



Global Monitoring



Report on the

status of action against commercial
sexual exploitation of children

PHILIPPINES



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Glossary of terms and acronyms

AHTRAD: Anti-Human Trafficking Division

AIDS: Acquired Immune Deficiency Syndrome

ASEAN: Association of Southeast Asian Nations

CATW: Coalition against Trafficking in Women

CBO: Community-based organisation

CFIS: Child-Friendly Investigation Studios

Code of Conduct: A code for travel and tourism companies, providing guidance on the protection of children from sexual exploitation

CRC: Convention on the Rights of the Child

CSE: Commercial sexual exploitation

CSEC: The commercial sexual exploitation of children consists of criminal practices that demean, degrade and threaten the physical and psychosocial integrity of children. There are three primary and interrelated forms of commercial sexual exploitation of children: prostitution, pornography and trafficking for sexual purposes. Commercial sexual exploitation of children comprises sexual abuse by the adult and remuneration in cash or in kind to the child or a third person or persons.

CST: Child sex tourism, or the commercial sexual exploitation of children by men or women who travel from one place to another, usually from a richer country to one that is less developed, and there engage in sexual acts with children, defined as anyone under the age of 18.

DSWD: Department of Social Welfare and Development

ECOP: Employers Confederation of the Philippines

ECPAT: End Child Prostitution, Child Pornography and the Trafficking of Children for Sexual Purposes

FIAT: Filipino Initiative against Trafficking in Persons

Grooming: Preparing a child for sexual abuse and exploitation

HIV: Human immunodeficiency virus

HLD: High Level Dialogue

IACAT: Inter-Agency Council against Trafficking

ICT: Information and communication technologies
ICTSD: International Centre for Trade and Sustainable Development
ILO: International Labour Organization
ILO/IPEC: International Labour Organization/International Programme on the Elimination of Child Labour
INGO: International non-governmental organization
IOM: International Organization for Migration
IT: Information technology
LCPCs: Local Councils for the Protection of Children
LGUs: Local Government Units
MMS: Macro Monitoring System
MoU: Memorandum of Understanding
MSNAT: Multi-sectoral Network against Trafficking
NBI: National Bureau of Investigation
NGO: Non-governmental organization
NPA: National plan of action
NUWHRAIN: National Union of Workers in the Hotel, Restaurant and Allied Industries
OSETC: Office of the Special Envoy on Transnational Crime
PACT: Philippines against Child Trafficking
PNP: Philippine National Police
PREDA: People's Recovery Empowerment Development Assistance Foundation
SACSEC: Sub-Committee on Sexual Abuse and Commercial Sexual Exploitation of Children
SCPC: Special Committee for the Protection of Children
STIs: Sexually transmitted infections
UN: United Nations
UNDP: United Nations Development Programme
UNESCAP: United Nations Economic and Social Commission for Asia and the Pacific
UNHCR: United Nations High Commissioner for Refugees
UNICEF: United Nations Children's Fund
UNOHCHR: United Nations Office of the High Commissioner for Human Rights
VawCD: Violence against Women and Children Division
WHO: World Health Organization
WTO: World Tourism Organization

Foreword

Ten years have passed since the First World Congress against Commercial Sexual Exploitation of Children (CSEC) was held in 1996 in Stockholm, Sweden. The Stockholm Congress was a landmark event, providing testimony that convinced the world that sexual violations against children exist in all nations, irrespective of cultural differences or geographic location. It marked the first public recognition by governments of the existence of CSEC and resulted in a commitment to a global Declaration and Agenda for Action, which was formally adopted by 122 governments, as a guide to the specific measures that must be taken for counteraction.

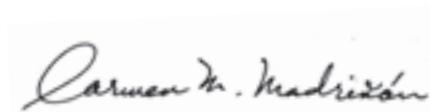
Since 1996, many actors around the world have focused their efforts around this common Agenda for Action and more government and non-government entities have linked, to ensure positive change for children and to protect their right to live free from sexual exploitation. This broad societal alliance (bolstered by a Second World Congress held in Yokohama in 2001, during which the number of countries adopting the Agenda rose to 159 - a figure which has since risen to 161) has made progress in improving protection for children from commercial sexual exploitation. However, the increasing sophistication of resources available to those who seek to exploit children have grown in equal measure. Responding to these challenges requires far more coordinated and targeted work to be undertaken to avoid retrogression.

Experience demonstrates that the level of responsibility and role that a government takes to set and uphold standards of protection, like the lead taken for protecting children's rights, determines the nature, quantity and quality of what the country achieves for its children. Governments can and have accelerated progress for implementation of the Agenda for Action, often opening new and important channels for such work. Nevertheless, their actions have not been uniform and, as these country profiles attest, far more urgent work must be done to protect children from such heinous violations, as these are still perpetrated with impunity in many countries.

This report aims to provide a baseline of information on actions taken and remaining gaps for addressing CSEC in each country, based on the framework of the Agenda for Action, to enable more systematic assessment of progress on implementation of this commitment. It also seeks to contribute to other international mechanisms that exist to protect children's rights; the *Convention on the Rights of the Child (CRC)* and the *Optional Protocol on the sale of children, child prostitution and child pornography* so as to strengthen the implementation and action against commercial sexual exploitation of children at all levels.

Another important objective of these reports is to stimulate the exchange of experience and knowledge among countries and different actors to create a dialogue that can further work against CSEC. While much has been achieved over the last 10 years, many gaps still remain. The implementation of the Agenda for Action is urgently required, for as the reports clearly illustrate, there is a compelling need for global action to protect children from these inhuman violations.

This project is the result of a broad and global collaboration. ECPAT International (EI) would like to thank all those who participated in the work and contributed their inputs, in particular the ECPAT member groups in the countries examined, local experts who provided valuable information and insights, other organisations that shared their experience and information, the dedicated staff and volunteers in the Secretariat of EI and the generous donors who backed the project (more extensive acknowledgements can be found in the Regional Report). This work would not have been realised without their support and solidarity.



Carmen Madriñán
Executive Director, ECPAT International

Methodology

The Agenda for Action against Commercial Sexual Exploitation of Children provides a detailed framework and categories of actions to be taken by governments in partnership with civil society organizations and other relevant actors for combating commercial sexual crimes against children. Broadly, these actions are focused on: 1) Coordination and Cooperation; 2) Prevention; 3) Protection; 4) Recovery, Rehabilitation and Reintegration; and 5) Child Participation. The Agenda for Action is thus the formal and guiding structure used by governments that have adopted it and committed to work against CSEC. As such, the Agenda for Action is also the main organising framework for reporting on the status of implementation of the Agenda as seen in the World Congress of 2001 and in the Mid-Term Review meetings held between 2004 and 2005. It has been used in the same way to structure and guide the research, analysis and preparation of information presented in these reports on the status of implementation of the Agenda in the individual countries.

Preparatory work for this report involved a review of the literature available on sexual exploitation for each of the countries where ECPAT works. A number of tools were prepared, such as a detailed glossary of CSEC terms, explanatory literature on more difficult themes and concepts and a guide to relevant CSEC-related research tools, to assist researchers in their work and to ensure consistency in the gathering, interpreting and analysing of information from different sources and parts of the world.

Early desktop research revealed a lack of information in the areas of Recovery, Rehabilitation and Reintegration; and Child Participation. After extensive efforts to collect information relevant to these areas for each of the countries covered, it was decided that as this information was not consistently available, the reports would focus only on those areas of

the Agenda for Action where verifiable information could be obtained. Thus, the report covers: Coordination and Cooperation; Prevention; and Protection, and where information on the other two areas was available, it has been included under the specific country or in the regional overview.

Research of secondary sources, including CRC country reports, alternative CRC reports, the reports of the Special Rapporteurs, submissions for the recent UN Study on Violence against Children, as well as research and field studies of ECPAT, governmental and non-governmental organizations, and UN agencies, provided the initial information for each report. This information was compiled, reviewed and used to produce first draft reports. In-house and consultant specialists undertook a similar process of review to generate information on specialised areas of the reports, such as the legal sections. Nevertheless, researchers often encountered a lack of information. While sources also included unpublished reports and field and case reports of ECPAT and other partners, many countries lacked up-to-date data and information on areas relevant to this report.

Despite these limitations, sufficient information was gathered to provide a broad overview of the situation in each country. Subsequently, first drafts were prepared and shared with ECPAT groups, which then supplemented the information with other local sources and analysis (taking care to identify them and source appropriately). Upon receipt of these inputs, a series of questions were generated by the ECPAT International team for deeper discussion through teleconferences, which involved ECPAT groups and specialists invited by them. The information from these discussions was used to finalise inputs to each of the reports. These consultations proved to be invaluable for analysis of the country situation.

They also served as a measure for triangulating and validating information as different actors offered their perspective and analysis based on their direct work.

As previously noted, the information of each country report is organised to correspond to the structure of the *Agenda for Action*. Thus all reports feature: (i) an overview of the main CSEC manifestations affecting the country; (ii) analysis of the country's National Plan of Action (NPA) against CSEC and its implementation (or the absence of an NPA); (iii) overview and analysis of coordination and cooperation efforts during the period under review; (iv) overview and analysis of prevention efforts; (v) overview and analysis of protection efforts, which includes detailed information on national legislation related to CSEC (see www.ecpat.net for further details); and (vi) priority actions required.



PHILIPPINES

The Philippines is highly affected by all forms of commercial sexual exploitation of children (CSEC), which seem to be closely linked and greatly impact on one another.

While tourism has been used to promote economic growth, it has also resulted in child sex tourism in the Philippines. In research conducted in Cebu in 2004, all the taxi drivers surveyed responded that they had had an encounter with a foreign tourist accompanied by a Filipino minor.¹ Interviews conducted in a drop-in centre for victims of commercial sexual exploitation (CSE) showed that 70 per cent of the girls assisted were aged between 11 and 17 years.² Cebu is a prime tourist destination in the Philippines, and is advertised on websites providing information on where sex services are available. Two years ago, an American national was arrested as he tried to leave the US for the Philippines for making arrangements to have sex with two Filipino girls aged 9 and 12.³ There are indications that this kind of pre-arranged child sex tourism takes place in the country, and is highly facilitated by the Internet.⁴ Nationals from Austria, Australia, Belgium, Britain, Canada, France, Germany, Japan, Malaysia, the Netherlands and the United States have been arrested in the Philippines for sexual offences against children.⁵

Easy-to-run businesses geared towards foreign child sex offenders

Some foreign nationals facilitate child sex tourism by investing in and managing venues (usually bars and hotels) in which children are sold to other foreigners for sex. For instance, in 2003, a UK national was deported for operating a venue where children as young as 11 and 13 were sold to foreign tourists⁶ (it was not possible to convict him due to a lack of evidence). He returned the following year and resumed running the bars and clubs in which he had invested.

Another area of concern is the production of child pornography in the country, which seems to be closely linked with child sex tourism. Tourists and resident foreigners provide

money and gifts to families in exchange for their children, who are subsequently sexually abused; the abuse is sometimes photographed or filmed. A senior police officer in the Philippines estimated that there are 50 to 75 cybersex dens in the country where webcams are used to film sexual images, and that children are being sold by their parents in this “new market”.⁷ Such imagery of children - who can be as young as 10 years old – is sometimes broadcast live on the Internet.⁸

Parents fail to see repercussions of selling their children for pornography

According to a report from the Department of Social Welfare and Development (DSWD), parents, children and authorities fail to grasp the implications of using children for the production of pornography. The impact it may have on a child’s life is often ignored, and some parents actually consider child pornographic images as ‘mere photographs or films’ which do not harm the children, particularly those involving only nudity (images showing the actual molestation of their children do receive stronger reactions though). There is an urgent need to make parents and children more sensitive to the issue generally, especially since it also suggests that a large number of child pornography cases remain unreported, as they are considered ‘innocuous’.⁹

The Philippines is a sending, transit and destination country for trafficking in children for sexual purposes. Non-governmental organizations (NGOs) and government agencies estimate that between 60 and 100 thousand children are trafficked annually (both cross-border and internal trafficking), and that most of them are girls to be sexually exploited.¹⁰ According to action-based research¹¹ conducted in seven high-risk areas, the victims are predominantly girls between 14 and 17 years old who come from the more impoverished parts of the country. They are usually sent to secluded places where mushrooming bars and video/karaoke bars cater to tourists, or they are offered false jobs in restaurants, promotion agencies, factories and households in Metro Manila. Once they reach their destination, they are locked up in rooms, drugged, forced to provide sexual services and heavily guarded. Their customers are foreigners: mainly from China, Korea and Japan, and locals: white-collar workers; local drivers (*jeepney* and bus drivers); farm workers; construction workers; and military and police officers, who were said to be ‘regular customers and usually non-paying’. According to some respondents to the research, some club or brothel owners would also sexually abuse the girls¹². Advance payments are usually given to the parents to obtain consent for their child to go with the recruiter. For cross-border trafficking, some children make use of the birth certificates of an older sibling to acquire the necessary legal documents for the trip.¹³ Some girls are also recruited as ‘mail-order brides’ and sent

to Northern Europe and Australia, where they become sex slaves. Children trafficked for labour purposes are also reported to be sexually abused by their employers.¹⁴

Long-term armed conflicts within the country, in Central Mindanao and Maguindanao in particular, have contributed to the extreme poverty and limited access to education that place children in vulnerable situations. Many of them also become homeless after losing their parents, and are compelled to turn to prostitution to be able to survive.¹⁵

A lack of understanding of children's rights within Filipino society is a strong contributing factor in the commercial sexual exploitation of children (CSEC). Children are often considered 'parental property',¹⁶ and are taught to be submissive and obedient to adults at all times, which may compromise their ability to defend themselves when being approached for sexual exploitative activities. Also, families may be reluctant to bring charges related to child sexual abuse for fear that it might tarnish the image of the family¹⁷ and cause them to be ostracised.

The Philippines signed the *Stockholm Declaration and Agenda for Action* in 1996 and reaffirmed its commitment in Yokohama in 2001.

NATIONAL PLAN OF ACTION (NPA)

A five-year planning framework - the *Framework for Action against the Commercial Sexual Exploitation of Children (2000-2004)*, also referred to as the *National Plan of Action against CSEC* - was developed in accordance with the Stockholm commitments, complementary to the *National Comprehensive Programme for Child Protection*.¹⁸ The Sub-Committee on Sexual Abuse and CSEC, which is part of the Council for the Welfare of Children, is responsible for monitoring the Framework's implementation. A severe weakness of the Framework was the lack of monitoring mechanisms to assess the implementation of its specific programmes. An evaluation was conducted, which has served as the basis for a draft follow up framework currently being discussed. Furthermore, adequate financial resources are yet to be allocated for the Plan's implementation, particularly to support the coordinating body so that it is not solely dependent on backing from the United Nations Children's Fund (UNICEF).

The *Framework of Action against CSEC (2000-2004)* was formulated through a collaborative effort by national government agencies, Local Government Units (LGUs), NGOs, children and supported by UNICEF. It places emphasis on education on children's rights,

awareness raising on gender equality, and reproductive health/sex education for children, young people and families. To enhance the support available for trafficking victims, the Quick Response Team - operating within the Crisis Intervention Unit and the DSWD - was created, and the project 'Reintegration and Mobilisation of Community Support' was conducted.¹⁹ Efforts have also been made to improve standards and access to education, although several vulnerable groups of children (such as those living in poverty and those in armed conflict areas) are still not getting an education.²⁰

The Philippines also developed a *National Plan of Action for Children* (2005-2010) that highlights prevention, protection and reintegration of children from all forms of abuse and exploitation. Furthermore, the Children's Sector within the National Anti-Poverty Commission provides feedback to the Government on children's issues, policies and programmes. They have identified the commercial sexual exploitation of children and child pornography as priority issues.²¹

COORDINATION AND COOPERATION

Local and National Level

The Council for the Welfare of Children is the governmental body responsible for implementing the country's commitments related to child welfare, including those contained in the *Stockholm Agenda for Action* and several international conventions.²² The Council set up a Sub-Committee on Sexual Abuse and CSEC, which includes government and non-governmental agencies and provides technical guidance on the implementation of a framework of action against CSEC.²³ Its performance has however been hampered, as those attending the Sub-Committee meetings are not always the heads of agencies nor do they have the authority to decide on the issues. Also, there is no platform for children and young people's participation. Furthermore, the *Framework for Action against the Commercial Sexual Exploitation of Children* (2000-2004) requires Local Government Units to prepare local plans of action against CSEC. Since critical stakeholders at the sub-national level are not yet familiar with the Framework, action on the part of the LGUs remains sporadic and uncoordinated.

Following the enactment of the *Anti-Trafficking in Persons Act* of 2003,²⁴ the Inter-Agency Council against Trafficking (IACAT) was formed to coordinate, monitor and oversee its implementation. In addition to developing the *National Strategic Action Plan*

against Trafficking in Persons (2004-2010), IACAT issued guidelines for the formation of supporting bodies at regional, provincial and city/municipal level to ensure streamlining and cooperation from the various government agencies and NGOs. Nine of the thirteen regions in the country have already formed their local IACATs in various provinces, campaign and advocacy activities have been initiated and some training activities conducted among various law enforcement agencies. However, the lack of funding to support the IACAT denotes the low priority given by the Government to human trafficking.

A Special Committee for the Protection of Children (SCPC) was also established to monitor the implementation of the *Special Protection of Children against Child Abuse, Exploitation and Discrimination Act (Special Protection of Children Act)*.²⁵ In 2003, the Committee, in close collaboration with the Department of Justice, took the lead in developing a Comprehensive Programme on Child Protection against the prostitution of children, sexual abuse, child trafficking, obscene publications and other forms of abuse that endanger the healthy growth of children. The programme was developed as a result of collaborative efforts among relevant government and non-governmental organizations, such as the Departments of Social Welfare, Foreign Affairs, Tourism, the Interior and Local Government, Labour and Employment, and NGOs working on children's welfare. The programme has three key components: prevention; reporting, rescue and investigation; and recovery and reintegration services, which provide a conceptual framework for all levels of society on systematic approaches and concerted efforts to protect children²⁶.

Local Councils for the Protection of Children

The Barangay (Village) Council, mandated under *Presidential Decree 603*, created Local Councils for the Protection of Children (LCPCs) with a view to promoting and protecting children's rights, encouraging responsible parenting, assisting abandoned, maltreated and abused children and monitoring crimes against children. Overall, 17,465 LCPCs have been set up throughout the country to date. They play a strong role in the prevention of CSEC and trafficking in children, according to the Department of the Interior and local governments. However, it is important to ensure that these are fully functional and capable of tackling issues related to CSEC in their respective areas.

Since 2003, the Philippines has piloted the Macro Monitoring System (MMS), which monitors specific cases of sexual abuse and exploitation against children, based on reports from the field from both government and NGO sources.

It is also worth mentioning the CSEC Info Database, a regional initiative by the Inter-Agency Group composed of ECPAT International, the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) and UNICEF, which the Philippines is also currently piloting. Although the Government organised a series of training sessions for relevant government departments and NGOs on how to use this database, clear procedures for collecting, inputting and analysing the information have not yet been defined. This was supposed to have taken place through a government-led process. Furthermore, it is unclear how the CSEC Info Database, the Macro Monitoring System, or the recently created database on child sex offenders will actually complement each other or function as an integrated source of information.

The Child Protection Unit Network

The Child Protection Unit Network, initially set up at the Philippine General Hospital, developed 19 units (as of the end of 2005) working in various regional and provincial hospitals, to provide expert services for abused and exploited children. The services include medical examination; video cameras for interviews with child victims; an initial visit from a psychiatrist for screening or assessing the degree of trauma the child may be experiencing; therapy sessions for the child as needed; and on-site social workers who also conduct home visits (should the child live outside their catchment area, the child will be referred to relevant agencies)²⁷. The Child Protection Unit Network is also host to the first website on organisations working on child protection.²⁸

Regional and International Level

Through the Department of Foreign Affairs, the Department of Social Welfare and Development and the Department of Labour and Employment, the Philippine Government is exploring bilateral, regional and international avenues for the protection of Filipino migrants and nationals abroad.

At the recent United Nations High-Level Dialogue (HLD) on International Migration and Development, the Philippines participated in a roundtable discussion centered on protective mechanisms for migrant workers, including the issues of human trafficking, human smuggling and refugees, especially of children and women, and vulnerable sectors such as domestic and agricultural workers. The Republic of the Philippines and the European

Union (EU) are also developing a partnership agreement on migration, including irregular migration, trafficking and human smuggling, to manage migratory flows jointly so that irregular migrants and undocumented nationals can be granted protection. Finally, the *Japan-Philippines Economic Agreement* has resulted in a lower number of cases of trafficked persons due to implementation of new laws by Japan. Cases of marriages of convenience between Filipinas and Japanese men, as one of the possible methods used for trafficking women into Japan, are now being looked into.

In 2002, an agreement was signed with Malaysia and Indonesia to work cooperatively on matters related to transnational crime, (including trafficking in persons) and the joint management of border control. Also, in 2002, an agreement on information exchange and the establishment of communication procedures with Indonesia entered into force. A Memorandum of Understanding (MoU) on *Cooperation in Combating Transnational Crimes* was signed in 2002 with the Republic of China,²⁹ and a similar MoU was signed with Australia in 2003. Bilateral arrangements were also agreed with Korea and the United States to curb trafficking in women and children.

PREVENTION

As in many countries worldwide, an active civil society has taken the lead in prevention projects against CSEC, many of these in partnership with the Government. Several studies have been undertaken, by both government agencies and NGOs, on child trafficking, child pornography and tracking of CSEC victims (focusing primarily on girls). Such research has proved useful in highlighting priority preventive measures and in developing awareness of the problem.

Led by ECPAT-Philippines, Philippines against Child Trafficking (PACT), a coalition of more than 25 NGOs, conducted a campaign against trafficking from 2003 to 2005. It reached tens of thousands of people around the country and provided a venue for children and young people's participation through various local activities. In addition, in cooperation with Asia against Child Trafficking (Asia ACTs), more than 30 provinces were reached through province-wide training activities against child trafficking. This campaign, involving government social workers, police, principals, doctors and nurses, teachers, NGO and religious personnel, enabled participants to conduct over one thousand community education sessions in villages and schools.

In 2005, the Filipino Initiative against Trafficking in Persons (FIAT) launched the *Road Show to Combat Trafficking in Persons*, in cooperation with the IACAT, the Multi-sectoral Network against Trafficking (MSNAT), the Coalition against Trafficking in Women (CATW) and PACT.

Assistance at the end of the telephone

The child helpline 'Bantay bata 163' was established as a channel for children to express their concerns, seek help and advice. However, according to the Committee on the Rights of the Child, the helpline is only able to reach children living in the capital region.³⁰

Sustained efforts against sex tourism have been undertaken by the Department of Tourism, for instance by promoting the *Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism*, widely disseminated to tourism establishments and facilities.³¹ The tourism industry has also undertaken a number of preventive measures, such as training in bartending and waitering skills for out-of-school and other young people at risk. Such training is provided by a wide range of partners: the National Union of Workers in the Hotel, Restaurant and Allied Industries (NUWHRAIN), the Employers Confederation of the Philippines (ECOP), Pan Pacific Manila and Holiday Inn Manila. These organisations also produced a book on best practices, entitled *At Your Service: Combating Child Labour in the Tourism Industry*.³² Furthermore, in 2004, following ECPAT Philippines' participation in the 15th Philippine Travel Mart,³³ networks to prevent child sex tourism were established between the tourism sector and a number of Local Government Units promoting tourism. ECPAT Philippines is currently working towards the adoption of the Association of Southeast Asian Nations (ASEAN) Traveller's Code³⁴ by local tourism stakeholders.

The People's Recovery Empowerment Development Assistance Foundation (PREDA) has consistently campaigned against child sexual exploitation by distributing updates, articles and news to international agencies, NGOs, government officials and the media, both nationally and internationally. The organisation also assists national and foreign law enforcers in the prosecution of offenders, and lobbies for improved laws to protect children.

Fostering the development of local ordinances in regulating cybercafés

In an effort to curb online child pornography, the Office of the Special Envoy on Transnational Crime (OSETC) proposed a pro forma ordinance regulating Internet cafés. OSETC is currently monitoring which of the LGUs have adapted the pro forma ordinance, and following up on those who have not yet passed them. An empirical study on child pornography is planned, as well as the drafting of a national law on child pornography.

A national consultation on child pornography, and three regional consultations, were organised by the Sub-Committee on Sexual Abuse and CSEC (of which ECPAT-Philippines is a member), with support from UNICEF. A *Draft Framework of Action against Child Pornography* in the Philippines was subsequently prepared, based on consultations led by the Sub-Committee.

Also, in 2002, ECPAT Philippines published *Protecting Filipino Children Online: An ECPAT Guide*.

Endangered Generation³⁵

Endangered Generation: Child Trafficking in the Philippines for Sexual Purposes is a child trafficking study undertaken by ECPAT-Philippines with support from Terre des Hommes - Netherlands in 2004. Focusing on seven high-risk areas within the country, it generated data and information on profiles of child victims and perpetrators (particularly facilitators and accomplices), recruitment practices, trafficking routes, the conditions of the children's sexual exploitation and the extent to which related laws are enforced.³⁶ The study identified high-risk areas where poverty plays a major part in forcing children to seek 'lucrative' jobs in cities, driven by the desire for better living conditions and the perceived obligation to support siblings financially. An increasing demand for young girls was also identified. A book to present the findings was subsequently published and received wide media coverage.³⁷

*Rapid Assessment: National Background on the Girl Child in the Philippines*³⁸ is an ILO study that provided policy makers with insight into three particular settings: commercial sexual exploitation, commercial agriculture and domestic service.³⁹

PROTECTION

The Philippines ratified the *Convention on the Rights of the Child* in 1990; its *Optional Protocol on the sale of children, child prostitution and child pornography (Optional Protocol)* in 2002; the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol)* in 2002; and *ILO Convention No. 182* in 2000. At regional level, the Philippines signed the *ASEAN Declaration against Trafficking of Women and Children* in 2004.

Legislation

The Philippines has two primary laws that address the prostitution of children and child trafficking for sexual purposes: the *Anti-Trafficking in Persons Act* of 2003, and the *1992 Special Protection of Children against Child Abuse, Exploitation and Discrimination Act*, amended in 2003.

Prostitution of Children

Filipino law has many positive elements to protect children from prostitution.

The *Special Protection of Children against Child Abuse, Exploitation and Discrimination Act (Special Protection of Children Act)* is a comprehensive child abuse law that establishes a government programme to protect children from various abuses. It outlines and penalises various abuses of children, and offers remedial procedures, such as protective custody.⁴⁰

Under the *Special Protection of Children Act*, a child exploited in prostitution is a girl or boy under 18 years of age⁴¹ who, for any consideration or as a result of coercion or influence by an adult, syndicate, or group, engages in sexual intercourse or lascivious conduct.⁴² The Act makes it illegal to engage in, promote, facilitate or induce child prostitution by: procuring or taking advantage of or using threats or violence to procure a child for prostitution;⁴³ inducing a person by written, oral or other advertisement to prostitute a child;⁴⁴ or giving

money, goods or other benefits to a child in order to engage the child in prostitution.⁴⁵ Violators are subject to *reclusion temporal* (i.e. twelve years and one day to twenty years' imprisonment) in its medium period to *reclusion perpetua*⁴⁶(i.e. life imprisonment). The law equally punishes those who profit or take advantage of child prostitution, such as managers or owners of establishments where child prostitution takes place.⁴⁷ Engaging in sexual intercourse or lascivious conduct with a child exploited in prostitution or subjected to other sexual abuse is subject to the same punishment (*reclusion temporal* to *reclusion perpetua*), except in cases where the child is under 12 years of age. In these cases, the offender may be prosecuted under Article 335 of the *Revised Penal Code* for rape; lascivious conduct - which includes oral and anal penetration - and may be punished by *reclusion temporal* in its medium period.⁴⁸

Violators with previous convictions, in a familial relationship to a child, or a public employee, among others, are subject to the maximum punishment available under the law.⁴⁹ Establishments that promote, facilitate or conduct activities constituting child prostitution are separately liable under this law, and shall be immediately closed and their licenses to operate cancelled.⁵⁰

The law further punishes those who attempt to prostitute a child. Attempts are when non-relatives of children are found in situations where a reasonable person would believe that the child would be exploited in prostitution,⁵¹ and when a person receives services from a child in a sauna, bath, massage clinic or other similar establishments.⁵² The penalty for attempted child prostitution is lower than that for the felonies set forth in Section 5 of the Act.⁵³

A 2003 amendment to the *Special Protection of Children Act* includes using, offering or exposing a child for prostitution as a worst form of child labour,⁵⁴ and punishes employers or subcontractors with twelve years and one day to twenty years' imprisonment, a fine of between 100,000 and 1,000,000 pesos (approx. US\$1,940 and US\$19,360), or both, among other punishments.⁵⁵

In addition, the *Anti-Violence against Women and their Children Act* of 2004 (RA 9262) includes prostituting a woman or her child as an act of violence that is subject to criminal sanctions.⁵⁶

Trafficking in Children for Sexual Purposes

As with its laws against the prostitution of children, the Philippines' *Anti-Trafficking Act* has many positive elements that bring it close to international standards. The definition of trafficking under Filipino law is consistent with that of the *Trafficking Protocol*, and the Philippines' *Anti-Trafficking Act* appears to establish the harshest penalties for instances of child trafficking (as a form of qualified trafficking under Section 6 of the *Anti-Trafficking Act*). The *Anti-Trafficking Act* contains many excellent provisions to protect trafficked persons and children, such as an express provision preventing trafficked persons from being punished and the many programmes that government agencies are required to establish to prevent trafficking and to assist trafficked persons.

The *Anti-Trafficking in Persons Act* of 2003 (*Anti-Trafficking Act*) defines child trafficking as recruiting, transporting, transferring, harbouring, or receiving a child for the purpose of exploitation, including, but not limited to, prostitution, other forms of sexual exploitation, forced labour or slavery, among others.⁵⁷ A child is defined as a person under 18 years of age, or a person 18 years of age and above who is unable to take care of or protect him/herself due to a physical or mental disability or condition.⁵⁸ Prostitution is defined as any act, transaction, scheme or design to use a person for sexual intercourse or lascivious conduct in exchange for monetary or other consideration.⁵⁹ Pornography is any representation of a person engaged in real or simulated explicit sexual activities or the sexual parts of a person for primarily sexual purposes.⁶⁰ And, sexual exploitation is defined as participation of a person in prostitution or the production of pornographic materials due to threat, force, or other forms of intimidation.⁶¹

The law makes illegal the following acts as trafficking for purposes of prostitution, pornography, or sexual exploitation: recruiting, transporting, transferring, harbouring, providing or receiving a person under the pretext of domestic or overseas employment;⁶² facilitating the marriage of a Filipino woman to a foreigner;⁶³ offering or contracting marriage;⁶⁴ undertaking or organising tours and travel plans;⁶⁵ maintaining or hiring a person;⁶⁶ or adopting or facilitating the adoption of persons.⁶⁷ These violations may be punished with twenty years' imprisonment and a fine of between 1 and 2 million pesos (US\$19,360 and US\$38,720).⁶⁸

The law considers those who have been trafficked as victims and protects them from punishment for acts directly related to the acts of trafficking.⁶⁹ Foreign nationals who are trafficking victims are also entitled to protection and assistance, including being allowed to

stay in the Philippines as necessary to prosecute the traffickers.⁷⁰ The *Anti-Trafficking Act* also targets those who buy or engage the services of a trafficked person for prostitution; a first offence may be punished with six months of community service and a fine of 50,000 pesos (US\$970), while a second offence may be punished with one year's imprisonment and a fine of 100,000 pesos (US\$1,940).⁷¹

The law further outlines acts of qualified trafficking, which include, among others: child trafficking;⁷² adoption for purposes of prostitution, pornography or sexual exploitation;⁷³ trafficking by relatives, those having authority over the trafficked person, public officers, employees, or military or law enforcement officials;⁷⁴ or, trafficking in persons for purposes of prostitution with military or law enforcement agencies.⁷⁵ Offenders engaged in qualified trafficking are subject to increased penalties, and may be punished with life imprisonment and a fine of two to five million pesos (US\$38,740 and US\$96,840).⁷⁶

The *Anti-Trafficking Act* also punishes a variety of activities that promote trafficking, such as knowingly leasing or allowing a house or building to be used for the purposes of trafficking, or disseminating materials that promote trafficking, among others.⁷⁷ Offenders who promote trafficking may be punished with fifteen years' imprisonment and a fine of 500,000 to 1,000,000 pesos (US\$9,680 and US\$19,360).⁷⁸

The *Anti-Trafficking Act* is the most recent Filipino law on trafficking, but the *Special Protection of Children Act*, which was passed in 1992, also contains a section on child trafficking, although less comprehensive. Under the latter law, child trafficking is limited to buying or selling a child or other acts of trading or dealing with children, and may be punished by *reclusion temporal* to *reclusion perpetua*.⁷⁹ Attempts to commit child trafficking are subject to lesser punishment.⁸⁰

Child Pornography

As the Philippine Government stated in its response to the UN Violence Study questionnaire, it has no legislation specific to child pornography.⁸¹ Filipino law fails to meet international standards to protect children against child pornography as it does not explicitly prohibit the activities described in the *Optional Protocol* and the *Stockholm Agenda for Action*. A new law should thus be enacted that comprehensively defines and outlines the offence of creating, possessing or distributing child pornographic images, with appropriate penalties for violations.

The *Special Protection of Children Act* contains a section on obscene publications and indecent shows, but nowhere does this statute define or specifically prohibit child pornography. Instead, it prohibits hiring, inducing or coercing a child to perform in obscene or indecent shows or model for obscene or pornographic materials, or selling or distributing such materials. Penalties increase for violations involving children under 12 years of age and where a parent, guardian or other person caring for the child allows the child to participate in the illegal activities.⁸² The law characterises the use of children to create obscene or pornographic images as a factual circumstance that suggests child abuse.⁸³ Thus, child pornography is not treated as an independent violation, but as a form of child abuse.

Further, while the *Anti-Trafficking Act* contains a definition of pornography and prohibits trafficking for purposes of pornography, it does not specifically define or prohibit the production, possession, or distribution of child pornographic materials. Rather, it treats pornography as a part of trafficking, rather than as a stand-alone violation.

In July 2005, the National Consultation on Child Pornography was organised by the Sub-Committee on Sexual Abuse and Commercial Sexual Exploitation of Children (SACSEC) of the Council of the Welfare of Children. As a result, a *Draft Strategic Framework on Child Pornography* was formulated.⁸⁴ Furthermore, a bill is being drafted to oblige all Internet service providers to make use of ‘blocking’ software to curb cybersex, including child pornography.

Extraterritorial Legislation

The Philippines does not exercise extraterritorial jurisdiction for offences related to the commercial sexual exploitation of children. Apart from specific MoUs with a number of countries, the Philippines has a standing *Extradition Treaty* with 12 countries, including the United States, on specific offences and crimes punishable by imprisonment for more than one year. This treaty is not specific to CSEC but can be applied to related offences when these are punishable by more than one year imprisonment.

Child Protection Units

The Philippine National Police (PNP) has increased the number of Women and Children's Protection Desks to 1,793 police stations across the country. In addition, the Department of Labour and Employment, through the Sagip Batang Manggagawa (Rescue Child Workers) - Quick Action Teams has developed rapid response teams that include police officers, social workers and NGOs. These teams, acting on reports that children are being prostituted, conduct raids to arrest offenders and also provide immediate support for the children. Furthermore, the National Bureau of Investigation (NBI) has specialised units such as the Violence against Women and Children Division (VawCD), an Anti-Human Trafficking Division (AHTRAD) and INTERPOL Division. Complementing these efforts is the establishment of the Women and Children Complaints Office under the Criminal Investigation and Detection Group - the investigation arm of the PNP. It undertakes monitoring and surveillance of organised criminal groups involved in illegal recruitment, trafficking and the production of offensive materials and lewd shows.⁸⁵ Finally, while Family Courts have been established and are better able to address crimes against children, there are fewer than one hundred courts for the whole country and most are located in the big cities.

Lack of witness and victim protection programmes hampering prosecutions

Instead of giving credence to investigation and material evidence, law enforcement authorities still give main or sole importance to victims as witnesses. Given that the law enforcement and witness protection programmes currently in place are rather deficient, witnesses tend not to file or pursue legal complaints, and often retract statements. They are also subject to threats and sometimes accept offers of payment to settle a matter.

Under the *Special Protection of Children Act*, reports of child abuse and exploitation are directed to the Department of Social Welfare and Development, the National Bureau of Investigation, the Commission of Human Rights Child Rights Centre, the National Police Operation Centre, the Department of Justice Task Force on Child Protection, and the Local Barangay Council for the Protection of Children.⁸⁶

The Philippine Supreme Court enacted the *Rules on Examination of a Child Witness*, which are designed to facilitate the testimony of child witnesses, including child victims and witnesses of crimes. Under these rules, a facilitator may be involved in posing questions to a child witness; a guardian *ad litem* is appointed by the Court to protect the best interests of a child throughout legal proceedings, and a support person chosen by the child may accompany him/her to provide emotional support while he/she testifies. Courts may take a variety of steps to make the courtroom environment more comfortable for child

witnesses, including creating a separate waiting area for children, excluding certain persons from the courtroom, allowing a child to testify from a place other than the witness chair, allowing a child to testify at a time of day when he/she is well-rested, permitting a child to use testimonial aids such as dolls and puppets, and allowing a child to have an item of his or her choosing, such as a blanket or toy. The rules permit a child to testify outside the courtroom and have the testimony broadcast by live-link television, or, if the child testifies in the courtroom, to screen off the area so the child cannot see the accused. The rules also permit the use of audio or video interviews as evidence in certain circumstances.⁸⁷

Child-Friendly Investigation Studios (CFIS)

The December 2000 *Rules on Examination of a Child Witness* established by the Philippine Supreme Court have been effective in ensuring better testimonies by children in legal proceedings. Child-Friendly Investigation Studios (CFIS), one of the main features of such rules, have been increased across the country to give child victims the necessary support when recounting their traumatic experiences, and to provide all the needed legal, medical, psychological and rehabilitation services.⁸⁸

CFIS are managed by the Violence against Women and Children Division of the NBI. Five out of the 16 CFIS are actually called One-Stop Shops, equipped with interview rooms with audio facilities and cameras for closed-circuit TV (CCTV) and one-way mirrors, medico-legal examination cubicle, therapy room, playroom and investigation room. They are staffed with a team of social workers, a medico-legal officer and an investigator. The remaining 11 CFIS are more simply equipped. The NBI provides a space for the CFIS in their regional and selected district offices.

Support Services for Children

The capacity to provide direct services to CSEC victims is very limited. Local Government Units, which are supposed to cater to victims in their own localities, are not fully able to do so due to the limited resources available. There is also a lack of technical capacity to help in the recovery and healing of child survivors.

The Department of Social Welfare and Development is responsible for providing counselling and temporary shelter for victims and assisting NGOs in establishing accredited centres.⁸⁹ The Department of Justice must also offer free legal assistance to trafficked persons, in coordination with

the Department of Social Welfare and Development, the Integrated Bar of the Philippines, NGOs and voluntary groups.⁹⁰ The law tasks the Philippine National Police with establishing a system to receive complaints and calls to assist trafficked persons and conduct rescue operations.⁹¹

It is also worth mentioning the Government's 'Half-Way Home' programme, which works with NGOs to repatriate victims and provide

them with temporary shelter, transportation, counselling and financial assistance.⁹²

Training Law Enforcement Personnel

The Special Committee for the Protection of Children embarked on a project called the 'Philippine Plan for Safeguarding Children from Commercial Exploitation and Sexual Abuse', which has involved training police officers, investigation agents and prosecutors in six identified high-risk areas where commercial sexual exploitation is prevalent. The training includes surveillance and investigation techniques, interviewing victims and offenders, crime scene investigation and reporting cases to the national child sex offenders' database housed at the Department of Justice. Community orientations were also conducted in the same areas to facilitate dialogue and cooperation among all the stakeholders for enhanced prevention and prosecution of cases.

Furthermore, police officers assigned to the Women and Children's Protection Desks have been trained on child protection. Recently, a female police officer in charge of the work of this body was promoted and is now the first female general of the Philippine National Police, a gender-sensitive recognition of the work in this area.

IACAT is currently finalising a manual for law enforcers and prosecutors on the investigation and detection of trafficking cases. It also organised Law Enforcement Task Forces against Trafficking at national airports and several ports. Although resources have been allocated to care for and protect victims, efforts to investigate trafficking-related cases in particular are still hampered by inadequate resources, corruption, and a weak judiciary.⁹³

Civil society involvement: an essential element in law enforcement

Vigilance and active involvement on the part of NGOs and local communities are an important component in combating CSEC. A case in point is the recent rescue of two girls and the arrest and prosecution of their abusers, an American and a German citizen, in Puerto Galera, Mindoro (an island in Luzon). These arrests were made possible due to the cooperation of a child-focused NGO, the girls' parents, community members and Government officials. The event was immediately followed by the rescue of several other children in a nearby village, with involvement of community members who were motivated by the Puerto Galera example. It should be noted that most success stories of rescued CSEC victims are related to NGO interventions.⁹⁴



PRIORITY ACTIONS REQUIRED

- Sufficient financial resources must be allocated to implement the *National Plan of Action against Commercial Sexual Exploitation Of Children*, and in particular, to enable the monitoring and coordinating body to fulfill its role properly. Better dissemination of the NPA among relevant stakeholders is also required, in particular among Local Government Units, as these need to be made more aware of the NPA and receive guidance on how to prepare local plans of action to implement the activities envisaged at local level effectively.
- If they are to function effectively, Local Government Units, Local Councils for the Protection of Children and the Inter Agency Council against Trafficking must be provided with adequate resources including technical capacity development to address all aspects of case and protection of children.
- Stronger partnerships between the provincial and local (city and municipality) governments need to be fostered to ensure effective coordinated action against commercial sexual exploitation of children.
- The Philippines must adopt the *ASEAN Declaration against Trafficking in Persons, Particularly Women and Children*.
- Urgent action is required to draft and enact a specific law addressing child pornography, in line with the *Optional Protocol* provisions.
- International and regional cooperation must be established to track down the increasing number of victims and perpetrators of online child pornography.
- More concerted and decisive action must be taken by the Government to eliminate child abuse and exploitation in identified tourist destinations, and to ensure the effective implementation of campaigns against child sex tourism.

- ✎ Forums and training for awareness and self-regulation among Internet café operators should be organised. Relevant institutions and organisations should also be involved in establishing baseline data on Internet café operations and an inventory of available resources.
- ✎ User-friendly and culturally sensitive materials on the sexual exploitation of children through the Internet should be developed and disseminated to children, parents and teachers.
- ✎ Standards of care for trafficked persons, especially children, should be adopted and disseminated widely, followed by training for service providers. Programmes and services for the recovery and reintegration of survivors of CSEC should be established and/or improved. A systematic mapping of existing services must be undertaken to ensure efficient referral of cases, and to set up such services where they are lacking.
- ✎ The successful Child-Friendly Investigation Studios should be expanded to reach further areas of the country. In the same way, more family courts need to be established.
- ✎ Training must be provided for prosecutors and judges in the several Regional Trial Courts that are not yet familiar with applying the *Rules on Examination of a Child Witness*.
- ✎ The Government must clearly define procedures for collecting, inputting and analysing information within the Macro Monitoring System. Also, the Government needs to ensure that this database and other related databases will actually complement each other and function as an integrated source of information.
- ✎ Programmes and services providing alternative sources of livelihood to families in areas affected by political unrest are needed to prevent child trafficking.

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