

The PHILIPPINES Report

**INFORMATION SUBMITTED TO THE HUMAN RIGHTS COUNCIL
UNIVERSAL PERIODIC REVIEW**

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**A joint Submission by the ECPAT Philippines, AsiaACTs and
PACT
in collaboration with ECPAT International
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1 **About the ECPAT Philippines and ECPAT International,**
2 **AsiaACTS and PACT**

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

9 Since 1996, ECPAT Philippines has been working in the Philippines as a member
10 organization of a the ECPAT International global network of 82 member
11 organization based in 75 countries around the world aiming at preventing and
12 eliminating all forms of child prostitution, child pornography and the trafficking
13 of children for sexual exploitation. ECPAT International seeks to encourage the
14 world community to ensure that children everywhere enjoy their fundamental
15 rights, free and secure from all forms of commercial sexual exploitation.
16

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

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

29 **Executive Summary**

30 The report aims to provide a review of the four-year period between 2008 and
31 2011 of the situation of the implementation of international obligations and
32 commitments to end commercial sexual exploitation of children (CSEC) and child
33 trafficking in the Philippines. It has been observed that in the first session of the
34 Universal Periodic Report in 2008, the Philippines accepted the recommendation
35 made by Italy “to address legislative gaps in the field of children’s rights in order
36 to fully comply with the 2005 recommendations of the Committee on the Rights
37 of the Child.”

38 Furthermore, by recognizing the Philippine Government’s response to the
39 recommendation of Belarus, which is “to continue its successful policy in
40 combating trafficking in human beings at the national level and to play a leading
41 role at the international level on this matter,” the issue of domestic and cross-
42 border trafficking and the gaps in implementing child protection laws to address
43 the problem has to be raised

44 The Philippines has comprehensive legislation, committees and child protection
45 structures to address the human rights concerns of trafficking and CSEC.
46 However, the major challenges are its lack of implementation, coordination, and
47 adequate budget. For instance, the new law on Anti-Child Pornography (Republic
48 Act 9775) does not have a budget appropriation for its effective implementation.

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

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

62 Observations of the Committee of the Rights of the Child, it is stated that, “with
63 regard to the trafficking of children in the Philippines, within the country and
64 across its borders, the Committee endorses the recommendation adopted by the
65 Human Rights Committee at its seventy-ninth session in 2003 on taking
66 appropriate measures to combat trafficking in all its forms, by ensuring effective
67 enforcement of the relevant legislation and imposing sanctions on those found
68 responsible” (Paragraph 83).¹

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

75 Part of the information presented in this document is based on the *Global*
76 *Monitoring Reports on the Status of Action Against Commercial Sexual*
77 *Exploitation of children from 2011*². These documents are produced by ECPAT
78 International in order to provide comprehensive baseline of information on
79 actions taken and remaining gaps for addressing CSEC, based on the framework
80 of the Agenda for Action from the first World Congress against Commercial
81 Sexual Exploitation of Children. Further findings have are drawn from relevant
82 literature from partner organizations working in the field of trafficking and
83 Philippine Government agencies.

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

¹ Committee of the Rights of the Child, 2005, Para 13

² ECPAT Philippines, Global Monitoring Report, 2011.

87 **Addressing Commercial Sexual Exploitation of Children and**
88 **Child Trafficking in the Philippines**

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

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

103 **2. Domestic Legislation Addressing Child Prostitution**

104 The provisions of the Anti-Child Abuse Act of 1992 addressing the prostitution of
105 children are largely in line with Article 2 of the Optional protocol on the sale of
106 children, child prostitution and child pornography. However, the Filipino
107 legislation does not explicitly stipulate that a child who is a victim of prostitution
108 will be exempted from prosecution. Even though it is reported that in practice
109 children victims of prostitution are not prosecuted under these laws and are
110 treated as victims, such a legal loophole could leave children involved in
111 prostitution at risk of being prosecuted³. This report urges for the amendment to
112 current legislation to prevent the occurrence of such situations.

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

117 However, Filipino citizens who sexually exploit children in a foreign country and
118 who escape prosecution in the country where the alleged acts were committed
119 cannot be prosecuted under Filipino penal laws for such crimes as the
120 Philippines have not yet enacted extraterritorial legislation which could be used
121 by Filipino courts to prosecute and convict those offenders. This is a major legal
122 vacuum that should be urgently covered by the enactment of extraterritorial
123 laws addressing all commercial sexual exploitation of children related offenses⁴.

124 **Recommendations:**

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

³ Ibid.

⁴ ECPAT International *Global Monitoring Report on the status of action against commercial sexual exploitation of children Philippines – 2011*

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

129 3. The New Legislation Addressing Child Pornography

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

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

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

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

161 Recommendations:

- 162 • The government should ensure that the national and local government units
163 (LGU) implement a sufficient budget for the implementation of legislation.
164 That working groups, such as the *Inter-Agency Council against Child*
165 *Pornography (IACAP)* have adequate budgets to popularize legislation to
166 ensure implementation occurs.
- 167 • Filipino public authorities should ensure the new anti-child pornography
168 laws are effectively enforced by adequately trained and equipped law
169 enforcement personnel

⁵ Republic Act No. 9775, 2009 ibid

170 **4. Key areas of concern with regard to the implementation of children's**
171 **rights to protection against Commercial Sexual Exploitation and**
172 **trafficking in practice**

173 There is limited budget allocated for the implementation child's rights laws and
174 policies. Even though comprehensive legislation and policies protecting children
175 from all forms of commercial sexual exploitation do exist, their translation into
176 concrete programs and welfare services for children suffers from inadequate
177 budgeting⁶. For example, the Anti-child Pornography Act (2009) was enacted
178 without a budget allocation for the body in charge of monitoring its
179 implementation. In addition, many Barangay Councils for the Protection of
180 Children, in charge of promoting child rights and monitoring crimes committed
181 against children are not fully operational due to lack adequate resources to fully
182 implement the relevant policies, programs and services that they are in
183 responsible for. Furthermore, the Anti-Trafficking in Persons Act of 2003 or
184 Republic Act 9208 (RA9208) requires a greater amount of resources from the
185 national level down to the local government units. To fully implement the
186 legislation effectively the existing resources must be equipped with knowledge,
187 capacities, skills and tools in order to carry out targeted and sustainable
188 prevention, protection, and prosecution efforts. Without sufficient budget, there
189 is difficulty in the full implementation of the law, to generate appropriate and
190 sufficient programs, limited awareness raising and an incapacity to generate
191 appropriate data.

192 IACAT developed the Philippine Anti-Trafficking in Persons Database (PATD) in
193 October 2009. This measure reflects a positive response to the Committee on the
194 Rights of the Child's recommendation on "*Establishing a strong and systematic*
195 *monitoring mechanism for gathering data to ascertain the number of victims and*
196 *the purpose of trafficking.*"⁷ Also, that gathered data should aid the Government
197 in the development and formulation of programs that would eliminate child
198 trafficking.

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

206 In relation to the Anti-Trafficking Act RA9208 in 2003, there have been 61
207 convictions for human trafficking cases, and out of these convictions, only 25
208 cases involve children victims.⁸ Majority of these trafficked children are victims
209 of sexual exploitation, while the rest were survivors of forced labor. The state
210 Party needs to still continue to improve the investigation methods of cases,
211 which should be done through building the capacity of law enforcement to
212 handle cases of trafficking in children.

⁶ Council for the Welfare of children Republic of the Philippines, 2010 State of Filipino Children Report: Child friendly governance: focus on resource allocation.

⁷ United Nations Committee on the Rights of the Child. *Concluding Observations: The Philippines*. 2009

⁸ Inter-Agency Council Against Trafficking. *TIP Convictions*. 17 Nov 2011.

213 Lastly, it has been reported that corruption in the Philippines may have an
214 impact on the allocation of funding for children’s rights. President Aquino stated
215 in his budget message of 2011 that an equivalent of 20% of the country’s budget
216 is wasted due to corruption⁹.

217 **Recommendations:**

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

236 **5. A lack of common understanding of commercial sexual exploitation and** 237 **trafficking of children related issues by relevant stakeholders.**

238 While much training on child protection laws and learning toolkits have been
239 provided to relevant stakeholders by the Philippine government and civil society
240 organisations, the lack of a programmatic approach and the lack of consistency
241 and sustainability of such initiatives have been criticised.

242 Therefore, as highlighted by the Council for the Welfare of Children in 2008,
243 there is a lack of adequate and common understanding of the provisions of
244 relevant international and national legal standards by majority of the
245 stakeholders, including both government agencies and the civil society
246 organisations, which constitutes a major challenge with regard to the effective
247 implementation of those legal standards.¹⁰

248 **Recommendations:**

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

⁹ President Aquinos 2011 Budget Allocation Speech accessed October 29 2011
<http://www.gov.ph/2010/08/24/president-aquinos-2011-budget-message/>

¹⁰ Council for the Welfare of Children (CWC), 2008 Report to the World Congress III Against Sexual Exploitation of Children and Adolescents.

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

254 **6. Lack of assistance and support services for child victims of Commercial** 255 **Sexual Exploitation and Trafficking**

256 Even though the Filipino government has made some efforts to develop
257 assistance and support services for victims of trafficking as mandated under RA
258 9208, including: counseling; legal services; transportation assistance; family
259 assessment; temporary shelter; referral for medical and dental examination;
260 educational assistance and skills training¹¹, such services are not systematically
261 available for all children victims of commercial sexual purposes and trafficking.
262 For instance, the 42 temporary shelters for victims of all types of abuse run by
263 the Department of Social Welfare and Development are not sufficiently
264 specialized and adequately equipped and staffed with specifically trained social
265 workers to meet the specific needs of child victims of sexual exploitation.
266

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

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

281 **Recommendations**

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

¹¹ Committee on the Rights of the Child, Third and fourth periodic reports of States parties due in 2007 – Philippines, 2008,