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# الجمعية العامة



## مجلس حقوق الإنسان

### الدورة الخامسة والخمسون

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تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

## زيارة إلى الفلبين

ولاية المقررة الخاصة المعنية ببيع الأطفال واستغلالهم جنسياً والاعتداء عليهم جنسياً  
ماما فاطمة سينغاتييه\*

### موجز

تبحث المقررة الخاصة المعنية ببيع الأطفال واستغلالهم جنسياً والاعتداء عليهم جنسياً، ماما فاطمة سينغاتييه، القضايا المتعلقة ببيع الأطفال واستغلالهم جنسياً والاعتداء عليهم جنسياً في الفلبين في ضوء القواعد والمعايير الدولية لحقوق الإنسان. واستناداً إلى المعلومات التي جُمِعت قبل الزيارة وأثناءها وبعدها، تسلط المقررة الخاصة الضوء على المبادرات التشريعية، والإطار المؤسسي والسياسات المنفذة لمكافحة ومنع ظاهرة بيع الأطفال واستغلالهم جنسياً، وعلى التدابير المتخذة لتوفير الرعاية للضحايا والناجين من الأطفال وضمان تعافيهم وإعادة إدماجهم. وتقدم المقررة الخاصة توصيات لتعزيز الجهود الرامية إلى منع ظاهرة بيع الأطفال واستغلالهم جنسياً والاعتداء الجنسي على الأطفال والقضاء عليها.

\* يعمم موجز هذا التقرير بجميع اللغات الرسمية. أما التقرير نفسه، الوارد في مرفق هذا الموجز، فيُعمم باللغة التي قُدِّم بها فقط.



الرجاء إعادة الاستعمال

## Annex

### **Report of the Special Rapporteur on the sale, sexual exploitation and sexual abuse of children, Mama Fatima Singhateh, on her visit to the Philippines**

#### **I. Introduction**

##### **A. Programme of the visit**

1. At the invitation of the Government of the Philippines, the Special Rapporteur on the sale, sexual exploitation and sexual abuse of children undertook an official visit to the country from 28 November to 8 December 2022. The objectives of the visit were to assess the situation of the sale, sexual exploitation and sexual abuse of children and to evaluate the national child protection system, with a view to making recommendations to prevent and eradicate all forms of the sale, sexual exploitation and sexual abuse of children.

2. During her 11-day visit, the Special Rapporteur held meetings in Bohol, Cebu, Cotabato, Manila, Pampanga and Valenzuela and met with representatives of the executive, legislature and judiciary, local and municipal authorities, human rights commissions at the national and regional levels, civil society organizations, members of the international community, children and local communities. The Special Rapporteur visited shelters, such as Bahay Kalinga in Valenzuela and Nayon ng Kabataan in Manila, shelters operated by non-governmental organizations (NGOs) in Angeles and Pampanga and the Bohol Crisis Intervention Center.

3. The Special Rapporteur expresses her gratitude to the Government for the commendable cooperation extended before, during and after the visit and for the constructive dialogue with State interlocutors. She wishes to express her gratitude to the United Nations country team for its support and assistance throughout the mission and to all who met with her, including children, service providers and representatives of civil society organizations, for their readiness to engage in an open dialogue.

##### **B. Context**

4. The Philippines is an archipelagic country in South-East Asia, located in the western Pacific Ocean, with islands broadly categorized into three main geographical divisions, namely, from north to south, Luzon, Visayan and Mindanao. In 2020, it had an estimated population of 109,035,343,<sup>1</sup> of which the population of children aged 5 to 17 was estimated at 31.17 million.<sup>2</sup>

5. Since regaining its independence in 1946, following periods of governance by Spain and, subsequently, the United States of America, the Philippines has been a constitutional republic with a presidential system. It has substantial ethnic diversity as a product of the seas and mountain ranges dividing the archipelago, with over 100 ethnolinguistic minority groups whose members number around 14 to 17 million. Indigenous Peoples include the Igorot, the Lumad, the Mangyan and smaller Indigenous groups.<sup>3</sup> While the official languages are Filipino and English, local dialects are widely used.

<sup>1</sup> Philippine Statistics Authority, “2020 census of population and housing (2020 CPH) population counts declared official by the President”, press release, 7 July 2021.

<sup>2</sup> Philippine Statistics Authority, “Working children and child labour situation”, special release, 15 December 2021.

<sup>3</sup> United Nations Development Programme, “Fast facts: Indigenous Peoples in the Philippines”, 24 July 2013.

6. The Philippines is the fortieth largest economy in the world and has a globally recognized, competitive workforce.<sup>4</sup> The institutionalization of international migration, backed by the development of institutions, laws, policies and programmes, reflects the rise of the Philippines as a major source of workers for the global labour market. The Philippines is a newly industrialized country with an emerging market economy<sup>5</sup> and has significant variety in natural resources and levels of biodiversity.<sup>6</sup> It is prone to natural disasters and is affected by climate change. In 2021, the incidence of poverty was 18.1 per cent.<sup>7</sup>

7. The Constitution of the Philippines guarantees the fundamental rights of citizens and establishes the separation of powers between the legislature, the executive and the judiciary. The legal system is a mix of Roman (civil-law) and Anglo-American (common-law) systems, customary law and Islamic law.<sup>8</sup>

8. The Philippine Development Plan 2017–2022 includes a chapter entitled “Reducing vulnerability of individuals and families”, which covers strategies for reducing vulnerabilities and risks faced by women, children and other vulnerable groups, such as persons with disabilities, members of Indigenous Peoples and older persons.

9. According to the 2016 annual poverty indicators survey, almost 10 per cent of the estimated 39 million Filipinos aged 6 to 24 were not in school.<sup>9</sup> The most common reasons for not attending school were marriage or family matters (42.3 per cent) and the high cost of education or financial concerns (20.2 per cent).<sup>10</sup> Of all children, 4.3 per cent work, mostly in the agricultural sector, and Northern Mindanao had the highest proportion of working children.<sup>11</sup> The total number of children considered to be engaged in child labour was estimated at 935,000, which is higher than the 597,000 children reported as engaged in child labour in 2020.<sup>12</sup> Reportedly, the year of the coronavirus disease (COVID-19) pandemic disproportionately affected access to education, among other services, and the proportion of young people who were not in school rose in the first four months of 2020, from 16.9 per cent to 25.2 per cent.<sup>13</sup>

10. According to the 2015 national baseline study on violence against children in the Philippines, there is a high prevalence of physical, psychological, sexual and online violence committed against Filipino children.<sup>14</sup> Indeed, 80 per cent of Filipino children have experienced some form of violence at home, in school, in their community or online,<sup>15</sup> often committed by a person whom they trust. Despite the high incidence of violence, 7 in 10 children are not aware of the services that may be able to help them.<sup>16</sup>

<sup>4</sup> See United Nations Industrial Development Organization, “Philippines: country context”, available from <https://www.unido.org/who-we-are-unido-worldwide-asia-and-pacific-offices-philippines/country-context>.

<sup>5</sup> Ibid.

<sup>6</sup> Convention on Biological Diversity, “Philippines – main details”, country profile, available from <https://www.cbd.int/countries/profile/?country=ph>.

<sup>7</sup> Philippine Statistics Authority, “Proportion of poor Filipinos was recorded at 18.1 percent in 2021”, press release, 15 August 2022.

<sup>8</sup> Council of the Association of Southeast Asian Nations (ASEAN) Chief Justices, “Philippines: introduction to the legal system”, available from <https://cacj-ajp.org/philippines/legal-system/introduction-to-the-legal-system/>.

<sup>9</sup> Philippine Statistics Authority, “One in every ten Filipinos aged 6 to 24 years is an out of school child and youth”, 13 June 2017.

<sup>10</sup> Ibid.

<sup>11</sup> Philippine Statistics Authority, “Proportion of working children 5 to 17 years old was estimated at 4.3 percent”, special release, 3 March 2023.

<sup>12</sup> Ibid.

<sup>13</sup> United States Agency for International Development, Education Development Center and Accenture, “The impact of COVID-19 on opportunities for out-of-school youth in the Philippines” (November 2021).

<sup>14</sup> Philippines, Council for the Welfare of Children, “National baseline study on violence against children: executive summary”, October 2016, p. 18.

<sup>15</sup> Ibid., p. 3.

<sup>16</sup> Ibid., p. 13.

11. Children also face an increased risk of violence during emergencies. In the aftermath of natural disasters, children become more vulnerable to violence, trafficking and stress. In the Bangsamoro Autonomous Region in Muslim Mindanao, poor progress as measured by development indicators and the impact of armed conflict have left children particularly vulnerable, including to grave violations in the context of armed conflict.

## **II. Scope of the sale, sexual exploitation and sexual abuse of children**

### **A. Manifestations of the sale, sexual exploitation and sexual abuse of children**

#### **1. Sale of and trafficking in children for the purpose of sexual exploitation**

12. The Philippines remains a source and destination country for trafficking in children and the sale, sexual exploitation and forced labour of children, among other crimes. The magnitude of sexual abuse and exploitation and the variety of the forms that they can take are difficult to determine owing to the lack of centralized, disaggregated data. On the basis of the discussions held, it appeared that few cases of sale and sexual exploitation are reported, which suggests high incidences of underreporting by and underidentification of victims and an unmet need for further investigations and prosecutions.

13. The Special Rapporteur learned that the concept of trafficking in persons is not always fully understood, as there is a tendency to overlook its national dimension and focus more on its transnational aspect. According to some interlocutors, in the data compiled by the police, trafficking for sexual purposes is not differentiated from other forms of trafficking, meaning that the extent of the problem remains unclear. The Special Rapporteur expresses regret that data are not consolidated and disaggregated by the number of cases reported, investigated and prosecuted and the number of convictions handed down.

#### **2. Child marriage**

14. Child marriage may amount to sale of children for the purposes of sexual exploitation, forced labour and financial exploitation. The Philippines currently has the twelfth highest rate of child marriage in the world.<sup>17</sup> One in every six girls in the Philippines is wedded before the age of 18.<sup>18</sup> There are reports that the practice is prevalent among Indigenous and ethnic communities and minority groups, mostly owing to social exclusion, conflict, disasters and poverty, among other factors.<sup>19</sup> While both girls and boys are affected by the practice of child marriage, girls face disproportionate impacts.<sup>20</sup> The high incidence of child marriage in those groups is often manifest in poorer health and educational outcomes, reduced employability and higher risks of abuse and sexual violence.<sup>21</sup> Data reveal that the Philippines has shown very little change in the percentage of women married between the ages of 15 and 19.<sup>22</sup>

15. In the course of the discussions held during the visit, in particular in Angeles, Pampanga, Cotabato and Mindanao, reference was made to multiple challenges in identifying and intervening in cases of child marriage, although the supporting data are limited. The Special Rapporteur expresses regret that child marriage is not always considered a criminal offence but, rather, is accepted as part of tradition or custom. She believes that, through awareness-raising and education within those communities with the support of community and faith-based leaders, progress can be made towards addressing the problem. The

<sup>17</sup> End Violence against Children, “Philippines abolishes child marriage”, 8 February 2022.

<sup>18</sup> Ibid. See also Philippine Statistics Authority and ICF, “Philippines: 2017 National Demographic and Health Survey”, October 2018.

<sup>19</sup> United Nations Population Fund (UNFPA) Philippines, “Empowering Maranao girls against child marriage”, 11 October 2019.

<sup>20</sup> See Center for Reproductive Rights, “Victory for children’s rights: ending child marriage in the Philippines” (13 January 2022).

<sup>21</sup> UNFPA Philippines, “Empowering Maranao girls against child marriage”.

<sup>22</sup> Ibid.

Government is therefore strongly encouraged to scale up policy interventions, sensitization, training and awareness-raising programmes on the issue, including for a better understanding and appreciation of the high socioeconomic and health cost implications of child marriage.

### 3. Sexual exploitation in the context of travel and tourism

16. There is no legal provision explicitly penalizing the sexual exploitation of children in travel and tourism. The Special Rapporteur noted during the visit that officials in that sector did not appear to have adequate information on the issues, scope and manifestations of sexual exploitation in the context of travel and tourism. There is therefore an urgent need for extensive training and sensitization on the issue.

17. In some areas, including some of the locations visited, such as the cities of Angeles and Cebu, households and commercial businesses rely largely on the economic and social activity related to tourism.<sup>23</sup> Despite the fact that the commercial sexual exploitation of children remains largely unexplored, the anecdotal evidence gathered indicates that, while the sexual abuse of minors occurs within circles of trust and communities, including within families, those circles of trust and communities also facilitate the sexual exploitation and abuse of minors in the travel and tourism sector for financial gain.

### 4. Illegal adoption

18. Illegal adoption in the Philippines is common. There have been several instances in which notices were circulated on social media to raise awareness of and call for the reporting of cases of the illegal adoption of children.<sup>24</sup> The problem of illegal adoption of children in the Philippines is exacerbated by the simulation of birth records.<sup>25</sup> The Special Rapporteur learned during meetings with interlocutors of reports of birth registration officials issuing falsified birth records to enable the illegal adoption of a child.

19. Although the law recognizes the commercial adoption of children as a form of trafficking in children in the Philippines, and despite harsh penalties, including life imprisonment, for that offence, the practice is reportedly very common. According to interlocutors, the phenomenon of selling children for money is prevalent mainly in rural areas and in the poorest communities.

### 5. Online sexual exploitation and abuse of children

20. The Philippines has been a major centre for the online exploitation of children. The Special Rapporteur noted that efforts have been extensively increased to curb the proliferating problem. Numerous baseline studies and data have been collected over the past decade on the prevalence of the phenomenon on online platforms. It is reported that 80 per cent of Filipino children are vulnerable to online sexual abuse, in some cases facilitated by their own parents.<sup>26</sup> Some of the sociocultural and economic factors contributing to the high concentration of online sexual abuse and exploitation of children in the country are English language literacy, the availability and ease of access to technology, well-established financial transaction facilities and the absence of a perceived conflict between sexual exploitation and significant social norms.<sup>27</sup>

<sup>23</sup> ECPAT Philippines and UNICEF Manila, "A situational analysis on the effects of tourism on children in Boracay" (ECPAT Philippines, 2007); and Carmen R. Zafft and Sriyani Tidball, "A Survey of Child Sex Tourism in the Philippines", paper presented at the Second Annual Interdisciplinary Conference on Human Trafficking (2010), available from <https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1021&context=humtrafconf2>.

<sup>24</sup> Philippines, Department of Social Welfare and Development, "DSWD reiterates call to report child trafficking cases", 30 March 2022.

<sup>25</sup> Child Identity Protection, "Child's right to identity in intercountry adoption", Child Identity Protection's Policy Briefs, 2021.

<sup>26</sup> UNICEF Philippines, *National Study on Online Sexual Abuse and Exploitation of Children in the Philippines: Final Report* (2020).

<sup>27</sup> Ibid.

21. According to one study,<sup>28</sup> almost all children aged 12 to 17 in the Philippines (95 per cent) are Internet users. However, 55 per cent of children surveyed did not know how to report harmful content on social media, and 44 per cent said that they did not know where to find help if they or a friend were subjected to sexual harassment or abuse.<sup>29</sup>

22. According to other studies,<sup>30</sup> the majority of the perpetrators facilitating online cases are family members, relatives and neighbours. In some cases, foreign residents aided by their Filipino accomplices were the perpetrators.

## **B. Root causes and risk factors**

### **1. Poverty and inequalities**

23. Socioeconomic disparities, inequalities, poverty and exclusion create unequal opportunities that limit access to social services and education for children, in particular in the most marginalized communities. In 2022, the Committee on the Rights of the Child reiterated its concern about the impoverished conditions of children from disadvantaged and marginalized families in the country, in particular in Mindanao.<sup>31</sup> Those situations were further exacerbated by entrenched social and gender norms and the stigmatization of victims and survivors.

### **2. Birth registration**

24. The Special Rapporteur learned of gaps in the birth registration system. In some areas, such as Mindanao, the birth registration system currently in use is not free of charge, and those born abroad to Filipino migrant workers also face challenges with regard to registration. The concern arises that children may go unprotected within the ambit of law, thereby preventing those most at risk from accessing social services.

### **3. Teenage pregnancies**

25. Teenage pregnancies are one of the most pressing issues, as the Philippines has the highest teenage pregnancy rate among the States members of the Association of Southeast Asian Nations.<sup>32</sup> The rate of teenage pregnancy stood at 5.4 per cent (among girls and women aged 15 to 19) in 2022.<sup>33</sup> Northern Mindanao had the highest teenage pregnancy rate, at 10 per cent, followed by Davao (8.2 per cent), Central Luzon (8.0 per cent) and Caraga (7.7 per cent). Teenagers in rural areas had a higher number of pregnancies (6.1 per cent) compared with those in urban areas (4.8 per cent).<sup>34</sup>

26. The Special Rapporteur underscores that, according to numerous studies, teenage pregnancies are linked with sexual violence against children, including domestic violence, exploitation, health issues and reduced access to educational and employment opportunities. It is therefore important to understand the extent of the phenomena of teenage pregnancy and adolescent parenthood in order to design, formulate and implement relevant national policies more effectively.

<sup>28</sup> ECPAT, International Criminal Police Organization (INTERPOL) and UNICEF, *Disrupting Harm in the Philippines: Evidence on Online Child Sexual Exploitation and Abuse* (2022).

<sup>29</sup> Ibid.

<sup>30</sup> Arise, "Online child sexual exploitation (OSEC) in the Philippines: factsheet", 10 February 2021.

<sup>31</sup> CRC/C/PHL/CO/5-6, para. 16 (c).

<sup>32</sup> UNFPA, "Eliminating teenage pregnancy in the Philippines", policy brief, January 2020.

<sup>33</sup> Philippine Statistics Authority, "Teenage pregnancy declined from 8.6 percent in 2017 to 5.4 percent in 2022", press release, 20 January 2023, available at <https://www.psa.gov.ph/statistics/national-demographic-health-survey/node/168693>.

<sup>34</sup> Ibid.

#### **4. Access to inclusive education**

27. The Special Rapporteur notes that the culture of tolerance with regard to the sale, sexual exploitation and abuse of children is an entrenched mindset that creates and permits the sexual exploitation of children.

28. There is a need for all children to have access to inclusive, age-appropriate sex education in the Philippines that will enable them to understand the inherent risks of early sexual relationships, teenage pregnancies and the importance of bodily autonomy.

29. Teachers, sex educators, parents and other stakeholders, such as health professionals, must be well trained as active partners in order to provide the necessary support and information on those issues in community settings. In addition, faith-based and religious leaders in communities have important roles to play. Sensitizing them and developing harmonized messages could support children to make informed decisions.

#### **5. Children at risk**

##### **(a) Children with disabilities**

30. There are reports of the institutionalization of children with disabilities and, in rural areas, the separation of children with disabilities from their families while they attend school. The prevalence of violence against children with disabilities is reportedly high.<sup>35</sup> The Special Rapporteur learned of cases of sexual violence, including cases in which children with disabilities were raped or sexually assaulted by their carers in public and private schools.

##### **(b) Indigenous, ethnic, minority and unregistered children**

31. Children from Indigenous and ethnic communities and children belonging to minorities, such as the Badjao and Moro Peoples, are negatively affected by unequal opportunities and limited access to social services. That makes them vulnerable to child marriage, trafficking in children and labour and sexual exploitation. There have been concerns that unregistered children living in the context of forced displacement have not been mapped or appropriately provided for through legislation and the provision of services.<sup>36</sup>

##### **(c) Lesbian, gay, bisexual, transgender, queer and intersex children**

32. Lesbian, gay, bisexual, transgender, queer and intersex children recounted their experiences of stigma and discrimination, including in public spaces, and of physical, psychological and sexual violence. There are concerns about the sexual abuse of intersex children in the course of health-care interventions at health-care institutions or in educational settings.

33. Although the Anti-Bullying Act of 2013 and Department of Education Order No. 40 provide for the protection of children in schools from any form of violence, abuse, discrimination or exploitation on grounds including sex, sexual orientation and gender identity, the Philippines does not yet have in place comprehensive anti-discrimination legislation. It is therefore important that such a law be put in place and, furthermore, that it include provisions for protection based on “sex characteristics”, with medical services and support for intersex children.

34. The classification of congenital adrenal hyperplasia as a rare disease by the Department of Health in 2022, which reportedly has the potential to increase stigma against intersex persons, and the lack of access to medication were noted by the Special Rapporteur as significant concerns for intersex children.

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<sup>35</sup> CRPD/C/PHL/CO/1, para. 30. See also A/HRC/52/13.

<sup>36</sup> CERD/C/PHL/CO/21-25, para. 19.

**(d) Migrant, refugee, asylum-seeking children and children in detention and street situations**

35. In line with the observation made by the Committee on the Rights of the Child, the Special Rapporteur noted with concern during discussions with interlocutors that a large number of children, in particular Muslim and Indigenous children, children of Indonesian and Japanese descent and the children of Filipinos working overseas,<sup>37</sup> remain unregistered, which may lead to detachment from their families, statelessness and deprivation of access to protection and basic services.<sup>38</sup>

36. There have been concerning reports of children being abused, harassed and exploited at holding centres, where children in conflict with the law are usually held alongside adults or without separation according to gender.<sup>39</sup>

37. The critical needs of children in street situations were evident during the visits to Manila, Angeles, Pampanga and Cebu. There is a need to alleviate their plight and provide access to shelter through care services and recovery and social reintegration.

### **III. Measures to combat and prevent the sale, sexual exploitation and sexual abuse of children**

38. The Philippines has made significant efforts to improve its policies and programmes and the legal and institutional framework for prevention and for the protection and rehabilitation of children. Despite the positive steps made, persistent gaps remain.

39. From the discussions held with interlocutors, there appears to be a gap between the number of cases of child sexual abuse and exploitation reported and the number of prosecutions and convictions. A lack of adequate human, technical, financial and administrative resources to tackle the sale, sexual exploitation and sexual abuse of children, including the root causes and risk factors of those phenomena, was evident during the visit. The Special Rapporteur learned that centralized and disaggregated data on the phenomena and manifestations of the sale, sexual exploitation and sexual abuse of children are lacking.

40. Other shortcomings include structural loopholes, the public perception of a lack of enforcement, cultural impunity, a lack of checks and balances, gaps in accountability and inadequate coordination among the relevant institutions within the Government, civil society organizations, shelters, development partners and social workers.

#### **A. Legal framework**

##### **1. International legal framework**

41. The Philippines has ratified or acceded to most of the major international human rights instruments, including eight of the nine core international human rights instruments of the United Nations. The country is a party to the International Covenant on Civil and Political Rights and the two Optional Protocols thereto; the International Covenant on Economic, Social and Cultural Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol thereto; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol thereto; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; and the Convention on the Rights of Persons with Disabilities.

42. The Philippines ratified the Convention on the Rights of the Child in 1990, the Optional Protocol thereto on the sale of children, child prostitution and child pornography in 2002 and the Optional Protocol thereto on the involvement of children in armed conflict

<sup>37</sup> CMW/C/PHL/CO/3, para. 37.

<sup>38</sup> CRC/C/PHL/CO/5-6, para. 19.

<sup>39</sup> CAT/C/PHL/CO/3, para. 29.



in 2003. The Philippines has neither signed nor ratified the Optional Protocol to the Convention on a communications procedure.

43. The Philippines is a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime; the Slavery Convention; the International Labour Organization Forced Labour Convention, 1930 (No. 29), Abolition of Forced Labour Convention, 1957 (No. 105) and Worst Forms of Child Labour Convention, 1999 (No. 182); and the Council of Europe Convention on Cybercrime. The Philippines has yet to ratify the Framework Convention on Tourism Ethics of the World Tourism Organization.

44. The Philippines has been a State member of ASEAN since 1967 and is thereby a State member of the ASEAN Intergovernmental Commission on Human Rights. The country implements formal cooperation measures through bilateral treaties on mutual legal assistance, such as through the Treaty on Mutual Legal Assistance in Criminal Matters among Like-Minded ASEAN Member Countries and the ASEAN Convention against Trafficking in Persons, Especially Women and Children. In addition, the Philippines has signed memorandums of understanding on trafficking in persons with the Governments of the Kingdom of the Netherlands and the United Arab Emirates.

## 2. Domestic legal framework

45. The Constitution of the Philippines guarantees the rights to equal protection of the law and access to adequate legal assistance. It provides that no treaty or international agreement is valid and effective unless concurred in by at least two thirds of all the Members of the Senate. According to the Constitution, the State is to protect the right of children to assistance, including proper care and nutrition, and to provide special protection from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development.

46. There is a wide array of general and specific legislation on children in the Philippines, including the Penal Code, the Special Protection of Children Against Abuse, Exploitation and Discrimination Act, the Anti-Bullying Act, prohibiting bullying, including online, the Anti-Trafficking in Persons Act, the Expanded Anti-Trafficking in Persons Act, the Responsible Parenthood and Reproductive Health Act, the Juvenile Justice and Welfare Act, the Anti-Violence Against Women and Children Act, the Anti-Sexual Harassment Act, the Anti-Rape Law, the Anti-Child Pornography Act, the Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child, the Anti-Photo and Video Voyeurism Act, the Cybercrime Prevention Act, the Family Courts Act, the Children's Emergency Relief and Protection Act, the Special Protection of Children in Situations of Armed Conflict Act, the Domestic Adoption Act, the Simulated Birth Rectification Act, the Inter-Country Adoption Act, the Act Prohibiting the Practice of Child Marriage and Imposing Penalties for Violations Thereof and the Anti-Online Sexual Abuse or Exploitation of Children and Anti-Child Abuse or Exploitation Materials Act.

47. The Act Prohibiting the Practice of Child Marriage and Imposing Penalties for Violations Thereof of 2021 bans child marriage and criminalizes the facilitation and solemnization of child marriages and the cohabitation of an adult partner with a child outside wedlock. The Act provides for the introduction of a series of penalties for violations of the law, ranging from fines to up to 12 years of imprisonment. Although the fact that a child is defined under the Act as any person below the age of 16 represents an improvement, given the previous minimum age of 12, it is still not in line with the Convention on the Rights of the Child, in which a child is defined as any person below the age of 18. Nevertheless, it is a major milestone for the rights of children in the Philippines, ensuring measures for justice, policies and programmes for access to quality education, economic support for children and their families and the empowerment of community leaders.

48. However, sharia courts have jurisdiction over the Muslim-majority Bangsamoro Autonomous Region in Muslim Mindanao and other parts of Mindanao, and the Code of Muslim Personal Laws still sets a lower age for marriage, namely 15 for males and 12 for females who have attained puberty. The courts in the rest of the country remain under the supervision of the Supreme Court of the Philippines.

49. The Special Rapporteur notes that the mixed legal system of the Philippines, which consists of civil law, Indigenous law and sharia or Islamic law, including the Code of Muslim Personal Laws, results in a conflict with regard to the definition of the child in family and religious matters.

50. During meetings with interlocutors, the Special Rapporteur learned that a national consultation with stakeholders had been conducted before the enactment of the Act Prohibiting the Practice of Child Marriage and Imposing Penalties for Violations Thereof, and an attempt had been made to reconcile and eliminate disparities among the different legal systems, but those efforts had proved to be futile, which had posed a challenge for the implementation of the Act across the country.

51. The Anti-Online Sexual Abuse or Exploitation of Children and Anti-Child Abuse or Exploitation Materials Act, which complements the Anti-Trafficking Act, was introduced as a response to an increased volume of child sexual abuse materials, including on online platforms. The Act provides for measures to ensure equity in the provision of protection services, including to address the needs of children with disabilities. The Special Rapporteur is pleased to note that the law places emphasis on the use of viable infrastructure and technological capacity, in collaboration with the private sector, to prevent, detect and block child sexual abuse and exploitation materials.

52. The Anti-Trafficking in Persons Act has commonly been applied in cases involving trafficking in children. For victims of trafficking, the Act makes provision for compulsory services, which include free legal assistance and the recovery of civil damages through an action instituted separately from the criminal suit. The Special Rapporteur notes however that the definition of the exploitation of children for prostitution, namely, the use of children in sexual activities for remuneration or other forms of consideration, and the provisions for commensurate punitive measures and penalties for such crimes, as well as the distinction between the trafficking of and the sale of children, are inadequately encapsulated in legislation, in view of the requirements for States parties to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

53. The Tourism Act and its implementing rules and regulations provide that tourism-related projects and developments should ensure the prevention of the exploitation of women and children in the tourism sector. In a notable good practice, some tourist destinations, such as Bohol Province, have enacted tourism child protection ordinances, which require tourism businesses to adopt child protection policies, train staff on child protection and display information materials that promote child-safe tourism. The Government can do more to encourage other operators in the tourism sector to replicate the initiative across the country. The increased number of companies joining the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism, a multi-stakeholder initiative, is another positive step in terms of private sector collaboration.

54. The Special Rapporteur notes with regret however that there is no specific provision in any law that criminalizes the sexual exploitation of children in the context of travel and tourism. She emphasizes that the distinction between the sale of children and trafficking in children is an important aspect of tackling the root causes of those crimes and should inform the prevention strategy and strongly encourages the Government to make that distinction explicit in legislation.

## **B. Institutional framework**

55. The Council for the Welfare for Children is the mandated inter-agency focal point for children. It serves as the institutional mechanism for the coordination, implementation and monitoring of international and national commitments and obligations towards children. The Council serves as part of a national prevention response to address the issues facing children and those addressed under the Optional Protocol and other legal instruments related to children. The Council operates through 17 regional committees or subcommittees for the welfare of children across the country. The vital link between the national Government and local governments is the Regional Social Development Council, which receives support from

the Council for the Welfare for Children and the United Nations Children's Fund (UNICEF) through its country programme.

56. The Special Rapporteur notes that the capacity of the Council for the Welfare for Children to coordinate and evaluate activities related to child protection at the national, regional, provincial and local levels could be strengthened through adequate review mechanisms.

57. The Department of Social Welfare and Development, through its substructure, the Inter-Country Adoption Board and the Inter-Country Adoption Placement Committee thereunder, and the secretariat of the Board, perform functions related to the processes involved in the intercountry adoption of Filipino children.

58. In 2022, the Government of the Philippines launched the Mahalin at Kalingain ang ating mga Bata (Makabata) 1383 helpline, which is aimed at establishing a mechanism to monitor and provide a quick response to and feedback on child rights-related reports received by phone or email or on social media platforms.

59. To address concerns of a duplication of efforts, in 2012, it was decided at a national summit for children that the Convergence of Councils and Committees on Children be established to adopt a system of collaboration and coordination. The following bodies participated in the summit: the Inter-Agency Council Against Child Pornography; the Inter-Agency Council on Violence Against Women and Their Children; the Inter-Agency Council Against Trafficking; the Juvenile Justice and Welfare Council; the Early Childhood Care and Development Council; the Committee for the Special Protection of Children; the National Child Labor Committee; the National Council for Children's Television; the National Council on Disability Affairs; and the Council for the Welfare of Children.

60. ASEAN-Australia Counter Trafficking continues its 10-year (2018–2028) collaboration through capacity-building with the States members of ASEAN to end trafficking in persons, in particular women and children. The United States Department of State and the Global Fund to End Modern Slavery also launched the Integrated Management System, an online database system that tracks and monitors trafficking in persons, including cases involving overseas Filipino worker victims, among them children.

### **C. National policies, strategies and programmes**

61. The Philippine National Strategic Framework for Plan Development for Children (2000–2025) is a long-term strategic framework for planning programmes and interventions that promote and safeguard the rights of Filipino children, including by addressing the concerns of children who were previously overlooked, such as children belonging to Indigenous Peoples, children with disabilities, children in situations of armed conflict, pregnant adolescents and children in conflict with the law.

62. At the time of the visit, the Philippines was concluding the implementation of its third National Plan of Action for Children (2017–2022). Under the Plan, policies, programmes and projects were implemented for working children and, among others, children who had been trafficked, abandoned or neglected, who worked in hazardous and exploitative conditions or who were in street situations.

63. Also nearing completion was the Philippine Plan of Action to End Violence against Children (2017–2022), which set out a multisectoral approach in response to the results of the baseline study on violence against children and in which six key result areas that serve as preconditions for reducing violence against children were identified.

64. The third National Strategic Action Plan Against Trafficking in Persons (2017–2022) ensured the continuation of the multidisciplinary and multi-stakeholder approach to combating trafficking in the Philippines.

65. Across all the Plans, the term “trafficking in persons/children” was used, but the crime of sale of children was not addressed separately. The Special Rapporteur recommends that an explicit distinction between the two be made in all legislation and policy documents, in line with the Optional Protocol to the Convention on the Rights of the Child on the sale of

children, child prostitution and child pornography. As the Plans concluded in 2022, the forthcoming plans will provide an opportunity to highlight and integrate issues relating to preventing and combating the sale, sexual exploitation and sexual abuse of children.

66. As part of efforts to strengthen protection programmes for children, families and members of Indigenous Peoples in street situations, national government agencies and local government units are guided through procedures to establish child protection mechanisms and strategies, including to provide long-term programmes and services for families and children.

## 1. Investigation, prosecution and access to justice

67. Victims and witnesses may report offences directly to their nearest police station at the barangay level, which is the lowest-level administrative service point in the Philippines. In addition, children who are victims or witnesses of child abuse may seek assistance at their nearest police station at the barangay level. There are no officials trained on child protection at the barangay level to receive and process initial reports. The designated child- and gender-sensitive *kagawad* or *tanod*, who is preferably female, is in charge of the help desk that receives and monitors all cases of child abuse and violence against women and refers children who are victims to the proper agency for appropriate intervention.

68. Reports of suspected cases of the sale, sexual exploitation and abuse of children are based on walk-ins and tip-offs. The Special Rapporteur learned that the police did not conduct any surveillance or patrols in vulnerable neighbourhoods.

69. There is a standard protocol to be followed in cases involving children who have been subjected to physical, sexual, emotional and psychological abuse, have been abandoned or left unattended by their parents or guardians or have been subjected to commercial sexual exploitation or economic exploitation, including child labour, trafficking and other exploitative situations.<sup>40</sup> However, the effective implementation of the protocol remains a major challenge. The reporting process and procedure at the barangay level is cumbersome for any victim. According to interlocutors, once a report of child sexual abuse has been made at the barangay level, the case can be routed through the community-level focal point of the local social welfare and development office, where a social worker is often the case manager, and the social worker coordinates the provision of necessary services in cooperation with partner agencies. The complaint is then transferred to the police desk officers responsible for the protection of women and children, who take the victim's statement a second time and commence the investigation process. The procedure generally creates mistrust for the alleged victim, which, in turn, results in hesitancy in reporting, in particular in conservative communities.

70. There is therefore a need to improve reporting procedures at the local level to ensure the protection of the victim and avoid revictimization.

71. The Special Rapporteur also learned that methods of local governance and political change and transitions at the local and barangay levels affect the administrative structures tasked with child protection, owing to the frequent turnover of personnel and officials who have already been trained as first points of contact for children who are victims.

72. After the completion of an inquiry by the police, the case is referred to the prosecutor, who exercises a quasi-judicial role in the conduct of the inquiry or preliminary investigation. The Special Rapporteur learned that, regrettably, there are no prosecutors specially trained in child protection. Consequently, prosecutors treat cases of child sexual abuse in the same way as any other case with regard to processing, the inquiry and prosecution.

73. The Special Rapporteur learned that the police force is understaffed, that police officers are not sufficiently or adequately trained in the child-friendly administration of justice, that there is a high turnover of experienced staff and that the institutions lack facilities,

<sup>40</sup> Philippines, Committee for the Special Protection of Children, *Protocol for Case Management of Child Victims of Abuse, Neglect, and Exploitation* (2013), available from [https://www.doj.gov.ph/files/transparency\\_seal/2016-Jan/CPN-CSPC%20Protocol%2026Nov2014.pdf](https://www.doj.gov.ph/files/transparency_seal/2016-Jan/CPN-CSPC%20Protocol%2026Nov2014.pdf).

such as proper psychometric diagnostic tests. Designated medical professionals reported high volumes of cases, and medical facilities lack the capacity to support children who are victims. Thus, delays and backlogs in the examination of children who were victims were commonplace.

74. The Special Rapporteur learned that there were no child-specific courts or children's courts in the Philippines. Child-related cases are brought before the family court, which deprives children, in particular children who are victims of sexual abuse and sexual exploitation, of the benefit of having their cases considered by specially trained adjudicators, and slows down the justice delivery process. The Special Rapporteur notes that the current situation creates inconsistencies with regard to the hearing and adjudication of child protection cases, as they depend on the temperaments and skills of adjudicators. It causes extensive delays in view of the volume and variety of cases brought before the family courts.

75. The Special Rapporteur acknowledges, however, that there are a number of child-friendly courtrooms in selected family courts in the Philippines. The Special Rapporteur was informed by interlocutors that such courtrooms have not been uniformly established in all regions of the country.

76. In accordance with an agreement between the Public Attorney's Office and the Department of Social Welfare and Development, free legal services should be provided to women and children who are victims of violence, children in conflict with the law, single parents and children requesting financial support from liable parents. However, the Special Rapporteur was informed that, in practice, victims, survivors and their families experience difficulties in obtaining information and receiving support to access free legal assistance even when it is needed, in particular in rural areas.

77. The Supreme Court issued the Rule on the Examination of Child Witnesses, which governs the examination of children who are victims or witnesses of crime. The Special Rapporteur had an opportunity to visit the family court in the city of Angeles, which was equipped with child-friendly spaces, including facilities to take evidence from children by live link or videotape.

78. The Revised Guidelines for Continuous Trial of Criminal Cases direct courts to strictly adhere to the "one-day rule", which requires that the process of examining a child who is a witness be completed in one day. The Special Rapporteur expresses regret that the one-day rule is not applied in practice, leading to the retraumatization of such children.

79. The Special Rapporteur notes the launch in 2022 of the revised Prosecutors' Manual on Handling Child-Related Cases, which is intended to help prosecutors to ensure children's rights and needs within the criminal justice system. The Revised Rules of Criminal Procedure provide a guide for prosecutors to use during plea bargaining in cases of trafficking in children, to prevent the retraumatization of the child.

80. The statistics provided by the 12 regional courts in 2022 showed that 10,366 cases involving minors that had been brought under anti-trafficking legislation were pending. A total of 83 convictions were handed down in the same year under the following broader legislative categories: 2 for forced labour; 3 for labour trafficking; 18 for cybersex trafficking; 10 for pornography; 41 for prostitution; and 9 for sexual exploitation.<sup>41</sup>

81. The statistics reported by the Women and Children Protection Center under the Philippine National Police and the cases recorded with the International Criminal Police Organization (INTERPOL) National Central Bureau indicate high numbers of cases charged under the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act: 16,092 in 2017, 12,940 in 2018 and 12,044 in 2019.<sup>42</sup> The statistics compiled by the United States National Center for Missing and Exploited Children on CyberTip reports concerning suspected child exploitation in the Philippines indicate 138,361 cases in 2017, 680,255 in 2018 and 801,273 in 2019.<sup>43</sup> While a large number of reports are

<sup>41</sup> Data submitted by the Philippines.

<sup>42</sup> ECPAT, INTERPOL and UNICEF, *Disrupting Harm in the Philippines*, p. 44.

<sup>43</sup> Ibid, p. 46.

received from the National Center each month, the Office of Cybercrime reports that not every referral is actionable owing to a lack of training or resources.

82. There is a high prevalence of online abuse and sexual exploitation of children in the Philippines.<sup>44</sup> Cases are investigated by the Office of Cybercrime under the Department of Justice, which is assisted by the police information technology unit. The Special Rapporteur learned, however, that the Office does not have a specialized children's unit or officials specially trained in dealing with cases involving children. The Philippine Internet Crimes Against Children Center, which was established in collaboration with the National Bureau of Investigation and the Women and Children Protection Center of the Philippine National Police, provides support to law enforcement agencies in terms of digital evidence-gathering, which is a significant challenge for local police officers and law enforcement units.

## **2. Care, recovery and reintegration**

83. The primary authority responsible for assisting children who are victims of abuse, including children who are victims of sexual exploitation, is the Department of Social Welfare and Development, which provides assistance and care for their rehabilitation needs. There are 76 governmental centres and residential care institutions and 314 run by civil society organizations or NGOs. The Special Rapporteur welcomes the fact that a number of institutions provide recovery and reintegration services for children who are victims and survivors. The Special Rapporteur visited three government-run shelters for children, namely, Bahay Kalinga in Valenzuela, Nasyon ng Kabataan in Manila and the Bohol Crisis Intervention Center, and an NGO-run shelter in the city of Angeles.

84. Despite efforts to strengthen the multidisciplinary response, the Philippines still struggles to provide specialized health and child protection services. Some parts of the country have more advanced systems in place and have made progress in institutional coordination. The Special Rapporteur commended the efforts and gains made in Valenzuela, which is a "Pathfinding City" of the Global Partnership to End Violence against Children. However, it is important to implement good practices uniformly across other parts of the country.

85. The Special Rapporteur noted that the efforts made to provide services in institutions are focused mostly on women and girls. It is therefore important to raise awareness of and provide gender-inclusive and gender-sensitive services to all children who are victims and survivors. In addition, there is a need to update and improve existing infrastructure, facilities, tools and amenities to better support child development and improve the efforts made to provide children with information technology skills. The Special Rapporteur learned that some children who are victims and survivors experienced incidents of labelling and discrimination in schools and had limited opportunities to access higher education and training. Some civil society organizations reported that they had encountered difficulties in the registration process for the provision of care services to children owing to the multiple layers of requirements by agencies and superfluous application processes for accreditation even after the Department of Social Welfare and Development standards have been met. For most children who are victims, common problems experienced at the local level include limited mental health support, a limited availability of psychiatrists and a lack of affordable testing and counselling services.

86. The Special Rapporteur strongly encourages the Government to scale up the provision of financial and specialized human resources, including social workers, psychiatrists and medical professionals. The Special Rapporteur recommends the establishment of children's homes dedicated to accommodating and caring for all children who are victims of sexual abuse and exploitation, where all services are provided under one roof, including support for parallel criminal and child welfare investigations.

87. In terms of the monitoring and oversight of care services, responsibilities are delegated to the relevant regional field offices and the National Inspectorate Division of the Central Office. The amended Revised Standards on Residential Care Services of 2012 set out

<sup>44</sup> CEDAW/C/PHL/CO/7-8, para. 25.

the five main areas of monitoring: case management, infrastructure, financial management, administration and organization.

### 3. Response and prevention

88. The Special Rapporteur considers that a crucial aspect of preventing the sale, sexual exploitation and sexual abuse of children in the Philippines is to holistically tackle the problems of poverty, social exclusion, discrimination and gender inequality in the country. The Special Rapporteur learned of different training initiatives for actors working with children, including law enforcement personnel and members of the judiciary and prosecution services. While she welcomes those activities, she notes that there is a need for greater public awareness and capacity-building on the specific issues of the sale, sexual exploitation and sexual abuse of children.

89. There is a need to better strengthen cooperation and communication among institutions, in particular among officials of social welfare bodies, the police, local administration offices, civil society, the courts, the diplomatic corps and international agencies. The continued provision of specialized training, capacity-building and nationwide sensitization and awareness-raising on issues surrounding the different manifestations of the sale, sexual abuse and sexual exploitation of children is essential for professionals and members of the public working with or in contact with children.

90. In addition, expertise building and the improvement of services to ensure the retention of experienced police officers, social workers, teachers, guidance counsellors and medical and other professionals is encouraged.

91. There is a need to provide more and better access to reproductive health education and services for children and adolescents to better tackle the problem of early teenage pregnancies and protect them from sexually transmitted infections.

92. The Special Rapporteur also met with children who told her that they did not have access to age-appropriate sex education, reproductive health education or information on preventing and protecting themselves from sexual abuse and exploitation, whether online or offline. They shared with her their concern that the Internet and social media are rife with information on how children can earn money through self-generated sexual exploitation material. The Special Rapporteur therefore strongly recommends that, through the educational curriculum, the Government provide and regularly update age-appropriate information on those issues and how children can protect themselves from sexual exploitation. Internet and media platforms should also be monitored to curtail harmful content in relation to children. Information and resources should be made available to let children know where and to whom they should report threats of abuse and where to seek help and advice. Teachers and guidance counsellors in schools should be provided with extensive training on those issues, including on detecting and reporting incidents of the sexual abuse and exploitation of children and supporting victims.

93. As the Philippines does not yet have a register of sex offenders, the Special Rapporteur recommends that one be put in place. As persons convicted of sexual offences should not be in regular contact with children, staff working in public or private institutions dealing with children should undergo stringent scrutiny and vetting as one of the measures to prevent child exploitation and abuse by caregivers.

94. Within the context of transitional governance and restructuring in the Bangsamoro Autonomous Region in Muslim Mindanao, particular areas of concern exist with regard to child protection gaps, including capacity constraints, institutional handover challenges, the need for a delineation of the roles and functions of the authorities on child protection matters and insufficient coordination and collaboration. Children in the region have long been negatively affected by vicious cycles of conflict, sexual violence, displacement, hazardous conditions of child labour, abuse and exploitation.

95. The provision of training and capacity-building on child protection and child-sensitive approaches to trauma will be crucial for security professionals and humanitarian actors in the context of rescue, relief and rehabilitation measures and interactions with children from Indigenous, ethnic and marginalized communities and children with disabilities. The

Government of the Philippines must step up its support for the transformation of the Bangsamoro Autonomous Region in Muslim Mindanao and the strengthening of its child protection governance structures in order to provide victims and survivors with access to education, health care and emotional and psychological support.

#### **4. Child participation and empowerment**

96. The Philippines is a pioneer in the region with regard to children's participation. Its work in that context can, however, be improved in order to better respond to the growing problem of the sale, sexual abuse and sexual exploitation of children. The Council for the Welfare of Children supports the National Committee on Child and Youth Participation, which is a national network of child participation rights advocates from different government organizations, NGOs, faith-based groups, civil society organizations and children representing different children's associations. The network serves as a national forum for the sharing of experiences and technical expertise relating to child and youth participation in the Philippines.

97. The Special Rapporteur had an opportunity to meet with children involved in child rights advocacy in Manila, Cebu and Cotabato. They all had a good understanding of issues relating to sexual abuse and exploitation and said that they recognized the different manifestations of those phenomena, such as sexual harassment by teachers in schools and sexual abuse within circles of trust. The reasons why children do not report such harassment and abuse include discriminatory behaviours, the threat of retaliation and the fear of being judged. The solutions proposed included training for teachers, guidance counsellors and school staff, the need for a digital space to provide safe information to children and well-trained psychologists in schools to assist children in need. The children also highlighted the need to be consulted on and engaged in decisions on matters that affect them.

## **IV. Conclusions and recommendations**

### **A. Conclusions**

98. The Special Rapporteur commends the Government of the Philippines for the legislative, institutional and policy measures that it has put in place to improve the child protection system. The Government is strongly encouraged to put prevention and protection measures, as well as the care, recovery and integration of victims of sexual exploitation and abuse, at the forefront of child protection policies and initiatives. Such action should also include addressing the sale of children as a phenomenon distinct from trafficking in children.

99. The Special Rapporteur notes the existence of gaps in the understanding of the phenomena of child sexual exploitation and sexual abuse and the limited data on those phenomena and their manifestations in cases related to the sale, sexual exploitation and sexual abuse of children. Those challenges, coupled with limited specialized support services and a workforce of professionals insufficiently trained to deal with cases of sexual abuse, are issues that require urgent action.

100. The visit of the Special Rapporteur came immediately after the promulgation of important pieces of legislation on child marriage and online sexual abuse and exploitation of children. Those developments bring opportunities to introduce regulations and guidelines and strengthen institutional practices ranging from early detection to the recovery and social integration of children and the provision of the necessary tools with which child protection actors can effectively carry out their responsibilities. Information-sharing and adequate monitoring and evaluation systems should be instituted. Specialized training and capacity-building for professionals working with and in contact with children is key to breaking the cycle of impunity.

101. Tackling the root causes and risk factors rendering children vulnerable to and at risk of sexual abuse and exploitation requires a holistic and multidisciplinary team



of professionals and targeted awareness-raising campaigns to combat the culture of silence surrounding child sexual abuse and exploitation.

102. The Special Rapporteur underscores that child protection measures and structures need to be strengthened across the country in accordance with their respective levels of need for reform, as the various regional, provincial and local systems have differing levels of capacity. Good practices, such as the experience of Valenzuela in the effective coordination of local government entities and the operation of centres for children, together with the experience of the Pink Center in Cebu, which provides one-stop medical, psychiatric and social welfare services to victims of abuse, can serve as examples for other parts of the country.

103. Within the context of transitional governance and restructuring in the Bangsamoro Autonomous Region in Muslim Mindanao, areas of concern exist with regard to child protection gaps, including capacity constraints, institutional handover challenges, the need to delineate the roles and functions of the authorities with regard to child protection matters and insufficient coordination and collaboration. Children in the region have long been negatively affected by vicious cycles of conflict, sexual violence, hazardous conditions of child labour, abuse and exploitation. Much work should be done and support provided with regard to the coordination of preventive, protection and response measures to address the sale, sexual exploitation and abuse of children in that region.

## **B. Recommendations**

104. On the basis of the above findings, and in a spirit of cooperation and dialogue, the Special Rapporteur submits the following recommendations to all concerned parties:

### **1. Legislative, institutional and policy framework**

(a) Incorporate sale of children into the Criminal Code as a crime distinct from trafficking in children, in line with articles 2 and 3 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography;

(b) Ensure consistency in all national legislation with regard to the definition of a child as a person below the age of 18, in accordance with the Convention on the Rights of the Child;

(c) Ratify the International Convention for the Protection of All Persons from Enforced Disappearance, accept the inter-State communications procedure provided for thereunder and ratify the World Tourism Organization Framework Convention on Tourism Ethics;

(d) Formulate or integrate a comprehensive child protection strategy that covers the prevention of the sale, sexual exploitation and sexual abuse of children, reinforce reporting mechanisms, ensure nationwide targeted awareness-raising campaigns, allocate adequate resources and put in place monitoring and evaluation mechanisms to measure progress;

(e) Accelerate efforts to implement free birth registration through effective compliance by all authorities, including facilitation by diplomatic offices abroad;

(f) Implement the Simulated Birth Rectification Act of 2019 and set up an independent body to oversee and monitor adoption processes, in accordance with the Convention on Protection of Children and Cooperation in respect of Intercountry Adoption;

(g) Retain and enhance the institutional good practices of local government units concerning child protection measures to ensure adequate referral mechanisms and the comprehensive rehabilitation and reintegration of children who are victims through the provision of holistic and multidisciplinary services;

(h) Establish child-specific courts or divisions within courts and provide for effective coordination among child protection agencies, investigators, judges and prosecutors to ensure child-friendly proceedings, in accordance with general comment No. 24 (2019) of the Committee on the Rights of the Child on children's rights in the child justice system;

## **2. Investigation, prosecution and sanctions**

(i) Strengthen efforts to detect, investigate, prosecute and punish the crimes of the sale, sexual exploitation and sexual abuse of children, including child marriage, and ensure that investigation procedures are child-sensitive in order to prevent revictimization and further traumatization;

(j) Ensure easy access to child-sensitive justice mechanisms for complaints, reporting and referral, allowing victims to report abuse without fear of intimidation, stigma or revictimization;

(k) Enhance the capacities of law enforcement and ensure that at least two police officials in each barangay are trained in the detection and recognition of children at risk and in need of special protection and in counselling, child-friendly interviewing and skills and techniques for making referrals to appropriate support services, with a view to enabling them to effectively perform their role as a point of first contact for any complaints relating to the sale, sexual exploitation and sexual abuse of children;

(l) Ensure the retention of experienced law enforcement staff within their field of expertise by providing adequate opportunities for promotion and career growth;

(m) Enhance the capacity of child protection professionals, judges and prosecutors to ensure that criminal cases related to the sexual abuse of children are efficiently prosecuted and expeditiously disposed of while complying with measures that allow for trauma-informed and gender-sensitive support for children who are victims;

(n) Remove all statutory limitations for crimes against children and make provision in law for free legal aid for all children who are victims of sale and sexual exploitation;

(o) Provide specific legislation against sexual exploitation and abuse within the travel and tourism sector and provide for the prosecution and punishment of all intermediaries in the tourism and entertainment industries and at every level of the supply chain;

(p) Strengthen the Philippine Internet Crimes Against Children Center by providing it with the financial and human resources necessary to monitor encrypted paedophile networks and to detect, report and refer child sexual abuse cases for follow-up and increase international cooperation and mutual legal assistance in cybercrime matters;

## **3. Prevention and eradication of the sale, sexual exploitation and sexual abuse of children**

(q) Raise awareness through community-based educational programmes involving children, victims and survivors, members of the community and parents and put in place monitoring and evaluation mechanisms to measure progress;

(r) Harmonize campaign tools in collaboration with faith-based and local leaders on changing mindsets, sensitizing families and engaging with parents;

(s) Conduct comprehensive research to map the underlying causes of, risk factors for, and manifestations of, the sale and sexual and labour exploitation of children with a view to developing evidence-based, targeted strategies;

(t) Provide nutrition, health, education and other socioeconomic support for vulnerable communities and children at risk and their families;

(u) Ensure the effective implementation of the Anti-Trafficking in Persons Act and the Expanded Anti-Trafficking in Persons Act, including by strengthening

capacity to recognize, detect and refer victims of trafficking for the purposes of sale and sexual exploitation and ensuring the timely prosecution and conviction of perpetrators;

(v) Scale up sensitization, training and awareness-raising programmes on child marriage, including with faith-based leaders and actors, increase efforts to break traditional stereotypes and allocate additional resources to ensure the implementation of policies;

(w) Step up efforts to ensure equal access to justice and counter discrimination against and the exclusion of all children at risk, including those from marginalized communities, children with disabilities and children on the move;

(x) Prohibit and criminalize the practice of non-necessary medical interventions on intersex children, in the absence of their prior, free, fully informed and autonomous consent provided at a sufficiently mature age, protect their right to health services and medication and provide their families with the necessary counselling and support;

(y) Develop a centralized database to systematically collect disaggregated data on the crimes of the sale, sexual exploitation and sexual abuse of children and trafficking in children and their various manifestations, including on the number of complaints, investigations, prosecutions and sentences;

(z) Provide mandatory, age-appropriate sex education in the national school curriculum, to include information on the definition and various manifestations of sexual abuse and exploitation, the inherent risks of early sexual relationships, sexually transmitted infections, bodily autonomy and the harmful effects of early teenage pregnancies;

(aa) Provide ongoing training for teachers, guidance counsellors, caregivers and social workers on prevention and protection measures, including on human rights principles, such as non-discrimination, to ensure that every child is treated with dignity, create peer support groups in schools and conduct awareness-raising to help community workers to recognize, report and take the appropriate measures in response to incidences of sexual abuse or exploitation;

(bb) Ensure the wider adoption and implementation of the model tourism child protection ordinance across all regions and localities, developing collaborative partnerships with the private and community-based sectors;

(cc) Monitor the activities of the tourism industry, including through local and informal channels, in detecting and reporting cases with a view to ensuring the compliance of the private sector with the Guiding Principles on Business and Human Rights, the Global Code of Ethics for Tourism and the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism;

(dd) Ensure that children have easy access to reporting and referral mechanisms that allow victims to report abuse without fear of intimidation, stigma or revictimization;

(ee) Provide adequate budgetary allocations distributed across the country to bridge economic disparities in certain geographical regions;

(ff) Establish a register of persons convicted of sex crimes against children and make it mandatory in law to conduct a background check on any person working with or in contact with children, at both private and public institutions;

#### **4. Care, recovery and reintegration of child victims**

(gg) Integrate a systemic approach to the comprehensive care, rehabilitation and reintegration of children who are victims through the provision of multidisciplinary and multisectoral support services;

(hh) Establish centres that provide holistic and multidisciplinary support services with long-term specialized medical and psychological care by trained

professionals to ensure the effective care, rehabilitation and reintegration of children who are victims;

(ii) Allocate adequate support, specialized human resources and access to services for families with children with disabilities and ensure the provision of awareness and monitoring mechanisms in education, health and other service centres to prevent the sexual abuse of children with disabilities;

(jj) Ensure that unaccompanied and separated migrant, asylum-seeking and refugee children have access to services with safe and age- and gender-appropriate reception facilities and care, long-term placement support and services such as health care and psychological assistance, as required;

(kk) Improve procedures for the initial identification and referral of unaccompanied and separated children by providing efficient interpretation services for children and training for asylum staff and humanitarian officials on interviewing techniques and skills on how to interact with unaccompanied and separated children;

(ll) Ensure that juvenile justice and conditions of detention for children meet international standards and, furthermore, ensure that children in conflict with the law have access to well-trained social workers within the Department of Social Welfare and Development;

(mm) Take measures to prevent the abduction and military recruitment of children by armed groups, protect them and, where necessary, facilitate their reintegration into society and provide them with rehabilitation services;

## 5. Cooperation and partnership

(nn) Strengthen the central role, authority and resources of the Department of Social Welfare and Development and the Council for the Welfare of Children and their regional networks in the coordination and oversight of child protection policy and the delivery of services, including in the context of follow-up to cases;

(oo) Enhance collaborative relationships with NGOs and service providers by removing procedural obstacles that inhibit their work to detect, receive and refer cases of the sexual abuse and exploitation of children;

(pp) Strengthen the meaningful participation of children by involving them in the design and formulation of policies and programmes on matters affecting their lives;

(qq) Enhance bilateral, regional and international agreements and partnerships on extraterritorial jurisdiction and extradition arrangements in relation to transnational crimes facilitated by information and communications technologies and trafficking networks;

(rr) Provide consular, shelter, rescue and repatriation support to migrant and trafficked children abroad;

(ss) Work closely with the Commission on Human Rights and provide it with an adequate budgetary allocation and human resources support to enable it to effectively carry out its functions;

(tt) Strengthen, support and effectively implement the strategic litigation programme of the Commission on Human Rights, in particular in relation to child protection cases, in collaboration with relevant line departments and agencies;

(uu) Adopt, in collaboration with development partners, the measures necessary to achieve targets 5.3, 8.7 and 16.2 of the Sustainable Development Goals.