

The National Level Legal and Policy Analysis of Minimum Standards for Occupational Safety and Health (OSH) and the Review and Analysis of Child Work vs. The Worst Forms of Child labor (WFCL)



This study was written by Sharon Jordan and Kristine Borja, as commissioned by the American Bar Association's Rule of Law Initiative. The study is a component of World Vision's Project Against Child Exploitation Project.

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Greetings from **World Vision**

For decades, state institutions and civil society organizations have been working together towards the goal of alleviating child labor and exploitations. Stakeholders have long recognized that child labor is a perennial problem in many developing countries including the Philippines. Millions of children around the world are forced to work, depriving them of the opportunity to experience childhood, education and a better future.

In the Philippines, a number of international conventions for the protection of children's rights have been ratified by the government and has enacted domestic legal frameworks to ensure the fulfillment of these mandates.

We recognize that the complexity of laws should be harmonized with the experiences of children. To accomplish this, we understand the need to undertake a deeper examination into the elements our legal framework relating to child labor, particularly, the minimum standards for occupational safety and health in order for us to identify where the stakeholders can work together on improving their interventions against the worst forms of child labor in the country.

In line with the strong commitment of World Vision in eliminating the worst forms of child labor and exploitations, we are pleased to share the policy report entitled, **"National-level Legal and Policy Analysis of the Minimum Standards for**

Occupational Safety and Health and the Review and Analysis of Child Work Versus the Worst Forms of Child Labor”. Over the past year, World Vision together with the American Bar Association Rule of Law Initiative and the support of the U.S. Government Department of Labor, has developed this comprehensive study of the Philippine legal framework and labor standards designed to protect the rights of the children. Valuable insights from government agencies, local government and civil society organizations have formed part of the analysis to ensure holistic approach in considering key recommendations to strengthen the efforts of fighting child labor in the country.

As you leaf through the pages of this study, we hope that we are able to share new knowledge and insights on child labor in the Philippines. Let us commemorate 2021 as it marks the International Year for the Elimination of Child Labor with increased awareness of this important issue and a spirit of unity in championing the welfare of all Filipino children.

Mabuhay and may God bless us all.

ROMMEL V. FUERTE, RSW
National Director

Greetings from

The American Bar Association

On behalf of the American Bar Association Rule of Law Initiative (ABA ROLI) I am delighted to be able to share this National-level Legal and Policy Analysis of the Minimum Standards for Occupational Safety and Health and the Review and Analysis of Child Work Versus the Worst Forms of Child Labor (National Legal and Policy Analysis) with you.

This study is critical in light of the significant percentage of children working in hazardous environment including those subjected to the worst forms of child labor. As the Philippine government moves forward to addressing barriers facing Filipino children, especially those with compounded vulnerabilities for example due to poverty, membership in particular sectors, emergency or crisis situations, it is necessary to examine factors that increase the continuing challenges of children. The overarching goal in the development of the policy analysis is to be able to help identify doable solutions to help address those barriers and improve the lives many Filipino children.

This report is the result of the efforts of ABA ROLI consultants Ms. Sharon Jordan and Atty. Kristine Borja who worked from March-June of 2021.

I would like to express appreciation to the World Vision team led by its National Director Mr. Rommel V. Fuerte and Project ACE Director Ms. Daphne Culanag for the collaboration with ABA ROLI to undertake the national-level legal and policy analysis of the minimum standards for occupational safety and health and the review and analysis of the child work versus the worst forms of child labor.

ABA ROLI would also like to thank the Mr. John Law, Charges D’Affaires of the United States Embassy in the Philippines and the Office of Senator Ana Theresia Hontiveros for the support in the public presentation of the study held on June 18 and in celebration of the World Day Against Child Labor 2021. The presentation and rich discussion were also made possible by the following distinguished panel of reactors:

Atty. Ma. Karina Perida-Trayvilla

*Representative of Secretary Silvestre Bello III
Chairperson, National Council Against Child Labor
Department of Labor and Employment*

Undersecretary Hon Emmeline Aglipay-Villar

Inter-agency Council Against Trafficking, Department of Justice

Assistant Secretary Ma. Teresita Cucuenco

*Concurrent Director of the Bureau of Working Conditions
Department of Labor and Employment*

Mr. Josef Andrew Mendoza, Deputy Executive Director

Council for the Welfare of Children

Ms. Cerilyn Pastolero

*Representative of Mr. Khalid Hassan
International Labor Organization, Philippines*

Mr. Josh Cezar Serilo

*Representative, Children's Basic Sector
National Anti-poverty Commission*

Mr. Julius Cainglet

*Vice President for Research, Advocacy and Partnerships
Federation of Free Workers*

Atty. Ray Paolo Santiago

Executive Director, Ateneo Human Rights Center

Additionally, the success of this study was made possible by those who participated in the interviews conducted in the process of preparing the analysis and ABA ROLI would like to convey its gratitude to the representatives of government offices and civil society organizations.

Finally, ABA ROLI would like to extend its profound appreciation to the United States Department of Labor which provided the funding of this undertaking under cooperative agreement number IL-34007-19-75K. 100% of the total costs of the project or program is financed with federal funds, for a total of \$1,500,000.

Disclaimer:

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Acronym List

| | |
|------------------|---|
| ABA-ROLI | American Bar Association-Rule of Law Initiative |
| ADVOCOM | Advocacy and Communications Committee |
| AFP | The Armed Forces of the Philippines |
| ALS | Alternative Learning System |
| ACTIP | ASEAN Convention Against Trafficking in Persons, Especially Women and Children |
| AHRC | Ateneo Human Rights Center |
| AMLAC | Anti-Money Laundering Council |
| ASEAN | Association of Southeast Asian Nations |
| BARMM | Bangsamoro Autonomous Region of Muslim Mindanao |
| BCPC | Barangay Council for the Protection of Children |
| BOI | Bureau of Immigration |
| BAE | Bureau of Alternative Education |
| BIFF | Bangsamoro Islamic Freedom Fighters |
| CDO | Cagayan de Oro City |
| Child 21 | Philippine National Strategic Framework for the Development of Children |
| CHR | Commission on Human Rights |
| CHR-CCCHP | Commission on Human Rights - Center for Crisis, Conflict, and Humanitarian Protection |
| CHR-CRC | Commission on Human Rights - Child Rights Center |
| CIAC | Children in Armed Conflict |
| CICL | Child in Conflict with the Law |

| | |
|------------------|--|
| CISS | Children in Street Situations |
| CLKSS | Child Labor Knowledge Sharing System |
| Covid-19 | Coronavirus Disease 2019 |
| CPCP | Comprehensive Program on Child Protection |
| CRN | Child Rights Network |
| CSEC | Commercial Sexual Exploitation of Children |
| CSEM | Child Sexual Exploitation Material |
| CSPC | Committee for the Special Protection of Children |
| CWC | Council for the Welfare of Children |
| DDB | Dangerous Drugs Board |
| DENR | Department of the Environment and Natural Resources |
| DepEd | Department of Education |
| DFA | Department of Foreign Affairs |
| DICT | Department of Information and Communications Technology |
| DILEEP | DOLE Integrated Livelihood and Emergency Employment Programs |
| DILG | Department of the Interior and Local Government |
| DND | Department of National Defense |
| DO | Departmental Order |
| DOA | Department of Agriculture |
| DOH | Department of Health |
| DOJ | Department of Justice |
| DOLE | Department of Labor and Employment |
| DOLE-BLE | Department of Labor and Employment - Bureau of Local Employment |
| DOLE-BWC | Department of Labor and Employment - Bureau of Working Conditions |
| DOLE-BWSC | Department of Labor and Employment - Bureau of Workers with Special Concerns |
| DST | Department of Science and Technology |
| DSWD | Department of Social Change and Development |
| EO | Executive Order |
| FDS | Family Development Sessions |
| FFW | Federation of Free Workers |
| FinTech | Financial Technology |
| GIP | Government Internship Program |
| GoP | Government of the Philippines |

| | |
|-------------------|---|
| IACAC-P | Inter Agency Committee Against Child Pornography |
| IACAT | Inter Agency Council Against Trafficking in Persons |
| IAC-CSAC | Inter Agency Committee on Children in Situations of Armed Conflict |
| IAC-VAWC | Inter Agency Council on Violence Against Women |
| ICLS | International Conference of Labor Statisticians |
| IJM | International Justice Mission |
| ILAB | International Labor Affairs Bureau |
| ILO | International Labor Organization |
| ILO C.138 | ILO Convention No. 138 on the Minimum Age for Employment |
| ILO C.182 | ILO Convention No. 182 on the Worst Forms of Child Labor |
| ILO CEACR | International Labor Organization Committee of Experts on the Application of Conventions and Recommendations |
| ILS | Institute for Labor Studies |
| IRR | Implementing Rules and Regulations |
| ISP | Internet Service Provider |
| ITPC | Industry Tripartite Peace Council |
| JJWA | Juvenile Justice and Welfare Act |
| JJWC | Juvenile Justice and Welfare Council |
| KASAMA | Kabuhayan Para sa Magulang ng Batang Manggagawa (DOLE Livelihood Program) |
| LCPC | Local Child Protection Council |
| LFS | Labor Force Survey |
| LGU | Local Government Unit |
| LLCO | Labor Laws Compliance Officer |
| LSWDO | Local Social Welfare and Development Officer |
| M&E | Monitoring and Evaluation |
| MILF | Moro Islamic Liberation Front |
| MOA | Memorandum of Understanding |
| MRRS- | Monitoring, Reporting and Response System for Grave Child Rights |
| GCRVSAC | Violations in Situations of Armed Conflict |
| MSB | Money Service Businesses |
| NAP-C | National Anti-Poverty Commission |
| NBI | National Bureau of Investigation |
| NBI-AHTRAD | National Bureau of Investigation - Anti-Human Trafficking Division |

| | |
|---------------|--|
| NCACL | National Council Against Child Labor |
| NCIP | National Commission on Indigenous People |
| NCMF | National Commission on Muslim Filipinos |
| NCR | National Capital Region |
| NEDA | National Economic Development Authority |
| NGO | Non-Governmental Organization |
| NNC | National Nutrition Council |
| NPA | New People's Army |
| NPAC | National Plan of Action for Children |
| No. | Number |
| NTIPC | National Tripartite Industrial Peace Council |
| NWPB | National Wages and Productivity Board |
| NYC | National Youth Commission |
| OCD | Office of Civil Defense |
| OFW | Overseas Filipino Workers |
| OMB | Optical Media Board |
| ORPC | Oro Response and Protection Center |
| OSAE | Online Sexual Abuse and Exploitation of Children |
| OSEC | Online Sexual Exploitation of Children |
| OSH | Occupational Safety and Health |
| OSHC | Occupational Safety and Health Center |
| OWWA | Overseas Workers Welfare Administration |
| 4 Ps | Pantawid Pamilyang Pilipino Program |
| PCTC | Philippine Center for Transnational Crime |
| PCW | Philippine Commission on Women |
| PDEA | Philippine Drug Enforcement Agency |
| PDP | Philippine Development Plan |
| PEA | Private Employment Agency |
| PESO | Public Employment Service Office |
| PH | the Philippines |
| PHRCS | Presidential Human Rights Committee Secretariat |
| PICACC | Philippine Internet Crimes Against Children Center |
| PIDS | Philippine Institute for Development Studies |

| | |
|---------------------|--|
| PNP | Philippine National Police |
| PNP-WCPC | Philippine National Police - Women and Children's Protection Center |
| POEA | Philippine Overseas Employment Administration |
| PPACL | Philippine Program Against Child Labor |
| PPAEVAC | Philippine Plan of Action to End Violence Against Children |
| Project ACE | World Vision's Project Against Child Exploitation |
| PSA | Philippines Statistics Authority |
| QRT | Quick Response Team |
| RA | Republic Act |
| RD | Regional Director |
| RPC | Revised Penal Code |
| SAP-ES | Social Amelioration Program's Emergency Subsidy |
| SBM-QAT | Sagip Batang Manggagawa- Quick Action Teams |
| SDG | Strategic Development Goal |
| S.H.I.E.L.D. | Strategic Helpdesks for Information, Education, Livelihood and Other Developmental Interventions |
| SPES | Special Program for Employment of Students |
| STC | Save the Children |
| TAF | The Asia Foundation |
| TDA | US Trade and Development Act of 2000 |
| TESDA | Technical Education and Skills Development Authority |
| TIP | Trafficking in Persons |
| TVET | Technical and Vocational Education and Training |
| TVPA | (US) Trafficking Victims Protection Act of 2000 (as amended) |
| TWG | Technical Working Group |
| UN | United Nations |
| UN CRC | United Nations Committee on the Rights of the Child |
| UNHCR | United Nations High Commissioner for Refugees |
| UNICEF | United Nations Children's Fund |
| VOF | Voice of the Free |
| WFCL | Worst Forms of Child Labor |
| WHO | World Health Organization |
| WV | World Vision |



The National Level Legal and Policy Analysis of Minimum Standards for Occupational Safety and Health (OSH) and the Review and Analysis of Child Work vs. the Worst Forms of Child labor (WFCL)¹

¹ The analysis was conducted by Sharon Jordan and Kristine Borja. Ms. Jordan is an International Expert on child labor and forced labor issues in Southeast Asian countries and other regions in the world (based in Washington DC) and Ms. Borja is a human rights lawyer whose work focuses on upholding children's rights in the Philippines. The study was conducted from March 22, 2021 through June 28, 2021 and contracted by the American Bar Association's Rule of Law Initiative as a component of World Vision's Project Against Child Exploitation (ACE)

A young girl with long brown hair is sitting on the grass, wearing a white t-shirt with a graphic that says 'PARIS CITY' and a pink dog. She is holding a small object in her hand. The background is a soft-focus field of grass under warm, golden light.

Chapter I

Introduction

Child labor is a global issue.² In recognition of this social ill, the United Nations (UN) Member States have included the elimination of all forms of child labor by 2025 as one of the Sustainable Development Goals.³

With this common goal, the number has seen a net reduction of 94 million, with the last two decades marking significant strides in the fight against child labor.⁴

² Kathryn Reid, *Child Labor: Facts, FAQs, and how to help end it*. World Vision, 21 October 2019, available at <https://www.worldvision.org/child-protection-news-stories/child-labor-facts>. Accessed: April 3, 2021; UNICEF, *Child Labour*, available at <https://www.unicef.org/protection/child-labour>. Accessed: April 3, 2021

³ International Labor Organization, *Relevant SDG Targets related to Child Labour*, available at https://www.ilo.org/global/topics/dw4sd/themes/child-labour/WCMS_559713/lang--en/index.htm. Accessed: April 3, 2021

⁴ International Labor Organization, *Global Estimates of Child Labour: Results and Trends, 2012-2016*, ILO, Geneva, 2017, available at https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575499.pdf, Accessed: April 3, 2021. See pp. 23-28

Sustainable Development Goals

Target 8.7 “Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking, secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025, end child labour in all its forms”;

Target 16.2 “End abuse, exploitation, trafficking, and all forms of violence and torture against children.”

Even with recent successes of various programs and initiatives globally, the International Labor Organization (ILO) notes that there is still much that needs to be done to eliminate child labor.⁵ The ILO’s monitoring from 2012 to 2016 revealed that progress had slowed significantly during that time period. Only 16 million children were reduced from the global number, a third of the 47 million reduction recorded during 2008 to 2012.⁶

The report estimated that if the recent trend were to continue, not only would the global community fail to meet its target, but, in a business-as-usual scenario, child labor by 2025 would affect 121 million children with 52 million still in hazardous work.⁷

True enough, in the ILO’s most recent report, it noted that from 2016-2020, “the world did not make progress in reducing child labor.” Instead of seeing a decrease, prior to the Covid-19 pandemic, “the absolute number of children in child labor increased by over 8 million to 160 million.”⁸ Those in hazardous work increased by 6.5 million from 73 million to 79.5 million.⁹ At this rate, “global efforts would need to be almost 18 times faster than the rate observed over the past two decades,” to meet the SDG target of eliminating child labor by 2025.¹⁰ What makes this projection even more daunting is that it was derived pre-pandemic, using 2008 to 2016 rates. The pandemic has clearly heightened the risk of child labor. In 2020, the number of children in income poor-households increased by 142 million, adding to the 582 million children already in poverty, further increasing risks of families turning to child labor to help augment family needs.¹¹

⁵ Id.

⁶ Id.

⁷ Id.

⁸ International Labor Organization and United Nations Children’s Fund, *Child Labor: Global Estimates 2020, trends and the road forward*, ILO and UNICEF, New York, 2021, available at https://www.ilo.org/wcmsp5/groups/public/@ed_norm/@ipecc/documents/publication/wcms_797515.pdf. Accessed: June 26, 2021. See pp. 21-23

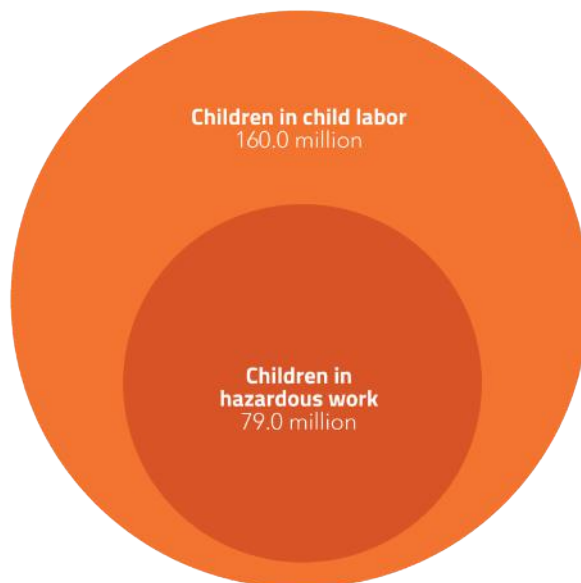
⁹ Id.

¹⁰ Id at p. 24

¹¹ Id at p. 25

Worldwide, 160 million children are engaged in child labor; 79 million of them are performing hazardous work

Fig 1. Number of children aged 5 to 17 years in child labour and hazardous work



As of 2020, 160 million children are in child labor; 79 million out of the 160 are engaged in hazardous work. (Image lifted from ILO and UNICEF, *Child Labor: Global Estimates 2020, Trends and the Road Forward*)

Among the world regions, East and Southeast Asia rank third highest with 24.3 million children engaged in child labor.¹² In the Philippines, the Philippine Statistics Authority's (PSA) latest survey on children reports that 3.3 million out of 36 million children in the Philippines, aged 5 to 17 years old, were working. Of the 3.3 million children, 2.1 million or 63 percent, were engaged in child labor. The number of children in hazardous child labor was estimated at 2 million.¹³ While the country has ratified international conventions, adopted laws, and implemented programs to eliminate child labor, the issue remains one of the country's most urgent problems.

The global pandemic has placed more children at risk of entering into child labor. According to the ILO and UNICEF, with the rise in poverty brought about by the global economic recession, a definite increase in the incidence of child labor is expected.¹⁴

¹² Id. at p. 22

¹³ Philippine Statistics Authority, 2011 Survey on Children, 9 December 2015, available at <https://psa.gov.ph/content/estimated-number-working-children-5-17-years-old-who-worked-during-past-week-was-33-million>. Accessed: April 3, 2021 (Comment: This survey was conducted in 2011. It is unclear whether these numbers are still representative of the child labor situation in the Philippines in 2021.)

¹⁴ Rosalind Yarde and Helen Wylie, Covid-19 may push millions more children into child labor – ILO and UNICEF, Press Release, 15 June 2020, available at <https://www.unicef.org/philippines/press-releases/covid-19-may-push-millions-more-children-child-labour-ilo-and-unicef>. Accessed: April 3, 2021

Project Rationale and Objectives

As child labor continues to plague societies and violate the rights of children globally and in the Philippines, the American Bar Association and World Vision launched an initiative called Project Against Child Exploitation (Project ACE). The goal of the project is to strengthen the capacity of the government to address the worst forms of child labor (WFCL), including the online sexual exploitation of children (OSEC) and violations of acceptable conditions of work. The project seeks to achieve this by working on the following long-term outcomes:

- a** improving the enforcement of the WFCL framework;
- b** improving the assistance and services for victims of WFCL;
- c** strengthening partnerships to accelerate progress in addressing WFCL;
- d** popularizing general awareness on acceptable child work; and
- e** raising awareness on conditions that make child work hazardous and prohibited.¹⁵

This consultancy was commissioned to help achieve one of Project ACE's long-term outcomes (Long Term Outcome 1): *Improved enforcement of the legal framework pertaining to WFCL, including OSEC, and violations of acceptable conditions of work in the Philippines and another country in Asia.* Under this outcome, Project ACE noted as one of its key outputs the need to better understand the gaps in the laws, regulations, policies, and mandates for child protection among stakeholders at all levels. This output will take the form of a national level analysis of the legal and policy framework on WFCL.¹⁶

More particularly, this analysis seeks to address the following research questions:

¹⁵ World Vision, Against Child Exploitation (ACE) Project – Project Document

¹⁶ Id.

- 1** What are the international standards for acceptable conditions for child work and youth employment? How are these international standards adopted in the Philippines? What are the acceptable conditions for child work and youth employment in the Philippines? Are there differences in standards across policies, departmental issuances, and laws?
- 2** How does the Philippines define “worst forms of child labor”? Similarly, how does the Philippines define hazardous work? Are these definitions in line with international standards? What are the policies, laws, programs, implementing rules and regulations, department orders or issuances which focus on WFCL? How do these laws combat WFCL? What prevention, protection, prosecution, or rehabilitation measures do these laws provide?
- 3** Who carries out government directives to combat WFCL and promote safe child work at the national level? Who are the key government actors? What are their roles and responsibilities? Do they meet the requirements of international standards and conventions? Is there an overlap in their roles and responsibilities? In relation to the inter-agency councils, what is their composition?
- 4** Who are the agencies and entities responsible for the enforcement of anti-child labor laws? How do the different government agencies and entities coordinate in their work to protect working children, children in WFCL, and children at risk of becoming engaged? Is there a mechanism for the coordination of the various agencies? What are their roles and responsibilities?
- 5** What are the strengths and weaknesses of the country’s enforcement framework? How does the lack of clarity in defining child labor categories (i.e., child work, youth employment, hazardous work, WFCL, and OSEC) impact the enforcement of laws? What capacity-building measures are being implemented to ensure that agencies in charge of enforcing the laws have the technical capability to ensure their proper implementation?
- 6** What are the existing programs and initiatives of the various agencies to combat each of the WFCL? How successful have these programs and initiatives been in reducing the incidence of WFCL? How do the different agencies measure success or monitor WFCL? What is the reporting requirement of each agency?
- 7** How are the policies, programs, and initiatives at the national level cascaded to the local levels? How is the coordination between the local government unit and national agencies on matters relating to child labor? Are there trainings or capacity-building initiatives for local child protection councils on WFCL?

Methodology

To comprehensively address these questions, the consultants used three key methodologies: (1) desk review; (2) key informant interviews; and (3) presentation of data for verification before key stakeholders.

The consultants conducted a **desk review** of relevant laws, journals, international conventions, departmental orders and issuances, program documents, and reporting requirements which cover child labor. In addition, the consultants also included in the analysis a review of the pending bills and resolutions in Congress. Key publications of the ILO, UN Committee on the Rights of the Child (CRC), and reports from the US Government, including the US Department of Labor’s (USDOL) *Findings on the Worst Forms of Child Labor and the List of Goods Produced by Child Labor or Forced Labor*, as well as US Department of State’s (USDOS) annual *Trafficking in Persons (TIP) Report*. Works published by the Philippine Government (GoP) and its key non-governmental organization (NGO) partners were also relevant sources that the consultants accessed as part of the baseline literature review.

Informant interviews with representatives from key government agencies, interagency councils, and working committees including interviews with NGO members were also conducted. In total, the consultants conducted 26 interviews covering seven interagency councils, nine national government agencies, and nine NGOs and coalitions, including one foreign mission. The following government agencies were interviewed for this analysis:

Inter Agency Council



Committee for the Special Protection of Children (CSPC)



Council for the Welfare of Children (CWC)



Juvenile Justice and Welfare Council (JJWC)



Inter Agency Council Against Trafficking (IACAT)



Inter Agency Council Against Child Pornography (IACACP)

National Council Against Child Labor (NCACL)

Inter Agency Committee on Children in Situations of Armed Conflict (IAC-CSAC)

Executive Departments, Law Enforcement Agencies, & Independent Commissions



Commission on Human Rights
- Child Rights Center

Commission on Human Rights
- Center for Crisis, Conflict, and
Humanitarian Protection



Philippine Overseas
Employment
Administration (POEA)



DOLE - Bureau of
Working Conditions
(BWC)



Department of Social Welfare
and Development (DSWD) -
Program Management Bureau



Philippine Drug
Enforcement
Agency (PDEA)



Department of Labor and Employment
(DOLE) - Bureau of Workers with Special
Concerns (BWSC)



National Bureau of
Investigation - Anti-
Human Trafficking
Division (NBI-AHTRAD)



Philippine National
Police - Women and
Children's Protection
Center (PNP-WCPC)

A combination of local and international civil society NGOs were approached, chosen by virtue of their role in the interagency councils, extensive work on the area of child labor including OSEC and / or research or publications related to the topic of this analysis. The consultants had fruitful meetings with the following NGOs:

Non-Governmental Organizations



Ateneo Human
Rights Center
(AHRC)



Bahay Tuluyan



The Asia
Foundation (TAF)



UNICEF



International Justice
Mission (IJM)



Child Rights
Network (CRN)



International Labor
Organization (ILO)
(specialized UN
agency)



Voice of the Free
(formerly known
as Visayan Forum
Foundation)



World Vision
International



Stairway
Foundation

The following foreign missions were also approached: Embassies of Australia and the United States, who chair the IACAT technical working group on OSEC and child trafficking; and the British Embassy in Manila in relation to its work with the PNP-WCPC on OSEC. Collectively, these three missions pioneered the Philippine Internet Crimes Against Children Center (PICACC), which is managed jointly by the PNP-WCPC and the NBI-AHTRAD. Of the three, the consultants were able to secure a meeting with the British Embassy Manila.

To ensure that the research would cover all bases, the consultants also identified and contacted government agencies whose work closely aligns with the research topic. These agencies were targeted because of their membership in at least one interagency council addressing at least one WFCL:

| Target Agency | Membership in Interagency Council |
|---|---|
| Armed Forces of the Philippines | Inter Agency Committee on Children in Situations of Armed Conflict |
| Bureau of Immigration | Inter Agency Council Against Trafficking |
| Commission on Human Rights | Inter Agency Committee on Children in Situations of Armed Conflict, Juvenile Justice and Welfare Council |
| Council for the Welfare of Children | Inter Agency Council Against Child Pornography, National Council Against Child Labor, Juvenile Justice and Welfare Council, Committee for the Special Protection of Children |
| Department of Agriculture | Council for the Welfare of Children, National Council Against Child Labor |
| Department of Education | Council for the Welfare of Children, Inter Agency Committee on Children in Situations of Armed Conflict, National Council Against Child Labor, Juvenile Justice and Welfare Council |
| Department of Environment and Natural Resources | National Council Against Child Labor |
| Department of Foreign Affairs | Inter Agency Council Against Trafficking |
| Department of Health | Council for the Welfare of Children, Inter Agency Committee on Children in Situations of Armed Conflict, National Council Against Child Labor, Juvenile Justice and Welfare Council |

Target Agency

Membership in Interagency Council

Department of Information and Communications Technology

Inter Agency Council Against Child Pornography

Department of Interior and Local Government

Council for the Welfare of Children, Inter Agency Council Against Trafficking, National Council Against Child Labor, Juvenile Justice and Welfare Council

Department of Justice

Council for the Welfare of Children, Inter Agency Council Against Trafficking, Inter Agency Committee on Children in Situations of Armed Conflict Inter Agency Council Against Child Pornography, National Council Against Child Labor, Juvenile Justice and Welfare Council, Committee for the Special Protection of Children

Department of Labor and Employment

Council for the Welfare of Children, Inter Agency Council Against Trafficking, Inter Agency Council Against Child Pornography, National Council Against Child Labor

Department of National Defense

Inter Agency Committee on Children in Situations of Armed Conflict

Department of Science and Technology

Inter Agency Council Against Child Pornography

Department of Social Welfare and Development

Council for the Welfare of Children, Inter Agency Council Against Trafficking, Inter Agency Committee on Children in Situations of Armed Conflict, Juvenile Justice and Welfare Council, National Council Against Child Labor

Local Government Unit

League of Provinces, Cities, Municipalities

National Anti-Poverty Commission

National Council Against Child Labor

National Bureau of Investigation

Inter Agency Council Against Pornography, Inter Agency Council Against Trafficking, National Council Against Child Labor

National Commission on Indigenous Peoples

Inter Agency Committee on Children in Situations of Armed Conflict, National Council Against Child Labor

National Commission on Muslim Filipinos

Inter Agency Committee on Children in Situations of Armed Conflict, National Council Against Child Labor

National Economic Development Authority

Council for the Welfare of Children, National Council Against Child Labor

National Nutrition Council

Council for the Welfare of Children

Target Agency

National Youth Commission

Office of Civil Defense

Optical Media Board

Philippine Center for Transnational Crime

Philippine Commission on Women

Philippine National Police

Philippine Overseas Employment Administration and Overseas Workers Welfare Administration

Philippine Statistics Authority

Technical Education and Skills Development Authority

Membership in Interagency Council

National Council Against Child Labor, Juvenile Justice and Welfare Council

Inter Agency Committee on Children in Situations of Armed Conflict

Inter Agency Council Against Pornography

Inter Agency Council Against Trafficking, Inter Agency Council Against Pornography

Inter Agency Council Against Trafficking, Inter Agency Committee on Children in Situations of Armed Conflict

Inter Agency Committee on Children in Situations of Armed Conflict, Inter Agency Council Against Pornography, Inter Agency Council Against Trafficking, National Council Against Child Labor

Inter Agency Council Against Trafficking

National Council Against Child Labor

National Council Against Child Labor

Letters were also sent out to the following NGOs and members of the private sector but meetings did not occur for various reasons: (1) Child Fund Philippines; (2) Consuelo Foundation; (3) National Council of Social Development; (4) Plan International; (5) Save the Children; (6) Facebook Philippines; and the (7) Philippine Chamber of Commerce.

The consultants opted to include a listing of these organizations and government offices here for purposes of future research. Given the nature of their work and the scope of their programs and initiatives, their additional inputs on any future studies relating to this topic or as Project ACE progresses would surely be valuable. Additional suggestions that were forwarded in the course of preparing this draft include the NGOs, *Kaugmaon for Children's Rights and Social Development, Inc.* and *Volunteer for Visayans*. Both are involved in rescuing child labor victims and offering support to families and survivors of child labor.¹⁷

¹⁷ Reactors' Comment - Ateneo Human Rights Center.

The first and final drafts of the analysis were presented before a panel of WFCL experts, as organized by ABA-ROLI and World Vision, for comments and validation. The format of the final draft presentation was an online forum, in which more than 150 stakeholders participated. The presentation was the main feature of a World Day Against Child Labor event held by World Vision Philippines and ABA-ROLI. The following people were provided with an early copy of the final report so they could provide their responses to it as part of the event:

| Government Office / INGO / NGO | Representative |
|--|---|
| Office of Senator Risa Hontiveros Senate of the Philippines | Atty. Jaye De La Cruz -Bekema Chief Legislative Officer |
| National Council Against Child Labor Department of Labor and Employment | Atty. Ma. Karina Perida-Trayvilla Representative of Sec. Silvestre Bello III |
| Bureau of Working Conditions Department of Labor and Employment | Assistant Secretary Ma. Teresita Cucueco, M.D. Concurrent Director of the Bureau of Working Conditions |
| Council on the Welfare of Children Department of Social Welfare and Development | Mr. Josef Andrew Mendoza Deputy Executive Director |
| Inter Agency Council Against Trafficking Department of Justice | Undersecretary Emmeline A. Villar |
| International Labor Organization | Ms. Cerilyn Pastolero Representative of Khalid Hassan, ILO Country Director for the Philippines |
| National Anti-Poverty Commission | Rep. Joseph Cezar Serillo Representative - Children's Sector |
| Federation of Free Workers | Mr. Julius Cainglet VP for Research, Advocacy, and Partnerships |
| Ateneo Human Rights Center | Atty. Ray Paolo Santiago Executive Director |

Representatives

Inputs received from each presentation were, to the extent possible, incorporated into this report. (See: Annex A)

Working Timeline

The consultants spent three months working on the analysis, following the timeline below:

| Activity | Dates Covered |
|--|---------------------------|
| Preparation of Inception Report | March 22 to April 5, 2021 |
| Submission and Approval of Inception Report | April 5, 2021 |
| Desk Review of Laws and Materials / Meetings with Stakeholders for KIIs and FGDs | April 5 to May 21, 2021 |
| Preparation of First Draft Report | May 21 to June 4, 2021 |
| Presentation of Draft to Key Stakeholders including ABA ROLI and World Vision | June 4, 2021 |
| Incorporate suggestions and recommendations from internal briefing | June 4 to June 7, 2021 |
| Share updated draft report with external stakeholders for comment | June 07, 2021 |
| External Presentation / Reactions | June 18, 2021 |
| Incorporate changes based on feedback and finalize report | June 18 to 25, 2021 |
| Submission of Final Report | June 28, 2021 |

Conceptual and Analytical Framework

This paper reconciles two analytical approaches: Child labor as presented in relevant International Labor Conventions and child labor as one component in the larger Philippine Child Protection Framework.

The ILO's Child Labor Framework

Child labor is defined by the ILO as

“work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development.”¹⁸

It refers to work that is mentally, physically, socially, or morally dangerous and harmful to children and / or interferes with their schooling by depriving them of the opportunity to attend school, obliging them to leave school prematurely, or requiring them to attempt to combine school attendance with excessively long hours and/or hazardous work.¹⁹

Two key International Labor Conventions are especially relevant to the discussion of child labor. These are the Minimum Age Convention of 1973 (ILO 138),²⁰ and its accompanying Recommendation (R 146),²¹ and the Worst Forms of Child Labor Convention of 1999 (ILO 182),²² and its accompanying Recommendation (ILO R 190).²³

ILO 138 and R 146 require member States to legislate a minimum age for admission to employment in different kinds of work. In general, this minimum age should not be less than 15,²⁴ although countries “whose economy and educational facilities are insufficiently developed” could specify an initial age of 14.²⁵ Those above 15 years but less than 18 must only be engaged in work that is not harmful to their health or development nor prejudicial to their education.²⁶ The Convention further mandates a minimum age of 18 for “any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons.”²⁷ R 146 maps out a longer-term approach that States can employ to eliminate child labor which includes giving special attention to promoting full employment in rural areas, extending social security and

¹⁸ International Program on the Elimination of Child Labor. “What is child labour? Defining Child Labor.” International Labor Organization, available at <https://www.ilo.org/ipecc/facts/lang--en/index.htm>. Accessed 06 April 2021.

¹⁹ Id.

²⁰ International Labour Organization, Minimum Age Convention, ILO Convention 138 [“ILO C.138”], 26 June 1973, C138, available at: <https://www.refworld.org/docid/421216a34.html>. Accessed: May 20, 2021.

²¹ International Labour Organization, Minimum Age Recommendation, ILO Recommendation 146, [“ILO R. 146”], 26 June 1973, R146, available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312484. Accessed: May 28, 2021

²² International Labour Organization, Worst Forms of Child Labour ILO Recommendation 190, [“ILO R. 190”], 17 June 1999, R190, available at: <https://www.refworld.org/docid/3ddb6ef34.html>. Accessed: May 20, 2021

²³ Id.

²⁴ ILO C. 138, art. 2 (3)

²⁵ ILO C. 138, art. 2 (4)

²⁶ ILO C. 138, art. 3 (1)

²⁷ ILO C. 138, art. 3 (1)

poverty alleviation measures to those that need it most, and providing a diversity of education and social welfare services to meet the different needs of children and their families.²⁸

ILO 182 and R190 identify the most intolerable forms of child labor to include the following:

- Cluster A** all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict;
- Cluster B** the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- Cluster C** the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; and
- Cluster D** work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.²⁹

Read together, the **two key ILO Conventions on Child Labor seek to eradicate:**

- 1** Labor that is performed by a child who is under the minimum age for employment, as defined by national legislation, in accordance with accepted international standards;
- 2** Labor that jeopardizes the physical, mental, or moral well-being of a child because of its nature or because of the conditions in which it is carried out (i.e. hazardous work); and
- 3** The unconditional worst forms of child labor, which are internationally defined as slavery, trafficking, debt bondage, and other forms of forced labor, forced recruitment of children for use in armed conflict, prostitution and pornography, illicit activities, and hazardous labor.³⁰

²⁸ ILO R. 146, supra note 21

²⁹ ILO 182, art. 3

³⁰ Inter-Parliamentary Union, Worst Forms of Child Labor: A Practical Guide to ILO Convention 182, Handbook for Parliamentarians No. 3, 2002, available at http://archive.ipu.org/pdf/publications/childdlabour_en.pdf. Accessed 20 May 2021.

Philippine Child Rights Protection Framework

The 1987 Constitution of the Philippines obligates the State to

“defend the right of the children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development.”³¹

This Constitutional mandate guides the country’s policy on child protection.³²

The national policy on child protection seeks to protect children from conditions that are prejudicial to their growth and development. To uphold this national policy, the Philippines ratified key international conventions relating to the protection of children, including the two key ILO Conventions which seek to eradicate all forms of child labor (discussed above).

As a party to both ILO conventions, the Philippines (as will be later discussed in better detail) passed laws and established national and local enforcement mechanisms to eradicate child labor in all its forms. To wit, the Labor Code and Republic Act 9231, or the Act which provides for the elimination of the WFCL, sets the minimum age requirement for work at fifteen and the minimum age for hazardous work at 18, in compliance with ILO 138.³³

While compliance with ILO 138 is easily identifiable in national legislation relating to child labor, it must be noted that the **Philippine child rights protection framework implements ILO 182 differently**. Whereas ILO 182 brings together the most intolerable forms of child labor under the umbrella of “Worst Forms of Child Labor”, the Philippines has incorporated each WFCL as a category within a much broader framework of child protection. Thus, children who experience WFCL and child labor are treated under the Philippine Legal Framework as **children in need of special protection**, as defined in Republic Act 7610, or the Special Protection of Children Against Abuse, Exploitation, and Discrimination Act.

For example, one worst form in ILO 182 is the forced or compulsory recruitment of children for use in armed conflict. In the Philippines, this worst form is directly addressed, but as part of a broader category of child

³¹ The 1987 Philippine Constitution [“CONST.”], Article XV, Sec., 3,

³² Committee for the Special Protection of Children, Comprehensive Program on Child Protection 2019-2022, November 2019

³³ 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 Act 7610, as amended otherwise known as the ‘Special Protection of Children Against Child Abuse, Exploitation, and Discrimination.’, Republic Act 9231 (December 19, 2003), available at <https://www.officialgazette.gov.ph/2003/12/19/republic-act-no-9231/>

protection which is “children in situations of armed conflict.” This broader category addresses all children in situations of armed conflict, including *children involved in armed conflict*, *children affected by armed conflict* and *children internally displaced as a result of armed conflict*.³⁴ An interview respondent in the human rights field explained that if the focus were only on children engaged in armed conflict, large numbers of other children who are also negatively affected by the armed conflict would be left unprotected.³⁵

Apart from Republic Act 7610, WFCL is further enumerated in another piece of legislation which is Republic Act 10364, or the **Expanded Anti-Trafficking in Persons Act of 2012**. Stakeholders who participated as key informants for this research mentioned consistently in all interviews that the provisions under the Anti-Trafficking in Persons Act are used for the purpose of prosecuting crimes which abuse, exploit, or discriminate against children (i.e. in violation of child protection rights) mainly because the trafficking law provides for stronger penalties for qualified trafficking.

A review of key government documents and informant interviews also highlights that the country’s approach to child protection is largely influenced by the primacy of the United Nations Convention on the Rights of the Child, with other relevant conventions viewed as supplementary materials that the country must comply with to address specific and equivalent child protection issues, such as the ILO Conventions on child labor.

As this paper is crafted with the primary objective of improving the enforcement of the legal framework pertaining to child labor and the WFCL in the Philippines, the Philippine Child Rights Protection lens will be used in presenting the findings of the consultants. This means two things: First, the paper will present child labor and the WFCL as separate issues, including a survey and analysis of the laws and mechanisms within which they are framed, and Second, while recognizing that the WFCL are presented as separate issues in 182, in the Philippines they cannot be treated in a vacuum. Rather, they are merged with other child protection issues in larger categories under the umbrella of a child rights and protection-based systems approach.

³⁴ An Act Providing for the Special Protection of Children in Situations of Armed Conflict and Providing Penalties for Violations Thereof (“Special Protection of Children in Situations of Armed Conflict Act”), Republic Act No. 11188, sec. 5 (k) (February 19, 2019), available at <https://www.officialgazette.gov.ph/2019/01/10/republic-act-no-11188/>

³⁵ Interview with the Commission on Human Rights - Center for Crisis, Conflict, and Humanitarian Protection. June 1, 2021.

Child Rights and Protection-Based Systems Approach

UNICEF and Save the Children illustrate the relationship created between the State and its citizens as similar to a social contract between two parties - with children being the rights holders (subject of the rights) and the people and institutions who have the obligation to respect, protect, and fulfill those rights as the duty bearers.³⁶ A **child rights-based approach** to protection emphasizes the need to support rights-holders and hold duty-bearers accountable for failure to uphold and protect their rights.³⁷

With the passage of the UN CRC in 1989, a child rights-based approach to child protection has slowly moved away from issue-based solutions targeted to address specific groups of vulnerable children to a more comprehensive approach -i.e. systems approach to child protection.³⁸ A systems approach implies taking a more holistic, sustainable and long-term approach that addresses the wider vulnerabilities of children and their families and includes preventive strategies.³⁹ The approach sees issues that children face as inter-connected and not able to be addressed in isolation. It emphasizes prevention as well as protection efforts, and focuses on the role of all duty bearers, including families, communities, civil society organizations, the private sector, the State and children themselves to ensure the protection of children from all forms of abuse and exploitation.⁴⁰

The key components that strengthen the protective environment around children in a systems approach include:

- 1 a strong legal and policy framework for child protection that incorporates principles from the CRC and other international good practices;
- 2 an adequate budget allocation;
- 3 multi-sectoral coordination across government and between sectors;
- 4 effective regulation, minimum standards, and oversight;

³⁶ Peter Dixon, Child Rights Situation Analysis, Save the Children, 2013, available at <https://resourcecentre.savethechildren.net/library/save-childrens-child-rights-situation-analysis-guidelines>. Accessed: May 20, 2021; UNICEF, Guidance on Conducting a Situation Analysis of Children's and Women's Rights, UNICEF, 2012, available at <http://www.unicefemergencies.com/downloads/resource/docs/Rights%20based%20equity%20focused%20Situation%20Analysis%20guidance.pdf>. Accessed: May 20, 2021

³⁷ Id.

³⁸ Chris Joynes and Jacqui Mattingly, The Systems Approach to Child Protection, K4D, 2018, available at https://assets.publishing.service.gov.uk/media/5c6edc11e5274a0ec72b4881/399_The_Systems_Approaches_to_Child_Protection.pdf. Accessed: 21 May 2021

³⁹ Id.

⁴⁰ Id.

- 5 child-friendly preventive and responsive services;
- 6 a skilled, supervised and regulated child protection workforce;
- 7 robust data and good practices on child protection issues;
- 8 duty bearers that are responsive to children's input and participation;
and
- 9 an aware and supportive public.⁴¹

Wide-ranging in its approach to child protection, the systems approach should be flexible enough to integrate issue-based programs and services into its rubric. Save the Children explains that focusing on single issues alone can prevent the development of more effective and long-term responses to child protection problems, thus the need to integrate issue-based approaches into systemic ones.⁴² The discussion in the succeeding chapters will better highlight this.

It must be noted that undertaking the review from a systems approach perspective should not place too much emphasis on government accountability because a well-functioning systems approach to child rights protection also recognizes the important role that civil society, communities, families and the private sector play.⁴³

To the extent possible the consultants considered this in their findings and recommendations. But, as the paper is commissioned for the purpose of reviewing laws and enforcement mechanisms of the government, the succeeding chapters necessarily provide a more extensive discussion on government accountability.

Finally, the systems approach must not overly emphasize state-led legal and policy development at the expense of developing strong systems for implementation and service delivery.⁴⁴ Thus, in discussing the government's framework, the consultants went beyond the legal and policy discussions as much as time would allow to also understand the programs and initiatives the State implements in response to the laws.

⁴¹ Id.

⁴² Id.

⁴³ Id.

⁴⁴ Id.

Scope and Limitations

In using a **Child Rights and Protection-Based Systems Approach**, the consultants will seek to provide a holistic understanding and assessment of the Philippine national child protection system in relation to child labor. It must be understood that, as defined, national child protection systems encompass a wide array of interlinking elements including family, community, sub-national, and national organizations and agencies, which are traditionally classified between informal child protection and formal child protection systems.⁴⁵

Informal child protection systems refer to the practices used and initiatives undertaken by communities and families for protecting children.⁴⁶ Formal child protection systems consist of all efforts by a government, international organizations, and local NGOs involved in providing child protection that are recognized or endorsed by and subject to supervision and regulation by a government.⁴⁷

It is important that the cultural context within which the informal system functions is recognized and incorporated into the formal system. Save the Children calls this a key principle in systems design. In order for the system to function successfully, the design must:

“Ensur[e] that the shape, functions and actions of the system should always be grounded in the context in which it operates, and make sense to the communities who are the end users.”⁴⁸

Given the nature of this research (i.e. an analysis of legal framework and enforcement mechanisms), the study will be limited to reviewing and assessing formal child protection systems.

In particular, the following formal child protection systems will be assessed:⁴⁹

⁴⁵ ECPAT International, Plan International, Save the Children, UNICEF, and World Vision, National Child Protection Systems in the East Asia and Pacific Region: A Review and Analysis of Mappings and Assessments, ECPAT International, Bangkok, 2014, available at https://resourcecentre.savethechildren.net/node/8262/pdf/http_mhpss.net_get49_national-child_protection_systems-in-eapr.pdf. Accessed: 21 May 2021; Bill Forbes, Dung Luu, Elizabeth Oswald, and Tamara Tutnjevic, A Systems Approach to Child Protection: A World Vision Discussion Paper, World Vision International, 2011, available at https://www.wvi.org/sites/default/files/Systems_Approach_to_Child_Protection.pdf. Accessed: 21 May 2021

⁴⁶ Id.

⁴⁷ Id.

⁴⁸ Joynes, supra note 38

⁴⁹ ECPAT International, supra note 45; Forbes, et.al, supra note 45

| Element of Child Protection System | Point(s) of Assessment / Indicators |
|--|--|
| Laws, Policies, Standards, and Regulations | <p>Ratification of international child protection and human rights treaties and conventions</p> <p>Ratification of regional human rights instruments</p> <p>Passage of national laws, regulations, and policies to address child labor in all its forms</p> <p>Passage of local ordinances and policies geared to implementing national laws on child labor</p> |
| Services and Service Delivery Mechanisms | <p>Establishment agencies focused on implementing child protection services for children engaged in child labor (or in need of special protection)</p> <p>Institutionalization of a process of care and protection from identification, reporting, referral, investigation, assessment, treatment, and follow-up</p> <p>Implementation of social protection programs</p> |
| Capacities | <p>Adequacy of number, capacity, and skills of relevant professionals in child protection</p> <p>Sufficiency of budget for institutions and services who are working to eradicate all forms of child labor</p> <p>Availability of adequate facilities for protection services</p> |
| Coordination and Collaboration Mechanisms | <p>Establishment of collaboration structures to allow vertical and horizontal interaction between and among stakeholders</p> |
| Accountability Mechanisms | <p>Institutionalized reporting and recording mechanisms of cases relating to child labor</p> <p>Inclusion of children's issues in national surveys and studies</p> <p>Accessibility of complaint and redress mechanisms</p> |

It must also be noted that this study will not attempt to cover all child protection laws or policies but only those which are relevant and related to all forms of child labor. In addition, while the analysis will review laws

relating to children in situations of armed conflict and children in conflict with the law as WFCL, the paper will have a stronger focus on child labor

in general, hazardous types of work, and commercial sexual exploitation as noted in the consultants' terms of reference and in consonance with the wider objectives of Project ACE.

In terms of geographic limitations, while the consultants reviewed laws of general applicability relating to child protection at the local government unit (LGU) level, only the child protection measures of two LGUs were reviewed for the purpose of this analysis. The two LGUs in focus are Cagayan de Oro City and Quezon City. These LGUs were chosen as the pilot implementation zones of Project ACE.

Finally, the pandemic limited the movement of both consultants. Thus, all of the key informant interviews conducted for this research were done remotely via Zoom platform. No site or field visits were conducted. All meetings were recorded with the consent of the interviewees and the recordings will be turned over to World Vision International and ABA-ROLI to form part of the outputs of this project.



Chapter II

Children in the Philippines

Geography, Demography, and Climate Change

The Philippines ranks 12th globally on the list of most populated countries.⁵⁰ An archipelagic state located in Southeast Asia,⁵¹ the country's population is at 100.98 million as of the 2015 National Census.⁵² Of these, 38% (38.36 million) are children aged 17 and below.⁵³

⁵⁰ Philippine Statistics Authority, Highlights of the Philippine Population - 2015 Census of Population available at <https://psa.gov.ph/content/highlights-philippine-population-2015-census-population> Accessed: May 20, 2021

⁵¹ Carolina G. Hernandez, Philippines, available at <https://www.britannica.com/place/Philippines>. Accessed: May 25, 2021

⁵² Philippine Statistics Authority, supra note 50

⁵³ Id.

The country is divided into three major islands: Luzon, Visayas, and Mindanao. The Philippines is ranked among the top five countries in the world in terms of vulnerability to climate change.⁵⁴ Between 2000-2017, the country recorded 273 natural disasters from typhoons, flooding, drought, rain-induced landslides and volcanic eruptions to storm surges and earthquakes.⁵⁵

In 2020, approximately 20 typhoons hit the country including Super Typhoon Goni (Local name: Rolly), considered the strongest landfalling tropical cyclone recorded in world history with maximum sustained winds of 225 kilometers per hour.⁵⁶ The typhoon affected over 700,000 children.⁵⁷ Rapid assessment teams reported child protection breaches including the increased possibility of engaging in hazardous work.⁵⁸

⁵⁴ IBERDROLA, Countries most affected by climate change, available at <https://www.iberdrola.com/environment/top-countries-most-affected-by-climate-change>. Accessed: May 20, 2021

⁵⁵ EM-DAT: The International Disaster Database, Centre for Research on the Epidemiology of Disasters – CRED, available at <https://www.emdat.be/index.php>. Accessed: May 20, 2021

⁵⁶ International Federation of Red Cross and Red Crescent Societies, Operation Update Report: Philippines: Floods and Typhoons 2020 (Typhoon Goni), Situation Report, available at https://reliefweb.int/sites/reliefweb.int/files/resources/MDRPH041eu1_goni.pdf. Accessed: June 25, 2021

⁵⁷ UNICEF Philippines, Over 700,000 children among the most affected as super typhoon Rolly / Goni hit the Philippines, UNICEF, November 2, 2020, available at <https://www.unicef.org/philippines/stories/over-700000-children-among-most-affected-super-typhoon-rollygoni-hit-philippines>. Accessed: June 25, 2021

⁵⁸ Philippines Humanitarian Country Team, Super Typhoon Goni (Rolly) Humanitarian Needs and Priorities - Philippines, p. 22, UN OCHA, November 9, 2020, available at <https://reliefweb.int/sites/reliefweb.int/files/resources/PHL-TyphoonGoni-HumanitarianNeedsPriorities-201109.pdf>. Accessed: June 25, 2021



Socio-Economic Context, Incidence of Child Poverty, and Migration

Apart from these risks, the overall disaster-prone environment of the country creates challenges to implementing programs and services for children, especially for those living in geographically isolated and disadvantaged areas.

From 2014 to 2018, prior to the Covid-19 pandemic, the World Bank considered the Philippines one of the fastest growing economies in the region.⁵⁹ Economic growth slowed in 2019, however, driven by a rapid deceleration in investment growth due to contraction in public spending and a weaker global economy.⁶⁰ Amidst rising global uncertainties, the World Bank projection for the Philippine economy remained strong, noting the importance of passing reforms that would help to achieve inclusive growth and foster competition.⁶¹

Despite a relatively strong overall economic growth, **economic and human development has been very uneven across the Philippines.** Two-thirds of the country's domestic production is linked to the three most populous regions (CALABARZON or Region IVA, National Capital Region, and Central Luzon or Region III). In contrast, the Bangsamoro Autonomous Region of Muslim Mindanao (BARMM) contributes just 0.73% to the country's GDP.⁶²

Poverty rates also remain fairly high in the Philippines. The records of persistent poverty in some areas suggest that high **economic growth has not been equitably distributed to reach the poorest populations.**⁶³

⁵⁹ Ben O. De Vera, PH to remain among Asia's fastest-growing economies, says World Bank, Philippine Daily Inquirer, January 29, 2019, available at <https://business.inquirer.net/264281/ph-to-remain-among-asias-fastest-growing-economies-says-world-bank>. Accessed: May 20, 2021

⁶⁰ World Bank. Philippine Economic Update April 2019: Safeguarding Stability, Investing in the Filipino. World Bank, Washington D.C., 2019, available at <https://documents1.worldbank.org/curated/en/442801553879554971/pdf/Philippines-Economic-Update-Safeguarding-Stability-Investing-in-the-Filipino.pdf>. Accessed: May 22, 2021; World Bank, Philippine Economic Update. October 2019: Resuming Public Investment, Fast Tracking Implementation. World Bank, Washington D.C., 2019, available at <https://documents1.worldbank.org/curated/en/224501570715185892/pdf/Philippines-Economic-Update-Resuming-Public-Investment-Fast-Tracking-Implementation.pdf>. Accessed: May 22, 2021

⁶¹ World Bank, October 2019, supra note 60.

⁶² National Economic Development Authority, Philippine Development Plan 2017-2022 Chapter III - Overlay of Economic Growth, Demographic Trends, and Physical Characteristics, p.32, available at <http://pdp.neda.gov.ph/wp-content/uploads/2018/04/03-04-26-2018.pdf>. Accessed: May 22, 2021

⁶³ Vicente B. Paqueo, Aniceto C. Orbeta, and Gilberto M. Llanto (eds.), Unintended Consequences: The Folly of Uncritical Thinking, p. 147. Philippine Institute of Development Studies, Philippines, 2017, available at https://pidswebs.pids.gov.ph/CDN/PUBLICATIONS/pidsbk2017-unintended_fnl.pdf. Accessed: May 22, 2021.

In Social Weather Station's self-reported poverty survey, an estimated 11.5 million Filipinos considered themselves poor in the first quarter of 2017; 8.1 million of these, considered themselves "food poor". A percentage of the population also reported experiencing involuntary hunger.⁶⁴

Notably, **child poverty incidence** has remained consistently higher than the general population for more than a decade. Thirty percent of children (3 out of 10) belong to poor families with those aged 6-11 years recording the highest poverty incidence at 33.5%. (32.5% for those aged 0 to 5 years and 28.4% for those aged 12 to 17 years old).⁶⁵ Poverty incidence is highest among families with more than seven members and whose head of household failed to finish primary education.⁶⁶

On a per region basis, the area with the highest level of child poverty incidence is the BARMM at 60% to 80% followed by other regions in Mindanao. Areas with the lowest level of child poverty incidence are the National Capital Region and its surrounding provinces at less than 20%.⁶⁷

Child poverty incidence aligns closely with the most recent data on rates of child labor. For one, family size directly impacts child labor incidence. Smaller families, or those with at most four members, have only a 7% incidence rate, while those with eight members or more have a 9% incidence rate.⁶⁸ In addition, educational attainment of household heads, which impacts child poverty incidence, also affects child labor incidence. The proportion of working children is four times greater in families whose head of household has not completed elementary school than that of families whose head of household has completed high school.⁶⁹ Consequently, the areas in the country with the highest poverty incidence also report the highest rates of child labor. Thus, Northern Mindanao has the highest percentage of working children at 18% while the National Capital Region has one of the lowest at 3%.⁷⁰

These contrasting poverty and child labor rates illustrate the uneven economic development found across the Philippines, with urban centers (or areas closest to the capital) developing faster than rural areas. This inequality has spurred an increase in movement of persons within the

⁶⁴ Social Weather Stations, Families self-rated as poor goes to 50%; food poor families are 35% , SWS First Quarter Social Weather Survey, May 2017, available at: <https://www.sws.org.ph/swsmain/artcldisppage/?artcsyscode=ART-20170428131124>; Social Weather Stations, Hunger at 11.9% of families; moderate hunger 9.7%; severe hunger 2.2%, SWS First Quarter Social Weather Survey, May 2017, available at: <https://www.sws.org.ph/swsmain/artcldisppage/?artcsyscode=ART-20170502094436>.

⁶⁵ Council for the Welfare of Children, 2018 Quick Facts on Children, available at <https://drive.google.com/file/d/1UGXthmVNLmZb-WrKNMFfpjPux2EWmSYcs/view> at

⁶⁶ Id.

⁶⁷ Id.

⁶⁸ Philippines Statistics Authority and UNICEF, Child Poverty in the Philippines, pp. 70-78, PSA and UNICEF, 2015, available at <https://www.unicef.org/philippines/media/461/file/Child%20Poverty%20in%20the%20Philippines.pdf>. Accessed: June 25, 2021

⁶⁹ Id.

⁷⁰ Id.

Philippines. According to the 2010 Census of Population and Housing, around 2.74 million Filipinos changed their place of residence within the five years prior to conducting the survey.⁷¹ In 2004, a study on rural-urban migration flows found that 10% of youth aged 15 to 29 in the less urbanized areas and 19% in Metro Manila were interprovincial migrants.⁷² Young females appear to account for the majority of internal migrants who move from rural to urban areas.⁷³ A 2006 study revealed that in rural Mindanao, females constitute 56.3% of the out-migrant population.⁷⁴ The UN estimates that 68% of the global population will be living in urban areas by 2050.⁷⁵

Apart from internal migration, international migration is an institutionalized livelihood strategy for many families in the Philippines, following the state's policy to promote it as a means of increasing labor market opportunities for Filipino workers.⁷⁶ Similar to trends in internal migration, the majority (51.1%) of the international migrants are women aged 25 to 34 years old.⁷⁷

To address this, the GoP has implemented poverty reduction measures including expansion of non-agricultural wage employment, an increase in the real wage, the institutionalization of social programs and the stabilization of inflation.⁷⁸ In 2019, the government enacted Republic Act 11310, or the *Pantawid Pamilyang Pilipino Program* (4Ps), effectively institutionalizing the government's conditional cash transfer scheme and ensuring the continuity and sustainability of the program. The 4Ps aims to stop the intergenerational transmission of poverty through investment in the human capital of children of poor households. (See: Discussion on *Pantawid Pamilyang Pilipino Program* in Chapter IV).⁷⁹ Preliminary estimates in 2019 showed that household incomes of the poor grew at a much faster rate than the average household, with the World Bank attributing progress to the country's poverty reduction measures.⁸⁰

⁷¹ UNESCO, Overview of Internal Migration in the Philippines, Policy Brief prepared by UNESCO, UNDP, IOM, and UN Habitat, available at <https://bangkok.unesco.org/sites/default/files/assets/article/Social%20and%20Human%20Sciences/publications/philippines.pdf>. Accessed: May 21, 2021

⁷² Socorro Gultiano and Peter Xenos, Age-Structure and Urban Migration of Youth in the Philippines. Paper presented at the CICRED Seminar on Age-Structural Transitions: Demographic Bonuses, but Emerging Challenges for Population and Sustainable Development funded by UNFRA, Paris February 23-26, 2004, available at <http://www.cicred.org/Eng/Seminars/Details/Seminars/Popwaves/PopwavesGultiano.pdf>. Accessed: May 21, 2021

⁷³ Id.

⁷⁴ UNESCO, supra note 71

⁷⁵ UN Department of Economic and Social Affairs, 68% of the world population projected to live in urban areas by 2050, says UN, available at <https://www.un.org/development/desa/en/news/population/2018-revision-of-world-urbanization-prospects.html>, May 16, 2018. Accessed: May 21, 2021

⁷⁶ UN ESCAP, Asia Pacific Migration Report: Migrants' Contributions to Development (2015), available at <https://www.unescap.org/sites/default/d8files/knowledge-products/SDD%20AP%20Migration%20Report%20report%20v6-1-E.pdf>

⁷⁷ Philippines Statistics Authority, Survey on Overseas Filipino Workers (2016)

⁷⁸ World Bank, October 2019, supra note 60.

⁷⁹ Aniceto C. Orbeta Jr., Kris Ann M. Melad, Nina Victoria V. Araos, Re-assessing the impact of the Pantawid Pamilyang Pilipino Program: Results of the third wave impact evaluation, Philippine Institute for Development Studies Discussion Paper Series No. 2021-05, available at <https://pidswebs.pids.gov.ph/CDN/PUBLICATIONS/pidsdps2105.pdf>. Accessed: May 22, 2021

⁸⁰ World Bank, October 2019, supra note 60.

Strategic development planning is led by the National Economic Development Authority (NEDA), which is an institution chaired by the President, mandated to lead the formulation of the national and regional development plans. The current Philippine Development Plan, which will cover the period 2017-2022, was launched in June 2017. It is a medium-term plan setting out the goals and strategies of the government to meet the long-term vision of *Ambisyon Natin* (The Philippine Dream) of a “prosperous, predominantly middle-class society where no one is poor.”⁸¹

Legal and Political Landscape

The 1987 Constitution is the highest law of the land. Article II, Sec. 1 states that the Philippines is a democratic, republican State, and that sovereignty resides in the people and all government authority emanates from them.⁸² The Constitution likewise sets forth the government structure, allocating powers and responsibilities among three co-equal branches: Executive, Legislative and the Judiciary.⁸³ The separation of powers among three co-equal branches of government is a safeguard against the concentration of powers in one authority, and serves as a check and balance among the branches.

Executive Branch

The 1987 Constitution vests executive power in the President of the Philippines.⁸⁴ The President is the head of state, head of government, and functions as the commander-in-chief of the Armed Forces of the Philippines.⁸⁵ As chief executive, the President exercises control over all the executive departments, bureaus, and offices.⁸⁶

⁸¹ National Economic Development Authority, Updated Philippine Development Plan 2017-2022, available at http://pdp.neda.gov.ph/wp-content/uploads/2021/06/Updated-PDP-2017-2022-as-of-06_25.pdf. Accessed May 22, 2021

⁸² CONST, Art. II, sec. 1

⁸³ CONST, Art. II, sec. 1

⁸⁴ CONST, Art. VII, sec. 1

⁸⁵ CONST, Art. VII, sec. 1, 17, 18

⁸⁶ CONST, Art. VII, sec. 1, 17

The President of the Philippines is elected by direct vote of the people, and has a term of six years without provision for re-election.⁸⁷ The current president of the Philippines is Rodrigo Roa Duterte. His term will end in 2022.⁸⁸ His vice president is Maria Leonor 'Leni' Robredo, who was likewise elected by direct vote and is a member of the opposition.

Acting as alter-ego of the President are the cabinet secretaries or heads of the government departments. The President may appoint anyone to executive departments, subject to approval by the Commission on Appointments.⁸⁹ There are currently 20 executive departments.⁹⁰ For the purpose of this research, the work of the following departments is most relevant to child protection and child labor: (1) Department of Social Welfare and Development (DSWD), (2) Department of Labor and Employment (DOLE); (3) Department of Justice (DOJ), (4) Department of Interior and Local Government (DILG), (5) Department of Education (DOE); and (6) Department of Agriculture (DA). (Separate discussions on the role of these departments in combating child labor are covered in Chapters 4 and 5)

Legislative Branch

The legislative power is vested in Congress. The Philippine Congress is composed of two branches: The Senate, or the upper chamber, and the House of Representatives, or the lower chamber.⁹¹ The Senate is composed of 24 senators elected by the public at large while the House of Representatives currently has 238 sitting representatives. (The House can have up to 250 members elected from congressional districts and party lists).⁹²

Congress starts its official session every fourth Monday of July.⁹³ When this analysis was commissioned, the 18th Congress was convened. It adheres to the following working calendar:⁹⁴

⁸⁷ CONST, Art. VII, sec. 3

⁸⁸ Official Gazette, The Executive Branch, available at <https://www.officialgazette.gov.ph/about/gov/exec/>

⁸⁹ CONST, Art. VII, sec. 16

⁹⁰ See: Directory of Government Agencies at <https://www.gov.ph/directory-of-department-and-agencies.html>. Accessed: 21 May 2021

⁹¹ CONST, Art. VI, Sec. 1, 2

⁹² CONST, Art. VI, Sec. 5 (1)

⁹³ CONST, Art. VI, Sec. 15

⁹⁴ Congress of the Philippines, Concurrent Resolution Providing for the Legislative Calendar for the Second Regular Session of the 18th Congress of the Philippines, Concurrent Resolution No. 9, September 2, 2020

Calendar of Session

| | |
|-------------------------|--|
| Commencement of Session | July 27, 2020 to October 16, 2020 |
| Suspension of Session | October 17, 2020 to November 15, 2020 |
| Resumption of Session | November 16, 2020 to December 18, 2020 |
| Adjournment of Session | December 19, 2020 to January 17, 2021 |
| Resumption of Session | January 18, 2021 to March 26, 2021 |
| Suspension of Session | March 27, 2021 to May 16, 2021 |
| Resumption of Session | May 17, 2021 to June 4, 2021 |

Sine Die Adjournment

See: Concurrent Resolution No. 9, Legislative Calendar for the Second Regular Session of the 18th Congress

Congress follows a similar work rhythm in all its session calendars. The final year of the 18th Congress will commence on July 26, 2021 (4th Monday of July) with President Duterte's final State of the Nation Address. As this is the final year of the administration prior to the 2022 National Elections, all pending bills which do not pass before May 2022 will automatically have to be re-filed once the 19th Congress sits. A re-filed bill will have to go through all levels of legislative process again.



Passing a Bill into Law⁹⁵

STEP 01

Filing/Calendarizing for First Reading. A bill is filed in the Office of the Secretary where it is given a corresponding number and calendarized for First Reading.

STEP 02

First Reading. Its title, bill number, and author's name are read on the floor, after which it is referred to the proper committee.

STEP 03

Committee Hearings/Report. Committee conducts hearings and consultation meetings. It then either approves the proposed bill without an amendment, approves it with changes, or recommends substitution or consolidation with similar bills filed.

STEP 04

Calendarizing for Second Reading. The Committee Report with its approved bill version is submitted to the Committee on Rules for calendarizing for Second Reading.

STEP 05

Second Reading. Bill author delivers sponsorship speech on the floor. Legislators engage in debate, interpellation, and rebuttal to highlight the pros and cons of the bill. A period of amendments incorporates necessary changes in the bill proposed by the committee or introduced by the legislators themselves on the floor.

STEP 06

Voting on Second Reading. Senators vote on the second reading version of the bill. If approved, the bill is calendarized for third reading.

STEP 07

Voting on Third Reading. Printed copies of the bill's final version are distributed to the legislators. This time, only the title of the bill is read on the floor. Nominal voting is held. If passed, the approved bill is referred to the other house for concurrence.

STEP 08

Bicameral Conference Committee. If each House's version is compatible with each other, the final version's enrolled form is printed. If there are certain differences, a Bicameral Conference Committee is called to reconcile conflicting provisions of both versions of the Senate and of the House of Representatives. Conference committee submits report on the reconciled version of the bill, duly approved by both chambers. The reconciled version is printed in its enrolled form.

STEP 09

Submission to the President. Final enrolled form is submitted to Malacañang. The President either signs it into law, or vetoes and sends it back to the Senate with a veto message.

⁹⁵ Antonio E.B. Nachura, Outline Reviewer in Political Law (2014)

The consultants counted **35 House Bills, 6 House Resolutions, 21 Senate Bills, and 11 Senate Resolutions** reviewing or seeking to amend existing laws which relate to child labor or the Worst Forms of Child Labor. These pending measures include:

| House Bill / Senate Bill Number | Description |
|--|---|
| House Bills: 137, 3020, 4867, 5902 Senate Bills 450, 1589 | Amendments to Republic Act 7610: Special Protection of Children Against Child Abuse, Exploitation, and Discrimination (Stiffer Penalties - Child Pornography / Protection against IP Discrimination) |
| House Bills 615, 711 Senate Bills 1589 | Amendments to Republic Act 7610: Special Protection of Children Against Child Abuse, Exploitation, and Discrimination (Stiffer Penalties – Child Labor) |
| House Bills 3632, 4028 Senate Resolution 131 | Amendments to Republic Act 7610: Special Protection of Children Against Child Abuse, Exploitation, and Discrimination (Stiffer Penalties – Child Prostitution) |
| House Bills: 749, 4888, 5223, 5689, 6839 Senate Bills 1632, 1923, 1993 | Anti-Violence Against Women / LGBT and their Children (Electronic VAWC) |
| House Bills 3735, 6215 | Increasing the Age of Statutory Rape: Stronger Protection for Children Against Sexual Abuse |
| House Bills 486, 3899, 5670, 7922 Senate Bill 1373 | Prohibition against Child Marriage |
| House Bills 2517, 5307, 5407 Senate Bills 113, 552, 621 | Child Friendly Internet Service / Social Media Regulation and Protection |
| House Bills: 5609, 5651, 6923, 7134, 7465, 7633, 7718, 7947, 8295, 8760 House Resolutions: 999, 1118, 1313, 1336 Senate Bills: 1220, 1754, 1794, 1853, 1929, 2068 Senate Resolution: 201, 385, 423, 434, 487, 604, 607, 642 | Amendments to the Anti-Trafficking Law (OSEC / OSAEC) / Strengthening Anti-Child Pornography Measures |

| House Bill / Senate Bill Number | Description |
|--|---|
| House Resolution 1155 | Sexual Exploitation in Academic Institutions / Police Force |
| House Resolution 1581 Senate Resolution 437 | Sexual Exploitation in the time of Covid-19 |
| Senate Bill 1426 Senate Resolution 222 | Use of Children in Armed Conflict and /or Illicit Activities |
| Senate Resolution 183 | Assessing Implementation of the Juvenile Justice and Welfare Law |
| House Bill 6237 | Creation of the Philippine Commission on Children |
| House Bill 7086 | Creation of Barangay Children's Welfare Worker |

A separate discussion on select measures, chosen by virtue of relevance and chances of passing into law, are included in the succeeding chapters.

Judiciary

The judicial power shall be vested in one Supreme Court and in lower courts as established by law.⁹⁶ *Batas Pambasa 129* established the country's court system to include appellate courts and lower courts at the regional, municipal, and metropolitan levels.⁹⁷ The Supreme Court is composed of 15 justices.⁹⁸ There are currently 700+ judges stationed across the country.⁹⁹

The Supreme Court has administrative supervision over all courts and court personnel and jurisdiction to "review, revise, reverse, modify, or affirm on appeal or certiorari" final judgments or orders of lower

⁹⁶ CONST, Art. VIII, Sec. 1

⁹⁷ An Reorganizing the Judiciary, appropriating funds therefore and for other purposes, *Batas Pambansa 129* (August 14, 1981) available at https://lawphil.net/statutes/bataspam/bp1994/bp_129_1994.html

⁹⁸ CONST, Art. VIII, Sec. 1

⁹⁹ Philippine Statistics Authority, *Women and Men in the Philippines Statistical Handbook* (2016), available at <https://psa.gov.ph/sites/default/files/Women%20and%20Men%20Handbook%202016.pdf>. Accessed: May 23, 2021

courts.¹⁰⁰ It also has the power to promulgate rules concerning the protection and enforcement of constitutional rights¹⁰¹ and legal assistance to the underprivileged,¹⁰² thereby guaranteeing that “free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty.”¹⁰³

As part of the efforts to make the judicial proceedings child-appropriate, the Supreme Court, as part of its authority to promulgate rules, passed the **Rule on Examination of a Child Witness** on November 21, 2000. The rule covers all child witnesses who are victims of crime, accused of a crime, and witnesses to crime and lists guidelines on how proceedings and examinations must be conducted in consideration of the child’s well-being and development.¹⁰⁴

In addition, the Supreme Court passed a **Revised Rule on Children in Conflict with the Law** to “ensure that the justice system treats every child in conflict with the law in a manner that recognizes and upholds human dignity and worth, and instills in the child respect for the fundamental rights and freedom of others.”¹⁰⁵

Finally, Family Courts are established in every province and city in the country. Family courts have exclusive original jurisdiction in all cases involving children.¹⁰⁶ These courts work with the Social Services and Counseling Division of the Department of Social Welfare and Development (DSWD) to ensure that children have access to readily available social services during the course of the proceedings.¹⁰⁷ Family court judges are also required to undergo special training, organized by the Supreme Court, to prepare them in handling child and family cases.¹⁰⁸

An understanding of the GoP’s judicial structure is necessary in assessing the procedures relating to the prosecution and conviction of child labor cases. In the US DOL’s 2019 *Findings on the Worst Forms of Child Labor Report*, 54 prosecutions relating to child labor were initiated and 34 cases were successfully convicted.¹⁰⁹ Anecdotal evidence from key informant interviews

¹⁰⁰ CONST, Art. VIII, Sec. 5 (2)

¹⁰¹ CONST, Art. VIII, Sec. 5 (5)

¹⁰² CONST, Art. VIII, Sec. 5 (5)

¹⁰³ CONST, Art. III, Sec. 11

¹⁰⁴ Supreme Court, Rule on Examination of a Child Witness, Administrative Matter No. 004-07-SC [A.M. No. 004-07-SC], sec. 1 (November 21, 2000)

¹⁰⁵ Supreme, Revised Rule on Children in Conflict with the Law, Administrative Matter No. 02-1-19-SC [A.M. No. 02-1-18-SC], sec. 2 (December 1, 2009)

¹⁰⁶ An Act Establishing Family Courts, Granting Them Exclusive Original Jurisdiction Over Child and Family Cases, Amending Batas Pambansa Bilang 129, As Amended, Otherwise Known as the Judiciary Reorganization Act of 1980, Appropriating Funds Therefor and For Other Purposes [Family Courts Act of 1997], Republic Act. No. 8369, sec. 2 (October 28, 1997)

¹⁰⁷ Family Courts Act of 1997

¹⁰⁹ United States Department of Labor, 2019 Findings on the Worst Forms of Child Labor - Philippines, available at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/philippines>. Accessed: June 27, 2021

attributes the low conviction rate to out-of-court settlements reached between the victims, their guardians or parents and the perpetrator.

Game Changer: 2022 National Elections

The 1987 Constitution provides that national and local elections must be held on the second Monday of May every third year starting in 1992¹¹⁰ with the presidential and vice presidential elections held every six years.¹¹¹ Pursuant to this constitutional mandate, the Philippines is scheduled to hold its general elections on May 9, 2022. The elections will determine who will take over the following positions: President and Vice-President, as well as senators, congressmen, and local government officials from governors, vice governors, provincial boards, mayors, vice mayors, city councils and municipal councils.

According to data from the PSA and the Commission on Elections, approximately 62 to 63 million Filipinos ages 18 to 35 are registered to vote in 2022.¹¹² In addition, four million new youth voters are expected to take part in the 2022 polls.¹¹³ Those aged 15-21 are likewise eligible to vote for the members of the Youth Council, who sit in barangays. Given these numbers, politicians are identifying the youth sector as “game-changers” in the upcoming elections.¹¹⁴ Because of this, **the children and youth-related agenda is often included in any individual or group’s campaign to seek public office.**

This has important implications:

Prior to elections, “child-rights” champions or “youth advocates” express support for key measures relating to children’s rights and protection. Because of this, proposed measures see faster turn-around time as legislators, who are up for re-election, target the passage of child or youth-related bills to emphasize their strong child- or youth-centric agenda as part of potential wider election propaganda. For civil society organizations and child-rights based institutions,

¹¹⁰ CONST, Art. XVIII Transitory Provisions

¹¹¹ CONST, Art. XVIII Transitory Provisions

¹¹² Ferdinand Patinio, Voters for 2022 polls estimated at 62 to 63M: COMELEC, Philippine News Agency, October 27, 2020, available at <https://www.pna.gov.ph/articles/1119885>

¹¹³ Gabriela Baron, Student leader underscores youth’s role in 2022 elections, Manila Bulletin, May 3, 2021, available at <https://mb.com.ph/2021/05/03/student-leader-underscores-youths-role-in-2022-elections/>

¹¹⁴ -- Pangilinan highlights faith in critical youth at ‘Asian Liberals’ general assembly, November 23, 2020, available at http://legacy.senate.gov.ph/press_release/2020/1123_pangilinan2.asp

this has benefits and costs. The main benefit is the speedy passage of proposed measures, while one of the main costs is the possible lack of extensive debate and study on the part of legislators to ensure that the laws up for passage truly address specific child protection concerns.

During the campaign, advocates can use debates and forums to put forth key child protection issues and build links to possible children and youth champions in all levels of governance. Building early links ensures a smoother transition and a strong network once victorious candidates are sworn into office.

After elections, the first 100 days of newly-elected officials determine their priorities, making it important for key stakeholders to forward proposed measures, programs, and policies on child labor and child protection. Indeed, the 2022 elections could be a strategic platform to put children’s issues at the center of every politician’s agenda.

Education

In the Philippines, the 1987 Constitution guarantees the right to education of every Filipino. It provides that,

“The State shall protect and promote the right of all citizens to quality education at all levels and shall take appropriate steps to make education accessible to all.”¹¹⁵

The right to education is further emphasized in the following: (a) The education sector is given the highest budgetary priority;¹¹⁶ and (b) Several laws have been passed affirming the policy of the State to protect and promote the rights of all Filipinos to education by providing children free and compulsory education at all levels.

¹¹⁵ UNESCO, Philippines Education for All 2015: Implementation and Challenges available at https://planipolis.iiep.unesco.org/sites/planipolis/files/ressources/philippines_efa_mda.pdf

¹¹⁶ CONST, Art. XIV, Sec. 5(5)

The Philippine education system includes both formal and non-formal education. The formal system is a sequential progression of academic schooling at three levels: elementary (grade school), secondary (high school) and tertiary (college and graduate levels). Prior to the passage of the K-12 system (see below), Philippine education is categorized either as basic (preschool), elementary and secondary (high school) or tertiary (college, graduate and technical/vocational).¹¹⁷

Basic education is being handled by the DepEd. It also handles the alternative learning system (ALS) for out-of-school youth and adults through the ALS Task Force. Apart from ALS, DepEd also provides multilingual education in relevant communities and handles Islamic educational institutions or Madaris.¹¹⁸

In 2013, the Enhanced Basic Education Program (K-12 system) was introduced. It features a 13-year program of compulsory and free basic and secondary education covering Kindergarten for children aged 5 years old, Elementary School for those aged 6-11 years old, and secondary school for those aged from 12-18 years. Children aged 12-16 are educated in Junior High Schools and those aged 16-18 are in Senior High Schools.¹¹⁹ In increasing the length of basic education, the law intended to improve the quality of education for children, allowing them to find work upon finishing secondary school, making tertiary education optional. Further, it seeks to improve the country's global competitiveness and bring the country up to international standards. Prior to the passage of the K-12 law, PH was one of only three countries in the world with a 10-year education cycle.¹²⁰

Basic education is compulsory for all children under the Philippine Constitution. However, based on the 2017 Annual Poverty Indicators Survey, about nine percent of the estimated 39.2 million Filipinos aged 6 to 24 years were out-of-school children and youth.¹²¹ About 50% of the documented out-of-school children and youth belong to families whose income fall at the bottom 30%, based on per capita income.¹²²

Child labor and school enrollment were found to have an inverse relationship. Evidence indicates the higher the incidence of child labor, the lower the school enrollment rates. A 2014 study found that children in areas with high

¹¹⁷ CONST, Art. XIV, Sec. 5(5)

¹¹⁸ CONST, Art. XIV, Sec. 5(5)

¹¹⁹ An Act Enhancing the Philippine Basic Education System by Strengthening its Curriculum and Increasing the Number of Years for Basic Education, appropriating funds therefor and for other purposes ("Enhanced Basic Education Act of 2013"), Republic Act 10533, sec. 4 (July 23, 2012)

¹²⁰ Wilson Macha, et. al, Education in the Philippines, World Education News + Reviews, March 6, 2018 available at <https://wenr.wes.org/2018/03/education-in-the-philippines>

¹²¹ Philippine Statistics Authority, Nine percent of Filipinos aged 6 to 24 years are out of school- Results from the 2017 Annual Poverty Indicators Survey, PSA, June 6, 2018, available at <https://psa.gov.ph/content/nine-percent-filipinos-aged-6-24-years-are-out-school-results-2017-annual-poverty-indicators>

¹²² Id.

poverty incidence “are forced to take on the responsibility of augmenting and providing the income needs of their households.”¹²³ The study notes that “children’s education becomes the sacrificial lamb when families, especially when household breadwinner cannot provide basic food needs and sustenance.”¹²⁴ The children “are forced to leave school to help bring ahead the household survival.” It should also be noted that in many of these areas, children may not be enrolled in school because they are non-existent, inaccessible, perceived as irrelevant or too costly. While culturally, Filipino households value education, poverty and survival outweigh this priority forcing children to enter the labor force.¹²⁵

Child Protection

The 1987 Philippine Constitution, Article XV, Section 3 obligates the State to defend the right of children to assistance, including proper care and nutrition, and echoes the provision of the UN CRC which mandates the State to ensure that the child is protected from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development.¹²⁶ In compliance with this mandate, the GoP has developed a range of interconnected legislative, institutional, and policy frameworks designed to uphold child protection.

Policy Framework on Child Protection

The following documents provide the basis for building and promoting child and family well-being: The Philippine Development Plan 2017 - 2022, Philippine National Strategic Framework for the Development of Children 2001-2025 (Child 21), Comprehensive Program on Child Protection 2019-2022, 3rd National Plan of Action for Children 2017 to 2022, and the Philippine Plan of Action to End Violence Against Children 2017-2022. These documents taken together also embed economic and social protection consistent with the systems approach to children’s rights.

¹²³ Russell Christian E. Fernandez and Ferdinand T. Abocejo, *Child Labor, Poverty, and School Attendance*, *CNU Journal of Higher Education*, pp. 114 to 127, available at https://www.researchgate.net/publication/319505916_Child_Labor_Poverty_and_School_Attendance_Evidences_from_the_Philippines_by_Region

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ CONST., Art. XV, sec. 3

Philippine Development Plan 2017-2022

The Philippine Development Plan embodies the country's development strategies, policies, programs, and activities.¹²⁷ The child protection framework encapsulates the three pillars of the PDP and the wider commitment to the Sustainable Development Agenda. The following bullets highlight the GoPs specific goals related to child protection in the PDP:

- 1** The implementation of a **multi-sectoral roadmap for children** to mitigate risks faced by vulnerable groups. This includes the enhancement of the conditional cash transfer program to specifically help child beneficiaries and their families become self-reliant and self-sufficient and the reduction of child labor cases by 30%;¹²⁸
- 2** The development of a **Social Protection Statistical Framework** as part of the goal **to achieve universal social protection**. Under the plan, the government is tasked to formulate a framework and its subsequent indicators, consistent with the Philippine Statistical Development Program and aligned with the SDGs. The framework will be used to deliver quality social protection statistics in support of evidence-based policymaking, program implementation, and monitoring and evaluation. Data on the prevalence of child labor will be Included in the data collected on trafficking in persons;¹²⁹
- 3** The establishment of a monitoring system to record and track incidents of grave child rights violations related to children in situations of armed conflict as part of governance and political risks. In keeping with its mandate, the Council for the Welfare of Children leads this task at the national and local levels and will ensure the provision of appropriate programs and services to the victims;¹³⁰ and
- 4** The **strengthening of victim legal protection** as part of the law and justice sector's efficiency and accountability. This includes developing child-sensitive and victim-centered approaches to child rescue operations, case build-up and prosecution, and ensuring accessibility of public assistance desks for women and children nationwide.¹³¹

¹²⁷ National Economic Development Authority, *supra* note 81.

¹²⁸ *Id.*, Chapter 11, p. 174

¹²⁹ *Id.*, Chapter 11, p. 177

¹³⁰ *Id.*, Chapter 11, p. 176

¹³¹ *Id.*, Chapter 6, p.86

While these targets specifically mention child protection-related goals, it is worth noting that the Philippine Development Plan seeks a holistic, systems approach to addressing social, political, and economic concerns. Thus, all programs are envisioned to be interrelated, with one area of work supporting another.

Child 21

The Government of the Philippines published the Philippine National Strategic Framework for Plan Development for Children, or Child 21, in 2002, shortly after the UN General Assembly Special Session on Children adopted the outcome document, *A World Fit for Children*.¹³² Child 21 sets a vision for Filipino children's welfare and development in the year 2025. It provides a road map for national government, local government units, private initiatives and non-governmental organizations to use when planning priorities for action and in allocating and utilizing resources to promote the rights of Filipino children. Child 21 identifies child protection as one of the key rights categories.¹³³

National Plan of Action for Children

To concretize the road map set by Child 21, national plans of action for children (NPACs) are divided into five-year targets. The goal of the plans is to provide a structure to deliver special protection to children. The first NPAC covered the period 2005-2010.¹³⁴ It sought to harmonize targets with the *Millennium Development Goals* and *World Fit for Children* goals. It considered children in need of special protection as a sector that requires unique interventions.¹³⁵

The second NPAC laid down the plans for 2011-2016. The 2nd NPAC set three goals, one of which was to ensure that children were safe, free and protected from violence, abuse, neglect,

¹³² Department of Justice, Protecting Filipino Children from Abuse, Exploitation, and Violence, available at https://www.doj.gov.ph/files/Filipino_Children.pdf; The Filipino Child of the Millennium: National Plan of Action for Children ("NPAC"), 2005-2010, available at https://aboutphilippines.org/documents-etc/NPAC_FINAL.pdf

¹³³ Id.

¹³⁴ Id.

¹³⁵ Id.

and exploitation.¹³⁶ The goals of the 2nd NPAC are carried over to the 3rd NPAC, which covers the period 2017-2022. The third NPAC lists four goals anchored by the UN CRC child protection framework. Relevantly, the third goal focuses on child protection. To wit: “Goal 3: Children are safe and free from violence, abuse, neglect, and exploitation.”¹³⁷ To achieve this goal, the 3rd NPAC pushes all stakeholders to:

- 1** Ensure the progressive elimination of child labor;
- 2** Ensure enforcement of the law to end child trafficking, violence against children, abuse, and exploitation;
- 3** Prevent and protect children from recruitment by non-state armed groups;
- 4** Protect children on and of the streets of urban areas and prevent others from following a similar path;
- 5** Ensure restorative justice and welfare for children in conflict with the law; and
- 6** Ensure alternative parental care for children abandoned and neglected and left behind by parents working overseas, in correctional facilities, and drug dependents.¹³⁸

Comprehensive Program on Child Protection

To complement the interventions enshrined in the NPAC, the Committee for the Special Protection of Children (CSPC), also published a Comprehensive Program on Child Protection (CPCP). Three CPCPs were created prior to the current one, covering three programming cycles: CPCP 1 from 2001-2005, CPCP 2 from 2006-2011, and CPCP 3 from 2012 to 2016.¹³⁹

¹³⁶ NPAC, 2005-2010, supra note 132.

¹³⁷ Council for the Welfare of Children, Third National Plan of Action for Children 2017-2022. available at https://drive.google.com/file/d/1PVv4THjA9JvBLond_MjUYsT9xQp9KqN_/view

¹³⁸ Id.

¹³⁹ Committee for the Special Protection of Children, supra note 32.

The current CPCP covers the period 2019-2022. CPCPs are more targeted than NPACs. Whereas NPACs provide goals and targets on all issues relating to children,¹⁴⁰ the CPCP is crafted with the sole objective of examining the administrative, executive, legal, and judicial programs and processes focused on child protection. Apart from tackling key legal and policy issues on child protection, the CPCP provides recommendations and actions for different government agencies to consider for implementation.¹⁴¹

Other Child-Related Sector Plans and Frameworks

The policy framework laid down in the NPAC and supplemented by the CPCP must also be seen in relation to other child-related sector plans. At the time of writing, the relevant child-related sector plans that must be considered with the 3rd NPAC and the CPCP 2019-2022 and which are relevant to this analysis are:

- 1** Comprehensive National Juvenile Intervention Program, 2017-2022
- 2** K-12 Education Plan
- 3** Inter Agency Council Against Child Pornography Response Plan on Online Child Pornography
- 4** Inter Agency Council Against Trafficking Strategic Plan
- 5** Philippine Program Against Child Labor Strategic Framework, 2017-2022
- 6** Philippine Plan of Action to End Violence Against Children, 2017-2022

¹⁴⁰ Committee for the Special Protection of Children, *supra* note 32.

¹⁴¹ Committee for the Special Protection of Children, *supra* note 32.

A photograph of a wooden surface. In the foreground, a blue surgical mask is partially visible. In the background, a clear spray bottle with a black pump dispenser is visible. The lighting is warm and natural, highlighting the texture of the wood.

Philippines 2020-2021: COVID-19

The Corona virus (Covid-19) is an infectious disease which began its deadly spread in Wuhan, China, in December 2019.¹⁴² The Philippines recorded its first case on January 30, 2020 with the first local transmission reported on March 7, 2020.¹⁴³

Several measures were imposed to mitigate the spread of Covid-19 in the country which include the declaration of a state of public health emergency,¹⁴⁴ state of calamity,¹⁴⁵ and imposition of lockdowns (community quarantines) to prevent the nationwide spread of the virus.¹⁴⁶

¹⁴² World Health Organisation, WHO Timeline - COVID-19, available at <https://www.who.int/news-room/detail/27-04-2020-who-timeline--covid-19>. Accessed: May 26, 2021

¹⁴³ World Health Organisation, Corona virus disease (COVID-19) in the Philippines available at <https://www.who.int/philippines/emergencies/covid-19-in-the-philippines>. Accessed: May 26, 2021

¹⁴⁴ Office of the President of the Philippines, Declaring a State of Public Health Emergency throughout the Philippines, , Presidential Proclamation No. 922 s. 2020 [P.P. 922, s. 2020] (March 9, 2020)

¹⁴⁵ Id.

¹⁴⁶ Dessy Bautista and Melissa Luz Lopez, Timeline: How the Philippines in handling COVID-19, CNN Philippines, March 15, 2021, available at https://cnnphilippines.com/news/2020/4/21/interactive-timeline-PH-handling-COVID-19.html?fbclid=IwAR3oH2HZ138-xHJc3W4dcOwGhfD8gcDnQGxLti-Nqb2-Ka2-e2g_LACqDvk. Accessed: May 26, 2021

Economic growth has been heavily impacted by Covid-19. The PSA reported that in 2020, gross domestic product shrank 16.5%, the lowest it's been since 1981, and consumer spending plummeted 15.5% in the second quarter.¹⁴⁷ The 6.4% drop in remittances, as OFWs were repatriated home, further added to the country's economic woes as it also affected consumer spending.¹⁴⁸ Apart from Covid-19, the fourth quarter of the Philippine economy recorded a deep contraction as the country suffered back-to-back typhoons causing extensive damage and losses.¹⁴⁹

A Covid-19 impact monitoring survey conducted in August 2020 reported that 40% of households noted a decrease in income. Remittances from abroad, a lifeline for many Filipino families, likewise fell for at least two in five households. As a result, poverty is estimated to have increased from 20.5% in 2019 to 22.6% in 2020.¹⁵⁰ In numbers, this translates to nearly 3 million Filipinos falling into poverty in 2020.¹⁵¹ The World Bank notes the economic devastation caused by the pandemic reversed gains made in poverty reduction in recent years.¹⁵²

Because of the economic impact of Covid-19, and as many lose their livelihoods due to the lockdown caused by the pandemic, Social Weather Station reported the highest hunger incidence since 2014 with approximately 7.6 million Filipino households experiencing involuntary hunger from July to September 2020. The survey also estimated at least 941,000 families experienced involuntary hunger in Metro Manila.¹⁵³

The Philippines went from being one of the countries with the highest number of confirmed Covid-19 cases in December 2020 to a steady decline in January 2021 followed by another spike in March 2021 with the entry of Covid-19 variants. The spike forced the national government to place the Covid-19 hotspots, National Capital Region and its surrounding provinces, back in hard lockdown from late March to May 15, 2021, thus causing a renewed economic collapse.¹⁵⁴ By May 2021, the situation started to stabilize again. As of June 2021, the easing of restrictions are being considered

¹⁴⁷ Philippine Statistics Authority, GDP growth rate drops by 16.5% in the second quarter of 2020; the lowest starting 1981 series, available at <http://www.psa.gov.ph/press-releases/id/162842>. Accessed: May 26, 2021

¹⁴⁸ Lee C. Chipongian, Cash remittances dip 6.4% in January to May, Manila Bulletin, August 3, 2020, available at <https://mb.com.ph/2020/08/03/cash-remittances-dip-6-4-in-january-may/>. Accessed: May 26, 2021

¹⁴⁹ World Bank, Philippine Economic Update, December 2020: Building a Resilient Recovery, World Bank, Washington D.C., December 2020, available at <https://openknowledge.worldbank.org/handle/10986/34899?show=full>

¹⁵⁰ Id.

¹⁵¹ Id.

¹⁵² Id.

¹⁵³ Krissy Aguilar, 7.6 million families hungry in past 3 months, highest hunger rate since 2014 - SWS, Philippine Daily Inquirer, September 27, 2020, available at <https://newsinfo.inquirer.net/1340772/7-6-million-families-hungry-sets-phs-highest-hunger-incidence-since-2014-sws>. Accessed: May 26, 2021

¹⁵⁴ Clarissa Batino and Andrea, Philippine Capital back in lockdown as virus cases surge, Bloomberg, March 27, 2021, available at <https://www.bloomberg.com/news/articles/2021-03-27/philippines-reimposes-capital-lockdown-as-virus-infections-spike>. Accessed: May 26, 2021

as the number of cases continues to decline and the vaccination roll-out continues.¹⁵⁵

Impact of Covid-19 on Children

Even as the country begins its road to healing, the impact of Covid-19, especially among children, cannot be denied. While evidence shows a low prevalence of children infected with Covid-19, children are still suffering through the pandemic. Based on the Department of Health's data, at least 12,197 children were infected with the virus. While recovery rate is high, 0.55% of those infected still succumbed to death.

Apart from the actual threat of the virus, a recent rapid assessment showed that the top three problems faced by children during the pandemic are food insecurity (51%), a lack of education opportunities (45%), and poor access to health care (24%).¹⁵⁶

The economic recession has also caused some parents and caregivers to take drastic measures that affect the well-being of their children. Some have sent their children to work, even in high-risk jobs, while others have sent them to live with relatives or in State institutions. The impact on families has also negatively affected children's mental and psychological health.¹⁵⁷

¹⁵⁵ Talk to the People of President Rodrigo Roa Duterte on Coronavirus Disease 2019 (Covid-19), May 26, 2021, available at <https://pcoo.gov.ph/presidential-speech/talk-to-the-people-of-president-rodrigo-roa-duterte-on-coronavirus-disease-2019-covid-19-61/>. Accessed: May 26, 2021

¹⁵⁶ World Vision, Impact of Covid-19 to Children and their Families: A Rapid Assessment in the Philippines, World Vision, June 2020, available at <https://www.worldvision.org.ph/wp-content/uploads/2020/11/WVDF-COVID-19-Rapid-Assessment.pdf>. Accessed: June 26, 2021

¹⁵⁷ Id.



The shift to online learning following the imposition of quarantine measures caused additional strain on children. Many experienced challenges through the online platform, either because of poor technical capacity (no gadgets, no internet) or due to learning difficulties.¹⁵⁸

The duration of the quarantine and further imposition of lockdown has also increased children's vulnerability to abuse, violence, and exploitation. Child abuse hotlines indicate a general increase in reports during the community quarantine. The Philippine National Police Crime Information Reporting and Analysis System and Women and Children Protection Center recorded a total of 2,678 cases of violations against children from March to May 2020 alone.¹⁵⁹

The DILG reported a daily average of 24 children who reported varying types of abuse. The DOJ Cybercrime Unit recorded a 264% increase in reports of online sexual exploitation of children. This translates to 279,166 actual cases from March to May 2020 alone, as compared to 76,561 cases reported in the same period in 2019. The Commission on Human Rights likewise reported 67 cases of physical violence, rape, child abuse, murder, harassment, and human trafficking in the same period.¹⁶⁰

It is within this wider context that the succeeding chapters review the national legal framework and enforcement mechanisms on child labor in the Philippines.

¹⁵⁸ *Id.*

¹⁵⁹ World Vision, *supra* note 156

¹⁶⁰ *Id.*

Chapter III

International Conventions on Child Rights and Child Labor in the Philippines



UN Convention on the Rights of the Child requires state parties to protect children from

“all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.”¹⁶¹

Separate articles of the Convention also obligate States to protect children who are deprived of family and from all forms of corporal punishment and other cruel or degrading forms of treatment including economic and sexual exploitation.¹⁶²

¹⁶¹ UN General Assembly, Convention on the Rights of the Child (“UN CRC”), art.19. November 20, 1989, United Nations Treaty Series, vol. 1577, p. 3, available at <https://www.refworld.org/docid/3ae6b38f0.html>. Accessed: May 27, 2021

¹⁶² UN CRC, arts. 19, 20, 28, 32, 34, 37

One of the key ways in which this can be achieved is by the establishment and implementation of a child protection system through which a State can provide a range of interventions in order to protect children. Save the Children thus defines child protection as “measures and structures to prevent and respond to abuse, neglect, exploitation, and violence, affecting children in all settings.”¹⁶³ In general, the UN Committee on the Rights of the Child noted in its Concluding Observations to the Government in 2007 that the Philippines has a fairly advanced legal framework for child protection.¹⁶⁴

The GoP has been diligent over the years in building a solid legal and policy foundation for protecting children and ensuring their human rights and dignity throughout their young lives. This commitment can be seen in the country’s multiple ratifications of international conventions on child rights and protection, child labor, anti-trafficking in persons, domestic service and safety in the workplace. Other international influences have also played a role in the government’s efforts to uphold the rights of children and to combat child labor. The US Department of State (USDOS) and the US Department of Labor (USDOL) regularly issue global reports that measure or rank individual country efforts to eliminate child labor and trafficking in persons offenses, including those that involve children. In response to these commitments and influences, the GoP has developed a robust institutional framework that incorporates international norms and standards to address child labor, including in its worst forms.

This section will discuss the key elements upon which the GoP’s efforts to combat child labor are based. It will summarize the international instruments ratified by the Philippines that most directly pertain to the issue, in all of its forms.

Survey of Ratified International Conventions on Child Labor and Worst Forms of Child Labor

Philippines became one of the 51 original charter members to the United Nations in 1945. Since that time, the Philippines has ratified eight of the nine core international human rights treaties, becoming the first Asian country to meet that milestone.¹⁶⁵

¹⁶³ Save the Children, Definition of Child Protection, adopted by Save the Children on December 10, 2007, available at <https://resourcecentre.savethechildren.net/library/save-childrens-definition-child-protection>. Accessed: May 27, 2021

¹⁶⁴ UN Committee on the Rights of the Child, Concluding Observations, Philippines, October 2, 2009, CRC/C/PHL/CP/3-4, par. 11, available at <https://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-PHL-CO4.pdf>

¹⁶⁵ United Nations Philippines. “The United Nations in the Philippines.” available at <https://philippines.un.org/en/about/about-the-un>. Accessed 14 May 2021

UN conventions (also called treaties) are legally binding agreements between states that espouse international norms and standards. Countries that ratify them are required to abide by their principles and adopt them into national laws and policies. Monitoring bodies are often created to review State parties' periodic reports and measure their progress in implementing the Conventions. In the case of human rights conventions, although monitoring bodies exist, there are no enforcement mechanisms to require that governments adhere to their recommendations or to the principles of the convention. Therefore, it is the commitment of the country that drives implementation.¹⁶⁶

According to the United Nations Office of the High Commissioner on Human Rights (UN-OHCHR), there are 5 universal instruments that directly address the rights of children. The Government of the Philippines (GoP) has ratified all of them. They are:

- 1 Convention on the Rights of the Child (CRC)
- 2 Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (CRC-OPSC)
- 3 Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (CRC-OPAC)
- 4 International Labor Organization (ILO) Minimum Age Convention, 1973 (No. 138)
- 5 ILO Worst Forms of Child Labour Convention, 1999 (No. 182)¹⁶⁷

Although not focused solely on the rights of children, the following conventions, also ratified by the GoP, target the rights of women and children as victims of trafficking in persons (TIP):

- 6 The UN Convention against Transnational Organized Crime and its Supplementary Protocol, to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children

¹⁶⁶ United Nations, Frequently Asked Questions regarding the Convention on the Rights of Persons with Disabilities: What is an international convention? United Nations Enable, available at <https://www.un.org/esa/socdev/enable/convinfofaq.htm#q1>. Accessed 03 May 2021.

¹⁶⁷ United Nations, Universal Human Rights Instruments, United Nations Human Rights Office of the High Commissioner, available at <https://www.ohchr.org/EN/ProfessionalInterest/Pages/UniversalHumanRightsInstruments.aspx>. Accessed 20 April 2021.

7 The ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP)

And finally, the following reports, issued by the USDOS and the USDOL, include country profiles on the Republic of the Philippines. The State Department's *Trafficking in Persons Report* uses a ranking system to measure government efforts to both acknowledge and combat trafficking in persons. The *USDOL's List of Goods Produced by Child Labor or Forced Labor* publishes and regularly maintains a list of goods by source country which USDOL has reason to believe are produced by child or forced labor in violation of international standards. USDOL's other report, *Findings on the Worst Forms of Child Labor*, assesses certain trade beneficiary countries' efforts to eliminate the WFCL through legislation, enforcement mechanisms, policies and social programs. This report assigns levels of advancement to governments for their efforts to combat the worst forms of child labor.

- 1 The US State Department's *Annual Trafficking in Persons Report*¹⁶⁸
- 2 The US Department of Labor's *List of Goods Produced by Child Labor or Forced Labor*¹⁶⁹
- 3 The US Department of Labor's *Findings on the Worst Forms of Child Labor*¹⁷⁰

United Nations Conventions on the Rights of the Child and Its Optional Protocols

The United Nations Convention on the Rights of the Child (UN CRC) is the most comprehensive treaty on children's rights. In it, the UN framework gives unique status to children as a particularly vulnerable group "entitled to special care and assistance."¹⁷¹ The UN CRC defines civil, political, social,

¹⁶⁸ U.S. Department of State, Office to Monitor and Combat Trafficking in Persons, 2020 Trafficking in Persons Report. U.S. Department of State, available at <https://www.state.gov/reports/2020-trafficking-in-persons-report/>. Accessed 06 April 2021.

¹⁶⁹ International Labor Affairs Bureau. List of Goods Produced by Child Labor or Forced Labor. U.S. Department of Labor, available at <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>. Accessed 06 April 2021.

¹⁷⁰ International Labor Affairs Bureau, Findings on the Worst Forms of Child Labor. U.S. Department of Labor, available at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>. Accessed 06 04 2021.

¹⁷¹ UN CRC, Preamble

cultural and economic rights which children are entitled to regardless of their abilities, religion or race.¹⁷² The CRC upholds four main pillars on children’s rights, which are:

- 1 the right to **protection** against discrimination, neglect and exploitation;
- 2 the right to **prevention** from harm;
- 3 the right to the **provision of services** to meet basic needs; and
- 4 the right to **participation**, particularly in the decision-making processes that most affect them.¹⁷³

The UN CRC highlights areas of particular concern, including children’s involvement in sexual exploitation, hazardous labor, armed conflict, and juvenile justice, and declares their right to protection and care.¹⁷⁴

Article 43 of the UN CRC established the creation of the **Committee on the Rights of the Child**. The Committee, made up of 18 human and child rights experts elected by UN State Parties, is an oversight and monitoring body that reviews the process that countries undertake to incorporate the principles of the Convention into legislation, policy, programming and other measures. Ratifying countries are held accountable to report to the Committee in the first two years after the Convention goes into force and then every five years thereafter. Countries are expected to make the reports widely accessible to the public.¹⁷⁵ In addition, NGOs, international organizations, human rights groups and entities representing children are invited to provide additional information on the child rights situation in the country.¹⁷⁶ The Committee then reviews the country’s periodic reports with the non-governmental input and provides “Concluding Observations,” which are publicly available, and include the country’s accomplishments as well as areas that require improvement. Countries are expected to address the issues by creating or adopting law, policy, programming or other approaches to fulfill their commitment to children’s rights.¹⁷⁷

¹⁷² Save the Children, What is the UNCRC?, available at <https://www.savethechildren.org.uk/what-we-do/childrens-rights/united-nations-convention-of-the-rights-of-the-child#:~:text=The%20United%20Nations%20Convention%20on,their%20race%2C%20reli-gion%20or%20abilities>. Accessed: 10 May 2021

¹⁷³ International Justice Resource Center, Children’s Rights, available at <https://ijrcenter.org/thematic-research-guides/childrens-rights/>. Accessed: 10 May 2021

¹⁷⁴ UN CRC, arts. 32, 34, 38, 40.

¹⁷⁵ UN CRC, art. 44

¹⁷⁶ Philippine NGO Coalition on the UN CRC, Guide for monitoring the UN CRC in the Philippines, p. 6, ERDA Foundation, Quezon City, 2013, available at <https://www.civilsocietyasia.org/uploads/resources/64/attachment/Guide%20for%20Monitoring%20the%20UN%20CRC%20in%20the%20Philippines.pdf>. Accessed: 10 May 2021

¹⁷⁷ Id.

The GoP became the 31st country to ratify the UN CRC In 1990.¹⁷⁸ The Philippine **Council for the Welfare of Children (CWC)** (which is attached to the Department of Social Welfare and Development) is mandated to coordinate the implementation of all laws, programs and policies for children, and is the government entity responsible for preparing the Philippine State Party report on the country's progress on the UN CRC to the Committee on the Rights of the Child. The CWC does this together with the Presidential Human Rights Committee Secretariat (PHRCS), which is the Executive Branch agency responsible for ensuring compliance with all of the country's human rights obligations, and with the Commission on Human Rights. The GoP submitted its last report to the Committee in March of 2019.¹⁷⁹ The Committee has not yet returned it's Concluding Observations.

In the early 2000s, the GOP ratified **two optional protocols to the UN CRC: the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (CRC-OPSC), and the Optional Protocol on the Rights of the Child on the Involvement of Children in Armed Conflict (CRC-OPAC)**. Although the articles of the Optional Protocols expand on some of the key principles in the CRC, they are considered separate from it and must be ratified as independent instruments. However, the same Committee on the Rights of the Child monitors country compliance to the Protocols. The process and expectations for how the government will adapt the Protocols' principles to the national context is also the same.¹⁸⁰

The driving force behind the **CRC-OPSC** was an increasing realization by the international community that it was becoming harder to protect children from sexual exploitation in the face of globalization, increased human mobility and the rapidly growing technology of the internet.¹⁸¹ The impetus behind the Protocol is to provide ratifying countries with the necessary tools to implement the relevant provisions in the CRC. In particular:

- 1 Prohibiting the sale of children, child prostitution, child pornography, and the production and dissemination of advertising for these offenses;
- 2 Developing a legal, policy and programmatic framework to prevent new offenses;

¹⁷⁸ United Nations Human Rights Treaty Bodies, Ratification Status for CRC - Convention on the Rights of the Child, available at https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CRC&Lang=en. Accessed: May 10, 2021

¹⁷⁹ Philippines, Combined 5th and 6th periodic reports submitted by the Philippines under article 44 of the Convention, due in 2017: Convention on the Rights of the Child, CRC/C/PHL/5-6, UN, UN Committee on the Rights of the Child, Geneva, February 28, 2020, available at <https://digitallibrary.un.org/record/3856390?ln=en#record-files-collapse-header>

¹⁸⁰ UNICEF, How the Convention on the Rights of the Child Works, available at <https://www.unicef.org/child-rights-convention/how-convention-works>. Accessed: June 27, 2021

¹⁸¹ UNICEF Innocenti Research Centre, Handbook on the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, p. viii, UNICEF Innocenti Research Centre, Italy, February 2009 available at <https://www.unicef.org/media/66806/file/Handbook-Optional-Protocol.pdf>. Accessed: May 10, 2021

- 3 Providing reintegration services to aid the recovery of victims; and
- 4 Raising public awareness on the issues, and strengthening international cooperation.¹⁸²

According to UNICEF,

“the main premises of the OPSC are that all children must be protected, that such exploitation is criminal in nature, and that the perpetrators must be identified and punished.”¹⁸³

The GoP ratified the OPSC in May of 2002.¹⁸⁴ Since then, it submitted one country report in 2009 to the Committee on the Rights of the Child and received the Committee’s Concluding Observations in 2013.¹⁸⁵ The recommendations included in the Committee’s Observations serve as a good baseline in assessing the state of the GoP’s enforcement mechanisms in relation to sexual abuse and exploitation.

The other **Optional Protocol to the CRC, on the Involvement of Children in Armed Conflict**,¹⁸⁶ reflects universal recognition of the harmful impact that armed conflict can have on children. The Protocol amends the CRC by making the minimum age for military conscription and involvement in armed conflict 18 years (It is 15 years in the CRC). It also prohibits children’s direct participation in hostilities, provides guidelines on voluntary recruitment, holds non-State armed groups accountable for using child soldiers, and requires governments to set up a system to address children’s post-conflict needs, including demobilization, recovery and reintegration services.¹⁸⁷ The GoP ratified the Protocol in August of 2003.¹⁸⁸ Since then, it submitted one country report in 2007 to the Committee on the Rights of the Child and received the Committee’s Concluding Observations in 2008.¹⁸⁹

¹⁸² UN General Assembly, Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, 16 March 2001, A/RES/54/263, available at: <https://www.refworld.org/docid/3ae6b38bc.html>. Accessed: May 11, 2021

¹⁸³ *Id.*

¹⁸⁴ United Nations Human Rights Treaty Bodies, *supra* 179

¹⁸⁵ UN Committee on the Rights of the Child, Concluding observations on the initial report of the Philippines, submitted under article 12 of the Optional Protocol to the Convention on the sale of children, child prostitution, and child pornography / adopted by the Committee at its 62nd session (14 January - 1 February 2013), CRC/C/OPSC/PHL/CO/1. UN Committee on the Rights of the Child 62nd session, Geneva, June 26, 2013, available at <https://digitallibrary.un.org/record/756284?ln=en>. Accessed: 27 June 2013

¹⁸⁶ UN General Assembly, Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, 25 May 2000, available at: <https://www.refworld.org/docid/47fdfb180.html>. Accessed: May 11, 2021

¹⁸⁷ Shara Abraham, *Child Soldiers and the Capacity of the Optional Protocol to Protect Children in Conflict*, pp. 15-16, available at <https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1418&context=hrbrief>. Accessed: May 11, 2021

¹⁸⁸ United Nations Human Rights Treaty Bodies, *supra* 179

¹⁸⁹ UN Committee on the Rights of the Child (CRC), Consideration of reports submitted by States parties under article 8 of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict : concluding observations : the Philippines, 15 July 2008, CRC/C/OPAC/PHL/CO/1, available at: <https://www.refworld.org/docid/4885cfadd.html>. Accessed: May 11, 2021

International Labor Organization (ILO) Conventions on Child Labor

The International Labor Organization (ILO), a tripartite UN agency, brings together governments, workers and employers from UN member States to develop labor standards, policy and programs on decent work for men, women and youth. ILO conventions are international labor standards that are legally binding treaties. ILO recommendations, however, are non-binding and are meant to provide countries with guidance on how to draft and implement labor laws and social policies in compliance with the Conventions.¹⁹⁰ Once a country ratifies an ILO Convention, it is required to report on the progress of its implementation every three years. The ILO body responsible for monitoring country progress is **The Committee of Experts on the Application of Conventions and Recommendations (CEACR)**, which is composed of 20 jurists appointed by the ILO Governing Body.¹⁹¹

The **ILO Minimum Age for Work Convention (No.138)** calls for governments to put an end to children's involvement in work that is "hazardous to children's health, safety or morals, work that interferes with compulsory education or for which they are simply too young."¹⁹² The Convention

¹⁹⁰ International Labor Organization, Conventions and Recommendations, available at <https://www.ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/lang--en/index.htm>. Accessed: May 12, 2021

¹⁹¹ International Labor Organization, Committee of Experts on the Application of Conventions and Recommendations, available at <https://www.ilo.org/global/standards/applying-and-promoting-international-labour-standards/committee-of-experts-on-the-application-of-conventions-and-recommendations/lang--en/index.htm>. Accessed: May 12, 2021

¹⁹² International Labor Organization, ILO Convention No. 138 at a Glance, ILO Brochure, May 30, 2018, available at https://www.ilo.org/ipecc/Informationresources/WCMS_IPEC_PUB_30215/lang--en/index.htm. Accessed: May 12, 2021



is accompanied by **Recommendation No.146**, which provides supplementary guidance on how to develop a national policy to combat child labor, a minimum age for employment, and a hazardous work list, as well as acceptable conditions of employment and effective enforcement as prescribed in the Convention.¹⁹³ The GoP ratified this Convention in 1998.¹⁹⁴ The CEACR adopted and published its last Observations Report on Philippines implementation of the Convention in 2020 and the Philippines is scheduled to submit its next update in 2023.¹⁹⁵

The **ILO Worst Forms of Labor Convention No.182**, which the GoP ratified in 2002, became the first universally ratified international labor standard of the ILO in 2020.¹⁹⁶ The Convention defines the term “worst forms of child labor” and also prescribes steps that countries must take to eliminate them. It prohibits the use of children under the age of 18 years from all forms of slavery or slavery-like conditions, trafficking in persons, pornography, prostitution, armed conflict, bonded labor, drug production, drug trafficking, illicit activities and engaging in hazardous work.¹⁹⁷ The Convention is accompanied by **Recommendation 190**, the Worst Forms of Child Labour Recommendation, which provides additional guidance on how to implement action programs, determine hazardous types of work, and implement the other provisions of the Convention.¹⁹⁸ The CEACR adopted and published its last Observations Report on Philippines implementation of the Convention in 2020 and the Philippines is scheduled to submit its next update in 2023.¹⁹⁹

Apart from these, the Philippines also ratified ILO Convention 189, or the **Domestic Workers Convention**, and ILO Convention 187, **Promotional Framework for Occupational Safety and Health Convention**. The GoP is the second member state to ratify **ILO Convention 189** (or the Domestic Workers Convention).²⁰⁰ Under the Convention, domestic workers are entitled to the same basic rights as those available to other workers in their country, including weekly days off, limits to hours of work, minimum age coverage, over-time compensation, social security, and clear information on the terms and conditions of employment.²⁰¹ In relation to child protection,

¹⁹³ ILO R. 146, supra note 21

¹⁹⁴ ILO NORMLEX, Ratifications of C138 - Minimum Age Convention, 1973 (No. 138), available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300_INSTRUMENT_ID:312283. Accessed: May 13, 2021

¹⁹⁵ ILO NORMLEX, Requested reports and replies to CEACR comments: Philippines, available at https://www.ilo.org/dyn/normlex/en/f?p=1000:14000:0::NO:14000:P14000_COUNTRY_ID:102970. Accessed: May 27, 2021

¹⁹⁶ United Nations, Convention on the Worst Forms of Child Labor Universal Ratification, UN News, August 4, 2020, available at <https://news.un.org/en/story/2020/08/1069492>. Accessed: May 27, 2021

¹⁹⁷ LO C. 182, supra note 22

¹⁹⁸ ILO R. 190, supra note 23

¹⁹⁹ ILO NORMLEX, supra note 196

²⁰⁰ WIEGO, Ratification by Countries of Domestic Workers' Convention (C189), available at <https://www.wiego.org/ratification-countries-domestic-workers-convention-c189#philippines>. Accessed: May 20, 2021

²⁰¹ International Labour Organization, Convention Concerning Decent Work for Domestic Workers [“ILO C. 189”], 16 June 2011, PR-No.15A, available at: <https://www.refworld.org/docid/4e0d784e2.html>. Accessed: May 20, 2021; An Act Instituting Policies for the Protection and Welfare of Domestic Workers, [Domestic Workers Act or Batas Kasambahay], Republic Act 10361, January 18, 2013

the Convention mandates state parties to impose a minimum age for domestic workers consistent with C.138 and C.182 and to implement measures to ensure that work performed by domestic workers who are under the age of 18 and above the minimum age of employment are not deprived of compulsory education or missing opportunities to participate in further education or vocational training.²⁰²

The ratification of ILO 187 came recently, on 17 June 2019. The Philippines is the 48th member State to have ratified this Convention. The Convention entered into force for the Philippines on 17 June 2020, a year after its ratification.²⁰³ ILO 187 endorses the establishment of a national policy, national system, and a national program on occupational safety and health, while fostering decisive commitments with partners for the improvement of conditions and environments in workplaces.²⁰⁴

UN Convention Against Transnational Organized Crime and Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children

The GoP ratified the **UN Convention against Transnational Organized Crime and its supplementary Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children**,²⁰⁵ in May of 2002.²⁰⁶ The Convention illustrates the recognition by Member States that transnational crime is a serious problem, that crimes of a global nature require countries to work together to address them, and that they must pay equal attention to countries of origin, transit, and destination.

The **Protocol (also known as the “Palermo Protocol”)** is designed to serve as “an international instrument for the prevention, suppression and

²⁰² ILO C. 189, supra note 202, art. 4

²⁰³ International Labour Organization, The Philippines ratifies the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), June 19, 2019, available at https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/occupational-safety-and-health/WCMS_715897/lang--en/index.htm.

²⁰⁴ International Labour Organization, Promotional Framework for Occupational Safety and Health Convention, International Labour Convention 187 [“ILO C. 187”], June 15, 2006, available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEX-PUB:12100:0::NO::P12100_ILO_CODE:C187

²⁰⁵ UN General Assembly, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, [“Palermo Protocol”] 15 November 2000, available at: <https://www.refworld.org/docid/4720706c0.html>

²⁰⁶ UN General Assembly, United Nations Convention against Transnational Organized Crime : resolution / adopted by the General Assembly, 8 January 2001, A/RES/55/25, available at: <https://www.refworld.org/docid/3b00f55b0.html>

punishment of trafficking.”²⁰⁷ Other points in the Protocol include treating victims with respect for their human rights and providing them with services that meet their needs, establishing terms for repatriation, and working closely with other countries to ensure that all objectives are met.²⁰⁸ The Palermo Protocol is the first legally binding global instrument that has a mutually agreed upon definition for the term “trafficking in persons (TIP).”²⁰⁹ It is important that each ratifying country use the same terminology to define TIP as a domestic criminal offense so that when TIP offenses occur transnationally, the investigation and prosecution of cases can be executed as efficiently as possible.²¹⁰ **The UN Office on Drugs and Crime monitors implementation of the Convention and its Protocols.**²¹¹

ASEAN Convention Against Trafficking in Persons Especially Women and Children

The GoP ratified the **ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP)**, in 2017.²¹² The convention serves as a legal framework for the Southeast Asian Nations’ commitment to prevent and combat trafficking in persons, protect and assist victims, and promote cooperation at the regional level. ACTIP also gives ASEAN countries a benchmark for combating TIP at the domestic level, including strengthening their abilities to enforce laws, prosecute offenders and provide rehabilitative services to victims. The three types of criminal offenses recognized under this convention are 1) the direct act of trafficking in persons, 2) being an accomplice to a direct trafficker, and 3) organizing others to engage in trafficking in persons.²¹³ Other recognized criminal offenses include the laundering of proceeds, corruption, and the obstruction of justice. The ASEAN Senior Officials Meeting on Transnational Crime is the monitoring body for this convention.²¹⁴

²⁰⁷ Palermo Protocol, supra note 206

²⁰⁸ United Nations Office on Drugs and Crime, UN Convention against Transnational Organized Crime and the Protocols Thereto, available at <https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html>. Accessed: May 21, 2021

²⁰⁹ Id.

²¹⁰ Id.

²¹¹ United Nations Convention against Transnational Organized Crime, available at https://en.wikipedia.org/wiki/United_Nations_Convention_against_Transnational_Organized_Crime

²¹² ASEAN, Philippines deposits instrument of ratification on anti-trafficking convention, February 6, 2017, available at <https://asean.org/%E2%80%8Bphilippines-deposits-instrument-of-ratification-on-anti-trafficking-convention/>. Accessed: May 23, 2021

²¹³ ASEAN, ASEAN Convention Against Trafficking in Persons, Especially Women and Children, [“ACTIP”], Article V, 2c., available at <http://agreement.asean.org/media/download/20160303122945.pdf>

²¹⁴ Id.

Other Influences

The **USDOS's Annual TIP Report** serves as the US Government's main diplomatic tool to work with foreign governments on the issue of TIP.²¹⁵ The report is mandated by the US Trafficking Victims Protection Act of 2000 (as

amended) (TVPA). The TVPA establishes minimum standards to eliminate TIP and requires the USDOS to report on the degree to which the US and foreign governments meet those standards.

The report uses a **ranking system** to place countries into one of three tiers (and one watch list), depending on government efforts.

Tier 1 countries fully comply with the TVPA minimum standards;

Tier 2 countries do not fully comply but are making significant efforts to do so;

Tier 2 watchlist countries, although making significant efforts to comply, still either: (1) Have large or growing numbers of severe forms of TIP cases; or (2) Fail to provide evidence of increasing efforts to combat severe forms of TIP from the previous year; and

Tier 3 countries do not fully comply and are not making efforts to do so.²¹⁶ As established by the TVPA, foreign governments that fall into the Tier 3 category may be subject to restrictions on non-humanitarian and non-trade-related US foreign assistance.²¹⁷

For the last five years, from 2016 through 2020, the **Philippines earned the Tier 1** rank as fully compliant with TVPA minimum standards.²¹⁸

The **USDOL's List of Goods Produced by Child Labor or Forced Labor** is not meant to be punitive. Rather, it is used primarily by the Department's Bureau of International Labor Affairs (ILAB) to raise global awareness on

²¹⁵ US Department of State Office to Monitor and Combat Trafficking in Persons, Trafficking in Persons Report, available at <https://www.state.gov/trafficking-in-persons-report/>.

²¹⁶ US Department of State Office to Monitor and Combat Trafficking in Persons, 2020 Trafficking in Persons Report, pp. 40-41, available at <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>

²¹⁷ National Archives, Federal Register, Request for Information for the 2021 Trafficking in Persons Report, Dec. 2, 2020, Notice by the State Department, available at <https://www.federalregister.gov/documents/2020/12/02/2020-26576/request-for-information-for-the-2021-trafficking-in-persons-report>

²¹⁸ US Department of State Office to Monitor and Combat Trafficking in Persons, supra note 214; Joyce Ann L. Rocamora, PH retains highest anti-TIP grade in latest US report, Philippine News Agency, June 21, 2019, available at <https://www.pna.gov.ph/articles/1072946>

the issues and promote efforts to address them. The list, which is also mandated by the TVPA (as amended), tasks ILAB to develop and maintain “a list of goods and their source countries which it has reason to believe are produced by child labor or forced labor in violation of international standards.”²¹⁹ A 2018 amendment requires that the list also include, where practicable, “goods that are produced with inputs that are produced with forced labor or child labor.”²²⁰ The list is made up of 155 goods from 77 countries. Thirteen goods produced in the Philippines are on the list for child labor. They are: rice, corn, hogs, rubber, fashion accessories, pornography, bananas, sugarcane, fish, pyrotechnics, coconuts, tobacco and gold.²²¹

USDOL’s “Findings on the Worst Forms of Child Labor,” an annual report issued by ILAB to the US Congress, is mandated in the US Trade and Development Act of 2000 (TDA). The TDA stipulates that in order for countries to be eligible for certain US trade preference programs, they must fulfill domestic commitments to eliminate the worst forms of child labor through legislation, enforcement mechanisms, policies and social programs. USDOL assigns a measurement of advancement to each country to indicate whether their progress over the past year has been significant, moderate, minimal, or no advancement.²²² In 2019, the last year for which a report was issued, the Philippines received “moderate advancement” for its efforts to eliminate the worst forms of child labor.²²³

²¹⁹ US Department of Labor Bureau of International Labor Affairs, List of Goods Produced by Child Labor or Forced Labor, available at <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>

²²⁰ US Department of Labor, Bureau of International Labor Affairs, List of Goods Produced by Child Labor or Forced Labor, p. 1, available at https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2019/2020_TVPA_List_Online_Final.pdf,

²²¹ US Department of Labor Bureau of International Labor Affairs, supra note 218

²²² US Department of Labor, Bureau of International Labor Affairs, Findings on the Worst Forms of Child Labor, available at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>

²²³ US Department of Labor Bureau of International Labor Affairs, Child Labor and Forced Labor Reports-Philippines, available at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/philippines>



Chapter IV

Child Labor, Hazardous Work, and Acceptable Child Work

Child Labor Situation in the Philippines

In the course of writing this analysis, a local news story relevant to this study trended on social media. The news featured the story of a 10-year old boy in Sultan Kudarat, a province in Mindanao, who was found tirelessly plowing land at a two-hectare farm with a horse to help his family. His name is Reymark.²²⁴

Reymark was only four when his mom left him and remarried, so his father raised him. A few years ago, however, his father got a warrant of arrest for alleged illegal possession of firearms. Since then, Reymark had not seen his

²²⁴ Kaela Malig, 10-year-old boy in Sultan Kudarat plows land with horse to help his family, GMA News Online, May 23, 2021, available at <https://www.gmanetwork.com/news/lifestyle/familyandrelationships/788511/10-year-old-boy-in-sultan-kudarat-plows-land-with-horse-to-help-his-family/story/>

father nor heard news from him, forcing him to take on the family livelihood to provide for his siblings and grandparents.²²⁵

As of June 4, 2021, the video of the segment has gained over 17.8m views and 1.9m reactions. A second episode was featured a week later showing the outpouring of financial and material donations for Reymark and his family.²²⁶ The news feature brought into the fore discussions on child labor, exploitation, family planning, and the romanticizing of poverty. After all, Reymark's story is just one in millions.²²⁷

Child labor remains prevalent in the Philippines. A 2011 survey on working children estimated that 3.3 million children aged 5 to 17 were engaged in child labor.²²⁸ Those identified working in hazardous environments numbered 2.993 million, comprising more than 90% of the number of children engaged in child labor.²²⁹ Of the total number of children in hazardous labor, two-thirds were boys while one-third were girls.²³⁰ Those between the ages of five to nine comprised 6.2% and those between 10 and 14 years comprised 44.3% of the total numbers. Geographically, the following regions recorded the largest share of the country's child labor population: Central Luzon at **10.5%**; Bicol Region at **10.4%**; Northern Mindanao at **8.5%**; CALABARZON at **8.3%**; and Western Visayas at **8.2%**.²³¹ The same survey identified the sectors where child labor is prevalent: 62% of children in hazardous labor were working in the agriculture sector, 30.1% in the services sector, and the rest (7.6%) worked in the industry sector.²³²

It must be emphasized that, in the context of the Philippines, there are strong traditional and cultural norms which highlight the importance of children helping with family duties and obligations. These cultural norms place pressure on children, especially where a family is in poverty, to become involved in child labor.²³³

Children are engaged in many kinds of labor. Some work in factories, live in private homes as domestic workers, or sell items on the streets. Others haul

²²⁵ Id.

²²⁶ Id.

²²⁷ Catalina Ricci S. Madarang, *Romanticizing Child Labor: Issues raised amid viral story of 10-year-old farmer in Sultan Kudarat*, *Interaksyon*, May 28, 2021, available at <https://interaksyon.philstar.com/trends-spotlights/2021/05/28/192761/romanticizing-child-labor-issues-raised-amid-viral-story-of-10-year-old-farmer-in-sultan-kudarat/>

²²⁸ Philippine Statistics Authority, *Preliminary Results of the 2011 Survey on Children*, July 18, 2012, available at <https://psa.gov.ph/content/number-working-children-5-17-years-old-estimated-55-million-preliminary-results-2011-survey>. (Check tables for disaggregated data). Accessed: June 1, 2021

²²⁹ Id.

²³⁰ Id.

²³¹ Id.

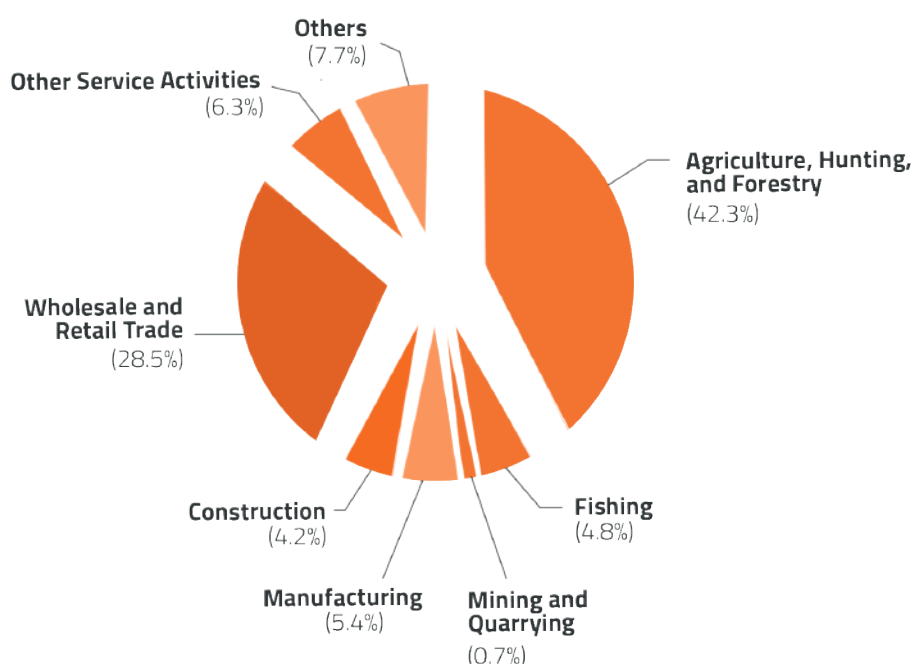
²³² Id.

²³³ University of the Philippines, Manila, The University of Edinburgh, Child Protection Network Foundation, and UNICEF Philippines, *A Systematic Review of the Drivers of Violence Affecting Children in the Philippines*, Manila: UNICEF Philippines, 2016, available at <https://www.unicef.org/philippines/media/501/file/National%20Baseline%20Study%20on%20Violence%20Against%20Children%20in%20the%20Philippines:%20Systematic%20literature%20review%20of%20drivers%20of%20violence%20affecting%20children%20.pdf>. Accessed: June 1, 2021

goods in markets, work on hog farms, or make pyrotechnics. Still others work in gold mines, make fashion accessories, or help their parents in home-based enterprises. Some are engaged in the worst forms of child labor, including trafficking for sexual abuse and exploitation (including online), bonded or forced labor in agriculture or domestic service, armed conflict, drug trafficking and many kinds of hazardous work. However, the largest percentage of working children in the Philippines are found in agriculture, either on large farms and plantations where bananas, coconuts, corn, rice, tobacco, sugarcane and rubber are grown, or on small-scale family farms.²³⁴

The following table from the PSA’s Labor Force Survey illustrates the kinds of work children are engaged in as a percentage of the estimated total number of working children in the country in 2017.²³⁵ The greatest percentage of working children is found in the agricultural sector.²³⁶

Percent Distribution of Working Children by Major Industry Group, Philippines: 2017



Source: Philippine Statistics Authority, Labor Force Survey

Farming is integral to livelihoods and sustenance in rural areas of the country and children often combine school with farm work. There is a higher

²³⁴ US Department of Labor, *supra* note 109

²³⁵ Under this child labor module, “working children” includes both acceptable child work and child labor, not including the unacceptable worst forms

²³⁶ Philippine Statistics Authority, *Decent Work in the Philippines: Statistics on Working Children*, Labstat Updates, Vol. 23 No. 5, p.5. Quezon City: 2019. available at https://psa.gov.ph/sites/default/files/LABSTAT%20Updates%20Vol.%2023%20No.%205%20on%20Decent%20Work%20in%20the%20Philippines%20Statistics%20on%20Working%20Children_0.pdf. Accessed: June 1, 2021

prevalence of child labor in the rural areas, not due to poverty alone, but also because of the traditional social and cultural acceptance of children working in agriculture.

Additionally, in rural areas there is a lack of schools and many work opportunities for a child, including in sugar plantations in the Western Visayas region, rice fields in Central Visayas, and mining companies in the Bicol Region. These sectors often employ children as unskilled labor and their parents depend on the income that they generate.²³⁷

Other families survive on small enterprises and family farms in the informal sector due to a shortage of decent work for adults and youth of legal working age. Children often help parents with tasks on the farm or assist them with piecework under a quota system on plantations or large farms.²³⁸ The work that they do ranges from light to extremely hazardous. On family farms, work is completely unregulated by any authority. Many parents expect children to do the same work as adults without recognizing that either the nature of the work or the circumstances under which it is performed is dangerous.

According to the ILO, when working for family businesses, children's work-related illnesses and engagement in hazardous work are often due to the family's or the child's lack of knowledge about the hazards, like the toxicity of chemicals, working long hours or working in isolation.²³⁹ Additionally, families and their children often have little access to health and safety assurances in the workplace and are without opportunities to organize or bargain collectively for better wages and conditions.²⁴⁰

Currently, data on children working in the informal sector is incomplete. However, it is not hard for children to find work. They are perceived by employers as cheap labor, easy to manage and obedient, and ignorant to their rights as children and as workers. They are often paid little for tasks that are meant for adult capabilities and they are plentiful.

As a result, adults in the same workplace, or in the larger community, have less bargaining power to demand fair wages, and wages decrease overall.

²³⁷ Russell Fernandez and Ferdinand Abocejo, Ferdinand, Child Labor, Poverty and School Attendance: Evidences from the Philippines by Region, pp. 114-127, CNU Journal of Higher Education: 2014, Volume 8, available at https://www.researchgate.net/publication/319505916_Child_Labor_Poverty_and_School_Attendance_Evidences_from_the_Philippines_by_Region. Accessed: June 2, 2021

²³⁸ Franchesca Rose S. Castillo and Frances Camille G. Dumalaog, Non-Hazardous Activities for Children: The Case of Banana and Sugarcane Supply Chains, p. 91, Institute for Labor Studies- Philippine Journal of Labor Studies, Volume II, October 2020.

²³⁹ Susan Gunn and Halshka Graczyk, Towards the Urgent Elimination of Hazardous Child Labor, pp. 25-26, International Labor Organization Fundamental Principles and Rights at Work Branch. Geneva: 2018, available at https://www.ilo.org/ipecc/Informationresources/WCMS_IPEC_PUB_30315/lang--en/index.htm. Accessed April 28, 2021.

²⁴⁰ International Labor Organization, Ending child labor by 2025: A Review of Policies and Programs, p. 9, International Labor Organization. Geneva: 2018, available at https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipecc/documents/publication/wcms_653987.pdf. Accessed May 01, 2021

This creates a need for child labor to augment the family income. This is an example of how the intergenerational cycle of poverty persists.²⁴¹

A 2016 Survey conducted by the PSA indicates that nearly ten percent of the estimated 39 million children and youth between the ages of six and 24 years were out of school. Of the total, 87.3 percent were between the ages of 16 - 24 years, 7.7 percent were between the ages of 12-15, and five percent were six to 11 years. The proportion of out-of-school females was higher than males. The most common reasons for not attending school were: marriage or family matters (42.3%); high cost of education/financial concerns (20.2%); and lack of interest (19.7%). Interestingly, for nearly 60% of females, marriage/family matters was the main reason for not attending school, while for males, it was lack of personal interest at 36.5 percent.²⁴²

Education has shown itself to be a key tool in the prevention of child labor in the Philippines. The more educated or skilled a child becomes, the better chance he/she will have to secure a decent job in the formal sector, which might be the family's only hope for breaking out of the intergenerational cycle of poverty. Yet for poor Filipinos, some of them displaced by violence or natural disasters and living in temporary shelters, sending a child to school may represent a real sacrifice. Although basic education is meant to be free, there are many hidden expenses that are prohibitive to families who are struggling to feed their children. Uniforms, books, meals and transport all have a cost. And most families have multiple children. It is not unusual for the oldest child to drop out of school and work to help the younger siblings attend school.²⁴³ In other circumstances, schools are simply not accessible or perceived as irrelevant. The ILO warns that children who are engaged too early in child labor

“are more likely to end up in informal, unskilled or non-standard forms of employment with related disadvantages for life.”²⁴⁴

To combat child labor, the Philippines has in place an adequate legal, policy, and enforcement framework. This chapter will seek to discuss the **child labor legal framework of the Philippines**. Specifically, it **will review acceptable conditions of work, child labor, in general**, and one of the worst forms of child labor - **hazardous work**. Hazardous work as a WFCL is discussed in this chapter mainly because of its congruity with the GoP's legal framework and enforcement mechanism on child labor.

²⁴¹ Fernandez and Abocejo, supra note 238

²⁴² Philippines Statistics Authority, One in Every Ten Pilipinos Aged 6 to 24 Years is an Out of School Child and Youth. PSA Reference Number: 2017-068, June 13, 2017, available at <https://psa.gov.ph/content/one-every-ten-filipinos-aged-6-24-years-out-school-child-and-youth>. Accessed: April 23, 2021.

²⁴³ Astrid Zweynert, Philippines bets on appeal of education to fight child labor. Reuters, November 19, 2015, available at <https://www.reuters.com/article/philippines-youth-labour-idUSL8N13E30G20151119>. Accessed: June 11, 2021

²⁴⁴ International Labor Organization, supra note 241

Legal Framework on Child Labor and Hazardous Work

Laws and regulations related to child labor are scattered across various pieces of legislation in the Philippines. Below is a **survey of key laws and issuances** which contain provisions relating to child labor and hazardous work. The discussion is separated into three parts:

- a** **General Laws and Guidelines** which serve as the 'umbrella legislation' that encapsulates the child labor and hazardous work framework of the country;
- b** **Complementary Laws and Guidelines** which, while not solely focused on child labor and hazardous work, complement the general laws and guidelines;
- c** **Sector-Specific Laws and Guidelines**, which operationalize the application of general laws into the specific contexts of different working sectors.

General Laws and Guidelines

1 Presidential Decree 442, Labor Code of the Philippines

The Labor Code of the Philippines is a legal code that defines and regulates all employment practices and labor relations in the Philippines.²⁴⁵ The Code seeks to protect employees and employers by ensuring that neither is subject to unfair treatment or exploitation.²⁴⁶ It was enacted on Labor Day of 1974.²⁴⁷ **The Labor Code sets the general rules in relation to child labor and acceptable forms of child work.**²⁴⁸

²⁴⁵ Department of Labor - Bureau of Labor Relations, Labor Code of the Philippines, available at <https://blr.dole.gov.ph/2014/12/11/labor-code-of-the-philippines/>. Accessed: June 2, 2021

²⁴⁶ *Id.*

²⁴⁷ *Id.*

²⁴⁸ A Decree Instituting a Labor Code Thereby Revising and Consolidating Labor and Social Laws to Afford Protection to Labor, Promote Employment and Human Resources Development and Ensure Industrial Peace Based on Social Justice [LABOR CODE], Presidential Decree No. 442, art. 139 (1974) (as amended)

Child Labor and Acceptable Forms of Child Work

The Labor Code of the Philippines defines a child as any person under the age of 18 years and designates age 15 as the minimum age of employment.²⁴⁹ The Labor Code also sets the minimum age for hazardous work at 18 years.²⁵⁰ These provisions are consistent with the guidance in ILO C. 138, which prescribes the minimum age requirement for employment and provides that any work, other than “light work”²⁵¹ done below the minimum age of employment is considered child labor.²⁵²

This means that **children aged 15 to under 18 years may be legally employed.** According to the Labor Code, “any person of either sex, between 15 and 18 years of age, may be employed in any non-hazardous work.”²⁵³ In fact, acceptable child work can be beneficial to a young person by providing him/her with technical or professional skills, confidence in his/her abilities, and a way to help cover the costs of his/her education or contribute to the household income.

Any child below the age of 15 years, or between the ages of 15 to under 18 years, that is engaged in physically, mentally, socially or morally dangerous and/or harmful work, or work that disrupts his/her schooling, is a child laborer.

The government has designated **two exceptions to the minimum age for employment.**

- 1** The 1st exception: 1) When a child works directly for his parents or legal guardian and the only other employees are members of the family. This arrangement requires the parent or legal guardian to ensure the working child regularly attends school.²⁵⁴
- 2** The 2nd exception: 2) When a child’s employment or participation in public entertainment or information (cinema, theater, radio, television or other forms of media) is essential. Before finalizing any contract, the parents or legal guardian must secure approval from both the DOLE and the child.

²⁴⁹ LABOR CODE, art. 139

²⁵⁰ Id.

²⁵¹ Light Work is defined as “work that does not interfere with children’s schooling, or their ability to benefit from it, and that is not harmful. If they choose to allow light work, States must determine what activities are considered light work, and the hours and the circumstances under which they may be carried out.” (See: International Labor Organization, supra note 140)

²⁵² ILO C. 138, supra note 18

²⁵³ LABOR CODE, art. 139

²⁵⁴ Republic Act 7610 as amended by Republic Act 9231, sec. 12 (1)

The employer must develop an ongoing training program for the child that is approved by the competent authorities. The employer must also protect the child from any form of exploitation or discrimination, including of wages and working hours.²⁵⁵

In both cases, the work must not put the child’s life, health, safety and/or morals in danger nor impede their normal development.²⁵⁶ Also, in each case, the employer is required to obtain a work permit for the child from the DOLE prior to the start of the contract.²⁵⁷

The government has also provided limits on the hours a child may work: Children below 15 years of age may only work for no more than 4 hours / day and 5 days / week.²⁵⁸ They are also not allowed to perform work between 8PM to 6AM the following day.²⁵⁹ Children aged 15 to below 18 may work for no more than 8 hours / day and 5 days / week.²⁶⁰ They are not allowed to work between 10PM to 6AM the following day.²⁶¹

Summary of Conditions for Employment of Children

| | Children below 15 years of age | Children aged 15 to below 18 |
|-------------------------------------|---|--|
| Rule | Children below 15 years of age shall not be employed except: 1) When the child works directly under the sole responsibility of his or her parents or legal guardian, or 2) When the child’s employment or participation in public entertainment or information is essential | Children 15 to below 18 years of age may be engaged in any work or economic activity that is not child labor |
| Total number of hours worked | Not more than four (4) hours a day and in no case beyond twenty (20) hours a week | Not more than eight (8) hours a day and in no case beyond forty (40) hours a week |
| Time of work | No work performed between 8:00 p.m. and 6:00 a.m. of the following day | No work performed between 10:00 p.m. and 6:00 a.m. of the following day |

²⁵⁵ Republic Act 7610 as amended by Republic Act 9231, sec. 12 (2)

²⁵⁶ Republic Act 7610 as amended by Republic Act 9231, sec. 12 (2) (a), (b), (c)

²⁵⁷ Republic Act 7610 as amended by Republic Act 9231, sec. 12 (2)

²⁵⁸ Republic Act 7610 as amended by Republic Act 9231, sec. 12-A (1)

²⁵⁹ Republic Act 7610 as amended by Republic Act 9231, sec. 12-A (3)

²⁶⁰ Republic Act 7610 as amended by Republic Act 9231, sec. 12-A (2)

²⁶¹ Republic Act 7610 as amended by Republic Act 9231, sec. 12-A (3)

| | Children below 15 years of age | Children aged 15 to below 18 |
|---|---|--|
| Work permit | The employer must first secure a work permit for the child and comply with the conditions thereof | Work permit is not required |
| Access to education and training | Employer should provide the child with access to at least elementary and secondary education | Employer should provide the child with access to at least elementary and secondary education |

Table Source: Manual on the Conduct of Inspection, Rescue, and Enforcement Proceedings in Child Labor Cases²⁶²

2 Republic Act 9231, 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 Act No. 7610, As Amended, Otherwise Known as the Special Protection Of Children Against Child Abuse, Exploitation And Discrimination Act.

Republic Act 7610 as amended by Republic Act 9231 declares it the policy of the State to protect children from all forms of cruelty, neglect, abuse, discrimination and exploitation, including the worst forms of child labor. It also **prescribes sanctions** for offenses and commits to **developing a program** to protect children from trafficking, attempted trafficking, prostitution and other sexual abuse, obscene publications and indecent shows, other forms of abuse, and situations that negatively affect their development and survival. This includes forced begging, drug pushing or trafficking, illegal activities, and employment in certain advertisements.

While Republic Act 7610 is the “mother law” which covers a wide range of issues affecting children in need of special protection, the amendments under Republic Act 9231 and its Implementing Rules and Regulations (IRR)²⁶³ encapsulate and operationalize pertinent provisions that are focused

²⁶² Department of Labor and Employment, Manual on the Conduct of Inspection, Rescue, and Enforcement Proceedings in Child Labor Cases, Department Circular No. 2, Series of 2010 at p. 4, July 2, 2010

²⁶³ Department of Labor and Employment, Rules and Regulations Implementing Republic Act No. 9231, Amending R.A. 7610, D.O. 65-04, July 26, 2004

on child labor and hazardous work. Read together, these two Acts, along with the Labor Code and the IRR, provide a comprehensive legal framework to address child labor. Key principles include:

- a** A clear definition of **children in need of special protection**, which includes children “working under conditions hazardous to life, safety, and...which unduly interfere with their normal development.”²⁶⁴
- b** Guidelines on the **minimum age of employment including the two exceptions** (see above: In Focus: Child Labor and Acceptable Conditions of Work), and a detailed description of how to manage the working child’s earnings. A working child’s income belongs to her/him primarily and shall be administered by the parents/guardian of the child, to be used for her/his education and support. Thirty percent of the earnings will be saved in a **trust fund** until the child turns eighteen.²⁶⁵ Not more than twenty percent may be used for the collective needs of the family.²⁶⁶
- c** **Conditions of work.** A child below the age of 15 may not work more than four hours/day, twenty hours/week, or between the hours of 8 pm and 6 am the following morning. A child aged fifteen to below eighteen years may not work more than eight hours/day, forty hours/week, or between the hours of 10 pm and 6 am the following morning.²⁶⁷
- d** **Obligations of employers** include ensuring that no child is deprived of a formal or non-formal education. This requires employers to, at minimum, provide working children with access to primary and/or secondary school. It also mandates the Department of Education to formulate course designs under its non-formal education program for working children.²⁶⁸
- e** Prohibitions on the employment of children in **certain advertisements**²⁶⁹ that promote alcoholic beverages, intoxicating drinks, tobacco and its byproducts, gambling or any form of violence or pornography.

²⁶⁴ Republic Act 7610, sec. 3 (c) (2)

²⁶⁵ Republic Act 7610 as amended by Republic Act 9231, sec. 12-C

²⁶⁶ Republic Act 7610 as amended by Republic Act 9231, sec. 12-A

²⁶⁷ Republic Act 7610 as amended by Republic Act 9231, sec. 12-C

²⁶⁸ Republic Act 7610 as amended by Republic Act 9231, sec. 13

²⁶⁹ Republic Act 7610 as amended by Republic Act 9231, sec. 14

f **Prohibitions on children’s involvement in the worst forms of child labor**, which essentially lifts the wording of the WFCL definition from ILO 182. However it also merges most of the details from ILO Recommendation 190’s list of considerations for determining hazardous work for children. R.A. 9231’s full definition of the WFCL is:

- a** All forms of slavery, as defined under the “Anti-trafficking in Persons Act of 2003”, or practices similar to slavery such as sale and trafficking of children, debt bondage and serfdom and forced or compulsory labor, including recruitment of children for use in armed conflict; or
- b** The use, procuring, offering or exposing of a child for prostitution, for the production of pornography or for pornographic performances; or
- c** The use, procuring or offering of a child for illegal or illicit activities, including the production and trafficking of dangerous drugs and volatile substances prohibited under existing laws; or
- d** Work which, by its nature or the circumstances in which it is carried out, is hazardous or likely to be harmful to the health, safety or morals of children, such that it:
 - 1** Debases, degrades or demeans the intrinsic worth and dignity of a child as a human being; or
 - 2** Exposes the child to physical, emotional or sexual abuse, or is found to be highly stressful psychologically or may prejudice morals; or
 - 3** Is performed underground, underwater or at dangerous heights; or
 - 4** Involves the use of dangerous machinery, equipment and tools such as power driven or explosive power-actuated tools; or
 - 5** Exposes the child to physical danger such as, but not limited to the dangerous feats of balancing, physical strength or contortion, or which requires the manual transport of heavy loads; or
 - 6** Is performed in an unhealthy environment exposing the child to hazardous working

conditions, elements, substances, co-agents or processes involving ionizing, radiation, fire, flammable substances, noxious components and the like, or to extreme temperatures, noise levels, or vibrations; or

- 7 Is performed under particularly difficult conditions; or
- 8 Exposes the child to biological agents such as bacteria, fungi, viruses, protozoans, nematodes and other parasites; or
- 9 Involves the manufacture or handling of explosives and other pyrotechnic products.²⁷⁰

The Act prescribes **penal provisions** for employers, individuals, corporations, and parents/guardians who commit offenses included in the Act. Establishments where any of these offenses take place shall be immediately closed and the operating license cancelled.²⁷¹ It also establishes a **Trust Fund for fines and penalties**, to be administered by the DOLE and used for prevention and rehabilitation programs for victims of this Act.²⁷²

²⁷⁰ Republic Act 7610 as amended by Republic Act 9231, sec. 12-D

²⁷¹ Republic Act 7610 as amended by Republic Act 9231, sec. 16 (g)

²⁷² Republic Act 7610 as amended by Republic Act 9231, sec. 16-A



Hazardous Work and Occupational Safety and Health

While child labor takes many different forms, ILO Convention No. 182 defines the worst forms of child labor to include:

- 1** Cluster A: slavery or practices similar to slavery such as the sale and trafficking of children, debt bondage, serfdom, and forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict;
- 2** Cluster B: the use, procurement, or offering of a child for commercial sexual exploitation;
- 3** Cluster C: use of children for illicit activities, such as drug trafficking; and
- 4** Cluster D: work which by its nature or the circumstances in which it is carried out puts their health, safety, or morals at risk (hazardous work).

This section will focus on **hazardous work** and **occupational safety and health interventions**. These two are closely linked, as hazardous work essentially results from the lack of occupational safety and health standards or the absence of their enforcement.

Hazardous Work is defined by the ILO as

“work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.”²⁷³

It includes work in unhealthy or dangerous conditions that could result in a child becoming sick, getting injured or getting killed due to poor occupational and safety standards or unsafe

²⁷³ International Labor Organization, “What is Child Labor? Hazardous Child Labor” International Labor Organization International Program on the Elimination on Child Labor, available at <https://www.ilo.org/ipec/facts/lang--en/index.htm>. Accessed 06 April 2021.

working arrangements.²⁷⁴ In categorizing hazardous work as one of the WFCL, ILO points to the fact that children's minds and bodies, which are still developing, are extremely vulnerable to many unhealthy and unsafe environments and tasks, including extreme temperatures, physical stressors, and toxic chemicals. The effects of exposure to these elements often don't appear until adulthood.²⁷⁵

Globally, there are many children of legal employment age who work under hazardous conditions. Some are engaged in work which is inherently dangerous, like mining underground or platform fishing in the open ocean. There is no way to make those occupations safe. Both ILO Conventions (138 and 182) prioritize the removal of all children from such work. The ILO advises that **children below the minimum age of employment** who are engaged in hazardous work must be rescued immediately. However, if **a child of legal working age** is found in hazardous work, duty-bearers have the option of

- a** removing or mitigating the risks and improving the conditions of work through **occupational safety and health interventions** or
- b** removing the child from the risk to a different task or environment.²⁷⁶

The ILO, in its Convention No. 182, prescribes that national laws, regulations or the competent authority should determine the types of work to be considered "hazardous." Development of the "Hazardous List" should incorporate consultations with worker and employer organizations and guidance from relevant international standards. The List should also be reexamined periodically and revised as necessary.²⁷⁷

In the Philippines, **the GoP has designated age 18 as the minimum age for hazardous work.**²⁷⁸ The country's official

²⁷⁴ International Labor Organization, Hazardous Child Labor: What is Hazardous Child Labor? International Labor Organization International Program on the Elimination on Child Labor, available at <https://www.ilo.org/ipecc/facts/WorstFormsofChildLabour/Hazardouschildlabour/lang--en/index.htm>. Accessed 15 May 2021

²⁷⁵ International Labor Organization, Occupational Safety and Health (OSH) and Hazardous Work of Children in Agriculture. available at https://www.ilo.org/ipecc/areas/Agriculture/WCMS_172349/lang--en/index.htm. Accessed May 3, 2021.

²⁷⁶ International Labor Organization, An Introduction to Legally Prohibiting Hazardous Work for Children: Basic Principles Regarding Child Labor, available at <http://www.ilo.org/ipeccinfo/product/download.do?type=document&id=30296>. Accessed April 23, 2021.

²⁷⁷ ILO C. No. 182, art. 4.

²⁷⁸ LABOR CODE, art. 139 (c)

Hazardous List, developed in consultation with worker and employer organizations and other stakeholders, identifies industries and occupations under **Philippine Standard Industrial and Occupational Classifications** that are considered hazardous or likely to be harmful to the health, safety or morals of children.²⁷⁹ This list is meant to be used by DOLE labor laws compliance officers (LLCO's) as a guide for monitoring and assessing an establishment's compliance with child labor laws as required in DOLE's Rules on Labor Laws Compliance System.²⁸⁰ The GoP updated its hazardous list in 2016 by Departmental Order (DO) with an additional amendment in 2017.²⁸¹

The ILO explains that

“an appropriate legal list of prohibited hazardous work is indispensable for drawing a line between hazardous child labor to be stopped and youth employment to be promoted.”²⁸²

However, upon review of the current “Anti-Child Labor Compliance Indicators,”²⁸³ which is basically a one-page check list grid (see below) that the LLCOs use to report incidents of child labor, neither the List nor any of its details is included. In fact, other than making reference to the DO, there is no guidance for the LLCO on the kinds of work that, by their nature or the circumstances under which they are performed, are deemed hazardous by the DOLE DO. Furthermore, it is unclear to what extent the list has been disseminated at the provincial, regional and local levels and its implementation monitored by social partners, as called for in the D.O. And

²⁷⁹ Philippine Statistics Authority, Philippine Standard Industrial Classification, available at <https://psa.gov.ph/classification/psic/>. Accessed: July 5, 2021

²⁸⁰ Department of Labor and Employment, Rules on Labor Laws Compliance System, DO 131-13, available at https://bwc.dole.gov.ph/images/LLCS/DO_131_13_RulesOnLaborLawsComplianceSystem.pdf, July 19, 2013. Accessed: July 5, 2021.

²⁸¹ Department of Labor and Employment - Bureau of Workers of Special Concern, Guidelines in Assessing and Determining Hazardous Work in the Employment of Persons Below 18 Years of Age, DO 149-2016, sec. 2, 4, available at <https://bwsc.dole.gov.ph/media/files/cl/DO-149-2016.pdf>, February 15, 2016; Department of Labor and Employment- Bureau of Workers of Special Concern, Amending Department Order 149, Series of 2016, on ‘Guidelines in Assessing and Determining Hazardous Work in the Employment of Persons Below 18 Years of Age, DO 149A-2017, January 16, 2017

²⁸² ILO, supra note 277

²⁸³ Department of Labor and Employment, Occupational Safety and Health Standards, available at https://www.dole.gov.ph/php_assets/uploads/2019/04/OSH-Standards-2017-2.pdf; Department of Labor and Employment, Labor Inspection Checklist, available at https://bwc.dole.gov.ph/images/LLCS/LI_Checklist_2019.pdf

even if it has been, the List would have to be translated into multiple languages and other means to accommodate the diversity of mother tongues and education levels throughout the country.

| Part II-C ANTI-CHILD LABOR LAW COMPLIANCE INDICATORS (REPUBLIC ACT 9231) | | | | | | |
|---|------------|----|---------------------|------------------|------------------------|--|
| COMPLIANCE INDICATORS | COMPLIANT? | | REQUIRED CORRECTION | | | |
| | YES | NO | Remarks | Workers Involved | Schedule of Correction | |
| Employment of children below 15 years of age | | | | | | |
| With work permit from the DOLE | | | | | | |
| Work is not more than 4 hours a day / 20 hours a week | | | | | | |
| Work is not between 8:00 pm to 6:00 am of the following day | | | | | | |
| Employment of children 15-17 years of age | | | | | | |
| Work is not more than 8 hours a day / 40 hours a week | | | | | | |
| Work is not between 10:00 p.m. to 6:00 a.m. of the following day | | | | | | |
| Children below 18 years of age are NOT engaged in any of the following: | | | | | | |
| Prostitution | | | | | | |
| Obscene or lewd shows | | | | | | |
| Production of pornography or for pornographic performances | | | | | | |
| Slavery or any similar practices, such as sale or trafficking of children, debt bondage, serfdom, forced labor, recruitment of children for armed conflict | | | | | | |
| Illegal or illicit activities such as production/trafficking of dangerous drugs or volatile substances | | | | | | |
| Work which, by its nature or the circumstances in which it is carried out, is hazardous or likely to be harmful to the health, safety or morals of children (DO 149-A series of 2017) | | | | | | |
| As a model in any advertisement directly or indirectly promoting alcoholic beverages, intoxicating drinks, tobacco and its by-products, gambling or any form of violence or pornography | | | | | | |
| Violation, if any, did NOT result to: | | | | | | |
| Death of child | | | | | | |
| Insanity of child | | | | | | |
| Serious physical injuries of child | | | | | | |

While the *imposition of a higher minimum age* for hazardous employment and the crafting of an *updated labor inspection list* are **preventive measures**, the reality is that there are still large numbers children in the Philippines who are engaged in hazardous work. In the PSA’s latest survey on children, the number of children in hazardous child labor was estimated at 2 million.²⁸⁴ At the establishment level, some ways that DOLE labor compliance officers can mitigate hazards in the workplace are through education, awareness raising, direct intervention, and training using DOLE’s Occupational Safety and Health (OSH) Standards of 1990.

²⁸⁴ Philippine Statistics Authority, supra note 13

The 1990 Standards are meant to

“protect every working man against the dangers of injury, sickness, or death through safe and healthful working conditions.”²⁸⁵

In early 2019, an ILO study found that in the Philippines, there were adequate laws to address OSH in the workplace, however, they were not being properly enforced due to a lack of qualified labor inspectors.²⁸⁶ The study was conducted as part of the SafeYouth@Work-Philippines initiative. The idea for the study was conceived after a tragic fire in a slipper factory in 2015 killed 74 people in Valenzuela City, many of them young workers (aged 15-24 years).²⁸⁷ The fire became a symbol of the country’s low rate of compliance with OSH rules in the manufacturing sector. The study revealed that many of the employers interviewed for the study saw OSH training as an expensive and time consuming requirement rather than a worthwhile investment.²⁸⁸ Likewise, the study reported a lack of understanding and appreciation of the importance of health and safety among young workers.²⁸⁹

A majority of youth interviewed said that they worked in unstable conditions, without social security coverage, a written contract, or the support and backing of a labor union.²⁹⁰ This lack of workplace protection makes young Filipino workers particularly susceptible to unsafe and unhealthy working conditions. The precariousness of the situation is compounded further by the fact that young people, new to the workplace, are more vulnerable to harassment, violence and intimidation.²⁹¹

There is very little monitoring or enforcement of OSH in the informal sector where many young people work and

²⁸⁵ Department of Labor and Employment, *supra* note 284

²⁸⁶ International Labor Organization, Building a Generation of Safe and Healthy Workers - SafeYouth@Work Project, available at https://www.ilo.org/manila/projects/WCMS_441050/lang--en/index.htm. Accessed: July 5, 2021

²⁸⁷ Katerina Francisco, Mourning in Valenzuela after horrific factory fire, Rappler, May 15, 2015, available at <https://www.rappler.com/nation/valenzuela-city-fire-families-grief-mourning>. Accessed: July 5, 2021

²⁸⁸ Estrella Torres, Young workers at risk of injuries and deaths, says ILO study, Business Mirror, March 31, 2019, available at <https://businessmirror.com.ph/2019/03/31/young-workers-at-risk-of-injuries-and-deaths-says-ilo-study/>. Accessed: July 5, 2021

²⁸⁹ *Id.*

²⁹⁰ ILO *supra* note 287

²⁹¹ *Id.*

where more than half of the total Philippine workforce can be found.²⁹² These vulnerable workers are often left out of OSH education, information and program implementation because they cannot pay for training and are often unaware of how they can protect themselves. It is not unusual to believe that work-related diseases and accidents are simply the nature of their work and cannot be prevented.²⁹³ Even worse is when they know that their rights are being violated but do not report it for fear of losing their job. And because they lack job experience and are still developing both mentally and physically, they can be less skilled than adults at safely managing hazardous circumstances or tasks in the workplace. According to the ILO, young workers have up to a 40 percent higher chance of nonfatal injuries than older workers given their lack of awareness of health and safety standards.²⁹⁴ Indeed, employing children in hazardous jobs greatly affects their quality of life and may even cause serious disabilities or death.

The results of the study illustrated the need for a **social and behavior change campaign nationwide to create a culture of safety and health protection in the workplace.** This is the case, **particularly in hazardous sectors,** where large numbers of young workers are found, such as in construction, agriculture and manufacturing. The study results also point to a need for coordinated mechanisms to enforce OSH standards.²⁹⁵ Tripartite action, or the combination of efforts by the government, employers and workers organizations to create a culture of prevention, would go a long way to increase focus on the safety and health of young workers, and as a result, all workers, in the Philippines (See: Enforcement Mechanisms -Tripartite Peace Councils)

There are a few essential steps that need to be taken in order to ensure that all workers, including young people, are safe and productive in the workplace. The first is providing them with crucial information about their rights as workers

²⁹² OSH MS 360 Academy Corporation, Emerging Issues in OSH, available at <https://courses.oshms360.com/topic/emerging-issues-in-osh/>. Accessed: June 25, 2021

²⁹³ OSH MS 360 Academy Corporation, Data Gathering Problems, available at <https://courses.oshms360.com/topic/data-gathering-problems/>. Accessed: June 25, 2021

²⁹⁴ Business Mirror supra note 289

²⁹⁵ Id.

and the resources available to them under the law. Likewise, employers must be aware of their responsibilities under the law and be held accountable to uphold them. The GoP also has a pivotal role to play in implementing and enforcing OSH laws through research, education and inspection, and together with tripartite partners and other key stakeholders, raising public awareness on the rights and responsibilities of workers and employers in the workplace.

3 Republic Act 11058, An Act Strengthening Compliance with Occupational Safety and Health Standards and Providing Penalties for Violations Thereof

In the Philippines, Republic Act No. 11058, or An Act Strengthening Compliance with Occupational Safety and Health Standards and Providing Penalties for Violations Thereof, lays out the country's workplace safety policy. It also identifies the roles and responsibilities of employers, the rights of workers, OSH requirements in the workplace, and enforcement procedures.

The State declares its policy, under the law,

“to ensure a safe and healthful workplace for all working people by affording them full protection against all hazards in their work environment.”²⁹⁶

The Act applies to all workplaces in all branches of economic activity except the public sector.²⁹⁷

The Act lays out the **duties and rights of employers, workers and other persons**. All workers have the right to: know about workplace hazards, refuse unsafe work, report accidents, use personal protective equipment, and work in an environment with safety signage and devices, safe equipment, OSH information, a competency certification program, and worker

²⁹⁶ An Act Strengthening Compliance with Occupational Safety and Health Standards and Providing Penalties for Violations Thereof, Republic Act 11058, August 12, 2018, available at <https://www.officialgazette.gov.ph/downloads/2018/08aug/20180817-RA-11058-RRD.pdf>. Accessed: July 5, 2021

²⁹⁷ Republic Act 11058, sec. 12

welfare facilities.²⁹⁸ All covered workplaces must have OSH programs, committees, safety and health personnel and facilities.²⁹⁹

Relevantly, this law grants DOLE with the **authority to enforce OSH standards** in all establishments and conduct compliance audits with representatives from the labor and employer sectors. A DOLE-authorized representative can enter a workplace at any hour of the day or night if work is taking place to conduct an investigation to determine compliance. DOLE maintains a computerized labor law compliance system to capture real time compliance data.³⁰⁰

Finally, the law **penalizes** willful failure or refusal of employers, contractors, and sub-contractors to comply with the required OSH standards.³⁰¹

General Issuances and Guidelines

Alongside these laws are **relevant guidelines** which supplement the important provisions of the laws in relation to establishing a minimum age of child work, conditions for work, profiling of child laborers, and hazardous work. These guidelines include:

1 On Minimum Age of Employment and Work Permits

DOLE Department Advisory No. 01-08: Employment of Youth Aged 15 to Less Than 18 Years: This advisory is to be used as a reference and a guide for all DOLE offices, and for workers and employers. It confirms that it is not required by law that children aged 15 to Less Than 18 years must obtain a DOLE work permit or certificate prior to employment.³⁰²

²⁹⁸ Republic Act 11058, sec.. 4-11

²⁹⁹ Id.

³⁰⁰ Republic Act 11058, sec.. 29

³⁰¹ Republic Act 11058, sec.. 28

³⁰² Department of Labor and Employment, Employment of Youth Aged 15 to Less Than 18 Years, DA 01-08-2018, sec. III, available at https://bwsc.dole.gov.ph/media/files/DOLE_Advisory_No_01-08_Employment_of_Youth_Aged_15.pdf. Accessed: May 24, 2021

2 On Identifying Child Laborers

a **Administrative Order No. 579, Series of 2019, Revised Guidelines on the Profiling of Child Laborers and Provision of Services to Remove them from Child Labor:**

These guidelines are for DOLE regional and field offices tasked with conducting profiling activities to locate and identify children to be removed from child labor. The data gathered will be used to assess the needs of the children and their families and provide them with necessary services so that the children do not have to work. In the Philippines Development Plan 2017-2022, the government has committed to removing 560,000 from child labor. This administrative order gives regional and field offices guidance on how to undertake the process, including preparatory targeting and coordination activities, profiling, conducting a needs assessment, facilitating service referrals, providing direct services, and coding, monitoring, and reporting data. The process will be managed by DOLE's BWSC which is also program manager of the Philippine Program Against Child Labor (PPACL).³⁰³

b **DOLE Department Order No. 149-A, Series of 2017, Amending Dept. Order No. 149, Series of 2016, Guidelines in Assessing and Determining Hazardous Work in the Employment of Persons Below 18 Years of Age.**

This hazardous list and its amendment are used by DOLE Labor Laws Compliance Officers to ensure OSH, labor standards, and child labor law compliance. Work in any of the industries or occupations included on the list is declared hazardous to children under the age of 18 years.

³⁰⁴ ³⁰⁵

³⁰³ Department of Labor and Employment, Revised Guidelines on the Profiling of Child Laborers and Provision of Services to Remove them from Child Labor, AO 579-2019, available at https://bwsc.dole.gov.ph/media/files/cl2020/AO_579-19_Revised_Guidelines_on_the_Profiling_of_Child_Laborers_and_Provision_of_Services_to_Remove_them_from_Child_Labor-no_annexes.pdf. Accessed May 24, 2021.

³⁰⁴ DO 149-2016, supra note 282

³⁰⁵ DO 149A-2017, supra note 282

3 On Rescuing Child Laborers

DOLE Department Circular No. 02, Series of 2010, Manual on the Conduct of Inspection, Rescue and Enforcement Proceedings in Child Labor Cases.³⁰⁶ This circular provides operational guidelines for DOLE Regional Directors and Labor Inspectors, Hearing Officers, Sheriffs, and Child Labor Program Coordinators on child labor cases. Within the larger context of inter agency and multi-sectoral responses, it outlines specific procedures on how to conduct child labor inspections, rescue operations, closure of establishments, and other enforcement proceedings. The Manual builds on DOLE's combined experiences in this area. The following paragraphs summarize the approved procedures for cases that warrant administrative (i.e. closure of the establishment and/or the suspension or cancellation of the working child's permit) and/or criminal sanctions.

Preliminary Screening: Once a complaint is received, DOLE's Technical Support Services Division, Regional Director or Field Office must do the following:

- 1 Determine the sufficiency and nature of the complaint;
- 2 Evaluate if there is a basis for immediate closure, grounds for either a suspension or revocation of the child's work permit, or a violation of other labor provisions; and
- 3 If the complaint originated from a routine labor inspection, a law enforcement agent or other trusted source, or involves a child who was already rescued and no longer works in the establishment, the proper and distinct procedural steps must be followed.³⁰⁷

³⁰⁶ Department of Labor and Employment, Manual on the Conduct of Inspection, Rescue and Enforcement Proceedings in Child Labor Cases, DC 02-2010, pp. 20-23, available at <https://drive.google.com/file/d/1vMFL8DIFEudF7kKlso2yeG8lInFQFLIN/view> . Accessed June 29, 2021.

³⁰⁷ Republic of the Philippines, DOLE, Department Circular No. 02, Series of 2010, "Manual on the Conduct of Inspection, Rescue and Enforcement Proceedings in Child Labor Cases," Pgs. 20-23, <https://drive.google.com/file/d/1vMFL8DIFEudF7kKlso2yeG8lInFQFLIN/view>. Accessed June 29, 2021

If the complaint is deemed valid, the Manual prescribes that the following steps be taken:

- 1 **Referral** to the appropriate law enforcement agency;
- 2 **Surveillance** of the establishment;
- 3 **Inspection Authority issued** by DOLE Regional Office;
- 4 **Operational Planning** of rescue coordinated by law enforcers and other members of rescue team;
- 5 **Rescue Operation**, including rescue of victims and conduct of inspection;
- 6 **Suspect Arrest**;
- 7 **Post-rescue Activities** to include
 - a providing victims with protective care and temporary shelter,
 - b submitting inspection and investigation reports and initiating immediate closure of establishment, and
 - c criminal complaint filed by law enforcers, and;
- 8 **Final Disposition** of the administrative and criminal cases and custody proceedings, and the provision of rehabilitative services to the child victim(s).³⁰⁸

Complementary Laws and Guidelines

The laws below, while not focused on child labor, are still relevant in understanding the child labor and hazardous work framework of the country. In particular, laws on **education**:

Education plays an important role in the prevention and the elimination of child labor and the economic advancement of a country. The availability of free, specially designed and accessible school programs for at-risk children can contribute to a family's decision to choose school over work. Transitional or non-formal education programs can help lure former child

³⁰⁸ Id.

laborers back to school. Children who complete the full course of compulsory education are equipped to enter the formal job sector. And training and vocational education provide youth with the skills to find decent work.

It is the role of the State to provide these different forms of education to children, which in turn contribute to local and national development.³⁰⁹

In some cases, **the age for completion of compulsory education is higher than the minimum age for legal employment. This is the case in the Philippines.** When this happens, there is a risk, especially with poorer families, that the need for additional income that a child can earn and contribute to the household economy might take precedence over the longer-term goal of school retention; particularly when there are hidden costs, such as books, uniforms, meals and transportation. Therefore, the child, out of duty, or his parents, out of necessity, may prioritize work over school.

In **R.A. 9231**, the Department of Education is tasked with guaranteeing the working child access to relevant education and training programs, including a non-formal program for working children who have not completed primary or secondary education. In the same Act, the State entitles children from indigenous communities to specially designed education programs that are approved by representatives from their communities.³¹⁰

Another **Republic Act, No. 10533 (2013), or the Enhanced Basic Education Act of 2013**, introduces an education policy that will “establish, maintain and support a complete, adequate and integrated system of education relevant to the needs of the people, the country and society-at-large.”³¹¹ The system includes curricula that meet international standards, an expanded senior high program, and learner-oriented programs that meet the needs of the country’s diverse population.³¹²

³⁰⁹ International Labour Organization, Child Labour and Education, International Program on the Elimination of Child Labor, available at <https://www.ilo.org/ipecc/Action/Education/lang--en/index.htm>. Accessed May 3, 2021.

³¹⁰ Republic Act 7610 as amended by Republic Act 9231, sec. 13

³¹¹ An Act Enhancing the Philippine Basic Education System by Strengthening its Curriculum and Increasing the Number of Years for Basic Education, Appropriating Funds Therefor and for Other Purposes, [Enhanced Basic Education Act of 2013], sec. 2, Republic Act 10533, available at <https://www.officialgazette.gov.ph/2013/05/15/republic-act-no-10533/>, May 15, 2013, Accessed April 28, 2021.

³¹² Republic Act 10533, sec. 3

This law categorizes child laborers as learners under difficult circumstances alongside children in geographic isolation, those displaced by armed conflict or disasters, or those exposed to child abuse. The law also expands the number of years of compulsory education from 10 to 13 years: one year of kindergarten, six years of elementary school, and six years of secondary education. The **amended age for completion of compulsory education is now 18 years.**³¹³

Apart from these, on May 27, 2021, **Republic Act 11551**, also known as the **Labor Education Act**, passed into law. The law recognizes the need for the state to put in place a mechanism to incorporate labor education in the technical and vocational education and training (TVET) and tertiary level curriculum.³¹⁴ Labor education refers to the “teaching of basic knowledge on labor rights and other skills relating to negotiation, fostering smooth interpersonal relations in the workplace, and mechanisms for redress of grievances and other concerns.”³¹⁵ When the bill was proposed in Congress, legislators agreed that it was the government’s responsibility to ensure that each and every Filipino worker is aware of his/her rights.³¹⁶

³¹³ Republic Act 10533, sec. 4

³¹⁴ An Act Integrating Labor Education in the Tertiary Education Curriculum [Labor Education Act], Republic Act 11551, May 27, 2021, available at <https://www.officialgazette.gov.ph/downloads/2021/05may/20210527-RA-11551-RRD.pdf>. Accessed: July 3, 2021

³¹⁵ Republic Act 11151, sec. 3(b)

³¹⁶ - Villanueva hails Senate ratification of Labor Education Bill, Senate of the Philippines Press Release, March 15, 2021, available at http://legacy.senate.gov.ph/press_release/2021/0315_villanueva2.asp. Accessed: July 3, 2021; - Villanueva: Teaching labor laws to students in tertiary education to empower future workers, help curb abuse, Senate of the Philippines Press Release, September 2, 2020, available at http://legacy.senate.gov.ph/press_release/2020/0902_villanueva1.asp. Accessed: July 3, 2021



The DepEd's Alternative Learning System

The Alternative Learning System (ALS) of the DepEd provides a practical option for completing elementary and secondary education in the Philippines. Unlike the traditional form of classroom learning, ALS offers non-formal education in Basic Literacy and Continuing Education-Accreditation and Equivalency³¹⁷ to populations that do not have, or cannot access, formal schools.³¹⁸ ALS targets out-of-school children in special cases³¹⁹ and adults who have not completed basic education, for participation in the program. Eligible young people include children of official school age who are not enrolled in formal school because they are confronted with social, economic, political, cultural, or geographic barriers. Such children include child laborers, learners with disabilities, children in conflict with the law, indigenous peoples, learners in emergency situations, and children from other disenfranchised sectors.

According to the DepEd, the ALS program

“provide[s] all Filipinos [with] the chance to have access to, and complete, basic education in a mode that fits their distinct situations and needs.”³²⁰

The DepEd administers the ALS program through its Bureau of Alternative Education (BAE), which functions as the locus of the ALS.³²¹ The directive to create the BAE originated in Section 6 of Republic Act 11510, or **The Alternative Learning System Act of 2020**,³²² in which the GoP institutionalized the ALS. In Section 2 of the 2020 Act, the GoP declares its official

³¹⁷ Department of Education About Alternative Learning System available at <https://www.deped.gov.ph/k-to-12/inclusive-education/about-alternative-learning-system/> . Accessed: June 3, 2021

³¹⁸ Id.

³¹⁹ An Act Institutionalizing the Alternative Learning System in Basic Education for Out-of-School Children in Special Cases and Adults and Appropriating Funds Therefor [Alternative Learning System Act], Republic Act 11510, December 23, 2020, sec. 4(s), available at <https://www.officialgazette.gov.ph/downloads/2020/12dec/20201223-RA-11510-RRD.pdf>. Accessed: June 6, 2021

³²⁰ Department of Education, About Alternative Learning System: Why Is There a Need for Alternative Learning System in the Philippines?, available at <https://www.deped.gov.ph/k-to-12/inclusive-education/about-alternative-learning-system/> . Accessed June 03, 2021.

³²¹ Republic Act 11510, supra note 321

³²² Republic Act 11510, sec. 6

policy, which is to

“promote the right of all citizens to quality education at all levels, and take the appropriate steps to make such education accessible to all.”³²³

The objectives of formalizing the ALS are: to strengthen and expand the program in order to provide increased opportunities, and; to provide the target population with the necessary tools and conditions to develop basic and functional literacy and life skills and a pathway to complete basic education.³²⁴ The longer-term goal of the ALS is to reduce the country’s social, economic and political inequalities.³²⁵

Even though its institutionalization was relatively recent, the ALS is not a new program in the Philippines. In fact, Article XIV, Section 2 of the Philippine Constitution (1987) recognized and promoted forms of education other than the formal system, such as non-formal and informal (including self-learning, independent, and out-of-school study programs) and indigenous learning systems that respond to community needs. Fourteen years later, in 2001, Republic Act 9155, or the Governance Act for Basic Education, established the ALS.

To ensure the sustainable implementation of programs, the DepEd encourages synergies with the private sector and other government agencies.³²⁶ DepEd’s non-formal approach to learning is community-based and outside the classroom. Learning frequently takes place at community learning centers, local multi-purpose halls, libraries or at home. It may be managed by learning facilitators such as ALS coordinators or mobile teachers. The approach adopted may differ from one community to the next, depending on the resources and facilities available. In contrast, the formal education system is managed by official school teachers and takes place in designated school buildings and classrooms.³²⁷

³²³ Republic Act 11510 supra note 321

³²⁴ Republic Act 11510, sec. 5

³²⁵ Republic Act 11510, sec. 2

³²⁶ Republic Act 11510, sec. 4(s)

³²⁷ Department of Education, About Alternative Learning System: What is the Difference Between the Formal Education System and the Alternative Learning System (ALS) Non-Formal Education?, available at <https://www.deped.gov.ph/k-to-12/inclusive-education/about-alternative-learning-system/>. Accessed June 03, 2021

Sector-Specific Laws and Guidelines

1 Republic Act 10361, An Act Instituting Policies for the Protection and Welfare of Domestic Workers (“The Domestic Workers Act” or “Batas Kasambahay”), RA No.10361 (2012)

A sector-specific law, **R.A. No. 10361 (2012)** and its Implementing Rules and Regulations,³²⁸ establish labor standards and practices for **domestic work** that adhere to internationally accepted labor conditions. The law protects all people engaged in domestic work in the Philippines from discrimination and abuse and includes specific provisions for children under the age of 18. The law and the IRR also prescribe operational procedures for rescue and rehabilitation in cases where a domestic worker has been abused or exploited. The paragraphs below summarize all rights and protections provided to children under the law:

- a Policy of the State.** The State protects the rights of child and adult domestic workers against abuse, harassment, violence, exploitation and work that is hazardous to their physical and mental well-being. Children under foster care arrangements with full access to school are not considered domestic workers under this Act.
- b Minimum Age for Domestic Work.** Children ages fifteen to less than eighteen years may be employed as domestic workers and they are entitled to minimum wage and all benefits under this Act.
- c Conditions of Work.** They are permitted to work no more than eight hours/day, forty hours/week, and may not work between the hours of 10 pm and 6 am the following morning. The employer and household must not subject any domestic worker to abuse or physical violence, must guarantee privacy and access to communication during free

³²⁸ Department of Labor and Employment, Implementing Rules and Regulations of Republic Act 10361, otherwise known as the “Domestic Workers Act” or “Batas Kasambahay”, May 9, 2013, available at <https://nwpc.dole.gov.ph/wp-content/uploads/2018/12/IRR-of-RA-10361-Batas-Kasambahay.pdf>. Accessed: July 3, 2021

time, and must allow child domestic workers the time and access to complete basic education. The employer must also provide the domestic worker with board, lodging and medical assistance. The Act states the terms and conditions of employment of a domestic worker, including for health and safety, rest, extent of duty and payment of wages.

- d Protection Measures.** Domestic workers may not be financially responsible for any recruitment or finders fee or deposits for loss or damage, and situations of debt bondage are prohibited.
- e Department Roles.** The Act tasks DOLE to provide a model employment contract, raise awareness on its use, and to make certification training available to domestic workers. DOLE is also required by the law to regulate private employment agencies. In addition, the Department of the Interior and Local Government (DILG) is tasked to create a Registry of Domestic Workers and employers must use it to register their employees at the Barangay level.
- f Termination Procedures and Labor Disputes.** The Act prescribes post-employment and termination procedures. All labor-related disputes shall be elevated to the regional DOLE office. Ordinary crimes committed that fall under the Penal Code shall be handled by the local courts. Minimum wage amounts are adjusted periodically to adjust for inflation.
- g Cases of Abuse and Exploitation.** In the case of an abused or exploited domestic worker, the Act tasks the DILG and the DSWD to develop standard operating procedures for rescue and rehabilitation, to be executed with the relevant barangay officials.³²⁹

³²⁹ Republic Act 10361, supra note 321

A Hidden Form of Child Labor: The Plight of the Child Female Domestic Worker

In the Philippines, many child domestic workers come from poor, rural communities, frequently on the islands of Visayas and Mindanao. The majority of them (85 percent of them, female³³⁰) grow up in large families whose livelihoods depend on farming and fishing. There are few employment options for girls in such areas. Parents are often faced with having to decide whether their daughters will leave school to work full time with the family or take a job as a domestic worker in another town, in another family's home, but possibly with better options to continue in school.³³¹

When considering the other employment options available in their communities, such as farming or selling goods, parents prefer domestic service for their daughters because they perceive it as lighter and less strenuous work. Also, domestic work is seen as a first step to more and better options.³³² For example, domestic workers in Davao and Bacolod are often younger than 15 years as compared to those found in Metro Manila, who tend to be ages 15-17. The younger ones are frequently looking to gain experience so they can move on to Manila and eventually, overseas as a domestic worker. This has been referred to as "step migration."³³³ To qualify for overseas domestic service jobs and legal migration, young people must be at least 23 years old³³⁴ and have a minimum of two years' work experience. Such experience may also qualify them for other service-related work in the hospitality industry.³³⁵

³³⁰ UN Women - United Nations Entity for Gender Equality and the Empowerment for Women, Domestic Workers Count Too: Implementing Protections for Domestic Workers, p. 27, January 2019, available at https://16dayscampaign.org/wp-content/uploads/2019/01/UNWomen_IUTC_Factsheets-pdf.pdf Accessed: June 10, 2021.

³³¹ Jonathan Blagbrough and Ayaka Matsuno, Child Domestic Labour in Southeast and East Asia: Emerging Good Practices to Combat It, ILO-IPEC - Regional Office for Asia and the Pacific, p. 146, available at <http://www.shram.org/uploadFiles/20180326103055.pdf>. Accessed: June 10, 2021

³³² *Id.*

³³³ *Id.*

³³⁴ Interview with Philippine Overseas and Employment Agency - June 21, 2021.

³³⁵ UN Women, *supra* note 331

For children that are permitted to attend school, continuing their education while working is a challenge. Long hours of work and little sleep interfere with academic performance. Schools report that child domestic workers often arrive late, miss days, or do not complete their school assignments. In addition, the employers who allow them to attend school often expect them to complete the same workload inside the home. Yet, even given this hardship, many child domestic workers prefer to carry the double burden of work and school than to let the opportunity to study slip away.³³⁶ In reality, a majority of them (52 per cent) stop studying, although many save some of their earnings with the hopes of returning to school again.³³⁷ Others, some of them eldest daughters, send a large part of their salary home to help parents care for their farms, rebuild after natural disasters, or cover costs so their younger siblings can attend school.³³⁸

Life inside the employers' home can be difficult for children because the employers control how they live and work. The child has no choice but to obey. Even though the Domestic Worker Law exists and governs the rights and liabilities of both the domestic worker and the employer, **there is no authority that can enter the home to inspect the child's living and working conditions to assess compliance unless a complaint has first been lodged.**³³⁹

By virtue of their age, child domestic workers are especially vulnerable to violence in the workplace. This is compounded by the fact that they tend to be predominantly female, from poor, rural families, possibly of ethnic minority origins, and on unequal footing with adults in a power relationship, which deprives them of any negotiating opportunities. Moreover, they are far from family and friends, without support, and often have little contact with outsiders, which increases their vulnerability.³⁴⁰ Being without a support network can also cause them to have feelings of hopelessness, depression and loneliness.³⁴¹

³³⁶ Jonathan Blagbrough and Ayaka Matsuno, supra note 332 at pp. 13 and 146

³³⁷ Jonathan Blagbrough and Ayaka Matsuno, supra note 332 at p. 16

³³⁸ UN Women, supra note 331 at p. 34

³³⁹ Jonathan Blagbrough and Ayaka Matsuno, supra note 332 at p. 24

³⁴⁰ Jonathan Blagbrough and Ayaka Matsuno, supra note 332 at p. 26

³⁴¹ Jonathan Blagbrough and Ayaka Matsuno, supra note 332 at p. 26

Some of the most common types of hazardous circumstances and/or exploitation experienced by child domestic workers include:

- 1 Long working hours and/or being on “stand-by” 24 hours a day;
- 2 Working in isolation;
- 3 Being confined to the employer’s home with little or no contact with outsiders or family;
- 4 No opportunities to discuss or alert others to their problems;
- 5 No regular break times or rest days;
- 6 Limited or no opportunities for education;
- 7 Physical and mental exhaustion, emotional trauma, etc.;
- 8 Denial of their rights as children to special protection and care; and
- 9 Trafficking into domestic labor.³⁴²

According to ILO Convention No. 182, child domestic labor can be considered one of the worst forms of child labor under certain conditions. The Convention leaves it to the discretion of the ratifying State to determine whether to include it as a hazardous form (and therefore, worst form) of child labor under Article 3:

“(d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.”

The GoP, by permitting children from age 15 to below 18 years to work in domestic service (as stipulated in the 2013 “Batas Kasambahay” law), **has designated the sector acceptable for children of legal working age.** The following conditions, either on their own or in combination, may render domestic work one of the worst forms of child labor, when the child:

³⁴² Jonathan Blagbrough and Ayaka Matsuno, *supra* note 332 at p. 34

- 1 is sold or trafficked;
- 2 works excessive hours;
- 3 is bonded by debt or works without pay;
- 4 is exposed to grave safety or health hazards;
- 5 works in isolation or during the night;
- 6 is at risk of physical violence or sexual harassment;
- 7 is abused; or
- 8 is younger than the minimum age for employment.³⁴³

To be clear, not all employers exploit their domestic workers. In fact, many domestic workers stay with households for years and are considered part of the family. However, there is consensus among interviewees that a **large number of employers are either unfamiliar with the law or choose not to comply with all of its provisions.** Some employers perceive the benefits afforded to young domestic workers in the law, such as school attendance, paid vacation days/weeks, limited work hours and social protection benefits, as either too costly or too inconvenient.³⁴⁴ Pursuant to this, employers will often choose to hire their house help directly rather than contracting through a private employment agency (PEA). PEAs charge a fee to the employer and serve as a middleman in terms of ensuring the well-being of the domestic worker. For employers, hiring in this way would result in higher overall costs and the “formalization” of the agreement, including contract information on file, subject to DOLE inspection at the PEA office. **The abysmally low number of domestic workers registered at the barangay level, as required by law, perpetuates the informal nature of domestic work and makes it extremely difficult to collect data on the sector and access workers inside the home.**

In 2019, the National Wages and Productivity Board (NWPB) of the Philippines requested that the Philippines Statistics Authority design a **“Kasambahay” (domestic worker) Rider**

³⁴³Jonathan Blagbrough and Ayaka Matsuno, supra note 332 at pp. 28-29

³⁴⁴ From key informant interviews

Module to be included in the October 2019 Labor Force Survey. The purpose of the rider, which would cover 42,768 households, was to collect wage-related data to help the NWPB uphold its mandate to review and adjust the minimum wage rates of domestic workers (as necessary). The survey also collected demographic, social welfare, hours and nature of work, and skills training information on domestic workers.³⁴⁵ **The results of the survey indicated that about four percent of the 1.4 million Filipino domestic workers were children under the age of 18 years (roughly 40,000), of whom, 0.4 percent were below the age of 15 years (about 5,000).** Only 2.5 percent of the total had written employment contracts, and 83 percent were not covered by any social security benefit. Some 36 percent worked a full seven days a week (no rest day) and only 41 percent had ever heard of the Batas Kasambahay Act. These results, which reveal serious gaps in implementation, were concerning to DOLE seven years after the promulgation of the Act.³⁴⁶

In response, DOLE committed to finding alternative ways to implement and enforce the law given the Department's limitations on conducting inspections in private homes; a warrant is required to inspect each household where a domestic worker is employed.³⁴⁷ DOLE also determined to fortify its efforts to: encourage domestic workers to organize; develop a clear methodology for setting the sector's minimum wage; and raise domestic workers' awareness of the Batas Kasambahay law. Additionally, DOLE pledged to reach out to other agencies to: update data that will inform policy and program development; strengthen employer compliance with worker registration at the barangay level; and increase the number of domestic workers receiving social security benefits.³⁴⁸

Soon after the DOLE voiced its intentions to employ a more targeted approach to implement the Act, the pandemic hit, and the Covid-19 disruption has not improved the employment

³⁴⁵ Philippine Statistics Authority, PSA grants clearance for the Kasambahay Rider Module, PSA Reference Number 2019-169, October 14, 2019, available at <https://psa.gov.ph/content/psa-grants-clearance-kasambahay-rider-module-0>. Accessed: June 2, 2021

³⁴⁶ -- DOLE and PSA Survey: 1.4 million Kasambahays in the Country, 72% on live-out arrangement, Department of Labor and Employment National Wages and Productivity Commission, Press Release, available at https://nwpc.dole.gov.ph/press_room/dole-and-psa-survey-1-4-million-kasambahays-in-the-country-72-on-live-out-arrangement/. Accessed June 02, 2021

³⁴⁷ Samuel Medenilla, DOLE-PSA Poll shows mass breaches of Kasambahay Law, Business Mirror, December 3, 2020, available at <https://businessmirror.com.ph/2020/12/03/dole-psa-poll-shows-mass-breaches-of-kasambahay-law/>. Accessed June 02, 2021

³⁴⁸ DOLE and PSA Survey, supra note 147

conditions of domestic workers around the world. In fact, they have been among the workers most affected by it. Many have lost their jobs or have had their hours reduced. However, without a work contract, they are not eligible for income support or health insurance. In contrast, some have had their hours increased due to school closures. More people in the house all day translates into more cooking and cleaning. In worst case scenarios, some employers have ceased to pay their domestic workers at all because they do not have sufficient funds.³⁴⁹

Greater efforts need to be made to educate families and girls from source areas about the possible hazards of domestic service, the rights afforded to all domestic workers (including children aged 15-17) under the law, the responsibilities and liabilities of the employer, and the means available to redress grievances. Likewise, procedures to implement the law and enforce its provisions must be clearly defined and executed by the responsible government entities at the national and local levels. The Regional Tripartite Industrial Peace Council, as tasked in the Law, must continue to foster social dialogue and discussion on the welfare of domestic workers and the roles of employers and government according to the law. And finally, other stakeholders also have a role to play, particularly when it comes to representing all voices. Only once these steps are taken can the GoP claim full credit for this groundbreaking law that formalizes the domestic work sector and gives domestic workers the tools to exercise their rights and claim the protections due to them as prescribed by the law.

Other Sector Specific Issuances

Apart from the Domestic Workers' Law, the following department issuances also protect children from child labor and hazardous work in specific industries:

- 1 Department Order No. 156, Series of 2016, Rules and Regulations Governing the Working and Living Conditions of Fishers on Board**

³⁴⁹ International Labor Organization, Opening Address of Mr. Khalid Hassan, ILO Country Director, at the National Wages and Productivity Commission Data Dissemination Forum on Kasambahay Survey Results, Nov. 20, 2020, transcript available at https://www.ilo.org/manila/public/sp/WCMS_761952/lang--en/index.htm. Accessed June 02, 2021

Fishing Vessels Engaged in Commercial Fishing Operation: The minimum age for assignment to activities onboard commercial fishing vessels is 18 years due to the hazardous nature and conditions of the work. Fishing vessel owners found to be engaged in child labor or forced labor will be penalized in accordance with provisions from the Revised Penal Code and other relevant Acts.³⁵⁰

- 2 Department Order No. 159, Series of 2016, Guidelines for the Employment of Migratory Sugarcane Workers.** All employers (Planters, contractors and private employment agencies) are prohibited from employing children under the age of 18 as migratory sugar workers.
- 3 DOLE Department Circular No. 2, Series of 2017, amended by Department Order No. 2 Series of 2018, Guidelines on the Issuance of Work Permit for Children Below 15 Years of Age Engaged in Public Entertainment or Information.** The Circular provides guidance to DOLE regional/provincial/field offices on the issuance of work permits to children below the age of 15 years engaged in public entertainment or information. The amendment provides greater clarity on which scenarios require a work permit and which do not.^{351 352}
- 4 Labor Advisory No. 23, Series of 2020, Engagement or Participation of a Child Below 15 Years of Age in Public Entertainment or Information Pursuant to the Omnibus Guidelines on the Implementation of Community Quarantine in the Philippines.** Children below age 15 may work in Public Entertainment or Information for businesses allowed to function during the quarantine provided that the employer follows the required stipulations of the work-at-home arrangement, of contract health standards and of applying for a working child permit.³⁵³

³⁵⁰ Department of Labor and Employment, Rules and Regulations of Fishers Governing Working and Living Conditions Onboard Fishing Vessels Engaged in Commercial Fishing Operations, DO 156-2016, Rule III, sec. 1, available at <https://bwsc.dole.gov.ph/media/files/cl/Dept-Order-No-156-16.pdf>. Accessed May 24, 2021.

³⁵¹ Department of Labor and Employment, Guidelines on the Issuance of Work Permit For Children Below 15 Years of Age Engaged in Public Entertainment or Information, D.C. 2-2017, available at <https://bwsc.dole.gov.ph/media/files/cl/Department-Circular-No-02-17.pdf>. Accessed May 24, 2021.

³⁵² Department of Labor and Employment, Amending Dept. Circular No. 2, Series of 2017, Guidelines on the Issuance of Work Permit For Children Below 15 Years of Age Engaged in Public Entertainment or Information, DC 2-2018, available at <https://bwsc.dole.gov.ph/media/files/cl/DO-02-18.pdf>. Accessed May 24, 2021.

³⁵³ Department of Labor and Employment Bureau of Workers with Special Concerns, Engagement or Participation of Child Below 15 Years of Age in Public Entertainment or Information Pursuant to the Omnibus Guidelines on the Implementation of Community

- 5 Labor Advisory No. 24, Series of 2020, Engagement of Children 15 to Below 18 Years of Age in Public Entertainment or Information during Community Quarantine:** Children 15 to below 18 years of age may work in Public Entertainment or Information for businesses allowed to function during the quarantine provided that the employer follows the required stipulations of the work arrangement.³⁵⁴

Enforcement Mechanisms

Institutional mechanisms for the enforcement of laws and regulations on child labor have been established by the government. By way of implementing the law, the following government agencies likewise lead on programs and interventions that seek to address child labor and hazardous work in the Philippines. These are discussed in greater detail below.

DOLE and DSWD

Two key departments lead the government's campaign against child labor. These are the *Department of Labor and Employment (DOLE)* and the *Department of Social Welfare and Development (DSWD)*. Consequently, these two also sit as chair and co-chair of the National Council Against Child Labor.



Department of Labor and Employment

The **Department of Labor and Employment** is the national government agency mandated to formulate policies, implement programs and serve as the policy coordinating arm of the Executive Branch in the field of labor and employment.³⁵⁵ To carry out its mandate, the Department has 16 regional offices, 83 field Offices, four satellite offices, 38 overseas posts, six bureaus, seven

Quarantine in the Philippines. Labor Advisory No. 23-2020, available at <https://bwsc.dole.gov.ph/media/files/cl2020/Labor-Advisory-No.-23-20.pdf>. Accessed May 24, 2021.

³⁵⁴ Department of Labor and Employment, Engagement of Children 15 to Below 18 Years of Age in Public Entertainment or Information During Community Quarantine, Labor Advisory 24-2020, available at <https://bwsc.dole.gov.ph/media/files/cl2020/Labor-Advisory-No-24-20-Engagement-of-Children-15-to-below-18-Years-of-Age-in-Public-Entertainment-or-Information-during-Community-Quarantine.pdf>. Accessed: May 24, 2021

³⁵⁵ Department of Labor and Employment, About - Department of Labor and Employment, available at <https://www.dole.gov.ph/about-us/>

staff offices, and 11 agencies attached to it for policy and program supervision and coordination.³⁵⁶ Of the six bureaus under the department, five have involvement in the work relating to child labor: Bureau of Local Employment, Bureau of Labor Relations, Bureau of Working Conditions, the Bureau of Workers with Special Concerns, and the International Labor Affairs Bureau.



The **Bureau of Working Conditions (BWC)** primarily performs policy and program development and advisory functions in the administration and enforcement of laws relating to working conditions. The BWC envisions well-guided employers and workers focused on attaining a safe, healthy and productive work environment. Its mission is: to formulate policies and initiate legislation on labor standards; to standardize the use of enforcement instruments, strengthen the authority of the inspectorate system and ensure compliance with laws and regulations; to support enterprise capacity to self manage safety and health in the workplace; to support the capacity of small enterprises to improve working conditions and productivity; and to inform the public on labor standards;³⁵⁷



The **Bureau of Workers with Special Concerns (BWSC)** is mandated to develop policies, programs, projects, and systems relative to the development and protection of workers with special concerns.³⁵⁸ Workers with special concerns are recognized under specific laws. These include: (1) Sugar workers³⁵⁹, (2) Bio fuel workers³⁶⁰; (3) Working children and child laborers³⁶¹; (4) Workers in large establishments;³⁶²

³⁵⁶ Id.

³⁵⁷ Department of Labor and Employment, Bureau of Working Conditions, available at <https://bwc.dole.gov.ph/about-us/bwc-in-a-nutshell>. Accessed: June 11, 2021

³⁵⁸ Department of Labor and Employment, Bureau of Workers with Special Concerns - Clientele, available at <https://bwsc.dole.gov.ph/homepage/about-us.html#cliente>. Accessed: June 11, 2021

³⁵⁹ An Act Strengthening the Social Amelioration Program in the Sugar Industry, Providing the Mechanics for Its Implementation and for Other Purposes, Republic Act 6982, May 1, 1991, available at <https://www.officialgazette.gov.ph/1991/05/01/republic-act-no-6982/>; An Act to Regulate the Relations Among Persons Engaged in the Sugar Industry, Republic Act 809, June 22, 1952, available at https://lawphil.net/statutes/repacts/ra1952/ra_809_1952.html

³⁶⁰ An Act to Direct the Use of Biofuels, Establishing for this Purpose the BioFuel Program, Appropriating Funds Therefor and For Other Purposes [Biofuels Act of 2006], Republic Act 9367, January 12, 2007, available at <https://www.officialgazette.gov.ph/2007/01/12/republic-act-no-9367/>

³⁶¹ Republic Act 9231, supra note 33

³⁶² LABOR CODE, art. 134

(5) Kasambahay or domestic workers³⁶³; (6) Working persons with disabilities³⁶⁴; and (7) Elderly workers.³⁶⁵ In relation to child labor, the BWSC is in charge of the Profiling Child Laborers Initiative. Apart from this, the Bureau is in charge of advocacy campaigns to raise public awareness on child labor issues, capacity-building to child profilers and community facilitators, including an orientation program on the issuance of labor permits under the Working Child Permit Issuance System.³⁶⁶ The Bureau also chairs the inter-agency child labor rescue teams, Sagip Batang Manggagawa- Quick Action Teams (Rescue the Child Laborers- Quick Action Teams);³⁶⁷



The **Bureau of Local Employment (BLE)** is tasked to develop and maintain a responsive vocational guidance and testing system in aid of proper human resources allocation. Additionally, it is tasked to formulate employment programs designed to benefit disadvantaged groups and communities.³⁶⁸ In compliance with this, the BLE leads on the Special Program for Employment of Students;³⁶⁹



The **International Labor Affairs Bureau (ILAB)** is responsible for developing policies, plans, programs, projects, and operating standards related to International labor and employment concerns. This Bureau also monitors the country's observance and implementation of its international obligations and commitments required by international organizations (IOs). ILAB is responsible for drafting progress reports

³⁶³ RA 10361, supra note 202

³⁶⁴ An Act Providing for the Rehabilitation, Self-Development, and Self-Reliance of Disabled Person and their Integration into the Mainstream of Society, and for other purposes [Magna Carta for Disabled Persons], Republic Act 7277, March 24, 1992, available at <https://www.ncda.gov.ph/disability-laws/republic-acts/republic-act-7277/>

³⁶⁵ An Act Granting Additional Benefits and Privileges to Senior Citizens further amending Republic Act 7432, as amended, otherwise known as "An Act to Maximize the Contribution of Senior Citizens to Nation Building, Grant Benefits, and Social Privileges and for other purposes," Republic Act 9994, February 15, 2010, available at <https://www.officialgazette.gov.ph/2010/02/15/republic-act-no-9994/>

³⁶⁶ Department of Labor and Employment Bureau of Workers with Special Concerns, 2019 Annual Report, available at https://bwsc.dole.gov.ph/images/info-materials/2019_Annual_Report.pdf. Accessed: June 3, 2021

³⁶⁷ Id.

³⁶⁸ Department of Labor and Employment, Bureau of Local Employment - Mandates and Functions, available at <http://ble.dole.gov.ph/index.php/about/mandates-and-functions>. Accessed: June 11, 2021

³⁶⁹ Id.

on the Philippines' implementation of ILO Conventions Nos. 138 and 182 every 3 years and delivering them to the ILO's Committee of Experts on the Application of Conventions and Recommendations (CEACR) of the ILO;³⁷⁰



The **Occupational Safety and Health Center (OSHC)** was established in 1987 through Executive Order No. 307. The Center has three main programs, each one geared to increase awareness and strengthen commitment for safer and healthier workplaces nationwide: The National Occupational Safety and Health (NOSH) Congress provides a venue for the exchange of experiences and new trends on OSH. Related to this, the GKK is a national award given by DOLE to companies and individuals with outstanding achievements on work safety and health. Both events occur every two years. The Vision 1 Million program aims to raise awareness on, and increase the level of recognition and respect for, OSH as essential to the productivity and sustainability of any business.³⁷¹ Additional Center functions include: conducting OSH research and developing training programs; Collaborating with other government agencies and offices to formulate OSH policies and standards and issue technical guidelines for prevention of illness and accidents; and Testing and setting standard specifications of safety devices such as Personal Protective Equipment (PPE).³⁷²



Department of Social Welfare and Development

Department of Social Welfare and Development is the secondary agency tasked to combat child labor by guiding intermediaries and implementers in the design and delivery of social welfare and development

³⁷⁰ Department of Labor and Employment, International Labor Affairs Bureau, available at <http://ilab.dole.gov.ph/>. Accessed: June 11, 2021

³⁷¹ Department of Labor and Employment - Occupational Safety and Health Center, Vision 1 million, available at <https://oshc.dole.gov.ph/vision-1-million/>. Accessed: June 11, 2021

³⁷² *Id.*

services.³⁷³ Four agencies under the DSWD work on child labor related issues: National Operations Office which is mandated to monitor and provide technical assistance in the program implementation of the field offices; Programs and Projects Bureau which is responsible for the development of programs and services; Policy, Plans, and Information Bureau which is responsible for the management of statistical reports of the Field Offices; and the Social Welfare Institute and Development Bureau which manages the crafting and cascading of training manuals on social protection programs for victims and/or survivors of child labor.³⁷⁴

Inter Agency Coordination: National Council Against Child Labor

While DOLE and DSWD lead the campaign against child labor, coordination across government agencies is imperative to reach the set target of a “Child-Labor Free Philippines” by 2025. The main coordinating body tasked to bring together the various government efforts on child labor is the **National Council Against Child Labor**.

The principal role of the National Council Against Child Labor, which was institutionalized by Executive Order 92 in 2019, is to coordinate policies and interagency arrangements for the Philippine Program Against Child Labor (PPACL). The Council is chaired by DOLE and co-chaired by the DSWD and has wide government membership, including the Departments of Education, Health, Agriculture, Justice, Environment and Natural Resources, and the Interior and Local Government.

Membership also includes representatives from worker, employer and non-governmental organizations. DOLE’s BWSC and the BWC share the Secretariat role, including developing and maintaining a database on child labor and sharing information among stakeholders as needed.³⁷⁵

In addition to coordinating the PPACL, the NCACL is tasked with the following:

³⁷³ Department of Social Welfare and Development Organizational Structure, available at <https://www.dswd.gov.ph/about-us-2/organization-and-functions/>. Accessed: June 11, 2021

³⁷⁴ Department of Social Welfare and Development, Guidelines in the Implementation of Social Welfare Services for Children Victims / Survivors of Child Labor, AO 70-2003, August 4, 2003, available at https://www.dswd.gov.ph/issuances/AOs/AO_2003-070.pdf

³⁷⁵ Institutionalizing the National Council Against Child Labor to Upscale the Implementation of the Philippine Program Against Child Labor, Executive Order No. 92-2019, September 27, 2019, available at <https://www.officialgazette.gov.ph/downloads/2019/09sep/20190917-EO-92-RRD.pdf>

- 1 Develop a plan for the effective enforcement of child labor laws;
- 2 Develop and maintain a knowledge and data management system to share information and monitor child labor case referrals;
- 3 Monitor the status of child labor law violation cases;
- 4 Mount an awareness and advocacy campaign on child labor laws and practice;
- 5 Conduct research, studies and surveys on child labor to inform policy and programming;
- 6 Develop a monitoring and evaluation mechanism for assessing project and programs;
- 7 Seek out advice and guidance from international agencies and other knowledgeable bodies;
- 8 Encourage participation and empowerment through capacity building programs for former child laborers, their families and their communities; and
- 9 Accept support from domestic and foreign sources

The NCACL is further tasked with ensuring that the PPACL is implemented in all geographic areas of the country via the regional and local Councils for the Protection of Children. And finally, the E.O. specifies that the Council develop and widely disseminate a process that can be used by the general public to report incidences of child labor.³⁷⁶

The Council maintains (5) Technical Working Groups (TWGs) that monitor the PPACL and address identified gaps. They are:

- 1 Institution-building/Partnerships
- 2 Enforcement
- 3 Social Service Delivery
- 4 Knowledge Management and Advocacy
- 5 Monitoring and Evaluation³⁷⁷

³⁷⁶ Id.

³⁷⁷ Committee for the Special Protection of Children, *supra* note 33, par. 268

Tripartite Peace Councils and Social Dialogue

National tripartite social dialogue brings together government, workers, and employers to discuss public policies and laws that affect labor. Apart from being a party to ILO Convention No. 144,³⁷⁸ the adoption of tripartism as a state policy is also enshrined in the Constitution,³⁷⁹ the Labor Code,³⁸⁰ special laws,³⁸¹ and department issuances.³⁸² There are four types of tripartite bodies in the Philippines: (1) Consultative bodies; (2) Policy-making bodies; (3) Quasi-judicial bodies; (4) Quasi-legislative bodies. Two of the main tripartite bodies are the National Tripartite Industrial Peace Council and the Industry Tripartite Councils.

The **National Tripartite Industrial Peace Council (NTIPC)** is the main consultative and advisory body mechanism under the Department of Labor and Employment. Social partners, including representatives from labor, employers, and

government, discuss relevant policy issuances on labor and employment in this Council. The NTIPC has 20 representatives each from workers and employer groups, who are appointed by the President. The GoP is represented by the Department of Labor and Employment and other agencies. Its main task is to formulate proposals and recommendations on labor, economic and social concerns, and to monitor the full implementation of tripartite instruments and social accords. In 2013, the Regional Tripartite Industrial Peace Council was tasked through the IRR of R.A. 10361, or the Domestic Worker Law (Batas Kasambahay), to create a subcommittee to ensure representation of domestic workers in social dialogue on their work and their welfare.³⁸³

³⁷⁸ International Labor Organization, Tripartite Consultation (International Labor Standards) Convention, 1976, available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C144

³⁷⁹ CONST, art. XII, sec. 3

³⁸⁰ LABOR CODE, art. 275

³⁸¹ An Act Strengthening Tripartism, amending for the purpose art. 275 of Presidential Decree No. 442, as amended, otherwise known as the "Labor Code of the Philippines," Republic Act 10395, March 14, 2013, available at <https://www.officialgazette.gov.ph/2013/03/14/republic-act-no-10395/>; Amending Executive Order No. 383, s. 1996, for the purpose of reconstituting and expanding the membership of the Tripartite Industrial Peace Council, Executive Order No. 49-1998, December 9, 1998, available at <https://www.officialgazette.gov.ph/1998/12/09/executive-order-no-49-s-1998/>; Reorganizing and Strengthening the Tripartite Industrial Peace Council, Executive Order No. 383-1996, December 6, 1996, available at <https://www.officialgazette.gov.ph/1996/12/06/executive-order-no-383-s-1996/>; Establishing the Tripartite Industrial Peace Council, Executive Order No. 403-1990, May 30, 1990, available at <https://www.officialgazette.gov.ph/1990/05/30/executive-order-no-403-s-1990/>

³⁸² Department of Labor and Employment, Guidelines in the Constitution and Institutionalization of National Councils, Regional TIPC's, and Regional or Local ITCs under the National TIPC, DO 08-1995.

³⁸³ Republic Act 10361 supra note 329, at Rule IV, sec. 17.



The **Industry Tripartite Peace Councils (ITPC)** serve as an information network on labor relations issues and industry configurations. It also monitors compliance with sectoral commitments as embodied in the national, regional, local or industry accords. Compared to the NTIPC, ITPCs are industry-specific. There are currently eight national ITCs for the following industries: (1) automotive assembly; (2) construction industry; (3) banking industry; (4) clothing and textile; (5) hotel and restaurant ; (6) sugar industry; (7) maritime industry; (8) overseas land-based industry. The ITPC has issued multiple policy issuances on labor including two relevant policies on child labor: Department Order No. 4-1999: Hazardous work and activities to persons below 18 years of age and Department Order No. 65-04 , which is the implementing rules and regulations to Republic Act 9231.

Government Programs on Child Labor and Hazardous Work

Below is a survey of government programs which seek to combat child labor and hazardous work.

1 Philippine Program Against Child Labor

DOLE, through its leadership in the NCAACL, manages and coordinates the Philippine Program Against Child Labor (PPACL). The PPACL “works towards the prevention and progressive elimination of child labor through protection, withdrawal, healing and reintegration of child workers into a caring society, and supports alleviation of extreme poverty, which has been the main cause of child labor in the country.”³⁸⁴ The Program has **five immediate outcomes** in its Strategic Framework 2020-2022. They are:

- a** **A strengthened NCAACL, with localized child labor committees** at the regional, provincial and municipal levels. This includes interagency arrangements and other strategic partnerships that facilitate coordination, communication, information sharing, enforcement and service delivery.
- b** **Improved enforcement of child labor laws country-wide**, to include capacity building, intensified monitoring and inspection practices, and improved procedures for identifying and rescuing child victims and prosecuting offenders.
- c** **Expanded access to social protection services** for child laborers and their families, including better access to basic education for children at risk of entering child labor. Other services may include psychosocial, health, legal and livelihood support.
- d** **Improved generation and dissemination of knowledge** on child labor in the Philippines, particularly among program implementers, policy makers, the general public and other stakeholders. In particular, updating the Child Labor Knowledge Sharing System (CLKSS), raising awareness on the issues and encouraging use of the child labor hotline, DOLE 1349.
- e** **National Child Labor Monitoring and Evaluation (M&E) System** developed to include an M&E framework for child labor programs and a reporting tool for national and local implementers and service providers.³⁸⁵

³⁸⁴ Department of Labor and Employment - Bureau of Workers with Special Concerns, “Philippine Program Against Child Labor,” available at <https://bwsc.dole.gov.ph/programs-and-projects-submenu1/clpep.html>. Accessed March 28, 2021.

³⁸⁵ *Id.*

2 DOLE Child Labor Prevention and Elimination Program

Profiling Child Laborers Initiative

The DOLE launched its nationwide program to profile child laborers and their families in April of 2018. A main feature of the program is DOLE's partnership with the Government Internship Program (GIP). Through this union, interns from targeted communities are trained to identify child laborers and meet with them and their families to collect data which will help determine their greatest needs. The data is transmitted to regional DOLE offices where each case is assessed and matched with services in the community that can support the family. **The idea is that services, such as conditional cash transfers, livelihood and employment assistance and other provisions will eliminate the need for child labor and create the opportunity for the child to stay in school.**

Community Facilitators, who are hired by DOLE, conduct follow up visits and monitor the status of the working child until it is confirmed that the child is no longer working. DOLE collects data throughout the process, including from the different social partners that provide the services, and submits an annual report to the National Economic and Development Authority (NEDA). DOLE Administrative Order No. 579, Series of 2019, or "Revised Guidelines on the Profiling of Child Laborers and Provision of Services to Remove Them," lays out DOLE's profiling approach and how priority geographic areas for profiling are selected.³⁸⁶

Between 2018-2020, DOLE profiled 266,873 child laborers and removed 56,276 of them. Together with the DSWD's SHIELD Program, DOLE is working toward meeting the Philippine Development Plan goal of removing 630,000 children from child labor by the end of 2022. The Covid-19 pandemic and the enhanced community quarantine have required a temporary pause in activities but with the easing of Covid-19 restrictions, DOLE was preparing to restart the program.³⁸⁷

³⁸⁶ Department of Labor and Employment supra note 304

³⁸⁷ Ferdinant Patinio, DOLE eyes to free 630k kids from child labor by 2022, Philippine News Agency, February 10, 2021, available at <https://www.pna.gov.ph/articles/1130290>, Accessed: May 20, 2021.

3 DOLE Labor Inspection Function

The purpose of labor inspection in the Philippines is “to further strengthen the implementation of the visitorial and enforcement powers under the Labor Code, as renumbered, towards securing a higher level of compliance with labor laws and standards, and ensuring continuity and sustainability of compliance at workplaces.”³⁸⁸

DOLE’s BWC is the focal point of the Philippine labor inspection system. The BWC formulates laws and policy on workplace conditions and administers and enforces OSH laws, regulations and standards “in all establishments and workplaces wherever they may be located.”³⁸⁹ However, it is the role of the labor inspectors in the DOLE Regional Offices to conduct workplace inspections to check on an establishment’s safety conditions and OSH operations. Specialized technical inspectors cover the inspection of mechanical and electrical equipment. Regional inspectors are required to conduct 250 inspections per year.

Child labor violations are discovered through three different types of labor inspection visits: 1. *routine, regularly scheduled*, 2. *complaint/referral driven*, and 3. *OSH Investigations*.

- a** **Routine visits** include all private establishments, including contractors and subcontractors. Two of the five priority establishments targeted for routine inspections are those engaged in hazardous work and that employ children. During a routine inspection, the inspector (accompanied by a worker and an employer representative) reviews employment records, interviews employees and examines the workplace for compliance with labor laws and social legislation.
- b** A **complaint or referral-driven inspection** arises from a referral, an anonymous complaint or from a request for conciliation-mediation proceedings. If responding to an anonymous complaint, the inspector may conduct a surprise inspection visit. Otherwise, the inspection process is the same as routine.

³⁸⁸ Department of Labor and Employment, About Labor Inspection Program, available at <https://www.dole.gov.ph/about-labor-inspection-program/>, Accessed May 21, 2021.

³⁸⁹ International Labor Organization, Philippines: Labour Inspection Structure and Organization, available at https://www.ilo.org/labadmin/info/WCMS_209367/lang--en/index.htm, Accessed May 23, 2021.

C An **OSH investigation** covers situations where there is: a) the existence of imminent danger, b) a dangerous occurrence, c) an accident resulting in dangerous injury, or d) OSH violations committed in plain view or in the presence of the inspector. An inspector, with representatives from workers and employers (or technical inspection team as needed) will visit the worksite within 24 hours of receiving information on a) - c) above. In the case of d) above, the labor inspector will require the employer to correct the violation for re-inspection. DOLE also provides technical assistance to larger establishments to help them develop preventive self-policing mechanisms to monitor their personnel and take corrective action against violators. DOLE inspectors use a Management Information System to capture data and transmit it from the field to the national office through a mobile device. This allows for immediate processing to generate statistics and reports.³⁹⁰

With regard to R.A. No. 7610 and its amendment, R.A. 9231, the DOLE has primary responsibility to enforce its child labor and hazardous labor provisions. DOLE Regional Directors (RD) have the authority to order the immediate and permanent closure, or the immediate and temporary closure of an establishment depending on the severity of the child labor violation. DOLE can also require the employer to cover any costs incurred by the rescue, rehabilitation and reintegration (or funeral) of the child victim. For less severe violations, the RD can issue a compliance order for immediate correction and restitution.

If the violation persists more than 3 times, the fourth violation justifies closure of the establishment. The laws also give DOLE RDs the authority to suspend and/or cancel a working child's permit under certain circumstances, including violation of the terms and conditions of the contract, or failure to protect the child or provide him/her with a skills training program or access to other educational options. If DOLE suspects there might be a criminal offense, the investigation report is immediately forwarded to the provincial or city prosecutor who determines the appropriate criminal charge.³⁹¹

³⁹⁰ *Id.*

³⁹¹ The Department of Labor and Employment, Rules and Regulations Implementing Republic Act 9231, Amending R.A. 7610, as Amended, DO 65-04, July 26, 2004, available at http://ro6.dole.gov.ph/fndr/mis/files/D_O_%2065-04.pdf. Accessed May 15, 2021.

4 Strategic Helpdesks for Information, Education, Livelihood and Other Developmental Interventions (S.H.I.E.L.D. Program)

The S.H.I.E.L.D. Program is a DSWD initiative that was piloted in Regions IVA,, V, and VIII. from 2017-2020. The program targeted children working in deep-sea fishing, small-scale mining and sugarcane farming. The objectives are to strengthen local level stakeholder capacity to recognize child labor and to increase their efforts to combat it. The approaches to achieving these objectives are:

- a** To develop and use a **Child Labor Registry** tool to identify child laborers and maintain a database with their details. The registry will record the specific needs of the child and his/her family;
- b** To create **Barangay-level Help Desks** which serve as a service referral mechanism for child laborers and their families; and
- c** To build the capacity of child laborers, their families, communities, duty-bearers, service providers and other stakeholders to influence local policy makers and to ensure the effectiveness of the program.³⁹²

The DSWD's Social Technology Bureau conducted a study on child labor which contributed to the design of the S.H.I.E.L.D. program.³⁹³ In areas targeted by the program, the local Barangay health workers conduct the profiling of child laborers and their families using a profiling tool and a child labor database which was developed with technical support from the ILO. The collected data is stored in a Barangay-level Child Labor Local Registry.

Local DSWD offices create the help desks and facilitate the convergence of social services that are offered to child

³⁹² Facebook - DSWD Region V, Serbisyon Oragon sa Lahat ng Panahon, available at <https://feedback.facebook.com/dswdfo5/posts/3953184674777813>. Accessed May 24, 2021.

³⁹³ Marygizelle Mesa, DSWD Social Technology Unit pilots SHIELD Project Against Child Labor Implementation in Camarines Norte, Department of Social Welfare and Development, April 7, 2021, available at <https://fo5.dswd.gov.ph/dswd-social-technology-unit-pilots-shield-project-against-child-labor-implementation-in-camarines-norte/>

laborers and their families. DSWD plans to upscale the S.H.I.E.L.D. Program countrywide to all regions, except the BARMM, in 2021. In the Philippines Development Plan 2017-2022 and in the PPACL, the government has committed to removing 630,000 children from child labor by 2022. DSWD and DOLE coordinate where they conduct their profiling so as not to duplicate work.

On June 14, 2021, the DSWD and World Vision (WV) signed a Memorandum of Understanding that allows the WV Project ACE to adopt the S.H.I.E.L.D. model in its 3-year programmatic approach. This strategy will enhance efforts to protect children and their families and will complement the declaration of 2021 as the international year to eliminate child labor.³⁹⁴

5 Project Angel Tree

This DOLE project, under the umbrella of the PPACL, aims to eliminate child labor by providing child laborers, children-at-risk and their families with the things they need the most, such as: food, clothing, school supplies, livelihood, educational and medical assistance, and work and training opportunities. These items are provided by “angels” or private benefactors who are advocates for child labor elimination in the form of “gifts” based on special requests from the children.³⁹⁵

6 DOLE’s Integrated Livelihood and Emergency Employment Program (DILEEP)

This program was instituted in 2009 to address the effect of the global economic crisis in the Philippines. The program helped many people get back on their feet after Typhoons Haiyan and Tagupit in 2013 and 2014. The program provides immediate social protection and restores livelihoods to displaced, unemployed and underemployed workers and survivors of natural disasters. The program provides short-

³⁹⁴ Christine Cudis, DSWD, World Vision join hands to End Child Labor, Philippine News Agency, June 14, 2021, available at <https://www.pna.gov.ph/articles/1143679>. Accessed: June 27, 2021

³⁹⁵ Department of Labor and Employment, 15th CBMS-Philippines National Conference, 15 March 2019, Novotel Manila Araneta Center, Power Point Presentation, Atty. Ma. Karina Perida-Trayvilla Director IV, Bureau of Workers with Special Concerns, as part of Department of Labor and Employment’s “Initiatives Towards the Prevention and Elimination of Child Labor in the Philippines, available at https://www.pep-net.org/sites/pep-net.org/files/CBMS/Conference/15th/Presentations/Atty._Ma._Karina_Perida-Trayvilla.pdf. Accessed May 21, 2021.

term infrastructure and non-infrastructure jobs and facilitates self-employed people's access to credit and training.³⁹⁶ The KASAMA program beneficiaries of DILEEP are required to keep their children from engaging in child labor.³⁹⁷

7 Pantawid Pamilyang Pilipino Program (4Ps)

This government program, headed by the DSWD, is the Philippine national poverty reduction strategy that uses a conditional cash transfer as a human capital investment. The program is considered "the core pillar of the government's social protection strategy"³⁹⁸ and is the third largest conditional cash transfer program in the world based on its number of beneficiaries. The program uses a Poverty Registry ("Listahanan") to select beneficiaries based on need.³⁹⁹ As of June 2020, the BARMM had the highest number of active 4Ps households, followed by Regions 5 and 6.⁴⁰⁰ Eligible beneficiaries include homeless families, indigenous people, farmers, those in the informal sector, fisherfolk, those in geographically isolated areas, and those in areas with no electricity.⁴⁰¹ Many of these families have children engaged in child labor.

Households that receive the cash transfers are required to meet certain conditions related to their children's health, nutrition and education. Conditionalities include: Pre-and post-natal care for mothers; regular/preventive check-ups for children ages 5 years and below; deworming of children ages 14 and below; and ensuring that school-aged children in beneficiary

³⁹⁶ International Labor Organization, Building Social Protection Floors - Country Note Series, April 2015, Integrated Livelihood and Emergency Employment, Program, <https://www.social-protection.org/gimi/RessourcePDF.action?id=51497#:~:text=The%20Philippine%20Department%20of%20Labor,%2C%20disadvantaged%2C%20and%20unemployed%20workers>. Accessed: May 24, 2021.

³⁹⁷ Department of Labor and Employment, Revised Guidelines in the Implementation of the Department of Labor and Employment Integrated Livelihood and Emergency Employment Programs, DO 173-2017, February 14, 2017, available at <https://bwsc.dole.gov.ph/media/files/cl/DO-173-17.pdf>. Accessed May 15, 2021.

³⁹⁸ Aniceto Orbeta Jr., Kris Ann M. Melad, et. al., Reassessing the Impact of the Pantawid Pamilyang Pilipino Program: Results of the Third Wave Impact Evaluation, Philippine Institute of Development Studies, Discussion Paper Series No. 2021-05, February 2021, p. 1, available at

<https://pidswebs.pids.gov.ph/CDN/PUBLICATIONS/pidsdps2105.pdf>. Accessed: June 4, 2021

³⁹⁹ The World Bank Group- Independent Evaluation Group, Not Just What But How: A Strong Delivery System Was Key to the Success of the Philippines' Nationwide Social Protection Program, available at <https://ieg.worldbankgroup.org/blog/not-just-what-how-strong-delivery-system-was-key-success-philippines-nationwide-social>. Accessed: June 11, 2021

⁴⁰⁰ Department of Social Welfare and Development, Monthly Report on Pantawid Pamilya Implementation as of June 30, 2020, pg. 8, available at <https://pantawid.dswd.gov.ph/wp-content/uploads/2020/09/2nd-Quarterly-Report-2020.pdf>. Accessed: June 27, 2021

⁴⁰¹ Lucio F. Broño, 4Ps Remains DSWDs Priority Program, Philippines Information Agency, available at <https://pia.gov.ph/features/articles/1032222>. Accessed June 27, 2021

families attend school a minimum of 85% of the school year.⁴⁰² A second component is the Family Development Sessions (FDS), which one adult from the household is required to attend each month. The FDS are educational interventions that encourage community participation and help foster the necessary behaviors in parents to perform the duties and responsibilities that will improve and sustain the family's well-being. One of the modules for the FDS, developed with technical assistance from the ILO, addresses the issue of child labor and the importance of choosing education over work for children.⁴⁰³ Beneficiary compliance to the conditionalities are monitored every two months jointly by the DSWD, the Department of Health's local representatives, and the Department of Education.⁴⁰⁴

After the initial grant, the amount of the succeeding grants is determined based on a household's compliance to the above-mentioned program requirements.⁴⁰⁵ In 2017, a third type of benefit, a rice subsidy, became available to households if they comply with either the education or the health and FDS conditions. The purpose of the rice subsidy is to increase the food consumption of the beneficiaries, particularly children.⁴⁰⁶ In 2019, Republic Act 11310, or the Pantawid Pamilyang Pilipino Program (4Ps) Act, was signed into law, which institutionalized the 4Ps program. Section 8 of the Act stipulates that all household beneficiaries of the program are automatically covered by the National Health Insurance Program (NHIP). Article 13 of the same Act assigns 4Ps household beneficiaries priority for inclusion in the DSWD's Sustainable Livelihood Program (SLP) and/or any similar program offered by other government agencies or private institutions.⁴⁰⁷ In 2020, the GoP increased the cash transfer amount that 4Ps beneficiaries receive as mandated by the Act.⁴⁰⁸

⁴⁰² John Rey Saavedra, DSWD-7 resumes monitoring of compliance with 4Ps conditionalities, Philippine News Agency, September 10, 2020, available at [https://www.pna.gov.ph/articles/1114970#:~:text=The%20conditionalities%20include%20sending%204Ps,Family%20Development%20Session%20\(FDS\)](https://www.pna.gov.ph/articles/1114970#:~:text=The%20conditionalities%20include%20sending%204Ps,Family%20Development%20Session%20(FDS)) Accessed: June 28, 2021

⁴⁰³ Department of Social Welfare and Development, DSWD Welcomes 4 P's Gains in 3rd Impact Evaluation, April 14, 2020, available at <https://www.dswd.gov.ph/dswd-welcomes-4ps-gains-in-3rd-impact-evaluation-report/> Accessed: April 3, 2021.

⁴⁰⁴ Orbeta and Melad, *supra* note 399 at p. 8

⁴⁰⁵ Orbeta and Melad, *supra* note 399 at p. 8

⁴⁰⁶ Orbeta and Melad, *supra* note 399 at p. 11

⁴⁰⁷ An Act Institutionalizing the Pantawid Pamilyang Pilipino Program (4Ps) [Pantawid Pamilyang Pilipino Program (4Ps) Act], Republic Act 11310, April 17, 2019, available at <https://www.officialgazette.gov.ph/downloads/2019/04apr/20190417-RA-11310-RRD.pdf>. Accessed: June 7, 2021

⁴⁰⁸ Charissa, Luci-Atienza, DSWD Elated with Results of Third Impact Evaluation Report on 4Ps, Manila Bulletin, April 14, 2021, available at <https://mb.com.ph/2021/04/14/dswd-elated-with-results-of-third-impact-evaluation-report-on-4ps/> Accessed: June 27, 2021

Also in 2020, Republic Act 11469, or the Bayanihan to Heal as One Act, tasked the DSWD to implement the Social Amelioration Program's Emergency Subsidy (SAP-ES) to low-income families severely affected by the COVID-19 crisis during the State of Public Health Emergency declared throughout the country.⁴⁰⁹ The subsidy, whose beneficiaries include the 4Ps households, provided an additional resource that could be used to buy medicine, food and other essential items during the crisis.⁴¹⁰

As the number of 4Ps beneficiaries has grown, so has the program budget. In 2008, the first year of the program, the budget allocation was 50 million Pesos and covered 321,380 household beneficiaries; twelve years later, in 2020 the budget had grown to 101 billion Pesos and served between 4.2 and 4.3 million beneficiaries⁴¹¹; and in 2021, the budget allocation is 106 billion Pesos, with a target of 4.3 beneficiaries.⁴¹² The program aims to reach a sustained goal of 4.4 household beneficiaries.⁴¹³

The results of the third wave impact evaluation show that the program continues to have a positive impact on most of the target education and health outcomes of children and pregnant women. Other target areas of the program, such as income and food security, community participation, better understanding of how to mitigate vulnerabilities such as disaster preparedness among adults, and the increase of "grit" or determination of children were also impacted favorably by the program. **However, there were some negative impacts** on some of the nutrition outcomes, inconsistencies in the utilization of maternal health care services, **and a lack of significant reduction in child labor incidence.**⁴¹⁴

⁴⁰⁹ An Act Declaring the Existence of a National Emergency Arising from the Corona Virus Disease 2019 (COVID-19) Situation and a National Policy in Connection Therewith, and Authorizing the President of the Republic of the Philippines for a Limited Period and Subject to Restrictions, To Exercise Powers Necessary and Proper to Carry Out the Declared National Policy and For Other Purposes [Bayanihan to Heal as One Act], Republic Act No. 11469, March 24, 2020 available at , <https://www.officialgazette.gov.ph/downloads/2020/03mar/20200324-RA-11469-RRD.pdf>. Accessed June 27, 2021]

⁴¹⁰ Department of Social Welfare and Development, 4Ps SAP Distribution reached 98.49%, available at <https://pantawid.dswd.gov.ph/2020/06/4ps-sap-distribution-reached-98-49/> [accessed June 27, 2021]

⁴¹¹ Department of Social Welfare and Development, Monthly Report on Pantawid Pamilya Implementation as of June 30, 2020, p. 5, available at <https://pantawid.dswd.gov.ph/wp-content/uploads/2020/09/2nd-Quarterly-Report-2020.pdf>. Accessed: June 27, 2021

⁴¹² Mikee Filane Cervantes, P106-B Subsidy to be Distributed to 4.3M 4Ps Families Next Year, Philippine Information Agency, September 7, 2020, available at <https://www.pna.gov.ph/articles/1114664#:~:text=3%2Dbillion%202021%20budget%20for,the%20government%2C%E2%80%9D%20he%20said>. Accessed June 27, 2021]

⁴¹³ Lucia F. Broño, 4Ps Remains DSWD's Priority Program, Philippine Information Agency, available at <https://pia.gov.ph/features/articles/1032222> Accessed: June 27, 2021

⁴¹⁴ Orbeta and Melad, *supra* note 399 at p. 63

8 Special Program for Employment of Students (SPES)

This program is DOLE's youth employment bridging program. It links economically disadvantaged students, out-of-school youth, and dependents of unemployed or soon-to-be unemployed workers aged 15-30 years to temporary employment. The goal of the program is to give beneficiaries an opportunity to contribute to the family income and pursue their education.⁴¹⁵

9 Government Research on Child Labor

There are three main government bodies that conduct a range of research related to important topics that are relevant to social, economic, environmental and development issues in the country, including on child labor. The study findings provide an evidence based foundation of information that policy makers, advocates, academics and others can access. These research organizations are:

a The **Philippines Statistics Authority (PSA)**. This is the central statistical authority of the Philippine government on primary data collection. The PSA is the body that conducted three national-level Surveys on Children (SOC) on child labor (1995, 2001 and 2011). **Data from the last one (2011) is still used to understand the situation of child labor and hazardous work in the country** by region, age, and sex. These surveys are expensive and time-consuming and therefore, not conducted with frequency.

The PSA recognizes that "these surveys are still inadequate to capture the extent of child labor in the country"⁴¹⁶ due to lacking data on forced labor and child trafficking. However, the recently adopted *ILO Resolution to Amend the 18th International Conference of Labour Statisticians (ICLS) Concerning Statistics of Child Labour*⁴¹⁷

⁴¹⁵ Department of Labor and Employment, Implementing Rules and Regulations of Republic Act No. 10917 Amending for the Purpose Republic Acts 9547 and 7323, Otherwise Known as the Special Program for Employment of Students (SPES), DO 175-2017, Rule V, sec. 1(c)

Department Order No. 175, Series of 2017, March 20, 2017, Rule V, Section 1c., available at <https://bwsc.dole.gov.ph/media/files/cl/DO-175-17.pdf>, Accessed May 13, 2021.

⁴¹⁶ -- Decent Work in the Philippines: Statistics on Working Children (3rd of a Series on Decent Work Statistics, Philippines Statistics Authority, April 25, 2019, available at <https://psa.gov.ph/content/decent-work-philippines-statistics-working-children-3rd-series-decent-work-statistics-0>. Accessed June 02, 2021.

⁴¹⁷ International Labour Organization, Resolution to amend the 18th ICLS Resolution concerning statistics of child labour, October 10 to 18, 2018, 20th International Conference of Labour Statisticians, Geneva, available at, https://www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/meetingdocument/wcms_647347.pdf. Accessed June 01, 2021.

will update the official definition of child labor which the PSA can apply to its current data collection approach. This will generate more accurate official estimates of child labor in the future. Three new types of child work that will be included are: 1) *own-use production work*; 2) *unpaid trainee work*; and 3) *non-compulsory work that is performed for others without pay*. Based on the conditions of the work in these categories, some of it might be deemed child labor.⁴¹⁸ Further, the ILO amendment on child labor statistics includes guidelines for developing a definition of forced labor that will “ensure uniformity and comparability across countries.” The definition includes the forced labor of children and defines it as: a. Bonded labor; b. Trafficking for forced labor; or c. Forced commercial sexual exploitation. Once the ILO finalizes its technical manuals for measuring and analyzing forced labor, it will provide training and capacity building to its member countries.⁴¹⁹

Since 2017, the PSA has been using a rider, or child labor module, included annually as an add-on to the the Labor Force Survey (LFS).⁴²⁰ This module, which was developed with support from the ILO, will report data on “working children” as a proxy indicator to child labor.⁴²¹ Although regularly gathering data on child labor is preferable to conducting a survey every ten years, an interviewee familiar with the LFS process noted that **the results will not provide a true picture of child labor in the Philippines** because the survey leaves out children working in the informal sector, in private homes, and those trapped in the WFCL. Also, “working children” does not distinguish between acceptable child work and child labor. **Data from the 2017 child labor module has not yet been released to the public.**⁴²²

b **The Institute for Labor Studies (ILS).** The ILS was created to address DOLE’s need for more comprehensive and innovative research to support its policy recommendations.⁴²³ The ILS’ publication, “The Philippine Journal of Labor Studies” has published a number of

⁴¹⁸ Philippines Statistics Authority, Adopted Resolutions/Guidelines on Labor Standards and Labor Relations During the 20th International Conference of Labor Statisticians (ICLS), Lab Stat. Updates, Vol. 3, No. 04, March 2019 pp. 5-9, available at https://psa.gov.ph/sites/default/files/LABSTAT%20Updates%20%20Vol.%2023%20No.%204%20-%2020th%20ICLS%20Updates%20on%20labor%20Standards%20and%20labor%20Relations_0.pdf Accessed May 15, 2021

⁴¹⁹ Id.

⁴²⁰ Second Key Informant Interview with DOLE representative from DOLE-BWSC. June 02, 2021.

⁴²¹ Philippine Statistics Authority, Decent Work in the Philippines: Statistics on Working Children (3rd of a Series on Decent Work Statistics), Philippine Statistics Authority, April 25, 2019, available at <https://psa.gov.ph/content/decent-work-philippines-statistics-working-children-3rd-series-decent-work-statistics-0>. Accessed June 02, 2021.

⁴²² Second Key Informant Interview with DOLE representative from DOLE-BWSC. June 02, 2021.

⁴²³ Institute for Labor Studies, -Overview, available at <https://ils.dole.gov.ph/about-ils/>. Accessed June 02, 2021.

papers on child labor, including a gap analysis of RA 9231 AND RA 10533 and a study to determine if there are non-hazardous tasks that children can do in the sugarcane and banana supply chains.⁴²⁴ ILS' *IN FOCUS* series also includes research on the hours of a working child in the theater industry.⁴²⁵

C The **Philippine Institute for Development Studies (PIDS)** is the government's main socio-economic think tank. The PIDS conducts studies that help planners and policymakers develop plans, policies and programs to attain inclusive and sustainable development. The Institute collaborates closely with Congress, government oversight agencies, academia and public and private entities. Its publications include child labor, out-of-school children, basic education, the 4 P's program, poverty and other relevant themes.⁴²⁶

10 OSHC's Vision One Million

The OSHC, through this training and awareness initiative, aims to reach people nationwide through advertisements in print, TV and radio, mass transport, social media and billboards. It also conducts regional awareness campaigns, designs multiple sector-specific OSH orientation modules, and makes use of online interactive tools. The OSHC has also piloted a unique model to get the word out. The Center encourages individuals to become "Inspired OSH Champions" and urges people to "know more, share more, and do more" within their communities. This message is part of the OSH module delivered in high schools and tertiary institutions designed by the Center. The program also develops practices, systems and processes that can be applied to the informal sector.⁴²⁷

A high profile component of this program is that celebrity ambassadors are part of an information campaign, launched in early 2020, on the prevention of occupational accidents and work-related injuries. The goal of the campaign is to raise public awareness on the 2018 OSH law (R.A. 11058), including

⁴²⁴ Frances Camille G. Dumalaog and Franchesca Rose S. Castillo, Non-Hazardous Activities for Children: The Case of Banana and Sugarcane Supply Chains, *Philippine Journal of Labor Studies*, Volume II, Institute for Labor Studies, October 2020.

⁴²⁵ Institute for Labor Studies, *Working Children*, available at <https://ils.dole.gov.ph/?s=working+children>. Accessed: June 2, 2021

⁴²⁶ Philippines Institute for Development Studies, Home page at <https://www.pids.gov.ph/publications/6727>. Accessed June 01, 2021.

⁴²⁷ Department of Labor and Employment, *supra* note 372

through OSH training and education, and to influence the behavior of Filipinos on OSH issues. The campaign, which is called for in the law, strives to inform the public about OSH as their right, responsibility, priority and a key to continue providing for their families. Media advertisements were to be posted in all light rail train stations throughout Metro Manila.⁴²⁸

Government Programs on Child Employment

Apart from these general guidelines and recognizing the benefit of engaging in acceptable conditions of work in the overall well-being of the child, the DOLE and the DepEd oversee two programs on child employment:

1 Special Program for Employment of Students (SPES)

The government agencies, DOLE and DepEd, each have a work program for youth that includes children from 15 to under 18 years of age as beneficiaries. DOLE's *Special Program for Employment of Students (SPES)* is a youth employment bridging program, supervised by DOLE regional offices but managed by DOLE Bureau of Local Employment. The program works through the local Public Employment Service Offices (PESO). The PESO matches poor-but-deserving students, out-of-school youth, and dependents of displaced or would-be displaced workers aged 15-30 years with temporary employment at local businesses, government offices or organizations.

Work can take place during school vacation periods for students or any time for other beneficiaries, for a maximum of 78 days/year, and beneficiaries receive personal accident insurance during that time. The goal of the program is to give beneficiaries an opportunity to contribute to the family income and their education.

Employers are prohibited from engaging SPES beneficiaries under 18 years in hazardous activities or undertakings. They

⁴²⁸ Lade Jean Kabagani, Gov't revs up occupation safety, health standards campaign, Philippine News Agency, February 26, 2020, available at <https://www.pna.gov.ph/articles/1094896>. Accessed June 25, 2021.

are also required to adhere to child labor-related laws which restrict their work to a maximum of 8 hours/day, 5 days/week, and no work between the hours of 10 pm and 6am the following morning.⁴²⁹

2 Work Immersion Program

The DepEd youth employment program is the work immersion piece of its K-12 Basic Education program. The Work Immersion Program is designed for senior high school students (grades 11 and 12, ages 16-18) to become familiar with an authentic workplace environment and apply their knowledge and skills to real work situations. It is like an internship that prepares them for life after high school.

Host establishments must ensure safe workplaces, and DepEd states that “the safety of Senior High School Students shall be the paramount consideration in pursuit of these goals.” Work immersion will not take place between the hours of 10 pm and 6 am the following morning for students between the ages of 15 to under 18 years.⁴³⁰

⁴²⁹ DO 175-2017, supra note 416, at Rule V, sec. 1 (c)

⁴³⁰ Department of Labor and Employment, Guidance to Host Establishments in Ensuring Safe Workplaces for Senior High Students under Work Immersion Program, Labor Advisory 09-2017, July 14, 2017, available at <https://bwsc.dole.gov.ph/media/files/cl/Labor-Advisory-No-09-17.pdf>. Accessed May 24, 2021.



Chapter V

Worst Forms of Child Labor, Child Trafficking and Child Protection

In the preceding chapter, the worst forms of child labor under ILO C.182 were clustered into four groups:

Cluster A: slavery or practices similar to slavery such as the sale and trafficking of children, debt bondage, serfdom, and forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict;

Cluster B: the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;

Cluster C: the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; and

Cluster D: work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children (hazardous work).⁴³¹

⁴³¹ ILO C. 182, supra note 22

As earlier noted, these four clusters of WFCL are listed under three key pieces of legislation in the PH, one which focuses on child protection, one on child labor, and the other on trafficking in persons (TIP): Republic Act 7610, (or the Special Protection of Children Against Abuse, Exploitation, and Discrimination Act)⁴³² as amended by Republic Act 9231 (or the law providing for the Elimination of the Worst Forms of Child Labor)⁴³³ and Republic Act 10364 (or the Expanded Anti-Trafficking in Persons Act), which amends Republic Act 9208 (or the Anti-Trafficking in Persons Act of 2003).⁴³⁴

While the WFCL are treated as both child protection and trafficking in persons issues, the Philippines, in an effort to better address them, also passed separate laws specific to each cluster. For instance, *Cluster D* on hazardous work, as discussed in the previous chapter, comes with its own legal framework and enforcement mechanism and is addressed under the Philippine approach to combating “child labor.”⁴³⁵ *Cluster C*, or the use of children for illicit activities, such as drug production and trafficking, is addressed in both the Republic Act 9165 (or the Comprehensive Dangerous Drugs Act)⁴³⁶ and in Republic Act 9344 (or the Juvenile Justice and Welfare Act).⁴³⁷ A portion of *Cluster A* which refers to recruitment of children in armed conflict is likewise addressed in a separate framework under Republic Act 11188, (or the Special Protection for Children in Situations of Armed Conflict Law).⁴³⁸

This chapter will discuss the WFCL from the lens of the country’s child trafficking and child protection framework and in consideration of special laws governing each cluster of WFCL. It is divided into four parts: The first part provides an overview of the PH Legal Framework on TIP and how it encapsulates WFCL. The succeeding parts will discuss, in turn

a trafficking for labor including the use of **children in armed conflict** (Cluster A - WFCL);

⁴³² Republic Act 7610, supra note 33

⁴³³ Republic Act 9231, supra note 33

⁴³⁴ An Act Expanding Republic Act 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”), Republic Act 10364, February 6, 2012, available at <https://www.officialgazette.gov.ph/2013/02/06/republic-act-no-10364/>. Accessed: May 2, 2021

⁴³⁵ Republic Act 9231, supra note 33

⁴³⁶ An Act Instituting the Comprehensive Dangerous Drugs Act of 2002, repealing Republic Act 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended, providing funds therefor and for other purposes (“Comprehensive Dangerous Drugs Act of 2002”), Republic Act 9165, June 7, 2022, available at <https://www.officialgazette.gov.ph/2002/06/07/republic-act-no-9165/> Accessed: May 2, 2021

⁴³⁷ An Act Establishing a Comprehensive Juvenile Justice and Welfare System, creating the Juvenile Justice and Welfare Council under the Department of Justice, appropriating funds therefor and for other purposes (“Juvenile Justice and Welfare Act of 2006”), Republic Act 9344, April 28, 2006, available at <https://www.officialgazette.gov.ph/2006/04/28/republic-act-no-9344-s-2006/>. Accessed: May 2, 2021

⁴³⁸ Republic Act 11188, supra note 34

- b** trafficking for **Commercial Sexual Exploitation (CSEC)** (Cluster B-WFCL) and
- c** trafficking for the use of **children in illicit activities** (Cluster C - WFCL).

These three are discussed together as they similarly fall under the category of “unconditional worst forms of child labor” that are absolutely prohibited whereas

- d** **hazardous work** (Cluster D - WFCL)

may be altered in legitimate sectors of the economy if OSH or other interventions can render the work non-hazardous for children of legal working age.⁴³⁹

Trafficking in Persons (TIP), An Overview of the PH Legal Framework

TIP is one of the most severe forms of human rights violations. When a person is trafficked, the individual is not treated as a human being, but rather as an object that may be sold for a price and as part of a commercial transaction. The different modalities by which TIP is currently committed reflects the fluidity of the crime, making it extremely difficult for law enforcers to go after traffickers.

Various international legal instruments have been adopted to combat borderless crimes, most relevant of which is the **UN Convention Against Transnational Organized Crime** and its related protocols.⁴⁴⁰ The Convention was adopted by the UN General Assembly on November 15, 2000 with the purpose of promoting cooperation to prevent and combat transnational organized crime more effectively. Protocols to this Convention include:

⁴³⁹ International Labour Organization, Every Child Counts: New Global Estimates on Child Labor, International Programme on the Elimination of Child Labor - Statistical Information and Monitoring Programme on Child Labor, Geneva: April 2002, available at https://www.ilo.org/ipec/Informationresources/WCMS_IPEC_PUB_742/lang--en/index.htm. Accessed: May 2, 2021

⁴⁴⁰ UN General Assembly, United Nations Convention Against Transnational Organized Crime: Resolution / Adopted by the General Assembly, 8 January 2001, A/RES/55/25, available at <https://www.refworld.org/docid/3b00f55b0.html>. Accessed: May 2, 2021

- a** **The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (The Palermo Protocol)** which came into force on December 25, 2003,⁴⁴¹
- b** **The Protocol against the Smuggling of Migrants**⁴⁴² which took effect in January 2004; and
- c** **The Protocol Against the Illicit Manufacturing of and Trafficking in Firearms**, which came into force on July 3, 2005.⁴⁴³

The GoP has ratified all of these international instruments.⁴⁴⁴ The Palermo Protocol and the Protocol on Smuggling of Migrants are relevant to this discussion on TIP.

Apart from international conventions, the US government's **Trafficking Victims Protection Reauthorization Act of 2003 has been an important influence on the Philippines' trafficking framework.**⁴⁴⁵ As a recap (see: Chapter III), the law requires the US Secretary of State to submit an annual report to its Congress, assessing the different countries' efforts to combat trafficking through prevention and protection measures and prosecution and conviction of traffickers.

The US TIP report groups countries into four tiers with **Tier 1** status accorded to countries whose government fully complies with the TVPA law's minimum standards. **Tier 2** countries are those whose governments do not fully comply with the law's minimum standards but are making significant efforts to bring themselves into compliance with the minimum standards; **Tier 2 Watch List** are those countries which are similar to Tier 2 in terms of compliance but the absolute number of victims of severe trafficking is significant or is increasingly significantly, with a lack of commensurate effort from the country to address the increase. **Tier 3** country governments do not fully comply with the minimum standards and are not making significant efforts to do so.⁴⁴⁶

⁴⁴¹ Palermo Protocol, supra note 206

⁴⁴² UN General Assembly, Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000, available at: <https://www.refworld.org/docid/479dee062.html>. Accessed: May 2, 2021

⁴⁴³ UN General Assembly, Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, Supplementing the United Nations Convention against Transnational Organized Crime, 31 May 2001, A/RES/55/255, available at: <https://www.refworld.org/docid/3dec85104.html>. Accessed: May 2, 2021

⁴⁴⁴ -- Ratification of International Human Rights Treaties - Philippines, University of Minnesota, Human Rights Library, available at <http://hrlibrary.umn.edu/research/ratification-philippines.html>. Accessed: May 2, 2021

⁴⁴⁵ H.R. 2620, Trafficking Victims Protection Reauthorization Act of 2003, January 7, 2003, available at <https://2009-2017.state.gov/j/tip/laws/61130.htm>; United States of America: Victims of Trafficking and Violence Protection Act of 2000 [United States of America], Public Law 106-386 [H.R. 3244], 28 October 2000, available at: <https://www.refworld.org/docid/3ae6b6104.html>. Accessed: May 2, 2021

⁴⁴⁶ Id.

In assessing a country's tier rating, the US Government determines if and to what extent it meets the following two **minimum standards**:

- 1 The government should **prohibit and punish** severe forms of TIP and make serious and sustained efforts to eliminate them; and
- 2 The government should **prescribe punishment commensurate** with that for grave crimes and which is sufficiently stringent to deter future attempts.

Source: US Department of State, *Trafficking in Persons Report (20th Edition)*, June 2020

The tier placement comes with certain sanctions, with the US Government having the discretion to withhold non-humanitarian or non-trade related assistance, to block participation in educational and cultural exchange programs, and to oppose any assistance sought by a Tier 3 country from the International Monetary Fund or the World Bank.⁴⁴⁷

Prior to 2003, legal provisions relating to TIP in the Philippines were scattered among various parts of the Revised Penal Code⁴⁴⁸ and other special laws including: (1) The Anti-Mail Order Bride Law,⁴⁴⁹ (2) The Anti-Sexual Harassment Law,⁴⁵⁰ (3) The Migrant Workers Act,⁴⁵¹ and (4) The Philippine Passport Act.⁴⁵² There was no one law that captured the full breadth of TIP nor listed TIP as a crime, save for *Republic Act 7610 or the Special Protection of Children Against Child Abuse, Exploitation, and Discrimination Act*.⁴⁵³

Republic Act 7610, which passed in 1992, was the first Philippine law to define **child trafficking** as a crime. Under Republic Act 7610, child trafficking refers to the act of trading and dealing with children, including buying, selling, and bartering.⁴⁵⁴ Additionally, the law penalizes attempts to commit child trafficking:

⁴⁴⁷ Id.

⁴⁴⁸ An Act Revising the Penal Code and other Penal Laws [REV. PENAL CODE], Act No. 3815, arts. 267, 270, 271, 272, 273, 274, 340, 341, 343 (1930)

⁴⁴⁹ An Act providing stronger measures against unlawful practices, businesses, and schemes of matching, and offering Filipinos to foreign nationals for purposes of marriage or common law partnership, repealing for the purpose Act 6955, also referred to as the "Anti-Mail Order Bride Law" ("Anti-Mail Order Spouse Act"), Republic Act 10906, July 21, 2016, available at <https://www.officialgazette.gov.ph/2016/07/21/republic-act-no-10906/>;

⁴⁵⁰ An Act Declaring Sexual Harassment Unlawful in the Employment, Education, or Training Environment, and for other purposes ("Anti-Sexual Harassment Act of 1995"), Republic Act 7877, February 14, 1995, available at <https://www.officialgazette.gov.ph/1995/02/14/republic-act-no-7877/>

⁴⁵¹ An Act to Institute the Policies of Overseas Employment and Establish a Higher Standard of Protection and Promotion of the Welfare of Migrant Workers, Their Families, and Overseas Filipinos in Distress, and for Other Purposes ("Migrant Workers and Overseas Filipinos Act of 1995"), Republic Act 8042, available at <https://www.officialgazette.gov.ph/1995/06/07/republic-act-no-8042-2/>; An Act Amending Republic Act No. 8042, Otherwise Known as the Migrant Workers and Overseas Filipinos Act of 1995, as Amended, Further Improving the Standard of Protection and Promotion of the Welfare of Migrant Workers, Their Families and Overseas Filipinos in Distress, and For Other Purposes, Republic Act 10022, March 8, 2010, available at <https://www.officialgazette.gov.ph/2010/03/10/republic-act-no-10022-s-2010/>

⁴⁵² The Philippine Passport Act of 1995, Republic Act 8239, November 22, 1996, available at <https://www.officialgazette.gov.ph/1996/11/22/republic-act-no-8239/>

⁴⁵³ Republic Act 7610, supra note 33

⁴⁵⁴ Republic Act 7610, sec. 7

Sec. 8. Attempt to Commit Child Trafficking

There is an attempt to commit child trafficking under Section 7 of this Act:

(a) *When a child travels alone to a foreign country without valid reason therefore and without clearance issued by the Department of Social Welfare and Development or written permit or justification from the child's parents or legal guardian;*

(c)⁴⁵⁵ *When a person, agency, establishment or child-caring institution recruits women or couples to bear children for the purpose of child trafficking;*

(d) *When a doctor, hospital or clinic official or employee, nurse, midwife, local civil registrar or any other person simulates birth for the purpose of child trafficking; or*

(e) *When a person engages in the act of finding children among low-income families, hospitals, clinics, nurseries, day-care centers, or other child-rearing institutions who can be offered for the purpose of child trafficking.*

This early definition of TIP illustrates how the issue was largely perceived as a commercial one with children being commodified through sale or other similar transactions (See, RA 7610, sec. 7- “trading, dealing, buying, selling, bartering”). Trafficking under RA 7610 also has a strong focus **on the illegal transport of a child to a foreign country** and its various means of achieving the same, such as through procurement of illicit documents for travel abroad (See: RA 7610, sec. 8 (a)). This kind of definition is delimiting as it gives premium to the international element of trafficking (i.e. illegal transport to a foreign country) but not the domestic element (internal trafficking). Further, it excludes forms of trafficking which do not involve the element of movement.

In 2003, the Philippine Congress passed Republic Act 9208, or the **Anti-Trafficking in Persons Act**. This was one of the first laws enacted in the Southeast Asian region that addressed and penalized TIP.⁴⁵⁶ In 2012, this law was amended to expand the definition of TIP - thus, Republic Act 10364, or the **Expanded Anti-Trafficking in Persons Act**. Under the law, three interrelated and interdependent elements must be present for a situation to be considered punishable under RA 9208 as amended by RA 10364:

⁴⁵⁵ In Republic Act 7610, there is no “ b)” in Section 8. It goes from 8 a) to 8 c).

⁴⁵⁶ Janina Lim, Looking Back: First Anti-Trafficking Law in Southeast Asia, available at <https://www.rappler.com/newsbreak/iq/looking-back-ph-first-anti-trafficking-law-asean>, May 26, 2015. Accessed: May 3, 2021

Acts This involves the recruitment, obtaining, hiring, providing, offering, transportation, transfer, maintaining, harboring or receipt of persons, with or without the victim's consent or knowledge, within or across national borders.⁴⁵⁷

Means It is committed by the use of threat, or of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person.⁴⁵⁸

Purpose It is done for the purpose of exploitation or prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, involuntary servitude or the removal of the organs.⁴⁵⁹

The trafficking law also enumerates eight general modes of committing TIP⁴⁶⁰ which may be clustered into four broad categories:

- 1 trafficking for labor,
- 2 trafficking for sexual exploitation,
- 3 trafficking for the removal or sale of organs, and
- 4 trafficking of children for armed activities.

Additional provisions, sec. 4 (k) and (l), added two ways of committing human trafficking: in large scale or by a syndicate. TIP is deemed committed *by a syndicate* if carried out by a group of three or more persons conspiring or confederating with one another. It is deemed committed *in large scale* if committed against three or more persons, individually or as a group.⁴⁶¹ It also imposed stiffer penalties of up to life imprisonment.⁴⁶²

As highlighted above, **consent or knowledge** is irrelevant in determining whether TIP was committed or not.⁴⁶³ This is consistent with art. 3 (b) of the UN Trafficking Protocol, which states that the consent of a victim to any of the intended purposes of exploitation is irrelevant.⁴⁶⁴

⁴⁵⁷ Republic Act 9208, as amended by Republic Act 10364, sec. 3 (a); Palermo Protocol sec. 3 (a); UNODC, Key Elements of Human Trafficking Factsheet, available at https://www.unodc.org/documents/e4j/Secondary/Human_Trafficking_11_Key_elements_of_human_trafficking.pdf

⁴⁵⁸ Id.

⁴⁵⁹ Id.

⁴⁶⁰ Republic Act 9208 as amended by Republic Act 10364, sec. 4(a) to (i)

⁴⁶¹ Republic Act 9208 as amended by Republic Act 10364, sec. 6 (c)

⁴⁶² Republic Act 9208 as amended by Republic Act 10364, sec. 10

⁴⁶³ Republic Act 9208 as amended by Republic Act 10364, sec. 3, 17

⁴⁶⁴ Palermo Protocol sec. 3 (b)

Additionally, it should be emphasized that while trafficking may occur within or across national borders, **movement** is not a requirement of TIP in the Philippines. Movement may be one form of TIP where a person is transferred or transported for the purpose of exploitation, but not all forms of TIP require the movement of a person from one country to another or from one location to another within national borders.⁴⁶⁵

Indeed, the passage of Republic Act 9208 gave broader meaning and significance to child trafficking but it was Republic Act 10364 which ultimately defined child trafficking to include WFCL under ILO C. 182.

Philippine TIP Law

ILO Convention No. 182 (WFCL)⁴⁶⁶

All forms of slavery or practices similar to slavery, involuntary servitude, debt bondage and forced labor, including recruitment of children for use in armed conflict;

Slavery or practices similar to slavery such as the sale and trafficking of children, debt bondage, serfdom, and forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict

The use, procuring or offering of a child for prostitution, for the production of pornography, or for pornographic performances;

The use, procuring or offering of a child prostitution, for the production of pornography, or for pornographic performances

The use, procuring or offering of a child for the production and trafficking of drugs; and

The use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties

The use, procuring, or offering of a child for illegal activities or work which, by its nature or the circumstances in which it is carried out, is likely to harm their health, safety or morals⁴⁶⁷

Work which by its nature or the circumstances in which it is carried out puts their health, safety, or morals of children at risk (hazardous work).

⁴⁶⁵ Republic Act 9208 as amended by Republic Act 10364, sec. 3

⁴⁶⁶ ILO C. 182 supra note 22

⁴⁶⁷ Republic Act 9208 as amended by Republic Act 10364, sec. 4 (k)

What this means is that, in the Philippines, the WFCL are not only treated as a child labor issue but as a child trafficking issue. This is illustrated in IACAT's Child Trafficking Situationer.⁴⁶⁸ In the IACAT situationer, 80% of child trafficking cases involve prostitution or other forms of sexual exploitation, 10% are cases of online sexual abuse and exploitation, and 10% involve **child labor trafficking** which includes forced labor and the use of children in armed conflict.⁴⁶⁹ To ensure that children are protected from all forms of child trafficking, including the WFCL, the Philippines also passed specific legislation to combat each form of child labor trafficking or WFCL. The next section discusses these specific pieces of legislation.

Child Trafficking for Labor

ILO C. 182 groups acts which fall within the definition of **slavery or similar to slavery** as part of cluster A. These acts include child trafficking, debt bondage, serfdom, forced labor and recruitment of children for use in armed conflict. The discussion in this part will focus on one of the forms of forced slavery: **the use and recruitment of children in armed conflict.**⁴⁷⁰

Children in Situations of Armed Conflict

Apart from being enshrined in the PH child protection⁴⁷¹ and trafficking laws,⁴⁷² the engagement of children in armed conflict is covered by **a special protection law** in the Philippines: **Republic Act 11188, Special Protection of Children in Situations of Armed Conflict Act of 2019.**⁴⁷³ The plight of these children and accompanying legal framework is discussed in detail below.

The armed struggle against domestic security forces in the Philippines occurs primarily in the islands of Mindanao where large populations of ethnic Filipino Muslims reside. There is a long history of violence and insecurity in the conflict-affected areas and its inhabitants are exposed to poverty, social vulnerabilities and limited access to government services or

⁴⁶⁸ IACAT, Child Trafficking Situationer in the Philippines (2018) - as cited in Department of Justice, Comprehensive Program on Child Protection 2019-2022

⁴⁶⁹ Id.

⁴⁷⁰ ILO Convention 182 - Cluster A: slavery or practices similar to slavery such as the sale and trafficking of children, debt bondage, serfdom, and forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict

⁴⁷¹ Republic Act 7610 supra note 33

⁴⁷² Republic Act 9208 as amended by 10364 supra note 435

⁴⁷³ Republic Act 11188 supra note 34



support. Families often struggle to find a sustainable source of livelihood and depend on children to contribute to the family income, depriving many of an education. These conditions create a sense of marginalization and deprivation which influences many communities to support the secessionist movements in hopes of a better life.⁴⁷⁴

The armed groups that pose the greatest threat are a pro-ISIL alliance with links to Iraq and Syria. The alliance is composed of the region's three largest ethnic groups. They are: Abu Sayyaf Group (Tausugs), the Maute Group (Maranaos), and a faction of the Bangsamoro Islamic Freedom Fighters (BIFF) (Maguindanaoans). In its quest to create an ISIL province in Mindanao, the alliance has staged devastating bombings and other forms of disruption. After a protracted and violent battle in 2017, the alliance lost the fight for Marawi City to the Philippine military. The city center was laid bare and tens of thousands of people were displaced by the violence. Congress declared martial law in Mindanao, extending it until 2019.⁴⁷⁵

At the same time, the former largest militant group in the country, The Moro Islamic Liberation Front (MILF), put down its arms after a decades-long peace process with the Philippine government. In 2017, the MILF was also delisted for the use and recruitment of

⁴⁷⁴ International Crisis Group, The Philippines: Militancy and the new Bangsamoro, International Crisis Group, Report No. 301/Asia, June 27, 2019 available at [https://www.crisisgroup.org/asia/south-east-asia/philippines/301-philippines-militancy-and-new-bangsamoro#:~:text=It%20united%20militant%20groups%20dominated,BIFF\)%2C%20dominated%20by%20Maguindanaoans,](https://www.crisisgroup.org/asia/south-east-asia/philippines/301-philippines-militancy-and-new-bangsamoro#:~:text=It%20united%20militant%20groups%20dominated,BIFF)%2C%20dominated%20by%20Maguindanaoans,) Accessed May 25, 2021.

⁴⁷⁵ Id

children after the disengagement of the 1,869 children from its ranks.⁴⁷⁶ The group took control of the newly-formed Bangsamoro Autonomous Region of Muslim Mindanao in March of 2019 and continue to transition from armed group to political administration with upcoming elections in 2022. The other armed groups outside of the peace process still pose a threat to the security of the new region. They reject the peace process as they continue to mount attacks throughout the area. In response, Philippine armed forces carry out aggressive operations to try to stop them.⁴⁷⁷

The clashes between armed groups and the Philippine military has a negative impact on families and children in Mindanao. The UN Security Council has listed both the Maute Group and the BIFF as groups known to recruit and use children in their operations.⁴⁷⁸ A UN Security Council report on children and armed conflict in the Philippines reported that between January 2017 and December 2019 there were “331 grave violations affecting 233 children (121 boys, 96 girls and 16 of unknown gender), representing an increase compared with the previous report. Of those, 41 per cent (135 violations) were committed in 2017 and mostly took place in Lanao del Sur Province during the Marawi siege, which notably led to a spike in attacks on schools and protected persons, the killing and maiming of children, and child recruitment and use.”⁴⁷⁹

Apart from the conflict in the south, children’s involvement in armed conflict is also seen in certain areas of Luzon and Visayas. The conflict in these areas is brought about by intensified counter-insurgency operations of the Armed Forces of the Philippines against the New People’s Army (NPA) of the Communist Party of the Philippines, the longest-running insurgent group in the world.⁴⁸⁰ Pursuant to a number of Security Council Resolutions, the NPA is listed among non-state actors that actively recruit and use children for armed conflict and have still not put measures in place to improve the protection of children in armed conflict as of the last reporting cycle.⁴⁸¹

In the same report of the UN Secretary General on Children and Armed Conflict, the UN verified the recruitment and use of 67 children (19 girls, 32

⁴⁷⁶ United Nations Security Council, Report of the Secretary General on Children and Armed Conflict in the Philippines,” August 4, 2020, S/2020/777, p.6, available at https://www.un.org/ga/search/view_doc.asp?symbol=S/2020/777&Lang=E&Area=UNDOC Accessed May 20, 2021.

⁴⁷⁷ International Crisis Group, *supra* note 475

⁴⁷⁸ United Nations Security Council, *supra* note 476 at paras. 16 and 17

⁴⁷⁹ United Nations Security Council, *supra* note 476 at para. 22

⁴⁸⁰ Alan Robles, “The Philippines’ communist rebellion is Asia’s longest running insurgency,” SCMP, September 12, 2019, available at <https://www.scmp.com/week-asia/politics/article/3027414/explained-philippines-communist-rebellion-asias-longest-running>

⁴⁸¹ UN Security Council, Security Council resolution 1379 (2001) [on the protection of children in armed conflicts], 20 November 2001, S/RES/1379 (2001), available at: <https://www.refworld.org/docid/3c4e94561c.html>; UN Security Council, Security Council resolution 1882 (2009) [on children and armed conflict], 4 August 2009, S/RES/1882 (2009), available at: <https://www.refworld.org/docid/4a7bdb432.html>; UN Security Council, Security Council resolution 1998 (2011) [on children and armed conflict], 12 July 2011, S/RES/1998(2011), available at: <https://www.refworld.org/docid/51f7b2b54.html>; UN Security Council, Security Council resolution 2225 (2015) [on children and armed conflict], 18 June 2015, S/RES/2225 (2015), available at: <https://www.refworld.org/docid/5587d63f4.html>

boys, and 16 of unknown gender) in armed conflict. The main perpetrators were the NPA (23), the Maute Group (21), BIFF (17), and ISIL-inspired groups (5), with one case attributed to the Philippine Armed Forces.⁴⁸² Although verified as the main recruiter, NPA asserts that it did not recruit children for participation in hostilities pursuant to its 2012 declaration and program of action for the rights, protection, and welfare of children. The document sets the minimum age of recruitment at 18 but notes that from 15, children may be admitted as trainees or apprentices, assigned to self-defense and other non-combat units and tasks.⁴⁸³

Survey of Laws and Government Issuances

1 Republic Act No. 11188, The Special Protection of Children in Situations of Armed Conflict Act

Republic Act No. 11188 serves as the State's policy to provide all children involved in, affected by or displaced by armed conflict with special protection from all forms of violence and abuse. This includes making every effort to prevent the recruitment and use of children in armed conflict and to prosecute those responsible for committing grave child rights violations in armed conflict.

The Act designates children as "zones of peace," requiring the State, the community and others to "preserve the peaceful

integrity of children, exemplify mutual respect and nonviolent behavior in the presence of children, and share their resources to further peace and cooperation."⁴⁸⁴ In addition to the twenty-one rights afforded to children in situations of armed conflict, the Act requires the State to prioritize children in peace negotiations, provide them and their families with relevant educational, health and livelihood services, and ensure that local bodies for the protection of children are trained and offer them needed support.⁴⁸⁵

The Act also identifies prohibited child rights violations acts, including killing, torturing, maiming or raping, from which

⁴⁸² United Nations Security Council, supra note 476 at paras. 16 and 17

⁴⁸³ United Nations Security Council, supra note 476 at paras. 16 and 17

⁴⁸⁴ Republic Act 11188, supra note 34 at sec. 6

⁴⁸⁵ Republic Act 11188, supra note 34 at sec. 8

officials of the State are not exempt. The Act also prescribes penalties commensurate with the crimes.⁴⁸⁶ Family Courts have exclusive jurisdiction over crimes described in this Act, and prosecutors and investigators trained in child rights principles are appointed by the DOJ, Commission on Human Rights, PNP, or other law enforcement agencies.⁴⁸⁷

The State is responsible for the rescue, rehabilitation and reintegration of children in situations of armed conflict in accordance with the Protocol included in the Act.⁴⁸⁸ The State will also ensure that children recruited or used in armed conflict are demobilized, released and provided with free legal and other services as needed.⁴⁸⁹ Other children involved in armed conflict who have surrendered, been rescued, or taken into custody, shall be provided with needed services including family tracing.⁴⁹⁰

For proper implementation of this Act, the Inter Agency Committee on Children in Situations of Armed Conflict (IAC-CSAC), chaired by the CWC, will rely on its government agency members and NGOs to deliver protection to child victims.⁴⁹¹ Finally, the Act provides for initial appropriations (member agency budgets) and annual appropriations (General Appropriations Act) for the work of the IAC-CSAC and calls for the creation of a Congressional Oversight Committee.⁴⁹²

2 Executive Order No. 138, Amending Executive Order (EO) No. 56 (S. 2001) Adopting the Comprehensive Program Framework for Children in Armed Conflict, Strengthening the Council for the Welfare of Children (CWC) and for Other Purposes.⁴⁹³

This EO from 2013 transferred the role of lead agency for the coordination and monitoring of the implementation of the

⁴⁸⁶ Republic Act 11188, supra note 34 at sec. 9, 10

⁴⁸⁷ Republic Act 11188, supra note 34 at sec. 17

⁴⁸⁸ Republic Act 11188, supra note 34 at sec. 22

⁴⁸⁹ Republic Act 11188, supra note 34 at sec. 23

⁴⁹⁰ Republic Act 11188, supra note 34 at sec. 24

⁴⁹¹ Republic Act 11188, supra note 34 at sec. 25

⁴⁹² Republic Act 11188, supra note 34 at sec. 32

⁴⁹³ Amending Executive Order (EO) No. 56 (S. 2001) Adopting the Comprehensive Program Framework for Children in Armed Conflict, Strengthening the Council for the Welfare of Children (CWC) and for Other Purposes, Executive Order 138, August 02, 2013, https://lawphil.net/executive/execord/eo2013/eo_138_2013.html

Enhanced CIAC Framework from the OPAPP to the CWC and formally established the Inter Agency Committee on Children in Armed Conflict (IAC-CIAC), updating its membership - the original IAC-CIAC was constituted by MOA in 2007.⁴⁹⁴ (In the 2019 law summarized above, the Committee evolved to become the current body, the Inter Agency Committee on Children in Situations of Armed Conflict - IAC-CSAC.)

In section 4 of the EO, the GoP members of the Committee are tasked with integrating the EO mandates from the CIAC Program Framework into their annual plans, programs, projects and budgets.⁴⁹⁵ Additionally, the CWC and other committee members are tasked to review these plans periodically to ensure a synchronized approach to policies and programs.⁴⁹⁶ Finally, the EO calls for the development of a Monitoring, Reporting and Response System for Grave Child Rights Violations in Situations of Armed Conflict (MRRS-GCRVSAC), which is the monitoring element within the Framework.⁴⁹⁷ The purpose of this reporting system is: to generate data and provide reports on the incidence of GCRVs as a primary government source for policy and program development; to contribute to the interagency prevention and response plan to GCRVs; and to gather, validate and monitor reports of GCRVs and ensure an efficient and coordinated response.⁴⁹⁸ Funding for the components of the Framework comes from the appropriations of member agencies and contributions from private stakeholders.⁴⁹⁹

3 Rules and Regulations Implementing Republic Act No. 11188, Otherwise Known as "The Special Protection of Children in Situations of Armed Conflict Act."⁵⁰⁰

These Implementing Rules and Regulations (IRR) provide significant detail on how to operationalize R.A. 11188 and the roles and responsibilities of all stakeholders, including in the following situations:

⁴⁹⁴ Executive Order 138, sec. 2

⁴⁹⁵ Executive Order 138, sec. 4

⁴⁹⁶ Executive Order 138, sec. 4

⁴⁹⁷ Executive Order 138, sec. 5

⁴⁹⁸ Executive Order 138, sec. 6

⁴⁹⁹ Executive Order 138, sec. 7

⁵⁰⁰ Committee for the Welfare of Children, Compendium of Materials on Children in Situations of Armed Conflict, Rules and Regulations Implementing Republic Act No. 11188, Otherwise Known as "The Special Protection of Children in Situations of Armed Conflict Act ("IRR- CSAC"), June 04, 2019,

- a** Whereas the Law establishes children in conflict areas as “Zones of Peace,” the IRR lists six specific ways that government agencies, LGUs and other stakeholders can uphold this designation to protect children and keep them safe in the conflict environment.⁵⁰¹ The IRR also stipulates that members of the IAC-CSAC, in collaboration with all LGUs in conflict zones, will determine areas and structures that are considered Zones of Peace and list them publicly in common areas around the LGU, to be updated as needed.⁵⁰² Presumably these would be places where children could go to and where they could feel protected and safe when armed conflict erupts.⁵⁰³
- b** Rules 19 and 20 of the IRR emphasize that CIAC shall be treated as victims according to the Act (Section 7 - Rights of Children in Situations of Armed Conflict), even those who commit crimes. However, the IRR further clarifies that when a child involved in armed conflict commits a GCRV (as defined in Section 9 of the Act), he/she may be considered for criminal responsibility under R.A. No. 9344, or “The Juvenile Justice and Welfare Act, as amended (JJWA).” Similarly, if a child in a conflict zone commits a crime “not as a child involved in armed conflict,” then the provisions of the JJWA would also apply.⁵⁰⁴ The IRR clarifies, however, that the ultimate goal is to rehabilitate and reintegrate CSAC into society. Therefore, under no circumstance should a child be imprisoned, and assigning a child to detention or residential care, or committing him/her to a rehabilitation center, should be of last resort and for the shortest appropriate period of time.⁵⁰⁵
- c** The **Framework** of the IAC-CSAC is to serve as the work plan for implementation of the Act and the IRR, to be updated annually. According to the IRR, the Framework, at minimum, must include: a) Plans/programs/guidelines on prevention, including programs on parenting; b) Plans/programs/guidelines on rescue, rehabilitation and reintegration; and c) A review, update or development of each agency’s role in the process, as needed.⁵⁰⁶ Progress on the Framework’s targets are reported to the Philippine Congress (Congressional Oversight Committee) and to the President on an annual basis.⁵⁰⁷

⁵⁰¹ IRR-CSAC, Rule 7

⁵⁰² IRR-CSAC, Rule 7

⁵⁰³ IRR-CSAC, Rule 7

⁵⁰⁴ IRR-CSAC, Rule 19

⁵⁰⁵ IRR-CSAC, Rule 20

⁵⁰⁶ IRR-CSAC, Rule 30

⁵⁰⁷ IRR-CSAC, Rule 30, 38

d The IRR assigns specific responsibilities to each member agency of the Committee, including maintaining, updating and improving, where possible, the MRRS-GCRVSAC. Each role is coordinated with the roles of all other agencies to create a strong child protection system for CSAC.⁵⁰⁸

4 Joint Memorandum on the Protocol Handling Children in Situations of Armed Conflict⁵⁰⁹

In 2020, despite the Covid-19 pandemic, the CWC launched an awareness-raising campaign on RA 11188 and its IRR. The end goal of the campaign was the finalization of the Protocol Handling Children in Situations of Armed Conflict. The campaign took on the form of a nationwide “online caravan” as a way to gather inputs from stakeholders at the subnational level.⁵¹⁰

The intent of the Protocol is to unify the way agencies handle CSAC, to streamline and update regulations, guidelines and other directives that were issued by different agencies prior to the passage of RA 11188, and to inform agencies that are not members of the Committee on how joint implementation of the RA and its IRR aims to “effectively protect CSAC from all forms of abuse, violence, neglect, cruelty and discrimination.”⁵¹¹

A major principle of the Protocol that guides Committee members in all of their actions is that all CSAC are to be treated exclusively as victims. In cases where a CIAC has either committed a Grave Child Rights Violation (GCRV) or an act punishable by law but unrelated to the child’s involvement in armed conflict, the child would be dealt with under the articles of the Juvenile Justice and Welfare Act (JJWA). This Protocol is aligned with existing juvenile justice standards and laws related to children who may have criminal charges filed

⁵⁰⁸ IRR-CSAC, Rule 31

⁵⁰⁹ Committee for the Welfare of Children, June 04, 2019, Compendium of Materials on Children in Situations of Armed Conflict, - Joint Memorandum on the Protocol Handling Children in Situations of Armed Conflict (“Joint Memorandum - CSAC”), Sept. 29, 2020.

⁵¹⁰ Committee for the Welfare of Children, Compendium of Materials on Children in Situations of Armed Conflict - Foreword.

⁵¹¹ “Joint Memorandum - CSAC, secs. (a) to (e)

against them because of their involvement in situations of armed conflict.⁵¹²

Overlap: Trafficking, Labor, Rights

As earlier discussed, the use of children in armed conflict is a worst form of child labor.⁵¹³ Apart from being a WFCL, it is a violation of children's rights. The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict prohibits all recruitment - voluntary or compulsory - of children below age 18 by armed forces and groups.⁵¹⁴ The Rome Statute of the International Criminal Court makes it a war crime.⁵¹⁵ And finally, the country's trafficking laws expressly include it as a form of child trafficking.⁵¹⁶

There are notable implications that arise from this overlap: First, in treating the use and recruitment of children in armed conflict as a trafficking issue, consent of the child becomes irrelevant.⁵¹⁷ This is important as children as young as six are easily recruited into non-state armed groups to escape extreme poverty.⁵¹⁸ Second, in treating the issue as a child rights issue, it expands the nature of WFCL to encapsulate the wider issue of all children in situations of armed conflict and not only those recruited to be child soldiers. Third, in relation to the second point, the lumping together of children for use in armed conflict with other children in situations of armed conflict potentially blurs the numbers and data of children specifically experiencing WFCL. This may, in turn, impact the validity of the numbers of children withdrawn and/or prevented from engaging in armed conflict reported by the GoP to the ILO under its Periodic Reports on implementation of ILO C.182.

⁵¹² Joint Memorandum - CSAC, sec. 6

⁵¹³ ILO C. 182, supra note 22

⁵¹⁴ UN CRC Optional Protocol supra note 187

⁵¹⁵ UN General Assembly, Rome Statute of the International Criminal Court (last amended 2010), 17 July 1998, ISBN No. 92-9227-227-6, available at: <https://www.refworld.org/docid/3ae6b3a84.html>. Accessed May 26, 2021

⁵¹⁶ RA 9208 as amended by RA 10364 supra note 345

⁵¹⁷ Republic Act 9208 as amended by Republic Act 10364, secs. 3, 17

⁵¹⁸ -- Philippines strives to end recruitment of child soldiers, May 20, 2015, available at <https://www.thenewhumanitarian.org/fr/node/255315>

Child Trafficking for Sexual Exploitation: A Survey of Laws

To better understand the notion of child trafficking for sexual exploitation, the section below will seek to review the legal framework surrounding sexual abuse and exploitation of children and how the framework evolved to address the likewise evolving nature of the crime.

Defining Child Sexual Abuse and Exploitation

Child sexual abuse and exploitation, while closely interlinked, are treated and defined differently.

Child sexual abuse refers to:

“contacts or interactions between a child and an older or more knowledgeable child or adult, when the child is being used as an object for the older child’s or adult’s sexual needs. The contacts or interactions are carried out against the child using force, trickery, bribes, threats, or pressures.”⁵¹⁹

In contrast, **commercial sexual exploitation of children (CSEC)** is a broader crime which involves *child sexual abuse* and/or other sexual acts using children that *involve an exchange of some kind*. The exchange may not necessarily be monetary but may be in the form of “affection, food, drugs, and shelter.”⁵²⁰ The Luxembourg Guidelines note that the distinguishing mark that differentiates child sexual exploitation from other forms of child sexual abuse is the “underlying notion of exchange.”⁵²¹

In the Philippines, prevalent forms of child sexual abuse and exploitation may be classified into two categories:

⁵¹⁹ United Nations Office on Drugs and Crime, *Cybercrime, Module 12 - Interpersonal Cybercrime - Online Sexual Exploitation of Children*, UN ODC - E4J University Module Series, available at <https://www.unodc.org/e4j/en/cybercrime/module-12/key-issues/online-child-sexual-exploitation-and-abuse.html>

⁵²⁰ *Id.*

⁵²¹ Inter-Agency Group on Sexual Exploitation of Children, *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse*, adopted by the Interagency Working Group in Luxembourg, 28 January 2016, available at <http://luxembourg-guidelines.org/english-version/>. Accessed: May 27, 2021

- 1 offline** which involves all forms of sexual abuse and exploitation committed against children without the use of internet-enabled devices; and
- 2 online** which involves the use of internet-enabled devices to facilitate the online sexual abuse and exploitation of children (OSAEC). The laws discussed below are divided into two parts: The first part reviews the **general laws** which are used to combat and prosecute both the offline and online forms of child sexual abuse and exploitation, while the second part focuses on complementary laws which, while not directly focused on addressing CSEC and OSEC, are nonetheless relevant in combating it.

Modes of CSEC

The **first five laws provide a discussion of the modes of CSEC and TIP for sexual exploitation.** These laws are: (1) the Revised Penal Code; (2) the Republic Act 7610, or the Special Protection of Children Against Abuse, Exploitation, and Discrimination Act; (3) the Republic Act 9231, or Eliminating the Worst Forms of Child Labor Act; (4) the Republic Act 9208, or the Anti-Trafficking in Persons Act as amended by Republic Act 10364, or the Expanded Anti-Trafficking in Persons Law; and (5) the Republic Act 9262, or the Anti-Violence Against Women and Children Act.

1 Act No. 3815, Revised Penal Code

The Revised Penal Code (RPC) is the earliest criminal legislation in the country. It covers the most common forms of sexual abuse and exploitation including rape, acts of lasciviousness, seduction, corruption of minors, white slave trade, abduction and obscene performances. While the RPC serves as the foundation of criminal legislation in the country, special laws, which are discussed in better detail below, have been passed which strengthen the provisions of the RPC in relation to child sexual abuse and exploitation.

One pertinent provision of the RPC that relates to CSEC and the Online Sexual Exploitation of Children (OSEC) and which has not been amended to date is the provision relating to the **age of consent.**

The Philippines has one of the youngest ages of consent in the world, allowing children aged 12 and older to legally engage in sexual intercourse with adults.⁵²² Article 266-A 1(d) of the RPC as amended by Republic Act 8353⁵²³ sets the age for determining statutory rape at “below 12 years old”.⁵²⁴ This means that any sexual intercourse with a minor who has not reached the age of 12 is automatically regarded as rape, even if the minor consented or appeared to have voluntarily engaged in the sexual act. However, once a child reaches the exact age of 12, he or she is legally deemed mature enough to give sexual consent to another person.⁵²⁵ Similar provisions in the RPC on seduction, abduction, and corruption of minors also notes twelve as the age of consent.⁵²⁶ In addition, the RPC, imposes “maximum penalties for sexual offenses when the victim is *under 12 years of age*” and “minimum penalties for sexual offenses against minors *over 12 years of age*”.⁵²⁷

The low age of sexual consent has been used by perpetrators to escape conviction or harsher penalties by using consent on the part of the victim as a defense. An increase in the age of sexual consent would thus afford victims of sexual exploitation and abuse with stronger protection.⁵²⁸

It must be emphasized, however, that the age of sexual consent is not a recognized defense when the crime filed is CSEC as one of the forms of child labor trafficking. As discussed, consent of the victim is immaterial in trafficking offenses.⁵²⁹

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

This law has a number of key provisions which seek to protect children from sexual abuse and exploitation. In particular, the law penalizes the following acts:

⁵²² World Population Review, Age of Consent by Country 2021, available at <https://worldpopulationreview.com/country-rankings/age-of-consent-by-country>

⁵²³ 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”), Republic Act 8353, September 30, 1997, available at <https://www.officialgazette.gov.ph/1997/09/30/republic-act-no-8353/>

⁵²⁴ REVISED PENAL CODE, as amended by Republic 8353, art. 266-A 1(d)

⁵²⁵ Philippine Commission on Women, Amending the Anti-Rape Law, Philippine Commission on Women Policy Brief, available at <https://pcw.gov.ph/amending-the-anti-rape-law/>

⁵²⁶ REVISED PENAL CODE, art. 337, 338, 342, 343

⁵²⁷ *Id.*

⁵²⁸ Philippine Commission on Women, *supra* note 526

⁵²⁹ Republic Act 9208 as amended by Republic Act 10364, sec. 3, 17; Palermo Protocol sec. 3 (b)

- a** Engagement of children in **child prostitution**. The law defines child prostitution as any act which includes the exploitation of children through sexual intercourse or lascivious conduct, for money, profit, or any other consideration; or by means of coercion or influence of any adult, syndicate, or group.⁵³⁰
- b** It also penalizes the **attempt to commit child prostitution**. An attempt to commit child prostitution occurs when any person, who is not a relative of the child, is found alone with the child inside a room or cubicle of a house, an inn, hotel, motel, pension house, apartelle, sauna parlor or bath, massage clinic, health club, or other similar establishments, which would lead a reasonable person to believe that the child is about to be exploited in prostitution or another form of sexual abuse.⁵³¹
- c** Apart from child prostitution, this law also protects children from being hired, employed, used, persuaded, induced, or coerced to perform in **obscene exhibitions and indecent shows**, whether live, in video, or in **obscene publications or pornographic materials**.⁵³²
- d** The law notes other forms of abuse and exploitation which are sexual in nature. In Sec. 10 (b) of the law, to keep or have a minor aged 12 or younger in the following places may be penalised, if not related to the child within the fourth degree of consanguinity or affinity or any bond recognized by law, custom, and/tradition: hotel, motel, beer joint, discotheque, cabaret, pension house, sauna, massage parlor, beach, and/or other tourist resorts.⁵³³
- e** **Child trafficking** is also covered in the law but its provisions have been expanded and strengthened in the subsequent TIP Act. Apart from child trafficking, the provisions relating to **obscene publications** have also been strengthened in the country's Anti-Child Pornography Act of 2009.⁵³⁴

⁵³⁰ Republic Act 7610, sec. 5

⁵³¹ Republic Act 7610, sec. 6

⁵³² Republic Act 7610, sec. 9

⁵³³ Republic Act 7610, sec. 10 (b)

⁵³⁴ An Act Defining the Crime of Child Pornography, Prescribing Penalties Therefor and For Other Purposes ("Anti-Child Pornography Act of 2009"), Republic Act 9775, November 17, 2009, available at <https://www.officialgazette.gov.ph/2009/11/17/republic-act-no-9775-s-2009/>

3 Republic Act 9231, Eliminating the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child, amending Republic Act 7610, or the Special Protection of Children Against Abuse, Exploitation, and Discrimination Act.

The law prohibits “the use, procuring, offering, or exposing of a child for prostitution, for the production of pornography, or for pornographic performances” as a WFCL.⁵³⁵ The law also prohibits the employment of a child as a model in any form of pornography.⁵³⁶

4 Republic Act 9208, Anti Trafficking in Persons Act, as amended by Republic Act 10364 or the Expanded Anti-Trafficking in Persons Act.

The Anti-Trafficking in Persons Act, which serves both adults and children, lists the acts of prostitution, sexual exploitation, sexual tourism, and pornography as purposes for which a person may be illegally trafficked.

In relation to children, the law has a specific provision on child trafficking for the purpose of sexual exploitation. To wit, “the use, procuring or offering of a child for prostitution, for the production of pornography, or for pornographic performances.” It also qualifies all other trafficking offenses by imposing stricter penalties “when the trafficked person is a child.”⁵³⁷

Other acts which fall under the definition of sexual abuse and sexual exploitation under the law are: (1) When the adoption, effected through Republic Act 8043, or the “Inter-Country Adoption Act of 1995,” is done for the purpose of prostitution, pornography, or sexual exploitation,⁵³⁸ (2) Child marriage,⁵³⁹ and (3) Sex Tourism.⁵⁴⁰

⁵³⁵ Republic Act 7610, as amended by Republic Act 9231, sec. 12-D (2)

⁵³⁶ Republic Act 7610 as amended by Republic Act 9231, sec. 14

⁵³⁷ Republic Act 9208 as amended by Republic Act 10364, sec. 6 (a)

⁵³⁸ Republic Act 9208 as amended by Republic Act 10364, sec. 6 (b); Section 4 (f)

⁵³⁹ Republic Act 9208, as amended by Republic Act 10364 sec. 4(b); (c)

⁵⁴⁰ Republic Act 9208, as amended by Republic Act 10364 sec. 4 (d)

The Dangers of Child Adoption

The Philippines has two laws on adoption, namely: (1) Republic Act 8552, or the Domestic Adoption Act of 1998⁵⁴¹ and (2) Republic Act 8043, or the Inter-Country Adoption Act of 1995.⁵⁴² The Domestic Adoption Act governs the adoption of Filipino children by Filipino parents and/or aliens residing in the Philippines for at least three continuous years.⁵⁴³ Inter-country adoption refers to the process of adopting a Filipino child by a foreigner or a Filipino citizen permanently residing abroad.⁵⁴⁴ Inter-country adoption is allowed by the state as a last-resort, thus, the law requires that all possibilities for domestic adoption should have been exhausted and that inter-country adoption is in the child's best interest.⁵⁴⁵

Both adoption laws provide stringent measures to ensure that the child's best interests are protected and upheld. Primarily, both laws consider adoption by a person who is unrelated to the child as the last option. Thus the law mandates the State to first seek out the child's biological parents or relatives. The Domestic Adoption Act also imposes penalties of imprisonment and/or a fine should any of the following acts be committed:

- 1** obtaining consent for an adoption through coercion, undue influence, fraud, improper material inducement or other acts;
- 2** non-compliance with the procedures and safeguards provided by the law for adoption;
- 3** subjecting or exposing the child to be adopted to danger, abuse, or exploitation; and

⁵⁴¹ An Act Establishing the Rules and Policies on the Domestic Adoption of Filipino Children and For Other Purposes ("Domestic Adoption Act of 1998"), Republic Act 8552, February 13, 1998, available at <https://www.officialgazette.gov.ph/1998/02/25/republic-act-no-8552/>

⁵⁴² An Act Establishing the Rules to Govern Inter-Country Adoption of Filipino Children, And For Other Purposes ("Inter-Country Adoption Act of 1995"), Republic Act 8043, June 7, 1995, available at <https://pcw.gov.ph/republic-act-8043-the-inter-country-adoption-act-of-1995/>

⁵⁴³ Republic Act 8552, sec. 7(a), (b)

⁵⁴⁴ Republic Act 8043, sec. 3(a)

⁵⁴⁵ Republic Act 8043, sec. 2

4 simulation of the child's birth by any attending physician, nurse, or hospital personnel."⁵⁴⁶

The Inter-Country Adoption Law likewise imposes imprisonment and/or a fine upon any person who shall "knowingly participate in the conduct of carrying out an illegal adoption."⁵⁴⁷ When committed by a syndicate, or where the act involves two or more children, the law considers the offense as constituting child trafficking which merits a stricter penalty.⁵⁴⁸

Even with a comprehensive set of adoption laws, legal adoption processes take so much time and resources in the Philippines, deterring many from taking the legal adoption route. This has dire consequences.

In 2019, a 'baby-for-sale' scheme was uncovered. The scheme involved a large-scale underground market that is controlled by syndicates, where babies were sold both online and offline.⁵⁴⁹ This is not the first time that such a horrific crime against children was reported. In the Philippines' periodic report to the UN CRC, it noted that abduction of children, falsification of birth documents, and simulation of birth remain prevalent with children taken through illegal adoption for purposes of trafficking.⁵⁵⁰ In the Senate Resolution which called for the investigation of this incident, the potential dangers a child may face, which include illicit human organ trade, sex trafficking, child pornography, and other abuses against children, were raised to emphasize the need for government to urgently strengthen its child adoption measures.⁵⁵¹

⁵⁴⁶ Republic Act 8552, art VII, sec. 1

⁵⁴⁷ Republic Act 8043, art IV, sec. 16

⁵⁴⁸ Republic Act 8043, art IV, sec. 16 (b)

⁵⁴⁹ Resolution Directing the Appropriate Senate Committee to Conduct An Inquiry in Aid Of Legislation, Into The Serious Reports Of Babies-for-Sale In The Country, With The End In View Of Curbing This Crime By Providing Necessary Government Interventions And Looking Into The Possibility Of Amending Existing Laws To Avert Such Unlawful Acts, P.S. Res. No. 224, 18th Congress, 1st Regular Session (2019)

⁵⁵⁰ UN Committee on the Rights of the Child, Concluding observations on the initial report of the Philippines, submitted under article 12 of the Optional Protocol to the Convention on the sale of children, child prostitution, and child pornography, June 26, 2013, CRC/C/OPSC/PHL/CO/1, available at https://digitallibrary.un.org/record/756284/files/CRC_C_OPSC_PHL_CO_1-EN.pdf

⁵⁵¹ P.S. Res. No. 224, supra note 550

5 Republic Act 9262, Anti-Violence Against Women and Children Act of 2004.⁵⁵²

This law penalizes all forms of violence committed by “any person against a woman who is his wife, former wife, or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against her child.”⁵⁵³

Sexual violence is one of the acts of violence that may be committed against the women or the child. Forms of sexual violence include:

- a** rape, sexual harassment, acts of lasciviousness, treating a woman or her child as a sex object, making demeaning and sexually suggestive remarks, physically attacking the sexual parts of the victim’s body, forcing her/him to watch obscene publications and indecent shows or forcing the woman or her child to do indecent acts and/or make films thereof, forcing the wife and mistress/lover to live in the conjugal home or sleep together in the same room with the abuser;
- b** acts causing or attempting to cause the victim to engage in any sexual activity by force, threat of force, physical or other harm or threat of physical or other harm or coercion; and
- c** Prostituting the woman or child.⁵⁵⁴

Online Sexual Abuse and Exploitation of Children (OSAEC)

The evolution of the internet has created new dangers for children as the commission of these crimes transitioned to the world wide web. While online crimes against children occur in many forms, the next part of the paper will focus mainly on online sexual abuse and exploitation of children (OSAEC) and the country’s legal framework in relation to it.

OSAEC is a collective term for various offenses. It is not specifically defined as a crime under a particular law, rather it

⁵⁵² An Act Defining Violence Against Women And Their Children, Providing For Protective Measures For Victims, Prescribing Penalties Therefore and For Other Purposes (“Anti-Violence Against Women and Their Children Act of 2004”), Republic Act 9262, March 8, 2004, available at <https://www.officialgazette.gov.ph/2004/03/08/repUBLIC-act-no-9262-s-2004/>

⁵⁵³ Republic Act 9262, sec. 3 (a)

⁵⁵⁴ Republic Act 9262, sec. 3 (a), (b)

refers to a wide array of acts of abuse or exploitation committed against children in the online environment.⁵⁵⁵ While the terms OSEC and OSAEC have been interchangeably used, UNICEF and WHO note that sexual abuse and sexual exploitation differ. Sexual exploitation refers to “any actual or attempted abuse of a position of vulnerability power or trust, for sexual purposes, including but not limited to, profiting monetarily, socially, or politically from the exploitation of another.”⁵⁵⁶ Sexual abuse, on the other hand, pertains to the “actual or threatened physical intrusion of sexual nature, whether by force or under equal or coercive conditions.”⁵⁵⁷ The sexual abuse of children requires no element of exchange and can occur for the mere purpose of the sexual gratification of the person committing the act.⁵⁵⁸

In strict terms, it is the sexual exploitation of children (i.e. OSEC and not OSAEC if the act is committed online) that falls within the ambit of the WFCL as defined by ILO C. 182.⁵⁵⁹ However, in the Philippines, OSEC and OSAEC appear to be closely linked and interchangeable, consistent with the country’s systemic framework on child protection. In fact, the pending bills in Congress (*See: Chapter 5, Pending Bills and Legislation*), encompass the wider issue of OSAEC and not just OSEC.

In May 2020, the International Justice Mission (IJM) released a report entitled **Online Sexual Exploitation of Children in the Philippines: Analysis and Recommendations for Governments, Industry, and Civil Society** in partnership with the U.S. TIP Office and the Philippine Inter Agency Council Against Trafficking (IACAT).⁵⁶⁰ The IJM is an organization that operates worldwide to protect people in poverty from violence. The organization has joined forces with local authorities in 14

⁵⁵⁵ World Health Organization, Sexual Exploitation and Abuse, available at https://www.who.int/docs/default-source/documents/ethics/sexual-exploitation-and-abuse-pamphlet-en.pdf?sfvrsn=409b4d89_2; <https://www.unicef.org/press-releases/unicefs-position-sexual-exploitation-and-abuse-and-sexual-harassment>. Accessed: April 3, 2021; UNICEF, UNICEF’s position on sexual exploitation and abuse and sexual harassment, UNICEF Press Release, available at <https://www.unicef.org/press-releases/unicefs-position-sexual-exploitation-and-abuse-and-sexual-harassment>

⁵⁵⁶ Id; See also: Inter-Agency Group on Sexual Exploitation of Children, *supra* note 522, at pp. 18-28

⁵⁵⁷ Id; See also: Inter-Agency Group on Sexual Exploitation of Children, *supra* note 522, at pp. 18-28

⁵⁵⁸ Inter-Agency Group on Sexual Exploitation of Children, *supra* note 522, at p. 18

⁵⁵⁹ ILO C. 182, *supra* note 22. See also: International Labor Organization, The worst forms of child labor, available at <https://www.ilo.org/ipec/Campaignandadvocacy/Youthinaction/C182-Youth-orientated/worstforms/lang--en/index.htm>

⁵⁶⁰ International Justice Mission, *Online Sexual Exploitation of Children in the Philippines: Analysis and Recommendations for Governments, Industry, and Civil Society*, available at https://ijmstoragelive.blob.core.windows.net/ijmna/documents/studies/Final-Public-Full-Report-5_20_2020.pdf. Accessed: April 3, 2021

countries to combat trafficking and slavery, violence against women and children, and police abuse of power.⁵⁶¹

According to IJM, OSEC is defined as the production, for the purpose of online publication or transmission, of visual depictions (e.g. photos, videos, live-streaming) of the sexual abuse or exploitation of a minor for a third party who is not in the physical presence of the victim, in exchange for compensation.⁵⁶²

The economic payment for the Child Sexual Exploitation Material (CSEM), or exploitive display, is what makes this crime unique and distinct from other common, but non-commercial, forms of internet crimes against children.

In the Philippines, the increasing rate of poverty spurred by the Covid-19 pandemic has exacerbated an environment of economic vulnerability in which people are more easily manipulated for money. Children are “groomed” to perform sexual acts that are live-streamed for predatory consumers who mostly live in developed countries. The

⁵⁶¹ International Justice Mission, The International Justice Mission, About Our Work, available at <https://www.ijm.org/about-ijm>. Accessed: June 17, 2021

⁵⁶² “This definition is a functional definition for IJM and its partners to guide efforts to address this specific issue in accordance with local Philippine law. The global community uses a number of terms related to this crime, including both broader, umbrella terms under which IJM’s definition of OSEC falls (such as trafficking, child sexual abuse, or internet crimes against children), and more specific terms that may apply in OSEC cases (such as live-streaming, child sexual abuse to order, etc.).” - See: International Justice Mission, supra note 561 at p. 6



live-streaming “shows” vary, from provocative dances to sexual acts with an adult or another child.

Live-streaming and creating CSEM on-demand allow the remote OSEC customer to take part in the experience by directing the actions of the trafficker and the children. Internet Service Providers (ISP) do not typically monitor this form of exchange. Since live-streaming does not result in a stored image or video file, it is difficult to recognize live-streaming OSEC. As a result, it remains largely unreported. When a case is identified, it is usually caught via a social media app, through message transfer agents who forward the communication to its destination, or through computers/mobile devices. However, these means of facilitating the crime make it difficult for law enforcement to detect.

In its report, the IJM concluded that in the Philippines, the traffickers of 217 OSEC victims were known to the children and that OSEC is usually a family-based crime. In 41% of the cases, the abuse was committed by biological parents and in 42% of cases, by other relatives. Other sources of OSEC include self-facilitated material and cybersex dens.

OSEC is highly prevalent in the Philippines due to four key elements:

- 1** A historic commercial sex industry and underground reputation as a sex trafficking source country and destination for travelling sex offenders;
- 2** A robust money remittance infrastructure;
- 3** Widespread, inexpensive internet access through broadcast-capable mobile devices; and
- 4** English language proficiency through all social strata at levels which are much higher than other developing countries.⁵⁶³

While the country has a comprehensive framework on CSEC, provisions relating to OSEC are still currently scattered in various pieces of legislation. To date, there is only one law that is focused on at least one form of OSEC. That law is: The Anti-Child Pornography Act of 2009.

⁵⁶³ International Justice Mission, *supra* note 561

Republic Act 9775, Anti-Child Pornography Act of 2009

- a** The Anti-Child Pornography Act prohibits the production, offering, distribution and possession of child pornography and provides a definition of what constitutes child pornography.⁵⁶⁴
- b** The crime of **child pornography** includes the following elements: (1) there is a written, visual, and / or audio material; (2) the content of the material involves a real or simulated explicit sexual activity; (3) the one engaged in the activity, whether a natural person, a graphical representation, or a computer-generated image of a person, is a child or is presented, depicted, or portrayed as a child. In sum, any material that shows a child engaging in real or simulated sexual activity is child pornography.⁵⁶⁵
- c** The law lists **12 prohibited acts** which fall under the definition of child pornography. These acts may be categorized into four: (1) acts which involve the creation of child pornographic materials; (2) acts which involve the publication, broadcast, or sale of child pornographic materials; (3) sexual grooming or luring of children; and (4) acts which involve possession, access, or pandering with any form of child pornography.⁵⁶⁶
- d** What separates the Anti-Child Pornography Law from earlier laws which cover CSEC is the express inclusion and recognition of the use of technology to commit the crime. For instance in defining grooming and luring, the law specifically notes the use of a computer system or online enticement as a way of committing the crime. To wit:

Sec 3 (h) *Grooming* refers to the act of preparing a child or someone who the offender believes to be a child for sexual activity or a sexual relationship by communicating any form of child pornography. It includes **online enticement or enticement through any other means.**⁵⁶⁷

Sec. 3 (i) *Luring* refers to the act of communicating by means of a computer system, with a child or someone who the offender believes to be a child for the purpose of facilitating the commission of sexual

⁵⁶⁴ Republic Act 9775, sec. (4)

⁵⁶⁵ Republic Act 9775, sec. 3(b)

⁵⁶⁶ Republic Act 9775, sec. 4

⁵⁶⁷ Republic Act 9775, sec. 3 (h)

activity or production of any form of child pornography.⁵⁶⁸

- e** In addition, the law requires internet service providers, internet service hosts, and internet cafes or kiosks to ensure that their domains are not used for child pornography.⁵⁶⁹ It mandates these businesses to report any suspected child pornography materials or transactions to the proper authorities within seven days from discovery thereof.⁵⁷⁰ The primary authority to regulate internet cafes or kiosks is given to local government units where the cafe or kiosk is located.⁵⁷¹
- f** The law mandates the creation of an Inter Agency Council Against Child Pornography which is tasked to implement programs that will prevent child pornography as well as protect, heal, and reintegrate the child into the mainstream of society.⁵⁷²

Apart from the Anti-Child Pornography Law, three other laws, while not solely focused on OSEC, contain provisions relating to it. These are:

- 1** **Republic Act 10175, Cybercrime Prevention Act of 2012.** The law lists cybersex and child pornography as content-related cybercrime offenses. When child pornography is committed through a computer system, the penalty imposed is more stringent - i.e. one degree higher than what is provided for by the Anti-Child Pornography Act of 2009.⁵⁷³
- 2** **Republic Act 11313, Safe Spaces Act of 2019,**⁵⁷⁴ includes a specific provision which makes gender-based online sexual harassment a crime⁵⁷⁵ and imposes a stricter penalty if committed against a child.⁵⁷⁶ Under the law, gender-based sexual harassment includes acts that “use information and communications technology in terrorizing

⁵⁶⁸ Republic Act, 9775, sec. 3 (j)

⁵⁶⁹ Republic Act 9775, sec. 5, 6

⁵⁷⁰ Republic Act 9775, sec. 8

⁵⁷¹ Republic Act 9775, sec. 16

⁵⁷² Republic Act 9775, sec. 20, 21

⁵⁷³ An Act Defining Cybercrime, providing for the prevention, investigation, suppression, and the imposition of penalties therefor and for other purposes, September 12, 2012, sec. 4 (c) (1), (2), sec. 8

⁵⁷⁴ An Act Defining Gender-Based Sexual Harassment in Streets, Public Spaces, Online, Workplaces, and Educational or Training Institutions, Providing Protective Measures, and Prescribing Penalties Therefor (“Safe Spaces Act”), Republic Act 11313, April 17, 2019, available at <https://www.officialgazette.gov.ph/2019/04/17/republic-act-no-11313/>

⁵⁷⁵ Republic Act 11313, arts. II, III

⁵⁷⁶ Republic Act 11313, sec. 15 (b)

and intimidating victims through physical, psychological, and emotional threats, unwanted sexual misogynistic, transphobic, homophobic, and sexist remarks and comments online whether publicly or through direct and private messages.”⁵⁷⁷ It also includes cyber-stalking, incessant messaging and the uploading or sharing of any form of media that contains photos or video with sexual content, without the consent or authority of the victim.⁵⁷⁸ The Philippine Commission on Women with the DILG and the DICT are tasked to ensure online education campaigns on the Act to reach Filipino internet users.⁵⁷⁹ Education institutions have also been mandated to educate students regarding the law.⁵⁸⁰

3 Republic Act 9995, Anti-Photo and Voyeurism Act⁵⁸¹ While this law does not specifically include a provision on children, it is nonetheless relevant to include it. The law makes it unlawful to take photos or videos of a person or group of persons who are performing sexual acts or to capture an image of the private parts of another.⁵⁸² Additionally, it penalizes the copy, reproduction, sale, or broadcast, in whatever form including the internet, of the unlawful materials.⁵⁸³ There are pending bills in Congress which seek to amend these laws to cover children. *(See discussion below)*

Moreover, of secondary importance are the following laws which affect child protection in relation to OSEC:

1 Republic Act 10929, Free Internet Access in Public Places Act⁵⁸⁴ The law creates a Free Internet Access Program in public places which includes national and local government offices, public basic education

⁵⁷⁷ Republic Act 11313, sec. 12

⁵⁷⁸ Republic Act 11313, sec. 12

⁵⁷⁹ Republic Act 11313, sec. 33

⁵⁸⁰ Republic Act 11313, sec. 33

⁵⁸¹ An Act Defining and Penalizing the Crime of Photo and Video Voyeurism, prescribing penalties therefor and for other purposes (“Anti-Photo and Video Voyeurism Act of 2009”), Republic Act 9995, November 17, 2009, available at <https://www.officialgazette.gov.ph/2009/11/17/republic-act-no-9775-s-2009/>

⁵⁸² Republic Act 9995, sec. 4

⁵⁸³ Republic Act 9995, sec. 4

⁵⁸⁴ An Act Establishing the Free Internet Access Program in Public Places in the Country and Appropriating Funds Therefor (“Free Internet Access in Public Places Act”), August 2, 2017, available at <https://www.officialgazette.gov.ph/2017/08/02/republic-act-no-10929/>

institutions, state universities, technology institutions, public hospitals, health centers and units, public parks, plazas, libraries, barangay reading centers, public airports, seaports, and transport terminals.⁵⁸⁵ The law, in granting free internet access in public places, orders the DICT to work in coordination with the IACACP, in consultation with telecommunication companies and civil society organizations, to develop standards and mechanisms for the protection of children online.⁵⁸⁶

2 Republic Act 4200, Anti-Wiretapping Law,⁵⁸⁷

prohibits the tapping of any wire, cable, or device to secretly intercept private communication. The law provides certain exemptions to prevent the commission of crimes against national security including treason, espionage, provoking war, sedition, and the likes.⁵⁸⁸ In recent congressional deliberations relating to OSEC, lawmakers are seeking the inclusion of human trafficking in the list of exemptions under the anti-wiretapping law to “empower law enforcement agents to conduct surveillance, interception, and recording of communications.” (See *discussion on pending bills*)

3 Republic Act 10173, or the Data Privacy Act,

protects the privacy of individuals by regulating the collection, recording, organization, storage, updating, modification, use, or destruction of personal data. It provides the rights of data subjects and obligations of personal information controllers and processors along with penalties for acts which violate the right to privacy.⁵⁸⁹ The Data Privacy Act is frequently cited as preventing government agencies, schools, and churches from releasing information that is relevant in the prosecution of complaints for sexual abuse, harassment, and violence.

⁵⁸⁵ Republic Act 10929, sec. 3, 4

⁵⁸⁶ Republic Act 10929, sec. 10, 11

⁵⁸⁷ An Act to Prohibit and Penalize wiretapping and other related violations of the Privacy of Communication and for other purposes (“Anti-Wiretapping Law”), Republic Act 4200, June 19, 1995 .available at https://lawphil.net/statutes/repacts/ra1965/ra_4200_1965.html#:~:text=Republic%20Act%20No.,4200&text=AN%20ACT%20TO%20PROHIBIT%20AND,COMMUNICATION%2C%20AND%20FOR%20OTHER%20PURPOSES.

⁵⁸⁸ Republic Act 4200, sec.1, 2

⁵⁸⁹ An Act protecting individual personal information in information and communications systems in the government and the private sector, creating for this purpose a National Privacy Commission, and for other purposes (“Data Privacy Act of 2012”), Republic Act 10173, August 15, 2012, available at <https://www.officialgazette.gov.ph/2012/08/15/republic-act-no-10173/>

As technology continues to develop, the proliferation of OSEC likewise increases. Apart from the accessibility of the internet and gadgets,⁵⁹⁰ **the wide availability of money remittance centers, including international cash transfer systems, and the continuing evolution of financial technology (FinTech) all contribute to the spike in OSEC cases.**

In a 2019 study, the Anti-Money Laundering Council (AMLAC) of the Philippines reported an increase in the submission of suspicious transaction reports from 2019 to 2020.⁵⁹¹ The study also identified financial indicators that may have links to OSEC. These indicators include the value range of funds received by suspected facilitators and the preferred financial channels. In terms of value range of funds, 81% of OSEC cases are within the Php1,000 to Php10,000 (\$20 to \$200) range. In terms of preferred financial channels, 60% of OSEC cases use money service businesses (MSBs) while only 35.2% use banks.⁵⁹²

AMLAC notes the MSBs are the preferred mode of transaction primarily because of their accessibility, especially in remote rural locations. Also, the banking sector has stringent controls including measures which require the identity of customers, which is possibly why offenders prefer not to use it.⁵⁹³ Given this, **laws which regulate financial transactions** are also of secondary importance in the OSEC discussion. These laws include: **(1) Republic Act 9160, or the Anti-Money Laundering Act,**⁵⁹⁴ **(2) Republic Act 1405, Bank Secrecy Law,**⁵⁹⁵ **(3) Foreign Deposits Act,**⁵⁹⁶ and **(4) key circulars of the Central Baof the Philippines relating to the Manual of Regulations for Non-Bank Financial Institutions.**⁵⁹⁷

⁵⁹⁰ United Nations Security Council, *supra* note 477 at p. 6

⁵⁹¹ Anti-Money Laundering Council, *Online Sexual Exploitation of Children: A Crime with a Global Impact and an Evolving National Threat*, available at <http://www.amlc.gov.ph/images/PDFs/2020%20AUG%20AMLC%20OSEC%20AN%20EMERGING%20RISK%20AMID%20THE%20COVID19%20PANDEMIC.pdf>

⁵⁹² *Id.* at pp. 15-16

⁵⁹³ *Id.* at pp. 16-17

⁵⁹⁴ An Act Defining the Crime of Money Laundering, providing penalties therefor and for other purposes ("Anti-Money Laundering Act of 2001"), Republic Act 9160, September 29, 2001, available at <https://www.officialgazette.gov.ph/2001/09/29/republic-act-no-9160/>

⁵⁹⁵ An Act Prohibiting the Disclosure of or inquiry into deposits with any banking institution and providing penalty therefor ("Bank Secrecy Law"), Republic Act 1405, September 9, 1955, available at <https://www.officialgazette.gov.ph/1955/09/09/republic-act-no-1405/#:~:text=Section%201.,economic%20development%20of%20the%20country.>

⁵⁹⁶ An Act Instituting a Foreign Currency Deposit System in the Philippines and for other purposes, ("Foreign Currency Deposit Act of the Philippines"), Republic Act 6426, April 4, 1974, available at <https://www.officialgazette.gov.ph/1955/09/09/republic-act-no-1405/#:~:text=Section%201.,economic%20development%20of%20the%20country.>

⁵⁹⁷ Bangko Sentral ng Pilipinas, *Manual of Regulations for Non-Bank Financial Institutions*, available at <https://www.bsp.gov.ph/Pages/Regulations/BSPIssuances/MORBArchives.aspx>

Child Trafficking for Use in Illicit Drug Activities

One of the worst forms of child labor includes

“the use, procuring, or offering of a child for illicit activities, in particular for the production and trafficking of drugs.”⁵⁹⁸

Reports indicate that a significant number of children have been found to be engaged in illicit drug use, sale, and trafficking in the Asia-Pacific region, particularly in Indonesia, Philippines, and Thailand.⁵⁹⁹ According to an ILO study, in an effort to expand their markets, drug traffickers target children because the police usually do not suspect them.⁶⁰⁰ In the Philippines, an ILO-IPEC-commissioned rapid assessment revealed that a significant proportion of children in several urban poor communities were engaged in illicit drug(s) trading, trafficking, and abuse.⁶⁰¹ In addition, the study revealed that:

“(M)ost of the children engaged in drug use or trafficking were male aged between 9 to 15 years, were out of school, and came from families fraught with economic problems, high level of domestic violence, and substance abuse and vices. Children are initiated into drugs and the drug network because of curiosity, to assert one’s identity and power, and to escape from family problems/tensions as well as an economic alternative...They are initiated and recruited to the drug network by people close to them such as their peer, family, relative, and/or neighbors engaged in drug use, sale, and trafficking. While peer influence is key in the initiation, children are mainly used by adults as runners, scorers, or watchers; authorities do not immediately suspect them.”⁶⁰²

While the ILO research was commissioned in 2004, the use of children in illicit activities, particularly in the production and trafficking of drugs remain prevalent to date. According to the Philippine Drug Enforcement Agency, of the 3,354 children rescued in drug operations from 2016 to 2020, 1,888

⁵⁹⁸ ILO C. 182 supra note 22

⁵⁹⁹ International Labor Organization, *The Use of Children in the Production, Sales, and Trafficking of Drugs: A Synthesis of Participatory Action-Oriented Research Programs in Indonesia, Philippines, and Thailand*, International Programme on the Elimination of Child Labour, September 2004, available at https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_bk_pb_24_en.pdf

⁶⁰⁰ Id.

⁶⁰¹ Id.

⁶⁰² Id.

were pushers/sellers of illegal drugs, nine maintained drug dens, and 2 were caught cultivating marijuana. The others were caught in possession of dangerous drugs (888 children), visitors of a drug den (163 children), and/or users (391 children). The children's ages ranged from 4 to 17 years with those aged 16 to 17 consisting 76% of those rescued.⁶⁰³ A separate report by the Dangerous Drugs Board stated that from the period of July 2016 to October 2018, around 27,000 of those who surrendered were below 18 years old.⁶⁰⁴

In an effort to understand the Philippines' approach in relation to this issue, the section below reviews relevant laws and issuances relating to children's involvement in illicit activities, with a particular focus on illegal drugs.

1 The Comprehensive Dangerous Drugs Act of 2002

The Comprehensive Dangerous Drugs Act of 2002 was enacted to provide an extensive approach towards the eradication of illegal drugs. The provisions of the law treat minors both as victims, offenders, and/or drug dependents.

- a **Minor as the victim.** Adults who use minors or mentally incapacitated individuals in any way that is directly connected to dangerous drugs shall be imposed with the maximum penalty of each crime.⁶⁰⁵ Article II of the law lists down unlawful acts and their penalties to include:

⁶⁰³ Philippine Drug Enforcement Agency, Real Numbers PH 0 July 1, 2016 to September 30, 2020, available at https://pdea.gov.ph/images/REALNUMBERSPH/2020/Nov2020/Real_Numbers_Info_Cards__30September2020.pdf

⁶⁰⁴ Dangerous Drugs Board, Protocol When Handling Children Allegedly Involved in Dangerous Drugs, Dangerous Drugs Board, Board Regulation No. 6-2019, June 27, 2019, available at https://www.ddb.gov.ph/images/Board_Regulation/2020/BD.REG4/ANNEX-_C_-_BOARD_REG_6_S2019_-_Protocol_When_Handling_Children_Allegedly_Involved_in_Illegal_Drugs.pdf

⁶⁰⁵ Republic Act 9165, art. II



| Unlawful Act | Maximum Period of Imprisonment | Maximum Amount of Fine |
|---|--------------------------------|------------------------|
| Importation of Dangerous Drugs ⁶⁰⁶ | Life imprisonment to death | Php10,000,000 |
| Sale, trading, administration, dispensation, delivery, distribution, and transportation of dangerous drugs ⁶⁰⁷ | Life imprisonment to death | Php10,000,000 |
| Maintenance of a den, dive, or resort ⁶⁰⁸ | Life imprisonment to death | Php10,000,000 |
| Employees and visitors of a den, dive, or resort ⁶⁰⁹ | 20 years | Php500,000 |
| Manufacture of dangerous drugs ⁶¹⁰ | Life imprisonment to death | Php10,000,000 |
| Illegal chemical diversion of drugs ⁶¹¹ | 20 years | Php500,000 |
| Possession of Dangerous Drugs ⁶¹² (depending on amount of drugs) | Life imprisonment to death | Php10,000,000 |

⁶⁰⁶ Republic Act 9165, sec. 4

⁶⁰⁷ Republic Act 9165, sec. 5

⁶⁰⁸ Republic Act 9165, sec. 6

⁶⁰⁹ Republic Act 9165, sec. 7

⁶¹⁰ Republic Act 9165, sec. 8

⁶¹¹ Republic Act 9165, sec. 9

⁶¹² Republic Act 9165, sec. 11

| | | |
|--|----------------------------|---------------|
| Possession of drug paraphernalia ⁶¹³ | 4 years | Php 40,000 |
| Use of dangerous drugs (second-time use) ⁶¹⁴ | 12 years | Php200,000 |
| Cultivation of dangerous drugs ⁶¹⁵ | Life imprisonment to death | Php10,000,000 |
| Unnecessary prescription of dangerous drugs ⁶¹⁶ | 20 years | Php500,000 |
| Unlawful prescription of dangerous drugs ⁶¹⁷ | Life imprisonment to death | Php10,000,000 |

The maximum penalty is also imposed where any dangerous drug is administered, delivered, or sold to a minor.⁶¹⁸ The presence or help of minors in drug dens or laboratories is considered as an aggravating circumstance against the adult offender.⁶¹⁹

b Minor as a juvenile offender. The law treats juvenile offenders differently depending on age, nature of the crime, and background. Juvenile offenders aged 15 to 17 years old “at the time of the commission of the offense mentioned in Sec. 11⁶²⁰” may be given the benefits of a suspended sentence.⁶²¹ While under suspended sentence, the minor shall be placed under rehabilitation

⁶¹³ Republic Act 9165, sec. 12

⁶¹⁴ Republic Act 9165, sec. 15

⁶¹⁵ Republic Act 9165, sec. 16

⁶¹⁶ Republic Act 9165, sec. 18

⁶¹⁷ Republic Act 9165, sec. 19

⁶¹⁸ Republic Act 9165, sec. 5

⁶¹⁹ Republic Act 9165, sec. 7 (a)

⁶²⁰ Section 11. Possession of Dangerous Drugs

⁶²¹ Republic Act 9165, sec. 66

for 6 to 18 months.⁶²² Any charge against the minor may be favorably discharged after rehabilitation.⁶²³ Alternatively, the minor may also be placed under probation or made to undertake community service in lieu of imprisonment.⁶²⁴ These benefits apply only if the minor is a first-time offender.⁶²⁵ In cases of minors under fifteen years of age, the law notes that art. 192 of Presidential Decree No. 603, as amended, shall apply.⁶²⁶

- C** As a juvenile offender, the minor may also be seen **as a drug dependent**. Minors who are drug dependents may be placed under the care of a DOH-accredited physician so long as the minor is a first time offender. This is part of the law's program for treatment and rehabilitation of drug dependents.⁶²⁷ Inclusion in the voluntary submission program exempts one from criminal liability for use of illegal drugs.⁶²⁸
- d** **Authorized Testing.** Students of secondary and tertiary schools shall, pursuant to related rules and regulations in the school's student handbook, and with notice to the parents, undergo random drug testing.⁶²⁹ In 2003, the Dangerous Drugs Board (DDB) issued General Guidelines for the Conduct of Random Drug Testing for Secondary and Tertiary Students. Under the guidelines, if a student's test results are positive, a confirmatory test will be taken. If the confirmatory test yields the same positive result, the student may be referred to an accredited facility for counseling, observation, and rehabilitation.⁶³⁰
- e** **Protection of children.** In a seeming attempt to protect children, the law mandates families, student councils and campus organizations, and school authorities with the responsibility to educate and ensure the awareness of students on the adverse effect of abuse

⁶²² Republic Act 9165, sec. 66

⁶²³ Republic Act 9165, sec. 67

⁶²⁴ Republic Act 9165, sec. 70

⁶²⁵ Dangerous Drugs Act, sec. 66-71

⁶²⁶ Art. 192 of PD 603 has been repealed - by the Juvenile Justice. The old law notes suspended sentence and commission of the minor until the minor reaches 21.

⁶²⁷ Republic Act 9165, sec. 54-55

⁶²⁸ Republic Act 9165, sec. 55

⁶²⁹ Republic Act 9165, sec. 36 (c)

⁶³⁰ Dangerous Drugs Board, General Guidelines for the Conduct of Random Drug Testing for Secondary and Tertiary Students, Board Regulation No. 6-2003, August 1, 2003, available at https://www.ddb.gov.ph/images/Board_Regulation/2003/Bd.%20Reg.%206%2003.pdf

and misuse of drugs.⁶³¹ Each provincial social welfare and development office is also tasked to establish a special drug education center for out-of-school youth and children in street situations, in coordination with special centers for children in need of special protection.⁶³²

It must be noted that the Comprehensive Dangerous Drugs Act passed in 2002, prior to the passage of the country's Juvenile Justice and Welfare Code. The Juvenile Justice and Welfare Code set clear rules relating to the age of criminal responsibility and amends the Child and Youth Welfare Code.⁶³³

2 The Juvenile Justice and Welfare Code

It took more than a decade after the country became a party to the United Nations Convention on the Rights of the Child before substantial actions were taken to address the State's juvenile justice system. The Philippines ratified the Convention in 1990,⁶³⁴ a year after its adoption by the UN General Assembly, but it was only in 2006, after years of lobbying from different groups, that the Juvenile Justice and Welfare Code was passed.⁶³⁵ A subsequent legislation, RA 10630 which was deemed to have strengthened the Juvenile Justice System in the country was likewise passed on June 5, 2013.⁶³⁶

The Juvenile Justice and Welfare Code of 2006 substantially increased the age of criminal responsibility from nine to fifteen years.⁶³⁷ This means that minors, if aged fifteen and below, are exempt from criminal responsibility.⁶³⁸ Those aged above fifteen may likewise be exempt if it cannot be proven that they acted with discernment in committing the wrongful act.⁶³⁹

⁶³¹ Republic Act 9165, sec. 41-46

⁶³² *Id.*

⁶³³ PD 603 sets the age of criminal responsibility at over nine years of age. Children found guilty under the Child and Youth Welfare Code are committed to a youth detention facility until he reaches 21 or until the court deems necessary, while his sentence is effectively suspended - See: The Child and Youth Welfare Code, Presidential Decree No. 603, December 10, 1974, art. 189, available at <https://www.officialgazette.gov.ph/1974/12/10/presidential-decree-no-603-s-1974/#:~:text=The%20emotionally%20disturbed%20or%20socially,required%20by%20his%20particular%20condition.>

⁶³⁴ United Nations, Treaty Series, vol. 1577, p. 3; depositary notifications C.N.147.1993 available at https://treaties.un.org/Pages/View-Details.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en

⁶³⁵ UN CRC, *supra* note 162

⁶³⁶ Republic Act 9344, *supra* note 438; An Act Strengthening the Juvenile Justice System in the Philippines, amending for the purpose Republic Act 9344, otherwise known as the "Juvenile Justice and Welfare Act of 2006", and appropriating funds therefor, Republic Act 10630, October 3, 2013, available at <https://www.officialgazette.gov.ph/2013/10/03/republic-act-no-10630/>

⁶³⁷ Republic Act 9344, sec. 6

⁶³⁸ *Id.*

⁶³⁹ *Id.*

Children below the minimum age of criminal responsibility

Every child in conflict with the law (CICL) enjoys the presumption of being a minor.⁶⁴⁰ If proven that a child taken into custody is 15 years old and below, the arresting authority must promptly coordinate with a Local Social Welfare Development Officer to process the immediate release of the child to the custody of his or her parents, guardian, or nearest relative (in that order).⁶⁴¹

There are only two recognized instances under the law in which the child would not be returned to the custody of his or her parents, guardian, or nearest relative:

- a First, when no parent, guardian, or relative may be located, or if they refuse to take custody.** In this situation, the CICL may be released to any of the following: DSWD, LSWDO, Barangay official or member of the Barangay Council for the Protection of Children (BCPC), or a duly registered non-governmental or religious organization.⁶⁴²
- b Second, when the Local Social Welfare and Development Officer (LSWDO) determines that the child is abandoned, neglected, or abused by his parents, the child will be placed in a youth care facility or Bahay Pag-asa.**⁶⁴³

There are two ways by which a child may be committed to a youth care facility: First, by voluntary commitment when the parent of the child executes a written authorization,⁶⁴⁴ and second, by involuntary commitment where the LSWDO or the DSWD files a petition to place the child in a youth care facility.

Involuntary commitment is done when the child has no parents or guardian or when the parent/guardian will not execute the written authorization or refuses to comply with the prevention program.⁶⁴⁵

⁶⁴⁰ Republic Act 9344, sec. 7

⁶⁴¹ Republic Act 9344, as amended by Republic Act 10630, sec. 20

⁶⁴² Republic Act 9344, as amended by Republic Act 10630, sec. 20

⁶⁴³ Bahay Pag-asa' – refers to a 24-hour child-caring institution established, funded and managed by local government units (LGUs) and licensed and/or accredited nongovernment organizations (NGOs) providing short-term residential care for children in conflict with the law who are above fifteen (15) but below eighteen (18) years of age who are awaiting court disposition of their cases or transfer to other agencies or jurisdiction. Republic Act 9344, as amended by Republic Act 10630, sec. 4

⁶⁴⁴ Republic Act 9344, as amended by Republic Act 10630, sec. 20

⁶⁴⁵ Id.

Children above the minimum age of criminal responsibility

The treatment of children who come in contact with the law who are above the minimum age of criminal responsibility depends on whether or not the child acted with discernment, as determined by the initial assessment of the assigned social worker. If the child is deemed to have committed the act without discernment, the child may either be released or committed to a youth care facility. However if the child is deemed to have committed the act with discernment, the child will be subjected to a **diversion program**.

The applicable diversion program⁶⁴⁶ is dependent on the impossible penalty for the crime. Thus, the following rules apply:

Impossible penalty is less than six years imprisonment

LSWDO must develop a diversion program in coordination with the Barangay Council for the Protection of Children.⁶⁴⁷ Modes of restorative justice, which include mediation, family conferencing, conciliation or conflict resolution should be explored.⁶⁴⁸

Impossible penalty is more than six years

The Court will decide on the diversion measures.

The Passage of Republic Act 10630 and the 12-15 amendment

The Juvenile Justice and Welfare Act of 2006 is considered by child rights advocates to be a huge step toward improving the protection of children in conflict with the law in the Philippines. In 2013, the GoP further strengthened the existing legal framework in passing Republic Act 10630, or An Act to Strengthen the Juvenile Justice System.

⁶⁴⁶ "Diversion Program" refers to the program that the child in conflict with the law is required to undergo after he/she is found responsible for an offense without resorting to formal court proceedings. [Republic Act 9344, sec. 4]

⁶⁴⁷ Republic Act 9344, as amended by Republic Act 10630, sec. 24

⁶⁴⁸ Republic Act 9344, as amended by Republic Act 10630, sec. 24, 25



RA 10630 retains the minimum age of criminal responsibility at fifteen years of age.⁶⁴⁹ However, its key amendment **qualifies the minimum age of criminal responsibility** to allow children **as young as 12 years old**, who commit serious crimes such as rape, murder, homicide, and violations of the Comprehensive Dangerous Drugs Act, to be mandatorily placed in a special facility within the youth care facility for intensive juvenile intervention and support.⁶⁵⁰

3 Protocol When Handling Children Allegedly Involved in Dangerous Drugs

In 2019, the Dangerous Drugs Board (DDB) issued a Protocol to guide law enforcement authorities in the handling of children involved in illegal drugs. According to the DDB, the protocol was issued after the GoP's drug war yielded a significant number of children who surrendered.⁶⁵¹ Under the Protocol, a child who surrenders to a person in authority for allegedly using dangerous drugs will be treated as a child-at-risk.⁶⁵² A child who surrenders for any other offense apart from usage (i.e. sale, courier, manufacture, possession), the child will be treated as child in conflict with the law.⁶⁵³ A CICL will be handled according to the provisions of the Juvenile Justice

⁶⁴⁹ Republic Act 9344, as amended by Republic Act 10630, sec. 3

⁶⁵⁰ Republic Act 9344, as amended by Republic Act 10630, sec. 6

⁶⁵¹ Dangerous Drugs Board, supra note 605

⁶⁵² Dangerous Drugs Board, supra note 605, at sec. 2

⁶⁵³ Dangerous Drugs Board, supra note 605 at sec. 3

and Welfare Act, the PNP Manual in Handling Cases of CICL, and the IRR of Republic Act 9344.⁶⁵⁴

Enforcement Mechanisms and Government Programs

Within this legal framework is a long list of government agencies and interagency councils which seek to ensure the enforcement of laws in this area. This section will discuss the roles and mandates of these different agencies.

Enforcement Mechanisms: Child Trafficking

Inter-Agency Council Against Trafficking

- 1 Mandate.** The Inter-Agency Council Against Trafficking (IACAT) is the body mandated by law to coordinate and monitor the implementation of the country's trafficking laws.⁶⁵⁵ The IACAT conducts several projects geared towards the elimination of TIP in the Philippines, the prevention of the occurrence of TIP, the protection and rehabilitation of victims, and the conviction of TIP offenders.⁶⁵⁶
- 2 Composition.**⁶⁵⁷ The IACAT is chaired by the DOJ with the DSWD sitting as co-chair. The member agencies and ex-officio* members of the Council are:
 - a** Department of Foreign Affairs
 - b** Department of Labor and Employment
 - c** Philippine Overseas Employment Administration
 - d** Philippine National Police
 - e** Bureau of Immigration

⁶⁵⁴ Dangerous Drugs Board, supra note 605 at sec. 7; Philippine National Police, Manual in Handling Cases of Children at Risk and Children in Conflict with the Law, PNP-NSU-24-1-16, PNP Women and Children Protection Center, Quezon City: 2016, available at http://www.pnp.gov.ph/images/Manuals_and_Guides/DIDM/MANUAL-IN-HANDLING-CASES-OF-CHILDREN-AT-RISK-AND-CHILDREN-IN-CONFLICT-WITH-THE-LAW.pdf; Juvenile Justice and Welfare Council, Revised Rules and Regulations Implementing Republic Act No. 9344, as amended by Republic Act 10630, Council Resolution No. 2-2014, August 11, 2014, available at [https://www.dswd.gov.ph/download/laws_and_executive_issuances/Implementing%20Rules%20and%20Regulations%20\(IRR\)/Revised%20Implementing%20Rules%20and%20Regulations%20of%20RA%209344%20as%20amended%20by%20RA%2010630.pdf](https://www.dswd.gov.ph/download/laws_and_executive_issuances/Implementing%20Rules%20and%20Regulations%20(IRR)/Revised%20Implementing%20Rules%20and%20Regulations%20of%20RA%209344%20as%20amended%20by%20RA%2010630.pdf)

⁶⁵⁵ Department of Justice, Inter-Agency Council Against Trafficking, available at https://www.doj.gov.ph/iacat_webpage.html

⁶⁵⁶ Id.

⁶⁵⁷ Inter-Agency Council Against Trafficking, Member Agencies, available at https://iacat.gov.ph/?page_id=59

- f** Philippine Commission on Women
- g** Children’s Sector NGO Representative
- h** Women’s Sector NGO Representative
- i** OFW Sector Representative
- j** *National Bureau of Investigation
- k** *Department of Interior and Local Government
- l** *Philippine Center for Transnational Crime
- m** *Council for the Welfare of Children
- n** *Commission of Filipinos Overseas

3 Manila Dialogue. One of the IACAT’s key programs is the Manila Dialogue, which launched in 2015. The Manila Dialogue, or the International Dialogue on Human Trafficking, is a platform for ongoing conversations on trafficking in persons.⁶⁵⁸ Participants include various local and international organizations, government agencies, and foreign missions. The foundation of this annual event is the **Manila Declaration to Enhance International Cooperation in Combatting Human Trafficking**, which is signed by delegates from 19 embassies in the Philippines, 11 NGOs, and 15 domestic government agencies with the goal of achieving holistic and coordinated action against human trafficking.⁶⁵⁹ The three technical working groups of the Council lead the discussions and offer their recommendations during the Manila Dialogue.⁶⁶⁰ They are:

| IACAT Technical Working Group | Lead Agencies / Foreign Missions |
|--|--|
| Technical Working Group on Online Sexual Exploitation of Children (OSEC) | Inter Agency Council Against Child Pornography (DSWD) with the US and Australian Embassies |
| Technical Working Group on Seafarers and Fisherfolk | Embassy of the Kingdom of the Netherlands and the Department of Foreign Affairs |
| Technical Working Group on Household Service and Tourist Workers | Philippine Overseas Employment Administration and the British Embassy |

⁶⁵⁸ Organization for Economic Cooperation and Development, Testing the Guiding Principles on Combating Corruption related to Trafficking in Persons in the Philippines, available at <https://www.oecd-ilibrary.org/docserver/9789264253728-6-en.pdf?expires=1626268038&id=id&accname=guest&checksum=28D98DF95F9F859EA27B5F3D57D8E7C6>

⁶⁵⁹ Id.

⁶⁶⁰ -- IACAT intensifies anti-trafficking response online during Covid-19, IACAT Press Release, available at <https://iacat.gov.ph/?p=5637>

As a council, the IACAT has taken the lead in identifying priority draft legislation which require passage or amendment in the legislature including: Amendments to the Cybercrime Law and the Anti-Child Pornography Act, passage of the Magna Carta for Seafarers, ratification of Work in Fishing Convention (ILO Convention 188), and passage of the Implementing Rules and Regulations for the Domestic Workers Act, the Anti-Mail Order Spouse Law, and the Anti-Human Smuggling Bill. Looking to the future, the recent dialogues affirmed the need for the institutionalization of a 5-Year National Strategic Action Plan Against TIP with the goal of better structuring the international cooperation mechanism to combat TIP.⁶⁶¹

4 **Prevention and Protection Programs.** IACAT implements the following programs for the prevention of TIP:

- a** **Creation of the IACAT-ADVOCOM.** The IACAT-Advocacy and Communications Committee is mandated to coordinate the conduct of massive public awareness campaigns on the existing TIP laws and various issues surrounding them as well as the dissemination of information through the LGUs, concerned agencies, and NGOs.⁶⁶²
- b** **Creation of Quick Response Teams (QRT)** designed to centralize the rescue operations of the existing anti-trafficking law enforcement units. Currently, each region has a QRT in the form of Regional Inter Agency Councils Against Trafficking (RIACAT), which is supervised by IACAT and headed by a DOJ prosecutor. Apart from the RIACAT, QRT are also established in Ninoy Aquino International Airport. QRTs have been incorporated into the Manila North Harbor Task Force, and the Diosdado Macapagal International Airport Task Force as well.⁶⁶³
- c** **IACAT 1343 Hotline.** On March 15, 2011, the DOJ launched the IACAT Action Line. 1343 is a 24/7 hotline that seeks to respond to emergency or crisis calls from victims of human trafficking. The Commission on Filipinos Overseas, through a Memorandum of Agreement with the DOJ-IACAT, oversees the operation of the action line.⁶⁶⁴ Aside from the local telephone line, the following modes of reporting of trafficking-related cases are also available:

⁶⁶¹ Key Informant Interview - IACAT, April 23, 2021

⁶⁶² Commission on Filipinos Overseas, Inter-Agency Council Against Trafficking - Advocacy and Communications Committee (IACAT-ADVOCOM) , available at <https://cfo.gov.ph/inter-agency-council-against-trafficking-advocacy-and-communications-committee-iacat-advocom-2/>

⁶⁶³ Organization for Economic Cooperation and Development, supra note 659, at p. 6; Also see: IACAT, History, available at https://iacat.gov.ph/?page_id=63

⁶⁶⁴ -- Background of 1343 Action Line, available at <https://www.1343actionline.ph/background>

Website Reporting: www.1343actionline.ph

Email: 1343actionline@cfo.gov.ph

Mobile Application: 1343 Action Line

IACAT Social Media Account

Global Toll Free Action Lines in:

Australia: +611800250924

Japan: +817722132883

Singapore: +58001012846

US/Canada: +18773348727

5 Victim Support and Rehabilitation Programs

a Victims Compensation Program. Established by Republic Act 7309,⁶⁶⁵ the Program, operated by the Victims Compensation Board, provides compensation to victims of violent crimes, which includes victims of TIP. A Board of Claims under the DOJ evaluates and processes claims for application.⁶⁶⁶

b Online Legal Counselling called Itanong Mo kay Ato! (Ask Ato!). This is a web application which aims to provide free online legal counseling for anyone who has concerns about trafficking in persons and/or illegal labor recruitment.⁶⁶⁷

6 Philippine Internet Crimes Against Children Center (PICACC) This Center, which was created “to strengthen global law enforcement collaboration in combating the online sexual exploitation of children,”⁶⁶⁸ operates through a joint agreement with the PNP-WCPC, the NBI-AHTRAD, the Australian Federal Police, the United Kingdom National Crime Agency, and the IJM. As of April 28, 2021, the PICACC rescued 373 victims from OSEC and arrested 84 offenders. Also as of April 2021, the National Police of the Netherlands became the newest member of the PICACC team.⁶⁶⁹

⁶⁶⁵ An Act Creating a Board of Claims under the Department of Justice for Victims of Unjust Imprisonment or Detention and Victims of Violent Crimes and For Other Purposes, Republic Act 9309, March 30, 1992, available at <https://www.officialgazette.gov.ph/1992/03/30/republic-act-no-7309/>

⁶⁶⁶ Department of Justice, Victims Compensation Program, available at <https://www.doj.gov.ph/victims-compensation-program.html>

⁶⁶⁷ -- Itanong Mo Kay Ato - Online Legal Counseling, available at <https://onlinelegalcounseling.1343actionline.ph/>

⁶⁶⁸ International Justice Mission, Philippine Internet Crimes Against Children Center marks second anniversary by Celebrating 373 rescues, 84 arrests,, April 28, 2021, available at <https://osec.ijm.org/news-and-insights/news-updates/picacc-marks-second-anniversary/>. Accessed: June 15, 2021

⁶⁶⁹ Id.

7 Capacity building Programs. The Department of Justice leads on a number of trainings and workshops to enhance the capacity of front-line workers. These include: Anti-Trafficking Training Programs for Foreign Service Officers (labor and welfare attaches); Training for DOJ Prosecutors with the assistance of the United States and Australian Governments; Training for the members of the regional QRTs and law enforcement units (PNP and NBI); Administrative training for staff persons who oversee and manage the Philippine Anti-Trafficking in Persons Database and; Training of speakers to intensify Anti-TIP campaigns and promote the 1343 Action Line.⁶⁷⁰

While the IACAT oversees the coordination among various agencies, each agency has a separate mandate that complements the overall approach of the government to combat child trafficking and sexual exploitation.

Apart from the IACAT, national government agencies and local government units are mandated to implement programs to address TIP.

Programs and Mandates Related to Capacity Building, Awareness and Education Campaigns⁶⁷¹

| Programs / Mandate | Assigned Agency |
|---|---|
| Integration of topics on migration and TIP in the education curriculum | Department of Education, Commission on Higher Education |
| Integration of anti-trafficking efforts into the barangay level and monitoring government compliance with international human rights treaties | Commission on Human Rights, Department of Interior and Local Government |
| Enhanced public awareness on TIP | Public Information Agency |

⁶⁷⁰ Commission on Filipinos Overseas, Primer on Republic Act 9208 as amended by Republic Act 10364, November 2015, available at https://dilg.gov.ph/PDF_File/reports_resources/dilg-reports-resources-2017323_e21a5b9c4f.pdf

⁶⁷¹ Id.

| Programs / Mandate | Assigned Agency |
|--|---|
| Comprehensive community education, advocacy and information campaign programs on TIP | Philippine Overseas Employment Administration, Overseas Workers Welfare Administration, Department of Interior and Local Government, Local Government Units, Commission on Human Rights, Commission on Filipinos Overseas, and Philippine Commission on Women |
| Training of special prosecutors who are handling and prosecuting TIP. | Department of Justice |

Programs / Mandates on TIP Prevention⁶⁷²

| Programs / Mandate | Assigned Agency |
|---|---|
| Address child trafficking issues through policy and program recommendations | Council for the Welfare of Children |
| Formulate and implement preventive measures to stop sex tourism packages and other tourism establishment activities that contribute to TIP. | Department of Tourism |
| Standardized guidelines for monitoring TIP in every port | Department of Transport and Rail |
| Efficient implementation of the administration of PH passports to prevent fraud and protect their integrity | Department of Foreign Affairs |
| Administer and enforce immigration and alien administration laws | Bureau of Immigration and Department of Justice |

⁶⁷² Id.

| Programs / Mandate | Assigned Agency |
|---|--|
| Implement and ensure compliance with the rules and guidelines on local and overseas employment | Department of Labor and Employment |
| Prevent and detect TIP with transnational crime dimensions and coordinate with international law enforcement agencies | Philippine Internet Crimes Against Children Center, National Bureau of Investigation - Anti-Human Trafficking Division, Philippine National Police - Women and Children Protection Center, Department of Foreign Affairs |

Programs and Mandates on TIP Prosecution and Conviction⁶⁷³

| Programs / Mandate | Assigned Agency |
|--|--|
| Complaints, investigation, and apprehension system | Philippine National Police, National Bureau of Investigation, Commission on Human Rights |
| Prosecute TIP cases | Department of Justice, Philippine Overseas Employment Administration, Local Government Units |
| Cancel licenses of establishments which violate trafficking laws | Local Government Units, Department of Labor and Employment |

Programs and Mandates on TIP Victim Rehabilitation⁶⁷⁴

| Programs / Mandate | Assigned Agency |
|---|---|
| Develop rehabilitation and reintegration programs resulting in gender-responsive and anti-trafficking oriented activities | Department of Social Welfare and Development, Overseas Workers Welfare Administration, Commission Higher Education, Department of Education, Technical Education and Skills Development Authority |

⁶⁷³ Id.

⁶⁷⁴ Id.

| Programs / Mandate | Assigned Agency |
|---|--|
| Provide Counselling and temporary shelter | Department of Foreign Affairs, Department of Labor and Employment |
| Provide medical and psycho-social services | Department of Health, Department of Social Welfare and Development |
| Repatriate trafficked persons regardless of whether they are documented or undocumented | Department of Foreign Affairs, Department of Labor and Employment, Philippine Overseas Employment Administration |

Programs and Mandates on TIP Monitoring and Documentation⁶⁷⁵

| Programs / Mandate | Assigned Agency |
|--|--|
| Monitor and document TIP cases | Department of Justice, Department of Labor and Employment, Overseas Workers Welfare Administration, Local Government Units, Commission on Filipinos Overseas |
| Monitor online TIP cases | Department of Trade and Industry, Philippine National Police, National Bureau of Investigation, Anti-Money Laundering Council |
| Establish database for law enforcement and prosecution efforts | Department of Interior and Local Government, Local Government Units, Philippine Overseas Employment Administration |

⁶⁷⁵ Id.

Programs and Mandates on Partnership⁶⁷⁶

| Programs / Mandate | Assigned Agency |
|---|---|
| Develop bilateral, regional, and international initiatives and arrangements to combat TIP | Department of Foreign Affairs, Philippine Commission on Women, Commission on Filipino Overseas, Commission on Human Rights, Bureau of Immigration |

The consultants identified three interagency councils that address child trafficking for sexual exploitation. They are the Inter Agency Council on Violence against Women and Children (IAC-VAWC), the Inter Agency Council Against Trafficking (IACAT) (See discussion on IACAT above), and the Inter-Agency Council Against Child Pornography (IACACP).

Enforcement Mechanisms: Commercial Sexual Exploitation

Inter Agency Council on Violence Against Women and Children (IAC-VAWC)

- 1 Mandate.** IAC-VAWC was created by virtue of Republic Act 9262, or the *Anti-Violence Against Women and their Children Act of 2004*.⁶⁷⁷ Its main function is to ensure the effective implementation of the Anti-VAWC law.⁶⁷⁸ Twelve agencies are specifically tasked to: formulate programs and projects to eliminate all forms of VAWC based on their respective mandates, develop capability programs for their employees to become more sensitive to clients (victims), and monitor all VAW initiatives.
- 2 Composition.**⁶⁷⁹ The council is chaired by the DSWD and the DILG. The following agencies sit as members of the Council:

⁶⁷⁶ Id.

⁶⁷⁷ Republic Act 9262, supra note 553

⁶⁷⁸ Republic Act 9262, sec. 39

⁶⁷⁹ Republic Act 9262, sec. 39

- a** Department of Justice
- b** Department of Health
- c** Department of Education
- d** Department of Labor and Employment
- e** Philippine National Police
- f** Civil Service Commission
- g** Commission on Human Rights
- h** Council for the Welfare of Children
- i** National Bureau of Investigation
- j** Philippine Commission Women.

All agencies involved in responding to violence against women and their children are required to undergo education and training to acquaint them with: (1) nature, extent, and causes of violence against women and their children; (2) legal rights and remedies of victims; (3) services and facilities available to the victims; (4) legal duties imposed on police officers to make arrests and offer protection and assistance.⁶⁸⁰

The Philippine Commission on Women acts as the Secretariat of the Council. It's main function is to coordinate the meetings of the Council and consolidate annual reports of the Council for submission to the President.⁶⁸¹

Relevant to child sexual exploitation, the IAC-VAWC is tasked to provide rescued victims with temporary shelters, counseling and psycho-social services, and/or recovery and rehabilitation programs and livelihood assistance for the family.⁶⁸²

Inter Agency Council Against Trafficking (IACAT)

(See: Discussion above - Enforcement Mechanisms - IACAT)

⁶⁸⁰ Republic Act 9262, sec. 42

⁶⁸¹ Philippine Commission on Women, Inter-Agency Council on Violence Against Women and their Children, available at <https://pcw.gov.ph/inter-agency-council-on-violence-against-women-and-their-children/>

⁶⁸² Republic Act 9262, sec. 40

Inter Agency Council on Child Pornography (IACAC-P)

1 Mandate. The IACAC-P was created by virtue of Republic Act 9775 or the *Anti-Child Pornography Act of 2009*. It is the body in charge of preventing and eradicating child pornography.⁶⁸³

2 Composition.⁶⁸⁴ The Council is chaired by the DSWD. The following agencies sit as members of the Council:

- a** Department of Justice
- b** Department of Labor and Employment
- c** Department of Science and Technology
- d** Philippine National Police
- e** Department of Information and Communications Technology
- f** National Telecommunications Commission
- g** Philippine Center for Transnational Crimes
- h** Council for the Welfare of Children
- i** Optical Media Board
- j** National Bureau of Investigation
- k** Three representatives from children's NGOs.

3 Programs. The IACAC-P has a *National Response Plan (NRP) on Online Sexual Abuse and Exploitation of Children*. The plan identifies five key areas for the effective implementation of the law. The key areas and their respective committees are: (1) Advocacy and Prevention, (2) Enforcement, Investigation, and Prosecution, (3) Victim Assistance and Support, (4) Monitoring and Management Information System, and (5) Partnership Resource Management.⁶⁸⁵ Each committee is chaired by one of the members of the IACAC-P and works on programs in its focus area:

⁶⁸³ Republic Act 9775, sec. 20.

⁶⁸⁴ Republic Act 9262, sec. 40

⁶⁸⁵ Department of Social Welfare and Development, Inter-Agency Council Against Child Pornography, DSWD Presentation during the ASEAN Conference on Cybercrime 2017, available at <https://rm.coe.int/7-7iacacp-edited-/168072bdbf>.

- a Advocacy and Prevention Committee** is led by the CWC. Its main objective is to increase public awareness on the problem of child pornography and to educate the public on the anti-child pornography law. It does this through the production and distribution of information, education, and communication materials which are distributed to key stakeholders and local government units.⁶⁸⁶ They also conduct forums, orientation sessions, and training for various sectors. The Committee also launched web and app-based advocacy campaigns including #StopChildPornPH project and Hackathon. Hackathon, which first launched in 2016, seeks to raise awareness of the youth sector on the campaign.⁶⁸⁷ Its goal is to come up with accessible and user-friendly computer and mobile applications which will make reporting of child cyber pornography incidents easier.
- b Enforcement, Investigation, and Prosecution Committee** is tasked to strengthen the enforcement of the law and effectively investigate and prosecute offenders. The Committee is headed by the Department of Justice, National Bureau of Investigation, and the Philippine National Police. Apart from the agencies, consolidated law enforcement and prosecution efforts, these agencies also lead the training on investigation of computer-facilitated crimes against children.⁶⁸⁸
- c Victim Assistance and Support Committee** seeks to effectively provide assistance and support to victims of child pornography and their families. This committee is led by the DSWD. As part of its mandate, the DSWD provides services to victims of child pornography in Field Offices by overseeing their referral to community-based or residential-based services under its *Recovery and Reintegration Program for Trafficked Persons*. In addition to this, DSWD leads on the roll-out of multi-disciplinary training in handling and managing victims of OSEC and in the reporting of child pornographic sites through its trafficking hotline.⁶⁸⁹

Phone Hotline

DSWD Recovery and Reintegration Program for Trafficked Persons (RRPTP) Hotline: (02) 8931-9141

SMS Hotline

Text **DSWD blockchildporn** <URL address> : and send to 2327 or
Text **blockchildporn** <URL address> and send to 0918-9122813

⁶⁸⁶ Id.

⁶⁸⁷ -- DSWD urges millennials to help in campaign vs child cyber pornography, Department of Social Welfare and Development, February 18, 2016, available at <https://www.dswd.gov.ph/dswd-urges-millennials-to-help-in-campaign-vs-child-cyber-pornography/>

⁶⁸⁸ Department of Social Welfare and Development, *supra* note 686

⁶⁸⁹ Id.; Inter-Agency Council Against Child Pornography, About Us, available at <https://www.iacacp.gov.ph/about-the-inter-agency-council-against-child-pornography-iacacp/>

- d Monitoring and Management Information System** is chaired by the National Telecommunications Commission. It is tasked to coordinate complaints, facilitate information sharing among stakeholders, and monitor the progress of cases through an institutionalized case management system. To meet its objectives, this committee conducts a Child Online Protection Summit, National Consultation on Child Online Protection and prepares a Compendium of Good Practices on Efforts to Address OSEC in the Philippines.⁶⁹⁰
- e Partnership and Resource Management** is also led by the DSWD. It's goal is to develop strategic partnerships with key stakeholders in addressing the issue of child pornography and to ensure sufficient resources for the implementation of the Act.⁶⁹¹ In its most recent report to Congress, DSWD announced that it is working with Stairway Foundation in cascading OSEC-awareness modules for LGUs, stakeholders, and students.⁶⁹²

Enforcement Mechanism: Children in Armed Conflict

The Inter Agency Committee on Children in Situations of Armed Conflict (IAC-CSAC)

The IAC-CSAC was adapted from a former version of the Committee as part of **Republic Act No. 11188**. The role of the IAC-CSAC is to ensure the welfare and protection of children in situations of armed conflict and to oversee the implementation of the Act. The CWC serves as the Committee Chair, and various government agencies serve as the Committee's members. The members provide technical, logistical and financial assistance.⁶⁹³ Members include the following: The Armed Forces of the Philippines, the Dept. of National Defense, the PNP, The Commission on Human Rights, The Philippine Commission on Women, DILG, DOH, DepEd, DSWD, DOJ, LGUs, the National Commission on Indigenous Peoples, the National Commission on Muslim Filipinos, and the Office of the Presidential Advisor on the Peace Process and two civil society organizations.⁶⁹⁴

⁶⁹⁰ Id.

⁶⁹¹ Id.

⁶⁹² Key Informant Interview - Inter-Agency Council Against Child Pornography, June 21, 2021

⁶⁹³ Republic Act 11188, sec. 25

⁶⁹⁴ Id.

The IAC-CSAC has the following functions:

- a** Incorporate the commitments made in ratified conventions such as the UN CRC and the Optional Protocol in all actions;
- b** Coordinate implementation of the E.O., its implementing rules and the enhanced CIAC Framework;
- c** Develop guidelines and programs to handle children involved in armed conflict and monitor or document all cases (capture, surrender, arrest, rescue or recovery);
- d** Build the capacity of LGUs through training on human rights, advocacy and awareness campaigns, and other relevant issues;
- e** Implement a monitoring, reporting and response system for grave child rights' violations in situations of armed conflict (MRRS-GCRV) and operationalize it at the national and local levels; and
- f** Coordinate and monitor implementation of the enhanced CSAC program framework.⁶⁹⁵

Enforcement Mechanism: Children in Conflict with the Law

The **Juvenile Justice and Welfare Council (JJWC)** is the primary inter-agency body which ensures the effective implementation of the Juvenile Justice and Welfare Code.⁶⁹⁶ While the JJWC is chaired by the Department of Social Welfare and Development, it is the Department of Justice that has administrative supervision over the Council.⁶⁹⁷ Other member agencies of JJWC include:

- a** Council for the Welfare of Children
- b** Department of Education
- c** Department of Interior and Local Government
- d** Commission on Human Rights
- e** National Youth Commission

⁶⁹⁵ Republic Act 11188, sec. 26

⁶⁹⁶ Republic Act 9344 as amended by Republic Act 10360, sec. 8

⁶⁹⁷ Id.

- f** Two representatives from NGOs: one to be designated
- g** by the Secretary of Justice and the other by the
- h** Secretary of Social Welfare and Development.⁶⁹⁸

The JJWC is also expected to act in close coordination with the following non-member agencies as institutions who have programs and initiatives on juvenile justice and intervention.⁶⁹⁹

- a** Public Attorney's Office
- b** Bureau of Corrections
- c** Parole and Probation Administration
- d** National Bureau of Investigation
- e** Philippine National Police
- f** Bureau of Jail Management and Penology
- g** Commission on Human Rights
- h** Technical Education and Skills Development Authority
- i** National Youth Commission

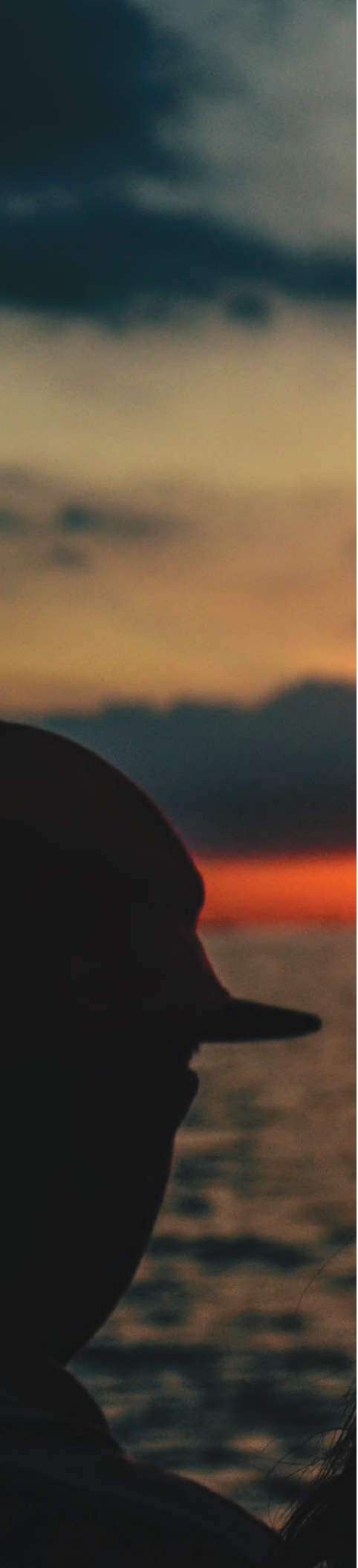
As a body, the JJWC has four focus areas: (1) Policy, Plans, and Program Development; (2) Research and Information Management, (3) Coordination, Monitoring and Technical Assistance; (4) Advocacy and Social Mobilization.

1 Policy, Plans, and Program Development. As a policy-making body, JJWC leads in crafting rules and regulation relating to children in conflict with the law. Its most recent issuance is the Guidelines When Handling Children Allegedly Involved in Dangerous Drugs, in coordination with the Dangerous Drugs Board. Apart from the Guidelines, JJWC also conducts outcome-based education training of court personnel and duty bearers on juvenile justice and welfare in partnership with the Supreme Court Committee on Family Courts and Juvenile Concerns, Philippine Judiciary Academy, and UNICEF. To ensure that diversion measures are implemented at the LGU level, JJWC has also created a diversion toolkit that seeks to assist duty-bearers at the barangay level in administering diversion proceedings for CICL. One of its latest programs is called Buklod Paglaom which seeks to provide holistic psychological and economic interventions for CICL in Bahay Pag-Asa Intensive Juvenile Intervention in compliance with the requirements of Republic Act 10630 which mandates CICL who have committed serious offenses to be subjected to intensive intervention.⁷⁰⁰

⁶⁹⁸ Id.

⁶⁹⁹ Id.

⁷⁰⁰ Juvenile Justice and Welfare Council, Policy, Plans, and Program Development - Third Quarter Accomplishments - National Policies and Programs, available at <https://www.jjwc.gov.ph/policy-plans-and-program-development/>



In relation to **Research and Information Management**, the Juvenile Justice and Welfare Council rolls out trainings for social workers in LGU-managed Bahay Pag-asa, community-based social workers from select LSWDO, and DSWD's Regional Rehabilitation Center for Youth on the use of the Integrated Case Management Sub-system. The Integrated Case Management System is a mechanism that records, updates, and monitors the implementation of each CICL's intervention or treatment plan.⁷⁰¹

3 As part of its **coordination and monitoring** role, it continues to conduct regular inspections of detention facilities of CICL and regularly conducts orientations and trainings with duty-bearers at the local level on the development of Comprehensive Local Juvenile Intervention Plan.⁷⁰² Finally, in relation to **advocacy and social mobilization**, JJWC pilot tests training modules on Barangay Protocols with select local government units.⁷⁰³

Pending Bills and Legislation

The consultants counted **35 House Bills, 6 House Resolutions, 21 Senate Bills, and 11 Senate Resolutions** reviewing or seeking to amend existing laws which relate to child labor or the Worst Forms of Child Labor. An overview of the proposed measures are covered below:

⁷⁰¹ Juvenile Justice and Welfare Council, Research and Information Management- Third Quarter Accomplishments - National Juvenile Justice and Welfare Information Management System, available at <https://www.jjwc.gov.ph/research-and-information-management/>

⁷⁰² Juvenile Justice and Welfare Council, Coordination, Monitoring, and Technical Assistance, available at <https://www.jjwc.gov.ph/coordination-monitoring-and-technical-assistance/>

⁷⁰³ Juvenile Justice and Welfare Council, Advocacy and Social Mobilization, available at <https://www.jjwc.gov.ph/advocacy-and-social-mobilization/>

1 Bills which propose stiffer penalties

The following bills all seek to amend Republic Act 7610, or the Special Protection of Children Against Child Abuse, Exploitation, and Discrimination to impose stiffer penalties on one of the unlawful acts identified in the law.

| House / Senate Bill | Description | Status in the House | Status in the Senate |
|---|---|---|--|
| House Bills: 137, 3020, 4867, 5902 Senate Bills 450, ⁷⁰⁴ 1589 ⁷⁰⁵ | These set of bills seek to impose stiffer penalties against child pornography. | Approved by the House on February 17, 2020. Transmitted to the Senate on February 18, 2020. (House Bills have been consolidated into one: House Bill 137) ⁷⁰⁶ | Pending in the Committee on Justice and Human Rights since August 5, 2019 |
| Senate Bill 711 | This bill seeks to impose greater penalties against employers who commit illegal child labor practices. | No House counterpart | Pending in the Committee on Labor, Employment, and Human Resources Development since August 13, 2019 |

2 Bills which seek to amend the trafficking laws

There are currently 10 House Bills, 4 House Resolutions, 6 Senate bills, 8 Senate Resolutions which seek to amend the Anti-Trafficking Law. Bills in both houses of Congress have been pending at the Committee level since 2019. The salient features of the proposed measures are:

⁷⁰⁴An Act Imposing Stiffer Penalties for Child Abuse, Exploitation, and Discrimination, Amending for the purpose Republic Act No. 7610, as amended, S.B. 450, 18th Cong, 1st Regular Session (2019)

⁷⁰⁵An Act Imposing Stiffer Penalties for Child Abuse, Exploitation, and Discrimination, Amending for the purpose Republic Act No. 7610, as amended, S.B. 1589, 18th Cong, 1st Regular Session (2020)

⁷⁰⁶An Act Imposing Stiffer Penalties for Child Abuse, Exploitation, and Discrimination, Amending for the purpose Republic Act No. 7610, as amended, H.B. 137, 18th Cong, 1st Regular Session (2019)

- a** Recognition of the use of online and digital platforms as a means to commit the crime of TIP
- b** Expansion of the definition of TIP to include OSEC
- c** Imposition of penalties on private facilities such as internet service providers, financial intermediaries, and tourism-oriented establishments
- d** Increase in mechanisms and resources for law enforcement units, local government units, national agencies, and NGOs to help them carry out their mandate to prevent trafficking, prosecute traffickers, and provide protection for trafficked victims
- e** Prohibition on the entry of alien sex offenders into the country
- f** Imposition of higher penalties when the crime of TIP is committed during a crisis, disaster, emergency situation, or conflict
- g** Reorganization of IACAT to formalize the membership of the NBI, DOH, DICT, DOTR, and OWWA, which are all currently ex-officio members only.

3 Bills relating to the sexual exploitation of children

House Bill 7836 seeks to **increase the age of statutory rape / age of consent** from 12 to 16 years. This bill has already been approved by the House and transmitted to the Senate on December 1, 2020.⁷⁰⁷

The following **OSEC bills** are currently being reviewed in the House of Representatives:

⁷⁰⁷ An Act Providing For Stronger Protection Against Rape and Sexual Exploitation and Abuse, Increasing the Age for Determining the Commission of Statutory Rape, Amending For the Purpose Act No. 3815, as Amended, Otherwise Known as the Revised Penal Code, and Republic Act 7610, As Amended, Otherwise Known as the Special Protection of Children Against Abuse, Exploitation, and Discrimination Act, H. B. 7836, 18th Cong., 2nd Regular Session (2020)

| Bill No | Title | Status |
|---------|---|---|
| HB 6923 | An Act Prohibiting All Forms of Online Sexual Exploitation of Children | Pending with the Committee on Revision of Laws since May 18, 2021 |
| HB 7465 | An Act Defining the Crime of Sexual Abuse or Exploitation of Children, prescribing penalties, amending for the purpose Republic Act 9775, otherwise known as the Anti-Child Pornography Act of 2009 | Pending with the Committee on Revision of Laws since May 18, 2021 |
| HB 7633 | An Act Defining the Crime of Sexual Abuse or Exploitation of Children, prescribing penalties, amending for the purpose Republic Act 9775, otherwise known as the Anti-Child Pornography Act of 2009 | Pending with the Committee on Revision of Laws since May 18, 2021 |
| HB 8760 | An Act Strengthening the Protection of Children Against Online Sexual Abuse and Exploitation, amending Anti-Child Pornography Act of 2009 and Anti-Photo and Video Voyeurism Act of 2009 | Pending with the Committee on Revision of Laws since May 18, 2021 |

On May 31, 2021, the Senate transmitted **Senate Bill 2209**, or the Special Protection Against Online Abuse and Exploitation of Children to the House of Representatives for concurrence. The Senate passed their version of the measure on May 27, 2021. As the Senate version of the bill has the highest chance of passing, having already gone through the upper house, its **salient provisions** are reviewed here:

a Senate Bill 2209 proposes the passage of the Special Protections Against Online Sexual Abuse and Exploitation of Children Law. (Anti-OSAEC Law). It brings together the proposed bills on OSEC or amending CSEC laws pending in both the House and the Senate.⁷⁰⁸

b Punishable Acts⁷⁰⁹

- 1 Senate Bill 2209 provided the same listed acts as currently provided in Republic Act 9775 or the Anti-Child Pornography Law except that it changed the 'child pornography' term to 'child sexual abuse and exploitation materials' (CSAEM), consistent with UN appropriate language on child protection.
- 2 Recruitment, harboring, transport of children for the purpose of committing OSAEC
- 3 Introduction of a child to a foreign national for the purpose of committing OSAEC
- 4 Publication or distribution of any ICT materials that promote OSAEC
- 5 Live-streaming or streaming any form of CSAEM
- 6 Willful subscription to an internet address that hosts OSAEC
- 7 Sexualizing children as objects of sexual fantasy in any digital platform
- 8 Attempt to commit OSAEC

⁷⁰⁸ An Act Strengthening Protections Against Online Sexual Abuse and Exploitation of Children, Amending For This Purpose Republic Act No. 9775, or the Anti-Child Pornography Act of 2009; Amending For This Purpose Republic Act No. 9995, or the Anti-Photo and Video Voyeurism Act of 2009, Providing Penalties for its Violations and For Other Purposes, S.B. 2209, 18th Congress, Second Regular Session (2020)

⁷⁰⁹ S.B. 2209, sec. 4, 5

- c** **Child Trafficking** The draft Anti-OSAEC law expressly states that the acts punishable under its provisions may be filed in conjunction with child trafficking laws.
- d** **Amendment to Republic Act 9995** The proposed bill amends the Anti-Photo and Video Voyeurism Act of 2009 to cover illicit recording of children⁷¹⁰
- e** **Consent is Irrelevant** The proposed law makes clear that these acts are punishable regardless of the consent of the child.⁷¹¹ In addition, it considers children who post self-CSAEM as victims that require assistance.⁷¹²
- f** **Large Scale and Syndicated Child Sexual Abuse or Exploitation (CSAE)** are defined and penalized. The crime of CSAE is considered “large scale” when it is committed against three or more persons. “Syndicated” CSAE is committed when the act is carried out by a group of three or more persons.⁷¹³
- g** **Obligations and Liabilities** Apart from government, family, and community, the proposed measure expands the obligation to protect the child from all forms of OSAEC to internet intermediaries in the private sector to include internet service providers, social media intermediaries, and financial intermediaries.⁷¹⁴
- h** **National Coordination Center Against OSAEC (NCC-OSAEC)** is created by the bill, lodged under the IACAT. With a specialized mandate to handle all OSAEC related cases, it effectively divests the IACACP of one of its key roles. The proposed measure notes that only cases of child pornography with no online component should be referred to IACAC-P. All OSAEC cases with an online component, including violations of the child trafficking laws shall be referred to the NCC-OSAEC.⁷¹⁵

4 Bills relating to children in conflict with the law

There are two pending bills and three resolutions relating to children in conflict with the law:

⁷¹⁰ S.B. 2209, sec. 6

⁷¹¹ S.B. 2209, sec. 4

⁷¹² S.B. 2209, sec. 9

⁷¹³ S.B. 2209, sec. 6, 7

⁷¹⁴ S.B. 2209, sec. 18

⁷¹⁵ S.B. 2209, sec. 27

a **Senate Bill 5** seeks to lower the age of criminal responsibility from 15 to 12.⁷¹⁶ It also lowers the age that children may be placed in Intensive Juvenile Intervention and Support Center for the commission of serious crimes from 12 to 9 nine years old.⁷¹⁷ At the time the bill was filed, videos involving minors who were committing crimes went viral. The videos included a 15-year old beating another minor to death with a piece of wood;⁷¹⁸ a group of children in street situations dragging an old man out of a public utility jeepney to get his purse; and minors stealing a jeepney driver's income.⁷¹⁹ Moreover, it cited the report of the Dangerous Drug Board which lists 20,584 minors who surrendered for using or pushing illegal drugs, with the youngest surrenderer reportedly starting drugs at the age of 8.⁷²⁰ With the administration's priority of "curbing criminality and ending the drug war," the bill remains as one of the administration's top priorities. The bill has been pending in the Committee since July 23, 2019. Its House counterpart, **House Bill 270** has also been pending in the Committee since July 2019.⁷²¹

b In response to the measure as filed, a number of resolutions were filed in both the Senate and the House of Representatives. **Senate Resolution 183** directs the appropriate Senate Committee to conduct an inquiry in aid of legislation on the status of implementation of the Juvenile Justice and Welfare Act, following Senate committee deliberations which revealed the poor implementation of the law at the LGU level.⁷²² The resolution further noted the reports of increasing numbers of CICL and children at risks (CAR) who are abused and exploited by

⁷¹⁶ An Act Lowering the Minimum Age of Criminal Responsibility Amending for the Purpose secs. 6, 20, 20-A, 20-B, and 22 of Republic Act No. 9344, as amended, otherwise known as the "Juvenile Justice and Welfare Act of 2006", S.B. No. 05, 18th Cong., First Regular Session (2019)

⁷¹⁷ Id.

⁷¹⁸ Nestor P. Burgos, Jr., 14 year old boy beats elder sister to death in Aklan, Philippine Daily Inquirer, May 9, 2017, available at <https://newsinfo.inquirer.net/895406/14-year-old-boy-beats-elder-sister-to-death-in-aklan>

⁷¹⁹ See also: S.B. 5, Explanatory Note

⁷²⁰ -- Youngest surrenderer started drugs at 8, The Freeman, August 16, 2016, available at <https://www.philstar.com/the-freeman/cebu-news/2016/08/16/1614010/youngest-surrenderer-started-drugs-8>; See also: S.B. 5, Explanatory Note

⁷²¹ An Act Lowering the Minimum Age of Criminal Responsibility for Heinous Crimes, Amending for the Purpose Republic Act No. 9344, otherwise known as the "Juvenile Justice and Welfare Act of 2006," H. B. 270, 18th Cong., First Regular Session (2019)

⁷²² Resolution Directing the Appropriate Senate Committee to Conduct An Inquiry in Aid of Legislation, on the Status of the Implementation of the Juvenile Justice and Welfare Act and Other Legislations Relative to the Protection and Promotion of the Rights and Welfare of Children, P.S. Resolution No. 183, 18th Cong., First Regular Session (2019)

syndicates to commit crimes, which fueled the call for legislation to lower the minimum age.⁷²³ In the House, **House Resolution 42 and 176** called for the same, while also opposing renewed initiatives to lower the minimum age of criminal responsibility.⁷²⁴

⁷²³ Id.

⁷²⁴ Note: Bills proposing to lower minimum age of criminal responsibility were first filed in the 17th Congress as part of the priority measures of the Duterte administration; Resolution Opposing the Renewed Initiatives to Lower the Minimum Age of Criminal Responsibility and Urging the House Committee on Justice and Committee on Appropriations to Conduct an Inquiry, In Aid of Legislation on the Implementation of Republic Act 10630, or An Act Establishing a Comprehensive Juvenile Justice and Welfare System, H.R. 42, 18th Cong, First Regular Session (2019); Resolution Urging the Members of the House to Call Upon President Rodrigo Duterte to Retain the Existing Legislated Minimum Age of Criminal Responsibility (MACR) of Children in Conflict with the Law (CICL) and instead provide Funding and Resources to Better the Implementation of Existing Laws, H.R. 176, 18th Cong., First Regular Session (2019)





Chapter VI

Local Government Units

Decentralizing Child Protection

The Philippines administrative system is composed of regions, provinces, independent cities, municipalities and barangays. Collectively, these administrative units are known as local government units (LGUs).⁷²⁵ The 1987 Constitution codified the existence of the local government units and granted each with a level of autonomy.⁷²⁶ The 1991 Local Government Code further defined and decentralized the powers and duties of the LGUs.⁷²⁷

⁷²⁵ Maria Ela L. Atienza, *Local Government and Devolution in the Philippines*, in Noel M. Morada and Teresa S. Encarnacion Tadem, *Philippine Politics and Governance: An Introduction*. Diliman, Quezon City: University of the Philippines

⁷²⁶ CONST, Art. X

⁷²⁷ An Act Providing for a Local Government Code of 1991 ("LOCAL GOVERNMENT CODE"), Republic Act no. 7160 (1991)

Decentralization, thus, gave local governments:

- a** control over many of the basic social services and sectors such as health and agriculture;
- b** enforcement power over many laws and regulations;
- c** authority to tax and increase the share of funding from the national government to the local villages;
- d** capacity to enhance local civil society by allowing LGUs to create governing assemblies; and
- e** authority to form partnerships with the private sector to promote local development.⁷²⁸

To assist in the administration of laws at the local level, LGUs receive 40% of the national tax revenue from the region. The total is then distributed in the following ways: provinces and cities receive 23% each, municipalities receive 34%, and barangays receive the remaining 20%.⁷²⁹ While the funds are directly released to the LGUs, they have little discretion as to how the funds are to be used as allocation is generally provided by law.

Today, there are currently 18 regions (including the BARMM) within which there are 81 provinces, 1,488 municipalities, 146 cities, and 42,046 barangays.⁷³⁰ While regions are included in the subdivision, it must be noted that generally, regions do not represent political or administrative units below the national government except for the Bangsamoro Autonomous Region. The structure of governance goes from provinces to cities and municipalities to barangays. Cities, while within the geographical coverage of provinces, have a separate governance structure from provinces and municipalities.

Localizing the Child Protection Framework

Decentralization has proven to be a challenge in the implementation of laws and policies at the local government levels. However, even before the

⁷²⁸ Atienza, supra note 726

⁷²⁹ LOCAL GOVERNMENT CODE, Title III, Chapter I, secs. 284-285

⁷³⁰ Philippine Statistics Authority, Philippine Standard Geographic Code, available at <https://psa.gov.ph/classification/psgc/>. Accessed: June 17, 2021

passage of the 1991 Local Government Code which granted autonomy to local government units, the structure of the local child protection framework was already in place.

In 1949, the Civil Code of the Philippines mandated the government to establish councils for the protection of children.⁷³¹ This was further operationalized in 1967 through Republic Act 4881 which mandated the creation of local child protection councils (LCPCs) in cities and municipalities.⁷³² The passage of the Child and Youth Welfare Code in 1974 likewise encouraged every barangay council to organize its LCPC and to coordinate with the Council for the Welfare of Children in drawing and implementing plans for the promotion of child and youth welfare.⁷³³ Apart from these, the Juvenile Justice and Welfare Act mandates LGUs to allot 1% of their internal revenue allotment for the strengthening of the Local Child Protection Councils.⁷³⁴

To ensure the effective implementation of these laws, the DILG passed certain memorandum circulars and orders which sought to strengthen the functionality of the LCPCs. The memorandum circulars and orders identify in clearer terms the functions of these councils to include:

- a** Formulation of a Local Development Plan for Children, Local Investment Plan for Children, Local Code for Children, and Local State for Children Report;
- b** Provision of coordinative linkages;
- c** Establishment of a database on children;
- d** Implementation of capability training programs;
- e** Recommendation of local legislation that promotes the four principles of UN-CRC;
- f** Preparation of annual work and financial plan;
- g** Promotion of children's rights through advocacy building; and
- h** Assistance to children in need of special protection.⁷³⁵

⁷³¹ An Act to Ordain and Institute the Civil Code of the Philippines ("CIVIL CODE"), Republic Act No. 386, arts. 359 and 360 (1949)

⁷³² An Act Creating a Council for the Protection of Children in Every City and Municipality of the Philippines and For Other Purposes, Republic Act 4881, June 17, 1967

⁷³³ Presidential Decree 603, supra 634

⁷³⁴ Republic Act 9344, supra 438

⁷³⁵ Department of Interior and Local Government, Comprehensive Guidelines for the Establishment, Strengthening, and Monitoring of the Local Council for the Protection of Children (LCPC) at All All Levels and For Other Purposes, DILG Issuance, available at https://www.dilg.gov.ph/PDF_File/issuances/memo_circulars/dilg-memocircular-2020214_29b8e107f7.pdf

The LCPC shall be organized in all local government units through an ordinance by the local council or by an executive order of the local chief executive. Thus, in every province, city, municipality, and barangay, there shall be a:

- 1** Provincial Council for the Protection of Children;
- 2** City or Municipality Council for the Protection of Children; and
- 3** Barangay Council for the Protection of Children.

An ordinance or order is necessary to create these bodies, even when a national law already mandates it, pursuant to the principle of devolution.⁷³⁶

LCPCs' functionality is measured using the following criteria:

- 1** Organizational Sustainability;
- 2** Policies and Plans for Children;
- 3** Budget; and
- 4** Service Delivery Monitoring and Management for Children.

Each functionality is further measured by detailed indicators. The level of the LCPC's functionality is defined as basic, progressive, mature, or ideal, depending on the total percentages of their score in the functionality criteria. Basic means the LCPC attained a rating of 20% or below; Progressive, a rating of 21 to 50%; Mature a rating of 51 to 79%; and Ideal attained a rating of 80 to 100%. Monitoring of LCPC functionality is done every year.⁷³⁷

While local government units (LGUs) are urged to formulate local development plans for children, annual investment plans for children, local children codes, and annual local state of children reports, only a minority of the LGUs have complied. The lack of capacity and stronger mechanisms to implement national child protection is absent in a number of LGUs.

⁷³⁶ Id.

⁷³⁷ Id.

To encourage compliance, the CWC initiated the **Presidential Award for the Most Child-Friendly Cities and Municipalities**.⁷³⁸ The Presidential Award is conferred to deserving LGUs in recognition of their vital role in the sustained promotion of children's rights as well as in ensuring child-friendly governance. The Award is open to all cities and municipalities. Entries / LGU participants are divided into five categories, separating cities and municipalities in recognition of the progressive capacity of each LGU to uphold children's rights. To date, a total of 38 LGUs have been awarded with six conferred with the Hall of Fame Award. Hall of Famers are those who have consistently increased their final scores for three consecutive years.

In 1999, a UNICEF study on child-friendly cities revealed that standards of "child-friendliness" vary greatly in fulfilling expectations. More often than not, the award is merely used as a laurel by local government units whose efforts have been recognized. No clear follow-through or sustainability mechanisms (nor ways to measure it) are considered. To date, this award is still being used to encourage localization of child protection systems.

Another initiative launched by the CWC is the **Seal of Child Friendly Local Governance**. The Seal is complemented by the DILG Memorandum Circular which endorses a Child-Friendly Local Governance Audit to measure the functionality of LCPCs in local government units.⁷³⁹ LGUs that pass the audit are given the Seal. Under this program, the LGUs are audited based on the 12 criteria, the following of which are relevant to this analysis:

- a** Completion rate for elementary schooling;
- b** Absence of child labor or percentage reduction in child labor cases.;
- c** Percentage reduction in the number of children victims of violence, abuse, neglect and exploitation (all forms, including physical violence, sexual abuse and exploitation, and trafficking in persons);
- d** Safety measures for children in the community and schools;
- e** Extent of mainstreaming of children's rights to survival, development, protection and participation in the core development agenda of LGUs (this includes LCPC functionality and child participation); and

⁷³⁸ Establishing the Presidential Award for the Child Friendly Municipalities and Cities, Executive Order No. 184-1999, December 13, 1999, available at <https://www.officialgazette.gov.ph/1999/12/13/executive-order-no-184-s-1999/>

⁷³⁹ Council for the Welfare of Children, Seal of Child-Friendly Local Governance, available at <https://www.cwc.gov.ph/news/62-seal-of-child-friendly-local-governance.html>. Accessed: June 17, 2021; Department of Interior and Local Government, Department of Social Welfare and Development, Department of Education, Department of Health, Revised Child-Friendly Local Government Audit (CFLGA) and Implementation Guidelines, Joint Memorandum Circular 2019-01, August 28, 2019, available at <https://www.dilg.gov.ph/issuances/jc/Revised-Child-Friendly-Local-Governance-Audit-CFLGA-and-Implementation-Guideline/118>. Accessed: June 17, 2021

f An ordinance establishing Barangay Violence Against Women and their Children (VAWC) Desks.

Conferees of the Seal of Child Friendly Local Governance are **shortlisted and validated for the Presidential Award for Child Friendly Municipalities and Cities.**

The next part will assess the functionality of the LCPCs of Cagayan de Oro and Quezon City as the LGU-focus of this analysis and of Project ACE's.

Local Government of Quezon City

In 2019, DOLE-NCR conducted a profiling of child laborers in NCR. 7,301 child laborers were profiled⁷⁴⁰ The report said that they were between the ages of 4 to 17 years of age with the majority working as vendors or helpers (65.3%), while others were engaged in waste management (24.3%), construction (3.7%), transportation and storage (3.2%), domestic work (2.0%) and manufacturing.⁷⁴¹ The report also showed that 24% of child laborers were not attending school with reasons relating to financial incapacity or general lack of interest.⁷⁴² Of the 7,301 children profiled in the NCR, 1,792 cases were recorded in Quezon City.⁷⁴³

Local Ordinances on Child Protection

Quezon City currently records 990,000 children living within its jurisdiction.⁷⁴⁴ To address the plight of children, in 1997, the City Council passed the Child and Youth Welfare Ordinance.⁷⁴⁵ The Ordinance declares it the policy of the city to uphold the rights of children to survival, protection, participation, and development.⁷⁴⁶ In relation to child labor, the ordinance takes protective measures to address the following:

⁷⁴⁰ Hershey Aquino, Aurora Halcon, and Edgar Movilla, Over 7k child laborers identified in NCR, DOLE-NCR, Department of Labor and Employment - National Capital Region, available at <https://services.ncr.dole.gov.ph/?p=1233>

⁷⁴¹ Id.

⁷⁴² Id.

⁷⁴³ Id.

⁷⁴⁴ Quezon City Government, Quezon City State of the City's Children Report 2020, available at <https://quezoncity.gov.ph/state-of-the-citys-children-report/>. Accessed: June 17, 2021

⁷⁴⁵ Sangguniang Panlungsod of the City of Quezon, Quezon City Child and Youth Welfare Ordinance, Ordinance No. 572-1997, November 24, 1997

⁷⁴⁶ Quezon City Child and Youth Welfare Ordinance, sec. 2

- 1 Engagement of children in selling sampaguitas, cigarettes, newspapers, and any other products or commercial items in the streets;⁷⁴⁷
- 2 Involvement of children in illegal activities including trade of illegal drugs, pick pocketing, begging, and sniffing of solvent products; and⁷⁴⁸
- 3 Exploitation of children whether through physical abuse, sexual abuse or employment in work under conditions not conducive to good health⁷⁴⁹

From 1997 to 2001, the City brought all children in need of special protection into the Quezon City Center for Child and Youth Development, likewise created under the ordinance.⁷⁵⁰

Following the DILG's implementation of the creation of local councils for the protection of children,⁷⁵¹ Quezon City, in 2001 created its very own LCPC.⁷⁵²

In 2012, Quezon City enacted the City's Children Code.⁷⁵³ The ordinance follows a rights-based approach.⁷⁵⁴ The Code notes that the ordinance adopts all enforceable national laws, rules and regulations relating to children and repeals all measures inconsistent with its provisions.⁷⁵⁵ Compared to the 1997 Code, the 2012 Code incorporates the provisions of key national laws affecting children including the Anti-Trafficking in Persons Act of 2003, the Worst Forms of Child Labor (RA 9231), the Women and their Children Act of 2004, the Juvenile Justice and Welfare Act of 2006, and the Anti Child Pornography Act.⁷⁵⁶

The incorporation of these national laws and the general development of new local laws which protect children is clearly seen in the 2012 Code. In contrast with the 1997 Code, the 2012 Code contains specific provisions on child labor and incorporates the WFCL as listed in relevant laws and

⁷⁴⁷ Quezon City Child and Youth Welfare Ordinance, sec. g (2)

⁷⁴⁸ Quezon City Child and Youth Welfare Ordinance, sec. g (3), 7 (b) (1) (2) (3)

⁷⁴⁹ Quezon City Child and Youth Welfare Ordinance, sec. j (1)

⁷⁵⁰ Quezon City Child and Youth Welfare Ordinance, supra note 746

⁷⁵¹ Department of Interior and Local Government, Adoption of the Implementing Guidelines of Memorandum Order 39 and the Revised Guidelines on the Reorganisation of Local Sub-Committees for the Welfare of Children, DILG M.C. 96-14 (2014)

⁷⁵² Sangguniang Panlungsod of the City of Quezon, An Ordinance Creating the Quezon City Council for the Protection of Children, Defining its Functions and Membership, Technical Working Groups and for other purposes, Ordinance No.1028 (2001)

⁷⁵³ Sangguniang Panlungsod of the City of Quezon, An Ordinance Enacting the Quezon City's Children Code of 2012 ("The Quezon City Children's Code of 2012"), Ordinance No. 2180, July 5, 2012

⁷⁵⁴ The Quezon City Children's Code of 2012, Preamble, sec. 2

⁷⁵⁵ The Quezon City Children's Code of 2012, Preamble, sec. 3

⁷⁵⁶ The Quezon City Children's Code of 2012, sec. 3

international conventions.⁷⁵⁷ It also includes provisions on child trafficking,⁷⁵⁸ children at risk,⁷⁵⁹ and children in conflict with the law.⁷⁶⁰ The following provisions are relevant in combating WFCL:

- 1 Children at Risk / Engaged in Forced Labor.** Insofar as the Code treats children in street situations as engaged in forced labor (begging, vending), the provisions of the Code on children in street situations are relevant. Under the Code, the Quezon City government shall conduct rescue operations to take children away from the streets, in accordance with child-friendly protocols;⁷⁶¹
- 2 Children engaged in CSEC.** Internet cafes, kiosks, and other similar establishments are regulated by the city to ensure that they not violate the provisions of the Anti-Child Pornography Act. Establishments found in violation of the Act shall have their business permits or licenses of establishments cancelled and revoked permanently.⁷⁶² The City also has an ordinance which establishes a Children's Welfare Fund for the Protection and Rehabilitation of Abandoned, Abused, and Sexually Exploited Children⁷⁶³
- 3 Children used in illicit activities.** To ensure that children are not used in illicit activities, the Code mandates the City to establish a system to ensure that all crimes or offenses allegedly committed by children are "immediately investigated to determine whether children are being used by adults to aid in the commission" of the offense. If the child is younger than fifteen years, the criminal complaint filed against the adult shall automatically aggravate the crime to note that the offense was committed with the aid of the child; and⁷⁶⁴
- 4 Children engaged in hazardous labor.** The City's Business Permit and Licensing Office is given the authority to initiate proceedings for the permanent cancellation and revocation of the business permit / license of establishments if they are found to engage children in hazardous work, prostitution, or obscene or lewd shows. The closure of these establishments will be done in coordination with the DOLE.⁷⁶⁵

⁷⁵⁷ The Quezon City Children's Code of 2012, sec. 4 (e) , (f)

⁷⁵⁸ The Quezon City Children's Code of 2012, sec. 4 (g)

⁷⁵⁹ The Quezon City Children's Code of 2012, sec. 4 (h)

⁷⁶⁰ The Quezon City Children's Code of 2012, sec. 4 (i)

⁷⁶¹ Quezon City Children's Code of 2012, supra 364, Preamble, sec. 33

⁷⁶² Quezon City Children's Code of 2012, supra 364, Preamble, sec. 41

⁷⁶³ Quezon City Ordinance No. SP-17624, s-2005

⁷⁶⁴ Quezon City Children's Code of 2012, supra 364, Preamble, sec. 38

⁷⁶⁵ Quezon City Children's Code of 2012, supra 364, Preamble, sec. 40

Apart from these, the Quezon City government also hosts an Annual Children’s Summit where children participants attend to help craft the Local Development Plan.⁷⁶⁶ To ensure that the implementation of these programs reach the grassroots, in 2005, the City passed an ordinance creating the Barangay Council for the Protection of Children (BCPC),⁷⁶⁷ consistent with the DILG Memorandum mandating the same.⁷⁶⁸ This ordinance was strengthened in 2018 with the inclusion of a child representative and a civil society representative in the BCPC.⁷⁶⁹ Finally, the Code, at the local level, institutionalized the creation of the Local Development Plan for Children,⁷⁷⁰ Local Investment Plan for Children,⁷⁷¹ Local State of Children Report,⁷⁷² and the allocation of sufficient budget for child protection⁷⁷³ as mandated by the DILG.⁷⁷⁴

Enforcement Mechanisms, Programs, and Initiatives

To combat the WFCL and child trafficking, the City has in place the following enforcement mechanisms:

- 1 Quezon City Council for the Protection of Children.** The Council is the overall body which leads the implementation of the Child and Youth Welfare Code. It is tasked to formulate plans, programs, and policies, including the Local Development Plan for Children and the City’s Annual Investment Plan for Children.⁷⁷⁵ It is also the primary arm of the city that provides assistance to children in need of special protection and referral of cases to appropriate agencies.⁷⁷⁶ The Council is further mandated to lead in the conduct of capacity building programs for duty bearers.⁷⁷⁷ Under the Code, the City Government must conduct the trainings on children’s rights and protection for the following stakeholders: (1) Philippine National Police with the Quezon City

⁷⁶⁶ The Quezon City Children’s Code of 2012, sec. 46

⁷⁶⁷ Sangguniang Panlungsod of the City of Quezon, An Ordinance Creating a Barangay Council for the Protection of Children in Every Barangay, Ordinance No. 1623 (2005)

⁷⁶⁸ Department of Interior and Local Government, Guidelines in Monitoring the Functionality of the Local Child Protection Council at all levels, M.C. 2005-07

⁷⁶⁹ Sangguniang Panlungsod of the City of Quezon, An Ordinance Amending SP 1623, series of 2005 entitled “An Ordinance Creating a Barangay Council for the Protection of Children in Every Barangay in Quezon City. Ordinance 2671 (2018)

⁷⁷⁰ The Quezon City Children’s Code of 2012, sec. 59

⁷⁷¹ Id.

⁷⁷² The Quezon City Children’s Code of 2012, sec. 62

⁷⁷³ The Quezon City Children’s Code of 2012, sec. 63

⁷⁷⁴ Department of Interior and Local Government, supra note 736

⁷⁷⁵ Quezon City Children’s Code of 2012, supra 364, Preamble, sec. 55 (a)

⁷⁷⁶ Quezon City Children’s Code of 2012, supra 364, Preamble, sec. 55 (j)

⁷⁷⁷ Quezon City Children’s Code of 2012, supra 364, Preamble, sec. 55 (k)

Police Department;⁷⁷⁸ (2) Government service providers including social workers, daycare workers, and teachers;⁷⁷⁹ (3) Members of the Katarungang Pambarangay (Village Justice Council) on a child-sensitive village justice system;⁷⁸⁰ and (4) Court administrators.⁷⁸¹

- 2 Integrated Quick Response System to Abuse, Child Trafficking, and Exploitation.** The QRT is a mechanism that seeks to provide immediate, appropriate, and holistic responses to cases involving child abuse, sexual exploitation, child trafficking, child pornography, child prostitution, and child labor. The QRT is mandated to craft procedures to prevent revictimization and monitor of actions taken in cases of child abuse, child trafficking, and exploitation of children.⁷⁸²
- 3 Quezon City Child Protection Network** is a multi-sectoral group consisting of key government agencies, civil society organizations, faith-based groups, NGOs, people’s organizations, schools, and other stakeholders.⁷⁸³
- 4 Children’s Desks.** The city mandates that all police station’s have children’s desks with a child and youth relations officer and a social welfare officer who are trained in children’s rights as well as gender and child sensitivity.⁷⁸⁴
- 5 Child Protection Policy.** All government offices shall adopt a Child Protection Policy that sets standards of conduct and behavior for public officials and employees to ensure that they promote and protect the rights of children. This includes all public schools in the elementary and high school levels.⁷⁸⁵
- 6 Shelters** for children in street situations and **Drug Treatment and Rehabilitation Centers** for children involved in illegal drugs. In Quezon City’s State of the City’s Children Report 2020, QC Mayor Joy Belmonte reported that the City manages three major children

⁷⁷⁸ Quezon City Children’s Code of 2012, supra 364, Preamble, sec. 49

⁷⁷⁹ Quezon City Children’s Code of 2012, supra 364, Preamble, sec. 50

⁷⁸⁰ Quezon City Children’s Code of 2012, supra 364, Preamble, sec. 31 (a)

⁷⁸¹ Quezon City Children’s Code of 2012, supra 364, Preamble, sec. 31 (d)

⁷⁸² Quezon City Children’s Code of 2012, supra 364, Preamble, sec. 27

⁷⁸³ Quezon City Children’s Code of 2012, supra 364, Preamble, sec. 28

⁷⁸⁴ Quezon City Children’s Code of 2012, supra 364, Preamble, sec. 29, 30

⁷⁸⁵ Quezon City Children’s Code of 2012, supra 364, Preamble, sec. 32

centers which houses 300 children in street situations, rescued during the pandemic. In addition, 198 children involved in illegal drugs were rescued, in partnership with the Philippine Drug Enforcement Agency and placed in rehabilitation centres.⁷⁸⁶ In May 2020, at the height of the first pandemic lockdown, the City government reopened its protection center for victims of gender-based violence and abuse. It also activated a rescue hotline 122 for immediate response and offered free legal, medical, and psychological assistance and interventions for victims and survivors of sexual harassment.⁷⁸⁷

7 Education Assistance for Child Laborers. In 2020, the city provided education assistance to 812 child laborers. They also ensured that these children were engaged in the Department of Education's Alternative Learning System for out-of-school children.⁷⁸⁸

Local Government of Cagayan de Oro City

The Department of Labor Region X records 53,739 child laborers in Region X (Northern Mindanao).⁷⁸⁹ While data on specific numbers relating to CDO are lacking⁷⁹⁰, a Social Weather Station survey reported that seven in 10 children in a sample of 1,349 children in Cagayan de Oro City are reportedly engaged in child labor.⁷⁹¹

In 2018, the City Council passed the Comprehensive Children's Welfare Code of 2018.⁷⁹² Under the Code, children who are in need of special protection by virtue of their engagement in worst forms of child labor are identified as either children in difficult circumstances, children at risk, or children in

⁷⁸⁶ Quezon City State of the City's Children Report 2020, available at <https://quezoncity.gov.ph/state-of-the-citys-children-report/>

⁷⁸⁷ QC reopens protection center amid rise in domestic violence cases, <https://www.pna.gov.ph/articles/1103866> <https://newsinfo.inquirer.net/1292415/qc-to-establish-shelter-amid-rise-in-number-of-abused-women-children>

⁷⁸⁸ Quezon City State of the City's Children Report 2020, available at <https://quezoncity.gov.ph/state-of-the-citys-children-report/>

⁷⁸⁹ Franck Dick Rosete, Poverty forces 53k kids in NorMin to work: DOLE, Philippine News Agency, June 10, 2021, available at <https://www.pna.gov.ph/articles/1143295>

⁷⁹⁰ See FOI Request: <https://www.foi.gov.ph/requests/aglzfmvmb2kctcGhyHgsSB0NvbnRlbnQiEURPTEUtNjYzMjc5ODYxNDI1DA>

⁷⁹¹ Adam J. Ang, SWS: 7 in 10 street children in Iloilo City, Cagayan de Oro involved in child labor, Business World, March 10, 2020, available at <https://www.bworldonline.com/sws-7-in-10-street-children-in-iloilo-city-cagayan-de-oro-involved-in-child-labor/>

⁷⁹² Sangguniang Panlungsod of the City of Cagayan de Oro, An Ordinance Approving the CDO Comprehensive Children's Welfare Code of 2018 Ordinance No. 13394 (2018).

conflict with the law.⁷⁹³ It recognizes the worst forms of child labor to include situations of children who are

- a** working under conditions hazardous to life and safety which unduly interface with their normal development;
- b** living in or fending for themselves in the street of urban or rural areas without the care of parents or guardian;
- c** engaged in prostitution or other illicit activities.⁷⁹⁴

To combat child labor and child trafficking, the CDO City Council for the Protection of Children conduct seminars or webinar series on trafficking and illegal recruitment.⁷⁹⁵ In October 2020, the Council held an online learning session on OSEC with the Department of Education and the City's 80 barangays. It also releases online materials on online sexual abuse and exploitation of children.⁷⁹⁶ Earlier this year, in February 2021, a group of children and youth leaders in CDO joined the global commemoration of the Safer Internet Day by launching a month-long campaign to raise public awareness on online sexual exploitation of children.⁷⁹⁷ According to the City Council, raising awareness on OSEC is their primary objective as currently, there seems to be little discussion on the issue. Raising awareness at the community level is important to allow the community to be part of OSEC reporting mechanisms, noting red flags in behaviors to appropriate rescue agencies.⁷⁹⁸ Apart from learning sessions at the barangay levels and with children, the Council also plans on holding learning sessions with financial intermediaries.⁷⁹⁹

Another area of priority for the Council is children in street situations (CISS). As one of the more vulnerable sectors, prone to fall victim to child labor, the City Council notes that reaching out to children in street situations is one of their primary initiatives. CISS who are rescued are either returned to their family or placed in child-caring institutions as the Oro

Response and Protection Center (ORPC). While in the Center, the child and their family undergo a needs assessment under the Oro Alaga (Care) Program. Based on the results of the needs assessment, CISS with their

⁷⁹³ CDO Ordinance No 13394, sec. 3 (d), (e), (f)

⁷⁹⁴ *Id.*

⁷⁹⁵ See: Official Facebook Page of Cagayan de Oro City Council for the Protection of Children at <https://www.facebook.com/Child-FriendlyCDO/>

⁷⁹⁶ *Id.*

⁷⁹⁷ Anjo Bagaoisan, Cagayan de Oro youth take lead in fight vs online sexual exploitation of children, ABS-CBN News, February 10, 2021, available at <https://filipino.news/2021/02/10/cagayan-de-oro-youth-take-lead-in-fight-vs-online-sexual-exploitation-of-children/>

⁷⁹⁸ Interview with the City Council for the Protection of Children

⁷⁹⁹ *Id.*

families are capacitated through livelihood assistance and parenting webinars in preparation for longer term reintegration to society outside of the ORPC.⁸⁰⁰

Efforts to strengthen the Barangay Council for the Protection of Children is also a priority. To ensure that programs and initiatives reach the barangay, in 2007, the CDO Council for the Protection of Children launched the Search for the Most Child-Friendly Barangays in the City. The validation team evaluated documents of the village councils based on eight criteria:

- 1** Early Childhood and Development Service;
- 2** Barangay Information and Resource Center;
- 3** Playground or other Child-Friendly Spaces;
- 4** Community Support and Resource Mobilization;
- 5** Child Participation;
- 6** Barangay Council for the Protection of Children;
- 7** Barangay Health Centers and Nutrition Services;
- 8** Elementary and High School.

Barangays who win receive a monetary award which they can use in further strengthening their child protection work in their respective jurisdictions.⁸⁰¹

⁸⁰⁰ *Id.*

⁸⁰¹ The Search is on for 2020 Most Child-Friendly Barangays in CDO, <https://www.cagayantoday.info/2020/10/the-search-is-on-for-2020-most-child-friendly-barangay.html>

Chapter VII

Findings and Recommendations

General Findings and Recommendations

Findings and Recommendations relating to Data Collection and Information Management

1

Findings

The GoP ratified ILO child labor conventions and amended legislation to incorporate their key concepts all in one place. However in practice, the unconditional worst forms of child labor have been subsumed into child protection “sub-systems” that have particular strengths and areas of expertise

1

to combat them most effectively. While this approach ensures the most appropriate treatment and care for victims, it could have a negative impact on child labor data collection and reporting.

Recommendations

To ensure the most accurate data and reporting on the WFCL, it is recommended that the NCACL, together with the DOLE, civil society service providers and specialists who work on WFCL issues such as the ILO, Save the Children and UNICEF, develop an intake and monitoring protocol to identify children in the WFCL and provide accurate reporting and data about their status and condition.

Finding

ILO Conventions No. 138 and 182 on child labor seek to eradicate the following:⁸⁰²

- 1 Labor that is performed by a child who is **under the minimum age of employment**, as defined by national legislation, in accordance with accepted international standards;⁸⁰³
- 2 Labor that jeopardizes the physical, mental, or moral well-being of a child because of its nature or because of the conditions in which it is carried out (i.e. **hazardous work**);⁸⁰⁴ and
- 3 The **unconditional worst forms of child labor**, which are internationally defined as slavery, trafficking, debt bondage, and other forms of forced labor, forced recruitment of children for use in armed conflict, prostitution and pornography, illicit activities, and hazardous labor.⁸⁰⁵

The GoP ratified ILO Conventions No. 138 and 182 on child labor and subsequently amended its child protection law to incorporate the key child labor concepts and definitions all in one place. However in practice, the Philippine child rights-based systems approach to child protection has incorporated the unconditional worst forms of child labor into multiple child protection “sub-systems” with particular strengths and areas

⁸⁰² Inter-Parliamentary Union, supra note 30

⁸⁰³ ILO C. 138, supra note 20

⁸⁰⁴ ILO C. 182, supra note 22

⁸⁰⁵ ILO C. 182, supra note 22

of expertise to combat them most effectively. For example, child victims of CSEC, OSEC and OSAEC are best addressed by the TIP sub-system, which is led by the Inter Agency Council Against Trafficking, because the member agencies have the most relevant experience and resources to offer; the agencies that deal with juvenile justice issues through the JJWC are best prepared to support children involved in illicit activities, such as drug production and trafficking, through the processes of restorative justice, recovery and rehabilitation; the CSAC sub-system, managed by the IAC-CSAC, is best equipped to provide children forcibly recruited for use in armed conflict with the services they most need to reintegrate into society; and the child labor sub-system, led by the NCACL, is trained to identify, rescue and provide services to children engaged in child labor and hazardous work.

By subsuming the unconditional WFCL into various sub-systems, the Philippine approach effectively waters down the specific details that qualify them as WFCL. For instance, ILO C. 182 treats the use or recruitment of children in armed conflict as a WFCL (forced slavery). In the Philippines, however, the issue broadens to include all children in situations of armed conflict (not just those recruited for use in armed conflict). Another example is CSEC. What makes it an unconditional WFCL is the element of exchange (money, food, affection, etc.) for the sexual act. Nevertheless, in the Philippines, the scope of sexual violence is not limited to commercial sexual exploitation but includes all forms of sexual abuse, including acts for which there is no exchange. The pending bill in Congress, for instance, is on *OSAEC (Online Sexual Abuse and Exploitation of Children)* and not just *OSEC (Online Sexual Exploitation of Children)*. While this approach makes the most sense in terms of ensuring that child victims of WFCL get the most appropriate treatment and care, it may have a negative impact on data collection and reporting on child labor. This is because each interagency council has its own method of collecting and reporting data. There is no universal coordinated approach to differentiate a child engaged in a specific WFCL from a child who experienced a very similar abuse but not a WFCL. Regardless of the answer, the treatment and service provision will be the same.

Recommendation

The DOLE's International Labor Affairs Bureau (ILAB), through the NCACL, is the agency responsible for collecting data and information on the country's child labor program and submitting periodic reports to ILO CEACR on the GoP's implementation of Conventions No. 138 and 182. The NCACL must also report out to the NEDA on the country's progress in withdrawing children from child labor through the child labor profiling and S.H.I.E.L.D. helpdesk programs. These reports contribute to measuring the country's success in meeting its SDG targets.

The consultants were unable to determine if the various agencies that provide services within the child protection framework subsystems have been trained to identify or recognize the different forms of unconditional WFCL or if their beneficiary intake processes include a set of questions that would help them identify them. If a protocol like this does not yet exist, then the NCACL, together with the DOLE, social partners and specialists on the WFCL like the ILO, Save the Children and UNICEF, could develop a simple, universal intake system which would enable the collection and compilation of accurate data on the unconditional WFCL in a systematic way and on a regular basis from the different interagency groups that provide WFCL victims with services and follow-up.

This can be followed up with a DOLE **Departmental Guideline** that differentiates between child labor, WFCL, child trafficking, and child protection based on definitions in existing legislation. The Guideline can also provide details on the Protocol and how it should be used. Having clear definitions and a simple Protocol to follow will allow the GoP to better assess the extent of children engaged in the WFCL and to have a more accurate picture of if it will reach its target of rescuing one million children from all forms of child labor by 2025.

2

Findings

The Philippines continues to combat child labor using outdated and incomplete data from 2011.

Recommendations

Invest in another household child labor survey, using clear definitions and indicators on child labor and including work in the informal sector, to improve knowledge on the labor/economic situation of children and their households, including any effects the Covid-19 pandemic may have had on child labor.

Finding

The most recent comprehensive household survey data on child labor in the Philippines is from 2011. This was ten years ago. Yet researchers, academics, and even those involved in developing and putting forward new child protection policy recommendations to Congress are still using this data, even though much has changed in the country since then.

In the years following the survey, the ILO provided technical support to the PSA to develop a child labor rider to the Labor Force Survey (LFS) that would collect child labor data more regularly. However, the LFS reports on **“working children”** which refers to those in acceptable child work and those engaged in child labor. It also does not report on children engaged in the WFCL. Therefore, it is unclear how accurately this data reflects the true extent of child labor in the country. Likewise, in the informal sector, worker/employer relationships tend to be based on casual employment or family/personal/social relations instead of contractual agreements. Due to the “invisible” nature of work in this sector, collecting nationwide data on the number of children working in the informal sector and the kinds of work that they do is also a challenge.

The ILO continues to work with member countries, including the Philippines, to develop a more accurate methodology to capture instances of forced child labor, child trafficking, and

three additional categories of child labor in data collection. They are:

- 1 own-use production work,
- 2 unpaid trainee work, and
- 3 non-compulsory work that is performed for others without pay.

Recommendation

“Data can educate a better policy-making process and lead to progressively sufficient, increasingly productive and increasingly successful public policies.”⁸⁰⁶ There is no question that good data is the basis for good public policy. In the case of the Philippines, it is time to gather more up-to-date information on the situation of child labor and determine the effects that the pandemic has had on children’s well-being. Particularly given the country’s commitment to eliminate child labor by 2025.

However, given the high cost of a national-level survey on child labor, and while experts continue to work out the best ways to measure child labor on a grand scale, policy and other research institutes like the PSA, the ILS, PiDS or others have an opportunity to propose smaller scale studies that can still contribute to the knowledge base on child labor in the Philippines and inform the country’s approach to meet the SDG 2025 target of zero child labor.

⁸⁰⁶ Analytics Insight, “Importance of Data Science in Policy Making: Data Science Latest News”, Dialani, Priya, April 26, 2020 <https://www.analyticsinsight.net/importance-of-data-science-in-policy-making/> [accessed July 05, 2021]

Findings and Recommendations relating to the Philippine Legal Framework and the Need to Strengthen Existing Enforcement Mechanisms through reconciliation of laws, rules, programs, executive departments, and inter-agency bodies.

3

Findings

The Philippines as a robust legal framework. The sheer number of laws affect the capacities of the different departments to effectively implement the law, first, in terms of technical capacity (i.e. which law to apply, what protocol to follow); second, in terms of budget and funding, and; third, in terms of manpower.

Recommendations

The Senate and House Committee on Children, Council for the Welfare of Children, and the Committee for the Special Protection of Children must lead in reconciling the country's laws, rules, mechanisms, and programs in relation to child labor and WFCL. Laws and programs must be reconciled every three years to ensure timeliness and relevance in addressing children's issues.

Finding

In providing the survey of treaties, the paper highlights the following observations: GoP is a party to key international conventions on child labor and WFCL which shows the country's commitment to combat all forms of child labor.⁸⁰⁷ GoP generally complies with the reporting requirements under the international conventions relating to children and makes the necessary effort to address the comments of international bodies. One of the ways by which the GoP does this is through the passage of new legislation or

⁸⁰⁷ See: Chapter 3

through the creation of a body or interagency council.⁸⁰⁸ Because of this, the country's national legal framework has become **too unwieldy**. The sheer number of laws affect the capacities of the different departments to effectively implement the law first, in terms of technical capacity (i.e. which law to apply, what protocol to follow); second, in terms of budget and funding, and; third, in terms of manpower.

There is a need to **reconcile existing laws, rules, mechanisms, and programs** to better understand the overall framework on child labor in all of its forms. There are three coordinating bodies which can lead on this: Congress, through the Senate and House of Representatives Committees on Children; the Council for the Welfare of Children; and the Committee for the Special Protection of Children.

Philippine **Congress** is vested with the power of congressional oversight or inquiry.⁸⁰⁹ Congressional oversight of the executive is designed to fulfill a number of important goals including to:

- a** ensure executive compliance with legislative intent,
- b** improve the efficiency, effectiveness, and economy of governmental operations,
- c** evaluate government performance,
- d** assess the need for new legislation;
- e** review and determine financial priorities;
- f** inform the public about how the government does its duties;
- g** assess agencies' or officials to carry out program objectives; and
- h** investigate alleged instances of poor administration.⁸¹⁰

⁸⁰⁸ The consultants qualify the country's compliance to international commitments. During the paper's presentation to key stakeholders, one of the reactors pointed out that the international community has raised concerns over GoP's policies which are seen as to be in violation of international human rights law. In the field of children's rights for instance, UNICEF has raised concerns over proposed measures to lower the age of criminal responsibility and the children casualties of the war on drugs. (See: UNICEF, Lowering the age of criminal responsibility is against child rights: Statement of Ms. Lotta Sylwander- UNICEF Country Representative, Philippines, January 18, 2019, available at <https://www.unicef.org/philippines/press-releases/lowering-age-criminal-responsibility-against-child-rights-unicef>; UNICEF, Statement on the impact of the drug war on children's rights in the Philippines: Statement of Ms. Lotta Sylwander - UNICEF Country Representative, Philippines, August 22, 2017, available at <https://www.unicef.org/press-releases/unicef-statement-impact-drug-war-childrens-rights-philippines>

⁸⁰⁹ CONST, Art. VI, sec. 21

⁸¹⁰ Romulo L. Neri v. Senate Blue Ribbon Committee, G.R. 180643 (2008)

Both the Senate and the House of Representatives have committees that deal with children's rights and welfare: For the Senate, it is the Committee on Women, Children, Family Relations and Gender Equality;⁸¹¹ for the House, it is the House Committee on the Welfare of Children.⁸¹² Congressional oversight inquiries on matters relating to child protection are primarily referred to these committees.

The **Council for the Welfare of Children** formulates and evaluates policies and coordinates and monitors the implementation and enforcement of all laws and programs for children.⁸¹³ The **Committee for the Special Protection of Children (CSPC)** is the body principally responsible for coordinating and monitoring the investigation and prosecution of cases involving violations of Republic Act No. 7610, or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act.⁸¹⁴

Recommendations

Given these institutions' primary mandate, it is recommended that they **lead in bringing together reconciling existing pieces of legislation, rules and regulations, and the programs and initiatives of the different government agencies**. During interviews with CWC and CSPC, however, both noted the **lack of resources and dedicated manpower** to undertake, what would understandably be an enormous endeavor.⁸¹⁵ CSPC, for instance, was only allotted with a Php1M annual budget, with no dedicated manpower. Majority of the budget went into operational expenses and the printing of the CSPC's Comprehensive Program on Child Protection.⁸¹⁶ Concerns were also raised regarding a congressional oversight hearing prior the conduct of the **2022 National Elections** where any initiatives to uphold children's rights could easily be construed as a form of personal propaganda to bolster any candidate's electoral campaign.

⁸¹¹ Senate of the Philippines, 18th Congress Committee Chairmanship, available at http://legacy.senate.gov.ph/committee/ctte_list18th.pdf

⁸¹² House of Representatives, 18th Congress Standing Committees, available at <https://congress.gov.ph/committees/?v=standing>

⁸¹³ Redefining the Role and Organizational Structure and Enlarging the Membership of the Council for the Welfare of Children, Executive Order No. 233, July 22, 1987, available at https://lawphil.net/executive/execord/eo1987/eo_233_1987.html

⁸¹⁴ Strengthening the Committee for the Special Protection of Children, amending for this purpose, Executive Order No. 275 (1995), Executive Order No. 53, August 11, 2011, available at <https://www.officialgazette.gov.ph/2011/08/11/executive-order-no-53-s-2011/>

⁸¹⁵ Key Informant Interviews with the Council for the Welfare of Children and Committee for the Special Protection of Children

⁸¹⁶ CSPC's Comment during the Paper Presentation to Key Stakeholders, June 4, 2021

With this in mind, the following additional recommendations are forwarded:

- 1 First, that the CSPC and CWC be strengthened to fulfill their mandates.** Reconciling the country's legal and enforcement framework on child labor and child protection (to cover all forms of WFCL) falls well within these agencies' ambits. Additional funding and a dedicated set of manpower should be given to allow them to properly implement the reconciliation of laws and programs. Alternatively, the **re-organization of the CWC to the Philippine Commission on Children (PCC)⁸¹⁷** may also be considered in so far as one of its functions is "to serve as an oversight body over the Committees, Councils, and other structures."⁸¹⁸ (See next finding and recommendation on the PCC for a more detailed discussion)
- 2 Second, reconciliation of relevant issuances and initiatives on child protection should be done at least every three years** to ensure that the legal and enforcement framework is still relevant and timely in addressing issues relating to children. Institutionalizing a time-bound reconciliation of laws will only be possible when institutions are capacitated to fulfill their mandates.
- 3 Third, prior to crafting new legislation which may or may not build on or repeal existing legislation, Congress' oversight function must be better utilized** to review whether existing laws are being effectively implemented or could be amended to adapt to the evolving nature of child labor and child protection. Further, the consultants propose that the **oversight function be exercised in conjunction with the proposed reconciliation of laws of CWC and CSPC (or alternatively, in conjunction with the oversight role of the proposed PCC)** and that it be also **done every three years at the beginning of**

⁸¹⁷ An Act Creating the Philippine Commission on Children, Defining its Powers, Functions, and Responsibilities, and Appropriating Funds Therefor and for other purposes; H.B. 4513, 18th Congress, First Regular Session, 2019, available at https://congress.gov.ph/legisdocs/basic_18/HB04513.pdf; An Act Reorganizing the Council for the Welfare of Children into the Philippine Commission on Children, Appropriating Funds Therefor and for other purposes, H.B. 6237, 18th Congress, Second Regular Session, 2020, available at https://congress.gov.ph/legisdocs/basic_18/HB06237.pdf

⁸¹⁸ H.B., 4513, sec. 8 (c); H.B. 6237, sec. 5 (d)

each congress, after every general and midterm elections. In this regard, proposed measures will be more responsive to needs and gaps identified during the reconciliation exercise among the three agencies.

4

Findings

In the Philippines, the WFCL have been divided into various child protection categories (i.e. child labor, TIP, pornography, children in situations of armed conflict, and juvenile justice and welfare) and incorporated into different interagency council agendas. However, there is no single body that can effectively convene the various councils in order to “take a more holistic, sustainable and long-term approach that addresses the wider vulnerabilities of children and their families and includes preventive strategies,” as prescribed within a child rights and protection-based systems approach.

Recommendations

There is a bill currently pending in Congress which would create a Philippine Commission on Children (PCC) that can address this gap.

Finding

There are eight interagency councils on child protection alone (and even more within the larger umbrella category of child welfare).⁸¹⁹ They are:

- a** The IACAT, in so far as one of its technical working groups is focused on OSEC;
- b** The IACAC-P;
- c** The JJWC;
- d** The NCACL;
- e** The IAC-CSAC;

⁸¹⁹ Relevant councils on child welfare include the National Council on Children’s Television, Early Childhood Care and Development Council, National Council on Disability Affairs. and the National Nutrition Council

f The IAC-VAWC;

g The CSPC; and

h The CWC.

While the CWC is mandated to serve as the focal interagency body on children, tasked to coordinate the implementation and enforcement of all relevant laws, the Council currently lacks the capacity - in terms of authority, manpower, budget and convening power - to fulfill its mandate. In addition, the Council's role is currently limited to the following powers and responsibilities:

- a** Coordinating the implementation and enforcement of all laws on child youth and welfare;
- b** Formulating an integrated national policy on children;
- c** Advocating and recommending to the President and other appropriate agencies new pilot programs and services for the general welfare of children;
- d** Mobilizing resources assistance from all stakeholders;
- e** Reporting to the President, through the Social Welfare and Development Department; and⁸²⁰
- f** Acting as the Early Childhood Care and Development Council⁸²¹

To address this, the CWC has made it one of their priority legislative agenda to re-organize the Council for the Welfare of Children into the **Philippine Commission on Children (PCC)**. There are two pending bills before the House of Representatives on the PCC: (1) House Bill 4513 proposes the **creation** of the Philippine Commission on Children (PCC); effectively abolishing the CWC⁸²² (2) House Bill 6237 proposes the **reorganization** of the Council for the Welfare of Children into the Philippine Commission on Children.⁸²³ Both are

⁸²⁰ Redefining the Role and Organizational Structure and Enlarging the Membership of the Council for the Welfare of Children, Executive Order No. 233, July 22, 1987, available at <https://www.officialgazette.gov.ph/1987/07/22/executive-order-no-233-s-1987/>

⁸²¹ Affirming the Roles of Early Childhood Care and Development Council and Council for the Welfare of Children, available at <https://www.officialgazette.gov.ph/2009/06/08/executive-order-no-806-s-2009/>, Executive Order 806, June 8, 2009, available at <https://www.officialgazette.gov.ph/2009/06/08/executive-order-no-806-s-2009/>

⁸²² An Act Creating the Philippine Commission on Children, Defining its Powers, Functions, and Responsibilities, and Appropriating Funds Therefor and for other purposes; H.B. 4513, 18th Congress, First Regular Session, 2019, available at https://congress.gov.ph/legisdocs/basic_18/HB04513.pdf

⁸²³ An Act Reorganizing the Council for the Welfare of Children into the Philippine Commission on Children, Appropriating Funds Therefor and for other purposes, H.B. 6237, 18th Congress, Second Regular Session, 2020, available at https://congress.gov.ph/legisdocs/basic_18/HB06237.pdf

still pending at the committee level with HB 4513 pending with the Committee on Government Reorganization since February 2019 and HB 06237 pending with the Committee on the Welfare of Children since February 2020.⁸²⁴ The proposal to create the Philippine Commission on Children roots from the recognized need to strengthen the Council for the Welfare of Children.⁸²⁵

Between the two measures, the bill which seeks to create the Philippine Children Commission and abolish the Council for the Welfare of Children offers a clearer picture of the proposed role and structure of the PCC. The salient features of this bill (House Bill 4513) include:

1 Board of Commission. The Board of Commission is composed of four commissioners. HB 4513 provides a specialization per each commissioner that is aligned with the four key areas of the UN CRC:

- a** Child Protection;
- b** Child Health and Nutrition;
- c** Child Development; and
- d** Child Participation.⁸²⁶

2 Technical Advisory Group and Membership. Similar to CWC, the proposed PCC will also have a Technical Advisory Group which shall deliberate on the concerns and recommendations of the different sectoral and sub-committees of the Commission.⁸²⁷ The membership of the PCC's TAG (and the PCC) is expanded to include 18 representatives from CWC's 10.⁸²⁸ CWC is also chaired by the DSWD as an adjunct agency,⁸²⁹ whereas PCC is chaired by Board

⁸²⁴ House Bill 4513, History at <https://congress.gov.ph/legisdocs/?v=billsresults#HistoryModal>; House Bill 6237, History, at <https://congress.gov.ph/legisdocs/?v=billsresults#HistoryModal>

⁸²⁵ H.B. 4513, Explanatory Note, sec. 2; H.B. 6237, Explanatory Note, sec. 2

⁸²⁶ H.B. 4513, sec. 5 (b)

⁸²⁷ H.B. 4513, sec. 6

⁸²⁸ Council for the Welfare of Children, Manual of Operations, available at https://www.cwc.gov.ph/uploads/Transparency_Seal/CWCs_Manual_of_Operations/MoP_full_document.pdf

⁸²⁹ Id.

of Commission Chairman who reports directly to the President of the Philippines.⁸³⁰

| CWC Membership | PCC Proposed Membership |
|--|--|
| Department of Agriculture Department of Education Department of Health Department of Labor and Employment Department of Justice Department of Interior and Local Government Department of Social Welfare and Development National Economic and Development Authority National Nutrition Council Three individuals / NGO Representatives | Department of Agriculture Department of Budget and Management Department of Health Department of Information and Communication Technology Department of Interior and Local Government Department of Justice Department of Labor and Employment Department of Social Welfare and Development National Economic Development Authority National Nutrition Council National Youth Commission Office of the Cabinet Secretary Philippine Information Agency Philippine Sports Commission Chair of the Convergence of Councils and Committees on Children Commission Secretariat Three private individuals Child representatives NGO Representative (for technical assistance, as necessary) |

**In Blue: Those which are not included in CWC’s TAG and Membership.*

3 Powers and Functions of PCC. This has also been greatly expanded to include

- a** Formulation of an integrated national policy, plans, programs, and pilot projects for children;
- b** Coordination of the implementation and enforcement of all policies, plans, and programs on children’s rights and welfare;
- c** Networking and coordination of all existing government agencies and NGOs for the effective implementation of plans and strategies for children;

⁸³⁰ H.B. 4513, sec. 5 (a)

- d** Serving as an oversight body over committees, councils, and other structures and recommend areas of convergence for improved and efficient coordination, information sharing, and monitoring of the safety of the child;
- e** Conducting of researches and studies on children in coordination with other groups;
- f** Monitoring and evaluating all local and international policies, programs, and projects on the rights of the child;
- g** Advocating for new innovative programs and services for children's welfare and protection;
- h** Mainstreaming concerns and issues affecting children;
- i** Institutionalizing technical assistance and capacity building for groups and agencies that work with children;
- j** Mobilizing resource assistance, including entering into contracts to facilitate donations, gifts, and grants; and
- k** Reporting to the President and Congress on the Commission's activities and accomplishments.⁸³¹

4 **Sectoral Committees and Sub-Committees.** The bill proposes the creation of five sectoral committees which are key areas of concerns of the UN CRC. These five sectoral committees will focus on:

- a** Children in Need of Special Protection;
- b** Family Environment and Alternative Care;
- c** Basic Health and Welfare;
- d** Civil Rights and Freedom; and
- e** Education, Leisure, and Cultural Activities.⁸³²

Additional committees may be created to address emerging issues or concerns of children.⁸³³

⁸³¹ H.B. 4513, sec. 8

⁸³² H.B. 4513, sec. 10

⁸³³ Id.

- 5 Convergence of Council and Committees on Children.** This provision sets PCC apart from CWC as it strengthens PCC to act as the primary convener of the different inter-agency councils and committees on children, allowing it to recommend areas of convergence, prevent redundancies, improve coordination in planning and data sharing, and align monitoring and oversight practices.⁸³⁴

- 6 Regional and Local Council for the Protection of Children.** While not the first law to establish RCPCs and LCPCs,⁸³⁵ the proposed measures increases the local government budget allocation of LCPCs from 1% of the total budget appropriation⁸³⁶ to 7%. This is a substantial increase that can help boost the functionality of LCPCs, especially in light of the *Mandanas Ruling*.⁸³⁷

During the presentation of the first draft of this paper, stakeholders (invited reactors) were divided on whether or not to support the creation of the PCC. Others fear the creation of another government agency would only add an unnecessary layer of bureaucracy, proposing to strengthen existing inter agency councils (for instance CWC, or institutionalizing NCACL) over creating a new one. Others are supportive deeming the need for one body that can bring together the various agencies and councils working on child protection.⁸³⁸

⁸³⁴ H.B. 4513, sec. 11

⁸³⁵ Republic Act 4881, supra note 733

⁸³⁶ Republic Act 9344, supra note 438; Department of Interior and Local Government, Allocation of One Percent (1%) Internal Revenue Allotment for the Strengthening and Implementation of the Programs, Projects, and Activities of the Local Councils for the Protection of Children (LCPC) per sec. 15 of RA 9344, DILG M.C. 2012-120, July 4, 2012, available at https://www.dilg.gov.ph/PDF_File/issuances/memo_circulars/DILG-Memo_Circular-201275-70d3a46722.pdf

⁸³⁷ The Mandanas Ruling clarifies the LGU share from the national budget. In *Mandanas et.al. v. Executive Secretary* (G.R. Nos. 199802 and 208488), the Supreme Court held that all collections of national taxes except those from special purpose funds and special allotments, should be included in the computation of the base of just share of LGUs. Because of this, the budget of LGUs will substantially increase, empowering them to provide more responsive basic services and aid for their respective constituents. (See also: Full Devolution of Certain Functions of the Executive Branch to Local Governments, Creation of a Committee on Devolution and for other purposes, Executive Order No. 138, June 1, 2021, available at <https://www.officialgazette.gov.ph/downloads/2021/06jun/20210601-EO-138-RRD.pdf>)

⁸³⁸ Presentation for verification before key stakeholders, June 18, 2021

Recommendation

The consultants see merit in the creation of the PCC, but understands the need to ensure that the Commission, if created, will not just be another bureaucratic layer in the country's enforcement mechanism on children's rights. It is recommended for CWC to conduct nationwide consultations on the measure to ensure its holistic development and to raise awareness on its relevance. Once developed, CWC should revisit the measure and re-file as one of its priority legislations in the 19th Congress.

Findings and Recommendations on Child Labor and Allowable Child Work

5

Findings

Proposed amendments on the country's child labor laws have been pending for four years. There is currently no pending bill in the legislature that relates to these proposed amendments.

Recommendations

Advocate for and pass the amendments.

Finding

In its Findings on the Worst Forms of Child Labor report from 2019,⁸³⁹ The US Department of Labor (USDOL) included a paragraph in Part II that identified proposed child labor amendments to R.A. No. 9231⁸⁴⁰ that had been put forward by the DOLE. The observation was that, as of 2019, the amendments had already been pending for two years. The amendments (and a short explanation) are as follows:

⁸³⁹ International Labor Affairs Bureau, *supra* note 171

⁸⁴⁰ US Department of Labor, Bureau of International Labor Affairs, *supra* note 224

a Increase the minimum age of employment from age 15 to 16 years

This increase of one year attempts to better align the compulsory education age (18) with the minimum age for legal employment (15).

b Devolve the issuance of child work permits to local government units

The law (R.A. 9231 section 2.2.c.) specifies that employers must obtain work permits issued by DOLE prior to hiring a child (including those under age 15 that fall into the two exceptional categories). This requirement is prohibitive for many people because the permits are only issued in the regional or provincial offices which may be located far from where many people live. By devolving the issuance to local government units, obtaining a permit will become more accessible and DOLE will be able to better enforce the law.

c Institute stricter working hours for children

This refers to the fact that children between the ages of 15 to under 18 years are allowed to work 8 hours/day, 5 days/week, which might interfere with their retention in compulsory education through the age of 18 years (or 12th grade), which is the compulsory age of education. Limiting the number of allowable working hours supports policies related to school retention.

d Mandate that part of the money legally earned by children be set aside in a trust fund

This provision already exists under R.A. 9231 (Sec. 12-C. Trust Fund to Preserve Part of the Working Child's Income). Perhaps the idea is to raise awareness of this provision in the law so that the DOLE can enforce it.

e Authorize the DOLE to determine the types of non-hazardous agricultural employment or work that children ages 16 to 18 can perform

The current list of hazardous industries and occupations defines the kinds of conditions and tasks that are considered hazardous for anyone below the age of 18 years, however it does not provide a list of the tasks that are acceptable for children of legal working age to undertake.

f Design a holistic intervention program for children working in the informal economy.⁸⁴¹

As has been recognized already in this report, child labor in the informal economy is unregulated, often hazardous, poorly remunerated and a big contributor to the intergenerational cycle of poverty.

In support of (f) above, in 2020, the ILO Committee of Experts (CEACR), in response to the PH periodic report on implementation of Convention No. 138, commented: “The Committee further notes from the Government’s report that one of the aims of the proposed amendments to the Republic Act of 9231 is to address child labor in the informal sector. Noting that a high number of children are involved in child labor in the informal sector, the Committee requests the Government to intensify its efforts to ensure that children working in the informal economy or on a self-employed basis benefit from the protection afforded by the Convention.”⁸⁴²

These amendments put forward at least four years ago are still relevant to the current child labor context in the Philippines. If enacted, they could contribute to the country’s goal to progressively eliminate child labor by 2025. However, the status of these amendments and their support in Congress are unclear.

⁸⁴¹ Id.

⁸⁴² ILO NORMLEX, Observation (CEACR) - adopted 2020, published 109th ILC session (2021), Minimum Age Convention, 1973 (No. 138)-Philippines (Ratification: 1998),” available at https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:4054856:NO. Accessed: April 04, 2021

Recommendation

The value added that the enactment of some combination of the proposed amendments could have on the country's efforts to eliminate child labor is recognized and supported by USDOL and the ILO. This is an opportunity for government agencies, interagency groups (such as the NCAACL), NGO's, child protection networks, worker and employer organizations and private sector companies to mount an advocacy campaign to reexamine and resubmit the most relevant child labor-related amendments. The ILO and USDOL have invested many millions of dollars in research, programming and policy related to child labor and could prove to be useful and supportive resources given their combined knowledge base and years of technical experience. Additionally, garnering the support of the CWC and finding child labor champions in Congress in this pivotal election period to improve legislation that can better align the country with its short-term goal to reduce and longer-term goal to eliminate child labor is in everybody's best interest.

6

Findings

For many poor households, child labor is a way to provide for a family's basic needs. The child, out of duty, or his/her parents, out of necessity, may prioritize work over school.

Recommendations

Capitalize on local human resources as "change agents" to enable families to make the long-term commitment to choose school over work.

Finding

One of the key challenges to combating child labor in the Philippines is retaining children in school. For many poor households, particularly in rural areas, parents struggle to provide for the family's basic needs. As a result, they rely on

child labor as a negative coping strategy to contribute to the family income. Children generally want the opportunity to stay in school to improve their position in life, but instead, they often fall through the cracks because working makes them either miss too much school or drop out of school altogether.

Universal quality education is a principal child human right and is a key component in breaking the intergenerational cycle of poverty and eliminating child labor.⁸⁴³ The GoP, through its DepEd basic education K-12 program, its ALS program, and DOLE's employment and training programs, have made strong efforts to ensure all children access to free, quality, formal, non-formal and vocational education. However, children and households need more than this. They need additional support at the local level to be fully informed of their rights and the kinds of livelihood and other service options available to them in order to make the best choices for the family when it comes to child labor and education.

Recommendation

There are four resources at the local level that could be mobilized to raise awareness and inform poor households about the long-term benefits of keeping their children in school and the services available to them that would enable it. They are school teachers, DOLE child labor profilers from the Government Internship Program (GIP), Local Community Facilitators hired by DOLE to oversee GIP profilers' work and monitor child labor status of DOLE beneficiary families, and DSWD social workers from the S.H.I.E.L.D. Program.

School teachers have regular access to children and observe their daily behaviors as well as their levels of attendance at school. They can see when children are tired, hungry, unkempt, unfocused, or frequently missing school, which are all signs that a child may be working outside of school. They may know the families of the children and have an idea of their home circumstances. Teachers in the barangays can provide S.H.I.E.L.D. social workers and DOLE's GIP interns, who are working as child labor profilers, with information on the children to better help them target child laborers, children

⁸⁴³ International Labour Organization, *supra* note 241

at-risk and their families for needed social services. Teachers can also counsel children and their families directly, informing them of the livelihood services available in the barangay and how to access them.

DOLE's GIP profilers are high school or voc/tech graduates from similarly poor areas who are eager to have an opportunity to "demonstrate their talents and skills in the field of public service."⁸⁴⁴ Their work is part of the PPACL/DOLE's program to remove 630,000 children from child labor by 2022 and to provide them with social services and livelihood support to eliminate the need for child labor. The GIP profilers are tasked with identifying child laborers, interviewing them and their families, and inputting their data into a profiling tool which gets transmitted to the regional DOLE office where the service assessment and referral takes place. Local Project-Based Community Facilitators also hired by DOLE help with the service needs assessment and conduct follow-up visits to children and their families to monitor services and check on their child labor status.⁸⁴⁵ Social workers and other DSWD-approved S.H.I.E.L.D. staff also interact with targeted child laborers and their families at the help desks, as monitors of service referrals and child labor status, and as part of their work in the community.

World Vision, in its *"Good Practices in Reducing Child Labor in Sugarcane Farms,"* showed how increasing the capacity of teachers in social development work helped them become change agents against child labor by working with children, parents and the community to teach them about the negative impacts of child labor and the holistic development of the child. In fact, the model was recognized by the DepEd and approved for replication and mainstreaming in education programs throughout the country. In addition to teachers, this practice could also be applied to others in the community, including GIP profilers, DSWD social workers and Community Facilitators.⁸⁴⁶

The access that these community workers have to the child and his/her household is a great opportunity for DOLE, DSWD, DepEd and/or social partners, NGOs and other stakeholders to train teachers, GIP intern profilers, DSWD social workers/

⁸⁴⁴ Department of Labor and Employment - Regional Office No. 2, Cagayan Valley, "Government Internship Program (GIP)," available at <http://ro2wptest.dole.gov.ph/government-internship-program-gip/>. Accessed: June 15, 2021

⁸⁴⁵ DOLE A.O. 579-2019, supra note 304

⁸⁴⁶ World Vision, ABK3LEAP, "Good Practices in Reducing Child Labor in Sugarcane Farms." pp. 17-20

staff, and local Community Facilitators to raise awareness and educate community members on hazardous child labor and on acceptable forms of child work while providing them with information on the kinds of social and livelihood services available and how to access them. This sort of informational awareness can provide many families with the extra support they need to keep their children in school. According to a situational analysis on business and children's rights in the workplace, "involving children and their families in awareness-raising programs on child labor policies allows for a discussion on the root causes of child labor in their community. It also opens up long-term solutions to address it."⁸⁴⁷

7

Findings

Child labor may be an unintended consequence of DOLE's KASAMA Livelihood Program.

Recommendations

Review the implementation and possible unintended effects of this and other government-funded productive asset programs on beneficiaries and their families.

Finding

Innovations for Poverty Action, an organization that uses high quality evidence to inform more effective programs and policies for the poor, teamed up with the DOLE from 2015-2018 to conduct a clustered randomized control trial of DOLE's KASAMA household livelihood Program (Kabuhayan Para sa Magulang ng Batang Manggagawa). KASAMA promotes the household creation or expansion of sustainable forms of income to eliminate the need for child labor. The program gives beneficiaries an in-kind transfer worth roughly 10,000 Pesos (or around \$200). The recipient can choose the kind of asset he/she receives, such

⁸⁴⁷ Ma. Unico Perpetua and Xamantha Xofia Santos, Situation Analysis of Business and Children's Rights in the Workplace: The Philippines Context, Ateneo Human Rights Center and Save the Children Philippines, pp. 21-22, September 2020, available at https://resourcecentre.savethechildren.net/node/19066/pdf/situation_analysis_of_business_and_childrens_rights_in_the_workplace_-_the_philippine_context.pdf. Accessed May 31, 2021.

as tools, equipment, raw materials for production, or, most frequently, necessities to start or expand a small variety store.

The purpose of the study was to examine who is employed when the new productive asset requires additional labor. The concern was that, “these anti-child labour projects may increase child labour by drawing children into work.”⁸⁴⁸ The study took place in five regions (164 barangays) of Luzon in areas with high incidence of child labor. Seventy-four percent of children from the households in the study were already engaged in child labor. The treatment group, which was offered the KASAMA productive asset, consisted of 14 households in each of the 82 barangays. The control group, consisting of 14 households in each of 82 different barangays, was not offered the KASAMA productive asset. The study used quantitative household surveys, with a focus on household income-generating activities and time allocation. The surveys included direct before and after interviews with households, including with adolescents, that asked questions about time allocation and socio-emotional well-being.

The researchers found that 18 months after the start of the study, the number of family firms increased for both the control and the treatment groups. However, the number of households likely to report a firm at the end of the study was 10 percentage points higher in the treatment group than the control group. They also found that existing child laborers did not stop working. However, there was an eight percent increase in economic participation of children who were not working before the family received the KASAMA benefit. In households where the business already existed, and the KASAMA asset transfer helped expand it, there was a 45 percent increase in hazardous child labor. This is due to the fact that most of the household adult members were already working, either outside of the home or in the family business. As a result, there was an increased demand for labor but few available adults to step in. Many of the children who filled the need for labor were below age 15, the minimum age for employment.

⁸⁴⁸ Eric Edmonds and Caroline Theoharides, Do asset transfer programmes lead to Child Labour? Evidence from the Philippines, Vox-Dex, Labor Markets and Migrations, November 20, 2020, available at <https://voxdex.org/topic/labour-markets-migration/do-asset-transfer-programmes-lead-child-labour-evidence-philippines>. Accessed May 26, 2021; U.S. Department of Labor Innovations for Poverty Action (IPA), The Impact of Productive Assets and Child Labor in the Philippines, Preliminary Results Brief, October 2018, available at https://www.dol.gov/sites/dolgov/files/ILAB/evaluation_type/other/Summary%20Brief%20-%20IL-27208%20Philippines%2011.5.18.pdf Accessed May 21, 2021.

Despite a growth in household income and an increase in overall well-being, the study shows that the increase in demand for labor from the KASAMA asset transfer can lead to the need for non-working children to begin working in the family business, many of them under the legal minimum age for work, and often under hazardous conditions.⁸⁴⁹

Recommendation

The government agencies that provide asset transfers, microfinance schemes and graduation programs to increase household-based economic activity (such as the Departments of Agrarian Reform, Agriculture and the DSWD) should take a closer look at how households fill the need for increased labor for their new or growing businesses. One way to do this is by directly interviewing the children in the households that receive the benefit. If child labor is a consequence, agencies can work with beneficiaries and other stakeholders to develop alternatives.

In the case of KASAMA, the researchers of the survey noted that few families seemed to know that the program had anything to do with child labor. DOLE could use this as an opportunity to make the prohibition of child labor more visible in its preparatory materials and program orientation for beneficiaries, to identify additional methods for raising awareness on hazardous child labor and the importance of maintaining children in school, and to work with households to develop alternatives to hazardous child labor.

8

Findings

One of the allowable exceptions to the minimum age of employment is that children under the age of 15 years may work for a family-based business under certain conditions. However, most home-based businesses, including family farms, exist in the informal sector. As a result, they are not regulated or inspected for occupational safety and health violations. In many instances, children work under hazardous and unhealthy conditions or perform dangerous jobs.

⁸⁴⁹ Id.

8

Recommendations

Informational campaigns conducted in rural and impoverished areas can guide families on what constitutes hazardous work and how they can ensure safe workplaces and safe work through the conduct of hazard self-assessments in their enterprises.

Finding

Under special exception to RA No. 9231, children below the age of 15 years are able to legally work directly for their parents or legal guardian when the only other employees are members of the family. In the Philippines, this generally translates to children working for a home-based business/workshop or on the family farm which produces for local consumption. These forms of child work are completely unregulated by DOLE or any other government agency. However, the law requires that the work must not subject the child to any form of exploitation or be harmful to his/her health and safety or physical, mental or psychosocial development. According to the ILO, when working for family businesses, children's work-related illnesses and engagement in hazardous work are often due to the family or the child's lack of knowledge about the hazards, like the toxicity of chemicals, working long hours or working in isolation.⁸⁵⁰

A child working in a family-based business can be exposed to as many hazardous conditions as he/she might in work outside the family. Hazardous work must be addressed even when it happens in family-based work, including agriculture, and adults in the family may themselves be unaware of the hazards they and their children face. Providing safer ways for children to continue helping their families under safe conditions can keep them from engaging in dangerous and/or hazardous work outside of the home.⁸⁵¹

⁸⁵⁰ Susan Gunn, and Halskha Graczyk, *supra* note 240 at pp. 25-26

⁸⁵¹ Perpetua and Santos, *supra* note 857 at pp. 21-22

Recommendation

According to the ILO,

“Parents’ knowledge of how to identify hazards and assess risks, taking into account their child’s age and developmental stage, is crucial for protecting children performing household chores, and the considerable number of children whose workplace is their own home.”

Given that the majority of working children in the Philippines are employed in agriculture, much of it family-based and unregulated, it is worth exploring the idea of providing households with the ability to assess the workplace risks on their own and the technical assistance or training to do it.

The ILO recommends adapting the 5-step Work Improvement in Small Enterprises (WISE) program for home-based businesses using the “learning by doing” approach by taking simple steps to make the workplace safer. These steps include: building on local practices, focusing on how improved working conditions result in higher productivity, and promoting the workers’ involvement.⁸⁵² They also suggest that public health education using posters, radio, flyers, person-to-person talks or community meetings are great ways to raise public awareness on workplace safety and hazards.⁸⁵³ The ECLT Foundation, an organization that works globally to combat the root causes of child labor in rural communities, works with

farmers and families to identify and define acceptable and unacceptable work in agriculture. They do this by engaging them in discussion using a series of questions, including:

- 1 Would this work take up too much time and prevent the child from going to school?
- 2 Would this work make the child too tired to go to school or do homework?

⁸⁵² Tsuyoshi Kawakami, Sara Arphorn, and Yuka Ujita, *Work Improvement for Safe Home: Action Manual for Improving Safety, Health and Working Conditions of Home Workers*, International Labor Office, Bangkok Thailand: 2006, available at https://www.ilo.org/wcm-sp5/groups/public/---ed_protect/---protrav/---safework/documents/instructionalmaterial/wcms_110323.pdf

⁸⁵³ Susan Gunn, and Halskha Graczyk, *supra* note 240 at pp. 25-26

- 3 Would the child still have time to play and participate in social/family activities?
- 4 How does the child feel emotionally while doing the work? Does any part of the work make the child feel unsafe, excluded or threatened?
- 5 How does the child feel physically while doing the work? After doing the work?
- 6 Does this work involve using or being around chemicals, like fertilizers, heavy machinery or sharp tools?
- 7 Is any part of this work illegal?

The global initiative, International Partnership for Cooperation on Child Labour in Agriculture (IPCCLA), stresses the importance of bringing agricultural and labor professionals together to share their knowledge and expertise towards the elimination of child labor.⁸⁵⁴ This is a good opportunity to involve DOLE, DSWD, the Department of Agriculture (extension agents) or Agrarian Reform and possibly even the DepEd in a joint effort to combat child labor and reduce risks in family-owned farms and businesses. This is particularly relevant for households that receive credit, assets or some other kind of support from government livelihood programs to either start or further develop a family enterprise. Some of these programs, like KASAMA, prohibit children of beneficiaries from engaging in hazardous child labor. With some training and technical assistance, it is possible for micro-business owners to conduct a risk assessment of the workplace on their own.

9

Findings

DOLE's "negative" list of hazardous work (work activities and environments deemed hazardous and prohibited to children under the age of 18) is difficult for the layperson to understand and apply to a home-based workplace.

⁸⁵⁴ ILO-IPEC, Child Labour in Agriculture: Cross-Cutting Issues, available at <https://www.ilo.org/ipecc/areas/Agriculture/lang--en/index.htm> . Accessed: June 11, 2021

9

Recommendations

The creation of a “positive” list is recommended.

Finding

In the Philippines, poverty is the most cited cause of child labor. Although hazardous child labor is prohibited for children below the age of 18, non-hazardous, allowable child work can provide a vital source of income for children from poor families. Child work doesn't just help cover the costs of basic necessities, it also enables many children to afford the cost of education, including food and transportation. Children under the age of 15 are allowed to work for a parent or guardian performing non-hazardous work, however, many children and adults don't know how to distinguish between hazardous and acceptable work. DOLE published a hazardous list, as prescribed by ILO C.182, that includes work and activities under industrial and occupational classifications that are prohibited to children under age 18, but for the layperson, it is difficult to understand and even harder to apply to a home-based workplace. In addition, most agricultural tasks are included on this list, which makes it hard to distinguish which tasks are acceptable for children. The ILO explains that in cases like this, when an official list designates whole occupations and their tasks as hazardous, it unnecessarily reduces opportunities for safe youth employment, particularly in communities with limited safe employment options for youth.⁸⁵⁵ Age-appropriate child work has many positive effects. It would be helpful for young people and their families to have more guidance on the kinds of work, either by its nature or the circumstances under which it is carried out, that are considered safe and acceptable, particularly in agriculture and other occupations where child labor frequently occurs.

⁸⁵⁵ Susan Gunn, and Halskha Graczyk, *supra* note 240 at p. 4



Recommendation

Stakeholders in the Philippines recognize that child participation in agricultural work has its hazards and its risks, but they also value its relevance and importance in rural areas. In an attempt to reconcile these opposing views, an amendment to R.A. 9231 was proposed which included a section on “Non-Hazardous Works.” The government responded by issuing a research study in 2019, through DOLE’s ILS, “to document and identify whether or not there are tasks that can be done by children across the supply chains of sugarcane and banana.” The study revealed that there are low-risk activities that children can perform with the proper guidance, training, supervision, and protections that may be considered non-hazardous.

Many families in the Philippines subsist on family farms and enterprises in the informal sector, which is where the majority of child labor exists. A large portion of them are recipients of government livelihood benefit programs such as KASAMA and the 4Ps conditional cash transfer which discourage hazardous child labor and encourage education attendance and retention. The creation of a “positive list” with input from a variety of stakeholders could serve as a companion tool to the current hazardous list. This tool could help rural farming households determine what tasks children can do, and what circumstances are acceptable, in order to keep them safe and working. Social partners, NGOs, and other relevant stakeholders that work with specific child labor populations (child domestics, home-based enterprises, manufacturing, agriculture, etc) could likewise work with current and former child laborers as well as their families, employers and other stakeholders to develop “positive lists” that can be used as a guide for safe tasks and conditions.

10

Findings

There are no guidelines which are specific to immersion in the workplace

Recommendations

Pass a Code of Conduct which governs DepEd's Work Immersion Program to maximize student safety.

Finding

DepEd's Work Immersion program for senior high school students is a great opportunity for youth over the age of 15 and below the age of 18 to gain real world work experience and to develop skills that can pivot them into jobs in the formal sector as adults. The program policy is to "ensure that all schools and venues for learning are conducive to the education and safety of the learners."⁸⁵⁶ DepEd takes steps to ensure student safety in the workplace, including: requiring parental consent, a thorough vetting of duly registered and accredited partner institutions and workplaces to ensure safety, adherence from partner institutions to comply with all DOLE and TESDA safety guidelines, and an MOA for the security of all parties involved.⁸⁵⁷ The Program's business partnerships are also governed by existing laws and DepEd issuances, including DepEd's Child Protection Policy, the Anti-Bullying Act of 2013 and An Act Declaring Sexual Harassment Unlawful in the Employment, Education or Training Environment, and for Other Purposes. However, the principles from these and other important laws (such as the OSH laws) are not codified into any regulation that guides and limits acceptable and unacceptable behavior, actions and conditions in the workplace during work immersion for young people. Also, there is not any formal means other than labor laws compliance visits to hold partner businesses accountable for the safety of

⁸⁵⁶ Department of Education, Guidelines for Work Immersion, D.O. 30-2017, available at https://www.deped.gov.ph/wp-content/uploads/2017/06/DO_s2017_030.pdf. Accessed: July 10, 2021

⁸⁵⁷ Perpetua and Santos, supra note 857 at pp. 32

students in the workplace. Students interviewed in a recent survey on business and children's rights in the workplace noted that

"the rules imposed at work for interns and young workers are violated by the employees and long-time staff themselves, defeating the purpose of the rules and regulation orientation."⁸⁵⁸

DepEd's Work Immersion Program is an effective way for senior high school students to experience a real workplace environment, however a complete set of guidelines designed specifically for the immersion workplace and mechanisms for enforcement are necessary to maximize student safety and benefit from the program.

Recommendation

This is an opportunity for DepEd and the DOLE to work together with employer and worker representatives, immersion students and other stakeholders to develop business Codes of Conduct for work immersion partner businesses and students. Codes could cover topics such as acceptable behaviors and responsibilities of employers, employees and students in the workplace; school focal persons; youth worker rights; child safety and protection; OSH compliance; mentorships; training; capacity building of company officials, personnel, safety officers and Immersion focal persons on child rights, or other topics that are identified in the process.⁸⁵⁹ The Ateneo Human Rights Center/Save the Children survey on Business and Children's Rights in the Workplace suggests that DepEd could issue a department order that would require host businesses to have a child protection Code of Conduct. The Code could be included directly in the DepEd MOA with host companies and as part of the immersion orientation program, a requirement mandatory for all host businesses.⁸⁶⁰

⁸⁵⁸ Perpetua and Santos, supra note 857 at pp. 2, 23, 33, 35

⁸⁵⁹ Perpetua and Santos, supra note 857 at pp. 36

⁸⁶⁰ Perpetua and Santos, supra note 857 at pp. 36

11

Findings

R.A. 10361 has the potential to be a groundbreaking piece of legislation.

Recommendations

The GoP must strengthen its efforts to carry out its legal mandate to protect the rights of domestic workers, particularly those under the age of 18.

Finding

Life inside the employers' home can be difficult for child domestic workers because the employers control how they live and work. The child has no choice but to obey. Even though the Domestic Worker Law exists and governs the rights and liabilities of both the domestic worker and the employer, there is no authority that can enter the home to inspect the child's living and working conditions to assess compliance unless a complaint has first been lodged.⁸⁶¹ Additionally, less than half of domestic workers surveyed in a 2019 PSA/DOLE study (41 percent) had ever even heard of the law or were aware of their rights.⁸⁶²

The GoP, by permitting children from age 15 to below 18 years to work in domestic service (as stipulated in the 2013 "Batas Kasambahay" law), has designated the sector acceptable for children of legal working age. However, greater efforts need to be made to educate families and children from source areas about the possible hazards of domestic service, the rights afforded to all domestic workers (including children aged 15-17) under the law, the responsibilities and liabilities of the employer, and the means available to redress grievances. Likewise, procedures to implement the law and enforce its provisions must be clearly defined and executed by the

⁸⁶¹ Jonathan Blagbrough and Ayaka Matsuno, *supra* note 332, at p. 24

⁸⁶² Department of Labor and Employment, National Wages and Employment Commission, DOLE and PSA Survey: 1.4 Million Kasambahays in the Country, 72% on Live-out Arrangement, Press Release, available at https://nwpc.dole.gov.ph/press_room/dole-and-psa-survey-1-4-million-kasambahays-in-the-country-72-on-live-out-arrangement/. Accessed: June 2, 2021

responsible government entities. Only once these steps are taken can the GoP take full credit for this groundbreaking law that formalizes the domestic work sector and gives domestic workers the tools to exercise their rights and claim the protections due to them as prescribed by the law.

Recommendations

The DOLE should strengthen its efforts to carry out its legal mandate to protect domestic workers, including children, by regulating the workplace and the circumstances and conditions under which they work. The DOLE and other agencies must be held accountable for implementing the provisions of RA No. 10361, or “Batas Kasambahay,” and its Implementing Rules and Regulations (IRR) nationwide. As stated in Rule VI, Section 4 of the IRR, “The DOLE, through the National [Council Against] Child Labor (NCACL) and in collaboration with the NCACL member agencies...shall ensure that...measures are in place to ensure compliance with the standards for employment of children in domestic work as prescribed in this Rule.” In particular:

- a** **Raise Awareness:** RA 10361 tasks DOLE with **developing and implementing a continuous information dissemination program on the provisions of the Act at the national and local levels** in coordination with the DILG, the SSS, the PhilHealth and Pag-IBIG.⁸⁶³ In addition to highlighting Kasambahay rights (including those specific to children), unlawful acts (such as hiring children under the age of 15 years) and the roles and responsibilities of the employer, of particular importance would be to identify and describe treatment that is considered abuse, including physical, sexual, psychological and economic, as committed by an employer or any member of his/her household against any Kasambahay. Likewise, Kasambahays must be informed of how to and who can report abuse and to whom, including the 2015 Joint Memorandum Circular which outlines the Protocol on the Rescue and Rehabilitation of Abused

⁸⁶³ Republic Act 10361, sec. 38

Kasambahay.⁸⁶⁴ Additionally, the IRR taps employers, civil society groups, and labor organizations to disseminate information on the provisions of the Act to their constituents.⁸⁶⁵

b Build Capacity: The IRR requires the DOLE to **build the capacities of LGUs and Barangay Desk Officers** to register domestic workers and maintain the barangay registry up-to-date. It also prescribes that the DILG, DSWD, SSS, ECC, PhilHealth and Pag-IBIG coordinate for this task.⁸⁶⁶

c Develop a Model Contract: **The law mandates the DOLE to develop and make available nationwide a model domestic worker employment contract that is free and easily accessible to domestic workers and their families, employers, representative organizations and the general public.** The DOLE must also widely disseminate guidance on its proper use. The contract should be translated into relevant languages so that it may be understood by both domestic workers and their employers.⁸⁶⁷ Copies of the contract are to be made available through the barangays and the Public Employment Service Offices (PESOs).⁸⁶⁸ If the Kasambahay is younger than 18 years, the employment contract must be signed by a parent/guardian who has the right to request that the Punong Barangay⁸⁶⁹ explain the contents of the contract to both parties and serve as a witness.⁸⁷⁰

d Register Domestic Workers: The **DILG must create a registration system with the DOLE that operates at the barangay level.**⁸⁷¹ **The IRR identifies the celebration of Labor Day as the**

⁸⁶⁴ DSWD, DILG, DOLE, NBI and PNP, Protocol on the Rescue and Rehabilitation of Abused Kasambahay Pursuant to Republic Act No. 10361 Entitled An Act Instituting Policies for the Protection and Welfare of Domestic Workers, Joint Memorandum Circular No. 2015-002, October 28, 2015

⁸⁶⁵ Republic Act 10361, Arts. II, III, IV

⁸⁶⁶ Department of Labor and Employment, Implementing Rules and Regulations of Republic Act. No. 10361, otherwise known as the Domestic Workers Act or Batas Kasambahay ("IRR - Batas Kasambahay"), Rule XIII, sec. 1, available at <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/93312/109041/F-1849523526/PHL93312.pdf>. Accessed: June 23, 2021

⁸⁶⁷ Republic Act 10361, art. III, sec. 11

⁸⁶⁸ IRR - Batas Kasambahay, Rule II, sec. 6

⁸⁶⁹ This is the Barangay Captain, or the highest level elected official within the Barangay.

⁸⁷⁰ IRR - Batas Kasambahay, Rule II, sec. 6

⁸⁷¹ Republic Act 10361, art. III, sec. 17

“Startup registration” or nationwide kickoff day for employers to register their household domestic workers in the barangay system. This event, to be held in a public place such as a City or Municipal Hall or Plaza, is to be organized by the City or Municipal Mayor and conducted by the Punong Barangay with support from the SSS, Pag-IBIG and PhilHealth representatives. The DILG is tasked with issuing a circular through the National Barangay Operations Office (NBOO) that explains how to fill in the standard Registration Form and other relevant guidance for employers.⁸⁷² For ongoing registration, each “Punong Barangay,” or Barangay Captain, designates a Kasambahay Registration Desk Officer in the Barangay Hall where employers can register their domestic employees year-round. The Punong Barangay must also maintain an up-to-date registry Masterlist and submit regular reports to the LGU through the PESO. The LGU then submits monthly reports to the DILG for monitoring and data analysis, which is forwarded on to the DOLE and other relevant agencies.⁸⁷³

e Use OSH Protection Tips: In Rule V, Section 12 of the IRR, DOLE’s Bureau of Working Conditions (BWC) and the Occupational Safety and Health Center were tasked with developing a set of standards to guide the employers of domestic service workers in safeguarding their homes and the work of their employees.⁸⁷⁴ DOLE Department Advisory No. 01, Series 2014, or Occupational Safety and Health Protection Tips for Kasambahays and Employers (OSH Tips), can be a helpful guide for domestic workers, particularly when it is their first job.⁸⁷⁵ This guide must be made accessible to all Kasambahays in multiple languages. **A procedure should be put in place to inform minors, in particular, about the OSH Tips and provide a forum for them to ask questions and ensure their understanding.**

⁸⁷² IRR - Batas Kasambahay, Rule IX, sec. 2

⁸⁷³ IRR - Batas Kasambahay, Rule IX, secs. 3-4

⁸⁷⁴ Id.

⁸⁷⁵ Department of Labor, Occupational Safety and Health Protection Tips for Kasambahays and Employers (OSH Tips, D.A. No. 01-14, May 09, 2014, available at https://bwc.dole.gov.ph/images/Issuances/DepartmentAdvisory/Dept_Advisory_No_01_2014_OSH_Tips.pdf. Accessed: June 22, 2021

- 6 Enforce the Law.** Article 17, #s (2) and (3) of ILO Convention No. 189, or the Domestic Worker Convention, require ratifying Members States to:
- a** "...develop and implement measures for labour inspection, enforcement and penalties with due regard for the special characteristics of domestic work, in accordance with national laws and regulations." and
 - b** "In so far as compatible with national laws and regulations, such measures shall specify the conditions under which access to household premises may be granted, having due respect for privacy."⁸⁷⁶

The CEACR, at the 109th ILC Session of 2021, submitted a direct request to the GoP regarding its implementation of ILO C.189 (The Domestic Work Convention) in which it reiterated its request that the Government provide information on measures either adopted or envisaged to implement Article 17. **The GoP should develop a system to enforce the provisions of the treaty.**⁸⁷⁷

Findings and Recommendations on the other OSAEC as an emerging WFCL

12

Findings

Sexual exploitation of children has grown exponentially in the past decade.

Recommendations

The GoP must review all efforts relating to online sexual exploitation of children.

⁸⁷⁶ ILO.NORMLEX. Direct Request (CEACR) - adopted 2020, published 109th ILC session (2021), Domestic Workers Convention, 2011 (No. 189)-Philippines (Ratification: 2021), available at http://ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:4059727. Accessed: June 23, 2021

⁸⁷⁷ Id.

Findings

According to the National Center for Missing and Exploited Children, 68% of the total report of online sexual abuse and exploitation come from Asia. In the same report, it noted that in the Philippines, the Department of Justice receives an average of 3,700 reports of varying forms of online sexual abuse and exploitation, averaging at least 52,000 annually. IJM had the same finding. In a 2017 study, it noted that 149 in every 10,000 IP addresses linked to child sexual exploitation originated from the Philippines. This saw a 1000% increase to 600,000 in 2018 according to the DOJ Office of Cybercrime. It said that OSEC is a rapidly growing crime in the Philippines. UNICEF also labeled the Philippines a global epicenter of OSEC.

In the congressional committee hearings on proposed OSAEC measures, both the Senate and the House Committees on Children identified gaps in the current legal and enforcement framework to combat the crime. These gaps include:

- 1** **Low conviction rates.** According to the US State Department's 2019 Trafficking in Persons Report, out of the thousands of cases reported in 2018, only 27 OSEC perpetrators were convicted. This is attributed to the following factors:
 - a** **Lack of technical capacity of internet service providers** to automatically detect the commission of the crime. As a result, ISPs fail to comply with the provision of the Anti-Pornography Act which mandates them to inform law enforcers of any OSAEC on their servers.
 - b** **Lack of engagement of content hosts** such as social media sites. During the committee deliberations on the proposed OSAEC measures, the Department of Information and Communications Technology (DICT) noted that content hosts are better capacitated to report OSAEC.

C Strict privacy laws hamper investigation and are used by perpetrators to escape liability.

These laws include the Anti-Wiretapping Law and the Data Privacy Act. Advocates are pushing for the exemption of human trafficking from the anti-wiretapping law to “empower law enforcement agents to conduct, surveillance, interception, and recording of communications.” On data privacy, the Philippine Chamber of Telecom Operators said that the Data Privacy Act, which requires strict privacy on personal information of computers, clashed with their reportorial duties under the Ant-Child Pornography Act.

2 Duty-bearers require capacity-building to combat OSEC. Duty-bearers from the point of prevention, rescue, prosecution, and rehabilitation require increased capacity building given the novel nature of the crime.

3 Increase in the online modes of payment contribute to the rise in OSEC cases. (See: *Chapter 5 Discussion*)

Recommendations

1 On awareness-raising. The consultants echo the Commission on Human Rights recommendation to include OSAEC awareness learning modules in the Department of Education’s modules for all public and private school students and in DSWD’s 4Ps orientation.

2 On capacity-building. The consultants recommend for the **inclusion of child protection and child rights modules** as part of the curriculum or continuing education programs of the following duty-bearers:

a Local Child Protection Councils and the Local Social Welfare and Development Office through the Local Government

- b** Academy and in partnership with DILG and the Union of Local Authorities of the Philippines;
- c** Philippine National Police and the National Bureau of Investigation through mandatory units in the police academy and as part of certifications of police officers;
- d** Social workers as part of the Continuing Professional Development Units; and
- e** Lawyers as one of the course offerings in the Mandatory Continuing Legal Education.

A general child protection and child rights module is recommended for these mandatory learning courses to give duty-bearers a strong foundational background on children's rights. Additionally, WFCL, including OSEC, in the Philippines are tackled under the wider umbrella of child protection.

Specific technical trainings on OSEC should also be institutionalized through a memorandum order mandating the same. The following duty-bearers must undergo technical trainings to help them combat OSEC: (1) Lawyers and prosecutors must learn digital forensics, as pieces of evidence in OSEC cases are largely in digital format; (2) PNP and NBI should explore partnerships with foreign counterparts to acquire technical knowledge and training in OSEC detection and investigation; and (3) social workers on trauma informed care related directly related to OSEC victims.

- 3 On legislation.** The consultants recommend the passage of Senate Bill 2209. The bill's salient features address many of the gaps listed here. (See: Chapter 5- Pending Bills and Legislation)

Areas for Future Research

In the course of writing this analysis, questions beyond the consultants' scope and limitations were raised. The consultants have compiled these here as a helpful guide to any future studies that can be considered on child labor in all its forms.

- 1** How could the labor inspectorate, along with other government agencies, take a more **strategic approach to labor compliance**? Could they look into working with Multi-National Enterprises, private compliance initiatives, and social auditing firms to ensure there is consistency both in understanding the relevant laws and in gathering compliance data down the supply chain?
- 2** What mechanisms could labor inspectors employ to address **child labor in the informal sector**? How does our labor laws protect **children in street situations**?
- 3** Look into the extent that **tripartism and social dialogue** have contributed to the anti-child labor efforts. Can more be done in this area?
- 4** Find a way to **mainstream** the points below into the public and private sector to provide a holistic **approach to combat child labor** and support safe work for children and their parents/caregivers. :
 - a** Children's Rights and Business Principles (CRBP);
 - b** Child labor in regional or industry Tripartite Peace Councils (to ensure that it is part of ongoing social dialogues per sector and within regions);
 - c** UN Committee on the Rights of the Child (CRC)

- 1 General comment No. 16 (2013) on State obligations regarding the impact of the business sector on children’s rights (2013); and
 - 2 General comment No. 25 on children’s rights in relation to the digital environment (2021)
-
- 4 Do **gender and traditional practices** serve as “push factors” for child labor? Include a mapping of the types of work performed by female and male children to see if there are any significant differences. If there are, how should the strategies to combat them take these factors into account?
 - 5 What are the implications of **child labor interventions**? What are the intended and unintended consequences? (i.e., rescue, returning to school, cutting off only source of income by removing a child from hazardous work, etc.)
 - 6 Expand on the work of the **Barangay Child Protection Council (BCPC)** in the areas of study (CDO City and Quezon City), including **studies in geographically isolated and disadvantaged areas (GIDA)**. This is important in understanding the capacity of LGUs to carry out their own programs given their tight budgets and limited manpower.
 - 7 Increase knowledge-base on **emerging issues relating to OSAEC** including the need to address gaps in the financial technology sector, capacity of internet-service providers and content-based providers in preventing OSAEC and identifying and reporting perpetrators.
 - 8 Monitor the implementation of the **Children in Situations of Armed Conflict** Law to determine how its provisions are enforced to prevent the recruitment of child soldiers or use of children in armed conflict.

9 Explore **harm reduction** programs and partnerships for children involved in the use and sale of illicit drugs.

10 A **network mapping analysis** of the work of government agencies, civil society, and the private sector on child labor in all its forms would help strengthen the country's enforcement and referral mechanism.

11 The dangers of **inter-country and domestic adoption** in relation to child trafficking is a topic that is largely unexplored and require additional research.



Conclusion

The Philippines takes its commitment to protect children from all social ills, including child labor in all of its forms, very seriously. The country's comprehensive legal framework, enforcement mechanisms, programs, and initiatives, are clear indicators of this. For the past 25 years, the GoP has made significant efforts to ratify international conventions, enact laws, adopt policies and implement programs to reduce and progressively eliminate this form of exploitation. In fact, the GoP has pledged to eliminate child labor entirely by 2025. However, in the current year (2021), the issue remains one of the country's most urgent problems affecting children. The increasing levels of poverty spurred by the global pandemic and the resulting lockdown have forced even more at-risk children to engage in child labor. This ABA-ROLI/World Vision **national level analysis of the legal and policy framework on WFCL** assessed the strengths and gaps in the country's ability to combat child labor and puts forward recommendations that can help fortify efforts to meet the country's goals.

The GoP's child protection policy is a **child rights, systems-based approach** which aims to serve every child at-risk or in-need. The model incorporates the different forms of child labor, including the unconditional worst forms, under its wider umbrella of child protection. As such, child labor is seen as a "symptom" of larger, systemic issues (i.e. poverty, lack of education, faulty systems of enforcement, etc.) rather than an issue on its own. The Philippine approach is to prevent, protect, and rehabilitate children and reintegrate them into their communities in a holistic and sustainable way that also includes the family and the community.

To do this, the Philippines child protection model is supported by a **comprehensive legal and policy framework** that defines and regulates different child protection issues. This framework reflects an internalization of and responsiveness to its commitments as a Party to key international standards on or related to children's rights and child labor. However, in its efforts to address concerns from the different monitoring bodies and report issuers, the GoP's approach has often been to pass new legislation or create new coordinating bodies, which has made the national legal and policy framework on child protection somewhat unwieldy. The sheer number of laws and interagency groups has created areas of overlap and made it difficult for the lead government agencies to effectively implement them. At the same time, laws that address specific and individual aspects of child protection have led to the creation of "sub-systems" of expertise. The ones most relevant to this study are: TIP (including CSEC, OSEC and OSAEC), children in situations of armed conflict, juvenile justice and welfare, and child labor. Key opportunities exist to amend and streamline existing legislation on child protection, including child labor in all of its forms, to make important provisions more enforceable and to incorporate new provisions to combat nascent methods of child labor exploitation before they become widespread.

Likewise, at the national level there are eight **interagency councils** on child protection alone, and child labor and individual forms of WFCL have been incorporated into many of their agendas (trafficking, pornography, protection, etc.). This creates a somewhat chaotic, piecemeal approach to child labor and the larger umbrella of child protection. Currently, there is **no single body that can effectively convene the various councils to coordinate** horizontally and also incorporate a vertical cascade and exchange with LGUs, social partners, private sector implementers, local communities, etc. Such a body could coordinate and streamline the components and actions of the sub-systems so that the work of each body is mutually reinforcing but not repetitive to the purpose and goals of child protection as prescribed within the child rights and protection-based systems approach. Now that elections are upcoming, it is a pivotal moment to decide whether one of the current interagency councils or committees could be strengthened and/or

repurposed to serve as a convening force or if the creation of a new body would better suit the task.

With so many components and moving parts, it is a challenge to **keep communities aware and informed** about the rights of children under the law, the importance of education and the hazards of child labor. This includes how to access education, livelihood, and social services that address their greatest needs. This becomes even more complex in far-flung areas, in communities where native languages are dominant, in conflict zones, and in temporary displacement encampments. However, information and access opens the door to empowerment, and key stakeholders at all levels can hold government and other duty-bearers accountable for enforcing and implementing the provisions that most affect them. A **targeted and unified awareness program** that reaches all communities would go a long way to help families get on the right track to exit the intergenerational cycle of poverty.

The need to increase awareness in all levels is further highlighted by the fact that many children remain “invisible” to law enforcement by virtue of their inclusion in hidden unregulated sectors: the informal sector where more than half of child laborers can be found and where there is no law to regulate employment; and the domestic service sector where children from 15 to under 18 years can legally work in third party homes but where labor inspectors and social workers cannot inspect employer compliance with working and living conditions. These **hidden, unregulated sectors leave children wide open to danger and abuse in the workplace** with uncertain opportunities for staying in school, contrary to the State’s policy to protect children from all forms of abuse, exploitation, neglect, and other conditions prejudicial to their development.

To address this, the government at the national level promulgates laws, EOs, and Presidential Decrees. Although initiatives come from the national government, the burden to implement, enforce, and report on these laws often falls to the LGUs. Decentralization has devolved many roles and responsibilities, including control over some of the basic social services and sectors, to the local levels. While attempts to implement national policies and programs are made, **LGU’s vary widely in terms of their capacity.** It is the role of the DILG as well as other national and regional level offices to cascade information, training and capacity building opportunities to the smaller government units. Resources and priorities range greatly at the local levels and yet, LGUs are tasked with multiple roles and responsibilities such as the implementation and enforcement of laws and the coordination of services. Given the amount of information that must be communicated through the varying layers of government before it gets to the general public, it is not a surprise that there is little awareness at the local levels

about child rights, the different forms of child labor, acceptable work, or the laws that regulate them.

Apart from awareness raising, both the DOLE and the DSWD have developed **child labor programs** that use the country's poverty database to profile child laborers and link them and their households to services and support that address their most pressing needs. The goal is to eliminate a family's reliance on child labor income so the child can attend school. The two agencies hope to meet the country's goal of removing 630,000 children from child labor by the end of 2022. DOLE and DSWD also implement **livelihood, CCT and asset transfer programs** that include child laborer households as beneficiaries in keeping with the systems-based approach to child protection. DepEd is also expanding its **non-formal ALS program** to more communities now that it has been institutionalized as a regularly funded government program. ALS has proven to be a successful alternative for child laborers and other children who don't have easy access to a formal school or who have erratic schedules and need flexibility to complete the full course of basic education .

In relation to the WFCL, the GoP, through the various inter-agency councils and government agencies, advocates for new legislation and implements programs and initiatives that seek to address these issues. Currently pending before the legislature are measures which propose to define OSAEC and criminalize it. Other proposed bills contain measures to strengthen the country's Anti-Trafficking Laws and expand avenues for stricter enforcement. In addition to advocating for stronger and more effective laws, government agencies also oversee programs that combat OSAEC. The focus of these programs include: developing and instituting prevention and awareness raising modules with the Dep Ed's education programs and the DSWD's 4Ps Family Development Sessions; strengthening investigation and detection capacities of duty-bearers through technical training on digital forensics; rescuing victims and prosecuting offenders through the enforcement of rescue hotlines, free legal assistance, and training for law enforcement and prosecutors on the proper handling of rescued child victims and case-build up. Finally, programs on rehabilitation and reintegration which are centered on a trauma-informed care approach, are also being implemented.

These are all examples of how the Philippines has made earnest attempts to contain the spread of child labor, particularly instances of OSAEC, CSEC, child labor and hazardous work, which have greatly increased since the start of the pandemic. While gaps remain in some of the laws that aim to prevent and protect children engaged in child labor, including the WFCL, what is important to recognize is that all stakeholders continue to take steps forward to protect children, ensure that their basic needs are met, and provide them with safe environments where they can develop naturally and learn at their

own pace. Indeed, one step at a time is still a step closer to reaching the collective goal of eradicating child labor in all of its forms.

“Although there is no one best way to protect children, serious choices are involved and every society stands to do better when the choices it makes are grounded in the rights of children.”⁸⁷⁸

⁸⁷⁸ Wulczyn, Fred & Daro, Deborah et. al, *Adapting a Systems Approach to Child Protection: Key Concepts and Considerations*, 2010, p.5, available at . https://www.researchgate.net/publication/265279836_Adapting_a_Systems_Approach_to_Child_Protection_Key_Concepts_and_Considerations



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