The PHILIPPINES Report

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A joint Submission by the ECPAT Philippines, AsiaACTs and PACT
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About the ECPAT Philippines and ECPAT International, AsiaACTS and PACT

This is a joint submission for the Philippines Universal Periodic Report focusing specifically on the situation of commercial sexual exploitation and trafficking of children. The lead organizations in this report are End Child Prostitution, Child Pornography and Trafficking of Children for sexual purposes (ECPAT) Philippines, Asia Against Child Trafficking (Asia ACTs) and Philippines Against Child Trafficking (PACT) in collaboration with ECPAT International.

Since 1996, ECPAT Philippines has been working in the Philippines as a member organization of a the ECPAT International global network of 82 member organization based in 75 countries around the world aiming at preventing and eliminating all forms of child prostitution, child pornography and the trafficking of children for sexual exploitation. ECPAT International seeks to encourage the world community to ensure that children everywhere enjoy their fundamental rights, free and secure from all forms of commercial sexual exploitation.

Asia ACTs is a regional network of more than 100 organizations in Southeast Asia. Since its inception in 2001, it has been working with other non-government organizations and agencies at the international, regional and national levels to advance measures that address child trafficking and to establish strong and effective child protection mechanisms in South East Asia.

Finally, The Philippines Against Child Trafficking (PACT) is a network of child rights advocates committed to building communities that protect children against trafficking. Its members include non-government organizations and people’s organizations as well as individuals from government, who believe it is the moral responsibility of the government, business sector, academe and faith-based organizations, people’s organizations and families to create such a community.

Executive Summary

The report aims to provide a review of the four-year period between 2008 and 2011 of the situation of the implementation of international obligations and commitments to end commercial sexual exploitation of children (CSEC) and child trafficking in the Philippines. It has been observed that in the first session of the Universal Periodic Report in 2008, the Philippines accepted the recommendation made by Italy “to address legislative gaps in the field of children’s rights in order to fully comply with the 2005 recommendations of the Committee on the Rights of the Child.”

Furthermore, by recognizing the Philippine Government’s response to the recommendation of Belarus, which is “to continue its successful policy in combating trafficking in human beings at the national level and to play a leading role at the international level on this matter,” the issue of domestic and cross-border trafficking and the gaps in implementing child protection laws to address the problem has to be raised.
The Philippines has comprehensive legislation, committees and child protection structures to address the human rights concerns of trafficking and CSEC. However, the major challenges are its lack of implementation, coordination, and adequate budget. For instance, the new law on Anti-Child Pornography (Republic Act 9775) does not have a budget appropriation for its effective implementation.

The issue of adequately appropriating funds is a major gap in effectively implementing existing legislations especially in the area of child protection throughout the Philippines. Therefore, in order to completely fulfill its human rights obligations, Asia ACTs, ECPAT Philippines and PACT urges the Philippine Government to allocate sufficient resources for the full implementation of existing laws and for relevant activities, such as training of law enforcers and data collection and monitoring mechanisms, in order to eliminate trafficking and commercial sexual exploitation of children.

The allocation of sufficient resources must also cover the capacity building of social service providers for the successful prosecution of trafficking and CSEC cases. At present, prosecution are minimal, disposition of cases are slow, and no national data is generated from the Inter-Agency Council Against Trafficking (IACAT).

Observations of the Committee of the Rights of the Child, it is stated that, “with regard to the trafficking of children in the Philippines, within the country and across its borders, the Committee endorses the recommendation adopted by the Human Rights Committee at its seventy-ninth session in 2003 on taking appropriate measures to combat trafficking in all its forms, by ensuring effective enforcement of the relevant legislation and imposing sanctions on those found responsible” (Paragraph 83).  

This report endeavours to evaluate the measures taken by the Philippine Government since participating and affirming its commitments to the 2008 World Congress III on the Commercial Sexual Exploitation of Children and Adolescents (held in Brazil). The authors of this report hope to make a contribution to the evaluation of the measures taken by the Philippines Government in these areas of minimizing CSEC.

Part of the information presented in this document is based on the Global Monitoring Reports on the Status of Action Against Commercial Sexual Exploitation of Children from 2011. These documents are produced by ECPAT International in order to provide comprehensive baseline of information on actions taken and remaining gaps for addressing CSEC, based on the framework of the Agenda for Action from the first World Congress against Commercial Sexual Exploitation of Children. Further findings have are drawn from relevant literature from partner organizations working in the field of trafficking and Philippine Government agencies.

**Key words:** Commercial Sexual Exploitation of Children, Trafficking, Child Prostitution, Child Pornography, Labor Trafficking, Organ trafficking, legal frameworks.

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1 Committee of the Rights of the Child, 2005, Para 13
Addressing Commercial Sexual Exploitation of Children and Child Trafficking in the Philippines

1. International, Regional and Domestic legal standards in relation to CSEC

The Philippines have ratified all core legal standards protecting children from commercial sexual exploitation (Convention on the Rights of the Child, Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and the ILO Convention on the Worst forms of Child Labor. Also, the Philippines has reaffirmed its commitments to make progress with regard to the protection of children from sexual exploitation during the World Congress III against the Sexual Exploitation of Children and Adolescents, in November 2008 in Brazil. Moreover, the Philippine Government, in December 2008 Philippines has signed the ASEAN Declaration Against Trafficking in Persons in 2008. And furthermore, in 2007 the Philippines as a member of ASEAN The Guidelines for the protection of the rights of trafficked children.

2. Domestic Legislation Addressing Child Prostitution

The provisions of the Anti-Child Abuse Act of 1992 addressing the prostitution of children are largely in line with Article 2 of the Optional protocol on the sale of children, child prostitution and child pornography. However, the Filipino legislation does not explicitly stipulate that a child who is a victim of prostitution will be exempted from prosecution. Even though it is reported that in practice children victims of prostitution are not prosecuted under these laws and are treated as victims, such a legal loophole could leave children involved in prostitution at risk of being prosecuted. This report urges for the amendment to current legislation to prevent the occurrence of such situations.

Both the Anti-Child Abuse and Anti-Child Pornography Acts establish national jurisdiction over over commercial sexual exploitation of children related crimes, which is in line with Article 4 of the Optional Protocol on the sale of children, child prostitution and child pornography.

However, Filipino citizens who sexually exploit children in a foreign country and who escape prosecution in the country where the alleged acts were committed cannot be prosecuted under Filipino penal laws for such crimes as the Philippines have not yet enacted extraterritorial legislation which could be used by Filipino courts to prosecute and convict those offenders. This is a major legal vacuum that should be urgently covered by the enactment of extraterritorial laws addressing all commercial sexual exploitation of children related offenses.

Recommendations:

- Amend the Anti-Child Abuse Act of 1992 to ensure that a child victim of prostitution will not be prosecuted.

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3 Ibid.
• Extraterritorial laws covering all commercial sexual exploitation of children related offenses in the Philippines should be urgently enacted.

3. The New Legislation Addressing Child Pornography

In 2009, the Anti-Child Pornography Alliance (ACPA), including ECPAT Philippines, together with UNICEF, the Council for the Welfare of Children (CWC) and Microsoft Philippines coordinated their efforts in lobbying for the passage of the Anti-Child Pornography Bill. As a result, in November 2009, the Philippines enacted Republic Act No. 9775, or the Anti-Child Pornography Act of 2009. The Act created the Inter-Agency Council against Child Pornography (IACACP) as the body that is primarily tasked to coordinate, monitor, and oversee the implementation of the Act.

The Act 2009 is a comprehensive law that offers protection beyond the minimum requirements of the Optional protocol on the sale of children, child prostitution and child pornography. The Act provides a definition of child pornography fully in line with the requirements of the Optional Protocol, which include the criminalization computer-generated representations of a person who is represented or who is made to appear to be a child. In addition, in line with the requirements of the OPSC and in line with the Rio Declaration and Call for Action, an outcome document of the Third World Congress against Sexual Exploitation of Children and Adolescents (2008), the Act of 2009 defines and prohibits the solicitation of children for sexual purposes (grooming) and prohibits the act of knowingly accessing child pornography. The Act 2009 also imposes reporting obligations also upon private sector actors (internet service providers, photo developers, Information Technologies professionals, credit card companies, banks) that are well placed to assist in the fight against child pornography.5

The Act also requires the appropriate protection measures to be established for child victims of pornography and online abuse offences. Confidentiality in evidence-handling process and witness protection are guaranteed by the Act as well as the access by victims to adequate recovery and reintegration services.

Even though the Anti-Child Pornography Act is a very comprehensive law to prevent and combat child pornography, its effective implementation remains challenging, as it requires huge resources especially with regard to the provision of adequate assistance and support to child victims and training of law enforcement personnel.

Recommendations:

• The government should ensure that the national and local government units (LGU) implement a sufficient budget for the implementation of legislation. That working groups, such as the Inter-Agency Council against Child Pornography (IACAP) have adequate budgets to popularize legislation to ensure implementation occurs.

• Filipino public authorities should ensure the new anti-child pornography laws are effectively enforced by adequately trained and equipped law enforcement personnel.

5 Republic Act No. 9775, 2009 ibid
4. Key areas of concern with regard to the implementation of children’s rights to protection against Commercial Sexual Exploitation and trafficking in practice

There is limited budget allocated for the implementation of child’s rights laws and policies. Even though comprehensive legislation and policies protecting children from all forms of commercial sexual exploitation do exist, their translation into concrete programs and welfare services for children suffers from inadequate budgetings. For example, the Anti-child Pornography Act (2009) was enacted without a budget allocation for the body in charge of monitoring its implementation. In addition, many Barangay Councils for the Protection of Children, in charge of promoting child rights and monitoring crimes committed against children are not fully operational due to lack adequate resources to fully implement the relevant policies, programs and services that they are in responsible for. Furthermore, the Anti-Trafficking in Persons Act of 2003 or Republic Act 9208 (RA9208) requires a greater amount of resources from the national level down to the local government units. To fully implement the legislation effectively the existing resources must be equipped with knowledge, capacities, skills and tools in order to carry out targeted and sustainable prevention, protection, and prosecution efforts. Without sufficient budget, there is difficulty in the full implementation of the law, to generate appropriate and sufficient programs, limited awareness raising and an incapacity to generate appropriate data.

IACAT developed the Philippine Anti-Trafficking in Persons Database (PATD) in October 2009. This measure reflects a positive response to the Committee on the Rights of the Child’s recommendation on “Establishing a strong and systematic monitoring mechanism for gathering data to ascertain the number of victims and the purpose of trafficking.” Also, that gathered data should aid the Government in the development and formulation of programs that would eliminate child trafficking.

However, despite the adoption and development of these instruments and tools, their valuable objectives are not fully realized because they are not properly implemented and utilized. The Philippines still does not have a national data that would determine the extent of child trafficking within and across borders. As a way to ensure the adoption of practices Inter-Agency Councils Against Trafficking (IACAT) should endeavor to coordinate programs, trainings and measures against trafficking in children.

In relation to the Anti-Trafficking Act RA9208 in 2003, there have been 61 convictions for human trafficking cases, and out of these convictions, only 25 cases involve children victims. Majority of these trafficked children are victims of sexual exploitation, while the rest were survivors of forced labor. The state Party needs to still continue to improve the investigation methods of cases, which should be done through building the capacity of law enforcement to handle cases of trafficking in children.

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8 Inter-Agency Council Against Trafficking. TIP Convictions. 17 Nov 2011.
Lastly, it has been reported that corruption in the Philippines may have an impact on the allocation of funding for children’s rights. President Aquino stated in his budget message of 2011 that an equivalent of 20% of the country’s budget is wasted due to corruption\(^9\).

**Recommendations:**

- Utilize the Philippine Anti-Trafficking in Persons Database and maximize this tool and the reports it can generate to determine the extent of the problem and to develop/formulate concrete and targeted programs.
- Further strengthen the National and Local Inter-Agency Councils Against Trafficking (IACAT) by enhancing their capacities to prevent and protect the children and to effectively coordinate anti-trafficking efforts of different agencies, NGOs and civil society.
- Ensure that coordinating and implementing bodies at the national, provincial and local level are adequately funded and equipped with tools and human resources to respond to the specific needs of children victims of commercial sexual exploitation and trafficking.
- Improve efforts to prosecute and convict child trafficking offenders by, for instance, developing a specific training programme for judges and prosecutors on child trafficking related issues.
- Continue sensitizing and training prosecutors, judges and law enforcers about child trafficking.
- Equip law enforcers with knowledge and practical skills in gathering and preserving evidence.

5. A lack of common understanding of commercial sexual exploitation and trafficking of children related issues by relevant stakeholders.

While much training on child protection laws and learning toolkits have been provided to relevant stakeholders by the Philippine government and civil society organisations, the lack of a programmatic approach and the lack of consistency and sustainability of such initiatives have been criticised. Therefore, as highlighted by the Council for the Welfare of Children in 2008, there is a lack of adequate and common understanding of the provisions of relevant international and national legal standards by majority of the stakeholders, including both government agencies and the civil society organisations, which constitutes a major challenge with regard to the effective implementation of those legal standards.\(^10\)

**Recommendations:**

- Ensure that regular training on child trafficking and on commercial sexual exploitation of children related issues is planned, funded and delivered to relevant stakeholders (law enforcement personnel - including judges, judges, and prosecutors).

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\(^9\) President Aquino's 2011 Budget Allocation Speech accessed October 29 2011

prosecutors and social workers) as well as to civil society organizations and private sector.

6. Lack of assistance and support services for child victims of Commercial Sexual Exploitation and Trafficking

Even though the Filipino government has made some efforts to develop assistance and support services for victims of trafficking as mandated under RA 9208, including: counseling; legal services; transportation assistance; family assessment; temporary shelter; referral for medical and dental examination; educational assistance and skills training\(^{11}\), such services are not systematically available for all children victims of commercial sexual purposes and trafficking. For instance, the 42 temporary shelters for victims of all types of abuse run by the Department of Social Welfare and Development are not sufficiently specialized and adequately equipped and staffed with specifically trained social workers to meet the specific needs of child victims of sexual exploitation.

Continuing its Anti-human trafficking efforts, the Philippine Government, through the Inter-Agency Council against Trafficking (IACAT), adopted the Philippine Guidelines for the Protection of the Rights of Trafficked Children in July 2008 and the National Referral System in March 2009. These systems aimed to facilitate the provision for appropriate and timely services for referred trafficked children upon their rescue and throughout their recovery and reintegration. However, there is concern in relation to the full implementation and evaluation of these guidelines to assist and support child victims.

Further research and studies that comprehensively examine trafficking in children related to all forms such as for sexual exploitation, organ harvesting, illegal adoption and forced labor is much needed to be enacted by the State Party. This would assist in developing more comprehensive data on the existence of these clandestine issues, raise awareness for these human rights concerns and provide more information to improve policy and legislation in the Philippines.

Recommendations

- Ensure that adequate support services are systematically available to children victims of trafficking and any form of commercial sexual exploitation.
- The Philippine Guidelines for the Protection of the Rights of Trafficked Children, the National Referral System need to be fully implemented with the support of IACAT and a sufficient budget.
- Comprehensive research on all forms of trafficking needs to take place by the State Party to completely address the issue in the country.