the Covenant to seek to protect these children.' The Committee also expressed great concern about forced evictions and is concerned about the 'use of criminal law provisions to deal with problems arising from the inadequacy of housing'.⁹⁸

⁹⁸Committee on Economic, Social and Cultural Rights Report on the Twelfth and Thirteenth Sessions , Economic and Social Council, 1996, Supplement 2 – paragraphs 112 and 115

Human Rights Committee

The issues of warrantless arrest and vagrancy were raised as issues of concern by the Human Rights Committee in its Concluding observations to the Philippines in 2003.

'The Committee is concerned that the law allowing for warrant-less arrest is open to abuse, in that arrests in practice do not always respect the statutory conditions that the person arrested is actually committing a crime or that the arresting officer has "personal" knowledge of facts indicating that the person arrested committed the crime. The Committee is also concerned that a vaguely worded anti-vagrancy law is used to arrest persons without warrant, especially female prostitutes and street children. The State party should ensure that its laws and practices with regard to arrest are brought into full conformity with article 9 of the Covenant.'

'The Committee is concerned that the measures of protection of children are inadequate and the situation of large numbers of children, particularly the most vulnerable, is deplorable... [including] street children vulnerable to extrajudicial executions and various forms of abuse and exploitation.'⁹⁹

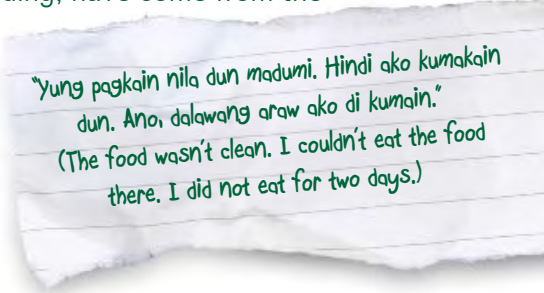
The Committee recommended the Philippine government devise programs for street children that offer support and assistance and they encouraged the government to provide support to relevant NGOs in this respect.

⁹⁹UN Human Rights Committee, Concluding observations of the Human Rights Committee: Philippines: Philippines. 01/12/2003. CCPR/CO/79/PHL



Recommendations and Conclusions

This chapter draws together recommendations for improving not only the practice of rescue but interventions for street children generally. These recommendations, divided into three subcategories; policy reform, program development and implementation and capability building, have come from the participants of the research study, particularly the rescuers themselves.



"Yung pagkain nila dun madumi. Hindi ako kumakain
dun. Ano, dalawang araw ako di kumain."
(The food wasn't clean. I couldn't eat the food
there. I did not eat for two days.)

Policy reform

Revise laws and policies applicable

to rescue to ensure that rescue practices are rights based, child friendly and transparent.

1. Review and develop policies on rescue of street children to ensure they are rights based and for child protection. Use the Comprehensive Program for Child Protection and Riyadh Guidelines as a basis. Integrate a gender sensitive framework. Conduct an inter-agency summit for this purpose with the NNSC playing a lead role.

2. Clarify mandate of agencies involved in rescue and restrict participation to agencies with specific mandate for child protection. Ensure responsibility for child protection is lodged with only one department within LGU.
3. Capacitate the NNSC with resources to enable it to function as an effective interagency taskforce tackling the problem of street children Metro-wide.
4. Centralize database and monitoring of street children and rescues at NNSC and conduct regular external evaluations of rescues and processing centers. Provide for sanctions (including closure) for centers failing to meet those standards.
5. Establish an effective and efficient system, accessible to street children, for redress of violations of rights by government agencies.
6. Review and revise existing laws applicable to rescue to ensure that they are consistent with children's rights, particularly curfew laws and offences caused by poverty (squatting, begging, vagrancy and prostitution).

Program development & implementation

Design programs for street children that focus on prevention, protection and rehabilitation addressing root causes and keeping the best interests of the child as a paramount consideration.

1. Design and implement programs that strengthen families' capacities to protect and nurture children including parent effectiveness, vocational training and livelihood programs.
2. Improve housing options for urban poor families by providing low cost housing with accessibility to livelihoods and prioritising access for street children and their families. Address specific needs of indigenous groups in urban settings.
3. Improve street children's participation rate in education by providing education assistance, allowing enrolment throughout the year and introducing mechanisms, such as alternative classrooms or curricula for children in need of special protection.
4. Increase quality and quantity of alternative care options available to street children, focusing on foster care, maintaining family group integrity and long term care.
5. Allocate appropriate budgetary resources for the improvement of existing facilities for the reception or temporary care of children. Provide Reception and Action Centers in Caloocan and Pasay cities.
6. Work to prevent children going to the street through community based programs that may include creating child friendly spaces (such as child-only times on community basketball courts) and providing activity or drop-in centers with social workers. Use creative processes and theatre for therapy of children.

7. Develop street education programs and link them with community based programs. Use child friendly vans, without bars, to conduct street education.
8. Develop clear guidelines to ensure that in practice rescue is in the best interests of the child. In particular, the following guidelines should be included:
 1. Identifying a need for rescue
 - a. Absolute prohibition on quotas in any form
 - b. Ensure that laws relating to voluntary and involuntary commitment of children are followed at all times
 2. Pre-rescue preparations
 - a. Ensure that social preparation is an integral part of every rescue - conduct assessment of child's situation and needs
 - b. Coordination with school, family, barangay and BCPC as part of social preparation (including home/school visits as necessary)
 - c. Provision of information to child about process and options available to him/her
 - d. As part of planning ensure continuity of education throughout rescue process
 - e. Ascertain that appropriate shelter is available
 - f. Require police check for all rescuers

3. Removing the child from the street
 - a. Social worker leading all rescues. Other agencies only involved as specifically required
 - b. No weapons
 - c. No chasing
 - d. Conduct rescues during daylight hours except in emergency cases
 - e. Prohibit confiscation or destruction of possessions during rescues
 - f. Prohibit use of force in rescue
 - g. Ensure children are separated from adults at all stages of rescue process
 - h. Wearing of uniforms and carrying of identification mandatory
 - i. Introduction of all rescuers
 - j. Use only marked vehicles
 - k. Clear explanation to child about what is happening and why

4. Initial processing
 - a. Immediate intake interview in standardised format and recorded in central location
 - b. Medical & psychological check up on arrival
 - c. Inventory of child's possessions and opportunity to put in secure location
 - d. Contact family as soon as possible in relation to child's situation
 - e. Give child opportunity to contact his/her family or other contact

- f. Consultation with child as to how needs should be met
- g. Ensure appropriate orientation for child upon arrival at center
- h. Separate procedures for children rescued more than once

5. Custody

- a. Maximum temporary shelter for one month
- b. Set maximum numbers of children in shelters and prohibit overcrowding
- c. Have alternative venues available if there is overcrowding
- d. 24 hour access to clean water - water coolers in sleeping quarters
- e. Keep family/sibling groups together
- f. Do not give children responsibility for supervision of other children
- g. Absolute prohibition on corporal punishment – promote implementation of positive discipline
- h. Appropriate staff to child ratio
- i. Separate children from adults and the mentally ill at all times
- j. Separate accommodation for male and female children
- k. Maintain clean eating, living & sleeping quarters
- l. Appropriate ventilation in rooms
- m. Adequate nutrition, according to nutritional plan

- n. Adequate toiletries and clothing
- o. Provide for regular laundry
- p. Functional CR and bathrooms – separated according to age and sex
- q. Adequate bedding and protection from mosquitoes
- r. Counselling services
- s. Medical & psychological services as necessary
- t. Continuous education throughout stay
- u. Sanctions for abuse by staff
- v. Independent complaints procedure within facility
- w. Appropriate training for staff
- x. Recreational activities
- y. Appropriate, multi-disciplinary case management
- z. Only moderate and appropriate chores for children

6. Leaving custody

- a. Involve child in decision about referral/release
- b. Ensure there is always transport for children and families if returning home
- c. Give children adequate information to make informed decision about post-custody options
- d. Eliminate all forms of bribery or payments in release process

- e. Eliminate release procedures that may inadvertently discriminate against children (such as requiring the production of birth certificates)
7. Post-rescue
- a. Provide appropriate follow up and support services for children for at least 3 months
 - b. Endorse child to supervision of school, BCPC and local social worker for appropriate services and support
8. Special Issues
- a. Address the issue of housing and services for indigenous communities in urban settings
 - b. Ensure appropriately skilled cultural liaisons/ translators are available for rescues involving indigenous groups
 - c. Work to reduce stigmatisation and prejudice against indigenous groups
 - d. Work to challenge concept of 'dayuhan', especially at barangay and LGU levels

Capability building

Ensure that all people involved in child protection and rescue are equipped with the appropriate skills and knowledge

1. Provide all government agencies involved in rescue with comprehensive ongoing training about street children and related issues, including:
 - a. Street children
 - b. Human rights
 - c. Children's rights
 - d. Counselling and case management
 - e. Cultural sensitivity
 - f. Gender sensitivity
2. Institutionalise basic education about child protection in the curriculum of the Philippine Public Safety College.
3. Provide for performance assessment with appropriate sanctions for government agents working in the field of child protection.
4. Extend training about child protection and street children to members of the private sector who are likely to have contact with street children including security guards.

5. Encourage malls and other private-public spaces to designate a child safety officer who is appropriately trained and able to deal with street children.
6. Develop a manual of operations which clearly defines roles and responsibilities, which personnel conducting rescues can follow.

Conclusion

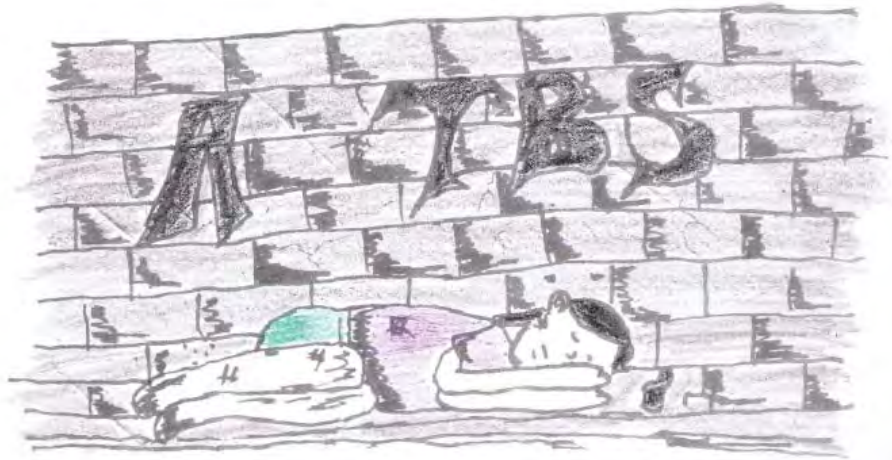
The phenomenon of children living or working on the streets, away from their families and the essentials of normal child development is of immediate concern. Urbanization and extreme poverty continue to push more and more Filipino children onto the streets in major cities all over the country. Failure to address the needs of street children will only exacerbate all of the existing problems facing the Philippines in relation to economics, health, social well-being and crime.

The Philippines and Metro Manila have demonstrated the ability to implement effective programs for street children in the past, especially through the Sagip Kalinga Project. Decentralization of responsibility for social services, including street children, has affected the ongoing efficacy of such programs. It has also led to a confusion of roles between government agencies resulting in overlap and gaps.

International laws and standards provide good guidance for child protection, juvenile justice and the prevention of juvenile delinquency. Some existing national laws provide effective safeguards for children, however there is a great deal of inconsistency between laws applicable to rescue. This is compounded by a lack of understanding of the laws by some of those responsible for implementing them.

Children's experience of rescue in all of the cities studied was overwhelmingly bad. Not only did rescue fail to protect children from danger, it often exposed them to more harm. Many of the weaknesses of the rescue process may be attributed to a lack of understanding or agreement on the purpose of rescue. Much evidence indicated that rescues are being conducted predominantly for reasons other than child protection even if these reasons are not always stated. The rescue process is not effective in providing lasting solutions for street children.

Rescuers acknowledged their frustrations with the process and with their failure to be able to implement change. The willingness of rescuers to provide recommendations indicates that there is a general readiness for a complete overhaul of the strategies and systems currently in place. A massive revamp is well and truly overdue, not only for Caloocan, Manila, Pasay and Quezon cities but for Metro Manila and the Philippines. For, as long as a child says 'I wish they wouldn't rescue us anymore so that I could study', the system is failing.



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