Violence, Exploitation, and Abuse and Discrimination in Migration

Affecting Women and Children in ASEAN: A Baseline Study
Philippines
Violence, Exploitation, and Abuse and Discrimination in Migration Affecting Women and Children in ASEAN: A Baseline Study
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Francis Tom F. Temprosa
Violence, Exploitation, and Abuse and Discrimination in Migration Affecting Women and Children in ASEAN: A Baseline Study

by

Francis Tom F. Temprosa
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BIBLIOGRAPHY 781
**Formal Name:** Republic of the Philippines (Republika ng Pilipinas)

**Capital City:** Manila

| Population          | Male: 47,263,600  
|                    | Female: 46,749,600  
|                    | Both sexes: 94,013,200  
|                    | (2010 projections)¹  |
| Life expectancy    | Male: 68.81  
|                    | Female: 74.34  
|                    | (2015-2020 projections)²  |
| Age structure      | Children (0-14 years): 35.5%  
|                    | Working age (15-64 years): 60.3%  
|                    | Elderly (65 years and over): 4.1%  
|                    | Voting population (18 years and over): 57.9%  
|                    | (as of 2007)³  |
| Sex ratio          | 102 males/100 females (as of 2007)⁴  |
| Religions          | Roman Catholic (81.044%), Islam (5.06%), Evangelicals (2.8203%), Iglesia ni Cristo (2.3094%), Aglipayan (1.9764%), Seventh Day Adventist (0.7986%), United Church of Christ in the Philippines (0.5459%), Jehovah's Witness (0.4979%), Others (4.9475%) (2000 census)⁵  |
| Ethnic groups      | Tagalog (28.15%), Cebuano (13.14%), Hiligaynon/Ilocano (9.07%), Bisaya (7.57%), Ilongo (7.56%), Bicol (6%), Waray (3.36%), Others (25.3%) (2000 census)⁶  |
| Functional literacy rate | Male: 84.2%  
|                    | Female: 88.7%  
|                    | Both sexes: 86.4%  
|                    | (as of 2008)⁷  |
| National poverty threshold | PhP 16,841 (Philippine pesos) per month (as of 2009)⁸  |
| Percentage of population living below the national poverty threshold | 20.9% (as of 2009)⁹  |
| Gross Domestic Product per capita | US$ 1,411 (US dollars) (as of 2011)¹⁰  |
| Net enrolment ratio in secondary schools | Both sexes: 62.38% (as of school year 2009-2010)¹¹  |

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² Ibid, 48.


⁴ Ibid.


⁷ Ibid, 36. Basic reading, writing and numeracy skills (10-64 years old).


⁹ Ibid.


<table>
<thead>
<tr>
<th>Migration rate</th>
<th>Net: -1.29 migrant(s)/1,000 population(^{12})</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of citizens working overseas</td>
<td>4,324,388 (as of December 2010)(^{13})</td>
</tr>
<tr>
<td>Number of foreign workers in country</td>
<td>36,150 (as of 2008)(^{14})</td>
</tr>
<tr>
<td>Percentage of female-headed households</td>
<td>21.2 % (as of 2009)(^{15})</td>
</tr>
</tbody>
</table>
| Labour force participation rate | Male: 79.3%  
Female: 50.2%  
Both sexes: 64.7%  
(as of April 2012)\(^{16}\) |
| Unemployment rate | Male: 7.0%  
Female: 6.7%  
Both sexes: 6.9%  
(as of April 2012)\(^{17}\) |
| Proportion of unpaid family workers | 11.53% (as of 2010)\(^{18}\) |
| Fertility rate | 3.2 children born/woman (as of 2006)\(^{19}\) |
| Maternal mortality rate | 97.0 deaths/1,000 live births (as of 2008)\(^{20}\) |
| Infant mortality rate | Male: 13.8 deaths/1,000 live births  
Female: 10.9 deaths/1,000 live births  
Both sexes: 12.4 deaths/1,000 live births  
(as of 2009)\(^{21}\) |


\(^{13}\) “Stock Estimate of Overseas Filipinos,” Commission on Filipinos Overseas, accessed 7 July 2012, http://www.cfo.gov.ph/pdf/statistics/Stock%202010.pdf. This refers to those whose stay overseas is employment related, and who are expected to return at the end of their work contracts. It excludes immigrants, dual citizens or legal permanent residents abroad whose stay does not depend on work contracts (4,423,680 persons); and those not properly documented or without valid residence or work permits, or who are overstaying in a foreign country (704,916 persons).


\(^{17}\) Ibid.


\(^{19}\) National Statistics Office, Philippines in Figures 2012, 25.

\(^{20}\) Ibid, 78.

\(^{21}\) Ibid, 77.

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### Legal definition of “child”

For purposes of the law against child abuse, exploitation and discrimination:
"Children" refers to persons below eighteen (18) years of age or those over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.22

For purposes of the law against violence on women and children:
"Children" refers to those below eighteen (18) years of age or older but are incapable of taking care of themselves as defined under Republic Act No. 7610 (see above). As used in this Act, it includes the biological children of the victim and other children under her care.23

For purposes of the law against trafficking in persons:
"Child" refers to a person below eighteen (18) years of age or one who is over eighteen (18) but is unable to fully take care of or protect himself/herself from abuse, neglect, cruelty, exploitation, or discrimination because of a physical or mental disability or condition.24

For purposes of the law on domestic adoption and aspects of criminal law other than the law penalizing child abuse as cited above:
"Child" refers to a person below or under the age of eighteen (18) years.25

For purposes of the law on inter-country adoption:
"Child" means a person below fifteen (15) years of age unless sooner emancipated by law.26

### Age of majority

<table>
<thead>
<tr>
<th>Age of majority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unless otherwise provided (by law), majority commences at the age of eighteen years.27</td>
</tr>
</tbody>
</table>

### Marriageable age

<table>
<thead>
<tr>
<th>Marriageable age</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eighteen (18) years of age. Contracting marriage shall require parental consent until the age of twenty-one.28</td>
</tr>
</tbody>
</table>

### Age of consent (also referred to as legal age for sexual activities)

<table>
<thead>
<tr>
<th>Age of consent (also referred to as legal age for sexual activities)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Twelve (12) years of age. Children (see above for legal definition), whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.29</td>
</tr>
</tbody>
</table>

Rape is committed:
By a man who shall have carnal knowledge of a woman under any of the following circumstances:
Through force, threat, or intimidation;
When the offended party is otherwise unconscious;
By means of fraudulent machination or grave abuse of authority; and
When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.
By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or oral orifice, or any other instrument or object, into the genital or anal orifice of another person.30

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22 Republic Act No. 7610 or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act (Anti-Child Abuse Law), 1992, Section 3 (a).
23 Republic Act No. 9262 or the Anti-Violence Against Women and Their Children Act (Anti-VAWC Law), 2004, Section 3(h).
24 Republic Act No. 9208 or the Anti-Trafficking in Persons Act (Anti-Trafficking Law), 2003, Section 3(b).
25 See, Republic Act No. 8552 or the Domestic Adoption Act, 1998, Article I, Section 3(a); and Republic Act No. 9344 or the Juvenile Justice and Welfare Act, 2006, Section 4(e).
26 Republic Act No. 8043 or in the Inter-Country Adoption Act, 1995, Article I, Section 3(b).
27 Executive Order No. 209 or the Family Code of the Philippines, 1989, as amended, Article 234.
28 Executive Order No. 209 or the Family Code of the Philippines, 1989, as amended, Article 236.
29 Republic Act No. 7610 or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act, 1992, Section 5.
### Age of criminal responsibility

Above fifteen (15) years of age. However, “[a] child above fifteen (15) years but below eighteen (18) years of age shall likewise be exempt from criminal liability and be subjected to an intervention program, unless he/she has acted with discernment, in which case, such child shall be subjected to the appropriate proceedings in accordance with this Act.

The exemption from criminal liability herein established does not include exemption from civil liability, which shall be enforced in accordance with existing laws.”

### Minimum age of employment

Fifteen (15) years of age. However, a child below fifteen (15) years of age may be employed:

1. When a child works directly under the sole responsibility of his/her parents or legal guardian and where only members of his/her family are employed: Provided, however, That his/her employment neither endangers his/her life, safety, health, and morals, nor impairs his/her normal development: Provided, further, That the parent or legal guardian shall provide the said child with the prescribed primary and/or secondary education; or

2. Where a child's employment or participation in public entertainment or information through cinema, theatre, radio, television or other forms of media is essential: Provided, That the employment contract is concluded by the child’s parents or legal guardian, with the express agreement of the child concerned, if possible, and the approval of the Department of Labor and Employment: Provided, further, That the following requirements in all instances are strictly complied with:

   a. The employer shall ensure the protection, health, safety, morals and normal development of the child;
   b. The employer shall institute measures to prevent the child's exploitation or discrimination taking into account the system and level of remuneration, and the duration and arrangement of working time; and
   c. The employer shall formulate and implement, subject to the approval and supervision of competent authorities, a continuing program for training and skills acquisition of the child.

In the above-exceptional cases where any such child may be employed, the employer shall first secure, before engaging such child, a work permit from the Department of Labor and Employment which shall ensure observance of the above requirements.

For purposes of this Article, the term ‘child’ shall apply to all persons under eighteen (18) years of age.”

### Minimum age for military recruitment and participation

Eighteen (18) years of age, “except for training purposes whose duration shall have the students/cadets/trainees attain the majority age at the completion date.”

However, the 1987 Constitution of the Philippines provides that: “The Government may call upon the people to defend the State, and in the fulfillment thereof, all citizens may be required, under conditions provided by law, to render personal, military or civil service.”

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31 Republic Act No. 9344 or the Juvenile Justice and Welfare Act, 2006, Section 6.
32 Republic Act No. 7610 or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act, 1992, as amended, Section 12.
A. OVERVIEW

The last few years were a period of profound change in the environment for the protection of women and children in the Philippines. Several landmark laws which aim to protect women and children were passed. Institutions and mechanisms were established to address issues relating to violence against women and children and trafficking. Despite a marked paradigm shift in legislation and policies, no one can deny that violence against women and children, including their exploitation, and abuse and discrimination in the context of migration, still happen in the Philippine context. Reform contends with geopolitics and the social environment, resulting in the interplay of change and continuity in the protection of women and children in the Philippines.

This baseline survey examined various reports relating to the above issues that were published in the last few years (2005 onwards). It considered those written by different UN treaty bodies, UN and international organizations; the Government of the Philippines and its agencies; and non-state actors such as civil society/non-governmental organizations and the academe. In reviewing this body of literature, the prevalence of these social realities in the Philippine context; related de jure State responses; implementation, monitoring and prevention mechanisms of the responses; and progress and challenges, as reflected in reports, were taken into account. This study is not a chronicle of all reports produced on the topic. It contains some baseline information from a selection of studies that shed light on the issues.

Several key themes were observed in literature. First, the problem of abuse and violence against women and children, including exploitation and discrimination in the context of migration, was described in various reports through the use of different forms of research and methodologies. There was no nationally representative comprehensive survey on violence against children, unlike the survey on women (including the girl child), which was published in 2005. There were notable differences between the available information on the prevalence of violence in urban areas and in rural areas; such differences were also observed between the data from areas not affected by conflict and conflict-affected areas.

Second, de jure responses of the Philippines, particularly the policy and legal framework for protection, were well documented in the literature, except for the specific protection of migrants in (not from) the Philippines. This can be explained by the fact that the Philippines is primarily an out-migration country and much of the literature focused on this present-day phenomenon. None of the reports reviewed classified Philippine policies according to the objectives of prevention and response, including protection and cure.

Third, mechanisms to address the problem included inter-agency approaches in which civil society as non-state actor is involved. Results of the assessments of the responses occasionally represented divergent views due to, inter alia, the varied lenses and frameworks of analysis used.

Fourth, the progress of the Philippines in addressing the problem was discussed in various reports. However, its progress in addressing some specific types of violence and aspects of the phenomenon remained untracked. Thus, while much has been written about these issues in the Philippines, there are areas which the literature have not been able to adequately cover and for which further research is hence recommended.
B. VIOLENCE

1. Description of the Problem

a. Prevalence of Violence

i. Prevalence of Violence Against Women

In general

In its concluding comments on the combined fifth and sixth periodic reports of the Philippines, the CEDAW Committee said that it “remains concerned about the prevalence of violence against women” in the Philippines. This was in spite of the establishment of family courts all over the country which aimed to foster an active approach in protecting women and children against domestic violence and incest.35

The National Statistics Office (NSO) of the Philippines conducted a survey to capture the extent and types of violence experienced by women. In 2008, the National Demographic and Household Survey (NDHS) collected information on spousal violence and covered several forms of violence against women—physical, sexual, emotional and economic. It was the first time that a survey gathered information on violence from a nationally representative sample (13,594 women from the age of 15 to 49 throughout the Philippines were surveyed).36

Aside from NSO, several groups have performed their own analysis of the NDHS survey findings. In Violence against Women… At Home!, the National Statistical Coordination Board (NSCB) republished the results of the survey and said the fact that 20.1% of women aged 15-49 have experienced physical violence since age 15 is “alarming.”37

Violations of the Anti-Violence against Women and their Children Act of 2004 (VAWC Law) accounted for almost half (44%) of the total number of reported crimes in the Philippines from 2004 to 2010.39 Physical injury (26.3%)40 and rape (11.6%) came in second and third, respectively.41 The Philippine Commission on Women (PCW) has explained that massive information campaign on the law and its strict implementation, inter alia, are reasons for the increase in the number of reports of VAWC Law violations. They claim that it was not that the incidents themselves increased.42

NSCB compiled official statistics on violence against women (VAW) from 1998 to 2007 through reports on the number of women in especially difficult circumstances43 in the Philippines. NSCB concluded that the number has dwindled over the years, from 7,474 in 1998 to 5,359 in 2008. However, the downhill trend was by no means indicative of a decline in incidents of VAW as the analysis

<table>
<thead>
<tr>
<th>Forms of violence</th>
<th>Age group</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>15-19</td>
</tr>
<tr>
<td>Physical</td>
<td>12.1</td>
</tr>
<tr>
<td>Sexual</td>
<td>2.1</td>
</tr>
<tr>
<td>Physical and sexual</td>
<td>3.0</td>
</tr>
<tr>
<td>Physical or sexual</td>
<td>17.2</td>
</tr>
<tr>
<td>Number of women</td>
<td>1,410</td>
</tr>
</tbody>
</table>

35 Ibid.
36 National Statistics Office and ICF Macro, Philippines National Demographic and Health Survey 2008: Key Findings (Calverton, Maryland, USA: NSO and ICF Macro, 2009), xix.
was based on cases reported to or by the Department of Social Welfare and Development (DSWD). The most recent NSCB Updates on Women and Men in the Philippines, as of this writing, has incorporated the number of VAW cases reported to the Philippine National Police (PNP) and the number of cases served by the DSWD in 2010 and 2011.45

<table>
<thead>
<tr>
<th></th>
<th>2011</th>
<th>2010</th>
<th>Inc./Dec. (%)</th>
<th>2011</th>
<th>2010</th>
<th>Inc./Dec. (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>12,948</td>
<td>15,169</td>
<td>(14.6)</td>
<td>Total</td>
<td>51,117</td>
<td>9,734</td>
</tr>
<tr>
<td>Physical Injuries</td>
<td>1,588</td>
<td>2,031</td>
<td>(21.8)</td>
<td>Physically Abused/Maltreated/Battered</td>
<td>906</td>
<td>1,081</td>
</tr>
<tr>
<td>Rape</td>
<td>832</td>
<td>1,053</td>
<td>(21.0)</td>
<td>Sexually Abused</td>
<td>231</td>
<td>423</td>
</tr>
<tr>
<td>Acts of Lasciviousness</td>
<td>625</td>
<td>749</td>
<td>(16.6)</td>
<td>Involuntary Prostitution</td>
<td>253</td>
<td>102</td>
</tr>
<tr>
<td>Threats</td>
<td>213</td>
<td>375</td>
<td>(43.2)</td>
<td>Illegal Recruitment</td>
<td>239</td>
<td>140</td>
</tr>
<tr>
<td>Attempted Rape</td>
<td>201</td>
<td>272</td>
<td>(26.1)</td>
<td>In Detention</td>
<td>4</td>
<td>69</td>
</tr>
<tr>
<td>Incestuous Rape</td>
<td>23</td>
<td>19</td>
<td>21.1</td>
<td>Armed Conflict</td>
<td>9</td>
<td>37</td>
</tr>
<tr>
<td>Others</td>
<td>9,551</td>
<td>10,670</td>
<td>(10.5)</td>
<td>Others</td>
<td>4,029</td>
<td>1,435</td>
</tr>
<tr>
<td>Uncategorized</td>
<td>45,446</td>
<td>6,447</td>
<td>604.9</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Table 3: Violence against Women: Number of Cases Reported to the Philippine National Police and the Department of Social Welfare and Development

A report by Amnesty International (AI) Philippines and Women Working Together to Stop Violence Against Women (WWTSVAW) described VAW as “very pervasive” in the Philippines. The report analysed historical data on VAW. Citing the then National Commission on the Role of Filipino Women (now PCW), AI found that in 2008, the number of violence against women cases reported to the police rose by 21%. This had caused the trend to go upward after a six-year downward trend from 2001 to 2006. There were 9,132 reported cases of violence against women in 2001, the highest recorded number in recent history.

There were studies on violence against women in certain regions of the country. One of the most recent ones is Violence Against Women is Not Inevitable: A Comprehensive Study on Gender-Based Violence in CARAGA Region. De Dios, Dungo and Herrera found that trafficking and domestic violence as forms of gender-based violence were distinctly happening in all three types of communities covered under the survey. Women were aware of trafficking and domestic violence concepts. However, stories shared by willing participants were replete with “punitive and brutal acts” committed by husbands against wives and incest.

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46 Ibid.
48 Ibid.
49 Aurora de Dios, Nanette Dungo and Miraluna Herrera, Violence Against Women is Not Inevitable: A Comprehensive Study on Gender-Based Violence in CARAGA Region (Manila: Miriam College-Women and Gender Institute, 2009), 59.
Domestic and Spousal Violence, including Marital Rape

According to the NSO study, overall, three in 10 women experienced spousal violence.50 Emotional and other forms of non-personal violence were the most common types (23%) of domestic or spousal violence. Women suffered from, inter alia, insults, humiliation and threats of harm. One in seven experienced some form of physical abuse from their husbands, such as slapping and pushing, shaking or throwing something at the woman.51 It is to be noted that since 2004, wife battering cases had been treated as violations of the VAWC Law if the survivors filed a case under such law. Otherwise, such acts are still dealt with as physical injuries cases.52 Eight per cent of the ever married women reported having experienced sexual violence from their husbands.53 There are no reports specifically dealing with incidents of marital rape in the Philippines.

The CEDAW Committee noted with appreciation the Anti-Rape Law of 1997, which redefined and expanded rape as a crime against persons, and implicitly recognized marital rape. However, it expressed concern over the fact that forgiveness from the wife, as offended party, “extinguishes the criminal dimension of the action and the consequent severity of the penalty.”54 The Committee on Economic, Social and Cultural Rights (CESCR) also shared this sentiment in its more recent concluding observations.55

Violence other than in the Specific Context of Marriage or Domestic Partnership

The NSO survey revealed that one in five women has experienced physical violence since age 15.56 Pregnancy places women in a more vulnerable state as 4% of women in the Philippines experienced physical violence while pregnant.57 Force at first sexual intercourse is not commonplace, but 4% of women aged 15-49 years old reported that their first sexual intercourse was forced against their will.58 Almost one in four (24%) women aged 15-49 years old has experienced either physical or sexual violence in their life.59

Violence in Detention

In 2009, the Committee against Torture noted the enactment of relevant laws and the establishment of a total of 31 dormitories for women. However, it expressed “serious concern” at the “numerous allegations of rape, sexual abuse and torture committed against women detainees by the police, military and prison officials/personnel.” The committee also said there were still reports on women being placed together with male inmates in many provincial jails, and male corrections officers guarding female inmates.60

Violence against Indigenous Women, Women in Rural Areas, and Muslim Women

Concern has been expressed about the “precarious situation of rural and indigenous women, as well as the Muslim women” in the Autonomous Region in Muslim Mindanao (ARMM). The CEDAW Committee said that these are the women who lack access to adequate health services, education, clean water and sanitation services, and credit facilities.61 It is to be noted that five of 97 victims of extra-judicial killings

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51 Ibid.
56 National Statistics Office and ICF Macro, Philippines National Demographic and Health Survey 2008, 204.
57 Ibid., 206.
58 Ibid., 207.
59 Ibid., 210.
60 Committee against Torture, Concluding Observations of the Committee against Torture: Philippines (CAT/C/PHL/CO/2, 29 May 2009), para. 18.
among indigenous people in 2006 were women, according to the Unrepresented Nations and Peoples’ Organizations (UNPO) General Assembly. A non-governmental organization working with indigenous people has also listed extrajudicial killings, enforced disappearances, displacement and mass evacuation, vilification, and bombing of communities. The CEDAW Committee had alluded to a culture of impunity when it said that these women have limited access to justice in cases of violence, especially in conflict zones. The practice of early marriage was also cited as “persistent” among Muslim women.

Women Affected by Armed Conflict and Internal Displacement

In situations of armed conflict and militarization, the Magna Carta of Women provides that women have the right to protection and security. The law adds that they should be “protected from all forms of gender-based violence, particularly rape and other forms of sexual abuse, and all forms of violence” and that “women who are in especially difficult circumstances” include victims and survivors of sexual and physical abuse, illegal recruitment, prostitution, trafficking, armed conflict, among others.

Women have also been affected by armed conflict in the Philippines. Although only a few instances of sexual violence in the context of armed conflict have been reported, Risser noted that the absence of reports should not be taken as an indication that it was not happening.

“In socially conservative Philippines, it was felt, women would be reluctant to come forward with such information out of shame,” Risser said.

Other studies looked at the nexus between conflict, violence and displacement, and the cycle of conflict in Mindanao and protection challenges in general. These studies were however not specific to concerns about women and children.

Disaggregation of Data According to Age, Gender and Diversity, and Profiling of Survivors and Perpetrators

The NSO report has concluded that women who have more children and the poor were more vulnerable to violence. Various reports have identified vulnerable age groups and regions where violence was more rampant. For instance, the NSO reported that women living in the regions of Caraga, SOCCSKSARGEN, Central Visayas, and MIMAROPA were most likely to report spousal violence (40% or higher). Women in ARMM and CALABARZON were least likely to report violence (lower than 20%). Metro Manila had the most number of incidents of WEDC, except in 2007 when Central Luzon, Northern Mindanao, Zamboanga Peninsula, Central Visayas and Eastern Visayas (in that order) registered the most number.

In 2008, the National Capital Region posted the highest number of reports of violence against women with 1,541 cases (21% of the total reported). In 2010, a PCW

64 Ibid, 9.
65 Ibid, 10.
66 Ibid, 12.
67 Ibid.
69 Republic Act No. 9710 or the Magna Carta of Women, 2009, Section 9(b).
70 Ibid, Section 30.
71 Gary Risser, Children Caught in Conflicts: The Impact of Armed Conflict on Children in Southeast Asia (Bangkok: Asian Research Center for Migration, Institute of Asian Studies, Chulalongkorn University, 2007), 72.
75 Ibid.
77 "Breaking the Silence, Seeking Justice in Intimate Partner Violence
Comprehensiveness of Data Available and Issues of Underreporting

The documentation of all forms of violence against women has yet to be achieved in the Philippines. Incidents of violence against women are often unreported due to the sensitivity of the issues and its impact on women and their families. Reports invariably do not take into account unreported cases. The NSCB study did not cover incidents which the “culture of silence has veiled out and away from public view.” According to the NSCB, manpower and financial constraints, among other factors, could have also limited the conclusiveness of its findings and the data on regional distribution. PCW noted that their trends analysis, while providing indicative information, was inconclusive as the data merely captured what had been reported. There was also no estimate number of unreported cases.

The CEDAW Committee has recommended that the Philippines “enhance data collection on various forms of violence against women, especially domestic violence.” Research on the prevalence, causes and consequences of domestic violence was urged. While noting the various measures taken against domestic violence, and the establishment of a significant number of Women and Children’s Protection Desks (WCPD) all over the country and the Women and Children’s Protection Center (WCPC) within the Philippine National Police (PNP), the Committee against Torture was concerned about the lack of State-wide statistics on domestic violence.

Paradox and Promise in the Philippines, a joint country gender assessment, found that official statistics of VAW show a very limited number of reported cases per year compared to the size of the population. This was because of women’s poor understanding of their rights, and limited access to legal and social services.

ii. Prevalence of Violence Against Children

In general

Several studies endeavoured to capture the magnitude of the phenomenon of violence against children in the Philippines. According to the International Labour Organization (ILO), most studies that relate to violence against children were in the form of case studies and surveys. It added that statistics which are often cited—of the 31 million children in the country, 17,929 are reported to be abused; 60,000 are reported to be sexually exploited; and 4.2 million are reported to be working—have been culled from studies written from 1998 to 2002.

The term “child abuse”, as usually used in the Philippine context, encompasses all forms of physical and/or emotional maltreatment, and sexual abuse and exploitation. A report of the Government of the Philippines to the Committee on the Rights of the Child

Francis Tom F. Temprosa
(CRC) provided a summary of reported child abuse cases from 2001 to 2006. These cases were served by DSWD. Updates on Women and Men in the Philippines has included the number of child abuse cases served by the DSWD in 2010 and 2011.

Table 4: Violence against Children: Number of Child Abuse Cases Served by the Department of Social Welfare and Development

<table>
<thead>
<tr>
<th>Number of Cases Served by DSWD</th>
<th>Girls</th>
<th></th>
<th></th>
<th>Boys</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2011</td>
<td>2010</td>
<td>Inc./Dec. (%)</td>
<td>2011</td>
<td>2010</td>
<td>Inc./Dec. (%)</td>
</tr>
<tr>
<td>Total</td>
<td>3,727</td>
<td>2,742</td>
<td>35.9</td>
<td>2,105</td>
<td>1,585</td>
<td>32.8</td>
</tr>
<tr>
<td>Sexually Abused</td>
<td>1,372</td>
<td>1,216</td>
<td>12.8</td>
<td>29</td>
<td>79</td>
<td>(63.3)</td>
</tr>
<tr>
<td>Neglected</td>
<td>1,135</td>
<td>491</td>
<td>131.2</td>
<td>1,192</td>
<td>588</td>
<td>102.7</td>
</tr>
<tr>
<td>Physically Abused/Maltreated</td>
<td>271</td>
<td>200</td>
<td>35.5</td>
<td>250</td>
<td>104</td>
<td>140.4</td>
</tr>
<tr>
<td>Abandoned</td>
<td>373</td>
<td>658</td>
<td>(43.3)</td>
<td>511</td>
<td>775</td>
<td>(34.1)</td>
</tr>
<tr>
<td>Victims of Child Labour</td>
<td>61</td>
<td>55</td>
<td>10.9</td>
<td>24</td>
<td>14</td>
<td>71.4</td>
</tr>
<tr>
<td>Sexually Exploited</td>
<td>112</td>
<td>120</td>
<td>(6.7)</td>
<td>4</td>
<td>7</td>
<td>(42.9)</td>
</tr>
<tr>
<td>Others</td>
<td>403</td>
<td>2</td>
<td>20,050</td>
<td>95</td>
<td>18</td>
<td>427.8</td>
</tr>
</tbody>
</table>

In 2010, a United Nations Children’s Fund (UNICEF) study revealed that the most common form of child abuse from 2000 to 2006 was sexual abuse, which also covers rape, incest, and acts of lasciviousness. Furthermore, cases of child abuse served by DSWD had been declining during the 2003-2006 period. An NSCB report in 2008 had earlier confirmed that reports of child abuse are on a downtrend. However, it is to be noted that, according to UNICEF, incidents increased from 6,606 in 2006 to 7,182 in 2007. This was due to the significant increase in cases of most types of child abuse; particularly, neglect, child labour, illegal recruitment, child trafficking, and armed conflict.

Violence against children in the home

It is generally accepted that there is a link between spousal or domestic violence (especially against women) and violence against children. In 2006, the UNICEF estimated that some 1.8 million to 3.2 million children are exposed to domestic violence. The Philippines was included as one of the countries where such exposure to domestic violence happens. Children in the Philippines who are exposed to violence in the home are thus 15 times more likely to be physically and/or sexually assaulted than the national average.

Violence against children in schools

Plan Philippines commissioned the Philippine School of Social Work of the Philippine Women’s University to undertake a study on violence against children in public schools in areas covered by Plan programs. The study found that at least 5 out of 10 children in grades 1 to 3; 7 out of 10 in grades 4 to 6; and 6 out of 10 in high school, have experienced some kind of violence in school. Verbal abuse was the most prevalent. The school is thus one setting where violence against children occurs.
The Philippine government noted an estimate by the Child Adolescent Psychiatrists of the Philippines, Inc. of 500 to 800 child abuse cases committed by teachers annually.96

**Corporal Punishment**

The Plan Philippines study revealed that physical and verbal forms of violence were accepted by respondent children “as part of discipline” and seen as “appropriate when inflicted within certain parameters.” However, the preference of children was, of course, a more positive form of discipline such as being talked to and corrected or guided/counselled.97

In 2009, the Committee on the Rights of the Child positively noted the discussions on a bill against corporal punishment in the Congress of the Philippines. Concern was expressed at the “prevalence of corporal punishment against children in society, in particular in the home and regrets that no comprehensive study on this issue has been undertaken.” A comprehensive study on the nature and extent of corporal punishment in different settings was recommended.98

**Abuse, Neglect and Maltreatment**

The Committee on the Rights of the Child, in its concluding observations in 2009, has remarked that: “as acknowledged in the State party’s report, the Committee expresses deep concern at the increasing number of cases of domestic violence, including physical abuse, neglect and sexual abuse of children.”99 The Committee was concerned about reports of abuse in religious institutions and added that cases of domestic violence and abuse of children are “not investigated within a child-friendly procedure.”100

**Children in the Street Situation**

In its report to the Committee on the Rights of the Child in 2008, the Philippine government estimated that there were 246,000 children in the street situation (as of 2001) in major Philippine cities. Of this number, about 54% has experienced drugs and substance abuse. The report cited a 2004 study conducted for the International Labour Organization on children in the street situation and urban working children who were into substance abuse. These groups of children were among the categories of children in need of special protection who are “most vulnerable” to drugs and substance abuse.101 A 2006 study revealed that the number of children in the street situation increased to about 1.5 million. About 90% experienced abuse at home, and they faced great dangers, some of which were gender specific.102

**Children in Conflict with the Law and Children in Detention**

The United States Department of State’s Country Report on Human Rights Practices noted that some children were survivors of police abuse while in detention for committing minor crimes.103 Until the passage of the Juvenile Justice and Welfare Act of 2006, the rules and procedures applicable to children in conflict with the law, including children detained for criminal offenses, were not much different from those for adult offenders and were insensitive to the unique situation and psychosocial make up of children.104

**Violence against indigenous children, children in rural areas, and Muslim children**

The Government of the Philippines reported that indigenous children and their families have experienced various human rights violations such as land dispossession, forced displacement, destruction of houses, arbitrary detention and torture, and some instances of summary

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97 Plan Philippines, Toward a Child-Friendly Education Environment, 3.
98 Committee on the Rights of the Child, Concluding Observations of the Committee on the Rights of the Child: Philippines (CRC/C/PHL/CO/3-4, 2 October 2009), para. 42.
99 Ibid.
100 Ibid.
101 Ibid, para. 277.
executions. The UNPO General Assembly also noted that 12 indigenous minors were extra-judicially killed in 2006. The government once said, “IP [indigenous] children are often caught not only in situations of poverty, malnutrition and ill-health but also suffer from acts of abuse, exploitation, violence, and discrimination.” The CEDAW Committee requested information from the Philippine government on the de facto position of rural, indigenous and Muslim women.

**Children Affected by Armed Conflict and Internal Displacement, Including Illegal Recruitment and use of Child Soldiers**

Almost 4.5 million children have become direct and indirect victims of war in the Philippines from the 1970s to the present. Around 650,000 children had been displaced since then. DSWD was quoted to have once reported that 11,196 children annually become victims of war as a result of the “anti-insurgency campaigns the government is waging in the countryside.”

There are mechanisms that monitor the involvement of children in armed conflict in the Philippines. One example of such mechanism is the Country Task Force on Monitoring and Reporting (CTFMR) Grave Child Rights Violations. According to the 2012 *Children and armed conflict* report of the UN secretary-general:

An increase was noted in the recorded number of cases of recruitment and use of children by armed groups in 2011 (54 children) compared with 2010 (24 children). The CTFMR documented 26 incidents, involving 33 boys and 21 girls. Of that number, CTFMR verified two incidents, involving two boys and four girls aged between 14 and 17, attributed to the New People’s Army (NPA). The Moro Islamic Liberation Front (MILF) was implicated in two verified incidents, involving seven boys, who were armed and performing military functions. Although the United Nations currently has no access to the areas under control of the Bangsamoro Islamic Freedom Movement (BIFM), a breakaway faction of MILF led by commander “Kato”, the country task force received reports that the armed group had children within its ranks. Four incidents, involving six boys aged between 13 and 17 years, were attributed to the Abu Sayyaf Group (ASG). Reports indicate that ASG used children as combatants against Armed Forces of the Philippines targets, but these cases could not be verified owing to security concerns.

The Philippine report to the Committee on the Rights of the Child admitted that military operations “as part of the government’s fight against the insurgents or as part of clearing operations to give way to agro-industrial ventures or development projects” have caused some human rights violations against indigenous children who are also affected by armed conflict. Vehicular accidents and the on-going armed conflict—particularly in southern Philippines—may have also contributed to the incidence of disability among children. There is, however, no reliable data on this matter.

Risser comparatively described the situation of children affected by armed conflict in the Philippines: “The relatively low intensity of the conflicts in eastern Myanmar, Aceh, and the Philippines meant that children were rarely exposed to the ferocity of large-scale violence, battles, or complete breakdown of society typical of the situations of Rwanda, Afghanistan, Liberia, Somalia, and Iraq that have so frequently been highlighted by the

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111 United Nations Secretary-General, *Children and armed conflict: Report of the Secretary-General* (A/66/782-S/2012/261, 26 April 2012), para. 147. The report also noted a number of incidents of association of children and/or false labelling of children as combatants. During the reporting period, it added that children continued to be victims of bomb explosions, shootings, explosive remnants of war and improvised explosive device attacks; that there was significant increase in incidents affecting schools and hospitals in 2011; that the remainder of the recorded incidents of attacks on schools and hospitals were attributed to the Moro Islamic Liberation Front (6), New People’s Army (4), Abu Sayaff Group (3) and unknown perpetrators (12); and that 13 incidents of abduction of children were recorded, involving at least 12 boys and 8 girls aged between 4 and 17.
international news media.” However, there were still few reports of civilian deaths or conflict-related injuries.\(^{114}\) Deaths and injuries of combatants were more prevalent.\(^{115}\) Landmines had also caused problems for children\(^{116}\) though to a lesser extent than in other countries. Some children had also been subjected to torture.\(^{117}\) More research had been suggested on the use of children in paramilitary forces, such as in barangay (village) defence forces, some of which had allegedly enlisted children in their ranks.\(^{118}\)

In 2009, the Committee against Torture expressed “serious concern” about claims of continued abduction and military recruitment of child soldiers by non-State armed actors.\(^{119}\) Meanwhile, the Committee on the Rights of the Child has repeatedly expressed concern on the involvement of children in armed conflict, particularly the “recruitment of children as armed groups to serve as combatants, spies, guards, cooks or medics and at the lack of prosecution of perpetrators of such crimes, partly due to the ambiguity of Republic Act 7610, article 10, section 22 (b) prohibiting the recruitment of children which does not provide for punitive sanctions for the violations.”\(^{120}\)

**Disaggregation of Data According to Age, Gender and Diversity; Profiling of Survivors and Perpetrators**

**Updates on Women and Men in the Philippines** recorded the number of child abuse cases served by DSWD according to gender and categories of incidents, such as sexually abused, neglected, physically abused/maltreated, abandoned, victims of child labour and sexually exploited.\(^{121}\) The United States Department of State quoted DSWD sex-disaggregated data. According to the report, from January to June 2010, DSWD offices served 4,451 survivors of child abuse, of whom 66% were girl children. About 44% of the girl children were survivors of sexual abuse.\(^{122}\) By region, NSCB said that most child abuse cases served by DSWD in 2007 came from Zamboanga Peninsula, Central Luzon, Central Visayas, Metro Manila, and Ilocos Region. More girls were survivors of abuse than boys (two to one). Among girl children, most of them belonged to the age groups 10 to below 14 and 14 to below 18; among boy children, most were from age groups 1 to below 5 and 5 to below 10.\(^{123}\)

<table>
<thead>
<tr>
<th>Factors</th>
<th>Profile of Survivors</th>
<th>Profile of Abusers/Perpetrators</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age</td>
<td>Average age is 12, with age ranging between 7 and 16 at time of reporting</td>
<td>Majority are in their middle and late adulthood (30-59 years old)</td>
</tr>
<tr>
<td></td>
<td>Initial occurrence is between 7 and 12 years old</td>
<td>Average age is 35 years old</td>
</tr>
<tr>
<td></td>
<td>Abuse had been happening for 2 to 4 years if perpetrators are family members</td>
<td></td>
</tr>
<tr>
<td>Sex</td>
<td>Females (90%), rather than males</td>
<td>Usually males, rather than females</td>
</tr>
<tr>
<td>Educational Attainment</td>
<td>Majority reached elementary level while others stopped schooling due to poverty or when a cases is filed in court</td>
<td>More educated than their victim/s</td>
</tr>
<tr>
<td>Socioeconomic Status</td>
<td>Generally from the lower income classes (90%)</td>
<td>Usually from lower income classes</td>
</tr>
</tbody>
</table>

115 Ibid, 64.
117 Ibid, 68.
118 Ibid, 76.
The Plan study on violence in schools pointed that children’s peers (more than adults) were the primary perpetrators of such violence. Male children were more likely to experience physical violence than female children.\textsuperscript{125} Plan added that teachers of younger pupils used corporal punishment more than any other group; teachers of older pupils used scolding and grade deduction more. Younger children were more accepting of punishment than older ones. The boy child was more tolerant of punishment than the girl child.\textsuperscript{126}

A 2006 Child and Adolescent Psychiatrists of the Philippines, Inc. (CAPPI) survey revealed that 50% of the perpetrators of child abuse in schools were teachers, while a small number involved janitors, bus drivers, and other school personnel. Documentation from the Child Protection Unit of the University of the Philippines-Philippine General Hospital (UP-PGH) likewise identified teachers as perpetrators in 5% of physical abuse and 3% of sexual abuse cases it handled.\textsuperscript{127}

Profiling of children in the street situation and urban working children, who were into drug abuse, was conducted for ILO in 2004 by the Department of Sociology and Anthropology of the Ateneo de Manila University. Three urban poor communities in Metro Manila were selected for the study. The children are generally male, ages 9-15 years, out-of-school or school drop-outs, and from large and impoverished families where there is high level of violence and vice.\textsuperscript{128}

Nonetheless, the Committee against Torture has lamented “the absence of comprehensive and disaggregated data on complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment by law enforcement and military personnel, as well as on extrajudicial killings, enforced disappearances, trafficking and domestic and sexual violence.”\textsuperscript{129}

**Comprehensiveness of data available and issues of underreporting**

According to the UNICEF National Report in 2010, there should be a caveat in analysing available data as there may be cases which remained unreported, particularly in remote and far-flung areas. The actual number of child abuse cases could thus be higher.\textsuperscript{130}

On violence against children in schools, Plan Philippines also said that the extent and magnitude are largely unknown. It explained that there were many non-governmental organizations assisting children who are survivors of violence but systematic collation of data is weak.\textsuperscript{131} Moreover, the figures in the Plan Philippines study represented only reported cases and those often involved serious physical and psychological harm. More subtle forms of violence were rarely reflected.\textsuperscript{132}

Available data at the national level was usually limited only to reported cases for the legal department of the Department of Education, DSWD, Child Protection Unit of UP-PGH, and Philippine National Police.\textsuperscript{133} As mentioned, the Committee on the Rights of the Child had recommended the undertaking of a comprehensive study on corporal punishment in the Philippines.\textsuperscript{134}

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\textsuperscript{125} Plan Philippines, Toward a Child-Friendly Education Environment, 3.

\textsuperscript{126} Ibid.

\textsuperscript{127} Ibid.


\textsuperscript{129} Committee against Torture, Concluding Observations of the Committee against Torture: Philippines (CAT/C/PHL/CO/2, 29 May 2009), para. 27.


\textsuperscript{131} Plan Philippines, Toward a Child-Friendly Education Environment, 5.

\textsuperscript{132} Ibid.

\textsuperscript{133} Ibid.

\textsuperscript{134} Committee on the Rights of the Child, Concluding Observations of the Committee on the Rights of the Child: Philippines (CRC/C/PHL/CO/3-4, 2 October 2009), para. 42.
b. Root Causes of Violence and Aggravating Practices

i. Violence Against Women

*Definition of Violence Against Women*

Violence against women and their children in Philippine law is defined under the VAWC Law as: “any act or series of acts 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 whether legitimate or illegitimate, within or without the family abode, which result in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or deprivation of liberty.”

The law includes, but does not limit it, to the following: physical violence, sexual violence, psychological violence and economic abuse. It is to be stated that the law is comprehensive and the enumeration given is non-exhaustive. As a crime, the state punishes such violence when any of the nine acts mentioned in the law is committed.

*Identification of Root Causes*

The persistence of patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family and society was noted by the CEDAW Committee. According to the Committee, the stereotypes “present a significant impediment to the implementation of the Convention and are a root cause of violence against women, as well as of the disadvantaged position of women in a number of areas, including in all sectors of the labour market and in political and public life.”

*Identification of Aggravating Factors*

Certain civil society groups have in general regarded poverty, inequality, marginalization and poor governance as the main causes of conflict and violence in the Philippines. Women’s rights advocates in

In a gathering of experts from Asia and the Pacific, where a representative from the Philippines participated, violence against women was regarded not as a result of random, individual acts of misconduct, but rather as “deeply rooted in structural relationships of inequality between women and men.”

The report said that culture and religious tradition are often used to sanctify customary harmful practices that aim to perpetuate female subjugation. Violence, added the report, is rooted in patriarchy and discrimination and that media can play a proactive, investigative and supportive role in breaking the silence surrounding harmful traditional and cultural practices. The basic inequality of power relations between men and women, i.e., patriarchy, is the root cause of violence against women. Qualitative analysis supported such conclusions.

In *Vertido v. The Philippines*, wherein a violation of the CEDAW was found, the CEDAW Committee stressed that stereotyping affected a woman’s right to a fair and just trial. Accordingly:

In the particular case, the compliance of the State party’s due diligence obligation to banish gender stereotypes on the grounds of articles 2 (f) and 5 (a) needs to be assessed in the light of the level of gender sensitivity applied in the judicial handling of the author’s case… [t]he Committee finds that to expect the author to have resisted in the situation at stake reinforces in a particular manner the myth that women must physically resist the sexual assault.

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135 Republic Act No. 9262 or the Anti-Violence Against Women and Their Children Act of 2004, Section 3(a).
136 Republic Act No. 9262 or the Anti-Violence Against Women and Their Children Act of 2004, Section 3(a) (A) to (D).
137 Republic Act No. 9262 or the Anti-Violence Against Women and Their Children Act of 2004, Section 5(a) to (I).
139 Ibid., para. 18.
141 Ibid., 26.
142 Ibid., 38.
the Philippines have cited the lack of adequate laws on domestic violence, double standards of morality, and a traditional societal reluctance to discuss private family affairs as some of the factors related to domestic violence. Some said that the absence of divorce under the law and limited job opportunities together limit the ability of women to escape abusive relationships. Sometimes, unplanned pregnancy had become a risk factor and led to more aggression and abuse in the home.

ii. Violence Against Children

**Definition of Violence Against Children**

There is no stand-alone definition of violence against children in Philippine law. Instead, it was crafted in relation to violence against women (see, above definition of violence against women and their children) and to child abuse and related abuses.

To be “fully” responsive, the Government of the Philippines said it may consider establishing a standard definition as part of priority national action, saying: “a standard definition of the acts of abuses will have to be established, understood, shared, popularized and used by all individuals with stake on the issue to improve detection, reporting, documentation and immediate appropriate handling and management of cases.”

**Identification of Root Causes**

In a visiting expert’s paper published by the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI), Celia Yangco explained the causes of child abuse and maltreatment in the Philippines:

Like any other country, however, the Philippines is constantly affected by global changes and adjustments that somehow also affect its families and their children. Some of these changes, while intended to bring progress and developments, have negatively impacted on families specially children. The fast pace of living, rapid technological development, urban migration and congestion, and increased participation of women in the labour force are some developments that put stresses and pressures on the family.

The stresses and pressures on families are eventually communicated, transmitted and manifested in children, who are among the most vulnerable members of a family, because of their young age and malleability. At worst, these changes lead to maltreatment or abuse of children and, therefore, the violation of their rights.

A report attributed most instances or forms of violence against children in the Philippines to poverty, calling the increasing reported cases as social manifestations of a long history of poverty which is characterized by a “chronic or cyclical condition of deprivation of basic services.” Along with poverty, injustice, inequality, and family dysfunctions, *inter alia*, were also pointed out as root causes of the “street children” phenomenon.

**Identification of Aggravating Factors**

The presence of drug abuse, alcoholism, vice, disease, separation of parents, poverty, and other social problems exacerbate or increase incidents of child abuse in the Philippines. Notable was the consideration of poverty as both a cause and aggravating factor of violence against children.

Plan Philippines identified the following as some of the factors contributing to incidents of violence in schools: family background and personal circumstances, influence

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of peers and media, lack of awareness about children’s rights, fear, inability of authority figures to respond to cases, and lack of policies.152 Meanwhile, certain Islamic beliefs, e.g., adulthood begins at the onset of puberty, were considered by Camacho, Puzon and Ortiga as among the factors that have induced children into armed conflict. They said that children were being taught at an early age how to carry and use guns in defence of the family and community in conflict-affected areas. There were also social aspects, inter alia, prestige, protection, and other perceived benefits to being a member of an armed group (e.g., income from illegal activities, perks of being associated with powerful community personalities). Membership in an armed group could also be a move necessary for survival, especially for the poor and people with low educational attainment.153

**c. Impact of Violence**

**i. Violence Against Women**

**Physical Impact**

The National Demographic and Household Survey in 2008 asked women who have experienced spousal violence about the consequences of abuse on them. Physical injuries in the form of cuts, bruises or aches were reported by one in three women.154 Also, more than 10% suffered from eye injuries, sprains, dislocations or burns. Over one in 20 reported suffering deep wounds, broken bones, broken teeth, or other serious injuries.155

In an analysis of violence against women in the Philippines, Bernabe said, “[v]iolence may affect the reproductive health of women through the transmission of sexually transmitted diseases and HIV/AIDS.”156 Effects of violence may also be fatal as a result of severe injury, homicide or suicide.157

**Psychological and Social Impact**

The 2008 survey also reported that, because of abuse, three in five women reported experiencing psychological consequences such as depression, anxiety and anger.158 More than 10% said they attempted suicide.159 According to Bernabe, abused women were more likely to suffer from depression, anxiety, psychosomatic symptoms, eating problems, sexual dysfunction, and reproductive health complications.160

In a review of the implementation of the VAWC Law, AI came across women who have expressed fear that they were losing their sanity as an effect of violence. Some confessed having thoughts of killing abusive partners (at least two did prepare to kill their partners). Repeated abuse, said AI, made women lose their self-esteem, making it more difficult for them to end abuse.161 This can clearly create a cycle of violence in family and society.

**ii. Violence Against Children**

**Physical Impact**

As outlined in the report of the Special Representative of the Secretary-General on Children and Armed Conflict, grave child rights violations have caused the killing and maiming of children. Injuries have been inflicted on them;162 disabilities were caused as well.163

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152 Plan Philippines, Toward a Child-Friendly Education Environment, 4.

153 Agnes V. Camacho, Marco P. Puzon and Yasin Ortiga, Children and Youth in Organised Armed Violence in the Philippines: Contextualisation, Personal Histories and Policy Options (Manila: University of the Philippines, Center for Integrative and Development Studies, Psychosocial Trauma and Human Rights Program, 2005), 38.


155 Ibid., 219.


157 Ibid.


159 Ibid.


Psychological and Social Impact

Studies indicated that children who survived abuse often suffer long-term physical and psychological damage that impaired their ability to learn and socialize, and made it difficult for them to perform well in school and develop close and positive friendships. Those who grew up in a violent home were more likely to suffer abuse compared to children who had a peaceful home life. At least one study in the Philippines indicated a strong correlation between violence against women and violence against children.164

Listening to stories of children who have experienced armed conflict, Risser noted anger and hatred towards the perceived instigators of conflict or violence.165 Another effect on children was their being accustomed to life in the “war zone” and internal displacement. One girl child felt “numb” from previous displacements due to conflict.166 Fear,167 restrictions on play,168 delay in schooling169 and feelings of helplessness170 were also noted.

An official of the Armed Forces of the Philippines (AFP) agreed that violence has become “part of the children's everyday life” in Basilan. An interesting excerpt of his account on the children of Basilan states: “[t]he children of Basilan would scramble to the scene of an armed encounter, wait until it was over, and then try to outrun each other towards the fallen combatants in order to grab their firearms or pick up those that were dropped and left behind.”171

The Committee on the Rights of the Child has expressed “deep concern” over the continuing and increasing displacement of children and the consequent limited access to social and health services, education and development due to the on-going internal armed conflict.172

165 Gary Risser, Children Caught in Conflicts, 73.
166 Ibid, 74.
167 Ibid, 115.
169 Ibid, 117.
170 Ibid.
171 Gary Risser, Children Caught in Conflicts, 74.
172 Committee on the Rights of the Child, Concluding Observations of the Committee on the Rights of the Child: Philippines (CRC/C/PHL/ CO/3-4, 2 October 2009), para. 70.

2. De Jure State Responses

a. Bases of State Responsibility

i. International and Regional Treaties

Table 6. Violence against women and children: International and Regional Treaties (applicable to the Philippines)

<table>
<thead>
<tr>
<th>Instrument</th>
<th>Ratification</th>
<th>Reservations and/or Declarations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Core human rights treaties and their protocols</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Convention on the Rights of Persons with Disabilities</td>
<td>15 April 2008</td>
<td>None</td>
</tr>
<tr>
<td>International Convention on the Elimination of All Forms of Racial Discrimination</td>
<td>15 September 1967</td>
<td>None</td>
</tr>
<tr>
<td>International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families</td>
<td>5 July 1995</td>
<td>None</td>
</tr>
<tr>
<td>International Covenant on Civil and Political Rights</td>
<td></td>
<td></td>
</tr>
<tr>
<td>First Optional Protocol</td>
<td>23 October 1986</td>
<td>Article 41 (23 October 1986)</td>
</tr>
<tr>
<td>Second Optional Protocol</td>
<td>22 August 1989</td>
<td>None</td>
</tr>
<tr>
<td></td>
<td>20 November 2007</td>
<td>None</td>
</tr>
<tr>
<td>Convention on the Elimination of All Forms of Discrimination Against Women</td>
<td>5 August 1981</td>
<td>None</td>
</tr>
<tr>
<td>Convention on the Rights of the Child</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict</td>
<td>21 August 1990</td>
<td>On the recruitment to the Armed Forces of the Philippines</td>
</tr>
<tr>
<td>Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography</td>
<td>26 August 2003</td>
<td>None</td>
</tr>
<tr>
<td></td>
<td>28 May 2002</td>
<td>None</td>
</tr>
<tr>
<td>International Covenant on Economic, Social and Cultural Rights</td>
<td>7 June 1974</td>
<td>None</td>
</tr>
<tr>
<td>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</td>
<td>18 June 1986</td>
<td>None</td>
</tr>
<tr>
<td>Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</td>
<td>Concurred in by the Philippines on 6 March 2012 (Instrument of ratification is for deposit)</td>
<td>None</td>
</tr>
</tbody>
</table>

173 As used in this context, “ratification” includes ratification, accession or succession.
Violence, Exploitation, and Abuse and Discrimination in Migration Affecting Women and Children in ASEAN: A Baseline Study

International Convention for the Protection of All Persons from Enforced Disappearance

Other treaties directly or indirectly relating to violence in general

<table>
<thead>
<tr>
<th>Treaty/Convention</th>
<th>Date of ratification</th>
<th>Effective Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1951 Convention Relating to the Status of Refugees</td>
<td>22 July 1981 (A)</td>
<td>-</td>
</tr>
<tr>
<td>1967 Protocol Relating to the Status of Refugees</td>
<td>22 July 1981 (A)</td>
<td>-</td>
</tr>
<tr>
<td>1954 Convention relating to the Status of Stateless Persons</td>
<td>22 June 1955 (S)</td>
<td>22 September 2011 (R)</td>
</tr>
<tr>
<td>Rome Statute of the International Criminal Court</td>
<td>28 December 2000 (S)</td>
<td>30 August 2011 (R)</td>
</tr>
</tbody>
</table>

Other treaties relating to violence against women

<table>
<thead>
<tr>
<th>Treaty/Convention</th>
<th>Date of ratification</th>
<th>Effective Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Convention on the Political Rights of Women</td>
<td>23 September 1953 (S)</td>
<td>-</td>
</tr>
<tr>
<td>Rome Statute of the International Criminal Court</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

Other treaties relating to violence against children

<table>
<thead>
<tr>
<th>Treaty/Convention</th>
<th>Date of ratification</th>
<th>Effective Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1993 Hague Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption</td>
<td>17 July 1995 (S)</td>
<td>2 July 1996 (R)</td>
</tr>
</tbody>
</table>

Reports cited the different international obligations of the Philippines for the protection of women and children against violence. A report of AI Philippines and WWTSVAW listed the international human rights instruments which the Philippines must comply with.175

On violence against children, *Philippine Laws related to the Discipline and Punishment of Children* devoted a section on the international human rights instruments to which the Philippines is a state party.176

ii. Recommendations on the Commitments and Declarations/Reservations

*Relating to Violence Against Women*

The Philippines stands out as a leader in the region in committing to human rights instruments. It has no reservations to the CEDAW.

*Relating to Violence Against Children*

The Philippines also ratified the CRC without reservation. It made a declaration when it became a party to its Optional Protocol (Involvement of Children in Armed Conflict). Accordingly:

1. The minimum age for voluntary recruitment into the Armed Forces of the Philippines is 18 years, except for training purposes whose duration shall have the students/cadets/trainees attain the majority age at the completion date; 2. There is no compulsory, forced or coerced recruitment into the Armed Forces of the Philippines; and 3. Recruitment is exclusively on a voluntary basis.177


b. National Policies on Violence

i. Violence Against Women

Table 7: Violence against women: National Policies

<table>
<thead>
<tr>
<th>Policy</th>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Policies related to prevention</td>
<td></td>
</tr>
<tr>
<td>The State recognizes the role of women in nation-building and should ensure the fundamental equality before the law of women and men. 178</td>
<td>The Constitution of the Republic of the Philippines</td>
</tr>
<tr>
<td>The State values the dignity of women and children and guarantees full respect for human rights. 179</td>
<td>VAWC Law</td>
</tr>
<tr>
<td>Towards this end [policy in the VAWC Law above], the State shall exert efforts to address violence committed against women and children in keeping with the fundamental freedoms guaranteed under the Constitution and the Provisions of the Universal Declaration of Human Rights, the convention on the Elimination of all forms of discrimination Against Women, Convention on the Rights of the Child and other international human rights instruments of which the Philippines is a party. 180 Note that all forms of abuses included economic abuse and penalized men found to have committed acts of violence to their wives, partners and girlfriends, and/or their children and children under their care. The definition of forms of sexual violence included prostitution of the woman or her child. 181</td>
<td>VAWC Law</td>
</tr>
<tr>
<td>Penalties of crimes relating to violence against women, including crimes against chastity such as seduction, abduction and acts of lasciviousness.</td>
<td>Revised Penal Code of the Philippines (Act No. 3815)</td>
</tr>
<tr>
<td>Expansion of the definition of the crime of rape, reclassification of the same as a crime against persons, inclusion of sexual assault, and increasing the penalty for rape.</td>
<td>Anti-Rape Law of 1997 (Republic Act No. 8353)</td>
</tr>
<tr>
<td>Policies related to response, including protection and cure</td>
<td></td>
</tr>
<tr>
<td>The State should protect working women by providing safe and healthful working conditions, among others. 182</td>
<td>The Constitution of the Republic of the Philippines</td>
</tr>
<tr>
<td>The State recognizes the need to protect the family and its members particularly women and children, from violence and threats to their personal safety and security. 183</td>
<td>VAWC Law</td>
</tr>
<tr>
<td>Towards this end [policy in the VAWC Law above], the State shall exert efforts to address violence committed against women and children in keeping with the fundamental freedoms guaranteed under the Constitution and the Provisions of the Universal Declaration of Human Rights, the convention on the Elimination of all forms of discrimination Against Women, Convention on the Rights of the Child and other international human rights instruments of which the Philippines is a party. 184</td>
<td>VAWC Law</td>
</tr>
<tr>
<td>Establishment of a Family Court in every province and city in the country and a system of adjudication of cases where children may be the survivor or offender, or women may be the survivor. The courts take into account their peculiar circumstances and have exclusive jurisdiction to hear and decide almost all cases involving violence against women and children. 185</td>
<td>Family Courts Act of 1997 (Republic Act No. 8369)</td>
</tr>
</tbody>
</table>

179 Republic Act No. 9262 or the Anti-Violence Against Women and Their Children Act (Anti-VAWC Law), 2004, Section 2.
180 Ibid.
181 Ibid, Section 3.
183 Republic Act No. 9262 or the Anti-Violence Against Women and Their Children Act (Anti-VAWC Law), 2004, Section 2.
184 Ibid.
185 Republic Act No. 8369 or the Family Courts Act, 1997, Sections 2, 3 and 5.
<table>
<thead>
<tr>
<th>Policy</th>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Women have the right to protection and security in times of disasters, calamities, and other crisis situations especially in all phases of relief, recovery, rehabilitation, and construction efforts. The State shall provide for immediate humanitarian assistance, allocation of resources, and early resettlement, if necessary. It shall also address the particular needs of women from a gender perspective to ensure their full protection from sexual exploitation and other sexual and gender-based violence committed against them. Responses to disaster situations shall include the provision of services, such as psychosocial support, livelihood support, education, psychological health, and comprehensive health services, including protection during pregnancy.186</td>
<td></td>
</tr>
<tr>
<td>Magna Carta of Women</td>
<td></td>
</tr>
<tr>
<td>The State shall protect women senior citizens from neglect, abandonment, domestic violence, abuse, exploitation, and discrimination. Towards this end, the State shall ensure special protective mechanisms and support services against violence, sexual abuse, exploitation, and discrimination of older women.187</td>
<td></td>
</tr>
<tr>
<td>Magna Carta of Women</td>
<td></td>
</tr>
<tr>
<td>It is hereby declared the policy of the State to provide necessary assistance and protection for rape victims. Towards this end, the government shall coordinate its various agencies and non-government organizations to work hand in hand for the establishment and operation of a rape crisis centre in every province and city that shall assist and protect rape victims in the litigation of their cases and their recovery.188</td>
<td></td>
</tr>
<tr>
<td>Rape Victim Assistance and Protection Act</td>
<td></td>
</tr>
<tr>
<td>At any stage of the investigation, prosecution and trial of a complaint for rape, the police officer, the prosecutor, the court and its officers, as well as the parties to the complaint shall recognize the right to privacy of the offended party and the accused. Towards this end, the police officer, prosecutor, or the court to whom the complaint has been referred may, whenever necessary to ensure fair and impartial proceedings, and after considering all circumstances for the best interest of the parties, order a closed-door investigation, prosecution or trial and that the name and personal circumstances of the offended party and/or the accused, or any other information tending to establish their identities, and such circumstances or information on the complaint shall not be disclosed to the public. The investigating officer or prosecutor shall inform the parties that the proceedings can be conducted in a language or dialect known or familiar to them.189</td>
<td></td>
</tr>
<tr>
<td>Rape Victim Assistance and Protection Act</td>
<td></td>
</tr>
<tr>
<td>In prosecutions for rape, evidence of complainant’s past sexual conduct, opinion thereof or of his/her reputation shall not be admitted unless, and only to the extent that the court finds, that such evidence is material and relevant to the case.190 (Rape Shield)</td>
<td></td>
</tr>
<tr>
<td>Rape Victim Assistance and Protection Act</td>
<td></td>
</tr>
</tbody>
</table>

186 Republic Act No. 9710 or the Magna Carta of Women, 2009, Section 10.
187 Ibid, Section 33.
188 Republic Act No. 8505 or the Rape Victim Assistance and Protection Act, 1998, Section 2.
189 Ibid, Section 5.
190 Ibid, Section 6.
ii. Violence Against Children

Table 8: Violence against children: National Policies

<table>
<thead>
<tr>
<th>Policies related to prevention</th>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>The State values the dignity of women and children and guarantees full respect for human rights. 191</td>
<td>VAWC Law</td>
</tr>
<tr>
<td>Towards this end [policy in the VAWC Law above], the State shall exert efforts to address violence committed against women and children in keeping with the fundamental freedoms guaranteed under the Constitution and the Provisions of the Universal Declaration of Human Rights, the convention on the Elimination of all forms of discrimination Against Women, Convention on the Rights of the Child and other international human rights instruments of which the Philippines is a party. 192 Note that all forms of abuses included economic abuse and penalized men found to have committed acts of violence to their wives, partners and girlfriends, and/or their children and children under their care. The definition of forms of sexual violence included prostitution of the woman or her child. 193</td>
<td>VAWC Law</td>
</tr>
<tr>
<td>The State should exert all efforts necessary to promote and enhance the welfare of children in the Philippines. 194</td>
<td>Child and Youth Welfare Code (Presidential Decree 603 of 1977, as amended)</td>
</tr>
<tr>
<td>It is hereby declared to be the policy of the State to provide special protection to children from all forms of abuse, neglect, cruelty, exploitation and discrimination, and other conditions prejudicial to their development including child labour and its worst forms; provide sanctions for their commission and carry out a program for prevention and deterrence of and crisis intervention in situations of child abuse, exploitation and discrimination. The State shall intervene on behalf of the child when the parent, guardian, teacher or person having care or custody of the child fails or is unable to protect the child against abuse, exploitation and discrimination or when such acts against the child are committed by the said parent, guardian, teacher or person having care and custody of the same. It shall be the policy of the State to protect and rehabilitate children gravely threatened or endangered by circumstances which affect or will affect their survival and normal development and over which they have no control. 195</td>
<td>Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination (Republic Act No. 7610)</td>
</tr>
<tr>
<td>The best interests of children shall be the paramount consideration in all actions concerning them, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities, and legislative bodies, consistent with the principle of First Call for Children as enunciated in the United Nations Convention on the Rights of the Child. Every effort shall be exerted to promote the welfare of children and enhance their opportunities for a useful and happy life. 196</td>
<td>Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination (Republic Act No. 7610)</td>
</tr>
<tr>
<td>Penalization of further child abuse and specific acts such as child prostitution, child trafficking, child pornography, and other acts of abuses. 197</td>
<td>Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination (Republic Act No. 7610)</td>
</tr>
<tr>
<td>The State should carry out a comprehensive program for prevention and deterrence of child prostitution and other sexual abuses; child trafficking, obscene publications and indecent shows, other acts of abuse and circumstances which endanger survival and normal development. 198</td>
<td>Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination (Republic Act No. 7610)</td>
</tr>
</tbody>
</table>

191 Republic Act No. 9262 or the Anti-Violence Against Women and Their Children Act (Anti-VAWC Law), 2004, Section 2.
192 Ibid.
193 Ibid, Section 3.
194 Presidential Decree No. 603 or the Child and Youth Welfare Code, 1974.
195 Republic Act No. 7610 or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act (Anti-Child Abuse Law), 1992, Section 2.
196 Ibid.
197 Ibid, Sections 2 and 4.
198 Ibid.

Francis Tom F. Temprosa
Penalization of abduction, illegal or forcible detention, inducing a minor to abandon her/his home and/or kidnapping of minors for purposes of trade in human beings regardless of their age and sex, slavery, payment of ascendant's debts, and for labour or services. Included are specific provisions against abduction of girls below 18 years of age for the purpose of indecent acts.\(^{199}\)

Expansion of the definition of the crime of rape, reclassification of the same as a crime against persons, inclusion of sexual assault, and increasing the penalty for rape.

The State shall institutionalize a National System for early childhood care and development that is comprehensive, integrative and sustainable. The State also mandated the engagement of various sectors and inter-agency collaboration at all levels.

“The following and any other similar acts shall be considered prejudicial and detrimental to the psychological, emotional, social, spiritual, moral and physical health and well-being of the child in conflict with the law and therefore, prohibited: (a) Employment of threats of whatever kind and nature; (b) Employment of abusive, coercive and punitive measures such as cursing, beating, stripping, and solitary confinement; (c) Employment of degrading, inhuman and cruel forms of punishment such as shaving the heads, pouring irritating, corrosive or harmful substances over the body of the child in conflict with the law, or forcing him/her to walk around the community wearing signs which embarrass, humiliate, and degrade his/her personality and dignity.”\(^{200}\)

Raising the minimum age of criminal responsibility from 9 to 15 years of age, provision of measures to appropriately handle and manage cases of children in conflict with the law (including diversion), and adoption of restorative justice that also prohibits inhumane or degrading treatment or punishment and detention of children below 15 in jails.

State policy on girl-children:

“(a) The State shall pursue measures to eliminate all forms of discrimination against girl-children in education, health and nutrition, and skills development…

(c) Equal access of Moro and indigenous girl-children in the Madaris, schools of living culture and traditions, and the regular schools shall be ensured.

(d) Gender-sensitive curriculum, including legal literacy, books, and curriculum in the Madaris and schools of living culture and traditions shall be developed.

(e) Sensitivity of regular schools to particular Moro and indigenous practices, such as fasting in the month of Ramadan, choice of clothing (including the wearing of hijab), and availability of halal food shall be ensured.”\(^{201}\)

Policies related to response, including protection and cure

The State should defend the right of 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.\(^{202}\)

The State recognizes the vital role of the Youth in nation-building and shall promote and protect their physical, moral, spiritual, intellectual and social well-being.\(^{203}\)

The State recognizes the need to protect the family and its members particularly women and children, from violence and threats to their personal safety and security.\(^{204}\)

\(^{199}\) Act No. 3815 or Revised Penal Code of the Philippines, 1930, Articles 267 to 274 (Chapter 1 and Section 2 entitled “Crimes against Liberty and Kidnapping of Minors”).

\(^{200}\) Republic Act No. 9344 or the Juvenile Justice and Welfare Act, 2006, Section 61.

\(^{201}\) Republic Act No. 9710 or the Magna Carta of Women, 2009, Section 32.

\(^{202}\) The 1987 Constitution of the Republic of the Philippines, Article XV, Section 3(2).

\(^{203}\) Ibid, Art. XV, Sec. 13.

\(^{204}\) Republic Act No. 9262 or the Anti-Violence Against Women and Their Children Act (Anti-VAWC Law), 2004, Section 2.
Towards this end [policy in the VAWC Law above], the State shall exert efforts to address violence committed against women and children in keeping with the fundamental freedoms guaranteed under the Constitution and the Provisions of the Universal Declaration of Human Rights, the convention on the Elimination of all forms of discrimination Against Women, Convention on the Rights of the Child and other international human rights instruments of which the Philippines is a party.205

| **Community-based implementation of the State's policy to protect children [see constitutional policy above].206** Through the implementation and establishment of day-care programs and centres in the Barangay (smallest unit of governance in the country), early and immediate interventions can be provided to the children.207 | **VAWC Law**

| **The State should carry out a comprehensive program for crisis intervention to protect children against child prostitution and other sexual abuses; child trafficking, obscene publications and indecent shows, other acts of abuse and circumstances which endanger survival and normal development.208** | **Barangay Level Total Development and Protection of Children Act (Republic Act No. 6972)**

| **The State shall ensure the protection and promotion of the rights of every neglected and abandoned child with opportunities for growth and development. The State shall take measures to make sure that domestic and inter-country adoptions are allowed when the same shall prove beneficial to the child's best interest, and shall serve and protect his/her fundamental rights.209** | **Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination (Republic Act No. 7610)**

| **Establishment of a Family Court in every province and city in the country and a system of adjudication of cases where children may be the survivor or offender, or women may be the survivor. The courts take into account their peculiar circumstances and have exclusive jurisdiction to hear and decide almost all cases involving violence against women and children.210** | **Act Establishing the Rules to Govern Intercountry Adoption of Filipino Children, and other Purposes (Republic Act 8043) and Domestic Adoption Law of 1998 (Republic Act No. 8552)**

| **State policy on girl-children: 
"(b) Girl-children shall be protected from all forms of abuse and exploitation."211** | **Magna Carta of Women**

Aside from the laws cited above, there are others that cut across both the rights of women and children to be protected against violence, such as the domestic law against torture and the one concerning international humanitarian law.212

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205 Ibid.

206 Republic Act No. 6972 or the Barangay Level Total Development and Protection of Children Act, 1990, Section 2. According to Sec. 3 (e), these day-care programs and centres shall also serve as “sanctuary for abused, neglected or exploited children either in one child institution in the Barangay and or network of sanctuary homes which will take in children in urgent need of protection due to a situation which endangers the child or which exposed the child to cruelty and abuse.”

207 Ibid.

208 Republic Act No. 7610 or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act (Anti-Child Abuse Law), 1992, Sections 2 and 4.

209 Republic Act No. 8043 or the Domestic Adoption Act, 1998, Section 2.

210 Republic Act No. 8369 or the Family Courts Act, 1997, Sections 2, 3 and 5.

211 Republic Act No. 9710 or the Magna Carta of Women, 2009, Section 32.

212 Republic Act No. 9745 or the Anti-Torture Law, 2009; Republic Act No. 9851 or the Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity, 2009.
c. Assessment of State Policies

i. On violence Against Women

The CEDAW Committee, in a concluding comment, has recommended that the Philippines undertake a systematic review of all legislation and initiate all necessary revisions so as to achieve full compliance with the provisions of the CEDAW.\(^{213}\)

The CEDAW Interactive Benchbook of the Ateneo Human Rights Center (AHRC) described Philippine policies on violence against women and children and provided recommendations. According to AHRC, the guarantees needed to be reflected in the laws and jurisprudence in order to be realized and fully implemented. A review of jurisprudence showed that it is vital for members of the bench to be cognizant of the mandate to protect, promote and fulfill the enjoyment of equal rights between women and men.\(^{214}\) Several other reports, such as the CEDAW Report Brief, outlined different laws that implement state policies on violence against women and children.\(^{215}\)

In the article Case Study: Laws on Violence against Women in the Philippines, several problems in the laws on violence against women and their implementation were pointed out. According to Guanzon, the VAWC Law lacked the corresponding specific budget appropriation for effective implementation. Litigation could also be costly and lengthy, and there was corruption in the judiciary and prosecution service.\(^{216}\) A national free legal aid program for poor women did not exist, there were conflicts in the use of other laws and rules, and women faced the possibility of retaliation suits. When Guanzon presented her study, there was a constitutional challenge to the VAWC Law.\(^{217}\)


216 Inter-Parliamentary Union and A Parliamentary Response to Violence against Women, Conference of Chairpersons and Members of Parliamentary Bodies Dealing with Gender Equality (2-4 December 2008) (Geneva: Inter-Parliamentary Union, 2009), 68.

217 Ibid, 69.

A UN Women ASEAN-wide study remarked that Philippine laws are unique in the region as they do not require specific incorporation of obligations under international conventions into domestic law.\(^{218}\) Philippine laws are not gender-neutral,\(^{219}\) and access to support services is a right.\(^{220}\) Recognizing access to support services as a right is a strategy in law shared by the Philippines with Laos and Vietnam.\(^{221}\)

Discrimination and gender-based violence

Domestic laws of the Philippines penalize discrimination against women. Violence against women is not incorporated as an element or act constitutive of discrimination. However, an act may be considered as discrimination and/or violence against women when the elements of their respective definitions are met.


219 Ibid, 15.

220 Ibid, 28.

221 Ibid, xi (para. 20).
Table 9: Definitions of Violence and Discrimination against Women

<table>
<thead>
<tr>
<th>Discrimination</th>
</tr>
</thead>
<tbody>
<tr>
<td>(b) “Discrimination Against Women” refers to any gender-based distinction, exclusion, or restriction which has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field. It includes any act or omission, including by law; policy, administrative measure, or practice, that directly or indirectly excludes or restricts women in the recognition and promotion of their rights and their access to and enjoyment of opportunities, benefits, or privileges. A measure or practice of general application is discrimination against women if it fails to provide for mechanisms to offset or address sex or gender-based disadvantages or limitations of women, as a result of which women are denied or restricted in the recognition and protection of their rights and in their access to and enjoyment of opportunities, benefits, or privileges; or women, more than men, are shown to have suffered the greater adverse effects of those measures or practices. Provided, finally, That discrimination compounded by or intersecting with other grounds, status, or condition, such as ethnicity, age, poverty, or religion shall be considered discrimination against women under this Act.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Violence against Women</th>
</tr>
</thead>
<tbody>
<tr>
<td>“Violence Against Women” refers to any act of gender-based violence that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or in private life. “Violence against women and their children” refers to any act or a series of acts 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 whether legitimate or illegitimate, within or without the family abode, which result in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty.</td>
</tr>
</tbody>
</table>

The definition of “discrimination against women” is found in the Magna Carta of Women, dubbed as the “bill of rights for Filipino women”. The law seeks to eliminate discrimination against women by recognizing, protecting, fulfilling and promoting the rights of Filipino women. The law does not distinguish between state and non-state actors.

222 Republic Act No. 9710 or the Magna Carta of Women, 2009, Section 4(b).
223 Ibid, Section 4(k).
224 Republic Act No. 9262 or the Anti-Violence Against Women and Their Children Act (Anti-VAWC Law), 2004, Section 3(a).
Comprehensiveness of Acts Punished, including Harmful Traditional Practices Affecting Women

Table 10: Some of the Different Acts considered as Violence against Women

<table>
<thead>
<tr>
<th>Act</th>
<th>Definition under Philippine law</th>
<th>Aggravating circumstances</th>
</tr>
</thead>
<tbody>
<tr>
<td>Domestic violence</td>
<td>None. Note however that the definition of “violence against women” and “violence against women and their children” are comprehensive enough to cover domestic violence. This can also include past and present physical, sexual, psychological or economic violence between former or current intimate partners, adult household members, parent or children. (See above) Note also that “battery” has been defined as an act of inflicting physical harm upon the woman or her child resulting to the physical and psychological or emotional distress.</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>There are circumstances which may warrant a higher penalty such as if the acts are committed while the woman or child is pregnant or committed in the presence of her child, the penalty to be applied shall be the maximum period of the penalty ordinarily prescribed.227</td>
</tr>
<tr>
<td>Sexual violations</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Acts of lasciviousness</td>
<td>None. However, its essential elements had been defined under jurisprudence. They are: (1) that the offender commits any act of lasciviousness or lewdness; and (2) that it is done under any of the following circumstances: (a) by using force or intimidation; (b) when the offended woman is deprived of reason or otherwise unconscious; or (c) when the offended party is under twelve (12) years of age.</td>
<td>(2) Aggravating circumstances under the Revised Penal Code, which is the general penal law, applies.</td>
</tr>
<tr>
<td>Rape</td>
<td>Rape is committed:</td>
<td></td>
</tr>
<tr>
<td>Marital rape</td>
<td>1) By a man who shall have carnal knowledge of a woman under any of the following circumstances: a) Through force, threat, or intimidation; b) When the offended party is deprived of reason or otherwise unconscious; c) By means of fraudulent machination or grave abuse of authority; and d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.</td>
<td></td>
</tr>
<tr>
<td>Statutory rape</td>
<td>2) By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person’s mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.</td>
<td></td>
</tr>
<tr>
<td>Penetration of orifice by an object</td>
<td>None. Authorities are of the opinion that this is impliedly recognized in the law on rape since it provides that subsequent forgiveness by the wife as offended party, in case the husband is the offender, extinguishes the crime or penalty.</td>
<td>There are circumstances in the law on rape which warrant the imposition of a higher penalty, such as: 1) When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim; 2) When the victim is under the custody of the police or military authorities or any law enforcement or penal institution; 3) When the rape is committed in full view of the spouse, parent, any of the children or relatives within the third civil degree of consanguinity; 4) When the victim is a religious engaged in legitimate religious vocation or calling and is personally known to be such by the offender before or at the time of the commission of the crime; 5) When the victim is a child below seven (7) years old; 6) When the offender knows that he is afflicted with Human Immuno-Deficiency Virus (HIV) Acquired Immune Deficiency Syndrome (AIDS) or any other sexually transmissible disease and the virus or disease is transmitted to the victim; 7) When committed by any member of the Armed Forces of the Philippines para-military units thereof or the Philippine National Police or any law enforcement agency or penal institution, when the offender took advantage of his position to facilitate the commission of the crime; 8) When the offender knew of the pregnancy of the offended party at the time of the commission of the crime; and 9) When the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of crime. [230]</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

226 Republic Act No. 9262 or the Anti-Violence Against Women and Their Children Act (Anti-VAWC Law), 2004, Section 3(b).
227 Ibid, Section 6.
229 Republic Act No. 8353 or the Anti-Rape Law, 1997, Section 2.
230 Ibid.
231 Ibid.
232 Ibid.
233 Ibid.
<table>
<thead>
<tr>
<th>Act</th>
<th>Definition under Philippine law</th>
<th>Aggravating circumstances</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sexual harassment</td>
<td>Work, education or training-related sexual harassment is committed by an employer, employee, manager, supervisor, agent of the employer, teacher, instructor, professor, coach, trainor, or any other person who, having authority, influence or moral ascendancy over another in a work or training or education environment, demands, requests or otherwise requires any sexual favour from the other, regardless of whether the demand, request or requirement for submission is accepted by the object of said Act. It is clear from the definition that sexual harassment is confined to environments related to work, education or training.</td>
<td>None.</td>
</tr>
<tr>
<td>Photo or video voyeurism</td>
<td>Act of taking photo or video coverage of a person or group of persons performing sexual act or any similar activity or of capturing an image of the private area of a person or persons without the latter's consent, under circumstances in which such person/s has/have a reasonable expectation of privacy, or the act of selling, copying, reproducing, broadcasting, sharing, showing or exhibiting the photo or video coverage or recordings of such sexual act or similar activity through VCD/DVD, internet, cellular phones and similar means or device without the written consent of the person/s involved, notwithstanding that consent to record or take photo or video coverage of same was given by such person.</td>
<td>None.</td>
</tr>
<tr>
<td>Practices harmful to the health of women</td>
<td>None. Note however that these practices had been listed as acts of violence against women. According to the Magna Carta of women, violence against women shall be understood to encompass, but not limited to, the following: (1) Physical, sexual, psychological, and economic violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, and other traditional practices harmful to women, non-spousal violence, and violence related to exploitation; (2) Physical, sexual, and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment, and intimidation at work, in educational institutions and elsewhere, trafficking in women, and prostitution; and (3) Physical, sexual, and psychological violence perpetrated or condoned by the State, wherever it occurs. It also includes acts of violence against women as defused in Republic Acts No. 9208 (law against trafficking in persons) and 9262 (VAWC Law).</td>
<td>None.</td>
</tr>
</tbody>
</table>

234 Republic Act No. 7877 or the Anti-Sexual Harassment Act, 1995, Section 3.

235 Republic Act No. 9995 or the Anti-Photo and Video Voyeurism Act, 2009, Sec. 3(d).

236 Republic Act No. 9710 or the Magna Carta of Women, 2009, Section 4(k).
The passage of the VAWC Law, according to Guanzon, marked the compliance of the Philippines with its obligations under CEDAW. The broad definition of violence against women in the law was patterned after the Declaration on the Elimination of Violence Against Women of the United Nations. As worded, it is gender-specific and protects women and their children, although offenders may either be men or women. The law also followed the framework for model legislation on domestic violence drawn up by the United Nations Special Rapporteur on violence against women.

Several reports, such as the CEDAW Report Brief, outlined different laws that implement state policies on violence against women, such as the laws against sexual harassment (in the workplace, educational and training environments) and rape (redefining rape from being a crime against chastity to a crime against persons and penalizing marital rape). The recent laws amended the Revised Penal Code of the Philippines, which defines and penalizes statutory rape. A PCW report added that the VAWC Law protects women in marital, dating or common-law relationships and their children from physical, psychological and economic abuse. The laws were enacted or amended to expand worker’s benefits and protection and correct gender-based discrimination in the workplace.

The new law on rape also punishes sexual violations such as “sexual assault” or the penetration of an orifice by any object. Steeper penalties are meted out to perpetrators who occupy positions of trust in all laws against violence on women and children.

Female genital mutilation, forced marriage, acid attacks, forced sterilization, and other traditional harmful practices to the health of women—as discussed under CEDAW General Recommendation Nos. 14 and 19—are punishable acts under either the VAWC Law or the Magna Carta of Women. Dowry-related violence is covered under the definition of violence against women in the VAWC Law.

**Female Genital Mutilation**

In a master's research paper presented to the Ateneo de Zamboanga University, Calsalin described a “view of the female circumcision beliefs and practices in the Philippines.” One such group which practices female genital mutilation is the Yakan in Basilan, Mindanao. According to Calsalin, the Yakan group's circumcision procedure is composed of two parts: pagpandih tawal (bathing process) designed to utter tawal (whispered prayer) to the child’s ear to prepare the child for the upcoming ceremony, and pag-Islam (scraping process) which embraces scraping of the labia majora. After the pag-Islam, another prayer is whispered to mark the end of the ceremony.

Calsalin’s study found that the group continues practicing female genital mutilation because of religion. Respondents who were interviewed said that, “This practice should also be done because it is the way the prophet lived it, and most especially, it is written in the Holy Qur-an.” There was no established mental health implication concerning the practice. However, there were physical consequences, inter alia, pain in the vulva due to the scraping process and possible infections due to unsanitary tools used in the procedure. Another study is that by Arquisal which dealt with the practice of turi among selected Maranao women who resided in Iligan City.

In an interview, Obaid of the United Nations Population Fund (UNFPA) confirmed the continued practice of female genital mutilation in the Philippines.


239 Inter-Parliamentary Union and A Parliamentary Response to Violence against Women, *Conference of Chairpersons and Members of Parliamentary Bodies Dealing with Gender Equality*, 66.


244 Amabelle B. Arquisal, “‘Turi’ among selected Maranao women residing in Iligan City” (Master’s thesis, Mindanao State University - Iligan Institute of Technology (MSU-IIT), 2007).


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described it as a common practice among Muslim groups in the country.246

Forced Marriage (including child marriage)

The law protects people from forced marriage. Under the Family Code of the Philippines, “no marriage shall be valid, unless these essential requisites are present: (1) legal capacity of the contracting parties who must be a male and a female; and (2) consent freely given in the presence of the solemnizing officer.”247 The absence of any of these requisites makes the marriage void ab initio.248 A marriage contracted by any party below 18 years of age even with the consent of his or her parents or guardians is void from the beginning.249

In addition, the Code declares that a marriage may be annulled for some causes existing at the time of the marriage, including when “consent of either party was obtained by fraud, unless such party afterwards, with full knowledge of the facts constituting fraud, freely cohabited with the other as husband and wife” and “consent of either party was obtained by force, intimidation or undue influence, unless the same having disappeared or ceases, such party thereafter feely cohabited with the other as husband and wife.”250 UN Women has called the practice of banning international marriage brokerage by the Philippines as a “promising practice.”251

Despite this, an intervention by Wahab of Nisa Uli Haqq Bansa Moro (Women for Justice in the Bangsa Moro) noted that Presidential Decree No. 1083 or The Code of Muslim Personal Laws in the Philippines: (1) sets different minimum ages for marriage for males and females (15 years of age for males and age of puberty for females); (2) allows the marriage of girls below 15 years; and (3) allows the betrothal of girls below 12 years of age although voidable under certain circumstances.252 A research study conducted by her organization in 2009 confirmed that early and forced marriages were indeed “prevalent among Muslim girls who are 9-17 years old.” More than half of those between 15 to 17 years old who were surveyed reported socio-economic conditions remained poor after marriage because they had lost opportunities for education and work.253 Women surveyed bore an average of 3.5 children, and 3 in 4 women experienced miscarriages and other reproductive health-related illnesses.254

A survey was conducted in ARMM involving a total of 593 respondents from five provinces. Authors of the research paper produced, Determinants and Impacts of Early Marriage on More Women, said there was however no accurate data of how many Muslim girls in the region marry before the age of 18.255 In Jolo, Sulu, arranged marriages are said to be “still popular” among Muslims; A Muslim man may be able to choose his bride if he and his family can raise bride-wealth.256 A study described the marriage practices in Jolo. According to the report, the Tausug (ethno-linguistic group dominant in Jolo) has three distinct transactions leading to a legally binding marriage: arranged marriage by negotiation (panggasawa), marriage by abduction (pagsaggau), and elopement (pagdakup).257 More data is needed to gauge current prevalence of these practices.

A profiling of general surveys on the sexual life of younger Filipinos revealed that, in a few cases, youth in smaller

247 Executive Order No. 209 or the Family Code of the Philippines, 1987, Article 2.
248 Ibid, Art. 4.
249 Ibid, Art. 35(1).
250 Ibid, Art. 45(3)-45(4).
253 Ibid.
254 Ibid.
communities who impregnate their girlfriends may be forced by parents to marry them or make amicable financial agreements.258 Another report said that arranged marriages still happened among families with Chinese descent, and the most common reason was to merge the wealth of two families involved.259

**Dowry Death**

There is a dearth of literature on dowry deaths in the Philippines. It is to be noted, however, that this act can be covered either under the VAWC Law or the Magna Carta of Women as a punishable offense.

**Acid Attack**

According to Arevalo-Zenarosa, there were reported incidences of acid attacks in many countries. Quoting a dissertation, *Feminist Negotiations: Contesting Narratives of the Campaign Against Acid Violence in Bangladesh*, she said that the Philippines was not included in the list of countries with many incidences of acid throwing.260

**Forced Sterilization**

In a conference of the Catholic Physicians’ Guild of the Philippines, Human Life International Executive Director Acosta remarked that forced sterilization was still occurring among indigenous groups particularly in Mindanao “for many years already.”261

**Definition of Consent vis-à-vis Sexual Intercourse**

The law does not provide for a comprehensive definition of consent, detailing circumstances where consent cannot be presumed in cases of sexual intercourse. The Supreme Court has, however, provided light on what consent constitutes. An examination of the different jurisprudence on consent vis-à-vis rape would be worthwhile to consider as a possible new area of research. There are also no specific academic studies on the prohibition of bail for sexual assault suspects and the protective measures to rape or sexual assault survivors.

Clearly, according to the Court, being sweethearts does not provide consent to a sexual act.262 In cases where the woman was sleeping or under the influence of alcohol and other mind-altering substances, the Court has come out with some controversial decisions either ruling out or finding rape. In one case, it ruled that an allegation of rape could be made with much facility. However, it may remain hard to prove.263 In another, it ruled that moral and physical dominion may be sufficient without use of actual force as an offended party may be sleeping during the commission of rape.264

**Protective Measures for Survivors of Gender-based Violence**

When the act of gender-based violence entails a penalty of death or *reclusion perpetua* or life imprisonment, the Rules of Court provides that the person charged of the crime shall not be admitted to bail when evidence of guilt is strong.265 Additionally, the VAWC Law contains provisions for the issuance of protection orders for women and children survivors: *barangay* (village or smallest unit of governance), temporary and permanent protection orders. A violation of the orders is punishable by imprisonment and/or fine, without prejudice to other civil or criminal actions that may be filed against the offender.266

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262 People v. Magbanua, 553 SCRA 698, 704 (G.R. No. 176265), 30 April 2008.


264 People v. Galvez, G.R. No. 181827, 2 February 2011.

265 Rules of Court of the Philippines, as amended, Rule 114, Section 7.

266 Republic Act No. 9262 or the Anti-Violence Against Women and Their Children Act (Anti-VAWC Law), 2004, Section 8. See also, Republic Act No. 9262 Implementing Rules and Regulations, Sections 9-23 and Rule IV on Protection Orders.
Aside from this, the battered-woman syndrome has been recognized as a defence. The Supreme Court held that a battered woman, as strictly defined in jurisprudence, may be exculpated from liability for killing an abusive partner. In any event, however, the existence of the syndrome in a relationship does not in itself establish the legal right of the woman to kill her abusive partner. Evidence must be considered in the context of self-defence.\footnote{268 People v. Genosa, G.R. No. 135981, 15 January 2004.}

\textit{Review of the Quantum of Evidence Required in the Proof of Violence Against Women}

Several law review articles such as that of Ng examined the quantum of evidence required in the proof of rape or sexual assault. Ng explained that the Supreme Court has adopted a 180-degree turn in its wary attitude towards the use of DNA testing and other scientific or technical evidence in the prosecution of rape cases.\footnote{269 Peter P. Ng, “The Evolution and Anatomy of the Philippine Rule on DNA Evidence,” University of Santo Tomas (UST) Law Review (2007-2008), 52(1): 96.} Carrillo noted that the credibility of the private complainant in rape cases has remained to be considered as the single most important factor in the review of rape cases. It is however a tenet in Philippine law that corroboration of testimony and proof of resistance are not essential for convictions in rape cases, and prior sexual history is generally regarded as irrelevant.\footnote{270 February 2011 Philippine Supreme Court Decisions on Criminal Law and Procedure,” Dominador Maphilindo O. Carrillo, Lexoterica: A Philippine Blawg (Updates and Articles on Philippine Law and Jurisprudence), accessed 7 July 2012, http://lexoterica.wordpress.com/2011/03/21/february-2011-philippine-supreme-court-decisions-on-criminal-law-and-procedure.}

\begin{table}[h]
\centering
\begin{tabular}{|l|}
\hline
\textbf{Reliefs that may be availed of through a Protection Order}\footnote{267 Ibi d.} \\
\hline
- Prohibition of the respondent (perpetrator) from threatening to commit or committing personally or through another, any of the acts penalized by the Anti-VAWC law  \\
- Prohibition of the respondent from harassing, annoying, telephoning, contacting, or otherwise communicating with the petitioner (victim-survivor) directly or indirectly  \\
- Removal and exclusion of the respondent from the residence of the petitioner whether temporarily or permanently  \\
- Directing the respondent to stay away from the petitioner and any designated family or household member at a distance specified by the court  \\
- Directing lawful possession and use by the petitioner of an automobile and other personal effects regardless of ownership  \\
- Granting temporary or permanent custody of a child/children to the petitioner  \\
- Directing the respondent to provide support to the woman and/or her child if entitled to legal support  \\
- Prohibition of the respondent from any use or possession of any firearm or deadly weapon and order him to surrender the same… including revocation of license and disqualification to apply for any license to use or possess a firearm  \\
- Restitution for actual damages caused by violence inflicted including property damage, medical expenses and loss of income  \\
- Directing the DSWD or any appropriate agency to provide temporary shelter and other social services that the petitioner may need  \\
- Provision of other forms of relief as may be necessary to protect and provide for the safety of the petitioner  \\
\hline
\end{tabular}
\end{table}

\textit{On Violence Against Children}

\textit{Comprehensiveness of acts penalized under the Philippine legal framework, including protection of children from neglect or negligent treatment, bullying, corporal punishment and other cruel or degrading forms of punishment; protection of children in the street situation, children in conflict with the law and children in detention, and children in armed conflict from violence}

Aside from some of those acts enumerated in the preceding subsection which also deal with violence against children (not only limited to violence against women in scope), other selected acts penalized in law are outlined below.
Table 12: Some of the Different Acts considered as Violence against Children

<table>
<thead>
<tr>
<th>Act</th>
<th>Definition under Philippine law</th>
<th>Aggravating circumstances</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child abuse</td>
<td>“Child Abuse” refers to the maltreatment, whether habitual or not, of the child which includes any of the following: 1. Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment; 2. Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being; 3. Unreasonable deprivation of his basic needs for survival such as food and shelter; or 4. Failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death.</td>
<td>There are circumstances which shall warrant a higher penalty for the offense, such as when offender had been previously convicted under this law, offender commits the crime as an officer or employee of a judicial entity, relationship to offended party, and when the offender is a public officer or employee.</td>
</tr>
</tbody>
</table>

**Sexual violations**

| Child Prostitution and Other Sexual abuse | Children, whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse. | There are circumstances which may warrant a higher penalty such as if the offended party is below 12 years of age, and when a person profited from the sexual abuse of the child. |

**Other Acts of Neglect, Abuse or Cruelty or Exploitation**

| Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child’s Development, including Violence against Children in the Street Situation | According to the law against child abuse:  
(a) Any person who shall commit any other acts of child abuse, cruelty or exploitation or be responsible for other conditions prejudicial to the child’s development including those covered by Article 59 of the Presidential Decree No. 603 (see below), as amended, but not covered of the Revised Penal Code, as amended, shall suffer the penalty of prison mayor in its minimum period.  
(b) Any person who shall keep or have in his company a minor, twelve (12) years or under or who is ten (10) years or more his junior in any public or private place, hotel, motel, beer joint, discotheque, cabaret, pension house, sauna or massage parlour, beach and/or other tourist resort or similar places shall suffer the penalty of prison mayor in its maximum period and a fine of not less than fifty thousand pesos (P50,000); Provided, That this provision shall not apply to any person who is related within the fourth degree of consanguinity or affinity or any bond recognized by law, local custom and tradition, or acts in the performance of a social, moral or legal duty.  
(c) Any person who shall induce, deliver or offer a minor to any one prohibited by this Act to keep or have in his company a minor as provided in the preceding paragraph shall suffer the penalty of prison mayor in its medium period and a fine of not less than forty thousand pesos (P40,000); Provided, however, That should the perpetrator be an ascendant, step parent or guardian of the minor; the penalty to be imposed shall be a prison mayor in its maximum period, a fine of not less than fifty thousand pesos (P50,000) and the loss of parental authority over the minor.  
(d) Any person, owner, manager or one entrusted with the operation of any public or private place of accommodation, whether for occupancy, food, drink or otherwise, including residential places, who allows any person to take along with him to such place or places any minor herein described shall imposed a penalty of Prison Mayor in its medium period and a fine of not less than fifty thousand pesos (P50,000), and the loss of license to operate such a place of establishment.  
(e) Any person who shall use, coerce, force or intimidate a street child or any other child to:  
(1) Beg or use begging as a means of living;  
(2) Acts as conduit or middlemen in drug trafficking or pushing; or  
(3) Conduct any illegal activities, shall suffer the penalty of prison correccional in its medium period to reclusion perpetua. | There are circumstances which shall warrant the imposition of reclusion perpetua in certain crimes including murder, homicide, other intentional homicide, and serious physical injuries if the offended party is below 12 years of age. Also, if the offended party is below 12 years of age, a penalty one degree higher than that imposed by law shall be imposed for certain crimes such as qualified seduction, acts of lasciviousness with the consent of the offended party, corruption of minors, and white slave trade. |

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271 Republic Act No. 7610 or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act (Anti-Child Abuse Law), 1992, Section 3 (b).  
274 *Ibid*, Sections 5(b) and 5(c).  
276 *Ibid*.
### Violence against Children in conflict with the law and children in detention

#### Prohibition against Labelling and Shaming

In the conduct of the proceedings beginning from the initial contact with the child, the competent authorities must refrain from branding or labelling children as young criminals, juvenile delinquents, prostitutes or attaching to them in any manner any other derogatory names. Likewise, no discriminatory remarks and practices shall be allowed particularly with respect to the child's class or ethnic origin.\(^{281}\)

The penalty may be higher if provided for in the Revised Penal Code (general penal law of the country) or in special laws. Special penalties are provided if the offender is a public officer or employee.\(^{282}\)

#### Other Prohibited Acts

The following and any other similar acts shall be considered prejudicial and detrimental to the psychological, emotional, social, spiritual, moral and physical health and well-being of the child in conflict with the law, and therefore, prohibited:

(a) Employment of threats of whatever kind and nature;
(b) Employment of abusive, coercive and punitive measures such as cursing, beating, stripping, and solitary confinement;
(c) Employment of degrading, inhuman and cruel forms of punishment such as shaving the heads, pouring irritating, corrosive or harmful substances over the body of the child in conflict with the law, or forcing him/her to walk around the community wearing signs which embarrass, humiliate, and degrade his/her personality and dignity; and
(d) Compelling the child to perform involuntary servitude in any and all forms under any and all instances.\(^ {283}\)

The penalty may be higher if provided for in the Revised Penal Code (general penal law of the country) or in special laws. Special penalties are provided if the offender is a public officer or employee.\(^ {284}\)

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277 Presidential Decree No. 603 or the Child and Youth Welfare Code, 1974, Article 72.
278 Ibid, Art. 59.
279 Ibid, Art. 60.
281 Republic Act No. 9344 or the Juvenile Justice and Welfare Act, 2006, Section 60.
282 Ibid, Section 62.
283 Ibid, Section 61.
284 Ibid, Sec. 62.

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Children as Zones of Peace

<table>
<thead>
<tr>
<th>Act</th>
<th>Definition under Philippine law</th>
<th>Aggravating circumstances</th>
</tr>
</thead>
<tbody>
<tr>
<td>Children have been declared as Zones of Peace. It shall be the responsibility of the State and all other sectors concerned to resolve armed conflict in order to promote the goal of children as zones of peace. To attain this objective, the following policies shall be observed:</td>
<td>There are circumstances which shall warrant a higher penalty for the offense, such as when offender had been previously convicted under this law, offender commits the crime as an officer or employee of a juridical entity, relationship to offended party, and when the offender is a public officer or employee.</td>
<td></td>
</tr>
<tr>
<td>(a) Children shall not be the object of attack and shall be entitled to special respect. They shall be protected from any form of threat, assault, torture or other cruel, inhumane or degrading treatment;</td>
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<td></td>
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<tr>
<td>(b) Children shall not be recruited to become members of the Armed Forces of the Philippines or its civilian units or other armed groups, nor be allowed to take part in the fighting, or used as guides, couriers, or spies;</td>
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<td></td>
</tr>
<tr>
<td>(c) Delivery of basic social services such as education, primary health and emergency relief services shall be kept unhampered;</td>
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<td></td>
</tr>
<tr>
<td>(d) The safety and protection of those who provide services including those involved in fact-finding missions from both government and non-government institutions shall be ensured. They shall not be subjected to undue harassment in the performance of their work;</td>
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<tr>
<td>(e) Public infrastructure such as schools, hospitals and rural health units shall not be utilized for military purposes such as command posts, barracks, detachments, and supply depots; and</td>
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<tr>
<td>(f) All appropriate steps shall be taken to facilitate the reunion of families temporarily separated due to armed conflict.</td>
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</tbody>
</table>

Rights of Children Arrested for Reasons Related to Armed Conflict

<table>
<thead>
<tr>
<th>Act</th>
<th>Definition under Philippine law</th>
<th>Aggravating circumstances</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any child who has been arrested for reasons related to armed conflict, either as combatant, courier, guide or spy is entitled to the following rights:</td>
<td>There are circumstances which shall warrant a higher penalty for the offense, such as when offender had been previously convicted under this law, offender commits the crime as an officer or employee of a juridical entity, relationship to offended party, and when the offender is a public officer or employee.</td>
<td></td>
</tr>
<tr>
<td>(a) Separate detention from adults except where families are accommodated as family units;</td>
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<td></td>
</tr>
<tr>
<td>(b) Immediate free legal assistance;</td>
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<tr>
<td>(c) Immediate notice of such arrest to the parents or guardian of the child; and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(d) Release of the child on recognizance within twenty-four (24) hours to the custody of DSWD or any responsible member of the community as determined by the court.</td>
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</tr>
</tbody>
</table>

If after hearing the evidence in the proper proceedings, the court should find that the aforesaid child has committed the acts charged against him, the court shall determine the imposable penalty, including any civil liability chargeable against him. However, instead of pronouncing judgment of conviction, the court shall suspend all further proceedings and shall commit such child to the custody or care of DSWD or to any training institution operated by the Government, or duly-licensed agencies or any other responsible person, until he has had reached eighteen (18) years of age or for a shorter period as the court may deem proper, after considering the reports and the recommendations of DSWD or the agency or responsible individual under whose care he has been committed.

The aforesaid child shall be subject to visitation and supervision by a representative of DSWD or any duly-licensed agency or such other officer as the court may designate subject to such condition as it may prescribe.

The aforesaid child whose sentence is suspended can appeal from the order of the court in the same manner as appeals in criminal cases.

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285 Republic Act No. 7610 or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act (Anti-Child Abuse Law), 1992, Section 22.

286 Ibid, Section 31.

287 Ibid, Section 25.

288 Ibid, Section 31.
Several reports identified various laws that protect children from neglect or negligent treatment, bullying, corporal punishment and other cruel or degrading forms of punishment.

A report noted that the right given to parents to discipline children was not adequately limited. It concluded that laws employing terms, such as "may be required under the circumstances", "moderately" and "just and reasonable rules, suggestions and admonitions", are which are open to subjective interpretation as it is not clear whose point of view is considered in the imposition of corporal punishment and discipline. The restrictions are "too general and vague to guide parents to exercise their rights to discipline children," said the report.289

3. Implementation, Monitoring and Prevention

a. Implementing and Monitoring Mechanisms

i. Violence against women

Description of State Implementing and Monitoring Mechanisms

The Philippines implements its policies and laws on violence against women through a network of agencies of government that are involved in the protection of women. The Inter-Agency Council on Violence against Women and Their Children (IAC-VAWC) was established under the VAWC Law. Agencies involved were entrusted to "formulate programs and projects to eliminate VAW based on their mandates as well as develop capability programs for their employees to become more sensitive to the needs of their clients." The IAC-VAWC also serves as the monitoring body with regard to VAW initiatives.290

Table 13: Composition of the Inter-Agency Council on Violence against Women and Their Children

<table>
<thead>
<tr>
<th>Composition of the Inter-Agency Council on Violence against Women and Their Children291</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Social Welfare and Development (DSWD)</td>
</tr>
<tr>
<td>National Commission on the Role of Filipino Women (NCRFW) [now, Philippine Commission on Women]</td>
</tr>
<tr>
<td>Civil Service Commission (CSC)</td>
</tr>
<tr>
<td>Commission on Human Rights (CHR)</td>
</tr>
<tr>
<td>Council for the Welfare of Children (CWC)</td>
</tr>
<tr>
<td>Department of Justice (DOJ)</td>
</tr>
<tr>
<td>Department of the Interior and Local Government (DILG)</td>
</tr>
<tr>
<td>Philippine National Police (PNP)</td>
</tr>
<tr>
<td>Department of Health (DOH)</td>
</tr>
<tr>
<td>Department of Education (DepEd)</td>
</tr>
<tr>
<td>Department of Labor and Employment (DOLE)</td>
</tr>
<tr>
<td>National Bureau of Investigation (NBI)</td>
</tr>
</tbody>
</table>

In 2001, a Framework Plan for Women was created, and the need to strengthen the oversight function of the then NCRFW was highlighted. The Violence Against Women Coordinating Committee (VAWCC), a 15-member-agency committee, was established to systematize and synchronize all government efforts to eliminate all forms of VAW. IAC-VAWC dismantled and replaced the VAWCC.292

In 2007, IAC-VAWC formulated a Strategic Plan of Action for 2007-2010. Some of the details of the plan have been tabulated below. Non-governmental organizations and the academe were involved in the plan.293

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290 Republic Act No. 9262 or the Anti-Violence Against Women and Their Children Act (Anti-VAWC Law), 2004, Section 39.


Table 14: Some Excerpts from the Strategic Plan of Action for 2007-2010 of the IAC-VAWC

<table>
<thead>
<tr>
<th>Vision</th>
<th>Objectives</th>
<th>Key Strategic Areas</th>
</tr>
</thead>
<tbody>
<tr>
<td>A gender - fair and empowered society that protects its people especially women and children from any form of violence and exploitation thus enabling them to fully exercise their rights and participate in all development efforts, and experience a peaceful and fulfilling family and community.</td>
<td>1. Provide holistic, integrated and sustained programs and services for the protection of the rights and welfare of VAWC victim-survivors, 2. Ensure the effective implementation of the Law through the establishment of efficient systems and mechanisms in government and capacitating service providers, 3. Assist in the rehabilitation of perpetrators and prevention of future VAWC acts, and 4. Develop community-based mechanisms and programs to address issues of VAWC, including the care and support of victims and their children, as well as the non-tolerance of all forms of VAWC.</td>
<td>KSA 1: Public Information and Advocacy, KSA 2: Capacity Building and Service Delivery, KSA 3: Research and Policy Development, KSA 4: Sustained Linkages and Partnerships, KSA 5: Resource Generation and Mobilization</td>
</tr>
</tbody>
</table>

Specialized Institution with Mandate to Oversee the Implementation of Laws on Violence Against Women

The PCW is the specialized institution tasked under the Magna Carta of Women to be the primary policymaking and coordinating body of the women and gender equality concerns under the Office of the President. It is also the overall monitoring body and oversight to ensure the implementation of the Magna Carta. It has the power to “direct any government agency and instrumentality, as may be necessary, to report on the implementation” of the Magna Carta and “for them to immediately respond to the problems brought to their attention” in relation to it.295

ii. Violence Against Children

Description of State Implementing and Monitoring Mechanisms

Violence against children is also approached through the inter-agency model. The Council for the Welfare of Children (CWC), created under the Child and Youth Welfare Code, is now an attached agency to DSWD (before, Office of the President). The membership of the Council is tabulated below.296 In 2000, a law was passed making the CWC also a functioning National Early Childhood and Development Coordinating Council.297

Table 15: Composition of the Council for the Welfare of Children and Related Agencies

<table>
<thead>
<tr>
<th>Composition of the Council for the Welfare of Children298</th>
<th>Offices to Coordinate with the Council for the Welfare of Children299</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Social Welfare and Development (DSWD), Chairman</td>
<td>Department of Justice (DOJ)</td>
</tr>
<tr>
<td>Department of Justice (DOJ), Member</td>
<td>Department of Social Welfare and Development (DSWD)</td>
</tr>
<tr>
<td>Department of Labor and Employment (DOLE), Member</td>
<td>Department of Education (DepEd), Member</td>
</tr>
<tr>
<td>Department of Education (DepEd), Member</td>
<td>Department of Health (DOH), Member</td>
</tr>
<tr>
<td>Department of Health (DOH), Member</td>
<td>Department of the Interior and Local Government (DILG), Member</td>
</tr>
<tr>
<td>Department of the Interior and Local Government (DILG), Member</td>
<td>Department of Agriculture (DA), Member</td>
</tr>
<tr>
<td>Department of Agriculture (DA), Member</td>
<td>National Economic and Development Authority (NEDA), Member</td>
</tr>
<tr>
<td>National Nutrition Council (NCC), Member</td>
<td>Council for the Welfare of Children (CWC), Member</td>
</tr>
<tr>
<td>Council for the Welfare of Children (CWC), Member</td>
<td>Three private individuals concerned with the welfare of children and youth with no dual role as a government employee and with at least one being an active member of a legitimate youth organization (to be appointed by the President of the Philippines upon recommendation of the Chairman, each for a term of two years and subject to renewal), Members</td>
</tr>
<tr>
<td>Three private individuals concerned with the welfare of children and youth with no dual role as a government employee and with at least one being an active member of a legitimate youth organization (to be appointed by the President of the Philippines upon recommendation of the Chairman, each for a term of two years and subject to renewal), Members</td>
<td></td>
</tr>
<tr>
<td>Three private individuals concerned with the welfare of children and youth with no dual role as a government employee and with at least one being an active member of a legitimate youth organization (to be appointed by the President of the Philippines upon recommendation of the Chairman, each for a term of two years and subject to renewal), Members</td>
<td></td>
</tr>
</tbody>
</table>

The main powers and functions of the CWC include the coordination of the implementation and enforcement of all laws relative to the promotion of child and youth welfare, and programs, goals and policy formulation relative to that. It may also call upon other government agencies for assistance to

294 Ibid.
295 Republic Act No. 9710 or the Magna Carta of Women, 2009, Section 38.
296 Presidential Decree No. 603 or the Child and Youth Welfare Code, 1974, Article 205.
297 Republic Act No. 8980 or An Act Promulgating a Comprehensive Policy and a National System for Early Childhood Care and Development, Providing Fund Therefor and for Other Purposes, 2000, Section 8.
298 Executive Order No. 233, Redefining the Role and Organizational Structure and Enlarging the Membership of the Council for the Welfare of Children, 1987, Section 3.
299 Presidential Decree No. 603 or the Child and Youth Welfare Code, 1974, Article 205.
implement its functions. The CWC is also the specialized institution tasked to oversee the implementation and observance of laws relative to the protection of children. Most notable are efforts to put up Women and Children Protection Desk in all police stations across the country and the setting up of the Regional Subcommittee for the Welfare of Children in all 16 regions by the CWC. There is also the Inter-agency Committee on the Comprehensive Program on Children in Armed Conflict.

Specialized Institution with Mandate to Oversee The Implementation of Laws on Violence Against Children

The CWC is also the specialized institution tasked to oversee the implementation and enforcement of all laws relative to the promotion of child and youth welfare. This includes laws on violence against children.

iii. Reports that study mechanisms that monitor the implementation and observance of laws related to violence against women and children

The implementation and observance of laws on VAWC have been a subject of several reports. While the IAC-VAWC monitors the performance of national and local government agencies and units, AI reported that compliance by all agencies with responsibilities to implement the VAWC Law has not been ensured. It argued, for instance, that the documentation of cases of intimate partner violence was "erratic and very poor" as tracking of cases by the Department of Interior and Local Government was "dismal" although it has issued a circular directing barangays to report VAWC cases. Information from only six out of 17 regions in the country was generated. AI said this corresponded to the regions where 2,000 officials had been trained on the VAWC Law.

As AI explained, "locating critical interventions at the local government unit (LGU) level, particularly in the barangays (village level government unit) is a significant feature of the Anti-VAWC Law. This took into account the reality of poor women who do not go to courts to seek protection from abuse for reasons of shame, lack of resources or inaccessibility of courts and other national institutions, lack of women's awareness of their rights and limited information on the services that are available to them."

b. Complaints Process

Description of The State's Complaint Process

As explained by Vilches, any person with actual knowledge of acts of violence against women and children (except private crimes against women such as abduction, seduction and acts of lasciviousness) may initiate a complaint. There are special procedures that apply in violence against women and children cases. Some of them are discussed below:

1. For women survivors, pursuant to the Rape Victim Assistance and Protection Act, the investigation of offenses committed against women has to be handled by an all-female team of police officers, examining physicians and prosecutors. Protective measures including the right to privacy and closed-door investigations are to be observed.

2. For children survivors, the Anti-Child Abuse Law and the Rule on Examination of a Child Witness mandates that there be only a single interview by a multidisciplinary group...
of professionals recorded in audio or video tape. Inside the courtroom, the child's rights under the Rule on Examination of a Child Witness has to be strictly observed.

Table 16: Complaints Process observed by the Police in Violence against Women and Children Cases

<table>
<thead>
<tr>
<th>Violence against Women and Children, specially violations specific to the VAWC Law(^{311})</th>
<th>Rape and related crimes(^ {312})</th>
<th>Child abuse(^ {313})</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Upon receipt of the complaint from the desk officer, the Women and Children's Protection Desk (WCPD) officer shall conduct initial investigation and record the incident in the blotter purposely used by WCPD.</td>
<td>• Upon receipt of the complaint from the desk officer, the WCPD officer shall conduct initial investigation and record the incident in the blotter purposely used by WCPD.</td>
<td>• Upon receipt of the complaint from the desk officer, the WCPD officer shall conduct initial investigation and record the incident in the blotter purposely used by WCPD.</td>
</tr>
<tr>
<td>• Refer and accompany the survivor to the nearest [Philippine National Police] PNP Crime Laboratory and/or government hospital for appropriate medico-legal examination. It shall be the WCPD officer's duty to ensure that as far as possible, the examining physician must be of the same gender as the survivor, especially in sexual violence cases.</td>
<td>• Refer and accompany the survivor to the nearest PNP Crime Laboratory and/or government hospital for appropriate medico-legal examination. It shall be the WCPD officer's duty to ensure that as far as possible, the examining physician must be of the same gender as the survivor, especially in sexual violence cases.</td>
<td>• Refer and accompany the survivor to the nearest PNP Crime Laboratory and/or government hospital for appropriate medico-legal examination. It shall be the WCPD officer's duty to ensure that as far as possible, the examining physician must be of the same gender as the survivor, especially in sexual violence cases.</td>
</tr>
<tr>
<td>• In all investigations involving children, the survivor shall be accompanied by his/her unoffending parent, guardian, or local social worker.</td>
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<td>• In all investigations involving children, the survivor shall be accompanied by his/her unoffending parent, guardian, or local social worker.</td>
</tr>
<tr>
<td>• In all investigations involving women other than children in sexual abuse cases, only persons expressly authorized by the survivor shall be allowed by the WCPD officer inside a room where police investigations as well as medical/physical examination are being conducted in private.</td>
<td>• In all investigations involving women other than children in sexual abuse cases, only persons expressly authorized by the survivor shall be allowed by the WCPD officer inside a room where police investigations as well as medical/physical examination are being conducted in private.</td>
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</tr>
<tr>
<td>• Ensure the confidentiality of identity of the survivor and all other parties directly involved with the case under investigation. For this purpose, the WCPD officer must maintain a separate blotter on crimes committed under the Act. Under no circumstances shall any police officer allow media access to information concerning VAWC reported to PNP.</td>
<td>• Ensure the confidentiality of identity of the survivor and all other parties directly involved with the case under investigation. For this purpose, the WCPD officer must maintain a separate blotter on crimes committed under the Act. Under no circumstances shall any police officer allow media access to information concerning VAWC reported to PNP.</td>
<td>• Ensure the confidentiality of identity of the survivor and all other parties directly involved with the case under investigation. For this purpose, the WCPD officer must maintain a separate blotter on crimes committed under the Act. Under no circumstances shall any police officer allow media access to information concerning VAWC reported to PNP.</td>
</tr>
<tr>
<td>• Get the sworn statement of the survivor to include all the witnesses.</td>
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<td>• Get the sworn statement of the survivor to include all the witnesses.</td>
</tr>
<tr>
<td>• After the conduct of police investigation, the WCPD officer shall refer the survivor to the social worker of the LGU, any available DSWD shelter, NGOs and other service providers for psychological intervention and other rehabilitation programs.</td>
<td>• After the conduct of police investigation, the WCPD officer shall refer the survivor to the social worker of the LGU, any available DSWD shelter, NGOs and other service providers for psychological intervention and other rehabilitation programs.</td>
<td>• After the conduct of police investigation, the WCPD officer shall refer the survivor to the social worker of the LGU, any available DSWD shelter, NGOs and other service providers for psychological intervention and other rehabilitation programs.</td>
</tr>
<tr>
<td>• The WCPD officer shall forward the investigation report together with the relevant evidence, including the formal statements of witnesses and results of medico-legal examination, to the prosecutor for filing of appropriate criminal action under the Act.</td>
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</tr>
<tr>
<td>• If the survivor is found to have manifestations of the Battered Woman Syndrome which is validated by past police records and testimonies from witnesses in interest, the WCPD officer shall inform the punong barangay (barangay chairman), the local social worker, or the concerned NGOs, local professional or civic groups in the area for appropriate psychiatric and psychological evaluation which may form part of the evidence to be presented in court.</td>
<td>• If the survivor is found to have manifestations of the Battered Woman Syndrome which is validated by past police records and testimonies from witnesses in interest, the WCPD officer shall inform the punong barangay (barangay chairman), the local social worker, or the concerned NGOs, local professional or civic groups in the area for appropriate psychiatric and psychological evaluation which may form part of the evidence to be presented in court.</td>
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</tr>
<tr>
<td>• Assist in the application and enforcement of the provisions of the protection order as may be issued by the barangay or the court.</td>
<td>• Assist in the application and enforcement of the provisions of the protection order as may be issued by the barangay or the court.</td>
<td>• Assist in the application and enforcement of the provisions of the protection order as may be issued by the barangay or the court.</td>
</tr>
<tr>
<td>• Respond, with the assistance of other police personnel, barangay officials, and other parties in interest, to a call for emergency assistance to ensure immediate protection of the survivor by entering the dwelling if necessary whether or not protection has been issued.</td>
<td>• Respond, with the assistance of other police personnel, barangay officials, and other parties in interest, to a call for emergency assistance to ensure immediate protection of the survivor by entering the dwelling if necessary whether or not protection has been issued.</td>
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</tr>
</tbody>
</table>


313 Ibid, 134.

Francis Tom F. Temprosa
The graphical representation below of the process—from the making of the complaint to the filing of an actual case—applies to VAWC cases.

**Legend:**
- BPO - Barangay Protection Order
- DOJ - Department of Justice
- DSWD - Department of Social Welfare and Development
- LSWDO - Local Social Welfare and Development Office
- PB - Punong Barangay (Barangay Chairperson)
- PNP - Philippine National Police
- PPO - Permanent Protection Order
- TPO - Temporary Protection Order

**Assessment of the complaints process**

Few reports assess the complaints process related to court cases related to violence against women and children. In 2006, the Government of the Philippines said that a study has yet to be made on the effectiveness of the Family Courts as well as of the VAWC Law “in terms of protecting the rights of women and children against domestic violence and incest.” Despite having reports on violation against women’s rights, when asked by the CEDAW Committee, the Government answered that the Commission on Human Rights of the Philippines would not be able to provide information on the number of prosecutions from 1995 to 2001 since once a resolution of a case is made, referral to the appropriate prosecutorial agency follows.315

According to AI, when it comes to access to justice, the legal process is costly and survivors may not have the means to appear in court for a prolonged period of time. The survivors of physical violence usually have moved away from their homes in search of safe havens. Thus, the financial costs of court proceedings discourage women from seeking relief and justice. This was in spite of the waiver of docket fees and other expenses in the VAWC Law when the survivor is “indigent or in cases of immediate necessity due to imminent danger or threat of danger”316. It should be noted that this was also despite laws which protect survivors of rape, and witnesses in general, from harassment.


315 Government of the Philippines, Responses to the list of issues and questions with regard to the consideration of the combined fifth and sixth periodic reports: Philippines (CEDAW/C/PHI/Q/6/Add.1, 17 May 2006), 6.

Complaint Processes Against Children

Chart 2: Child in Conflict with Law Case Flowchart: Light Offense

Legend:
LSWDO - Local Social Welfare and Development Office
WCPD - Women and Children’s Protection Desk


318 Ibid.
c. Protection and Rehabilitation

Description of the State’s Protection and Rehabilitation Program

Various agencies have mandates relating to the protection and rehabilitation of women and children survivors. For instance, government reported that a VAWC division within the National Bureau of Investigation (NBI) investigates cases and provides protective services, counselling, medical examination and assistance, and proper custody to child survivors of molestation and rape, and victims of drug abuse. At the Department of Justice, a task force on child protection investigates, prosecutes and litigates cases of child abuse and exploitation. All police stations have Women’s and Children’s Protection Desks, which are staffed by women police officers. They receive complaints on violence against women and children. The DSWD and other welfare agencies of government provide similar psychosocial and assistance services for the survivors.

Violence Against Women

In 2007, the IAC-VAWC identified gaps in government efforts that needed to be filled, *inter alia*, lack of standards in providing anti-VAWC services, the need for a comprehensive research on VAWC and a VAW documentation system, the need for a monitoring and evaluation system at the national and local level, the lack of an organized survivors support group, and the need for a program intervention for the rehabilitation of VAWC perpetrators.

Table 17: Aspects of the Plan of IAC-VAWC related to Protection and Rehabilitation

<table>
<thead>
<tr>
<th>Key Strategic Area</th>
<th>Goals</th>
<th>Strategies</th>
</tr>
</thead>
<tbody>
<tr>
<td>KSA 2: Capacity Building and Service Delivery</td>
<td>Goal 1: Service providers are competent to render services and implement programs</td>
<td>Assessment of existing capacity building programs</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Development of capacity building programs and support systems according to the needs/roles of the different service providers based on the assessment</td>
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<tr>
<td></td>
<td></td>
<td>Establishment of orientation program for service providers</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Implementation of comprehensive competency development for service provider in the management of: victims-survivors / perpetrators</td>
</tr>
<tr>
<td></td>
<td>Goal 2: Victims are empowered and enabled</td>
<td>Assessment of existing capability building programs and services</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Needs assessment of victims/survivors</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Development of support systems and programs for victims/survivors based on the assessment</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Development of Monitoring &amp; Evaluation System of programs and services</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Establishment of benchmark for best practices in preventing VAWC</td>
</tr>
<tr>
<td></td>
<td>Goal 3: Viable or effective rehabilitation program for perpetrators in place</td>
<td>Development of protocol in the management and handling of rehabilitation program</td>
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<td></td>
<td></td>
<td>Assessment of pilot cases in rehabilitation program for perpetrators</td>
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<tr>
<td></td>
<td></td>
<td>Improvement of rehabilitation programs based on the assessment</td>
</tr>
<tr>
<td></td>
<td>Goal 4: Relevant and Responsive Service Delivery Mechanism established</td>
<td>Assessment of current programs and services delivery structures</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Strengthen programs and service delivery structures:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>&gt; Establishment of local IAC-VAWC</td>
</tr>
<tr>
<td></td>
<td></td>
<td>&gt; Provision of community-based programs and mechanism</td>
</tr>
<tr>
<td></td>
<td></td>
<td>&gt; Establishment of referral or network</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Adoption of Best Practices in Service Delivery</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Setting up of systematic referral system for VAWC among frontline service providers</td>
</tr>
</tbody>
</table>


Violence Against Children

The Special Committee for the Protection of Children, jointly organized by the DSWD and DOJ in compliance with the anti-child abuse law, formulated a Comprehensive Program on Child Protection which has the following components: Prevention; Reporting, Rescue, Investigation and Judicial Involvement of Children; and Rescue, Recovery and Reintegration.

Table 18: Aspects of the Comprehensive Program on Child Protection related to Protection and Rehabilitation

<table>
<thead>
<tr>
<th>Component</th>
<th>Description</th>
<th>Strategies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rescue</td>
<td>The Rescue Component shall entail a Multi-disciplinary Team Approach. It will involve various improvements in the juvenile justice system that include legislative reforms based on restorative justice approach; training and continuing education of the five pillars of the justice system; research and improvement of the database and monitoring system; improvement of the correctional and rehabilitation facilities; and, installation of a diversion program at all levels.</td>
<td>Reporting of and Responding to individual cases involving children will involve the adoption of differing approaches in dealing with children as victims and with children as witness. Unifying procedures for investigation and preparation of a child to face the court. Also, a core of duty holders shall be appointed as guardian to provide support to children and represent them. Defining agency jurisdiction and coordinating actions through a Child Abuse Network that will adopt a simplified process. Clarification of the roles of the local government units towards facilitating the organization of functional local councils for the protection of children and establishing barangay-level reporting system. Improving monitoring, feedback and evaluation procedures and system from the LGU to the national level that will allow the assessment of the efficacy of programs.</td>
</tr>
<tr>
<td>Recovery and reintegration</td>
<td>Recovery and reintegration of children begins at the centre which provides a therapeutic environment that includes individual and group counselling/therapy, theatre arts, play therapy, leadership training, socio-cultural activities and sports.</td>
<td>Improvement of the psycho-social recovery and reintegration of rescued children into their families and communities. This includes the enhancement of support services for families; development of rehabilitation programs for the perpetrators and adoption of indigenous approaches in conflict resolution. Family and community empowerment by strengthening existing community structures such as the LCPC (Local Child Protection Council), organizing foster care, capability building of leaders, developing family-enrichment programs and organizing support systems in the community. Conduct of/Replication of innovative, centre-based as well as community-based psycho-social interventions. Enhancement of the technical capacities of program managers, supervisors, social workers and other service providers.</td>
</tr>
</tbody>
</table>

Assessment of the State’s Rehabilitation and Protection Program

According to Bernabe, there were modest achievements in developing facilities and programs which primarily address the issue of violence against women, including temporary care and shelter for WEDC (called “Haven”). DOH institutionalized Women and Children Protection Units in all its hospitals nation wide-tasked to provide 24-hour quick response for survivors of violence. A training program to enable doctors to engage in forensic work was also developed.

322 Government of the Philippines, Written Replies by the Government of the Philippines to the List of Issues (CRC/C/PHL/Q/3-4) Prepared by the Committee on the Rights of the Child in Connection with the Consideration of the Third and Fourth Periodic Reports of the Philippines (CRC/C/PHL/3-4) (CRC/C/PHL/Q/3-4/Add.1, 3 September 2009), 58-60.


324 Ibid.
However, in 2009, AI said that there was a wide gap between the demand for social welfare services and their availability. Specific to temporary shelters, it was noted then that only 43 DSWD-run shelters in the country (12 Havens for women, 14 homes for girls and 17 crisis intervention units) serviced women survivors from 117 cities and 79 provinces. Social welfare offices under the administration of local government units were evaluated as inadequate, especially for rural women.325

A survey in 2006 showed that 18.13% of the total VAWC complaints reported resulted in the issuance of a barangay protection order. Most barangay officials were familiar with the VAWC Law (96.3%). The reasons for the low number of protection orders were not discussed.326

**d. Prevention Strategy**

**Description of the State’s Prevention Program**

The law mandates a comprehensive strategy for the prevention of violence against women and children, including child abuse.

**Violence Against Women**

| Table 19: Aspects of the Plan of IAC-VAWC related to Prevention327 |
|---------------------|-------------------|--------------------------------------------------|
| **Key Strategic Area** | **Goals** | **Strategies** |
| KSA 2: Capacity Building and Service Delivery | Goal 2: Victims are empowered and enabled | Assessment of existing capability building programs and services |
| | | Needs assessment of victims/survivors |
| | | Development of support systems and programs for victims/survivors based on the assessment |
| | | Development of Monitoring & Evaluation System of programs and services |
| | | Establishment of benchmark for best practices in preventing VAWC |
| KSA 4: Sustained Linkages and Partnerships | Goal 1: Sustained high impact linkages and mutually beneficial partnerships | Assessment of existing linkages and partnership |
| | | Building of collaborative mechanisms on the bilateral/regional/multilateral levels |
| | | Establishment cooperative systems flow of assistance involving all stakeholders covering prevention, protection and reintegration |
| | | Organization of Regional and local structures for collaboration |
| | | Forging or signing of bi-lateral agreements with partners |
| | | Strengthening referral system |
| | | Develop programs to sustain linkages |


326 Ibid.

Violence Against Children

<table>
<thead>
<tr>
<th>Component</th>
<th>Description</th>
<th>Strategies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rescue</td>
<td>A government report once described the prevention strategy against violence on children as follows: &quot;The overall goal of the CPCP [Comprehensive Program on Child Protection] is to build a protective and caring environment for Filipino children who are at risk, disadvantaged and vulnerable to abuse, exploitation and violence. With a protective environment in place, by 2010, all identified children in need of special protection (CNSP) are provided with appropriate interventions including rescue, recovery, healing and reintegration services as well as legal and judicial protection measures. More importantly, under a protective environment, children at risk are prevented from becoming victims of various forms of abuse, exploitation and violence by facilitating their effective access to basic social services such as health and nutrition as well as opportunities for basic education, life skills education, and vocational training, among others.&quot;</td>
<td></td>
</tr>
<tr>
<td>Rescue</td>
<td>• Prioritization of education in child abuse prevention programs – Prevention focus on educating the various stakeholders about personal safety, child development; parent-child relationship and children's rights</td>
<td></td>
</tr>
<tr>
<td>Rescue</td>
<td>• Provision of support system for families and care-givers especially families at risks – This entails improving access to family-focused and community-based basic services such as livelihood and early childhood care and development</td>
<td></td>
</tr>
<tr>
<td>Rescue</td>
<td>• Establishment of effective, built-in screening and detection programs for children at risk and for abused children within basic social services at the barangay, city and municipal levels. Capabilities of ECCD (early childhood care and development) implementers at the LGU levels shall be enhanced to integrate mechanisms for early detection and referral of disability and child abuse</td>
<td></td>
</tr>
<tr>
<td>Rescue</td>
<td>• Integration of child abuse prevention with other family support programs and initiatives for children</td>
<td></td>
</tr>
<tr>
<td>Rescue</td>
<td>• Establish and activate community &quot;child watch&quot;</td>
<td></td>
</tr>
</tbody>
</table>

Assessment of the State's Prevention Program

In analysing gender-based violence in the Philippines, ADB concluded that despite progressive legislation and an active women's agency, there were cultural factors that may make reporting of gender-based crimes difficult. This has an impact on preventing violence. ADB noted that gender stereotypes are present in society, and stereotypes are sometimes used in the judicial system to weigh women's credibility.  

WWTSVAW gathered information on gaps in the implementation of even earlier programs and policies addressing gender concerns which had impacts on preventing violence against women. It was still a concern that Gender and Development (GAD) budgets, which are mandatory, were “considered by many national agencies and local government units as 'optional' and hence may be non-existent or may be used in activities not related to gender concerns and gender mainstreaming.”

The Department of Education informed WWTSVAW that it has not looked into many aspects of their mandate and their activities basically consisted of conducting gender sensitivity trainings among teachers since 1989. It was understood that the success of gender mainstreaming efforts, in relation to preventing violence against women, was not examined.

Several studies assessed innovative approaches and/or best practices, but in our opinion none specifically dealt with assessing programs for the prevention of violence against children.

328 Government of the Philippines, Written Replies by the Government of the Philippines to the List of Issues (CRC/C/PHL/Q/3-4) Prepared by the Committee on the Rights of the Child in Connection with the Consideration of the Third and Fourth Periodic Reports of the Philippines (CRC/C/PHL/3-4) (CRC/C/PHL/Q/3-4/Add.1, 3 September 2009), 58-60.


332 Ibid.

333 Government of the Philippines, Written Replies by the Government of the Philippines to the List of Issues (CRC/C/PHL/Q/3-4) Prepared by the Committee on the Rights of the Child in Connection with the Consideration of the Third and Fourth Periodic Reports of the Philippines (CRC/C/PHL/3-4) (CRC/C/PHL/Q/3-4/Add.1, 3 September 2009), 68.
4. Role of Non-State Actors

a. Assistance to Survivors and Protection

Assistance

International and local non-governmental organizations are involved in providing assistance to survivors. Business groups and academe have also some level of participation in abating violence. There are however no comprehensive reports which identify all the the forms of assistance and protection given by these non-state actors.

Protection

Government has acknowledged that non-governmental organizations have played very significant roles in the protection of children, e.g., leading in various advocacies for the passage of legislations; continuing campaigns to increase awareness regarding the rights of children and the relevant national laws as well as to resource generation activities; implemented various preventive, rehabilitative and reintegration services as well as adopted innovative approaches for child protection. It added that they were represented in the various child-related inter-agency at all levels.334 A WWTSVAV survey of 77 barangays in 2006 revealed that 58 per cent knew VAWC Law principles through NGO-conducted seminars. The remaining 42 per cent understood the law through government-sponsored seminars.335

b. Prevention Programs

Government reported that the formulation of the Philippine Plan for Gender-Responsiveness Development, 1995-2025, involved advocates in non-governmental organizations and the academe.336 Also, various non-governmental groups, such as private educational institutions, non-government organizations, and professional groups, launched programs and projects to improve women's and girl's access to education and promote educational environments that are women- and girl-friendly.337

Other than some literature, including those mentioned above and in the preceding section, prevention programs of non-state actors, such as lobbying for laws, advocacy and information drives, are not comprehensively discussed in reports. Several groups were active in advocating for the passage of laws penalizing the crime of violence against women and children and some child welfare laws.338

c. Monitoring and Cooperation

An active civil society is involved in monitoring the compliance of the Philippines with international obligations on protecting the rights of women and children. The CEDAW Committee and the Committee on the Rights of the Child welcomed the collaboration of government with a high number of organizations. The CRC encouraged the State to continue to strengthen its cooperation with civil society, including national and international NGOs.339

There are numerous reports by non-governmental organizations on government compliance with its obligations, but no report was found in this review which analysed the reports and described their points of view in giving assessments. Most were critical of government responses. For instance, an NGO referred to the “government's duplicitous way of signing on to many UN human rights covenants while resisting social justice and redistributive programs that would have increased women's defences against violations and discriminations.”340

One notable initiative was the collaboration of prominent men representatives to raise awareness on gender-based

334 Ibid, 51.
337 Ibid, para. 298.
338 Ibid, para. 146-153.
violence. In 2007, the group Men Opposed to Violence Against Women Everywhere (MOVE) was established. It was formed after a series of inter-country dialogue between male activists. Groups at the local level included Men Opposed to Violence Against Women (MOVAW) in Cebu, Men Responsible for Gender and Development (MR. GAD) in Davao and the program on the Empowerment and Reaffirmation of Parental Abilities (ERPAT).  

5. Progress Indicators and Challenges  

Availability and Accessibility of Progress Reports  

Reports on the progress of the Philippines in dealing with issues involving violence against women and children are available and accessible. However, it should be pointed out that the reports can be more widely circulated to ensure adequate public information.  

Effectiveness of Policies and Measures, and Assessment of Success Indicators  

According to Bascos-Deveza, one of the best strategies to attain the Gender and Development (GAD) vision of the Philippines was to address the critical areas of concern of the Beijing Platform for Action, which includes violence against women. There were at least two indicators mentioned that relate to violence: "incidence and number of violence against women and children by type" and "growth rate and number of political detainees/executions/other human rights violations by sex and age group."  

She added that statistics are helpful in emphasizing that VAWC is a serious social problem in the Philippines. Mostly, they are based on reported cases in police, government social services, and non-government records. The NSCB formulated a VAWC glossary and statistical framework in order to standardize concepts used. However, as several reports above admitted, available data on the decrease or increase of incidences of violence were unable to conclusively indicate progress. As discussed, this was due to undisclosed or unreported cases which statistics did not capture.  

Table 21: Statistics on Violence Against Women and Child Abuse  

<table>
<thead>
<tr>
<th>Statistics on Violence Against Women and Child Abuse</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Total number of reported VAW and child abuse cases by various forms of physical and sexual abuse</td>
</tr>
<tr>
<td>2. Reported VAWC cases by place of commission</td>
</tr>
<tr>
<td>3. Reported VAWC cases by weapons or means used</td>
</tr>
<tr>
<td>4. Reported VAWC cases by status of the case</td>
</tr>
<tr>
<td>5. Reported VAWC cases by whereabouts of perpetrator</td>
</tr>
<tr>
<td>6. Perpetrators by age and sex</td>
</tr>
<tr>
<td>7. Victims by age and sex</td>
</tr>
<tr>
<td>8. Relationship of victim to perpetrator</td>
</tr>
</tbody>
</table>

A paper published by AI concluded that after four years since the enactment of the VAWC Law in 2009, the objectives of protecting women and children against violence and access to justice for substantive equality with men still had to be fulfilled. It said that some officials surveyed were unaware of the VAWC Law and the fact that violence against women and child is a public crime. Cultural barriers and stereotypes persist, and very few cities, municipalities and provinces had well-established systems for efficiently addressing cases of violence. Barangays, like other government agencies, were also surveyed, and it was found out that many do not allocate the 5% of their budget to GAD-related activities. One lawyers' group observed that protection orders mandated under the VAWC Law were not issued within the time limits prescribed.  

The Committee on the Rights of the Child and the CEDAW respectively asked the Philippines to reply to certain questions involving its implementation of the CRC and CEDAW. Some of the replies—considered by the rapporteur as crucial to an evaluation of VAWC—are outlined below.

343 Ibid, 5.
344 Ibid.
345 Ibid.
Table 22: Replies to some of the issues raised in the implementation of CEDAW and CRC

<table>
<thead>
<tr>
<th>Area of Information</th>
<th>Reply</th>
</tr>
</thead>
<tbody>
<tr>
<td>CEDAW 347</td>
<td>The Philippine government, in its reply described its progress as measured by the indicators above. The report stated that as of December 2000, the Supreme Court of the Philippines has designated 71 Regional Trial Courts across the country to be Family Courts. They have original jurisdiction over cases involving children, conjugal matters such as nullity of marriage and domestic violence. Mobile courts have also been instituted. The Court also created the Committee on Gender Responsiveness in the Judiciary which implements gender mainstreaming within plans and policies in the judiciary. The Committee and the Philippine Judicial Academy train justices, judges and prosecutors in gender-related laws. Gender Sensitivity has been one of the required subjects in a mandatory legal program for lawyers. However, government said studies on the effectiveness of the Family Laws and the VAWC Law in protecting women's and children's rights against violence and incest remain lacking. No data can be provided by government.</td>
</tr>
<tr>
<td>Number of prosecutions that have been brought against the suspects and the sentences imposed</td>
<td>Government was unable to provide the number of prosecutions and convictions as no inter-agency mechanism was in place to keep track of the information.</td>
</tr>
<tr>
<td>Measures taken to prevent violation of women's human rights by police officers and other public officials who abuse their authority</td>
<td>Government said the Commission on Human Rights of the Philippines upholds a very stringent policy in issuing a certification that police officers and other public officials had not been subject to a complaint for human rights violation. The certification was said to be often required for promotions and access to benefits. Various government agencies are said to be involved in raising the awareness of public officers on women's rights.</td>
</tr>
<tr>
<td>Measures taken by the Government to address the issue of violence against indigenous women</td>
<td>The report said that a reconciliation of data was needed on the measures taken. The Commission on Human Rights of the Philippines reported a number of abuses on women. However, the National Commission on Indigenous People denied having knowledge of the existence of violence against indigenous women.</td>
</tr>
<tr>
<td>Measures taken to disseminate the Act in society, especially among women and other people in the community, and how many &quot;protection orders&quot; have been issued since the passage of the VAWC Law</td>
<td>The report described the mechanism within which the IAC-VAWC operates as lead agency in ensuring the VAWC Law is disseminated in society. Information on the number of protection orders for women and children has remained unanswered.</td>
</tr>
<tr>
<td>CRC 348</td>
<td>The government enlisted some jurisprudence that effectively cited the CRC. For instance, in Crisanto Rafaelito Gualberto v. Court of Appeals, et. al., G.R. No. 156254, 28 June 2005, the Court recalled Art. 8 of the CRC in reasoning out that the issue of filiation strikes at the “very identity and lineage” of children. (p. 16) In Gerardo B. Concepcion v. Court of Appeals, et. al., G.R. No. 123450, 31 August 2005, the Court held that a child is deemed subjected to sexual abuse when the child indulges in lascivious conduct under the coercion or influence of any adult. Art. 19 of the CRC was cited in the decision of the Court.</td>
</tr>
<tr>
<td>Whether CRC has been directly invoked or referred to in domestic courts</td>
<td>As a contribution of the country to its follow up actions after the launch of the World Report on Violence Against Children in 2006, the study by UNICEF Plan Philippines, CWC and the Philippine Women's University-Philippine School of Social Work was conducted because of the dearth of information on violence against children. Some key findings of the study revealed that at least four of 10 children in grades 1 to 3 and seven of 10 in both Grades 4 to 6 and High School have experienced some kind of violence in school. Verbal abuse, which includes being shouted at, ridiculed, teased or humiliated, was the most prevalent form of violence at all school levels.</td>
</tr>
</tbody>
</table>

347 Government of the Philippines, Responses to the list of issues and questions with regard to the consideration of the combined fifth and sixth periodic reports: Philippines (CEDAW/C/PHL/Q/6/Add.1, 17 May 2006).

348 Government of the Philippines, Written Replies by the Government of the Philippines to the List of Issues (CRC/C/PHL/Q/3-4) Prepared by the Committee on the Rights of the Child in Connection with the Consideration of the Third and Fourth Periodic Reports of the Philippines (CRC/C/PHL/Q/3-4) (CRC/C/PHL/Q/3-4/Add.1, 3 September 2009).
6. Recommendations for Further Study

Summary of What is and is not known

The body of literature on violence against women and children in the Philippines evolved significantly through the years. With the passage of the VAWC Law and the Magna Carta of Women, a growing awareness of the other forms of violence against women and their children was reflected in literature. For instance, results of a nationwide representative survey on violence against women were released in 2008. Reports analysed state programs and institutions devoted to addressing this issue in society. However, there are some types of violence which remained undocumented in research—e.g., prevalence of economic abuse, marital rape, dowry-related violence, and forced marriages—leaving still an incomplete picture of violence against women in the country. It is the hope of this report that data collection on such issues will be improved and such information will find their way into studies.

Based on literature gathered in this review, no nation wide representative survey on violence against children has been conducted. While several laws on child protection were passed through the years, the literature on this matter remained deficient in assessing the effectiveness of policies in preventing violence against children. This could be attributed to the fact that the prevalence of the different forms of violence against children were mostly estimates. Nonetheless, there were several notable landmark studies such as those on corporal punishment, children in conflict with the law, children in detention, and children in armed conflict.

Identification of areas of controversy in reports

The facts and figures relating to VAWC differed according to source. Some analyses of trends, whether the figures show an increase or decrease in the prevalence of violence, had conflicting conclusions. However, it should be noted that the studies all qualified their findings as mainly coming from reports or surveys, and should not be regarded as ultimate truths in this area of research. Reports many times failed to factor in unreported cases, which may significantly alter findings and trends altogether.

Some recommended areas for data collection and further research

### Table 23: Research Recommendations on Violence Against Women and Children

<table>
<thead>
<tr>
<th>Area</th>
<th>Research recommendations</th>
</tr>
</thead>
</table>
| Prevalence of abuse and discrimination of women and children migrants | • Update on the findings of a government survey on the prevalence of violence against women in 2008  
• Prevalence of economic abuse of women  
• Prevalence of marital rape  
• Prevalence of violence against women and children in detention  
• Prevalence of acts of lasciviousness and specific forms of rape  
• Prevalence of photo or video voyeurism  
• Prevalence of traditional practices harmful to the health of women  
• Prevalence of bullying and neglect or negligent treatment of children  
• Prevalence of violence against children in the street situation  
• Prevalence of violence based on gender and sexual orientation against lesbian, gay, bisexual, transgender, and inter-sex persons  
• More researches on the violence against indigenous women and children, those in rural areas, and Muslim women and children  
• More researches on violence against women and children affected by armed conflict  
• More researches on violence against women and children affected by natural disasters  
• More researches on violence against children in homes  
• More researches on violence against children in streets  
• More researches on profiling of perpetrators of violence  
• Analysis of underreporting, including estimates  
• Patterns of abuse and patterns of discrimination related to violence against women and children that obstruct justice |
| De Jure state responses | • Assessment of the deterrence effect of the law against photo or video voyeurism, and prosecution and conviction of violators  
• Research on a standard monitoring and documentation system for intimate partner violence against women and children for all government agencies at all levels, police, public hospitals and the judiciary  
• Analysis of laws, policies and jurisprudence on consent vis-à-vis sexual intercourse and rape  
• Analysis of the effectiveness of protection and rehabilitation programs  
• Review of the Protection Orders, including different aspects of implementation thereof, under the VAWC Law  
• Review of rape convictions vis-à-vis evidence required therefor |
| Role of non-state actors | • More researches on the role of non-state actors |
| Progress indicators and challenges | • Development of gender indicators related to violence against women and children for use in programs  
• Researches on progress other than through the use of statistics on VAWC as indicators  
• Challenges: reasons for the prevalence of violence against women despite a high gender equality rating and model legislation |

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349 Ibid, 15.


351 Ibid,
C. EXPLOITATION

1. Description of the Problem

a. Prevalence of Exploitation

i. In General

In its Concluding Observations, the CEDAW Committee noted with concern that, “trafficking in women and girls and the exploitation of prostitution continue to thrive in the Philippines, owing to the poverty of women and girls.”352 The Committee against Torture also expressed concern about the Philippines as a “source, transit and destination country for cross-border trafficking of women and children for sexual exploitation and forced labour.”353 Data on the exploitation of women and children were captured together with the DSWD statistics of people served.

ii. Trafficking

*Trafficking of Women*

Government and non-governmental organizations estimate that 300,000 to 400,000 women are trafficked annually.354 The Philippines was previously under the human trafficking blacklist and watch list of the *Trafficking in Persons Report* of the U.S. Department of State. In this year’s report, the U.S. department said that “the Government of the Philippines does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so.”355

The Philippines is a source country and, to a much lesser extent, a destination and transit country for men, women, and children subjected to sex trafficking and forced labour. A significant number of Filipino men and women who migrate abroad for work are subsequently subjected to conditions of involuntary servitude worldwide. Men, women, and children are subjected to conditions of forced labour in factories, at construction sites, on fishing vessels, on agricultural plantations, and as domestic workers in Asia and increasingly throughout the Middle East. A significant number of Filipino women working in domestic service in foreign countries also face rape, physical violence, and sexual abuse. Skilled Filipino migrant workers, such as engineers and nurses, are also subjected to conditions of forced labour abroad. Women were subjected to sex trafficking in countries such as Malaysia, Singapore, Hong Kong, Republic of Korea, and Japan and in various Middle Eastern countries.

Trafficking of men, women, and children within the country also remains a significant problem in the Philippines. People are trafficked from rural areas to urban centres including Manila, Cebu, the city of Angeles, and increasingly cities in Mindanao, as well as within other urban areas. Men are subjected to forced labour and debt bondage in the agriculture, fishing, and maritime industries. Women and children were trafficked within the country for forced labour as domestic workers and small-scale factory workers, for forced begging, and for exploitation in the commercial sex industry. Hundreds of victims are subjected to forced prostitution each day in well-known and highly visible business establishments that cater to both domestic and foreign demand for commercial sex acts. Filipino migrant workers, both domestically and abroad, who became trafficking victims were often subject to violence, threats, inhumane living conditions, non-payment of salaries, and withholding of travel and identity documents.356

The report added that, for example, from January to March 2012, the government repatriated 514 Filipina domestic workers from Syria; over 90% were identified as trafficking victims who had suffered physical, psychological, and verbal abuse from employers in Syria.357

From 2003 to 2010, the Inter-Agency Council Against Trafficking (IACAT) received some 976 complaints of trafficking. Some 356 cases were filed in courts for violation of the anti-trafficking law or other penal laws. In 2010, 84 cases were referred to the NBI’s Anti-Human

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357 Ibid., 285.
Trafficking of Children

Government and non-governmental organizations estimate that 60,000 to 100,000 children are trafficked annually. Since 2005, there have been 73 convictions (88 persons convicted) for trafficking and related offenses. Many of the trafficking survivors were women. De Dios, Dungo and Herrera of the Miriam College-Women and Gender Institute presented a comprehensive scenario of trafficking in the CARAGA region, including awareness of trafficking incidence in the community, places where trafficking happens, identified perpetrators, frequency, causes, and a feminist and rights-based analysis of causes, among others.

UNICEF reported that children were also trafficked into major cities in the Philippines from rural areas, and into neighbouring countries of the Philippines in Southeast Asia, particularly Malaysia. They were mostly trafficked into the sex industry. A survey in 2006 found that six out of 10 children arriving in the Port of Manila from the provinces had “suspicious” answers as to destination and purpose of travel in Metro Manila. About 66% had no work contract upon arrival, and 60% said their fares going to Manila were to be deducted from their salaries.

Also, around 20% were unable to speak Filipino, the national language in the Philippines.

In 2007, ILO’s Child trafficking in the Philippines: A situational analysis said that the extent of child trafficking in the country is not known. Official figures were unavailable, though it was known that 54% of the survivors are 15-17 years old. ILO stated that the 2001 Survey on Children threw light on the possible number of those who were trafficked as paid employees or unpaid family workers—a total of 147,000 (54.7%) working children who lived away from home were engaged in permanent jobs or businesses.

iii. Forced Prostitution and Other Forms of Sexual Exploitation

Around 60,000 to 100,000 children are involved in the sex industry in the Philippines. ECPAT International ranked the Philippines as fourth in the world in terms of countries with the highest number of prostituted children. In 2006 and 2007, the HRDS said, at that time, that the most popular destinations for sexual exploitation of women from the Philippines were Saudi Arabia, Syria, Taiwan, China and the United Arab Emirates. Women were mainly trafficked for prostitution into Cyprus, Hong Kong, China, South Korea, Malaysia and Singapore.

The Committee on the Rights of the Child noted the special vulnerability of children in the street situation in the Philippines (about 250,000 in number) to sexual and economic exploitation. There was a lack of systematic and comprehensive strategy to address their situation. The round-ups of children in the streets of Manila further concerned the Committee.

358 See, “Updates on Anti-Trafficking Efforts,” Presentation by the Inter-Agency Council Against Trafficking in 2011.
360 Aurora de Dios, Nanette Dungo and Miraluna Herrera, Violence Against Women is Not Inevitable: A Comprehensive Study on Gender-Based Violence in CARAGA Region.
364 Jean Enriquez, Documenting Cases of Violence Against Women, Particularly Trafficking and Prostitution.
368 Jean Enriquez, Documenting Cases of Violence Against Women, Particularly Trafficking and Prostitution.
iv. Forced Labour, Involuntary Servitude and Slavery, including Child Labour

Preliminary results of the 2011 Survey on Children in the Philippines revealed that of the 29 million Filipino children, aged 5 to 17, there were roughly about 5.5 million working children. Almost 3 million of them were in hazardous child labour.370 Previously, the 2001 Survey on Children of the National Statistics Office estimated some 24.9 million working children then aged 5-17, about 4 million are engaged in some form of economic activity.371 The CRC has expressed deep concern over the “high number of child workers between the age of five and 14 in the Philippines” and said many of these children work in hazardous or dangerous conditions and are exposed to various forms of sexual and economic exploitation, including the worst forms of child labour.372

The HRDS of the Philippines said that the most popular destinations for slavery-like conditions of domestic work of trafficked women were Saudi Arabia, Syria, Taiwan, China and the United Arab Emirates.373 A recent survey by the International Textile Garment and Leather Workers’ Federation confirmed the existence of sweatshops in the Philippines, Indonesia and Sri Lanka. Factories in the three countries that were surveyed did not pay the daily minimum wage. In the Philippines, almost one-fourth of workers said that they did not receive additional pay for their overtime and typical working hours were way beyond the maximum prescribed by law.374

In the context of migration, the U.S. State Department report on trafficking noted that a “significant number” of Filipino men and women were subjected to conditions of involuntary servitude. (See section on migration for an expounded discussion.)

v. Other Forms of Exploitation Such as Sale of Children, and Removal of Organs

There is a dearth of statistics on the prevalence of other kinds of exploitation such as sale of children and removal of organs. It is notable however that news reports were written about the large number of foreigners who had regularly visited the Philippines “where poorer Filipinos were willing to sell a kidney for as little as $2,000.” Former Department of Health Secretary Cabral estimated that up to 800 kidneys were being sold annually to foreigners before the organ sale ban was implemented in the Philippines.375 The ban on sale of organs was implemented in 2009.376 Although not as prevalent in top countries where removal of organs happen as identified in reports (Kosovo, Mozambique, Israel/Palestine, India, Pakistan, Egypt, China and Moldova, ranked in inverse according to prevalence), illegal organ harvesting also happened in the Philippines due to poverty and high profits on organ brokering.377

vi. Some Special Issues related to Exploitation and The Literature on Exploitation

Exploitation of Women and Children who are Indigenous, in Rural Areas, Muslim and Internally Displaced

Arquiza and Santander’s Women and Conflict: Trafficking in Internally Displaced People Camps in Mindanao aimed to document cases of human trafficking among internally displaced women in conflict areas in Central Mindanao, particularly in Cotabato, Maguindanao and Lanao del Norte.378 The report alleged that sporadic information were received by agencies, pointing to trafficking of


373 Jean Enriquez, Documenting Cases of Violence Against Women, Particularly Trafficking and Prostitution.


376 “The ban on trafficking of persons for the purpose of removal or sale of organs is contained in Section 3(a) of Republic Act 9208 or the Anti-Trafficking in Persons Act of 2003. However, the particular section of the law has not been fully implemented due to lack of implementing rules and regulations (IRR).” An IRR on said Section took effect June 21, 2009. Tetch Torres, “Philippines says no to organ trafficking,” Inquirer Global Nation, http://globalnation.inquirer.net/news/breakingnews/view/20090624-212208/Philippines-says-no-to-organ-trafficking (accessed 4 August 2012).


women, mostly girl children, who were in displacement camps; but there was no comprehensive monitoring of these incidents.\textsuperscript{379}

\textbf{Disaggregation of Data according to age, Gender and Diversity, and Profiling of Survivors and Perpetrators}

Not much of the information on the prevalence of exploitation was disaggregated according to age, gender and diversity of the survivors. To reiterate, the Committee against Torture lamented the “absence of comprehensive and disaggregated data” on trafficking.\textsuperscript{380}

The ILO study gave an insight into the literature on the general profile of trafficked children and their families,\textsuperscript{381} and the general profile of traffickers, which may be categorized into three types: those who operate through organized international trafficking networks, through local trafficking rings, or on selected occasions only.\textsuperscript{382} It also formulated a Child Trafficking Vulnerability Assessment Model wherein regression analysis on the supply of trafficked children was employed.\textsuperscript{383} A rapid assessment of the child trafficking situation in 9 selected areas in the Philippines validated the findings of the vulnerability assessment model.\textsuperscript{384}

\textbf{Means/patterns Employed by Persons Committing and Facilitating Exploitation}

The National Police Commission of the Philippines identified the means or patterns employed by people committing or facilitating trafficking and exploitation in or from the Philippines. According to Leones and Caparas, except for those trafficked into South Korea, there were no specific patterns of routes observed. Those trafficked into South Korea often passed through Thailand or Hong Kong before arriving in South Korea. People without documentation were easily trafficked using the “southern backdoor” of the Philippines, i.e., through the often unguarded maritime borders between the small islands of Mindanao and Malaysia. Trafficked people themselves employed the services of human smugglers who often recruited people through false hopes and promises. These people exited the country via small boats and then transferred to larger vessels. Use of false travel documents was commonplace.\textsuperscript{385}

However, as for children, ILO in 2007 cited an earlier study confirming that children from the Philippines were brought to Japan, Costa Rica, USA, Malaysia, Australia, New Zealand, Taiwan, Europe, Middle East, and the Northern Mariana Islands.\textsuperscript{386} Human rights abuses were committed against trafficked women and children. Aside from deception, as almost all have been deceived with respect to actual work as opposed to what they had been promised, they experienced varied degrees and forms of exploitation in all phases from recruitment to employment in the destination country. More severe forms of exploitation happened in the destination country, sometimes even prior to departure and during transit. Most were promised to become “entertainers”. However, they ended up becoming sexually exploited and forced to work as strippers, night-club/or karaoke hostesses and commercial sex workers.\textsuperscript{387}

\textsuperscript{379} Ibid.

\textsuperscript{380} Committee against Torture, Concluding Observations of the Committee against Torture: Philippines (CAT/C/PHL/CO/2, 29 May 2009), para. 27.

\textsuperscript{381} International Labour Organization, \textit{Child trafficking in the Philippines: A situational analysis}, 42-44.

\textsuperscript{382} Ibid, 50-52.

\textsuperscript{383} Ibid, 81. According to study’s Executive Summary, as the empirical results suggested, the individual and household profile of children living away from home closely mimicked those of actual survivors of child trafficking. Girls made up majority of trafficked children. This supply was tied to the demand for female-dominated occupations and a bias for women in the trafficking trade for sexual exploitation. Household-level determinants were well-documented: e.g., parental education and occupation, household resources, and the number of children are correlated with child trafficking. Most came from families with five or more siblings. The region of origin was also a significant predictor, and it was the lower middle income class (4th class) municipality that was most vulnerable to child trafficking rather than the poorest municipalities as one would have expected.

\textsuperscript{384} Ibid, Executive Summary. The areas were Quezon City, Pasay City, City of Manila, Camarines Norte, Northern Samar, Iloilo City, Cebu City, Davao City, and Zamboanga del Sur.


\textsuperscript{387} “Trafficking in Human Beings from the Philippines: A Survey of Government Experts and Law Enforcement Case Files: Executive Summary (Coalitions against Trafficking in Human Beings in the Philippines - Phase 1 of the United Nations Global Programme against Trafficking in Human Beings),” Celia Leones and Donna Caparas (National Police Commission).
Sex trafficking and health care in Metro Manila: Identifying social determinants to inform an effective health system response explained some of the modus operandi of traffickers who often lured women and girl children from home communities to Metro Manila, either through large networks or on solo operations.388

Sectors or Enterprises where Incidences are Particularly High

Reports indicated significant numbers of Filipino economic migrants who were subjected to conditions of involuntary servitude (such as forced labour in factories and construction sites and forced domestic work) in Asia and increasingly throughout the Middle East.389 These were the sectors or enterprises where incidences of exploitation were particularly high.

Comprehensiveness of data available, consideration of different kinds of exploitation in reports, and issues of underreporting

An analysis of available literature shows that there was not one comprehensive report on exploitation of women and children, including all its forms, in the Philippines. Various reports considered one or more form of exploitation independently from others. Although there were attempts to reconcile information for a more inclusive presentation of the over-all situation, this trend in the literature could be because of pragmatic considerations owing to the enormity of the issues and the varying forms of exploitation.

This was evident in the 2009 report of the Government to the Committee on the Rights of the Child, where recent studies and researches related to the sale of children, children in prostitution and pornography were listed and reviewed.390 Risk and Protective Factors Related to Child Pornography and Possible Advocacy Strategies against Pornographic Victimization (2007) looked into children’s and parents’ awareness of the issues of child pornography, behaviours, and attitudes related to child pornography and other related variables. An Investigative Study on Child Pornography in the Philippines (2007) provided an overview of the modus operandi used by perpetrators of child pornography in the Philippines, but with focus on the cases reported to the PNP in some major cities. A Situational Analysis of the Effects of Tourism on Children in Boracay (2005) had the following objectives: to understand the current nature, magnitude and trends of the commercial sexual exploitation of children (CSEC), factors for its proliferation; identify on-going responses and interventions by government and non-government organizations; and recommend possible action plans for the prevention and elimination of CSEC in the island.391

Child Pornography in the Philippines brought together information on child pornography and assessed the situation on this problem. One of the contents of the book was an illustration of how advanced technologies contributed to the spread of child pornography. Discussion centred on pornographic websites, email and electronic newsgroup systems, instant messaging, webcam technology and cybersex. The role of internet service providers and video pirates in the problem was highlighted.392

Similar to the literature on violence, as seen above, data available were mostly based on reports to authorities or non-governmental organizations. Unreported cases remained unaccounted for. The Permanent Mission of the Republic of the Philippines to the United Nations confirmed in a statement that the number of cases should be higher than as reported. This was because of the highly clandestine nature of exploitation. Banzon added that most survivors were lured by various modus operandi (some constitute exploitation itself) such as mail-order brides, false adoptions, fake movie offers, au pair systems, and camouflaged donation of body organs.393


391 Ibid.


393 "Philippine Statement By Marie Yvette Banzon, Third Secretary, Permanent Mission of the Philippines to the UN on DPI/NGO Panel discussion 'The Persistence of Slavery: A Focus on Human Trafficking Presentation',' 59th United Nations General Assembly, New York, 4 November 2004," Permanent Mission of the Republic of the Phil-
b. Root Causes of Exploitation and Aggravating Practices

Definition of Exploitation

Exploitation itself is not defined in Philippine law although it is punished, along with its many forms, under different penal statutes. In a non-exhaustive manner, the table below lists the forms of exploitation dealt with by law. The definition of trafficking in the Philippine legal framework is intertwined with exploitation, forced labour or involuntary servitude, and harvesting of organs.

Table 24: Some of the forms of exploitation defined under Philippine law

<table>
<thead>
<tr>
<th>Form of Exploitation</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trafficking</td>
<td>The recruitment, transportation, transfer or harbouring, or receipt of persons with or without the victim’s consent or knowledge, within or across national borders by means of threat or use 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 for the purpose of exploitation which includes at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery, servitude or the removal or sale of organs. Among children, their recruitment, transportation, transfer or receipt for exploitation is also considered trafficking in persons although it does not involve any of the means enumerated in the preceding paragraph. (emphasis supplied)</td>
</tr>
<tr>
<td>Sexual exploitation</td>
<td>Participation by a person in prostitution or the production of pornographic materials as a result of being subjected to a threat, deception, coercion, abduction, force, abuse of authority, debt bondage, fraud or through abuse of a victim’s vulnerability (emphasis supplied)</td>
</tr>
<tr>
<td>Forced labour and slavery (as related to trafficking)</td>
<td>Extraction of work or services from any person by means of enticement, violence, intimidation or threat, use of force or coercion, including deprivation of freedom, abuse of authority or moral ascendancy, debt-bondage or deception (emphasis supplied)</td>
</tr>
</tbody>
</table>

Identification of Root Causes

The CEDAW Committee identified poverty as the root cause of the prevalence of exploitation of women and girl children in Philippine society. Literature on exploitation in the Philippines used case studies and interviews as the chief research methods in identifying the root causes of exploitation. In a review of internal trafficking in children with a focus on the worst forms of child labour, Sta. Maria, Zantua and Chiongson said that much of the previous research and discussions on trafficking as a phenomenon in the Philippines have concentrated on women. Poverty was seen as a major push factor in trafficking. It was the main reason why children were forced to work and why they must work, abandoning school in the process. The findings of Sta. Maria, et al, were based on interviews with trafficked children, case studies representing different modes of trafficking, and a review of previous research and studies.

Identification of Aggravating Factors

i. Exploitation in General, including Trafficking

The Committee on the Rights of the Child expressed concern about the “existing risk factors contributing to trafficking activities”, such as persistent poverty, temporary overseas migration, growing sex tourism, impunity and weak law enforcement in the Philippines. Meanwhile, Vilches explained that, “[t]he pejorative expectations that Filipino society has on women and children are compounded by problems of extreme poverty; massive labour export; globalization; porous borders; aggressive tourism campaigns; negative portrayal of women by mass media; pornography on-line and internet chat-rooms; the practice of mail-order brides; inter-country adoption; and joint military exercises in the country with visiting

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399 Ibid.
400 Committee on the Rights of the Child, Concluding Observations of the Committee on the Rights of the Child: Philippines (CRC/C/PHL/CO/3-4, 2 October 2009), para. 78.
forces from abroad. These factors cause women to become easy victims of sex-trafficking and other forms of sexual exploitation either in the Philippines or in countries of destination.”

Sex trafficking and health care in Metro Manila provided insight into the risk factors of sex trafficking at multiple levels of the social environment: individual (e.g., childhood abuse), socio-cultural (e.g., gender inequality and a “culture of migration”), and macro (e.g., profound poverty caused, inter alia, by environmental degradation disrupting traditional forms of labour). The results contained key determinants for sex trafficking. In Metro Manila and surrounding communities, the study yielded a total of 24 individual and group interviews with 51 key informants who included physicians, lawyers, and government officials to social service providers and anti-trafficking advocates at international and community-based nongovernmental organizations.

ILO said that in Southeast Asia in general, including the Philippines, economic considerations, social and cultural factors, and political and geo-political factors contributed to child trafficking. Very few researchers approached child trafficking from the push and pull theory. One that did so was a 2003 paper by Asia ACTS Against Child Trafficking.

ii. Prostitution

The government’s Special Committee for the Protection of Children considered poverty as not the only factor that has pushed children to prostitution because “not all poverty-stricken children end up in prostitution.” Unstable family relationships (some parents have forced their children into prostitution) and peer pressure were also responsible for pushing them to work in the sex industry.

iii. Child Labour

Various studies cited the following as conditions contributing to child labour: (a) poverty-stricken families tend to depend on child work to augment family income; (b) children unable to go to school or dropping out from school due to their parents’ incapacity to support their education find themselves engaged in child labour, (c) dysfunctional households and abusive parents push children to leave home and fend for themselves and are likely to end up in the worst forms of child labour. At the meso and macro analysis, the level of economic development and existing social infrastructure had an inverse relationship with the incidence of child labour.

**c. Impact of Exploitation**

**Physical Impact**

The Government said that trafficked children were “exposed to all kinds of abuse and exploitation” and treated like commodities by people who exploit them. This may have included exposure to illnesses such as sexually transmitted infections and HIV/AIDS. ILO validates this and other physical consequences on children. Children in prostitution were also subjected to “numerous physical and sexual abuse, are likely exposed to drug and alcohol abuse, and are vulnerable to sexually transmitted diseases including HIV/AIDS.” There were reported cases of children in prostitution who were photographed for use in pornographic materials.

Ong and Rivera conducted a prevalence study on Trichomonas vaginalis infection among female commercial sex workers who attended the Reproductive Health Care Centre in 2007. The study found that 14.1% of the women were positive for Trichomonas vaginalis.

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403 Ibid, 136.


405 Ibid, 55.


408 Ibid.


Health and Wellness Center of Angeles City, Pampanga in the Central Luzon region of the Philippines. The overall prevalence in 377 women was 9.55%. Most women subjects were 23-27 years old but the largest proportion of positive cases was found among subjects 18-22 years old (12.84%). They cited several earlier important studies, including one in 2003 which described gonorrhoea as the most common infection among child sex workers, with an incidence of 18.6% among survivors in one survey area. Another cited study in Angeles City showed that a large number of women working in the “entertainment industry” were at considerable risk of sexually transmitted infections. The study said that the high baseline rates of both gonorrhoea and chlamydia for all groups surveyed (from 22% for guest relations officers to 51% for brothel-based sex workers) confirmed findings from previous studies.

The study *Sex traffickng and health care in Metro Manila* revealed that survivors of sex trafficking “reportedly suffer from a number of health-related problems.” Furthermore, according to the report, “[u]nwanted pregnancies and subsequent medical complications resulting from forced and often unsafe abortions were described by a number of respondents.” Although some key informants believed that survivors were vulnerable to and there was a high prevalence of sexually-transmitted infections among them in Metro Manila, documentation of the health status of trafficking survivors remained severely limited and this claim could not thus be verified.

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417 Elizabeth Protacio de Castro, Faye A. G. Balanon, Agnes Zenaida V. Camacho, et al., *Integrating Child Centred Approaches in Children’s Work Programme on Psychosocial Trauma and Human Rights*, (Manila: Center for Integrative and Development Studies, University of the Philippines, Save the Children (UK) Philippines and UP CIDS PST, 2002).

Table 25: Other Multilateral Treaties Directly or Indirectly Relating to Exploitation

<table>
<thead>
<tr>
<th>Instrument</th>
<th>Date of Accession or Signature or Ratification</th>
<th>Reservations and/or Declarations</th>
</tr>
</thead>
<tbody>
<tr>
<td>1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation or the Prostitution of Others</td>
<td>20 December 1950 (S) 19 September 1952 (R)</td>
<td>-</td>
</tr>
<tr>
<td>1954 Convention relating to the Status of Stateless Persons</td>
<td>22 June 1955 (S) 22 September 2011 (R)</td>
<td>-</td>
</tr>
<tr>
<td>United Nations Convention Against Corruption</td>
<td>9 December 2003 (S) 8 November 2006 (R)</td>
<td>Note that the Philippines does not consider this treaty as a legal basis for extradition.</td>
</tr>
<tr>
<td>ASEAN Multilateral Legal Assistance Treaty on Criminal Matters</td>
<td>Document is dated Nov. 29, 2004</td>
<td>-</td>
</tr>
</tbody>
</table>

In addition to the above, the Philippines is also a State party to the following relevant conventions: (1) Slavery Convention; (2) Protocol amending the Slavery Convention; and (3) ILO Convention (No. 105) concerning the Abolition of Forced Labour.

It is noteworthy that, within the regional context, the Philippines participates in the proceedings and processes of the Senior Officials Meeting on Transnational Crime (SOMTC) within the ASEAN framework. SOMTC formalized a working group on trafficking in persons which has been tasked, inter alia, to monitor the implementation of a work plan related to the ASEAN Declaration on Trafficking in Persons, especially Women and Children. The Philippines established a specialist counter-trafficking response unit and cooperated with six other ASEAN Member States in the Asia Regional Trafficking in Persons Project.420

Moreover, the Philippines is involved in the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime, which is an intergovernmental regional consultative mechanism on people smuggling that has a cross-regional character and more than 50 participating countries. The Process Steering Group of the Bali Process includes the International Organization for Migration and the United Nations High Commissioner for Refugees. A key objective of the process is the development and strengthening of practical cooperation between regional operational agencies working in areas such as law enforcement and border control in the fight against human trafficking. The Bali Process also engages at the level of foreign ministers for information sharing and to combat trafficking and related transnational crime.421

The Philippines also joined other states in condemning organ trafficking in the Declaration of Istanbul or the Declaration on Organ Trafficking and Transplant Tourism.422 Philippine representatives were part of the international summit in Turkey in 2008. After the conference, a general ban on organ donation to foreigners was implemented. Save for a few exceptions, Department

419 Association of Southeast Asian Nations (Asia Regional Trafficking in Persons Project), ASEAN Handbook on International Legal Cooperation in Trafficking in Persons Cases, (Jakarta: ASEAN, AusAID, United Nations Office on Drugs and Crime and Cardno Emerging Markets (Australia), 2010), 179.

420 Office of the High Commissioner for Human Rights, Summary of Regional and Sub-Regional Structures and Initiatives to Counter Trafficking in Persons (Based on submissions received from regional mechanisms in response to questionnaire of the UN Special Rapporteur on Trafficking in Persons, Especially Women and Children, the Special Rapporteur’s 2010 Report to the Human Rights Council and more recent submissions), (Geneva: Office of the High Commissioner for Human Rights, December 2010), 9.

421 Ibid, 21.

422 The Declaration of Istanbul on Organ Trafficking and Transplant Tourism, Participants in the International Summit on Organ Trafficking convened by The Transplantation Society and International Society of Nephrology, Istanbul, Turkey, 30 April - 2 May 2008.
of Health Administrative Order 2010-0018\textsuperscript{423} ensured at the policy level that donations were both altruistic and voluntary. The Government also expressed adherence to the WHO Guiding Principles on Human Cell, Tissue and Organ Transplantation.\textsuperscript{424}

ii. Bilateral Treaties

<table>
<thead>
<tr>
<th>Bilateral Treaty Partners\textsuperscript{423}</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
</tr>
<tr>
<td>PR China</td>
</tr>
<tr>
<td>Hong Kong SAR</td>
</tr>
<tr>
<td>Switzerland</td>
</tr>
<tr>
<td>United States of America</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Mutual Legal Assistance Treaties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
</tr>
<tr>
<td>PR China</td>
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<tr>
<td>Hong Kong SAR</td>
</tr>
<tr>
<td>Switzerland</td>
</tr>
<tr>
<td>United States of America</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Extradition Treaties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
</tr>
<tr>
<td>Canada,</td>
</tr>
<tr>
<td>PR China</td>
</tr>
<tr>
<td>Hong Kong SAR</td>
</tr>
<tr>
<td>Indonesia</td>
</tr>
<tr>
<td>Korea</td>
</tr>
<tr>
<td>Switzerland</td>
</tr>
<tr>
<td>Thailand</td>
</tr>
<tr>
<td>United States of America</td>
</tr>
</tbody>
</table>

iii. Recommendations on the Commitments and Declarations/Reservations

Reports cited the different obligations of the Philippines for the protection of women\textsuperscript{426} and children\textsuperscript{427} against exploitation. While the Philippines has ratified the main international conventions related to the trafficking, ECPAT recommended that, “it must properly report on and comply with the recommendations of the governing bodies” of the different conventions.\textsuperscript{428}

The ASEAN Handbook on International Legal Cooperation in Trafficking in Persons noted that several States in the ASEAN region have negotiated and concluded bilateral extradition treaties with a limited range of States. The longstanding treaty between Indonesia and the Philippines was cited as an example of such a treaty. It covers the extradition of those who are being proceeded against, or who have been charged with, found guilty or convicted of a range of crimes, including several that are relevant to exploitation: rape, indecent assault, unlawful sexual acts with or upon minors, abduction, kidnapping, illegal or arbitrary detention, slavery, servitude, forgery, and perjury.\textsuperscript{429} Since however the Philippines and Indonesia are both State Parties to the UNCAC, UNTOC and the UN Trafficking Protocol, the treaty is “deemed to extend to” offenses established in accordance with those three treaties.\textsuperscript{430} Thus, trafficking is now an extraditable offense. According to the handbook, remaining gaps “can only be closed” in the region once all Member States are party to the major multilateral crime conventions.\textsuperscript{431}

b. National Policies on Exploitation

State policies against exploitation in the Philippines are found in the Constitution, various related legislation, and administrative rules. The policies quoted below may be in addition to policies against violence in general (see B.2.b.), which may include exploitation within its scope and application in the Philippine context. Such policies, as previously enumerated, are not included below. None of the literature reviewed cited the policies according to the objectives of prevention and response, including protection and cure.


\textsuperscript{424} The revised official guiding principles were contained in EB123/5 noted by the Executive Board of the World Health Organization at its 123\textsuperscript{rd} session on 26 May 2008, with a requested modification.

\textsuperscript{425} Association of Southeast Asian Nations (Asia Regional Trafficking in Persons Project), ASEAN Handbook on International Legal Cooperation in Trafficking in Persons, 178-180.


\textsuperscript{427} Save the Children UK, Philippine Laws related to the Discipline and Punishment of Children, 5-18.


\textsuperscript{429} Extradition Treaty between the Republic of the Philippines and the Republic of Indonesia, Philippines-Indonesia, 10 February 1976.

\textsuperscript{430} Association of Southeast Asian Nations (Asia Regional Trafficking in Persons Project), ASEAN Handbook on International Legal Cooperation in Trafficking in Persons, 111.

\textsuperscript{431} Ibid.
Table 27: Violence against women: National Policies

<table>
<thead>
<tr>
<th>Policy</th>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Policies related to prevention</td>
<td></td>
</tr>
<tr>
<td>No person shall be imprisoned for debt or non-payment of a poll tax.</td>
<td>Philippine Constitution</td>
</tr>
<tr>
<td>No involuntary servitude in any form shall exist except as a punishment</td>
<td>Philippine Constitution</td>
</tr>
<tr>
<td>It shall be a State policy to recognize the equal rights and inherent</td>
<td>Anti-Trafficking in Persons Act of 2003</td>
</tr>
<tr>
<td>human dignity of women and men as enshrined in the United Nations</td>
<td></td>
</tr>
<tr>
<td>Universal Declaration on Human Rights, United Nations Convention on the</td>
<td></td>
</tr>
<tr>
<td>Rights of the Child, United Nations Convention on the Protection of</td>
<td></td>
</tr>
<tr>
<td>Migrant Workers and their Families. United Nations Convention Against</td>
<td></td>
</tr>
<tr>
<td>Transnational Organized Crime Including its Protocol to Prevent,</td>
<td></td>
</tr>
<tr>
<td>Suppress and Punish Trafficking in Persons, Especially Women and</td>
<td></td>
</tr>
<tr>
<td>Children and all other relevant and universally accepted human rights</td>
<td></td>
</tr>
<tr>
<td>instruments and other international conventions to which the</td>
<td></td>
</tr>
<tr>
<td>Philippines is a signatory.</td>
<td></td>
</tr>
<tr>
<td>Penalization of different acts of trafficking in persons, acts that</td>
<td>Anti-Trafficking in Persons Act of 2003</td>
</tr>
<tr>
<td>promote trafficking, use of trafficked persons, and qualifying certain</td>
<td></td>
</tr>
<tr>
<td>acts.439 Anti-Trafficking in Persons Act of 2003</td>
<td></td>
</tr>
<tr>
<td>Penalization and incorporation of violence related to exploitation as</td>
<td>Magna Carta of Women</td>
</tr>
<tr>
<td>violence against women.439</td>
<td></td>
</tr>
<tr>
<td>Penalization of the practice of matching Filipino women for marriage</td>
<td>Anti-Mail Order Bride Law</td>
</tr>
<tr>
<td>to foreign nationals on a mail order basis and other similar practices</td>
<td></td>
</tr>
<tr>
<td>The State values the dignity and privacy of every human person and</td>
<td>Anti-Photo and Video Voyeurism Act of 2009</td>
</tr>
<tr>
<td>guarantees full respect for human rights. Toward this end, the State</td>
<td></td>
</tr>
<tr>
<td>shall penalize acts that would destroy the honour, dignity and integrity</td>
<td></td>
</tr>
<tr>
<td>of a person.441</td>
<td></td>
</tr>
<tr>
<td>Penalization of photo or video voyeurism and related acts, including</td>
<td>Revised National Policy on Living Non-related Donation and Transplantation and its Implementing Structure amending for the purpose Administrative Order No. 2008-0004-A (Department of Health Administrative Order 2010-0018)</td>
</tr>
<tr>
<td>selling, publishing and distributing such prohibited photos or videos.</td>
<td></td>
</tr>
<tr>
<td>Adoption of principles against organ trafficking, inter alia, ban on</td>
<td>Revised National Policy on Living Non-related Donation and Transplantation and its Implementing Structure amending for the purpose Administrative Order No. 2008-0004-A (Department of Health Administrative Order 2010-0018)</td>
</tr>
<tr>
<td>organ donation to non-relative foreigners, voluntariness, and</td>
<td></td>
</tr>
<tr>
<td>prohibition of payment for organ donation</td>
<td></td>
</tr>
<tr>
<td>Right to be free from involuntary servitude in any form644</td>
<td>Civil Code of the Philippines</td>
</tr>
<tr>
<td>&quot;The State shall assure the rights of workers to self-organization,</td>
<td>Labor Code of the Philippines</td>
</tr>
<tr>
<td>collective bargaining, security of tenure, and just and humane</td>
<td>Revised Penal Code of the Philippines (Act No. 3815)</td>
</tr>
<tr>
<td>conditions of work.&quot;445</td>
<td></td>
</tr>
<tr>
<td>Penalization of immoral doctrines, obscene publications and</td>
<td>Revised Penal Code of the Philippines (Act No. 3815)</td>
</tr>
<tr>
<td>exhibitions and indecent shows; vagrants and prostitutes; abuses</td>
<td></td>
</tr>
<tr>
<td>against chastity; slavery; services rendered under compulsion in</td>
<td></td>
</tr>
<tr>
<td>payment of debt; threats; coercions; seduction; white slave trade.</td>
<td></td>
</tr>
<tr>
<td>Policies related to response, including protection and cure</td>
<td></td>
</tr>
<tr>
<td>The State affirms labour as a primary social economic force. It shall</td>
<td>Philippine Constitution</td>
</tr>
<tr>
<td>protect the rights of workers and promote their welfare.446</td>
<td></td>
</tr>
<tr>
<td>The State shall afford full protection to labour, local and overseas,</td>
<td></td>
</tr>
<tr>
<td>organized and unorganized, and promote full employment and equality of</td>
<td></td>
</tr>
<tr>
<td>employment opportunities for all.447</td>
<td></td>
</tr>
<tr>
<td>It is hereby declared that the State values the dignity of every</td>
<td>Anti-Trafficking in Persons Act of 2003</td>
</tr>
<tr>
<td>human person and guarantees the respect of individual rights. In</td>
<td></td>
</tr>
<tr>
<td>pursuit of this policy, the State shall give highest priority to the</td>
<td></td>
</tr>
<tr>
<td>enactment of measures and development of programs that will promote</td>
<td></td>
</tr>
<tr>
<td>human dignity, protect the people from any threat of violence and</td>
<td></td>
</tr>
<tr>
<td>exploitation, eliminate trafficking in persons, and mitigate pressures</td>
<td></td>
</tr>
<tr>
<td>for involuntary migration and servitude of persons, not only to</td>
<td></td>
</tr>
<tr>
<td>support trafficked persons but more importantly, to ensure their</td>
<td></td>
</tr>
<tr>
<td>recovery, rehabilitation and reintegration into the mainstream of</td>
<td></td>
</tr>
<tr>
<td>society.448</td>
<td></td>
</tr>
</tbody>
</table>
"At any stage of the investigation, prosecution and trial of an offense under this Act, law enforcement officers, prosecutors, judges, court personnel and medical practitioners, as well as parties to the case, shall recognize the right to privacy of the trafficked person and the accused. Towards this end, law enforcement officers, prosecutors and judges to whom the complaint has been referred may, whenever necessary to ensure a fair and impartial proceeding, and after considering all circumstances for the best interest of the parties, order a closed-door investigation, prosecution or trial. The name and personal circumstances of the trafficked person or of the accused, or any other information tending to establish their identities and such circumstances or information shall not be disclosed to the public.

In cases when prosecution or trial is conducted behind closed-doors, it shall be unlawful for any editor, publisher, and reporter or columnist in case of printed materials, announcer or producer in case of television and radio, producer and director of a film in case of the movie industry, or any person utilizing tri-media facilities or information technology to cause publicity of any case of trafficking in persons.**449** (Confidentiality)

"Any person who has personal knowledge of the commission of any offense under this Act, the trafficked person, the parents, spouse, siblings, children or legal guardian may file a complaint for trafficking**450** (Prosecution)

Establishing preventive, protective and rehabilitative programs by different agencies.**451** Anti-Trafficking in Persons Act of 2003

"Trafficked persons shall be recognized as victims of the act or acts of trafficking and as such shall not be penalized for crimes directly related to the acts of trafficking enumerated in this Act or in obedience to the order made by the trafficker in relation thereto. In this regard, the consent of a trafficked person to the intended exploitation set forth in this Act shall be irrelevant."**452** Anti-Trafficking in Persons Act of 2003

Preferential entitlement of trafficked persons under the Witness Protection Program of government**453** Anti-Trafficking in Persons Act of 2003

Prescribing mandatory services for trafficked persons to ensure recovery, rehabilitation and reintegration into the mainstream of society**454** Anti-Trafficking in Persons Act of 2003

Other services for trafficked persons to be provided as well**455** Anti-Trafficking in Persons Act of 2003

"It is the policy of the State to ensure and guarantee the enjoyment of the people of a decent standard of living. Towards this end, the State shall take measures to protect Filipino women from being exploited in utter disregard of human dignity in their pursuit of economic upliftment."**456** Anti-Mail Order Bride Law

"[I]t is imperative that the Philippine government takes positive actions to help fight the human trafficking problem to protect and safeguard the status of our legitimate Filipino entertainers"**457** Executive Order No. 406

"The State shall afford protection to labour, promote full employment, ensure equal work opportunities regardless of sex, race or creed and regulate the relations between workers and employers."**458** Labor Code of the Philippines

Extradition upon compliance with certain requirements prescribed by laws and regulations**459** Presidential Decree No. 1069 (Philippine Extradition Law)

Policies specific to the prevention of exploitation of children

Penalization of child trafficking and attempt to commit child trafficking**460** Child Abuse Law

Penalization of exploitation of child labour; corruption of minors**461** Revised Penal Code of the Philippines (Act No. 3815)
c. Assessment of State Policies

i. In general

There were some good reviews on the policies of the Philippines and its efforts to fight exploitation, particularly trafficking. Most notable was the U.S. Department of State report. The CEDAW Committee appreciated the passage of the Anti-Trafficking in Persons Act of 2003. However, it noted with concern that trafficking in women and girls

<table>
<thead>
<tr>
<th>Policy</th>
<th>Source</th>
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<tbody>
<tr>
<td>&quot;The State recognizes the vital role of the youth in nation building and shall promote and protect their physical, moral, spiritual, intellectual, emotional, psychological and social well-being. Towards this end, the State shall: (a) Guarantee the fundamental rights of every child from all forms of neglect, cruelty and other conditions prejudicial to his/her development; (b) Protect every child from all forms of exploitation and abuse including, but not limited to: (1) the use of a child in pornographic performances and materials; and (2) the inducement or coercion of a child to engage or be involved in pornography through whatever means; and (c) Comply with international treaties to which the Philippines is a signatory or a State party concerning the rights of children which include, but not limited to, the Convention on the Rights of the Child, the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, the International Labour Organization (ILO) Convention No.182 on the Elimination of the Worst Forms of Child Labour and the Convention Against Transnational Organized Crime.&quot;462</td>
<td>Anti-Child Pornography Act of 2009</td>
</tr>
<tr>
<td>Penulization of compelling the child to perform involuntary servitude in any and all forms under any and all instances463</td>
<td>Juvenile Justice and Welfare Act (Republic Act No. 9344)</td>
</tr>
</tbody>
</table>

433 The 1987 Constitution of the Republic of the Philippines, Article III, Section 18(2).
434 Republic Act No. 9208 or the Anti-Trafficking in Persons Act (Anti-Trafficking Law), 2003, Section 2.
435 Ibid, Sec. 4.
436 Ibid, Sec. 5.
437 Ibid, Sec. 11.
438 Ibid, Sec. 6.
439 Republic Act No. 9710 or the Magna Carta of Women, 2009, Section 9(b).
440 Republic Act No. 6955 or the Anti-Mail Order Bride Law, 1990, Section 2.
441 Republic Act No. 9995 or the Anti-Photo and Video Voyeurism Act, 2009 Section 2.
442 Ibid, Sec. 4.
444 Republic Act No. 386 or the Civil Code of the Philippines, as amended, 1949, Article 32(14).
446 The 1987 Constitution of the Republic of the Philippines, Article II, Section 18.
448 Republic Act No. 9208 or the Anti-Trafficking in Persons Act (Anti-Trafficking Law), 2003, Section 2.
449 Ibid, Sec. 6.
450 Ibid, Sec. 8.
451 Ibid, Sec.16.
452 Ibid, Sec.17.
453 Ibid, Sec.18.
454 Ibid, Sec. 23.
455 Ibid, Sec.24.
456 Republic Act No. 6955 or the Anti-Mail Order Bride Law, 1990, Section 1.
457 Executive Order No. 406, Creating a Special Task Force to Address the Human Trafficking Problems specially those involving Filipino Entertainers in Japan and Vesting such Powers and Responsibilities Appurtenant Thereto, 8 February 2005.
458 Presidential Decree No. 442 or the Labor Code of the Philippines, as amended, 1974, Article 3.
459 Presidential Decree No. 1069 or the Philippine Extradition Law, 1977.
460 Republic Act No. 7610 or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act (Anti-Child Abuse Law), 1992, Section 7.
461 Ibid, Sec. 8.
463 Ibid, Sec. 4.
464 Republic Act No. 9344 or the Juvenile Justice and Welfare Act, 2006, Section 61(d).
and the exploitation of prostitution continued to thrive in the Philippines, owing to the poverty of women and girls. It also said it was concerned about the low rates of prosecution and conviction of traffickers and those who exploit the prostitution of women.\textsuperscript{465}

The CRC noted the adoption of a law in the Philippines, \textit{i.e.}, the Anti-Trafficking in Persons Act of 2003, which instituted policies to eliminate trafficking in persons, especially women and children, established institutional mechanisms for the protection of and support of trafficked persons, provided penalties for traffickers, and prohibited the recruitment, transport or adoption of a child to engage in armed activities in the Philippines or abroad.\textsuperscript{466}

\textbf{Penalization of Trafficking within and Outside the Country, and Quasi-universal Jurisdiction}

Since the penal laws of the Philippines are essentially territorial in nature, it should be pointed out that acts of trafficking executed beyond its territory—though involving its citizens—are not punishable under its laws. However, this does not deter government from providing services for the prevention of or response to trafficking. The ASEAN Handbook on International Legal Cooperation in Trafficking in Persons took note that, given the international commitments of the Philippines, trafficking has become an extraditable offense in certain cases.\textsuperscript{467} Nonetheless, Cullen of PREDA Foundation has called for an expansion of jurisdiction of courts in regard to trafficking cases. He reasoned out that it would allow the apprehension and conviction of traffickers found in the Philippines where some openly participate in sex trade.\textsuperscript{468}

\textbf{Comprehensiveness of the acts punished}

The Philippine legal framework punishes a variety of acts which are considered exploitation. The definition of trafficking is comprehensive and incorporates elements of the definition under the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. In compliance with the Palermo Protocol, when involving children survivors, the use of threat, force or the like, is not a pre-requisite to be considered trafficking.\textsuperscript{469}

\begin{table}[h]
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\begin{tabular}{|l|l|}
\hline
\textbf{Definition of Trafficking: A Comparison} & \\
\hline
Under the Anti-Trafficking in Persons Act of 2003 [Sec. 3(a)] & Under the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children [Art. 3(a)] \\
\hline
The recruitment, transportation, transfer or harbouring, or receipt of persons with or without the victim’s consent or knowledge, within or across national borders by means of threat or use 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 for the purpose of exploitation which includes at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery, servitude or the removal or sale of organs. & The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. \\
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\begin{flushright}
Francis Tom F. Temprosa
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467 Association of Southeast Asian Nations (Asia Regional Trafficking in Persons Project), ASEAN Handbook on International Legal Cooperation in Trafficking in Persons Cases, 111.


469 Republic Act No. 9208 or the Anti-Trafficking in Persons Act (Anti-Trafficking Law), 2003, Section 3(a).

470 \textit{Ibid.}

471 Definition as contained in Article 3(a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children Supplementing the United Nations Convention Against Transnational Organized Crime.
### Table 29: Some of the Different Acts considered as Exploitation

<table>
<thead>
<tr>
<th>Act</th>
<th>Definition under Philippine law</th>
<th>Aggravating circumstances</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sexual exploitation</td>
<td>Participation by a person in prostitution or the production of pornographic materials as a result of being subjected to a threat, deception, coercion, abduction, force, abuse of authority, debt bondage, fraud or through abuse of a victim's vulnerability.</td>
<td>The penalty may be higher if the act would be considered as a qualified act of trafficking.</td>
</tr>
<tr>
<td>Prostitution</td>
<td>Any act, transaction, scheme or design involving the use of a person by another, for sexual intercourse or lascivious conduct in exchange for money, profit or any other consideration due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.</td>
<td>The penalty may be higher if the act would be considered as a qualified act of trafficking.</td>
</tr>
<tr>
<td>Forced labour or services, or Slavery</td>
<td>Extraction of work or services from any person by means of enticement, violence, intimidation or threat, use of force or coercion, including deprivation of freedom, abuse of authority or moral ascendancy, debt-bondage or deception.</td>
<td>There are circumstances which may warrant a higher penalty such as if the offended party is below 12 years of age, and when a person profited from the sexual abuse of the child. Note that attempt to commit child prostitution and other sexual abuse is punished.</td>
</tr>
<tr>
<td>Debt bondage</td>
<td>Pledging by the debtor of his/her personal services or labour or those of a person under his/her control as security or payment for a debt, when the length and nature of services is not clearly defined or when the value of the services as reasonably assessed is not applied toward the liquidation of the debt.</td>
<td>The penalty may be higher if the act would be considered as a qualified act of trafficking.</td>
</tr>
<tr>
<td>Removal or sale of organs</td>
<td>Not defined under the law but punished as trafficking.</td>
<td>The penalty may be higher if the act would be considered as a qualified act of trafficking.</td>
</tr>
</tbody>
</table>

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472 Republic Act No. 9208 or the Anti-Trafficking in Persons Act (Anti-Trafficking Law), 2003, Section 3(f).
473 Ibid, Sec. 6.
474 Ibid, Sec. 3(c).
475 Republic Act No. 7610 or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act (Anti-Child Abuse Law), 1992, Section 5.
476 Republic Act No. 9208 or the Anti-Trafficking in Persons Act (Anti-Trafficking Law), 2003, Section 6.
477 Republic Act No. 7610 or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act (Anti-Child Abuse Law), 1992, Section 5 (b).
478 Ibid, Sec. 6.
479 Republic Act No. 9208 or the Anti-Trafficking in Persons Act (Anti-Trafficking Law), 2003, Section 3(d).
480 Act No. 3815 or Revised Penal Code of the Philippines, 1930, Article 272.
481 Republic Act No. 9208 or the Anti-Trafficking in Persons Act (Anti-Trafficking Law), 2003, Section 6.
482 Act No. 3815 or Revised Penal Code of the Philippines, 1930, Article 272.
483 Republic Act No. 9208 or the Anti-Trafficking in Persons Act (Anti-Trafficking Law), 2003, Section 3(g).
484 Act No. 3815 or Revised Penal Code of the Philippines, 1930, Article 274.
485 Republic Act No. 9208 or the Anti-Trafficking in Persons Act (Anti-Trafficking Law), 2003, Section 6.
486 Ibid.
<table>
<thead>
<tr>
<th>Act</th>
<th>Definition under Philippine law</th>
<th>Aggravating circumstances</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child labour</td>
<td>According to the Child Abuse Law: “Children below fifteen (15) years of age shall not be employed except: 1) When a child works directly under the sole responsibility of his/her parents or legal guardian and where only members of his/her family are employed: Provided, however, That his/her employment neither endangers his/her life, safety, health, and morals, nor impairs his/her normal development: Provided, further, That the parent or legal guardian shall provide the said child with the prescribed primary and/or secondary education; or 2) Where a child’s employment or participation in public entertainment or information through cinema, theatre, radio, television or other forms of media is essential: Provided, That the employment contract is concluded by the child’s parents or legal guardian, with the express agreement of the child concerned, if possible, and the approval of the Department of Labor and Employment: Provided, further, That the following requirements in all instances are strictly complied with: (a) The employer shall ensure the protection, health, safety, morals and normal development of the child; (b) The employer shall institute measures to prevent the child’s exploitation or discrimination taking into account the system and level of remuneration, and the duration and arrangement of working time; and (c) The employer shall formulate and implement, subject to the approval and supervision of competent authorities, a continuing program for training and skills acquisition of the child. In the above-exceptional cases where any such child may be employed, the employer shall first secure, before engaging such child, a work permit from the Department of Labor and Employment which shall ensure observance of the above requirements. For purposes of this Article, the term ‘child’ shall apply to all persons under eighteen (18) years of age.”</td>
<td>There are circumstances which shall warrant a higher penalty for the offense, such as when offender had been previously convicted under this law, offender commits the crime as an officer or employee of a juridical entity, relationship to offended party, and when the offender is a public officer or employee.</td>
</tr>
</tbody>
</table>

487 Republic Act No. 7610 or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act (Anti-Child Abuse Law), 1992, Section 12.
488 *Ibid*, Sec. 12 (D).
489 Act No. 3815 or Revised Penal Code of the Philippines, 1930, Article 273.
491 Republic Act No. 7610 or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act (Anti-Child Abuse Law), 1992, Section 31.
Protection Measures

According to an assessment of the UN Office on Drugs and Crimes (UNODC), laws establishing specific coordination mechanisms to assist survivors could be found in the Philippines. There are provisions in law on protection measures, including mandatory services to all survivors of trafficking such as emergency shelter or appropriate housing, counselling, free legal services, medical or psychological services, livelihood and skills training, and educational assistance to a trafficked child. The right of the trafficked child to assistance is recognized.

UNODC also specifically mentioned that there were mechanisms to assist exploited children. Indeed, the law on child abuse calls for a comprehensive program to be formulated by the Department of Justice and DSWD. This program is now being rolled out.

The law on trafficking has a provision of “other services” for trafficked Filipinos abroad. Legal assistance may be provided to them; services available to overseas Filipinos may be extended to them; and Philippine embassies shall provide protection to trafficked persons under the “country team approach” or leadership of the concerned ambassador.

Exploitation of Domestic Workers

Flores-Oebanda, in a paper presented during an expert group meeting on violence, noted the importance of bringing domestic work under the purview of existing labour legislation or to introduce specific laws for the protection of adult domestic workers, and the prevention of underage worker recruitment. The state of the law right now in the Philippines is that domestic workers, the vast majority of whom are women and girls, are not given the same protections as other workers under labour laws.

It was reported in 2006 that child domestic workers were predominantly (90%) girls. According to Flores-Oebanda, “[m]any child domestics are found in very exploitative, slave-like conditions. These children are highly isolated, due to their invisibility behind closed doors and the failure of existing regulatory mechanisms to protect them.” The special vulnerabilities of girl-child domestic workers were presented using cases studies. She said that there was a strong concern that domestic workers were prone to HIV/AIDS, but few studies have been made in this regard.

 Trafficked into Forced Labor: Selected Case Studies of Domestic Workers in the Philippines presented several cases of exploitation experienced by domestic workers. Abuse, prolonged hours of work, non-payment of required social welfare insurance for workers, inter alia, were documented. An ILO study on domestic workers estimated their number from 600,000 to 2.5 million in the country. A labour force survey suggested that about 1.5 million household helpers working in private households in the country contribute to 13.73% of the total wage employment in the private sector. Visayan Forum estimated that there were at least 2.5 million people who were domestic workers, and 1 million of them were children.

The following measures were recommended to address the exploitation of domestic workers: (1) Intensify international support for the passage of national laws

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492 United Nations Office on Drugs and Crime, Model Law against Trafficking in Persons (V.09-81990 (E), 5 August 2009), 37.
493 Republic Act No. 9208 or the Anti-Trafficking in Persons Act (Anti-Trafficking Law), 2003, Section 23.
494 United Nations Office on Drugs and Crime, Model Law against Trafficking in Persons, 44.
495 Republic Act No. 7610 or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act (Anti-Child Abuse Law), 1992, Section 4.
496 Republic Act No. 9208 or the Anti-Trafficking in Persons Act (Anti-Trafficking Law), 2003, Section 24.
499 Cecilia Flores-Oebanda, Addressing vulnerability and exploitation of child domestic workers: An open challenge to end a hidden shame, 2.
500 Ibid, 3.
502 Ibid, 6.
such as the ‘batas kasambahay’ or domestic workers’ bill in the Philippines; (2) Address trafficking dimensions in domestic work; (3) Implement educational strategies that take into account the unique situation of child domestic labourers; (4) Expand protective services for domestic workers, especially those at risk and those already trapped in exploitation; and (5) Integrate the recommendations of child domestic workers into policy and practice.503

Treatments of Reports on Migration and Trafficking

In most literature reviewed, exploitation in migration was not treated as a separate and distinct issue from trafficking. The literature on exploitation incorporated much of the information on migration as a context to exploitation. No academic discussion on the impact of the treatment of these issues was explored.

Regulation of Proper Documentation at Birth by Law and Trafficking

The relationship between trafficking and lack of proper documentation is known, but no specific report tackled this in great detail. According to the Williams, et al, in their study of sex trafficking in Metro Manila, survivors were “frequently moved through seaports or international airports, passing through security checkpoints with forged or stolen birth certificates or ostensibly legal documents.”504

This is an area where empirical research could be very helpful in developing adequate policy responses.

The Department of Foreign Affairs (DFA) recently reported the attempted submission of spurious birth certificates by some passport applicants who were abetted by placement agencies. The agencies were in the business of facilitating permits for “exploited” Filipino workers in Sabah.505 The Blas F. Ople Policy Center called on the DFA to conduct an impartial probe into the sale and proliferation of fake documents for Filipinos applying for passports in Sabah.506 A U.S. State Department report in 2009 cited the “growing trend” on the use of budget airline carriers to transport victims out of the country while traffickers use fake travel documents, falsified permits, and altered birth certificates.507

Penalization of Prostitution

Philippine law penalizes prostitution. Vagrants, ruffians, and pimps are punished regardless of gender. Prostitutes, defined under Revised Penal Code, are women who, for money or profit, habitually indulge in sexual intercourse or lascivious conduct.508 Thus, only women could be penalized for prostitution.

Groups have lobbied for a change in law. The Coalition against Trafficking of Women-Asia Pacific said women survivors have testified “on how law enforcers arrest, ask sexual favours, money or cell phones from the women arrested (in lieu) of jail time.”509 The Philippine Legislators’ Committee on Population and Development Foundation identified amending the law as policy recommendation inasmuch as women in prostitution were “victims of abuse and in most instances are forced into prostitution.” Men who engage women in sex work and people who profit from prostitution may not necessarily be punished.510

Saligan advocated for the passage of a bill providing that women exploited in prostitution should never be treated as criminals; instead, they should be treated as victim-survivors of sexual exploitation.511

503 Cecilia Flores-Oebanda, Addressing vulnerability and exploitation of child domestic workers: An open challenge to end a hidden shame, 9-10.
508 Act No. 3815 or Revised Penal Code of the Philippines, 1930, Article 202.

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Health and Safety Standards and Equal Rights and Conditions of Employment for Women

Keitel and Ledesma laid down the framework for the protection of the health and safety standards for women workers, including equal rights and conditions. Much of the legal environment promotes the welfare of women workers in the same manner that it does for men. It is noteworthy that there are no laws for the protection or regulation of women commercial sex workers as prostitution is expressly outlawed.

At the dawn of the 20th century, the ILO initiated Convention 89 prohibiting night work for women due to harsh working conditions. This was echoed in the Labor Code of the Philippines. Recently, the Philippines passed a law repealing the Labor Code provision and allowing women to work during night time.

Institutionalized Exploitation

A study on the rights of non-regular workers in the Philippines cited Article 135 of the Labor Code of the Philippines as one of the statutory provisions which can be used by both regular and non-regular workers to protect their interests. Article 135 made it unlawful for any employer to discriminate against a woman employee solely on account of her sex.

The UN Food and Agriculture Organization (FAO), in a series of studies on Gender and the Law: Women Right's in Agriculture, quoted Article 3 of the Code which provides that the State should ensure equal work opportunities regardless of sex. In addition, Article 136 of the Code declares it unlawful for an employer “to require as a condition of employment or continuation of employment that a woman employee shall not get married, or to stipulate expressly or tacitly that upon getting married, a woman employee shall be deemed resigned or separated, or to actually dismiss, discharge, discriminate or otherwise prejudice a woman employee merely by reason of her marriage.” However, FAO said that sex discrimination with regard to recruitment is not strictly prohibited. Sex discrimination with respect to terms and conditions of employment is prohibited. The Indigenous Peoples Rights Act of 1997 also prohibits discrimination against indigenous women in the areas of employment and training.

However, in its analysis, FAO remarked that “gender labour differentiation” remained. Women were concentrated in “feminine” occupations. As for agriculture, while men were considered farmers or farm heads, women were usually referred to as farm workers. Gender pay gaps also remained—a considerable number of female agricultural workers (about 50%) were unpaid in a 2000 study. Agriculture was thus a particularly difficult sector; institutional discrimination in other sectors such as service, manufacturing and industry, was considerably less acute.

The expansion of the anti-discrimination provisions under the Code has been advocated by several groups. In 2006, the government said that in response to the Economic, Social and Cultural Rights Committee's recommendation for Government to address the discriminatory practices relating to male preference in hiring of employees, “various bills were filed before Congress to increase women's access to training in employment and prohibit discriminatory practices, such as the giving of preference to men in the posting of employment notices.”


513 Ibid, 3.

514 Republic Act No. 10151 or An Act Allowing The Employment of Night Workers, Thereby Repealing Articles 130 and 131 of Presidential Decree Number Four Hundred Forty-Two, as amended, otherwise known as the Labor Code of the Philippines, 2010.


517 Ibid, 105.

518 Ibid.


Battad described Philippine commitments towards gender equality in relation to work conditions and some of the policies found in law. With the influence of the CEDAW on substantive equality, gender equality legislation affecting workers in the last decade brought "beneficial effect in terms of achieving equal opportunities" and fair treatment between women and men." According to him, "[t]he legislative gains are too significant to be ignored; they are milestones in the promotion of gender equality and non-discrimination, particularly in the workplace.” However, responses had pitfalls such as in the design of social services and arrangements which equalize family responsibilities between women and men or help combine home and family responsibilities—either reinforcing discriminatory gender stereotypes or lead to the inequality of results and benefits.

In a regional congress on labour and social security law, several papers on the situation of Filipino women in industries were presented. Trasporte and Pura in Gender Sensitive Employment Relations: An Analysis of Philippine Labor Laws and HR Policies for Women Workers surveyed 15 companies on the implementation of laws dealing with women. Approximately 60% of the Labor Code provisions for working women were not incorporated in human resource policies. Except for provisions on facilities for women and maternity leave benefits, all other provisions were not contained in company policy manuals. About 90% of respondents in human resources departments lacked awareness of some labour laws, especially those for solo parents; about 80% had no plans to adopt the laws in their policies nor have plans to create a special resource policies. Except for provisions on facilities for women and maternity leave benefits, all other provisions were not contained in company policy manuals. About 90% of respondents in human resources departments lacked awareness of some labour laws, especially those for solo parents; about 80% had no plans to adopt the laws in their policies nor have plans to create a special incentives or projects for women employees within the next two years.

iii. On Exploitation of Children

Children in prostitution and pornography

In 2009, the government submitted a comprehensive report to the CRC as regards its implementation of the Optional Protocol related to the sale of children, prostitution and pornography. Information on the prohibition of child pornography and prostitution in local laws were shared, including penal and criminal procedures, protection of the rights of survivors, prevention efforts, international assistance and cooperation, and other legal provisions.

Despite the national policies above and efforts to curb prostitution of children, the Committee on the Rights of the Child was concerned about the vulnerability of a number of groups of children who are vulnerable to commercial sexual exploitation, including: children in the street situation; children involved in “prosti-tuition” or earning for tuition; “call girls / boys” or those who engaged in seasonal prostitution to address emergency needs; and “entertainers” or young overseas Filipino women who are prostituted.

According to Trinidad in Child Pornography in the Philippines, the problem of child pornography in the country is complex and requires concerted efforts of different agencies to solve it. Numerous interrelated issues affect it, and it is often a form of exploitation that relates to others. In assessing state policies or laws on child pornography, Trinidad pointed out gaps in the law and weaknesses in the enforcement of existing laws that protect children.

Use, Procuring or Offering of a Child for Illicit Activities

There are state policies against the use, procurement and offering of a child for illicit activities. Use of a child for illicit activities generally warrants the imposition of a higher penalty than that ordinarily prescribed by law. Based on literature gathered in this baseline review, this social phenomenon was rarely examined in reports.

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522 Ibid, 137.


525 Committee on the Rights of the Child, Concluding Observations of the Committee on the Rights of the Child: Philippines (CRC/C/PHL/ CO/3-4, 2 October 2009), para. 76.


527 Ibid, 134-149.
For the injury. A related publication confirmed the incidents in agriculture and the need for more protection of children in this sector.

As to the effects of hazardous work on children, ILO cited a series of small studies observing that child scavengers' learning ability progressively deteriorated with the amount of time working on the garbage dump. One probable cause was exposure to polychlorinated biphenyls, lead or myriad other toxins that were released by the burning of refuse.

Exploitation in Adoption and Children in the Street Situation

The CRC welcomed a law that authorized DSWD to certify that a child is legally available for adoption. It, however, expressed concern of information that “due to the cost of adoption proceedings, many resort to ‘simulation of birth’ or the fraudulent registration of birth carried out by non-biological parents to avoid the adoption process.” The committee was also concerned that, despite an existing regulatory law, there is a lack of information on the framework and conditions for inter-country adoptions as well as disaggregated data on the receiving countries and the gender and age of children adopted.

It likewise noted “the lack of a systematic and comprehensive strategy to address the situation and protect children living in the streets.” Furthermore, the Committee was concerned about health risks faced by children in the street situation, including environmental


529 Ibid, 75.

530 Ibid, 76.

531 Ibid.

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health risks, such as toxic and hazardous wastes and air pollution. Various news articles reported arrests and detentions of children in the street situation.537

It is also noteworthy that there is no specific law that deals with children in the street situation in the Philippines. An earlier study noted that 75,000 of the 2.5 million children in Manila were living on streets after having run away from home or being abandoned. About 20,000 of children in the street situation were involved in sex work; hence, they also suffered from the risks faced by people in prostitution and must be protected.538

3. Implementation, Monitoring and Prevention

a. Implementing and Monitoring Mechanisms

i. Description of State Implementing and Monitoring Mechanisms

The Philippines implements and monitors its laws, programs and policies against exploitation of women and children through the general mechanism related to violence against women (see previous discussion). However, specific to trafficking and related forms of exploitation as defined under the law, the Inter-Agency Council Against Trafficking (IACAT) is the lead coordinating and monitoring body in government.

Table 30: Powers and Functions of the Inter-Agency Council Against Trafficking

<table>
<thead>
<tr>
<th>Powers and Functions of the Inter-Agency Council Against Trafficking539</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Formulate a comprehensive and integrated program to prevent and suppress the trafficking in persons;</td>
</tr>
<tr>
<td>• Promulgate rules and regulations as may be necessary for the effective implementation of the Anti-Trafficking in Persons Act;</td>
</tr>
<tr>
<td>• Monitor and oversee the strict implementation of said Act;</td>
</tr>
<tr>
<td>• Coordinate the programs and projects of the various member agencies to effectively address the issues and problems attendant to trafficking in persons;</td>
</tr>
<tr>
<td>• Coordinate the conduct of massive information dissemination and campaign on the existence of the law and the various issues and problems attendant to trafficking through the local government units, concerned agencies, and non-governmental organizations;</td>
</tr>
<tr>
<td>• Direct other agencies to immediately respond to the problems brought to their attention and report to the Council on action taken;</td>
</tr>
<tr>
<td>• Assist in filing of cases against individuals, agencies, institutions or establishments that violate the provisions of said Act;</td>
</tr>
<tr>
<td>• Formulate a program for the reintegration of trafficked persons in cooperation with the Department of Labor and Employment, DSWD, Technical Education and Skills Development Authority (TESDA), Commission on Higher Education, local government units and non-governmental organizations;</td>
</tr>
<tr>
<td>• Secure from any department, bureau, office, agency, or instrumentality of the government or from non-governmental organizations and other civic organizations such assistance as may be needed to effectively implement said Act;</td>
</tr>
<tr>
<td>• Complement the shared government information system for migration established under Republic Act No. 8042, otherwise known as the “Migrant Workers and Overseas Filipinos Act of 1995” with data on cases of trafficking in persons, and ensure that the proper agencies conduct a continuing research and study on the patterns and scheme of trafficking in persons which shall form the basis for policy formulation and program direction;</td>
</tr>
<tr>
<td>• Develop the mechanism to ensure the timely, coordinated, and effective response to cases of trafficking in persons;</td>
</tr>
<tr>
<td>• Recommend measures to enhance cooperative efforts and mutual assistance among foreign countries through bilateral and/or multilateral arrangements to prevent and suppress international trafficking in persons;</td>
</tr>
<tr>
<td>• Coordinate with the Department of Transportation and Communications, Department of Trade and Industry, and other NGOs in monitoring the promotion of advertisement of trafficking in the Internet;</td>
</tr>
<tr>
<td>• Adopt measures and policies to protect the rights and needs of trafficked persons who are foreign nationals in the Philippines;</td>
</tr>
<tr>
<td>• Initiate training programs in identifying and providing the necessary intervention or assistance to trafficked persons; and</td>
</tr>
<tr>
<td>• Exercise all the powers and perform such other functions necessary to attain the purposes and objectives of said Act.</td>
</tr>
</tbody>
</table>

537 Committee on the Rights of the Child, Concluding Observations of the Committee on the Rights of the Child: Philippines (CRC/C/15/Add.259, 21 September 2005), para. 82.


539 Republic Act No. 9208 or the Anti-Trafficking in Persons Act (Anti-Trafficking Law), 2003, Section 21.
In women’s and children’s affairs, the Council for the Welfare of Children and the Philippine Commission on Women play central role since the body of law on violence against women and children incorporates exploitation as a concern and mandates these agencies to function. Local government units are always involved, as well as the Commission on Human Rights of the Philippines.

Table 31: Composition of the Inter-Agency Council Against Trafficking

<table>
<thead>
<tr>
<th>Composition of the Inter-Agency Council Against Trafficking</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Secretary of the Department of Justice, Chairperson</td>
</tr>
<tr>
<td>• Secretary of the Department of Social Welfare and Development, Co-Chairperson</td>
</tr>
<tr>
<td>• Secretary of the Department of Foreign Affairs, Member</td>
</tr>
<tr>
<td>• Secretary of the Department of Labor and Employment, Member</td>
</tr>
<tr>
<td>• Administrator of the Philippine Overseas Employment Administration, Member</td>
</tr>
<tr>
<td>• Commissioner of the Bureau of Immigration, Member</td>
</tr>
<tr>
<td>• Director-General of the Philippine National Police, Member</td>
</tr>
<tr>
<td>• Chairperson of the National Commission on the Role of Filipino Women (now Philippine Commission on Women or PCW), Member</td>
</tr>
<tr>
<td>• Three representatives from non-governmental organizations, who shall be composed of one representative each from among the sectors representing women, overseas Filipino workers and children, with a proven record of involvement in the prevention and suppression of trafficking in persons (to be appointed by the President of the Philippines upon nomination by the government agency representatives of the Council, each for a term of three years), Members</td>
</tr>
</tbody>
</table>

Progress Report on Criminal Justice Responses to Trafficking in Persons in the ASEAN Region listed the following agencies as involved in the State response to trafficking: Philippine Women and Children Protection Center, Philippine National Police and the Anti-Human Trafficking Division of the NBI.  

DSWD is operationally involved in the provision of welfare services. The Philippine National Police and/or the NBI provide surveillance and engage in rescue operations. Civil society, non-governmental organizations, and international organizations also participate in several stages of implementation and monitoring. Overseas, survivors of trafficking are provided with assistance and support by embassies and other Foreign Service posts of the Philippines under the “Country-team Approach.” The approach refers to a mode under which Philippine embassies or their personnel would operate in the protection and promotion of the welfare of Filipino migrant workers, and the approach meant that this should be the highest priority concerns of the Secretary of Foreign Affairs and the Philippine Foreign Service. All officers, representatives and personnel of the Philippine government posted abroad, regardless of their mother agencies, act as one country team with a mission under the leadership of the ambassador in a particular country.

IACAT prepared and adopted a National Strategic Action Plan Against Trafficking in Persons (2004-2010). In 2006, the IACAT further concretized the items in the plan through the development of a document with more details on what activities the council planned to undertake to address trafficking. It would be of prime importance to review and evaluate the accomplishments of the IACAT vis-à-vis its former strategic action plan. A National Strategic Action Plan Against Trafficking in Persons (2011-2016) is being developed, which will serve as blueprint for all actions of government and non-governmental organizations involved in anti-trafficking efforts.

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540 Ibid, Sec. 20.
541 Association of Southeast Asian Nations (Asia Regional Trafficking in Persons Project), Progress Report on Criminal Justice Responses to Trafficking in Persons in the ASEAN Region, (Jakarta: ASEAN, AusAID and Cardno Emerging Markets (Australia), 2011), 34.
543 Ibid, para. 91.
544 Inter-Agency Council Against Trafficking, Action Plan Against Trafficking In Persons (Manila: Inter-Agency Council Against Trafficking, October 2006).
545 Ibid.
The national report of the Philippine government for the 2nd cycle of the Universal Periodic Review described recent measures to combat trafficking in persons, priority projects in the campaign to fight trafficking in persons, and lead efforts to combat trafficking in persons at the international level.548

The ILO noted that while IACAT is the primary coordinating body on issues affecting trafficking in persons, a number of offices and bodies were created before and even after the advent of the Anti-Trafficking Law to address transnational crime in general, “which includes trafficking in persons, and other crimes which are necessarily involved in the commission of trafficking in persons like illegal recruitment and passport irregularities.”549

Additionally, there is an Office of the Undersecretary for Migrant Workers Affairs (OUMWA) under the DFA which has a Trafficking Desk that handles all concerns regarding human trafficking and serves as the focal and coordinating office within the DFA on these matters.551 Another is the Sub-Committee on Human Trafficking of the National Law Enforcement Coordinating Committee, which meets regularly for sharing data on human trafficking, briefing on actions being done in the prosecution of cases and adopting measures to strengthen coordinated approach.552 There are Local Councils for the Protection of Children that are at the provincial, city, municipal and barangay levels.553


549 International Labour Organization, Child trafficking in the Philippines: A situational analysis, 147.


551 Ibid, 145.

552 Ibid, 146.

553 Ibid.

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ii. Specialized institutions with mandate to oversee the implementation of laws against exploitation

The IACAT is the specialized body mandated by law to oversee the “strict implementation” of the primary law against exploitation.554

iii. Reports that study mechanisms that monitor the implementation and observance of laws related to exploitation

The passage of the Anti-Trafficking Law and the VAWC Law paved the way for the birth of IACAT and IAC-VAWC—for mechanisms that look into issues and concerns related to the implementation of laws. They develop policies, programs, systems, and procedures to “further strengthen” the implementation of the laws.555

The U.S. State Department constantly reports on the implementation and monitoring mechanisms of the Philippines. In 2010, according to the 2011 U.S. report: “IACAT significantly increased staffing to Manila’s Ninoy Aquino International Airport Task Force Against Trafficking in Persons, which now operates 24 hours per day, seven days per week, is led by three senior airport officials, and includes 11 full-time airport police department officers, 10 Department of Justice prosecutors and staff members, and seven social workers from the Department of Social Welfare and Development.” Also, NBI and four regional anti-trafficking task forces augmented personnel capacities to work on trafficking issues. Personnel support and funding were received from IACAT. The council also launched a 24-hour nationwide anti-trafficking hotline to increase its monitoring and response capacities.556

However, the report contained several recommendations on IACAT, inter alia, the continued funding and strengthening of the IACAT, providing full-time staffing and management for the IACAT Secretariat, increasing funding for anti-trafficking programs within IACAT member agencies, and addressing the significant backlog of trafficking cases by developing mechanisms to track and monitor the status of cases filed with the Department of Justice and those under trial in the courts.557

An ILO study in 2007 aimed to also assess the existing institutional arrangements for combating child trafficking vis-à-vis national and international commitments of the Philippines. According to ILO: “As new as R.A. 9208 and the consequent structures are, it is recognized that there are no coherent and comprehensive programs against child trafficking that are brought down to the community level, where they are needed the most.”558

b. Complaints Process

Description of the State’s Complaint Process

Exploitation in general is a public offense in the Philippines. Thus, it is not only the survivor who may initiate a complaint for exploitation. As explained by Vilches, any person with actual knowledge of trafficking may initiate a complaint in the court where the crime was committed or where the survivor resides. The offender party may decide to file a separate action for damages resulting from the act of trafficking. He or she has a period of 10 years within which to commence a criminal complaint. If the trafficking was carried out by a syndicate or when done in large scale, the period to prosecute is 20 years from the time that he or she was released from the conditions of bondage.559 There are special procedures that apply if the survivor is a woman or a child. Such procedures, as discussed in the section on violence, also apply here.

The Criminal Investigation Manual of the Philippine National Police has described their complaints process for trafficking and related offenses punished under the Anti-Trafficking in Persons Act of 2003.

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554 Republic Act No. 9208 or the Anti-Trafficking in Persons Act (Anti-Trafficking Law), 2003, Section 21(c).


557 Ibid.

558 International Labour Organization, Child trafficking in the Philippines: A situational analysis, Executive Summary.

Affecting Women and Children in ASEAN: A Baseline Study

Revised PNP Criminal Investigation Manual in 2008, outlines the role of the police in Trafficking in Persons Cases, approved and adopted by the IACAT in 2008. According to the Philippine National Police, the complaints process described under section b.3.b. for child abuse cases applies also to all cases of exploitation (other than trafficking) which involve children.

The Manual on Law Enforcement and Prosecution of Trafficking in Persons Cases, approved and adopted by the IACAT in 2008, outlines the role of the police once a survivor approaches them or once information of a trafficking incident reaches them. It contains a discussion on filing of complaints and the proceedings before a prosecutor. The prosecutor plays a crucial role in either the inquest or preliminary investigation related to trafficking cases.

Table 34: Exploitation Complaints Process

<table>
<thead>
<tr>
<th>Trafficking and related forms of exploitation, including illegal recruitment</th>
</tr>
</thead>
<tbody>
<tr>
<td>• The Desk Officer (of the Philippine National Police) shall entertain all walk-in complainant/s for Illegal Recruitment and Trafficking cases.</td>
</tr>
<tr>
<td>• The Desk Officer, after a brief interview with the complainant/s, shall record the incident in the Police Blotter and refer them to the duty investigator.</td>
</tr>
<tr>
<td>• The duty investigator shall require the complainant/s to fill up the complaint sheet provided for detailing the nature of their complaint.</td>
</tr>
<tr>
<td>• The duty investigator, after examining the accomplished complaint sheet, shall take the sworn statements of the complainant/s and asked for any receipt or essential documents relative to their complaint.</td>
</tr>
<tr>
<td>• The duty investigator shall request in writing information from POEA whether or not the recruitment agency subject of the complaint is duly licensed. If not licensed, get a certificate to this effect. If registered, get a certified copy of the POEA license.</td>
</tr>
<tr>
<td>• If the recruitment agency is licensed to operate but has certain violations under R.A No-8042, or the person/s subject of the complaints is nowhere to be found, the investigator shall bring the case before the prosecutors’ office for regular filing.</td>
</tr>
<tr>
<td>• However, if not registered, and the employment agency continuously accepts applicants for overseas work and still negotiates with the complainant, the same shall be referred to the nearest CIDG Office for entrapment operations pursuant to EO 759 dated October 23, 2008.</td>
</tr>
<tr>
<td>• In preparation to the entrapment operation, the operatives shall conduct an investigation/surveillance about the subject employment agency to determine the veracity of the complaint, and thereafter prepare a summary of information (SOI) as requirement to PRE-OPERATION CLEARANCE.</td>
</tr>
<tr>
<td>• The investigator shall prepare a request to the PNP Crime Laboratory for Ultra Violet Powder for “Dusting” of marked money to be used in the entrapment operation.</td>
</tr>
<tr>
<td>• The team leader shall coordinate personally with the concerned territorial Police Office within whose jurisdiction the operation will be conducted using the prescribed Coordination Form prior to the launching of the operation.</td>
</tr>
<tr>
<td>• The arresting team must be equipped of camera/video to be used during the actual police operation.</td>
</tr>
<tr>
<td>• Upon arrest of the suspect/s, apprise them of their Constitutional Rights as provided in RA 7438. Subject arrested person/s shall undergo an Ultra Violet Powder Examination and Physical/Medical Examination at the PNP Crime Laboratory.</td>
</tr>
<tr>
<td>• The investigator shall prepare documentation and identification, fingerprinting (booking sheets) and the standard front, side view, whole body and back view photographs of the arrested suspect/s.</td>
</tr>
<tr>
<td>• The officer-on-case shall prepare the letter of transmittal to the prosecutor having jurisdiction over the case. To be attached as annexes are: a) Sworn statement taken, b) Certificate from the POEA, c) Booking sheets /Photographs, d) Affidavit of Arresting Officers, e) Receipts of payment &amp; documents made by applicants, f) Request and Result of Ultra Violet Powder from PNP Crime Laboratory, g) Request and Result of Physical/Medical Examination of the PNP Crime Laboratory, h) Others to be presented later, i) After inquest, bring subjects to jail for temporary confinement until they are turned over to the city jail or local or provincial jails. This should be done immediately.</td>
</tr>
</tbody>
</table>

According to the Philippine National Police, the complaints process described under section b.3.b. for child abuse cases applies also to all cases of exploitation (other than trafficking) which involve children.

The Manual on Law Enforcement and Prosecution of Trafficking in Persons Cases, approved and adopted by the IACAT in 2008, outlines the role of the police once a survivor approaches them or once information of a trafficking incident reaches them. It contains a discussion on filing of complaints and the proceedings before a prosecutor. The prosecutor plays a crucial role in either the inquest or preliminary investigation related to trafficking cases.

560 Philippine National Police, Revised PNP Criminal Investigation Manual 2010, 75-76.
563 Circular No. 18 (Series of 2005), Guidelines in the investigation and prosecution of cases involving the violations of Republic Act No. 9208, otherwise known as the “Anti-Trafficking in Persons Act of 2003”, Republic of the Philippines Department of Justice.
Assessment of the State’s Complaint Process

Cruz, et al., in the Social Welfare and Development Journal, conducted an analysis of the issues and constraints to the effective implementation in Oriental Mindoro of the Anti-Trafficking Law. Results showed that, at the community level, “a large number of human trafficking cases have existed mainly due to the lack of knowledge” of the Anti-Trafficking Law. Survivors did not resort to the complaint process mainly due to ignorance of the law and their rights, and the fear of stigmatization as victims of trafficking.564

Cruz, et al., also noted several issues regarding the current justice system that made it difficult for cases to prosper. Among others, slow legal procedures and “forced” settlements (practice of settling the case in exchange for money) were identified.565

A research by the Ateneo Human Rights Center in Zambasulta566 said it was “common” for women and children survivors to either refuse to file charges or desist from pursuing the case after they have filed the complaint. Some law enforcers and social workers who handled trafficking cases also complained about the lack of legal protection against harassment suits filed against them.567

c. Protection and Rehabilitation

Description of the State’s Protection and Rehabilitation Program

The National Strategic Action Plan (2004-2010) of the IACAT contains three components that cut across all key results areas of the plan. The components relate to prevention, protection, and recovery and reintegration, which are briefly described below. To note, each agency which forms part of the IACAT and all local government units were mandated by law to establish and implement some preventive, protective and rehabilitative programs on trafficking.568

Table 35: Components of the National Strategic Action Plan of IACAT (2004-2010)569

<table>
<thead>
<tr>
<th>Component</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prevention</td>
<td>Create increased, awareness, knowledge &amp; commitment by stakeholders to trafficking in persons to facilitate wide support &amp; participation in the implementation of the “Anti-Trafficking in Persons Act of 2003”</td>
</tr>
<tr>
<td>Protection</td>
<td>Create an environment where trafficked persons especially women and children are protected and ensure that institutional mechanisms for their protection are in place and operational</td>
</tr>
<tr>
<td>Recovery and Reintegration</td>
<td>Ensure the recovery and reintegration of trafficked persons especially women and children into their respective families &amp; communities</td>
</tr>
</tbody>
</table>

Table 36: Strategic Activities on Protection and Rehabilitation in the National Strategic Action Plan of IACAT (2004-2010)570

<table>
<thead>
<tr>
<th>Component</th>
<th>Strategic Activities</th>
</tr>
</thead>
</table>
| Protection (includes law enforcement and prosecution) | Expanding community protection networks  
Enhancing capacities of frontline workers to address TIP  
Developing manuals and protocols  
Setting-up special units and task forces  
Establishing hotlines and quick response teams  
Strengthening inter-agency coordination  
Institutionalizing child-friendly and gender-sensitive criminal justice system  
Increasing bilateral cooperation with other countries169 |
| Recovery and Reintegration     | Developing local programs for recovery and reintegration  
Increasing access to employment opportunities  
Strengthening/expanding halfway houses and shelters  
Preparing families and communities |


565 Ibid.

566 Zamboanga, Sulu and Tawi-Tawi in Mindanao


568 Republic Act No. 9208 or the Anti-Trafficking in Persons Act (Anti-Trafficking Law), 2003, Section 16.


570 Resolution No. 1 (Series of 2004), Adopting the National Strategic Plan of Action Against Trafficking in Persons (2004-2010), Inter-Agency Council Against Trafficking.

571 This includes the development of memoranda of understanding (e.g., with Kuwait for the protection of Filipinos), creation of a task force to address the issue of trafficking in Japan and continuous consultation with countries with large numbers of Filipinos.

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In January 2009, IACAT adopted the **Referral System for the Recovery and Reintegration of Trafficked Persons** that contains guidelines in conformity with the Anti-Trafficking Law and their action plan.\(^{572}\) Elements for the protection and rehabilitation of survivor—such as the provision of some mandatory services, legal assistance, and preference for witness protection—are also in the Anti-Trafficking Law itself.\(^{573}\)

**Assessment of the State's Rehabilitation and Protection Program**

The U.S. Department of State report noted DSWD as the most active government agency in the area of protection and rehabilitation of survivors, operating 42 temporary shelters and making referrals to private short- and long-term care facilities. With regard to addressing trafficking outside the Philippines (but involving Filipino citizens), the Department of Labor and Employment and the Philippine Overseas Employment Authority provide emergency shelter, medical care, and legal assistance to trafficked Filipinos. Local non-governmental organizations are active in protecting and rehabilitating survivors.\(^{574}\)

However, according to the Joint Civil Society Report for the 2nd cycle of the Universal Periodic Review: “Protection and rehabilitation of rescued women are jeopardized by lack of resources of frontline agencies such as the social welfare department and police and by lack of shelters in provinces, especially in ARMM. These problems persist despite the $550,000 Congress allocation to the Inter-agency Council Against Trafficking (IACAT).”\(^{575}\) Citing the Coalition Against Trafficking in Women - Asia-Pacific, the civil society report said that almost everyday, at least one call for help comes from a trafficked woman arrested and detained, especially in Malaysia. But before they could be repatriated, women suffered months of lack of food, cruel treatment, and delays in processing travel documents “due to corruption in embassies”.\(^{576}\)

**d. Prevention Strategy**

**Description of the State’s Prevention Program**

The law entrusted IACAT with the function of formulating a comprehensive and integrated program to prevent and suppress trafficking.\(^{577}\) Accordingly, prevention is a component of the plan of IACAT.

**Table 37: Strategic Activities on Protection and Rehabilitation in the National Strategic Action Plan of IACAT (2004-2010)**\(^{578}\)

<table>
<thead>
<tr>
<th>Component</th>
<th>Strategic Activities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prevention</td>
<td>Developing and disseminating IEC materials</td>
</tr>
<tr>
<td></td>
<td>Initiating and sustaining public information</td>
</tr>
<tr>
<td></td>
<td>Organizing and/or strengthening community networks</td>
</tr>
<tr>
<td></td>
<td>Establishing reporting and referral system</td>
</tr>
<tr>
<td></td>
<td>Document fraud examination acquisition</td>
</tr>
<tr>
<td></td>
<td>Continually conducts pre-departure marriage counselling</td>
</tr>
</tbody>
</table>

As a measure to prevent trafficking, the law also provides that the Department of the Interior and Local Government should institute a systematic information and prevention campaign and likewise maintain a databank for the effective monitoring, documentation and prosecution of cases on trafficking in persons.\(^{579}\)

**Assessment of the State’s Prevention Program**

When analysed, the prevention strategy of the State is mainly anchored on awareness-raising, knowledge-building, and commitment drives against trafficking.\(^{580}\) The source of the money for information campaigns is

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573 Republic Act No. 9208 or the Anti-Trafficking in Persons Act (Anti-Trafficking Law), 2003, Sections 15, 17-19 and 24-25.


576 Ibid.

577 Republic Act No. 9208 or the Anti-Trafficking in Persons Act (Anti-Trafficking Law), 2003, Section 21(a).

578 Resolution No. 1 (Series of 2004), Adopting the National Strategic Plan of Action Against Trafficking in Persons (2004-2010), Inter-Agency Council Against Trafficking.

579 Republic Act No. 9208 or the Anti-Trafficking in Persons Act (Anti-Trafficking Law), 2003, Section 16(i).

580 Under Section 16 of the Anti-Trafficking Law, local government units have been charged to undertake information campaigns against trafficking in coordination with the DILG, Philippine Information Agency, Commission on Filipinos Overseas, non-governmental organizations and other concerned agencies.
the IACAT trust fund.\textsuperscript{581} As part of training and public awareness efforts on trafficking, the Philippine Overseas Employment Agency (POEA) conducts pre-deployment seminars for outbound Filipinos. POEA, DOLE and DFA also hold seminars towards this end.\textsuperscript{582}

The other main action involves the actual interception of “would-be victims” in ports of call,\textsuperscript{583} which is usually done in cooperation with the Regional IACAT, the Sea-Based Anti-Trafficking Task Force and nongovernmental organizations\textsuperscript{584} such as the Visayan Forum. IACAT increased its presence in ports through the posting of dedicated personnel and office space. NBI has agents who focus on trafficking cases. However, the U.S. Department of State reports that the national budget to prevent and respond to trafficking cases continues to decline.\textsuperscript{585}

According to the Ateneo Human Rights Center: “Aside from problems with convictions, prevention efforts by the government which are directed at people who intend to go abroad to work have had to compete with the reality that there are no employment opportunities in the country.” This was particularly true in conflict-affected areas and insecure locations. Furthermore, since some lacked awareness of the dangers of trafficking (including halaws or deportees), this facilitated irregular movements and trafficking between the borders of Malaysia and the Philippines.\textsuperscript{586} Thus, preventive and protective strategies must be reviewed and assessed “in order to be able to lay down the framework for an effective formula in combating human trafficking.”\textsuperscript{587}

\section*{4. Role of Non-State Actors}

\subsection*{a. Assistance to Survivors, Protection and Prevention Programs}

\begin{itemize}
  \item \textsuperscript{582} United States Department of State, \textit{Trafficking in Persons Report 2011}, 297-298.
  \item \textsuperscript{583} Ateneo Human Rights Center, \textit{Trafficking in Women and Children in Zamboanga, Basilan, Sulu, and Tawi-Tawi (ZAMBADULTA)}, 65.
  \item \textsuperscript{584} Ibid., 66.
  \item \textsuperscript{585} United States Department of State, \textit{Trafficking in Persons Report 2011}, 297-298.
  \item \textsuperscript{586} Ateneo Human Rights Center, \textit{Trafficking in Women and Children in Zamboanga, Basilan, Sulu, and Tawi-Tawi (ZAMBADULTA)}, 21.
  \item \textsuperscript{587} Ibid.
  \item \textsuperscript{588} See, for example, Committee on the Rights of the Child, \textit{Concluding Observations of the Committee on the Rights of the Child: Philippines (CRC/C/15/Add.259, 21 September 2005)}, para. 28.
  \item \textsuperscript{592} Government of the Philippines, \textit{National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Philippines}, para. 71.
  \item \textsuperscript{593} For example, Visayan Forum is active in surveillance and rescue of trafficked persons. It coordinates with state agencies during interception operations.
  \item \textsuperscript{594} For example, ECPAT Philippines with Body Shop launched an Anti-Child Trafficking Campaign in 2009.
\end{itemize}

As mentioned earlier, the CEDAW Committee and the Committee on the Rights of the Child welcomed the collaboration between the Philippine government and a high number of organizations on efforts against trafficking.\textsuperscript{588} Reports of the Department of Justice,\textsuperscript{589} Bernabe,\textsuperscript{590} and ASIA ACTs, \textit{et al.}\textsuperscript{591} contained some of the contributions of civil society to anti-trafficking efforts; but there is no comprehensive study identifying or detailing all the assistance and protection efforts of non-state actors.

The National Report of the Philippines for the second cycle of the Universal Periodic Review acknowledged this collaboration. For instance, it mentioned that A Memorandum of Agreement among the DILG, Blas Ople Policy Center and Training Institute, Visayan Forum, Association of Child Caring Agencies of the Philippines, and the Philippine Center for Islam and Democracy was signed in 2010 to better coordinate anti-trafficking efforts of government with civil society and private groups.\textsuperscript{592} DSWD coordinates with a network of such organizations when cases of trafficking or exploitation require intervention.\textsuperscript{593} Business groups and trans-national organizations, as non-state actors, also played some role in anti-trafficking efforts.\textsuperscript{594}
b. Monitoring and Cooperation

An active civil society is also involved in the monitoring of compliance of the Philippines with its international obligations as regards exploitation and trafficking of women. Numerous shadow reports by non-governmental organizations were shared with the CEDAW and CRC, detailing government response or being critical about it.

A commitment drive was launched by the IACAT and certain non-governmental organizations like the Multi-Sectoral Network Against Trafficking for diverse leaders from different sectors and fields to commit to providing immediate and appropriate response mechanisms and address human trafficking in the areas of prevention, protection, healing and reintegration. The Department of the Interior and Local Government also named certain civil society organizations as allies in its mandate that relates to trafficking.

Collaboration with other non-state Actors in and Beyond the ASEAN Region

Some organizations working on the issue of exploitation formed alliances with other similar actors in Asia and the Pacific. For instance, the Academy for Educational Development has a listing of such groups.

5. Progress Indicators and Challenges

Availability and accessibility of progress reports

Progress reports on trafficking are available and accessible. Most should, however, be more widely circulated to ensure adequate public information.

Effectiveness of policies and measures, and assessment of success indicators

Over the years, the U.S. Department of State report has been measuring the effectiveness of the policies and measures taken by the Philippines on human trafficking. Recent reports noted that some progress had been made.

A region-wide initiative, Progress Report on Criminal Justice Responses to Trafficking in Persons in the ASEAN Region, measured the progress against human trafficking in the ASEAN region around seven key components of an effective criminal justice response to trafficking: (1) Strong and comprehensive legal frameworks; (2) Specialist investigative capacity to investigate TIP; (3) Front line capacity to identify and respond to TIP; (4) Prosecutorial and judicial capacity with regard to TIP cases; (5) Victim identification, protection and support; (6) Provision of support to victims as witnesses; and (7) International legal cooperation. “Quality standards” for each component were described. The report was drawn from a number of sources. Research strengths and limitations were also presented.

According to the report, a range of trafficking-related offenses are separately and fully criminalized in the Philippines, providing additional or alternative basis for prosecuting trafficking-related crimes. This has been commendable progress. However, there is no legal provision for the extra-territorial application of trafficking offenses. Furthermore, the Philippines does not have and maintain a mutual legal assistance theory with some countries in the ASEAN, particularly Cambodia and Laos.

In ECPAT’s Their Protection is in our Hands: The State of Global Child Trafficking for Sexual Purposes, some 42 countries were surveyed on three key goals, with each goal containing four specific indicators.

598 United States Department of State, Trafficking in Persons Report 2011, 11.
599 Association of Southeast Asian Nations (Asia Regional Trafficking in Persons Project), Progress Report on Criminal Justice Responses to Trafficking in Persons in the ASEAN Region, 6.
600 Ibid, 3.
601 Ibid, 4.
602 Ibid, 15.
603 Ibid, 17.
604 Ibid, 18.
trafficking of children and young people, ECPAT’s Country Progress Card for the Philippines evaluated the situation of child trafficking vis-à-vis key measures implemented by government to address the problem. Overall, the Philippines was among the 53% of countries which have made some progress to stop sex trafficking of children and young people. Policies and key national legislation to combat trafficking in children were put in place, but the government “must now urgently focus on improving law enforcement, sustaining awareness raising campaigns, and ensuring that all child victims of trafficking have access to appropriate and specialized psychosocial recovery services.” Data was collected through various sources but mainly focusing on information from ECPAT’s monitoring system. Limitations arose in the process, including non-uniformity in data collection, and similar to the ASEAN project, availability of information and differences in definition of some critical terms.

6. Recommendations for Further Study

Summary of What is and is not Known

Exploitation of women and children was discussed extensively in literature that dealt with trafficking as a phenomenon in the country and the law against trafficking. The Philippine law on trafficking refers to exploitation and penalizes several acts largely considered as exploitation of women and children. Much of the body of literature analysed policies and laws, but there was little on the actual prevalence of specific types of exploitation (e.g., harvesting of body organs, sale of children), especially those which happened not in the context of migration. Mostly, information on human trafficking and other exploitative acts were confined to reported cases. Underreporting is known, yet estimates of their prevalence are rarely given. There was an assessment on the progress to curb child trafficking, using baseline data and indicators; no such similar report on women was found.

According to David, recent literature has focused on collecting data on women and children trafficked for sexual exploitation. Thus, other forms of exploitation largely remained uncovered. Some factors that impact on the capacity of the various agencies and national governments to produce data included a basic lack of resources, challenges of decentralization (where information from the regions is not shared with central agencies), lack of capacity with regard to information systems and information management, lack of clarity and precision in the use of terminology, and gaps in communication and coordination within and across agencies.

Identification of Areas of Controversy in Reports

Similar to the literature on violence against women and children, reports grappled with conflicting figures on the prevalence of exploitation. The definitional framework and monitoring mechanisms—as the Philippines is an archipelago with some personal and group informants present in some islands and not in others—definitely accounted for the difference in statistics cited. While various studies agreed with the results of the U.S. State Department’s assessment of the progress of the Philippines with regard to anti-trafficking efforts, they invariably used different barometers by which to gauge such progress.

Some Recommended Areas for data Collection and Further Research

606 Levels of action were considered as notable (adequate specialized policy or services for child survivors); with some progress (usually, some level of activity to prevent trafficking in persons in general with limited focus on children as a specific target group, or services that are not adequately protecting child survivors); or with low level of progress (inexistent or largely inadequate policy or services for child survivors. ECPAT, Country Progress Card: Philippines (Manila: ECPAT, 2010), 3.

607 Ibid, 6.

608 Ibid, 18.

Table 38: Research Recommendations on Exploitation Against Women and Children

<table>
<thead>
<tr>
<th>Area</th>
<th>Research recommendations</th>
</tr>
</thead>
</table>
| Prevalence of exploitation among women and children | • Focus on the prevalence of exploitation among women and children not in the context of migration  
• Prevalence of certain types of exploitation (other than trafficking) in the country, especially harvesting of organs and sale of women and children  
• National survey on the nature and extent of child labour  
• Disaggregated information on prevalence according to age, gender and diversity  
• Analysis of underreporting of exploitation, including estimates  
• Review of data collection mechanisms and the need to improve them  
• More comprehensive researches on the use of children in illicit activities  
• More comprehensive researches on exploitation in adoption  
• More researches on child/forced marriage and their interplay with culture |
| De jure state responses                   | • In the context of cross-border exploitation, study on the policies and laws of other relevant countries and access to justice for survivors before the judicial and quasi-judicial bodies of such countries  
• Analysis of the non-applicability of the principle of quasi-universal jurisdiction in the issue of trafficking and its consequences  
• More researches on institutionalized discrimination against women which relates to exploitation (e.g., only women can be penalized for prostitution under the law)  
• More researches on access to justice of survivors of different forms of exploitation, including success in the prosecution and conviction of perpetrators |
| Progress indicators and challenges       | • Progress and challenges in efforts against other forms of exploitation (other than human trafficking) in women and children  
• Specific progress report on trafficking of women  
• Progress in combating child labour  
• Research on cultural and sociological constraints/challenges in curbing exploitation of women and children, including indigenous and Islamic beliefs and practices in some areas |

D. ABUSE AND DISCRIMINATION IN MIGRATION

1. Description of the Problem

a. Prevalence of Abuse and Discrimination in Migration

A Preliminary Note

At the onset of this discussion, a few observations have to be pointed out for a better understanding of the current state of this kind of literature in the Philippine context. First, statistically, the Philippines is an out-migration country. It was considered the largest labour exporting country in Asia. As seen in the introductory table of this report, more or less 10% of the population work and live abroad. This population outflow affected Philippine society as a whole and the literature on migration, which mainly focused on the experiences of overseas Filipinos and not of migrants in the Philippines. Second, the discourse of the literature on exploitation was intertwined with migration-related abuses and discrimination. Much of the literature discussed in the previous sections should thus be considered as integral parts of this review on migration.

i. Prevalence of abuse and discrimination in migration against women

In General

The Migrant Workers Committee (MWC) and the CESCR noted with concern that women were most often employed in gender-specific industries such as care givers, entertainers and domestic workers where they were vulnerable to physical, sexual, and verbal abuse, unpaid/delayed/underpaid wages, and may face inequitable working conditions.

The MWC expressed concern over other issues relating to abuse of Filipino workers abroad. According to the

611 Fiona David, ASEAN and Trafficking in Persons: Using Data as a Tool to Combat Trafficking in Persons, (Geneva: International Organization for Migration, 2007), 64-66. The country study on the Philippines was written by based on reports researched and written by Violeda Acosta Umali, Elma Laguna, Emerson Bañez, Mark Javelosa.
614 Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, Concluding Observations of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW/C/PHL/CO/1, 22 May 2009), para. 27.
Committee, despite the Philippines’ efforts to protect their rights, abuse and exploitation, especially of women migrants, continued, and were underreported. Moreover, large numbers of Filipino workers overstayed their visas and the continuing existence of irregular and undocumented Filipino migrants abroad (mostly women domestic workers) may have made them more vulnerable to abuses.

The CESCR noted with great concern the situation of overseas Filipino workers (OFWs), especially women, “who often face hardship and humiliation.” Significant problems of family disintegration and juvenile delinquency could accompany such massive exportation of labour, the Committee added.

The National Statistics Office’s Survey on Overseas Filipinos 2009: A Report on the Overseas Filipino Workers estimated the number of OFWs who worked abroad during the period of April to September 2009 at 1.9 million. Although it is to be pointed out that several authors referred to a feminization of labour migration, this report indicates that there were more male OFWs than female OFWs in 2009. However, a news report in 2011 stated that, according to records of the Department of Labor and Employment, around 70% of Filipino workers abroad are women. Female OFWs were generally younger than male OFWs, with half of the female OFWs belonging to the ages of 25 to 34.

Government data showed that North America had the largest share of Filipino emigrants at 3,517,352. Meanwhile, the Middle East alone was host to 2,415,896 million Filipinos as of December 2009. An important trend in international labour migration in the 1990s was the flow of labour to the growth centres in the neighbouring countries of the Philippines in Asia such as Singapore, Malaysia and Japan. This was confirmed in earlier studies.

Sayres of the International Labour Organization reported that personal anecdotes, surveys and focus group discussions confirmed “widespread” incidences of abuse in the domestic work sector. In 2010, a news report quoted Migrante-Middle East reporting that 7 to 10 OFWs were maltreated or abused everyday on average in the Middle East.

Asis described the particular vulnerability of women as follows: “Migrant women face particular vulnerabilities. Aside from the usual problems that plague migrants, their jobs in domestic work and entertainment usually mean long working hours, surveillance and control by employers, and abusive conditions, including violence and sexual harassment. Given the ‘private’ context in which they work, the problems encountered by migrant women in these sectors go unnoticed.”

Based on available literature, there were few available statistics on the abuse or discrimination that Filipinos abroad experience, much less an estimate thereof. IBON Foundation stated that millions were underpaid especially by standards of their host countries and worked in difficult conditions (compared with locals). They had limited basic labour protection and social services as they were non-nationals in the workplace. IBON added that millions of undocumented workers were “worst off with employers brutally exploiting their illegal status and desperation” and tens of thousands of Filipino women were abused in

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615 Ibid, para. 31.
616 Ibid, para. 39.
621 This “Stock Estimate of Overseas Filipinos” represents harmonized data from the following agencies of government: Department of

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isolated households and in the sex industry.\textsuperscript{626}

While no accurate information or statistics on the prevalence of abuse committed against Filipino migrants was available, reports indeed showed the connection between migration and violence (including abuse and exploitation). For instance, Arquiza and Santander presented the welfare cases\textsuperscript{627} of migrant workers from the ARMM.\textsuperscript{628}

\textit{Prevalence According to Whether the State Concerned is the Country of Origin, Transit or Destination}

There were studies on the prevalence of abuse against Filipino migrants abroad in different individual country contexts. A report on the situation of Filipino workers in Saudi Arabia by the Committee on Overseas Workers’ Affairs of the House of Representatives of the Philippines showed the following reasons for the distress of overseas Filipino workers (OFWs): maltreatment and verbal abuse (15\%), overwork (14\%) sexual harassment and rape (4\%), contract substitution (5\%), court/police cases (4\%), unpaid salary (26\%) personal/health problems/other (27\%), and mother/child repatriation (5\%).\textsuperscript{629} There were also similar but earlier studies on the condition of OFWs in Hong Kong and Singapore.

\begin{itemize}
\item ii. Prevalence of abuse and discrimination in migration against children
\end{itemize}

\textit{In General}

The CRC expressed concern about “the lack of practical measures to ensure the full enjoyment of the rights recognized” in the Convention on the Rights of the Child by certain categories of children. These included girl children, disabled children, children of mixed marriages, children of overseas workers, working children, and children affected by armed conflicts.\textsuperscript{630}

\textit{Prevalence According to Whether the State Concerned is the Country of Origin, Transit or Destination}

Similar to the literature on women, some studies on the prevalence of abuse against Filipino migrant children were conducted on individual country contexts. A Committee on Overseas Workers’ Affairs (COWA) report said that a big emerging problem in Saudi Arabia was the growing numbers of undocumented children born of parents, both or one of whom is/are Filipino. The report estimated the number to be between 2,000 and 3,000 children.\textsuperscript{631} They were unable to leave Saudi Arabia owing to the absence of an exit visa. Also, they grew up with little or no access to education and other services that citizens or documented residents have rights to, such as access to hospitals and employment.\textsuperscript{632} If born to illicit relationships, some of the children were taken away by the Saudi government and parental custody was lost.

In a mission by Refugees International to Sabah in Malaysia, children of Filipino descent and children with \textit{orang asing} in their birth certificates were found to be unable to go to government schools. Many separated and unaccompanied children of Filipino deportees ended up living and working on the street at a very young age, often in fish markets.\textsuperscript{633} This happened alongside the crackdown against irregular migration to Malaysia and neighbouring countries. DSWD noted incidents of abuse, trafficking and illegal recruitment committed among the deportees.\textsuperscript{634}

\begin{itemize}
\item 626 IBON Foundation, \textit{IBON Facts and Figures: OFWs, Remittances and Philippine Underdevelopment} (Vol. 31, Nos. 9 and 10), (Manila: IBON Foundation, 15 and 31 May 2008), 12.
\item 627 According to the Overseas Workers’ Welfare Administration: Unknown whereabouts, stranded/overstayed, unpaid salaries, maltreatment, imprisonment, runaway, repatriation, non-remittance, money/property claims, death/disability benefits, excessive workload, disabled/medical cases, financial support needed, illegal recruitment, and rape
\item 628 Arquiza and Santander, \textit{Women and Conflict}, 39.
\item 631 House of Representatives of the Philippines Committee on Overseas Workers’ Affairs, \textit{The Condition of Overseas Filipino Workers in Saudi Arabia}, 34.
\item 632 Ibid, 35.
\item 634 See, Department of Social Welfare and Development’s DisasterResponse Operation Monitoring and Information Center (DROMIC), available at http://disaster.dswd.gov.ph/.
\end{itemize}
Prevalence of Abuse and Discrimination of Children Who Migrate on their Own

This review has not come across literature on abuse or discrimination against children who migrate on their own in the Philippine context. It cannot be denied that migrating children are often accompanied by adults and travel in groups, but some children travel alone.635

iii. Other Issues

Women and Children Affected by Armed Conflict and Internal Displacement

Arquiza and Santander’s Women and Conflict stated that illegal recruitment of persons became pervasive in areas where there were large concentrations of people for a longer period of time, such as displacement camps or evacuation centres in Mindanao. Dense “human foliage” covered its tracks from authorities.636 It investigated a subject long suspected but relatively unexplored in literature.637

Means/patterns employed by persons committing and facilitating abuse of migrant women and children, and the human rights violations committed on them

The literature on migration deals with the means and patterns of abuse or discrimination and recorded human rights violations against women and children migrants. Life Histories of Filipino Deportees from Malaysia: Changes in the Dimension of Life attempted to capture the life experiences of men, women and children deportees from Malaysia.638 This dissertation stated that, while in Malaysia, Filipino deportees experienced human rights violations, inter alia, the destruction of dwellings and demolition of homes; exclusion from social and health services on the basis of the inability to present legal papers; and bar from registration at birth and education of children born in Malaysia of undocumented parents.639 Furthermore, while in detention centres, men, women and children experienced torture in many forms—mauling, beating, exposure to the sun the whole day, being kicked forcefully—and verbal abuse. Threats and brutality like caning occurred as well.640

In Halaw: The Travails of Filipino Deportees from Malaysia, Cabaraban and Fernandez claimed that, “through the years, as many as claimed as many as 400,000” undocumented Filipinos in Malaysia have been in prison camps in Sabah and Sarawak or have been in hiding.641 They wrote that human rights violations and violations of sexual and reproductive rights were committed against deportees. These inter alia included maltreatment; physical abuse and torture; deprivation of water and food; non-registration of children of undocumented parents, their lack of access to education and forced separation from parents; child labour; exploitation; sexual harassment; and limited or lack of access to education and health services by irregular Filipino migrants.642

Hilsdon’s Migration and Human Rights: The Case of Filipino Muslim Women in Sabah, Malaysia depicted Filipino Muslim women in Sabah as experiencing physical, economic, and social violence. It added that those who did not have formal citizenship faced reduced mobility and access to state services. Working conditions cannot be contested as well. As a result, structural poverty which drew them from the Philippines was re-imposed in Malaysia. In addition, it noted that, in the transnational context, they were subjected to cultural conventions such as clothing restrictions, societal attitude towards family planning, and forced marriage.643

Disaggregation of Data According to Age, Gender and Diversity; Profiling of Survivors and Perpetrators

While there was no disaggregation of the overall data on the prevalence of abuse in the migratory context, some studies attempted to somehow disaggregate information according to various categories of age and sex. The

635 International Labour Organization, Child trafficking in the Philippines: A situational analysis, 52.
636 Arquiza and Santander, Women and Conflict, 47.
637 Arquiza and Santander, Women and Conflict, iii.
638 Bagain Alyssa A. Acmad-Abdulkarim, “Life Histories of Filipino Deportees from Malaysia: Changes in the Dimension of Life” (Doctoral dissertation, Xavier University-Ateneo de Cagayan (XU), March 2010), 44.
639 Ibid, 131.
640 Ibid, 132.
642 Ibid, 96.
following excerpt from the study of Acmad-Abdulkarim is an example:

The accounts of the deportees indicated differential treatment at the detention centre between males and females. Women and children were not spared of police brutality due to violation of house rules in jail, however, men especially those who violated detention policies (quarrelling and smoking) were meted (with) harsher punishment than women. Men were handcuffed while the women and children were not when they are outside of the detention cell. The male deportees were also handcuffed upon arrest to the police station and when being transported from the detention children to the boat at the Sandakan port. Men were detained separately from women and children.

Looking back at the life experiences while in detention, men deportees experienced longer (74 days) incarceration than the female (66 days).644

A differentiation between the experiences of men and women is also found in the book of Cabaraban and Fernandez.645

**Comprehensiveness of Data Available and Issues of Underreporting**

Several government agencies (e.g., Commission on Filipinos Overseas, National Statistics Office and Philippine Overseas Employment Administration) collected and produced data related to emigration from the Philippines. Nonetheless, some reports discussed that other than the total count of overseas Filipinos, basic demographic details such as distribution by gender or age were not available and, oftentimes, when data was compared with data on the Filipino population in host countries, the data did not match. Hence, a report concluded that “inconsistencies, overlaps and gaps” still existed. Foremost was information on return migration.646 The actual number of irregular workers from the Philippines was also difficult to track and ascertain because of the very nature of irregular migration.647

Also, in the course of this review, there was no comprehensive information on the incidents of abuse and discrimination experienced by migrants from and in the Philippines. According to the MWC, in spite of efforts to protect the rights of women OFWs, abuse and exploitation continued, and these cases remained underreported.648

**Connection between Migration and Violence, Abuse, and Exploitation because of the Increased Vulnerability of Migrants**

In *We Are Your Children, Too*, the Development Action for Women Network (DAWN) presented Japanese-Filipino children (JFC) as “products of migration.”649 The book featured the visual autobiographies of some JFC, their stories, several issues with regard to rights, and a glimpse into theatre as art therapy for them. DAWN wrote that there was no actual count as to the number of JFC residing in the Philippines although some estimated their number from 100,000 to 200,000. DAWN added that several studies were conducted on the situation of Filipino women entertainers in Japan, and lately, the studies extended to their children.650

Cabaraban and Fernandez said that Filipino migrants in Malaysia, in general, became vulnerable to exploitation and discrimination when they have irregular migration status. Women workers experienced sexual harassment, which occurred mostly at workplaces such as karaoke bars, restaurants, and bakeries.651

648 Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, *Concluding Observations of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families* (CMW/C/PHL/CO/1, 22 May 2009), para. 31.
650 Ibid.

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b. Root Causes of Violence and Aggravating Practices

Definition of Abuse and Discrimination in the Context of Migration

The legal and policy framework of the Philippines does not especially define abuse or discrimination in the context of migration. All the concepts related to abuse and discrimination, as discussed in other sections of this review, thus find application to the situation of migrants as the laws and policies of the Philippines do not them differentiate in situations of migration.

Identification of Root Causes

The House of Representatives of the Philippines, in its report on Saudi Arabia, said that abuse can be encouraged by the fact that a segment of the Filipino labour force was not covered or protected by the law of the destination country.652 A similar article seemed to have confirmed this observation as it opines that it is “one thing to have a job but another thing how to be treated on that job.” Taiwan, Saudi Arabia, United Arab Emirates, Qatar and Kuwait do not cover domestic workers, caregivers and stay-in caretakers under their laws on labour standards.653 As reason for abuses against an increasingly feminized migrant force from the Philippines, Sana and Abano gave the non-recognition of domestic work as an occupation. Hence, domestic workers were not covered by the labour and social laws of many countries.654

Identification of Aggravating Factors

Several cultural attitudes and practices were considered as aggravating an underlying cause of abuse or discrimination. According to the COWA report on Saudi Arabia: “The strict sexual segregation, one member of the House team speculated, must create tremendous pent-up sexual pressure, so when the opportunity for sexual satisfaction appears, it explodes. Another said that the sexual abuse of domestics was an extension of the strict subordination to males and institutionalized repression of Saudi women.”655

A report said that as a country with the highest number of women working overseas (about 500,000 leave the country each year as economic migrants), “migration-related violence” has become an important issue. The vulnerabilities women suffered were compounded in a setting where they were seen as temporary workers in occupations socially considered as “inferior” for nationals. The “numerous cases of abuse” of domestic helpers in the Middle East and Asia reflected this, and where there were no mechanism and infrastructure for relief and assistance to victims, they were “simply left to suffer their fate.”656

The European External Action Service referred to the illegal practices of both authorized and unauthorized recruitment agencies (over 1,000 licensed agencies for land-based workers and 300 for seafarers) which put migrants and their families in “very vulnerable situations” amidst a culture of large-scale emigration where Filipinos have become “used to” mobility. Studies showed that more than 30% of the population was considering leaving for another country.657

In an earlier article published in the Harvard Women’s Law Review, Gatmaytan provided the following as root causes for violence against Filipina domestic workers abroad: (a) failure to investigate and address domestic violence adequately;658 (b) devaluation of female labour in the third world;659 (c) gender division in the Philippines; and (d) an aggregate effect of the sexual and international divisions of labour together with the other factors above.660 Other contributing factors could

655 House of Representatives of the Philippines Committee on Overseas Workers’ Affairs, Report on the Situation of Filipino workers in Saudi Arabia, 16.


659 Ibid, 246.

660 Ibid, 247.
be the employment of women OFWs to mostly “gender-specific industries” where they were vulnerable to abuse and inequitable working conditions.\textsuperscript{661} Another could be the overstaying of visas and irregular migration.\textsuperscript{662} In Malaysia, some regular Filipino women and children migrants were more vulnerable to “arrests as illegals” as they do not hold legal documents such as work permits; but the men do.\textsuperscript{663}

\textbf{c. Impact of Abuse and Discrimination in Migration}

i. On Women

\textit{Physical Impact}

Abuse and discrimination in migration could have a myriad of negative effects on the abused or maltreated migrant. Certainly, in acute cases, these effects have included violent deaths, sexual abuse, torture, and unjustified detention.\textsuperscript{664} Country-specific studies seemed to confirm this. Acmad-Abdulkarim asserted that the long-standing threat of expulsion, coercive manner of rounding up, inhumane treatment, congestion, and unhygienic condition in the immigration detention jail in Malaysia “exacerbated the health risks of deportees especially women and children.”\textsuperscript{665}

\textit{Psychological and Social Impact}

Mental breakdown, family separation and abandonment, and youth delinquency among migrants and their families were recorded as effects of heightened cases of abuse and discrimination.\textsuperscript{666} An earlier ILO report on the situation of migrants in Japan, who are mostly women, talked about the psychological impact of abuse against them. Deportation also carried consequences on the socio-economic, cultural and psychosocial dimensions of a deportees’ life.\textsuperscript{667} The CEDAW Committee said that the Philippines should “ensure that its economic policy does not lead to marginalization and exploitation so that women are encouraged to seek overseas employment to the detriment of society.”\textsuperscript{668}

ii. On Children

\textit{Physical Impact}

In a literature review, \textit{Migration and Filipino Children Left-Behind}, Reyes discovered that the vulnerability of children to abuse and violence was one of the “worrying aspects of parental absence.” Most common forms were verbal abuse, intimidation and hurting children. Male children, who were vulnerable to touching in sensitive areas, reported more abuse than female children.\textsuperscript{669} Acmad-Abdulkarim noted some negative effects on the health of the child in the context of deportation. Such was the case of one unaccompanied male minor who was crippled because he was physically abused by a jail guard.\textsuperscript{670} The observation of a health official that most of the children of deportees appeared to be malnourished and in poor health, and looked older than their real age, was also quoted.\textsuperscript{671} The death of a baby and a three-year-old child who passed away a few days after deportation due to complicated ailments exacerbated by detention and travel was documented.\textsuperscript{672}

\textsuperscript{661} Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, \textit{Concluding Observations of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families} (CMW/C/PHL/CO/1, 22 May 2009), para. 27.

\textsuperscript{662} Ibid, 39.


\textsuperscript{671} Ibid, 97.

\textsuperscript{672} Ibid, 98.
Psychological and Social Impact

The number of children affected by migration was estimated to be very high in the Philippines. Around 3 to 6 million (10-20%) children were left behind, and the effect of migration itself on them varied. Several studies demonstrated that migration could be heart-breaking for them. On the other hand, whether migrants went through the legal or illegal process, children migrants generally experienced difficulties in coping with a new environment. The following were some of the effects on children: (a) lost identity or culture gap; (b) fear of xenophobia; and (c) challenge in the access to education system. As noted above, abuse in the course of deportation carried profound effects on the socio-economic, cultural and psychosocial dimensions of a child’s life.

2. De Jure State Responses

a. Bases of State Responsibility

i. International and Regional Treaties

Core Human Rights Treaties and their Protocols

As seen in section B.2.a.(i), the general regime of treaty law on human rights which the Philippines has adhered to applies with equal force for the protection of migrant women and children against abuse and discrimination.

The primary treaty involved is the Migrant Workers Convention. The Philippines ratified all core treaties relating to migrant workers rights. Additionally, it is party to 35 international labour conventions (33 conventions in force).

Table 39: Other Multilateral Treaties Directly or Indirectly Relating to Abuse and Discrimination in the Context of Migration

<table>
<thead>
<tr>
<th>Instrument</th>
<th>Date of Accession or Signature or Signature and Ratification</th>
<th>Reservations and/or Declarations</th>
</tr>
</thead>
<tbody>
<tr>
<td>1951 Convention Relating to the Status of Refugees</td>
<td>22 July 1981 (A)</td>
<td>-</td>
</tr>
<tr>
<td>1967 Protocol Relating to the Status of Refugees</td>
<td>22 July 1981(A)</td>
<td>-</td>
</tr>
<tr>
<td>1954 Convention relating to the Status of Stateless Persons</td>
<td>22 June 1955 (S)</td>
<td>-</td>
</tr>
<tr>
<td>1954 Convention relating to the Status of Stateless Persons</td>
<td>22 September 2011 (R)</td>
<td>-</td>
</tr>
<tr>
<td>United Nations Convention Against Transnational Organized Crime</td>
<td>14 December 2000 (S)</td>
<td>-</td>
</tr>
<tr>
<td>Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime</td>
<td>28 May 2002 (R)</td>
<td>-</td>
</tr>
<tr>
<td>Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime</td>
<td>14 December 2000 (S)</td>
<td>-</td>
</tr>
<tr>
<td>Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime</td>
<td>28 May 2002 (R)</td>
<td>-</td>
</tr>
<tr>
<td>ASEAN Multilateral Legal Assistance Treaty on Criminal Matters</td>
<td>Document is dated Nov. 29, 2004</td>
<td>-</td>
</tr>
<tr>
<td>ILO Migration for Employment Convention (Revised), 1949 (No. 97)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Migrant Workers Convention (Supplementary Provisions), 1975 (No. 143)</td>
<td></td>
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</table>


674 *Ibid*, 4-5. According to Tobin, studies found that they long for parental care. When children are left behind, the burden of girl children in performing the “caring” work becomes more pronounced; confusion over gender boundaries and reversal of gender roles occur; they develop a consumerist attitude; and children, especially boys, are more vulnerable to abuses. These effects of migration on them are largely influenced by their level of cognitive development. *See*, also, Eva Jesperson, “Migration and Children: A need to fill information gaps in order to guide policy responses,” accessed 7 July 2012, http://www.un.org/esa/population/migration/turin/Turin_Statements/IESPERSEN.pdf.


678 Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, *Concluding Observations of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW/C/PHL/CO/1, 22 May 2009)*, paras. 7-10.

Table 40: List of ratifications of International Labour Conventions: Philippines

<table>
<thead>
<tr>
<th>No.</th>
<th>Convention Description</th>
<th>Date of Ratification</th>
</tr>
</thead>
<tbody>
<tr>
<td>C. 17</td>
<td>Workmen's Compensation (Accidents) Convention, 1925 (No. 17)</td>
<td>17.11.1960</td>
</tr>
<tr>
<td>C. 19</td>
<td>Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)</td>
<td>26.04.1994</td>
</tr>
<tr>
<td>C. 23</td>
<td>Repatriation of Seamen Convention, 1926 (No. 23)</td>
<td>17.11.1960</td>
</tr>
<tr>
<td>C. 29</td>
<td>Forced Labour Convention, 1930 (No. 29)</td>
<td>15.07.2005</td>
</tr>
<tr>
<td>C. 53</td>
<td>Officers’ Competency Certificates Convention, 1936 (No. 53)</td>
<td>17.11.1960</td>
</tr>
<tr>
<td>C. 77</td>
<td>Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77)</td>
<td>17.11.1960</td>
</tr>
<tr>
<td>C. 87</td>
<td>Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)</td>
<td>29.12.1953</td>
</tr>
<tr>
<td>C. 88</td>
<td>Employment Service Convention, 1948 (No. 88)</td>
<td>29.12.1953</td>
</tr>
<tr>
<td>C. 89</td>
<td>Night Work (Women) Convention (Revised), 1948 (No. 89)</td>
<td>29.12.1953</td>
</tr>
<tr>
<td>C. 90</td>
<td>Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90)</td>
<td>29.12.1953</td>
</tr>
<tr>
<td>C. 93</td>
<td>Wages, Hours of Work and Manning (Sea) Convention (Revised), 1949 (No. 93)</td>
<td>29.12.1953</td>
</tr>
<tr>
<td>C. 94</td>
<td>Labour Clauses (Public Contracts) Convention, 1949 (No. 94)</td>
<td>29.12.1953</td>
</tr>
<tr>
<td>C. 95</td>
<td>Protection of Wages Convention, 1949 (No. 95)</td>
<td>29.12.1953</td>
</tr>
<tr>
<td>C. 97</td>
<td>Migration for Employment Convention (Revised), 1949 (No. 97)</td>
<td>21.04.2009</td>
</tr>
<tr>
<td>C. 98</td>
<td>Right to Organise and Collective Bargaining Convention, 1949 (No. 98)</td>
<td>29.12.1953</td>
</tr>
<tr>
<td>C. 100</td>
<td>Equal Remuneration Convention, 1951 (No. 100)</td>
<td>29.12.1953</td>
</tr>
<tr>
<td>C. 105</td>
<td>Abolition of Forced Labour Convention, 1957 (No. 105)</td>
<td>17.11.1960</td>
</tr>
<tr>
<td>C. 110</td>
<td>Plantations Convention, 1958 (No. 110)</td>
<td>10.10.1968</td>
</tr>
<tr>
<td>C. 111</td>
<td>Discrimination (Employment and Occupation) Convention, 1958 (No. 111)</td>
<td>17.11.1960</td>
</tr>
<tr>
<td>C. 122</td>
<td>Employment Policy Convention, 1964 (No. 122)</td>
<td>13.01.1976</td>
</tr>
<tr>
<td>C. 138</td>
<td>Minimum Age Convention, 1973 (No. 138)</td>
<td>4.06.1998</td>
</tr>
<tr>
<td>C. 141</td>
<td>Rural Workers’ Organisations Convention, 1975 (No. 141)</td>
<td>18.06.1979</td>
</tr>
<tr>
<td>C. 143</td>
<td>Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)</td>
<td>14.09.2006</td>
</tr>
<tr>
<td>C. 144</td>
<td>Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)</td>
<td>10.06.1991</td>
</tr>
<tr>
<td>C. 149</td>
<td>Nursing Personnel Convention, 1977 (No. 149)</td>
<td>18.06.1979</td>
</tr>
<tr>
<td>C. 159</td>
<td>Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)</td>
<td>23.08.1991</td>
</tr>
<tr>
<td>C. 165</td>
<td>Social Security (Seafarers) Convention (Revised), 1987 (No. 165)</td>
<td>9.11.2004</td>
</tr>
<tr>
<td>C. 176</td>
<td>Safety and Health in Mines Convention, 1995 (No. 176)</td>
<td>27.02.1998</td>
</tr>
<tr>
<td>C. 179</td>
<td>Recruitment and Placement of Seafarers Convention, 1996 (No. 179)</td>
<td>13.03.1998</td>
</tr>
<tr>
<td>C. 185</td>
<td>Seafarers’ Identity Documents Convention (Revised), 2003 (No. 185)</td>
<td>19.01.2012</td>
</tr>
<tr>
<td>Denunciation (as a result of the ratification of Convention No. 138)</td>
<td>Denounced on 4.06.1998</td>
<td></td>
</tr>
<tr>
<td>C. 59</td>
<td>Minimum Age (Industry) Convention (Revised), 1937 (No. 59)</td>
<td>17.11.1960</td>
</tr>
</tbody>
</table>

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680 Ibid.
ii. Bilateral Treaties and Agreements

Table 41: Bilateral Labour Agreements and International Instruments Signed and Ratified by the Philippine Government

<table>
<thead>
<tr>
<th>Country</th>
<th>Title / Subject</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>BAHRAIN</td>
<td>Memorandum of Agreement Between the Republic of the Philippines and the Kingdom of Bahrain on Health Services Cooperation</td>
<td>April 24, 2007</td>
</tr>
<tr>
<td>CANADA</td>
<td>Alberta Memorandum of Agreement Between the Republic of the Philippines (DOLE) and The Ministry of Employment and Immigration of Alberta (E&amp;I) Concerning Cooperation in Human Resource Deployment and Development</td>
<td>October 1, 2008</td>
</tr>
<tr>
<td></td>
<td>Draft of Implementing Guidelines for the Memorandum of Understanding with British Columbia and Alberta</td>
<td></td>
</tr>
<tr>
<td>Manitoba</td>
<td>Memorandum of Understanding Between The Department of Labour and Employment of the Government of the Republic of the Philippines (DOLE) and The Department of Labour and Immigration of the Government of Manitoba, Canada (LIM) Concerning: Co-Operation in Human Resource Deployment</td>
<td>February 8, 2008</td>
</tr>
<tr>
<td>Manitoba</td>
<td>Memorandum of Understanding Between The Department of Labour and Employment of the Government of the Republic of the Philippines (DOLE) and The Department of Labour and Immigration of the Government of Manitoba, Canada Concerning: Co-Operation in Human Resource Deployment and Development</td>
<td>September 21, 2010</td>
</tr>
<tr>
<td>Manitoba</td>
<td>Guidelines for the Implementation of the Memorandum of Understanding Between The Department of Labour and Employment of the Republic of the Philippines (DOLE) and The Department of Labour and Immigration of the Government of Manitoba, Canada Concerning: Co-Operation in Human Resource Deployment and Development</td>
<td>September 21, 2010</td>
</tr>
<tr>
<td>Saskatchewan</td>
<td>Memorandum of Understanding Between the Republic of the Philippines (DOLE) and Her Majesty The Queen in the Right of the Province of Saskatchewan as represented by the Minister Responsible for Immigration and the Minister of Advanced Education and Employment (AEE) Concerning Cooperation in the Fields of Labour, Employment and Human Resource Development</td>
<td>December 18, 2006</td>
</tr>
<tr>
<td>CNMI</td>
<td>Memorandum of Understanding Between the Republic of the Philippines (DOLE) and The Commonwealth of the Northern Mariana Islands (CNMI)</td>
<td>September 14, 1994</td>
</tr>
<tr>
<td>CNMI</td>
<td>Memorandum of Understanding Between the Republic of the Philippines (DOLE) and The Commonwealth of the Northern Mariana Islands (CNMI)</td>
<td>December 18, 2000</td>
</tr>
<tr>
<td>INDONESIA</td>
<td>Memorandum of Understanding Between the Republic of the Philippines (DOLE) and the Department of Manpower and Transmigration of the Republic of Indonesia Concerning Migrant Workers</td>
<td>January 18, 2003</td>
</tr>
<tr>
<td>IRAQ</td>
<td>Memorandum of Agreement Relating to Mobilization of Manpower Between the Republic of the Philippines and the Republic of Iraq</td>
<td>November 25, 1982</td>
</tr>
<tr>
<td>JAPAN</td>
<td>Memorandum of Understanding Between the Philippine Overseas Employment Administration and the Japan International Cooperation of Welfare Services on the Deployment and Acceptance of Filipino Candidates (JPEPA)</td>
<td>January 12, 2009</td>
</tr>
<tr>
<td>JORDAN</td>
<td>Memorandum of Understanding Between the Minister of Labour of the Republic of the Philippines and the Minister of Labour of the Hashemite Kingdom of Jordan</td>
<td>December 5, 1981</td>
</tr>
<tr>
<td></td>
<td>Agreement on Manpower Between the Government of the Republic of the Philippines and the Government of the Hashemite Kingdom of Jordan</td>
<td>December 3, 1988</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Country</th>
<th>Title / Subject</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>KOREA</td>
<td>Memorandum of Understanding Between the Department of Labour of the Philippines and the Ministry of Labour of the Republic of Korea on the Sending of Workers to the Republic of Korea</td>
<td>April 23, 2004</td>
</tr>
<tr>
<td>KOREA</td>
<td>Memorandum of Agreement Between the Republic of the Philippines and the Republic of Korea</td>
<td>December 15, 2005</td>
</tr>
<tr>
<td>KOREA</td>
<td>Memorandum of Understanding Between the Department of Labour and Employment of the Philippines and the Ministry of Labour of the Republic of Korea on the Sending and Receiving of Workers to the Republic of Korea under the Employment Permit System</td>
<td>October 20, 2006</td>
</tr>
<tr>
<td></td>
<td>Memorandum of Understanding between the Ministry of Labour, Republic of Korea and the Department of Labour and Employment, Republic of the Philippines on Cooperation in the Field of Labour and Manpower Development</td>
<td>May 30, 2009</td>
</tr>
<tr>
<td>KUWAIT</td>
<td>Memorandum of Understanding Between the Department of Labour and Employment of the Philippines and the Ministry of Labour, Republic of Korea on the Sending and Receiving of Workers to the Republic of Korea under the Employment Permit System of Kuwait</td>
<td>September 14, 1997</td>
</tr>
<tr>
<td>LIBYA</td>
<td>Agenda for Cooperation in the Field of Labour, Employment and Manpower Development Between the Philippines and Libya</td>
<td>October 18, 1979</td>
</tr>
<tr>
<td></td>
<td>Memorandum of Understanding Between the Philippines and Libya (with Arabic Version)</td>
<td>July 17, 2006</td>
</tr>
<tr>
<td>NEW ZEALAND</td>
<td>Memorandum of Agreement on Labour Cooperation Between the Government of the republic of the Philippines and the Government of New Zealand</td>
<td>November 4, 2008</td>
</tr>
<tr>
<td>NORWAY</td>
<td>Agreement Between POEA and the Directorate of Labour Norway on Transnational Co-Operation for Recruiting Professionals from the Health Sector to Positions in Norway</td>
<td>June 26, 2001</td>
</tr>
<tr>
<td>PAPUA NEW GUINEA</td>
<td>Memorandum of Understanding Between the Philippines and Papua New Guinea</td>
<td>March 14, 1979</td>
</tr>
<tr>
<td>QATAR</td>
<td>Agreement Between the Government of the Republic of the Philippines and the Government of the State of Qatar Concerning Filipino Manpower Employment in the State of Qatar</td>
<td>May 10, 1997</td>
</tr>
<tr>
<td>SPAIN</td>
<td>Memorandum of Understanding on Cooperation for the Management of the Migration Flows Between the Ministry of Labour and Social Affairs of the Kingdom of Spain and the Ministry of Labour and Employment of the Republic of the Philippines (English Version)</td>
<td>June 29, 2006</td>
</tr>
<tr>
<td></td>
<td>Memorandum of Understanding on Cooperation for the Management of the Migration Flows Between the Ministry of Labour and Social Affairs of the Kingdom of Spain and the Ministry of Labour and Employment of the Republic of the Philippines (Spanish Version)</td>
<td>June 29, 2006</td>
</tr>
<tr>
<td>TAIWAN</td>
<td>Memorandum of Understanding between the Manila Economic and Cultural Office (MECO) in Taipei and the Taipei Economic and Cultural Office (TECO) in the Philippines regarding the Special Hiring Workers</td>
<td>September 3, 1999</td>
</tr>
<tr>
<td></td>
<td>Memorandum of Understanding on Special Hiring Program for Taiwan Between the Manila Economic and Cultural Office in Taipei (MECO) and the Taipei Economic and Cultural Office (TECO) in the Philippines</td>
<td>January 12, 2001</td>
</tr>
</tbody>
</table>
Bilateral social security agreements have the following salient features: equality of treatment (a covered national of either country, including his dependents and survivors, are eligible for social security benefits under the same conditions as the national of the other country); export of benefits (a person shall continue to receive his benefits wherever he decides to reside); totalization (contribution/creditable periods in both countries shall be added to determine qualification for benefits); payment of benefits (each country shall pay a fraction of the benefit due from their respective systems, in proportion to the actual contributions/creditable periods); and mutual administrative assistance (covered members or beneficiaries may file their claims with the designated liaison agencies of either country, which shall accordingly extend assistance to facilitate processing of claims).682

iii. Recommendations on the commitments and declarations/reservations

In a study by Reyes, among sending countries, the Philippines was said to be the most advanced in forging bilateral agreements. It also provided support mechanisms and policies to assist overseas migrants and their families, knowing their “vast contribution” to the Philippine economy.683 The MWC hailed the Philippines as one of the few states to have ratified all the treaties relating to migrant workers’ rights. It thus became a matter of implementation and fulfillment of commitments.684

b. National Policies on Abuse and Discrimination of Migrants

All the policies enumerated in the other sections of this report apply as far as the protection of the woman or child from abuse or discrimination within the Philippine territory is concerned. Certain policies, particularly to labour migration, have been incorporated in the Philippine Constitution as laid out below.

<table>
<thead>
<tr>
<th>Country</th>
<th>Title / Subject</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>PHILIPPINES</td>
<td>Memorandum of Understanding on Special Hiring Program for Taiwan Between the</td>
<td>March 20, 2003</td>
</tr>
<tr>
<td></td>
<td>Manila Economic and Cultural Office (MECO) in Taipei and the Taipei Economic and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Cultural Office (TECO) in the Philippines</td>
<td></td>
</tr>
<tr>
<td>UAE</td>
<td>Memorandum of Understanding between the Government of the Republic of the</td>
<td>April 9, 2007</td>
</tr>
<tr>
<td></td>
<td>Philippines and the Government of the United Arab Emirates in the Field of</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Manpower</td>
<td></td>
</tr>
<tr>
<td>UNITED KINGDOM</td>
<td>MoU between RP and UAE in the Field of Manpower (Arabic)</td>
<td>July 30, 2003</td>
</tr>
<tr>
<td></td>
<td>Memorandum of Understanding between the Government of the Philippines and the</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Government of the Kingdom of Great Britain and Northern Ireland on Healthcare</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Cooperation</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Recruitment Agreement Between the Government of the Republic of the Philippines</td>
<td>January 8, 2002</td>
</tr>
<tr>
<td></td>
<td>and the Government of the United Kingdom of Great Britain and Northern Ireland</td>
<td></td>
</tr>
<tr>
<td>UNITED STATES OF</td>
<td>Agreement Between the Government of the Republic of the Philippines and the</td>
<td>December 28, 1968</td>
</tr>
<tr>
<td>AMERICA</td>
<td>Government of the United States of America Relating to the Recruitment and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Employment of Philippines Citizens by US Military Forces and Contractors of</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Military and Civilian Agencies of the US Government in Certain Areas of the</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Pacific and the Southeast Asia</td>
<td></td>
</tr>
</tbody>
</table>

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683 Melanie M. Reyes, Migration and Filipino Children Left-Behind: A Literature Review (Manila: Miriam College-Women and Gender Institute, 2007), 19.

684 Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, Concluding Observations of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW/C/PHL/CO/1, 22 May 2009), para. 4.
Table 42: Some National Policies on Abuse and Discrimination of Migrants

<table>
<thead>
<tr>
<th>Policy</th>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Constitutional policies related to prevention</td>
<td></td>
</tr>
<tr>
<td>The liberty of abode and changing the same within the limits prescribed</td>
<td>Philippine Constitution</td>
</tr>
<tr>
<td>by the law shall not be impaired except upon lawful order of the court.</td>
<td></td>
</tr>
<tr>
<td>Neither shall the right to travel be impaired except in the interest</td>
<td></td>
</tr>
<tr>
<td>of national security, public safety or public health, as may be</td>
<td></td>
</tr>
<tr>
<td>provided by the law.</td>
<td></td>
</tr>
<tr>
<td>Constitutional policies related to response, including protection and</td>
<td></td>
</tr>
<tr>
<td>care</td>
<td></td>
</tr>
<tr>
<td>The State affirms labour as a primary social economic force. It shall</td>
<td>Philippine Constitution</td>
</tr>
<tr>
<td>protect the rights of workers and promote their welfare.</td>
<td></td>
</tr>
<tr>
<td>The State shall afford full protection to labour, local and overseas,</td>
<td>Philippine Constitution</td>
</tr>
<tr>
<td>organized and unorganized, and promote full employment and equality of</td>
<td></td>
</tr>
<tr>
<td>employment opportunities for all.</td>
<td></td>
</tr>
<tr>
<td>It shall guarantee the rights of all workers to self-organization,</td>
<td></td>
</tr>
<tr>
<td>collective bargaining and negotiations, and peaceful concerted</td>
<td></td>
</tr>
<tr>
<td>activities, including the right to strike in accordance with law.</td>
<td></td>
</tr>
<tr>
<td>They shall be entitled to security of tenure, humane conditions of</td>
<td></td>
</tr>
<tr>
<td>work, and a living wage. They shall also participate in policy and</td>
<td></td>
</tr>
<tr>
<td>decision-making processes affecting their rights and benefits as may</td>
<td></td>
</tr>
<tr>
<td>be provided by law.</td>
<td></td>
</tr>
<tr>
<td>The State shall promote the principle of shared responsibility</td>
<td></td>
</tr>
<tr>
<td>between workers and employers and the preferential use of voluntary</td>
<td></td>
</tr>
<tr>
<td>modes in settling disputes, including conciliation, and shall enforce</td>
<td></td>
</tr>
<tr>
<td>their mutual compliance therewith to foster industrial peace.</td>
<td></td>
</tr>
<tr>
<td>The State shall regulate the relations between workers and employers,</td>
<td></td>
</tr>
<tr>
<td>recognizing the right of labour to its just share in the fruits of</td>
<td></td>
</tr>
<tr>
<td>production and the right of enterprises to reasonable returns to</td>
<td></td>
</tr>
<tr>
<td>investments, and to expansion and growth.</td>
<td></td>
</tr>
</tbody>
</table>

Statutory Policies with Regard to Overseas Filipinos

Table 43: Summary of Philippine Laws on Overseas Employment

<table>
<thead>
<tr>
<th>Number</th>
<th>Full Name</th>
<th>Salient Features/Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Presidential Decree</td>
<td>The 1974 Labor Code of the Philippines</td>
<td>This PD institutionalized the participation of the government in overseas employment. It created the</td>
</tr>
<tr>
<td>(PD) No. 422 Year Signed:</td>
<td></td>
<td>Overseas Employment Development Board (OESDB) and the National Seamen Board (NSB). The two (2) Boards</td>
</tr>
<tr>
<td>1974</td>
<td></td>
<td>were mandated to undertake a systematic program for overseas employment - focusing on market development,</td>
</tr>
<tr>
<td></td>
<td></td>
<td>recruitment and placement of Filipino workers.</td>
</tr>
<tr>
<td>Letter of Instruction</td>
<td>The Welfare Fund for Overseas Workers (Welfare Fund).</td>
<td>The Welfare Fund was established to provide social and welfare services to Filipino overseas workers,</td>
</tr>
<tr>
<td>No. 537 (1977)</td>
<td></td>
<td>to provide skills and career development services to Filipino overseas workers, to undertake studies</td>
</tr>
<tr>
<td></td>
<td></td>
<td>and researches for enhancement of their social, economic and cultural well-being, and to develop,</td>
</tr>
<tr>
<td></td>
<td></td>
<td>support and finance specific projects for the benefit of Filipino overseas workers.</td>
</tr>
<tr>
<td>PD 1412 (1978)</td>
<td>Further amending certain provisions of Book I, Presidential Decree No.442 otherwise</td>
<td>Renewed the participation of the private sector in the recruitment activities.</td>
</tr>
<tr>
<td></td>
<td>known as the Labor Code of the Philippines.</td>
<td></td>
</tr>
<tr>
<td>Executive Order No. 797</td>
<td>Executive Order Creating the Philippine Overseas Employment Administration (POEA)</td>
<td>The POEA took over the functions of the OESDB and NSB. It was also given jurisdiction to take cognizance</td>
</tr>
<tr>
<td>(1982)</td>
<td></td>
<td>and resolve cases involving overseas contract workers.</td>
</tr>
</tbody>
</table>

686 Ibid, Art. II, Sec. 18.
687 Ibid, Art. XIII, Sec. 3.
688 Jylyn Ambito and Melissa Suzette L. Banzon, Review of Philippine Migration Laws, 32-34.
<table>
<thead>
<tr>
<th>Year</th>
<th>Act Number</th>
<th>Description</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1982</td>
<td>EO 857</td>
<td>Governing the Remittance to the Philippines of Foreign Exchange Earnings of Filipino Workers abroad and for other purposes.</td>
<td>EO 857B made mandatory the requirement for overseas workers to remit part of their earnings to their families in the Philippines and to ensure that these remittances passed through the official financial institutions.</td>
</tr>
<tr>
<td>1987</td>
<td>Constitution (replacing 1973 Constitution)</td>
<td>The 1987 Constitution of the Philippines</td>
<td>Philippine labour policy was clearly defined in the 1987 Constitution. Article XIII states that “The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.”</td>
</tr>
<tr>
<td>1991</td>
<td>Republic Act 7111</td>
<td>Overseas Investment Fund Act</td>
<td>This law created the Overseas Workers’ Investment Fund Board to encourage remittance of earnings of Overseas Filipino Workers and to safeguard /oversee the participation of said workers’ remittances and savings in the Government’s debt reduction efforts and other productive undertakings. Incentives such as scholarship grants, housing program, credit assistance and other programs were also provided.</td>
</tr>
<tr>
<td>1995</td>
<td>Republic Act 8042</td>
<td>The Migrant Workers’ Act of 1995</td>
<td>The act was considered the first concrete measure and public commitment of the Philippine Government to protect the rights and promote the welfare of the Overseas Filipino Workers (OFWs).</td>
</tr>
<tr>
<td>2003</td>
<td>Republic Act 9189</td>
<td>Overseas Absentee Voting Act of 2003</td>
<td>This law paved the way for overseas Filipinos to participate in Philippine national elections. Thus, in May 2004 some overseas Filipinos exercised their right of suffrage.</td>
</tr>
<tr>
<td>2003</td>
<td>Republic Act 9208</td>
<td>Anti-Trafficking in Persons Act of 2003</td>
<td>This law was regarded as one of the most comprehensive and progressive anti-trafficking laws passed. This act adopted the UN definition of trafficking in person.</td>
</tr>
<tr>
<td>2003</td>
<td>RA 9422</td>
<td>Strengthening the Regulatory Functions of the POEA (amending RA 8042)</td>
<td>It amended Section 23 (par.b.1) of RA 8042. Under the amendatory law, the POEA shall regulate private sector participation in the recruitment and overseas placement of workers by setting up a licensing and registration system. It shall also formulate and implement, in coordination with appropriate entities concerned, when necessary, a system for promoting and monitoring the overseas employment of Filipino workers taking into consideration their welfare and the domestic manpower requirements. It also repealed Section 29, 30 of the same law (RA 8042)</td>
</tr>
<tr>
<td>2003</td>
<td>RA 9225</td>
<td>Citizenship Retention and Re-acquisition Act of 2003 (Dual Citizenship Law)</td>
<td>By virtue of this law, natural-born Filipinos who became naturalized citizens of other countries are deemed not to have lost their Philippine citizenship. They can re-acquire their Filipino citizenship, while at the same time not losing their other citizenship. To date, more than 6,000 former Filipinos have reacquired their citizenship after the implementation of the law.</td>
</tr>
<tr>
<td>2005</td>
<td>RA 10022</td>
<td>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.</td>
<td>This law has introduced the following significant reforms: (1) mandating the government to monitor international conventions and ratify those that ensure protection of Filipino workers abroad as well as forge bilateral agreements with receiving countries. (2) members of the governing board of the POEA are now made accountable in the deployment of migrant workers. (3) state officials who facilitate the deployment of OFWs to countries that do not guarantee or follow international labor standards face dismissal from public service or disqualification from government appointments for five years</td>
</tr>
</tbody>
</table>

Notably, none of the reports reviewed classified policies of the Philippines on violence against women and children according to the objectives of prevention and response, including protection and cure. None also comprehensively identified policies according to whether the Philippines is the country of origin, transit or destination. All programs and services under the Migrant Workers and Overseas Filipinos Act of 1995, the primary law on migration, are anchored on the guidelines enumerated below.689

A government report claimed that the Philippines was the first among countries of origin in Asia to craft laws that aimed to “to establish a higher standard of protection and promotion of the welfare of migrant workers, their families and overseas Filipinos in distress.” The Migrant Workers and Overseas Filipinos Act of 1995 laid down the minimum conditions, under which deployment of overseas workers was to be allowed; assured that the Foreign Service would give protective services to both legal and undocumented workers; and institutionalized the adoption by Philippine embassies and consulates of a country-team approach.

With regard to the prevention of abuse and discrimination in women and children migrants, two policies in the law on migrant workers, as recently amended, need to be pointed out. First, the deployment of migrant workers is only allowed in countries or places where the rights of Filipino migrant workers are protected. The parameters of protection are defined under the law. Second, upon discovery or being informed of the presence of migrant workers whose ages fall below the minimum age requirement for overseas deployment, the responsible officers in the Foreign Service should without delay repatriate said workers and advise the Department of Foreign Affairs through the fastest means of communication available of such discovery and other relevant information.

### c. Assessment of State Policies

The Philippine government considers overseas employment as a “development strategy,” and this had been reflective of continuing efforts to increase foreign exchange earnings. The Migrant Workers and Overseas Filipinos Act of 1995 mirrors this policy. The European Union noted that overseas employment continued to be regarded as a solution to the limited job opportunities in the country and a means to poverty alleviation.

In 2006, the CEDAW Committee commended the conclusion of bilateral agreements and the memorandums of understanding on migrant workers’ rights with some countries and regions, and the program of pre-departure and support services for overseas Filipino workers. However, there were concerns for the continued feminization of migration, and agreements did not exist with all countries and regions to which Filipino women migrate. This continued to make them vulnerable to violence and exploitation when migrating through lateral agreement or arrangement with the government on the protection of the rights of overseas Filipino Workers: Provided, That the receiving country is taking positive, concrete measures to protect the rights of migrant workers in furtherance of any of the guarantees under subparagraphs (a), (b) and (c) hereof. In the absence of a clear showing that any of the aforementioned guarantees exists in the country of destination of the migrant workers, no permit for deployment shall be issued by the Philippine Overseas Employment Administration (POEA).”

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690 Ibid.
691 Ibid, para. 87.
692 Ibid, para. 88.
693 Republic Act No. 8042 or the Migrant Workers and Overseas Filipinos Act, 1995, as amended, Section 4. Section 3 of this law in part provides that, “The government recognizes any of the following as a guarantee on the part of the receiving country for the protection of the rights of overseas Filipino workers: (a) It has existing labor and social laws protecting the rights of workers, including migrant workers; (b) It is a signatory to and/or a ratifier of multilateral conventions, declarations or resolutions relating to the protection of workers, including migrant workers; and (c) It has concluded a bilaterally agreement or arrangement with the government on the protection of the rights of overseas Filipino Workers: Provided, That the receiving country is taking positive, concrete measures to protect the rights of migrant workers in furtherance of any of the guarantees under subparagraphs (a), (b) and (c) hereof. In the absence of a clear showing that any of the aforementioned guarantees exists in the country of destination of the migrant workers, no permit for deployment shall be issued by the Philippine Overseas Employment Administration (POEA).”
informal channels. The Committee urged the Philippines to create, among others, safe and protected jobs for women as viable economic alternative to migration.

Comprehensiveness of Acts Punished as Abuse and Discrimination of Migrant Women and Children; Illegal Recruitment

For the protection of women and children internal migrants and immigrants in the Philippines, there were acts—discussed in the previous parts of this report—which were considered unlawful and punished when committed in Philippine territory. For the protection of migrant workers abroad, the Migrant Workers and Overseas Filipinos Act of 1995 defined the crime of illegal recruitment and provided stiff penalties therefor.

Review of Philippine Migration Laws: Gains, Gaps and Prospects looked into the concept of illegal recruitment, and the definitions of recruitment and placement.

### Table 45: Some Acts of Illegal Recruitment

<table>
<thead>
<tr>
<th>Some Acts of Illegal Recruitment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) To charge or accept directly or indirectly any amount greater than that specified in the schedule of allowable fees prescribed by the Secretary of Labor and Employment, or to make a worker pay or acknowledge any amount greater than that actually received by him as a loan or advance;</td>
</tr>
<tr>
<td>(b) To furnish or publish any false notice or information or document in relation to recruitment or employment;</td>
</tr>
<tr>
<td>(c) To give any false notice, testimony, information or document or commit any act of misrepresentation for the purpose of securing a license or authority under the Labor Code, or for the purpose of documenting hired workers with the POEA, which include the act of reprocessing workers through a job order that pertains to nonexistent work, work different from the actual overseas work, or work with a different employer whether registered or not with the POEA;</td>
</tr>
<tr>
<td>(d) To include or attempt to induce a worker already employed to quit his employment in order to offer him another unless the transfer is designed to liberate a worker from oppressive terms and conditions of employment;</td>
</tr>
<tr>
<td>(e) To influence or attempt to influence any person or entity not to employ any worker who has not applied for employment through his agency or who has formed, joined or supported, or has contacted or is supported by any union or workers' organization;</td>
</tr>
<tr>
<td>(f) To engage in the recruitment or placement of workers in jobs harmful to public health or morality or to the dignity of the Republic of the Philippines;</td>
</tr>
<tr>
<td>(h) To fail to submit reports on the status of employment, placement vacancies, remittance of foreign exchange earnings, separation from jobs, departures and such other matters or information as may be required by the Secretary of Labor and Employment;</td>
</tr>
<tr>
<td>(l) To substitute or alter to the prejudice of the worker, employment contracts approved and verified by the Department of Labor and Employment from the time of actual signing thereof by the parties up to and including the period of the expiration of the same without the approval of the Department of Labor and Employment;</td>
</tr>
<tr>
<td>(k) To withhold or deny travel documents from applicant workers before departure for monetary or financial considerations, or for any other reasons, other than those authorized under the Labor Code and its implementing rules and regulations;</td>
</tr>
<tr>
<td>(m) Failure to reimburse expenses incurred by the worker in connection with his documentation and processing for purposes of deployment, in cases where the deployment does not actually take place without the worker's fault. Illegal recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage; and</td>
</tr>
<tr>
<td>(n) To allow a non-Filipino citizen to head or manage a licensed recruitment/manning agency.</td>
</tr>
</tbody>
</table>

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698 Ibid, para. 22.


701 Republic Act No. 8042 or the Migrant Workers and Overseas Filipinos Act, 1995, as amended, Section 5.
There are also other prohibited acts enumerated in the law.\textsuperscript{702} Illegal recruitment constitutes a crime of economic sabotage when committed by a syndicate (if carried out by a group of three or more persons conspiring or confederating with one another) or in a large scale (if committed against three or more persons individually or as a group). In both cases, the penalty imposed is life imprisonment.\textsuperscript{703}

Some Specific Aspects of Abuse and Discrimination Against Women and Children Considered in Reports

Table 46: Some Aspects of Abuse and Discrimination against Women and Children considered in Report

<table>
<thead>
<tr>
<th>Area of study</th>
<th>Assessment of reports</th>
</tr>
</thead>
</table>
| Do the laws provide safe migration and protection of rights of children and women migrant workers? | • Greater protection afforded to migrant workers in general when Republic Act No. 10022 amended the Migrant Workers and Overseas Filipinos Act of 1995\textsuperscript{704}  
• Services available to OFWs also made available to trafficked persons regardless of their immigration status in the host country\textsuperscript{705}  
• Systematic and organized transport, within and beyond Philippine borders, of women and children for the purpose of sex for profit or forced labour had been sought to be mitigated\textsuperscript{706} |
| Does the state ensure that women who wish to return to countries of origin are able to do so free of coercion and abuse? | • There seemed to be no particular interest or no systematic efforts to monitor the return of Filipinos to the country “up until now” (2009)\textsuperscript{710}  
• Establishment of the recent National Reintegration Center for OFWs could provide a good opportunity to develop approaches to this area\textsuperscript{711} |
| Do the laws ensure that migrant workers enjoy treatment not less favourable than that which applies to nationals of the State in respect of remuneration and other conditions of work, e.g., overtime, hours of work, weekly rest, holidays with pay, safety, health, termination of the employment relationship? | • Citing the Labor Code and the principle of equal protection of laws, a Government report noted that foreign migrant workers in the Philippines enjoy treatment not less than favourable than that which applies to nationals\textsuperscript{712}  
• Also, Philippine laws generally apply to them, except those which are political in nature and are explicitly applicable to citizens of the country alone, “including the right to vote and the right to own real properties”\textsuperscript{713}  
• A Supreme Court decision held that there was no reasonable distinction between the services rendered by foreign-hires and local-hires on the same circumstances, and as such, higher salaries offered to the other is unconstitutional\textsuperscript{714} |

\textsuperscript{702} Ibid.

\textsuperscript{703} Ibid, Sections 5-6.


\textsuperscript{705} Ibid.

\textsuperscript{706} Myrna S. Feliciano, Protection of Victims, Particularly Women and Children Against Domestic Violence, Sexual Offenses and Human Trafficking - Philippine Experience, 6, Paper presented at the 9th General Assembly of the ASEAN Law Association, Bangkok, 22-26 November 2006.

\textsuperscript{707} Nina Patricia Sison-Arroyo, “Responsive Law-Enforcement Approach to Combating Child Trafficking,” 850.


\textsuperscript{711} Ibid.


\textsuperscript{713} Ibid, para. 76.

\textsuperscript{714} Ibid, para. 75.
<table>
<thead>
<tr>
<th>Area of study</th>
<th>Assessment of reports</th>
</tr>
</thead>
</table>
| Do the laws and policies ensure that migrant women workers and migrant children are given equality before the law as regards legal remedies? | • According to a Joint Country Gender Assessment Report, access to legal remedies and social assistance has improved with the passage of the VAWC Law, establishment of women and children desks in police stations and barangay offices, and presence of NGOs that assist women in crisis\(^\text{715}\)  
• Legal assistance and mandatory services provided\(^\text{716}\)                                                                                                                                               |
| Do the laws and policies ensure that the core principles of the CRC are also applied to migrant children and not only its nationals? | • No specific report found in this review which examines if the laws and policies ensure that the core principles of the CRC are applied to migrant children                                                                                                                                 |
| Does the State grant children of migrant workers and migrant children access to education, emergency medical care, social services, on the basis of equality of treatment with nationals of the State concerned? | • In reply to issues raised by the MWC, Government said it has been policy to afford quality education at all levels to citizens, and the State provides all children born to migrant workers with birth registration and access to basic education and health care\(^\text{718}\)  
• Also, social security is provided to all residents of the Philippines who meet qualifications of the law on social security, citizens and non-citizens alike, without discrimination\(^\text{719}\)                                                                                                                                 |
| Do the reports identify structural vulnerabilities or gaps in legal framework as regards women and children migrants, e.g., when a migrant woman marries a national, in the process losing her nationality, and later on loses the nationality of her spouse when she is divorced by him? | • Threats and violence against government agencies and officials involved in measures to counter abuse, discrimination and exploitation against Filipinos abroad were cited\(^\text{720}\)  
• Also, corruption and hesitance of survivors to denounce alleged perpetrators for fears of reprisals against them or their families, and a prolonged judicial process\(^\text{721}\)                                                                                                                                 |


\(^{716}\) Nina Patricia Sison-Arroyo, “Responsive Law-Enforcement Approach to Combating Child Trafficking,” 850.  


\(^{718}\) Government of the Philippines, Written replies by the Government of the Philippines concerning the List of Issues (CMW/C/PHL/Q/1) received by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families relating to the Consideration of the Initial Report of the Philippines (CMW/C/PHL/1) (CMW/C/PHL/Q/1/Add.1, 6 March 2009), paras. 85-86.  


\(^{721}\) Ibid.
3. Implementation, Monitoring and Prevention

a. Implementing and Monitoring Mechanisms

i. Description of State Implementing and Monitoring Mechanisms

Table 47: Role of Government Agencies in Migration

<table>
<thead>
<tr>
<th>Agency</th>
<th>Role</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Foreign Affairs (DFA)</td>
<td>• Take priority action or make representation with the foreign authority concerned to protect the rights of migrant workers and other overseas Filipinos and extend immediate assistance including the repatriation of distressed or beleaguered migrants and other overseas Filipinos</td>
</tr>
<tr>
<td>Department of Labor and Employment (DOLE)</td>
<td>• See to it that labour and social welfare laws in the foreign countries are fairly applied to migrant workers and whenever applicable, to other overseas Filipinos including the grant of legal assistance and the referral to proper medical centers or hospitals</td>
</tr>
<tr>
<td>Philippine Overseas Employment Administration (POEA)</td>
<td>• Regulate private sector participation in the recruitment and overseas placement of workers by setting up a licensing and registration system</td>
</tr>
<tr>
<td></td>
<td>• Also, formulate and implement, in coordination with appropriate entities concerned, when necessary, a system for promoting and monitoring the overseas employment of Filipino workers taking into consideration their welfare and the domestic manpower requirements</td>
</tr>
<tr>
<td></td>
<td>• Responsible for the regulation and management of overseas employment from the pre-employment stage, securing the best possible employment terms and conditions for overseas Filipino workers, and taking into consideration the needs of vulnerable sectors and the peculiarities of sea-based and land-based workers</td>
</tr>
<tr>
<td></td>
<td>• In appropriate cases, allow the lifting of suspension of erring recruitment/manning agencies upon the payment of fine of Fifty thousand pesos (P50,000.00) for every month of suspension.</td>
</tr>
<tr>
<td></td>
<td>• Inform migrant workers not only of their rights as workers but also of their rights as human beings, instruct and guide the workers how to assert their rights and provide the available mechanism to redress violation of their rights</td>
</tr>
<tr>
<td></td>
<td>• Responsible for the implementation, in partnership with other law-enforcement agencies, of an intensified program against illegal recruitment activities [for this purpose, provide comprehensive Pre-Employment Orientation Seminars (PEOS) that will discuss topics such as prevention of illegal recruitment and gender-sensitivity]</td>
</tr>
<tr>
<td></td>
<td>• Engage in the recruitment and placement of overseas workers on a government-to-government arrangement only</td>
</tr>
<tr>
<td></td>
<td>• In the recruitment and placement of workers to service the requirements for trained and competent Filipino workers of foreign governments and their instrumentalities, and such other employers as public interests may require, deploy only to countries where the Philippine has concluded bilateral labour agreements or arrangements; such countries guarantee to protect the rights of Filipino migrant workers; and such countries observe and/or comply with the international laws and standards for migrant workers</td>
</tr>
<tr>
<td>Overseas Workers Welfare Administration (OWWA)</td>
<td>• The Welfare officer or in his absence, the coordinating officer, provide the Filipino migrant worker and his family all the assistance they may need in the enforcement of contractual obligations by agencies or entities and/or by their principals</td>
</tr>
<tr>
<td></td>
<td>• In the function of the welfare officer above, he or she makes representation and may call on the agencies or entities concerned to conferences or conciliation meetings for the purpose of settling the compliance or problems brought to his attention</td>
</tr>
<tr>
<td></td>
<td>• Likewise formulate and implement welfare programs for overseas Filipino workers and their families while they are abroad and upon their return</td>
</tr>
<tr>
<td></td>
<td>• Ensure the awareness by the overseas Filipino workers and their families of these programs and other related governmental programs</td>
</tr>
<tr>
<td></td>
<td>• In the repatriation of workers to be undertaken by OWWA, OWWA is authorized to pay repatriation-related expenses, such as fines or penalties, subject to such guidelines as the OWWA Board of Trustees may prescribe</td>
</tr>
<tr>
<td>Department of Health (DOH)</td>
<td>• Regulate the activities and operations of all clinics which conduct medical, physical, optical, dental, psychological and other similar examinations on Filipino migrant workers as requirement for their overseas employment</td>
</tr>
<tr>
<td>Local Government Units (LGUs)</td>
<td>• In the fight against illegal recruitment, in partnership with the POEA, other concerned government agencies, and non-government organizations advocating the rights and welfare of OFWs, take a proactive stance by being primarily responsible for the dissemination of information to their constituents on all aspects of overseas employment</td>
</tr>
</tbody>
</table>

722 Republic Act No. 8042 or the Migrant Workers and Overseas Filipinos Act, 1995, as amended, Sections 14-16 and 23.
In addition to the above, a Shared Government Information System for Migration participated in by an inter-agency committee\textsuperscript{723} was established to implement a shared government information system for migration. The inter-agency committee makes available to itself the information contained in existing data bases/files and involves linkages of computer facilities in order to allow free-flow data exchanges and sharing among concerned agencies.\textsuperscript{724}

The Anti-Illlegal Recruitment Coordinating Councils (AIRCCs) are inter-agency groups concerned with illegal recruitment. These serve as a venue at the grassroots level for consultation and sharing of experiences and mapping out strategies to improve the anti-illegal recruitment program of government.\textsuperscript{725} Agencies on transnational crimes such as SETC, PCTC, PAIRTF and TFPI also play respective roles in the fight against illegal recruitment.

The framework of agencies involved in the protection of women and children in general are also involved in the protection of migrants and internally displaced persons in the Philippines against abuse and discrimination. When it comes to forced migration, including movement of refugees, the Department of Justice and its attached agencies and the Department of Foreign Affairs specially work for their protection. For instance, as highlighted in a report, the Philippines has become a transit country for at risk refugees on their way to resettlement under a transit arrangement among the Department of Foreign Affairs, UNHCR and the International Organization for Migration.\textsuperscript{726}

ii. Specialized institution with mandate to oversee the implementation of laws against abuse and discrimination of migrant women and children

The approach adopted by the Philippines in addressing abuse and discrimination against migrants was a collaboration of different agencies mentioned in the preceding sub-section. As explained in a report, during the years, an extensive institutional framework was established to govern mainly the labour migration and protection aspects of migration in the Philippines.\textsuperscript{727}

iii. Reports that study mechanisms that monitor the implementation and observance of laws related to abuse and discrimination against women and children migrants

The Filipino migration model was touted as a successful approach.\textsuperscript{728} Nonetheless, the UN Committee on the Protection of All Migrant Workers and Members of Their Families recommended that Government “review its labour migration policy in order to give primary importance to the human rights of migrant workers.”\textsuperscript{729} The Committee also noted a “multitude of initiatives and programmes” in response to the challenges faced by the country with regard to migration, but expressed concern that “implementation, follow-up, and evaluation of these programs were insufficient.”\textsuperscript{730}

\textit{Monitoring of the Systems in Place, especially those Relating to Illegal Recruitment}

A review by Reyes revealed that compared to other countries of origin, the Philippines was considered to be “quite progressive in terms of having established institutions and mechanisms to curb irregular migration at the source.” Despite this, many unlicensed agencies or recruiters escaped regulation. One factor was the lack of legal identity which made them to monitor. Unless migrants themselves reported incidents of abuse or victimization, illegal recruitment would "fade into oblivion and may be repeated."\textsuperscript{731}

\textsuperscript{723} This committee is composed of the Department of Foreign Affairs and its attached agency, the Commission on Filipinos Overseas, the Department of Labor and Employment and its attached concerned agencies, the Department of Tourism, the Department of Justice the Bureau of Immigration, the NBI, the Department of the Interior and Local Government, the National Telecommunications Commission, the Commission on Information and Communications Technology, the National Computer Center, the National Statistical and Coordination Board, the National Statistics Office, and other government agencies concerned with overseas employment.

\textsuperscript{724} \textit{Ibid}, Section 20.

\textsuperscript{725} International Labour Organization, \textit{Child trafficking in the Philippines: A situational analysis}, 146.


\textsuperscript{727} \textit{Ibid.}

\textsuperscript{728} Ellene Sana and Rhodora Alcantara Abano, “Labor Migration in Southeast Asia,” 62.

\textsuperscript{729} Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, Concluding Observations of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW/C/PHL/CO/1, 22 May 2009), para. 16.

\textsuperscript{730} \textit{Ibid}, para. 13.

\textsuperscript{731} Melanie M. Reyes, \textit{Migration and Filipino Children Left-Behind}, 19.
Monitoring of Nationals in The Destination Countries by State Agencies

Sana and Abano in *Labor Migration in Southeast Asia* cited data from the Commission on Audit (COA) of the Philippines that Government had 88 offices protecting foreign workers abroad, which were “meagrely staffed and lack the resources to serve the country’s millions of migrants.” Furthermore, a “mismatch” or “ratio-distortion” between Government personnel (onsite) on the one hand and the number of and needs of OFWs upon the other was discussed by Ambito and Banzon in *Review of Philippine Migration Laws*.733

b. Complaints Process

Description of the State’s Complaint Process

The DFA was mandated to make an assessment of the “rights and avenues of redress” that are available to Filipino migrant workers who were survivors of abuse and violation and, as far as practicable, pursue the same on behalf of the victim if it was legally impossible to file individual complaints.734 In its report to the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Government noted that provisions of the Migrant Workers Convention could be invoked “before and directly enforced by Philippine courts, other tribunals or administrative authorities” since it was ratified by Government and is, therefore, binding upon it.735

Complaints for violation of the provisions of the Convention may be filed before the proper civil judicial authorities, prosecutor’s office, regional trial courts, municipal circuit trial courts, and the municipal trial courts. Where persons complained are government workers, the complaint may be filed with the Office of the Ombudsman.736 Where persons complained are members of the AFP or the Philippine National Police (PNP), the complaint may be filed directly with the AFP and the PNP, respectively.737

In filing cases for illegal recruitment, the law provides that the DOLE Secretary, the POEA Administrator or their duly authorized representatives, or any aggrieved person, may initiate the corresponding criminal action. The affidavits and testimonies of operatives or personnel from DOLE, POEA and other law enforcement agencies who witnessed the acts constituting the offense are sufficient to prosecute the accused.738

For acts amounting to violence against women and children, and exploitation, as described in previous sections of this report, the complaint processes as respectively outlined therein applies.

Assessment of the Complaints Process

In *An Analysis of the Situation of Filipino Domestic Workers*, Sayres presented a critique on the complaints process under the law: “Overseas domestic helpers typically go to the Philippine Embassy to report abuses, based on the general approach recommended during the pre-departure orientation seminars. Although this mechanism appears straightforward, the internal process for handling a problem case is quite complex, with an array of government agencies and actors involved.” Furthermore, there were reasons why the process has some gaps and inadequacies. Few reported cases were prosecuted because of the “complex, bureaucratic, and lengthy process.” In some countries, foreign domestic helpers were not permitted to work while seeking redress. Because many OFWs were supporting families back home, they need to have income often outweighed the cause of pursuing a case. Still in some cases, Sayres said it was difficult for the domestic worker to visit the embassy for several reasons, including work obligations, lack of a day-off, and inability to leave the work premises. Workers may have the option to seek redress through the local laws of the host country or with the intervention of recruitment agencies, but this may not be the best option available.740

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735 Ibid, para. 77.
736 Ibid, para. 78.
737 Ibid, para. 79.
738 Republic Act No. 8042 or the Migrant Workers and Overseas Filipinos Act, 1995, as amended, Sections 5-6.
740 Ibid.
Empowering Filipino Migrant Workers: Policy Issues and Challenges said that in Japan, some NGO volunteers were more visible than the embassy, which was also active, in providing legal and paralegal assistance that include cell visitations and financial help to OFWs arrested for criminal or immigration offenses. Meanwhile, in Hong Kong, there was a time when redress of grievances was often also preferred outside the country. This was because special labour courts to handle cases involving foreign domestic helpers were abolished.

One key aspect of recent reform was the enforcement of joint liability between the local recruitment agency and its foreign principal. According to Ang, under this policy, a worker who feels provisions in his work contract were violated by his employer has the legal option to seek redress in Philippine courts against his recruitment agency.

c. Protection and Rehabilitation

Description of the State’s Protection and Rehabilitation Program

Sto. Tomas in Protecting Migrant Workers: A Shared Responsibility outlined the framework for the protection of migrant workers. This framework has three major components: (1) a regulatory system for intermediaries and other actors in the overseas employment program; b) the provision of institutional structures and mechanisms for workers’ protection; and c) a re-integration program for returning workers.

Reyes wrote that since labour migration has remained “an attractive option (or the only option) to many workers in the Philippines” despite various problems they might face in countries of destination (i.e., nonpayment of salaries, contract violations, illegal detention, physical and sexual abuse, and psychological distress), the government has initiated programs for the protection of migrant workers.

Table 48: Framework for the Protection of Migrant Workers

<table>
<thead>
<tr>
<th>Component</th>
<th>Specifics</th>
</tr>
</thead>
</table>
| Regulatory Framework for Contract Migration | • Philosophy Behind the Deployment of Filipino Workers  
• Licensing of Private Recruitment Agencies  
• Rules and Standards on Recruitment and Placement of Workers  
• Verification and registration or accreditation of foreign employers/ principals  
  » Foreign Employer’s/Principal’s Compliance with Employment Standards  
  » Advertisement of Overseas Jobs  
  » Skills Testing and Medical Examination of Workers  
  » Documentation of Selected and Hired Workers  
  » Placement and Other Fees  
• Sanctions for Non-Compliance with Recruitment Rules and Standards  
• Protecting Workers from Illegal Recruitment Activities |
| Protective Structures and Mechanisms | • Regulating the Recruitment and Placement of Migrant Workers  
• Workers  
• Delivery of Welfare Programs and Services  
• Adjudication of Worker-Employer Conflicts  
• On-Site Protection Program  
• Other Offices Involved in Migrant Workers Protection  
• Bilateral Labor Agreements, Regional Agreements, Multi-Lateral Agreements and International Protocols |
| Re-integration Program for Returning Migrant Workers | • Welfare Office’s Reintegration Program  
• National Reintegration Center for OFWs |


742 Ibid, 62.


745 Ibid, 3-19.
Affecting Women and Children in ASEAN: A Baseline Study

The position of Undersecretary for Migrant Workers Affairs was created to be primarily responsible for the provision and overall coordination of all legal assistance services to be provided to Filipino migrant workers as well as overseas Filipinos in distress. The Office of the Undersecretary for Migrant Workers Affairs is at the forefront on matters related to assistance to Filipinos in distress overseas, created by virtue of the Migrant Workers and Overseas Filipinos Act.

### Assessment of the State's Rehabilitation and Protection Program

Implementing programs to protect migrants include the creation of a shared government information system, issuance of travel advisories and listing of legitimate recruitment agencies, provision of legal assistance for migrant workers, operationalization of the country-team approach, and streamlining of procedures. Some issues which the program “failed to effectively address” were the unenforceability of the Migrant Workers and Overseas Filipinos Act overseas, ineffective pre-departure orientation, and the inefficient administration of the OWWA welfare fund.

Agunias and Ruiz in Protecting Overseas Workers: Lessons and Cautions from the Philippines examined the OWWA welfare fund, the world’s largest migrant welfare fund, which is crucial inter alia for the immediate repatriation of distressed and physically ill contract workers, and the remains of those who have died working abroad. The Government’s “main protection vehicle” has been the OWWA, and the Philippine experience showed that there were some real challenges in making a welfare fund work—finding the right balance of services, creating meaningful partnerships, building strong state capacity, and actively involving destination countries.

In order to assess the effectiveness of policies that uphold the rights of child migrants against discrimination, particularly as regards education, Reyes looked into European law and the country specific policies of Italy, Japan, Finland, France, Cambodia, Spain, and the United States. Treatment of children varied from one State to another.

| Table 49: Some of the Programs of Government for the Protection of Migrant Workers

<table>
<thead>
<tr>
<th>Some of the Programs of Government for the Protection of Migrant Workers</th>
</tr>
</thead>
<tbody>
<tr>
<td>• A pre-departure orientation program especially for women in domestic employment who are vulnerable to maltreatment, abuse and other forms of violence. Included in the syllabus are the modules on health and sexuality, HIV/AIDS, self-defence techniques, etc.</td>
</tr>
<tr>
<td>• A comprehensive orientation program for overseas performing artists or entertainers regarding their rights, health, illegal recruitment, trafficking, self-development, and better career options</td>
</tr>
<tr>
<td>• Presence of female Philippine Overseas Labor Officers and female welfare officers in countries where there are large populations of Filipino women workers</td>
</tr>
<tr>
<td>• Setting up of welfare centres, bilateral negotiations with receiving countries, and lobbying for policy reform and programs for migrant workers at international fora</td>
</tr>
<tr>
<td>• Passage of the Anti-Trafficking in Persons Act, Anti-Mail Order Bride Law, and the Migrant Workers and Overseas Filipinos Act</td>
</tr>
<tr>
<td>• Ratification of the UN Convention on Transnational Organized Crime, Optional Protocol on Anti-Trafficking, and the Optional Protocol against Smuggling of Migrants by Land</td>
</tr>
<tr>
<td>• Reinforcing the integrity of the Philippine passport as implemented under the Philippine Passport Act, Philippine Labor Code and certain provisions of the Immigration Act</td>
</tr>
<tr>
<td>• The Office of the Undersecretary for Migrant Workers Affairs is at the forefront on matters related to assistance to Filipinos in distress overseas, created by virtue of the Migrant Workers and Overseas Filipinos Act</td>
</tr>
</tbody>
</table>

746 Melanie M. Reyes, Migration and Filipino Children Left-Behind.
748 Ibid, para. 83; Republic Act No. 8042 or the Migrant Workers and Overseas Filipinos Act, 1995, as amended, Section 24.
749 Rene E. Ofreneo and Isabelo A. Samonte, Empowering Filipino Migrant Workers: Policy Issues and Challenges (International Migration Papers 64), 14.
750 Ibid, 15.
751 Ibid, 15-16.
753 Ibid, 24.
754 Ibid, 19.
Meanwhile, Battistella and Asis in *Protecting Filipino Transnational Domestic Workers: Government Regulations and Their Outcomes* wrote that domestic work still entailed risks and vulnerabilities to women migrant workers. For instance, they said that bans were never proven effective—instead driving migrants to emigrate underground; mechanisms “lacked teeth” in enforcement and monitoring; and the approach of “deploy and protect” is fraught with difficulties. The study sought to examine the impact of Government regulations on the status of Filipino domestic workers.

The legal deployment process, as observed by Battistella and Asis, was the same for male and female migrants, although in the case of the latter, additional protective mechanisms or requirements were set in place. As an example, there is a minimum age requirement for departing domestic workers – 23 years old. All workers must also attend the PDOS. For those leaving as domestic workers, it is handled by accredited non-governmental organizations. The Household Service Workers Reforms were said to be introduced by POEA in 2006 as a response to chronic cases of abuse and exploitation against domestic workers.

**d. Prevention Strategy**

*Description of the State's Prevention Program*

As seen above, the prevention strategy of Government is a part of the over-all protection regime for migrant workers. The law addresses the risks of international migration by regulating the recruitment and deployment of overseas Filipino contract workers in order to prevent abuses and curb illegal recruitment. To prepare migrants and provide them with information about living and working abroad, departing migrants were required to attend a Pre-Departure Orientation Seminar (PDOS). This was supplemented by the optional Pre-Employment Orientation Seminar (PEOS). Every year, however, thousands are employed through informal channels.

Rajan and Mishra's *Managing Migration in the Philippines: Lessons for India* drew several lessons from the Philippines in order to organize systematic flows of emigration from India. One of these was the prevention of all practices of breach of contract by the recruiter and foreign employers. While the Government opened official access to foreign labour markets, it also tried to prevent unregulated migration channels.

Orbeta, Abrigo and Cabalfin in *Institutions Serving Philippine International Labor Migrants* described the institutions involved in managing international migration in the Philippines. The regulatory framework for deployment employed by the POEA could be summarized into three elements: (a) limiting entry to qualified actors; (b) rules and regulations on fees and standard contracts; and (c) ensuring compliance through monitoring and adjudication machinery. According to them, all aspects of migration were covered from pre-deployment, deployment, on-site services to eventual return. Limiting the entry to qualified actors (recruiters, employers and workers) was expected to lower the probability of problems occurring.

Orbeta, Abrigo and Cabalfin explained the rules on fees and standard contract, which required certain minimum provisions in order to avoid exploitation.

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757 Ibid, 9.
759 Ibid, 119.
761 Ibid, 8.
Assessment of the State’s prevention program, including state education and awareness programs, programs to raise community awareness, and accessibility of information

In the assessment of Faggio and Asis, providing a good legal framework and establishing different state agencies were “not good enough.” They added that the problem of implementation and enforcement inexorably affects international migration; coordination has to be improved as well.764 A comparative study of the regulatory frameworks of Pakistan, Philippines and Sri Lanka revealed that too complicated rules may breed corruption and abuse in the Philippine setting.765 Enforcement of rules, monitoring, and specification of rules on resolving conflict were likewise emphasized.766

COA gave a mixed rating to the Overseas Workers Program from 2005 to 2006 during a Sectoral Performance Audit. The constitutional commission lauded the adjudication of cases against illegal recruiters but pointed out that fines may be too low to encourage compliance of stakeholders with rules and deter abuses.767 Other results of the assessment are as follows: agencies that had several violations of migrants’ rights and should have been suspended continue to operate; surveillance operations declined in number and the record of inspections is not maintained; selective deployment to countries where rights are recognized and protected by law or by bilateral agreements as required by law was not strictly observed; coordination between the POEA and the Philippine Overseas Labor Offices (POLOs) was found insufficient;768 and no assurance that those who have gone through the Pre-Departure Orientation Seminar (PDOS) are indeed ready for deployment because no monitoring and evaluation was done.769

Another report argued that the lapses may not be entirely the fault of agencies. The agencies lacked the manpower and resources to serve the demands of the regulatory framework on migration.770 The nature of migration also presented natural barriers to implementation of

<table>
<thead>
<tr>
<th>Provision</th>
<th>1985</th>
<th>1991</th>
<th>2002 Land-based Workers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Guaranteed wages and overtime pay, as necessary</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Free transportation to and from worksite</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Free emergency medical and dental treatment/facilities</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Just/authorized causes for termination</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Workmen’s compensation and war hazard protection</td>
<td>X</td>
<td>X</td>
<td>***</td>
</tr>
</tbody>
</table>
| Repatriation of workers’ remains/properties in cases of
dead to the point of hire (Assistance in the)
Remittance of worker’s salaries, allowances or allotments to his/her beneficiaries | X    | X    | **                      |
| Adequate board and lodging facilties                  | X    | X**  | X**                     |
| Grievance machinery for workers                       | X    | ***  | ***                     |

Source: POEA Rules and Regulations governing Overseas Employment, various years
* Included in the verified undertaking of recruitment and manning agencies
** Free; or compensatory benefits
*** Guaranteed by the POEA through other mechanisms set by the administration even if not specified in the employment contract

763 Ibid, 8.
766 Ibid, 57-59.
768 Ibid.
769 Ibid, 67.
programs: cooperation between the origin and host countries becomes crucial.\textsuperscript{771}

Faggio and Asis believed that the PDOS and PEOS (orientations given to departing migrants) should be assessed and re-formatted according to the needs of migrants and aspiring migrants.\textsuperscript{772} As mentioned, the audit report said that there was no assurance that those who have gone through the PDOS were indeed ready for deployment because no monitoring and evaluation was done.\textsuperscript{772} During the PDOS, according to Government, workers are oriented and informed \textit{inter alia} about on-site realities such as country profile, cultural and tradition climate; common problems encountered by OFWs and coping mechanisms; institutional support system; obligations based on the Code of Discipline for OFWs; and their rights and obligations in the employment contract.\textsuperscript{774}

However, based on a survey of domestic workers prior to migration, many departing workers were not aware of basic work rights and government regulations, particularly those concerning the household service workers reform package. More than half were ever-migrants.\textsuperscript{775} Almost half of the respondents (49.3\%) claimed their agency explained their work contract to them while the other half (50.7\%) said no such explanation was provided to them. About 57\% read their contract while 43\% did not read their contract, including a few who read only certain portions.\textsuperscript{776} A sizable percentage showed some tendency to let their employers make decisions about their work conditions, in part because of lack of information about decent work conditions.\textsuperscript{777}

Related information is accessible through PDOS and PEOS providers, including the POEA, OWWA and some non-governmental organizations.\textsuperscript{778} In addition to embassy/consular websites, Foreign Service officers render consular services and provide information through postings in the consular section and frequent interactions with the Filipino community, outreach programs and occasional appearances on community radio stations (in cities where they exist).\textsuperscript{779}

The ESCR once said that the Government could not control the emigration of OFWs, but more “can and should be done” to inform and educate existing and potential workers about the difficulties they might face abroad and about their rights.\textsuperscript{780} The CEDAW Committee also said agencies that provide information and support services to women before they depart for overseas work, as well as in receiving countries in cases of need, should be strengthened.\textsuperscript{781}

4. Role of Non-State Actors

\textbf{a. Assistance to Survivors and Protection; Prevention Programs}

Some NGOs and community based organizations working on general migration issues were enumerated in the report of Reyes. Their activities related to a lot of interventions, which included advocacy, direct support to survivors, legal assistance, and livelihood programs.\textsuperscript{782} Feliciano noted organizations collaborating in helping internal migrant child domestic workers.\textsuperscript{783} In an analysis, the European External Action Service concluded that there was a “large number” of associations for Overseas

\begin{thebibliography}{999}

\bibitem{baggio} Fabio Baggio, “The Migration-Development Disconnect in the Philippines,” 118.


\bibitem{government} Government of the Philippines, \textit{Written replies by the Government of the Philippines concerning the List of Issues (CMW/C/PHL/Q/1) received by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families relating to the Consideration of the Initial Report of the Philippines (CMW/C/PHL/1), 84.}

\bibitem{battistella} Graziano Battistella and Maruja M.B. Asis, \textit{Protecting Filipino Transnational Domestic Workers}, 37.

\bibitem{ibid} Ibid, 25.

\bibitem{ibid2} Ibid, 37.

\bibitem{francis} Francis Tom F. Temprosa

\bibitem{777} 19.

\bibitem{779} Government of the Philippines, \textit{Written replies by the Government of the Philippines concerning the List of Issues (CMW/C/PHL/Q/1) received by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families relating to the Consideration of the Initial Report of the Philippines (CMW/C/PHL/1), 84.}


\bibitem{782} Melanie M. Reyes, \textit{Migration and Filipino Children Left-Behind}, 21-22.

\bibitem{783} Myrna S. Feliciano, \textit{Protection of Victims, Particularly Women and Children Against Domestic Violence, Sexual Offenses and Human Trafficking - Philippine Experience}, 8-9.

Francis Tom F. Temprosa


\textsuperscript{772} Fabio Baggio, “The Migration-Development Disconnect in the Philippines,” 118.


\textsuperscript{774} Government of the Philippines, \textit{Written replies by the Government of the Philippines concerning the List of Issues (CMW/C/PHL/Q/1) received by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families relating to the Consideration of the Initial Report of the Philippines (CMW/C/PHL/1), 84.}

\textsuperscript{775} Graziano Battistella and Maruja M.B. Asis, \textit{Protecting Filipino Transnational Domestic Workers}, 37.

\textsuperscript{776} Ibid, 25.

\textsuperscript{777} Ibid, 37.
Filipinos or the so-called “diaspora organizations”. Migrants themselves formed organizations. For instance, in times of disaster, migrants associations mobilized resources for relief efforts. Others in their private capacity supported humanitarian initiatives on their own.784

_Institutions Serving Philippine International Labor Migrants_ said government has long recognized the role of non-state actors. It is state policy to consider them as partners in pursuing migrant concerns. The study classified non-state actors into four main types: (1) non-profit, non-stock non-governmental organizations; (2) membership-based organizations and networks of current and former migrants, and their families, including sector-specific organizations; (3) church-based organizations, notably those within the Catholic Church;785 and (4) alliances and networks among various organizations within and without the migrant sector.786

Furthermore, programs for migrant workers and their dependents combined different types of services, which included some or all of the following areas: legal and paralegal, economic, psychosocial, and other auxiliary services. Actors did not merely respond to labour-related concerns, but also to economic, psycho-social and even health issues brought by migration.787 The aspects of protection of and assistance to survivors, and prevention of incidents were incorporated into these services.

### b. Monitoring and Cooperation

Different mechanisms are in place for the participation of non-state actors in monitoring and cooperation efforts. Feliciano observed that civil society groups and non-governmental organizations have set up multi-sectoral watch groups which are engaged in the delivery of services to migrants. Such groups undertook regular training program on human rights, developed documentation system on violence against women, especially trafficking, and have organized community-based programs.788

According to Reyes, organizations working with children of migrants conducted policy interventions such as (1) use of radio, television, schools, magazines, pre-departure seminars to share advice and information on the care of children of migrants, (2) use of teachers to monitor children of migrants; (3) workshops with children and caregivers; and (3) individual counselling.789

### 5. Progress Indicators and Challenges

#### Availability and Accessibility of Progress Reports

Progress reports on efforts against abuse and discrimination of women in the context of migration are available and accessible. Most should however be more widely circulated to ensure adequate public information.

#### Effectiveness of Policies and Measures, and Assessment of Success Indicators

A comprehensive audit of the _Government’s Overseas Workers’ Welfare Program_ by the COA, an independent constitutional body which performs the key function of auditing government,790 concluded that, “[g]overnment may not be considered effective in regulating overseas recruitment agencies and providing responsive services to OFWs in view of a number of ineffective policies and lapses in the implementation of the program.”791 The audit (2007) looked into selected programs and services implemented in 2005 and 2006 by the Department of Labor and Employment and its attached agencies dealing with migration (POEA, OWWA and the National Labor Relations Commission) as well as the Department of Foreign Affairs.792
Effective Regulation of Recruitment Agencies

- Policies and programs for regulating recruitment agencies are in place to curtail illegal recruitment and employment activities

<table>
<thead>
<tr>
<th>Performance Indicators</th>
<th>Evaluation Criteria</th>
<th>Audit Observations</th>
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| • The existing policy of lifting suspension upon payment of fines ranging from P20,000 to P190,000 in lieu of serving suspension from 2 to 19 months may not be effective in deterring commission of recruitment violations as such amounts could easily be recovered from prospective applicants. This is manifested in the recorded commission of violations. Under this condition, the OFWs were not fully protected.  
• While the required P1 million escrow deposit was no longer sufficient to address the claims of OFWs, processing of transactions of several recruitment agencies with expired/suspended/cancelled licenses or de-listed due to non-compliance with escrow and capitalization requirements were nonetheless allowed under the pipeline account scheme. Thus, approved claims of OFWs remained unsatisfied. Claims of 452 OFWs from 49 recruitment agencies approved from January 2006 to June 2007 alone ranging from P2,501.49 to as much as P5,343,454.33 were unsatisfied due to insufficient escrow deposit balances.  
• Actions for illegal recruitment activities may not be considered adequate. While reported cases in CY 2005 increased by 95% in CY 2006, the number of surveillance operations conducted decreased from 215 in CY 2005 to 78 in CY 2006. This is way below the targeted accomplishment of 300 surveillance operations yearly. Reported entrapment cases however increased in CY 2006. From the reported 4 persons entrapped in CY 2005, 50 persons were reported entrapped in CY 2006 which is equivalent to 417% of the targeted accomplishment of 12 persons.  
• The Inspection Division was not maintaining a database of recruitment agencies subjected to inspection. Thus, while the number of agencies inspected reportedly exceeded the target, recruitment agencies not inspected and examined for quite a time could not readily be ascertained and their violations not at once detected.  
• The provisions of RA 8042 and RA 9422 were not strictly enforced. OFWs hired as domestic workers were deployed even in countries where their rights were not protected by law or any bilateral labour agreement. This contributed in the reported problems by the OFWs which included contract violations, excessive work, non-payment of salaries, and physical, verbal and sexual abuses, and in growing repatriation cases.  
• Coordination between POLOs (Philippine Overseas Labor Offices) and POEA is weak. The POLOs were not providing POEA with reports on documents verified at the Posts to guide the latter in processing OFWs for deployment despite requirement under DOLE Order No. 17-02 dated February 1, 2002. Likewise, POLOs were not furnished by POEA of reports on OFWs deployed in their respective jurisdiction. As the POLOs were likewise not maintaining Index Profile of Employers verified, they could not at once monitor deployed OFWs and verify compliance by foreign principals/employers on the provisions of employment contracts.  
• Despite requirements under existing regulations, OWWA was not maintaining complete records on repatriation. Thus, while OWWA advanced P111,391 million from 1995 to 2006 for airfare expenses and only P18,487 million were reimbursed from concerned recruitment agencies and foreign principals, only P12,755 were reflected in the financial statement as receivables. The status of airfare expenses amounting to P80,149 million could therefore not be determined. This allows unscrupulous recruitment agencies to continue their operations. Moreover, even agencies with outstanding obligations to OWWA continuously operate as reflected in the POEA records.

793 Ibid, 3.  
794 Ibid.  
795 Ibid, 33.  
796 Ibid, 35.  
797 Ibid, 44.  
798 Ibid, 47.  
799 Ibid, 49.  
800 Ibid, 55.  
801 Ibid, 58.
<table>
<thead>
<tr>
<th>Performance Indicators&lt;sup&gt;99&lt;/sup&gt;</th>
<th>Evaluation Criteria&lt;sup&gt;100&lt;/sup&gt;</th>
<th>Audit Observations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deployment Readiness of OFWs</td>
<td>Programs developed and conducted were effective in preparing successful candidates to cope with or adopt to changes in environment at jobsites</td>
<td>• The effectiveness of PDOS in providing necessary educational information to ensure the readiness of OFWs for deployment was not assessed. Thus, there is no assurance that OFWs deployed were ready to handle problems associated with working overseas. This could have contributed in recurring problems being experienced by OFWs. &lt;sup&gt;102&lt;/sup&gt;</td>
</tr>
<tr>
<td>Timely Disposition of Cases</td>
<td>Time standards for the disposition of cases are set and observed</td>
<td>• Out of 745 dispositions issued by POEA from January 2005 to May 2007 cancelling licenses of 48 agencies, 670 or 90% were issued only after 233 days on the average, way beyond the prescribed period of 90 days. Moreover, 35 other agencies considered in good standing have 3 to 17 cases pending for as long as 864 days as of May 31, 2007. The delayed disposition of cases provided an opportunity to recruitment agencies to continue their operations without serving penalties at the expense of OFWs. &lt;sup&gt;103&lt;/sup&gt;</td>
</tr>
<tr>
<td>Accessible and Responsive Welfare Assistance to OFWs</td>
<td>On-site services provided by concerned labour personnel are timely and consistent with OFWs’ needs</td>
<td>• The absence of standard ratio on POLO/OWWA personnel assigned at foreign posts to OFWs affected the ability of the Posts to provide efficient onsite services. In CY 2006, there were 11,424 to 5410,000 OFWs to be served and 2454 to 13,048 cases to be attended to in 20 posts with 2 to 6 personnel. This is equivalent to a POLO/OWWA personnel to OFW ratio of 1:5,712 to 1:100,000 and POLO/OWWA personnel to cases of 1:84 to 1:6,524. The disparity in ratios may have adversely affected the resolution of welfare cases and provision of onsite services. In countries with relatively high ratios, there were significant numbers of pending cases as of December 2006. As of February 2007, 455 runaway OFWs were housed in 9 Migrant and Overseas Filipino Workers Resource Centers (FWRCs), a number of whom were awaiting resolution of their respective cases for about 100 to 607 days as of the same date. &lt;sup&gt;104&lt;/sup&gt; • Statistical Reports on the number of pending cases and OFWs still housed at FWRCs as reflected in the POLO reports were inaccurate. Reported number of pending cases differs with computed number of cases by 18 to 12,067. The same could therefore not be relied upon as basis for preparing responsive services. &lt;sup&gt;105&lt;/sup&gt; • OWWA was yet to establish time frames for processing various claims of OFWs. From October to December 2006, life and total or partial disability insurance benefit claims of OFWs were processed only after an average of 44 days. The long period of processing of claims in effect delayed the enjoyment of benefits by the OFWs. &lt;sup&gt;106&lt;/sup&gt; • The POEA and NLRC have no formal mechanism to immediately inform OFWs of the amount of claims garnished from recruitment agencies. Thus, out of the total garnished amounts of P23,009,799.45 from January 2006 to June 2007, only P12,273,719 were so far released to 489 OFWs and only after an average of 140 days for POEA and 21 days for NLRC-NCR. This resulted in delayed enjoyment of benefits by the OFWs. &lt;sup&gt;107&lt;/sup&gt;</td>
</tr>
</tbody>
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802 Ibid, 67.
803 Ibid, 74.
804 Ibid, 83.
805 Ibid, 89.
806 Ibid, 90.
807 Ibid, 95.
Several other reports provided assessments. Among them was a European Union report which opined that the existing programs of government focus on financial literacy activities by providing OFWs and their families necessary information to make sound decisions on the use of their remittances. However, the risks and threats to development that accompany migration were not given much attention, among others.808 On a related note, another report said that an assessment of the migration-development nexus in the Philippines did not depict an unqualified positive scenario. While the development potential of migration clearly appeared at different levels, there was an “evident disconnect” between policies on migration and development. A call for revision of policies on the basis of empirical studies and interdisciplinary assessments was made; the process has to be inclusive and with the cooperation of stakeholders.809

Moreover, the report said that the participation of women in migration, especially mothers, “has been met with much more alarm than male migration.” Two primary reasons were given. First, the concentration of women in domestic work and the ‘entertainment’ industry brought about concerns about their safety and well-being. Secondly, concerns about families left behind, especially young children, triggered discussion on neglected children.810

A case study of the Philippines by Sana and Abano painted a picture of gradual improvement of institutions and structures to protect migrants in general despite “limited political will and implementation on the part of governments.” In addition, hosts such as the Arab states of the Gulf also initiated reforms to protect the rights of their foreign workers, especially those in the domestic service. Sana and Abano added that as Southeast Asia laboured with the negative impact of foreign labour in times of recent economic slowdown, the plight of migrant labour was given greater attention.811

Many reports presented the challenges that adversely affected the progress of the Philippines in this regard. Although not also directly focused on women and children, the constraints were summarized by Sto. Tomas in an article. According to her, the Philippines had some measure of success in migrant protection, but much remained to be done.812

Table 52: Constraints to Migrant Workers’ Protection: A Summary

<table>
<thead>
<tr>
<th>Area</th>
<th>Some Particulars</th>
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</thead>
<tbody>
<tr>
<td>Workers’ Education</td>
<td>Labor migration is difficult enough but when a worker leaves with incomplete or fraudulent documentation, he or she becomes prone to abuse and/or exploitation… In fact, majority of those who got subjected to exploitation are those who choose to take their chances outside of the official system. It is true that processes can sometimes be cumbersome but this is to ensure maximum protection. Thus, other than the regulatory and protective mechanisms in place, it is important that departing migrant workers are properly informed of the processes and of the rules governing overseas employment as well as of the working conditions in the destination country including its customs and practices.</td>
</tr>
<tr>
<td>Narrowing the Development Gap</td>
<td>The Philippines, like other developing countries, is confronted with problems of unemployment, underemployment and low level of pay which is often not sufficient to provide for the needs of the family. Given these and the fact that many have seen how the families of their OFW neighbours and friends have improved… the enticement of labour migration has become stronger over the years. There is nothing wrong with this except that others have used the enticement and attractiveness of overseas employment for their own selfish interest. Thus, problems like illegal recruitment by unscrupulous unlicensed individuals out to make money from poor, unsuspecting and naive applicants as well recruitment activities committed by licensed recruitment agencies in cahoots with their collateral partners like trade testing centres and the medical clinics.</td>
</tr>
<tr>
<td>The Cultural Divide</td>
<td>Migrant problems may also be a function of cultural practice… While some of these transgressions (mentioned by Sto. Tomas in her report as culturally assigned) may be inadvertent or unintentional, they also extend to employer-employee relationship. For instances, domestic helpers in the Philippines expect to work no longer than 10 hours and expect a day off once a week. These practices are not recognized in some societies.</td>
</tr>
</tbody>
</table>

815 Ibid, 21.
Area | Some Particulars
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The Absence of Counterpart Protective Mechanism in Receiving Countries | These violations of the migrant workers’ rights and dignity often remain unattended for long periods and in some cases for the entire duration of their stay abroad. If action is eventually done, these are upon the intercession of the embassy staff after the embassy is informed by the migrant workers’ families in the Philippines of the predicament faced by their family members in the destination country. The process is cumbersome and risky at times on the part of the migrant workers who have to surreptitiously send letters back home or request returning OFWs to inform their families about their problems. This kind of situation is happening because of the absence of counterpart protective mechanisms in receiving countries which migrant workers can take advantage of… This, coupled by the migrant worker’s feeling of isolation and of being a stranger in a foreign land can make them more susceptible to abuse and exploitation. 816

Difficulty in Getting Bilateral Agreements (BLAs) | The constraint mentioned above could best be addressed by bilateral agreements between the labour-sending and labour-receiving countries. Through a bilateral agreement, the parties can define the protocols for migrant workers’ protection and provide for the specific systems and procedures that maybe put in place to achieve it. From experience though, bilateral agreements are not that easily concluded. This is because the agreement can entail commitments that labour-receiving countries may, for some reasons, be reluctant to agree to. 817

Absence of Binding International Protocols | Other than bilateral agreements, one other instrument which labour-sending countries can take advantage of to ensure migrant workers protection is an international protocol or agreement. But except for the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (UN Assembly Resolution 45/158 of 18 December 1990 which entered into force only on July 1, 2003) there appears to be no other substantive international protocol on migrant workers protection. Yet, even the convention itself, while comprehensive in its enumeration of the rights of migrant workers, is not binding with non-signatories as to compel strict adherence to its provisions… It must be pointed out that most of the receiving states are non-signatories. 818

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816 Ibid, 22.
817 Ibid.
818 Ibid, 23.

6. Recommendations for Further Study

Summary of what is and is not known

The literature on abuse in the context of migration focused on the emigration of economic migrants from the Philippines (labour migration). Several aspects were considered such as illegal recruitment, programs of government to protect migrants, institutions engaged in this area of governance, laws and policies in place, and abuses experienced by migrants in some (not all) countries where a sizable number of Filipinos were residing. Most studies reviewed did not solely discuss the concerns of women and children. Their situation was tackled within the spectrum of migration analysis as a whole.

Despite this, some information remained unknown. In this critical review of literature the following gaps or or shortcomings have been identified:

There was a dearth of information in literature on immigration to the Philippines and internal migration. One reason is that, in the context of the Philippines, movement had mostly been outward migration. Nonetheless, it is to be pointed out that a significant portion of the population moved from the rural areas to the urban centres.

As well, while abuses and discrimination against women in several countries were reported on, a comprehensive survey on women (much less on children) was wanting.

Information on survivors had to be disaggregated according to age and gender, and profiles of survivors and perpetrators determined.

The impact of migration as a whole on children was dealt with, but rarely on the specific impact of abuse and discrimination on children migrants themselves.

Abuse and discrimination of children who migrate on their own were not tackled in the literature reviewed.

The extent of the underreporting of cases of abuse among migrants remained unexplored.
Identification of Areas of Controversy in Reports

As with all reports which dealt with statistics and rounded figures, controversies have arisen as to the prevalence of abuse and discrimination against OFWs. These areas of controversy could be addressed with a comprehensive and inclusive survey with the participation of all relevant key stakeholders. Different reports also assessed differently, and used varied lenses in the examination of the policies and their effectiveness in curbing abuse. There was however an agreement in all reports surveyed that significant progress has been made for the protection of migrants in the Philippine context.

Some Recommended Areas for Data Collection and Further Research

<table>
<thead>
<tr>
<th>Area</th>
<th>Research recommendations</th>
</tr>
</thead>
</table>
| Prevalence of abuse and discrimination of women and children migrants | • Prevalence among migrants in the Philippines, including irregular migrants, deportees, refugees, stateless persons, and deportees  
• Prevalence in internal migration  
• Prevalence in children who migrate on their own  
• Comprehensive study as to country of origin, transit country, and host country  
• Profile of survivors and perpetrators; disaggregated as to age, gender and diversity  
• Analysis of underreporting of abuse and discrimination of women and children migrants, including estimates  
• Specific impact on women and children migrants and other studies focusing on women and children migrants  
• Evidence-based study on unemployment and underemployment in the country and their relationship with abuse and discrimination of migrant women and children  
• Information about the situation of refugee children, including children asylum seekers\(^{819}\) |
| De jure state responses | • Study on the policies and laws of receiving countries and access to justice for survivors before the judicial and quasi-judicial bodies of receiving countries\(^{820}\)  
• Review of policies for immigrants, including those for irregular migrants, deportees, refugees, stateless persons, and deportees  
• Review for policies for internal migrants; urban-rural migration  
• Evidence-based study on the effectiveness of the PDOS and other prevention strategies |
| Progress indicators and challenges | • Update on the government’s overseas workers’ welfare program  
• Progress on the protection of immigrants  
• Progress on the protection of internal migrants |


Francis Tom F. Temprosa
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Philippines


Journals


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**Reports and Submissions**


Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families. *Concluding Observations of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families.* (CMW/C/PHL/CO/1, 22 May 2009).


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Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families. *Concluding Observations of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families.* (CMW/C/PHL/CO/1, 22 May 2009).


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Office of the Special Representative of the Secretary-General for Children and Armed Conflict.


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**Papers**


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Others


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