



Convention on the Rights of the Child

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Committee on the Rights of the Child

Concluding observations on the initial report of the Philippines, submitted under article 12 of the Optional Protocol on the sale of children, child prostitution and child pornography, adopted by the Committee at its sixty-second session (14 January–1 February 2013)

1. The Committee considered the initial report of the Philippines (CRC/C/OPSC/PHL/1) at its 1769th meeting (see CRC/C/SR.1769) held on 22 January 2013, and adopted the following concluding observations at the 1784th meeting, held on 1 February 2013.

I. Introduction

2. The Committee welcomes the submission of the State party's initial report, which was informative, and the written replies to its list of issues (CRC/C/OPSC/PHL/Q/Add.1). The Committee appreciates the constructive dialogue held with the State party's multisectoral delegation.

3. The Committee reminds the State party that these concluding observations should be read in conjunction with its concluding observations adopted on the combined third and fourth report of the State party under the Convention on the Rights of the Child (CRC/C/PHL/CO/3-4, 2009) and on the initial report under the Optional Protocol to the Convention on the involvement of children in armed conflict (CRC/C/OPAC/PHL/CO/1, 2008).

II. General observations

Positive aspects

4. The Committee welcomes as positive the following legislative measures taken by the State party relevant to the implementation of the Optional Protocol, in particular the adoption of:

(a) Republic Act No. 9775 (or the Anti-Child Pornography Act) on 13 October 2009;

(b) Republic Act No. 9231 (or An Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child) on

19 December 2003; and

(c) Republic Act No. 9208 (or Anti-Trafficking in Persons Act of 2003) on 26 May 2003.

5. The Committee notes with appreciation the State party's ratification of:

(a) International Labour Organization (ILO) Convention No. 189 (2011) concerning decent work for domestic workers, in September 2012;

(b) The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, in May 2002;

(c) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, in December 2000;

(d) The Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, in 1996; and

(e) The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, in July 1995.

6. The Committee further welcomes the progress achieved in the creation of institutions and the adoption of national plans and programmes that facilitate the implementation of the Optional Protocol, including:

(a) The Inter-Agency Council against Child Pornography (IACCP) and accompanying three-year 2011-2013 Strategic Plan of Action;

(b) The 2012-2016 Joint Strategic Plan by the Inter-Agency Council Against Trafficking (IACAT) and the Juvenile Justice Welfare Council (JJWC) adopted during the "Summit of Inter-Agency Councils and Committee", held in July 2012;

(c) The Philippine National Strategic Framework and Plan for Development for Children for 2000-2025; and

(d) The Committee for the Special Protection of Children (CSPC) revitalized by Executive Order No. 53, Series of 2011.

III. Data collection

7. The Committee notes that various agencies are involved in the collection of data, including the Philippine National Police (PNP), the Department of Justice (DOJ) and the Department of Social Welfare and Development (DSWD). However, the Committee is concerned about the lack of a comprehensive data collection system covering all offences under the Optional Protocol which would enable the State party to identify the extent and forms of the sale of children, child prostitution and pornography. The Committee is further concerned about the lack of data appropriately disaggregated and research on the specific groups of children who are vulnerable to becoming victims of the offences under the Optional Protocol, such as children in streets situations, children out of school and working in exploitative conditions, children living in poverty and those affected by the armed conflict in Mindanao.

8. The Committee recommends that the State party set up a comprehensive and centralized data collection system with the support of its partners which would enable the State party to accurately determine the causes, forms and prevalence of the sale of children, child prostitution or pornography, inform its policy decisions and assess

progress in the implementation of the Optional Protocol. The data should be regularly updated and disaggregated by age, sex, geographic location, ethnicity and socio-economic background. Data should also be collected on the profile of perpetrators, number of prosecutions and convictions, disaggregated by the nature of the offence.

IV. General measures of implementation

Legislation

9. The Committee reiterates its concerns (CRC/C/PHL/CO/3-4, para. 10, 2009) about the low age of sexual consent, which has been set at 12 years, increasing the vulnerability of children to prostitution and pornography. It is further concerned that Bills Nos. 681 and 3049, which seek to raise the age for sexual offences against children, have not yet been enacted into law and that child protection laws are not properly implemented.

10. **The Committee reiterates its previous recommendation (CRC/C/PHL/CO/3-4, para. 10, 2009) and urges the State party to enact the necessary laws on child protection, including Bills Nos. 681 and 3049 and raise the minimum age of sexual consent. It further recommends that the State party take active measures to ensure that laws on child protection are effectively implemented, including by raising awareness about child protection laws at the provincial and local levels and developing detailed guidelines, protocols and procedures to guide the action of local government authorities.**

National plan of action

11. While welcoming the adoption of the 2011-2016 National Plan of Action for Children, the Committee expresses concern about the lack of adequate resources allocated to support interventions and activities under the Plan and the absence of a regular monitoring mechanism at the local level to assess its implementation and impact.

12. **The Committee urges the State party to conduct a comprehensive assessment of budget needs and to establish clear budgetary allocations to support activities for the implementation of the National Plan of Action for Children. The Committee also recommends that the State party establish a regular monitoring and evaluation mechanism, including at the local and community levels to assess progress and challenges in its implementation.**

Coordination and evaluation

13. The Committee appreciates that the Council for the Welfare of Children (CWC) is the lead inter-agency body responsible for the coordination of the implementation of policies and programmes on child protection. However, the Committee is concerned about the capacity of CWC to coordinate and evaluate activities under the Optional Protocol at the national, regional, provincial and local levels. Furthermore, it is concerned that various inter-agency bodies have been established through subsequent legislation with separate plans and budgets to implement and monitor child protection thus leading to duplication of efforts. While the Committee notes as positive that CWC held a “Summit of Inter-Agency Councils and Committee” in July 2012 to develop and adopt a system of collaboration and coordination between and among various councils and committees, it is nevertheless concerned about the lack of systematic evaluation of the implementation of inter-agency plans and working relationships between the inter-agency councils and CWC.

14. **The Committee recommends that the State party:**

(a) **Designate a national body with capacity and authority to coordinate the implementation and evaluation of activities under the Optional Protocol and provide it with all necessary human, technical and financial resources to carry out its mandate at all levels;**

(b) **Carry out a periodic and comprehensive organizational review of the existing inter-agency committees on child protection and their implementation plans to highlight major achievements, key lessons learned and develop common strategies to strengthen coordination among the various agencies and committees working on implementation of policies and activities under the Optional Protocol; and**

(c) **Rationalize the work of the various child rights bodies and provide them with the necessary human, technical and financial resources to carry out their role with efficiency.**

Dissemination and awareness-raising

15. While welcoming the increased efforts by the State party to disseminate information on the Optional Protocol, the Committee is concerned at the low level of awareness of the Optional Protocol among the public and children themselves and the lack of public understanding of the crimes against children, leading to widespread societal acceptance and underreporting, particularly of commercial sexual exploitation of children.

16. The Committee recommends that the State party promote and organize appropriate awareness-raising programmes, including campaigns using mass media and information technology to raise awareness and disseminate key messages among the general population, families, communities and children, especially children in vulnerable situations, on provisions of the Optional Protocol and reporting and complaints procedures.

Training

17. While noting the efforts made to train relevant stakeholders on child protection matters, such as law-enforcement officials, judges, special prosecutors and social workers, the Committee regrets that a number of these activities are not sustained or systematic, partly due to the lack of systematized planning. The Committee also regrets that as a result, such training efforts do not reach all the targeted groups and entities at different levels of the Government.

18. The Committee recommends that the State party ensure that capacity-building efforts, including training for law-enforcement officers, prosecutors, the judiciary, immigration personnel, labour inspectors, social workers and media personnel are systematically planned, sustained, coordinated and evaluated for impact.

Allocation of resources

19. The Committee is concerned that budgetary allocations for the implementation of the Optional Protocol are neither sufficient nor in line with the policy commitments and priorities agreed by the State party. The Committee is particularly concerned that the Inter-Agency Council against Child Pornography (IACAP), established under the Anti-Child Pornography Act of 2009 and mandated to coordinate, monitor and oversee the implementation of the Act, was created without any budgetary allocation. The Committee is also concerned that a high level of corruption in the State party has reduced funding for children, including resources available to prevent and fight against the sale of children, child prostitution and child pornography.

20. **The Committee urges the State party to:**

(a) **Increase budgetary allocations with clearly identifiable budget lines for the implementation of the Optional Protocol, including by earmarking human, technical and financial resources from the regular budget at all levels of the Government, and covering programmes relating to its provisions, including on prevention, protection and reintegration of child victims;**

(b) **Conduct a comprehensive assessment of the budget needs for IACAP and ensure that this body has adequate human, technical and financial resources to effectively undertake its mandate; and**

(c) **Take immediate measures to effectively prevent and combat corruption and prosecute State and local officials for acts of corruption.**

V. Prevention of the sale of children, child prostitution and child pornography (art. 9, paras. 1- 2)

Measures adopted to prevent offences prohibited under the Protocol

21. The Committee welcomes the fact that the State party has strengthened cooperation with countries in the region to prevent child trafficking. However, the Committee expresses its deep concern that an estimated 60,000 to 75,000 children are exploited in the commercial sex industry and that child sextourism remains a serious problem in the State party. The Committee is further concerned that:

(a) Current policies and programmes are not adequate and effective to address the underlying root causes of the sale of children, child prostitution and child pornography, particularly poverty, unsafe migration and discrimination against girls;

(b) Even though the rate of birth registration has increased to 95 per cent, there is still a high number of children who are not registered, especially in Mindanao, leaving them vulnerable to offences under the Optional Protocol;

(c) Despite a high number of internally displaced children and children living in streets being forced into prostitution, particularly in the city of Manila, the State party has not prioritized measures targeting children who are in the most vulnerable situations;

(d) Lack of public awareness of crimes of sexual exploitation of children, including among parents and children themselves, and social and cultural tolerance of sexual exploitation of children in communities are preventing the reporting and prosecution of such crimes; and

(e) Adolescents have very limited access to sexual and reproductive health information and services, including family planning and contraceptives, the dangers of early pregnancy, the prevention and treatment of sexually transmitted infections (STIs) and HIV/AIDS.

22. **The Committee urges the State party to adopt a comprehensive approach to address the root causes of offences under the Optional Protocol and to target families and children in the most vulnerable situations. In particular, the Committee recommends that the State party strengthen its poverty reduction strategies and supportive social protection measures for disadvantaged and marginalized families, including child-centred early intervention programmes to support parents in better performing their care and protection responsibilities towards children. It further urges the State party to:**

(a) Undertake research on the root causes and extent of the commercial sexual exploitation of children, and sale of children, child prostitution and pornography, to identify children at risk, assess the extent of the problem and develop targeted policies and programmes. In this regard, protective measures to combat child sexual exploitation should be closely linked with poverty reduction interventions;

(b) Continue and strengthen its measures to ensure that all children are registered at birth;

(c) Develop prevention programmes targeting children in the most vulnerable situations and in particular, take all necessary measures to ensure that internally displaced children and children in street situations are provided with adequate and secure shelter, health care, education and clothing. Particular focus should be placed on their protection from police brutality, physical and sexual abuse as well as substance abuse;

(d) Carry out intensive awareness-raising activities through mass media and community participation, including mobilization of community leaders, local teachers, youth and children's groups, to change attitudes about sexual exploitation of children, including child pornography; and

(e) Intensify sexual and reproductive health education and services in all educational institutions, including awareness-raising on the prevention of HIV/AIDS and the dangers of sexual exploitation of children.

Adoption

23. The Committee notes that the State party has established a strong domestic legal framework to regulate adoption, particularly through the adoption of the Domestic Adoption Act of 1998 (Republic Act No. 8552), the Inter-Country Adoption Act of 1995 (Republic Act No. 8043) and the amendment of articles 183-193 of the Family Code in February 1998. Notwithstanding this, the Committee remains concerned that the sale of children for purposes of illegal adoption and tampering of the civil registry by individuals to make it appear that a child is their biological offspring or so called "birth simulation" are still prevalent in the State party.

24. **The Committee reiterates its previous recommendations (CRC/C/PHL/CO/3-4 para. 50, 2009) and calls on the State party to make every effort to ensure that all adoptions fully comply with the principles and provisions of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption and the Convention on the Rights of the Child as well as with other relevant international standards. The Committee further recommends that the State party take all necessary measures to prevent and effectively combat "simulated births", including through awareness-raising campaigns on this practice, promoting legal adoption and prosecuting perpetrators of "birth simulation".**

Child sex tourism

25. While welcoming the State party's efforts, in collaboration with national institutions and non-governmental organizations to combat child sex tourism, including the implementation of the Child Wise Tourism Programme, the Committee is nevertheless concerned that a large number of children are being sexually exploited by foreign paedophiles in the State party, particularly in the areas of Sabang, Puerto Galera, Cebu City, Angeles City and Pasay City. The Committee is particularly concerned that:

(a) Children living in slum areas and in street situations are most vulnerable to this form of sexual abuse and exploitation;

(b) The production of child pornography, including by tourists, is escalating in the State party;

(c) The State party has not sufficiently engaged with and regulated the private sector, especially the travel, hotel and tourism industry, to prevent and combat child sex tourism, including in prevention, monitoring and reporting of cases of child trafficking and commercial sexual exploitation of children.

26. **The Committee urges the State party to:**

(a) **Undertake measures to identify children who are especially vulnerable to becoming victims of the crimes covered by the Optional Protocol, such as children in street situations and children affected by poverty, and to link these measures to existing child protection programmes and poverty reduction strategies;**

(b) **Take all necessary measures to strengthen the surveillance of Internet child pornography and of unregistered tourist accommodation and clandestine activities related to child sexual exploitation;**

(c) **Regulate and engage with the private sector, particularly the tourism industry, in prevention, monitoring and reporting cases of child trafficking and commercial sexual exploitation of children to relevant authorities. The State party should also ensure that the Department of Tourism effectively monitors compliance by hotels, travel and tour agencies and operators with the contractual agreements it has signed with them regarding the prohibition of child sex tourism and child protection in general; and**

(d) **Strengthen its advocacy with the tourism industry of the harmful effects of child sex tourism, widely disseminate the Charter of Honour for Tourism and the World Tourism Organization (UNWTO) Global Code of Ethics for Tourism among travel agents and tourism agencies and encourage them to sign up for the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.**

VI. Prohibition of the sale of children, child pornography and child prostitution and related matters (arts. 3, 4 (paras. 2-3), 5, 6 and 7)

Existing criminal or penal laws and regulations

27. While welcoming efforts to integrate various provisions of the Optional Protocol into the legislation of the State party, the Committee is concerned that domestic legislation does not fully incorporate all offences under the Protocol. It is also concerned that the offences are brought under the legal framework of anti-trafficking rather than defined and criminalized as specific offences as required by the Protocol, in particular articles 2-3.

28. **The Committee urges the State party to revise its Criminal Code and bring it into full compliance with articles 2-3 of the Optional Protocol. In particular, the Committee recommends that the State party define and prohibit all cases of sale of children, child prostitution and child pornography in accordance with the Protocol.**

Prosecution and impunity

29. The Committee reiterates its concern (CRC/C/PHL/CO/3-4, para. 78, 2009) that, although thousands of children are trafficked from, through and within the State party for purposes of sexual exploitation and forced labour, the number of prosecutions and

convictions of perpetrators of offences under the Optional Protocol is extremely low, leading to impunity for perpetrators. The Committee is specifically concerned that:

(a) Impunity remains pervasive in the context of child pornography and trafficking-related investigations and prosecutions mainly due to the complicity of law-enforcement, judiciary and immigration officials in human trafficking and corruption;

(b) Despite a large number of cases of children being sexually exploited by foreign paedophiles, the State party continues to deport foreign paedophiles without pursuing criminal charges against them; and

(c) Law-enforcement officers and prosecutors lack adequate capacity to investigate and prosecute offences under the Optional Protocol and depend heavily on the participation of child victims to prosecute crimes, which often results in non-reporting of cases, withdrawal of complaints and retraction of statements.

30. **The Committee urges the State party to:**

(a) **Immediately address the issue of corruption and impunity as a matter of priority, through rigorous investigations of complaints of complicity by government officials and their prosecution for such crimes;**

(b) **Take all necessary measures, legal and institutional, to strengthen identification, investigation and prosecution of foreign paedophiles;**

(c) **Reduce the burden on child victims by ensuring that law-enforcement authorities investigate and prove their cases based upon evidence gathered from documents, witnesses, professionals and other procedures and techniques rather than solely on the child victim's testimony; and**

(d) **Strengthen the capacity of law-enforcement authorities and judiciary to detect and prosecute offences under the Optional Protocol through specialized training, including through enhanced participation of the National Bureau of Investigation and the Philippine Judicial Academy (PHILJA).**

Liability of legal persons

31. The Committee is concerned that the State party's legislation does not clearly establish criminal liability of legal persons for the specific offences established in the Optional Protocol.

32. **The Committee recommends that the State party clearly establish the criminal liability of legal persons for all offences covered under the Optional Protocol in accordance with article 3, paragraph 4, of the Protocol.**

Extraterritorial jurisdiction

33. The Committee is concerned that the State party's legislation does not explicitly allow extraterritorial jurisdiction for all the cases referred to in article 4, paragraph 2, of the Optional Protocol, in particular when the alleged offender is a national of the State party. The Committee is also concerned that the application of extraterritorial jurisdiction to crimes committed by a Filipino national abroad is subject to the requirement of double criminality.

34. **The Committee recommends that the State party take steps to ensure that domestic legislation enables it to establish and exercise extraterritorial jurisdiction, without the criterion of double criminality, over the crimes under the Optional Protocol.**

Extradition

35. While welcoming the State party's efforts in strengthening its cooperation with countries in the region to combat human trafficking and sexual exploitation of children, the Committee is concerned that the Optional Protocol is not invoked as a legal basis for extradition and that extradition is subject to the existence of a treaty between the State party and the requesting State.

36. **The Committee recommends that the State party consider the Optional Protocol as constituting a legal basis for extradition without the condition of the existence of a bilateral treaty.**

VII. Protection of the rights of child victims (arts. 8 and 9 (paras. 3-4))

Measures adopted to protect the rights and interests of child victims of offences prohibited under the Optional Protocol

37. While welcoming the enactment of the Rules on Examination of a Child Witness, the Committee notes with concern that the rights and interests of child victims are not sufficiently protected during the criminal justice process. In this regard, the Committee notes with concern that:

(a) Law-enforcement authorities either lack the capacity to apply child-sensitive investigation procedures or do not systematically do so;

(b) Child victim and witness protection services are inadequate at local levels and there is a lack of professional support and guardianship during the criminal justice process;

(c) National and non-national child victims who agree to testify and their family members are not sufficiently protected from the risk of retaliation from suspected offenders;

(d) Family courts do not exist in all provincial areas, resulting in a lack of professional investigations and hearings of cases involving child victims of offences under the Optional Protocol; and

(e) Protection of the privacy and safety of child victims is not systematically ensured in the media and the criminal justice process and despite existing prohibitions, the sexualization of children especially in television shows is common.

38. **The Committee urges the State party to adopt appropriate measures to protect the rights and interests of child victims at all stages of the criminal justice process as set out by the Optional Protocol. In particular, the Committee urges the State party to:**

(a) **Provide adequate human, technical and financial resources to enable law-enforcement authorities, prosecutors and judges to apply child-friendly procedures, including interview rooms designed for children, comprehensive support services for child victims in one spot, modified court environments and a reduced number of court appearances of child victims. In addition, all measures should be undertaken to avoid direct contact between the child victim and the suspected offender during the investigation, prosecution and hearings;**

(b) Provide child victims with the support of child psychologists and ensure that a guardian is appointed to guide and accompany child victims throughout the criminal justice process until a durable solution in the best interests of the child has been identified and implemented;

(c) Expand child victim and witness protection programmes to the regional, provincial and municipal levels and ensure that Local Government Units have adequate financial and technical resources to implement such programmes;

(d) Take all necessary legal and practical measures, including cooperation with authorities outside the country, to adequately protect child victims and their family members;

(e) Strengthen the presence and capacity of family courts in all provincial areas. In the meantime, training should be provided to all prosecutors and judges in the regional and provincial trial courts that have not yet been equipped with family courts or who are not familiar with the Rules on Examination of a Child Witness; and

(f) Take appropriate measures to ensure that children's privacy is respected in the media and the criminal justice process and that sexualization of children in the mainstream media is addressed through better monitoring of media coverage and reporting on children, education and public awareness-raising on the harmful impact of the sexualization of children.

Recovery and reintegration of victims

39. The Committee notes with appreciation that various laws and regulations establish the right to recovery, rehabilitation and reintegration of child victims of sale, child prostitution and pornography. In addition, the Committee notes as positive the measures taken by the State party to strengthen services and support for victims through the Department of Social Welfare and Development. The Committee is nevertheless concerned that child-specific services for recovery and reintegration, including specialized medical, psychosocial and psychological care, legal services, emergency shelters and trained professionals remain largely inadequate in the State party and their expansion is severely constrained due to budget limitations. The Committee is further concerned about:

(a) The lack of clear referral procedures and standards for the care and protection of child victims of prostitution and pornography, including the provision of psychosocial support, case assessment based on the "best interests" determination, and follow-up until the child reaches the age of majority;

(b) The absence of monitoring and follow-up procedures to ensure that children rescued from traffickers are not re-trafficked;

(c) Child victims of commercial sexual exploitation experience serious obstacles to accessing support and services due to stigma and persistent cultural attitudes surrounding child sexual exploitation; and

(d) The lack of procedures for repatriation and special protection for foreign child victims of trafficking and sexual exploitation.

40. **The Committee recommends that the State party:**

(a) **Allocate adequate human, financial and technical resources to increase access to child-centred services for child victims of sexual exploitation, including clear referral procedures and access to psychosocial care and support until they reach full recovery;**

(b) Ensure that all child victims of the offences covered by the Optional Protocol are provided with adequate remedy without discrimination and reduce their vulnerability to being re-trafficked and sexually exploited by establishing a strong monitoring and follow-up mechanism;

(c) Carry out widespread awareness-raising and community mobilization to change attitudes towards child victims of sexual exploitation and ensure that children and families become aware of existing assistance and support for child victims; and

(d) Adopt clear measures to guide the rescue, repatriation, rehabilitation and reintegration of child victims of trafficking, prostitution and pornography, including clear procedures for special assistance and repatriation for foreign child victims based on the “best interests” determination and follow-up.

VIII. International assistance and cooperation (art. 10)

Multilateral, bilateral and regional agreements

41. In the light of article 10, paragraph 1, of the Optional Protocol, the Committee encourages the State party to continue to strengthen international cooperation through multilateral, regional and bilateral arrangements, especially with neighbouring countries, including by strengthening procedures and mechanisms to coordinate the implementation of such arrangements, with a view to improving prevention, detection, investigation, prosecution and punishment of those responsible for any of the offences covered under the Protocol. In this respect, the Committee encourages the State party to strengthen the implementation of the 2004 Association of Southeast Asian Nations (ASEAN) Declaration Against Trafficking in Persons Particularly Women and Children.

IX. Ratification of the Optional Protocol on a communications procedure

42. The Committee recommends that the State party, in order to further strengthen the fulfilment of children’s rights, sign and ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (OPIC).

X. Follow-up and dissemination

43. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to the relevant government ministries, the Parliament, and to national, regional and local authorities, for appropriate consideration and further action.

44. The Committee recommends that the report and written replies submitted by the State party and related recommendations (concluding observations) be made widely available, including through the Internet (but not exclusively), to the public at large, civil society organizations, youth groups, professional groups, media personnel and children, in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

XI. Next report

45. In accordance with article 12, paragraph 2, of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Protocol and the present concluding observations in its combined fifth and sixth periodic reports under the Convention on the Rights of the Child, in accordance with article 44 of the Convention by 19 September 2017.
