

**Commission on Human Rights of the Philippines**

**Inputs to the Special Rapporteur on the sale and sexual exploitation of children’s Thematic Report to the Human Rights Council March 2020 Session**

**20 September 2019**

1. The Commission on Human Rights of the Philippines (herewith the Commission)[[1]](#footnote-1) submits to the Special Rapporteur on the sale and expoitation of children, its inputs for her final thematic report to the 43rd Session of the Human Rights Council on March 2020.
2. This submission utilized the Commission’s own documentation of independent monitoring activities and statements which were subjected to internal deliberations of our Commission En Banc (CEB) and also with consideration of the local and international reports from government, civil society, the media, and international non-government organizations in relation to this concern.

**Legal and policy frameworks applicable to the sale and sexual exploitation of children in the Philippines:**

1. In 2013, Republic Act No. 10364[[2]](#footnote-2) (hereafter RA 10364), which expanded the protection of persons, most especially children, from trafficking was passed. This law provided amendments to the definition of trafficking, making it more specific to the acts that would constitute trafficking; separated the definition of forced labor and slavery; and defined involuntary servitude;
2. RA No. 10364 also enumerated more circumstances that could be considered as trafficking in persons, and defined new circumstances that could be classified as attempted trafficking in persons.The law also defined accessories to the crime, and added circumstances that would be considered as acts that promote trafficking in persons. It also added circumstances that can be considered as qualified trafficking, improved the provisions on confidentiality, ensured that prosecution can proceed, by disallowing the dismissal of a case by virtue of an affidavit of desistance, added penalties to the added circumstances, and provided heavier penalties for the use of trafficked persons.
3. The amended law also added provisions that would ensure that trafficked persons and those assisting them are protected, where one measure is that the victim may not be subjected to a countersuit by the alleged trafficker.
4. Aside from RA No. 10364, there’s also Republic Act No. 7610, or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act. This law came into effect in 1992. It defines child abuse, discrimination, and exploitation of children. It is worth noting however that some of the provisions have already been superceded by the Anti-Trafficking in Persons Act, the Anti-Child Pornography Act, and the Elimination of the Worst Forms of Child Labor Act.
5. In terms of sexual exploitation, the Anti-Child Pornography Act[[3]](#footnote-3) defines the circumstances that would constitute as child pornography. It punishes grooming of children, and production, distribution and sale of child pornography. There is also an amended Anti-Rape Law,[[4]](#footnote-4) that considers it an aggravating circumstance if the crime is committed against a person below the age of 18, and the offender is a relative of the child. If the victim is also below 7 years old, the penalty will be reclusion perpetua.
6. Under the Elimination of Worst Forms of Child Labor Act,[[5]](#footnote-5) work that would involve exposing the child to sexual abuse shall be considered as a worst form of child labor. It also prohibits employing children in certain advertisements that involve pornography, violence, gambling, smoking and alcoholic beverages.

**Context of Sale and Sexual Exploitation in the Philippines**

1. The Philippines is considered to be a huge regional trafficking hub, according to rights groups. Angeles City, Pampanga, is considered to be a trafficking hotspot. Victims include domestic workers, as well as a booming sex industry, which includes cybersex child trafficking, where victims are abused over livestreams.[[6]](#footnote-6)
2. It was noted that children are exposed online due to the prevalence of computer shops and easy internet access in their communities. Most children noted that online sexual abuse and exploitation start with teenagers experimenting with online dating and cyber pornography, which may lead to physical interaction.[[7]](#footnote-7)
3. Women and children from rural communities, conflict- and disaster-affected areas, and impoverished urban centers are most vulnerable to sex trafficking, domestic servitude, and other forms of forced labor around the country, while men become victims of forced labor and debt bondage in the agricultural, fishing, and maritime industries.[[8]](#footnote-8)
4. Sex trafficking also occurs in tourist destinations, such as Boracay, Angeles City, Olongapo, Puerto Galera, and Surigao, where there is a high demand for commercial sex acts. Although the availability of child sex trafficking victims in commercial establishments declined in some urban areas, child sex trafficking remains a pervasive problem, typically abetted by taxi drivers who have knowledge of clandestine locations.[[9]](#footnote-9)
5. The efforts include: implementing prosecution procedures that reduce the potential for further harm to child sex trafficking victims; convicting and punishing traffickers. Although the government meets the minimum standards, it did not vigorously investigate and prosecute officials allegedly involved in trafficking crimes, consistently criminally prosecute labor traffickers, or increase the availability of specialized protection and assistance services for child victims of sex trafficking or services for male victims.[[10]](#footnote-10)
6. In addition, traffickers, who are often the victims’ parents or close relatives, induce young Filipino girls and boys to perform sex acts for live internet broadcast to paying foreigners in other countries; this typically occurs in private residences or small internet cafes.[[11]](#footnote-11)
7. In terms of sale of children, in 2013, reports came out regarding women selling their babies outside the hospital, while traffickers were selling Filipino babies to foreigners.[[12]](#footnote-12)

**Strategies to effectively prevent and protect children from sale and sexual exploitation**

1. The Philippines, in terms of trafficking, fully meets the minimum standards for the elimination of trafficking, where the government continued to demonstrate serious and sustained efforts during the reporting period, from April 1, 2018 to March 31, 2019;[[13]](#footnote-13)
2. In an attempt to curb illegal baby sales and child trafficking, adoption laws are being reformed.[[14]](#footnote-14)
3. Through its recovery and reintegration program for trafficked persons, DSWD is providing case management, psycho-social support, medical services, legal assistance, livelihood assistance, skills training, and reintegration services to identified victims and implemented the national referral system and maintained the national recovery and reintegration database.[[15]](#footnote-15)
4. The Inter-Agency Council Against Trafficking (IACAT) revised immigration and law enforcement guidelines for the proactive identification of potential trafficking victims in airports and seaports. The government continued to support victims who served as witnesses during trials by providing assistance, security, and transportation.[[16]](#footnote-16)
5. The IACAT, which the secretaries of DOJ and DSWD chaired and included three NGO members, and the government task forces involved in anti-trafficking activities met regularly during the reporting period, from April 1, 2018 to March 31, 2019, to share information and coordinate policies. It also continued to lead national and regional trafficking awareness raising events, and the government stopped 199 foreign registered sex offenders from entering the country and the government increased its efforts to reduce the demand for commercial sex acts.[[17]](#footnote-17)
6. In terms of preventing child pornography, there is an Interagency Committee on Child Pornography (IACCP) at the National Level. The National Bureau of Investigation (NBI) is an active member. The PNP and other vital non-government organizations are already working on this aspect. On child labor, DOLE has been preventing child labor and encouraging children to continue their studies. There are NGOs working on addressing child labor too. There have been many attempts to address the culture in haciendas, where children should help in the work.[[18]](#footnote-18)

**Recommendations to address the gaps**

1. The Special Rapporteur may request from the government updated information on the implementation of the ILO Convention 182 on the Worst Forms of Child Labour Convention.
2. The Special Rapporteur may recommend to the Philippine government to strengthen the capacity of the Regional Inter-Agency Council Against Trafficking (RIACAT).
3. The Special Rapporteur may also consider conducting a country visit to the Philippines.

1. As the National Human Rights Institution (NHRI) of the Philippines, the Commission on Human Rights of has the mandate vested by the 1987 Philippine Constitution and the Paris Principles to promote and protect the full range of human rights including civil and political rights, and economic, social and cultural rights. It has the responsibility to regularly report and monitor human rights situations and violations, and recommend steps in advancing the realization of human rights and dignity of all. The Commission has “A”-status accreditation from the Sub-Committee for Accreditation of the Global Alliance of National Human Rights Institutions (GANHRI). [↑](#footnote-ref-1)
2. An Act Expanding Republic Act No. 9208, Entitled "An Act To Institute Policies To Eliminate Trafficking In Persons Especially Women And Children, Establishing The Necessary Institutional Mechanisms For The Protection And Support Of Trafficked Persons, Providing Penalties For Its Violations And For Other Purposes" [Expanded Anti-Trafficking in Persons Act of 2012], (2012), [↑](#footnote-ref-2)
3. An Act Defining The Crime Of Child Pornography, Prescribing Penalties Therefor And For Other Purposes [Anti-Child Pornography Act of 2009], R.A. No. 9775 (2009). [↑](#footnote-ref-3)
4. An Act Expanding The Definition Of The Crime Of Rape, Reclassifying The Same As A Crime Against Persons, Amending For The Purpose Act No. 3815, As Amended, Otherwise Known As The Revised Penal Code, And For Other Purposes [The Anti-Rape law of 1997], R.A. No. 8353 (1997). [↑](#footnote-ref-4)
5. An Act Providing For The Elimination Of The Worst Forms Of Child Labor And Affording Stronger Protection For The Working Child, Amending For This Purpose Republic Actno. 7610, As Amended, Otherwise Known As The "Special Protection Of Children Against Child Abuse, Exploitation And Discrimination Act" [The Elimination of The Worst Forms of Labor Act], R.A. No. 9231 (2003) [↑](#footnote-ref-5)
6. Kieran Guildbert, From schools to the skies, Philippines widens anti-trafficking crackdown, Rueters, 23 March 2018, *available at* <https://www.reuters.com/article/us-philippines-trafficking/from-schools-to-the-skies-philippines-widens-anti-trafficking-crackdown-idUSKBN1GZ20Q> (last accessed 24 September 2019). [↑](#footnote-ref-6)
7. Commission on Human Rights, *infra* note 18. [↑](#footnote-ref-7)
8. United States of America, Trafficking in Persons Report, June 2019, *available at* <https://www.state.gov/wp-content/uploads/2019/06/2019-TIP-Report-Narratives-N-S.pdf> (last accessed 24 September 2019). [↑](#footnote-ref-8)
9. *Id*. [↑](#footnote-ref-9)
10. *Id*. [↑](#footnote-ref-10)
11. *Id*. [↑](#footnote-ref-11)
12. Oliver Ward, Babies for sale: ASEAN’s insidious underground baby market, ASEAN Today, 19 October 2019, *available at* <https://www.aseantoday.com/2018/10/babies-for-sale-aseans-insidious-underground-baby-market/> (last accessed 24 September 2019). [↑](#footnote-ref-12)
13. *Supra* note 7. [↑](#footnote-ref-13)
14. *Supra* note 11*.* [↑](#footnote-ref-14)
15. *Supra* note 7 [↑](#footnote-ref-15)
16. *Id*. [↑](#footnote-ref-16)
17. *Id*. [↑](#footnote-ref-17)
18. Commission on Human Rights, Visayas Regional Inquiry on the Situation of the Rights of the Child, Iloilo City, 19-20 April 2018. [↑](#footnote-ref-18)