

## PHILIPPINES

International Instrument	Signature	Ratification, Acceptance (A), Approval (AA), Accession (a), Succession (d)	Entry Into Force
UN Convention on the Rights of the Child	26 Jan 1990	21 Aug 1990	
UN Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	8 Sep 2000	28 May 2002	
Protocol to Prevent, Suppress and Punish Trafficking in Persons	14 Dec 2000	28 May 2002	
UN Optional Protocol on the Involvement of Children in Armed Conflict	8 Sep 2000	26 Aug 2003 a	
UN Convention for the Protection of All Persons from Enforced Disappearance			
Hague Convention on International Child Abduction			

In the Philippines, there are six laws that refer directly or indirectly to missing children:

1. Penal Code of 1930;
2. Child and Youth Welfare Code of 1974;
3. Presidential Decree No. 1083 of 1977;
4. Code of Muslim Personal Laws of 1977;
5. Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act of 1992; and
6. Anti-Trafficking in Persons Act of 2003.

The Philippines is the only country in Southeast Asia that has drafted bills focused specifically on missing children.

1. Senate Bills No. 1437 of 2010
2. Senate Bills No. 1137 of 2010
3. Senate Bill No. 351 of 2013
4. House Bill No. 77 of 2013

Although these bills have raised awareness, none have become law.

### General Child Protection

The Council for the Welfare of Children is the agency within the Philippine Government that is responsible for handling issues of child protection. In March 2008, the Council partnered with a number of NGOs including UNICEF, ECPAT, and Save the Children, as well as the Department of Social Welfare and Development and the Philippine National Police, to form the National Network to End

Violence Against Children and launch the Philippine Plan of Action on Violence Against Children.<sup>1</sup> The overarching goal of the campaign is to prevent and protect all children, particularly those who are at risk of experiencing violence, to help in the recovery and reintegration of those who have been victimized, and to facilitate the rehabilitation of perpetrators.<sup>2</sup> The campaign's initial aim was to educate parents, teachers, social service providers, and policymakers on the issue of violence against children; develop and publicize a multi-disciplinary approach to the management of child abuse cases; ensure free and accessible birth registration; enhance systematic data and information collection on violence against children cases; and enact, amend, and enforce laws preventing violence against children.<sup>3</sup>

Five task forces – known as sectoral panels – based on the CRC and the Philippine Plan of Action for Children, were established in 2010 with specific focus areas: (1) family care and alternative parental arrangements; (2) basic health, nutrition, social security, and safe environment; (3) basic education, leisure, recreation, and cultural activities; (4) protection of children in especially difficult circumstances; and (5) fundamental civil rights.<sup>4</sup>

### General Missing Child Issues

Over the past several years, the Philippine House and Senate have introduced bills aimed at enhancing the government's approach to the issue of missing children. One contained an actual definition of the term, while the others called for the creation of hotlines and National Center.<sup>5</sup> While these bills did not become law, the legislative efforts have raised awareness significantly.

Existing Philippine child protection legislation does include specific definitions for dependent child,<sup>6</sup> abandoned child,<sup>7</sup> and neglected child<sup>8</sup> in the Child and Youth Welfare Code of 1974, and explicitly addresses street children in the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act of 1992.<sup>9</sup>

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<sup>1</sup> UNICEF, *National Plan of Action: Philippine Experience* (Mar. 2008) 3 and 9, at [http://www.unicef.org/eapro/philippine\\_experience.pdf](http://www.unicef.org/eapro/philippine_experience.pdf) (last visited Feb. 21, 2016) (on file with the International Centre for Missing & Exploited Children).

<sup>2</sup> *Id.* at 9.

<sup>3</sup> *Id.* at 13-15.

<sup>4</sup> Senate Bill No. 351, Sixteenth Congress of the Republic of the Philippines First Regular Session, *Explanatory Note*, at <http://www.senate.gov.ph/lisdata/1618113408!.pdf> (last visited Feb. 21, 2016) (on file with the International Centre for Missing & Exploited Children).

<sup>5</sup> *Id.*

<sup>6</sup> Child and Youth Welfare Code, Presidential Decree No. 603, Dec. 10, 1974, Article 141 (1) states "A dependent child is one who is without a parent, guardian or custodian; or one whose parents, guardian or other custodian for good cause desires to be relieved of his care and custody; and is dependent upon the public for support."

<sup>7</sup> *Id.* at Article 141 (2) states "An abandoned child is one who has no proper parental care or guardianship, or whose parents or guardians have deserted him for a period of at least six continuous months."

<sup>8</sup> *Id.* at Article 141 (3) states "A neglected child is one whose basic needs have been deliberately unattended or inadequately attended. Neglect may occur in two ways: (a) There is a physical neglect when the child is malnourished, ill clad and without proper shelter. A child is unattended when left by himself without provisions for his needs and/or without proper supervision. (b) Emotional neglect exists: when children are maltreated, raped or seduced; when children are exploited, overworked or made to work under conditions not conducive to good health; or are made to beg in the streets or public places, or when children are in moral danger, or exposed to gambling, prostitution and other vices."

<sup>9</sup> Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act, Rep. Act No. 7610, June 17, 1992, Section 10 (e) penalizes "any person who shall use, coerce, force or intimidate a street child or any other child to (1) beg or use begging as a means of living; (2) act as a conduit or middleman in drug trafficking or pushing; or (3) conduct any illegal activities, shall suffer the penalty of prison correctional in its medium period to reclusion perpetua."

### Parental Abduction

The Philippines is not a party to the 1980 Hague Convention on the Civil Aspects of International Parental Abduction. However, the 1930 Penal Code of the Philippines does address parental abduction:

*Art. 270. Kidnapping and failure to return a minor. — The penalty of reclusion perpetua shall be imposed upon any person who, being entrusted with the custody of a minor person, shall deliberately fail to restore the latter to his parents or guardians.*

*Art. 271. Inducing a minor to abandon his home. — The penalty of prison correctional and a fine not exceeding seven hundred pesos shall be imposed upon anyone who shall induce a minor to abandon the home of his parent or guardians or the persons entrusted with his custody.*

***If the person committing any of the crimes covered by the two preceding articles shall be the father or the mother of the minor, the penalty shall be arresto mayor or a fine not exceeding three hundred pesos, or both.***<sup>10</sup> (emphasis added)

Limited mechanisms are in place to protect children whose parents are not involved in an ongoing custody battle. For example, in cases where a child is traveling abroad alone, with someone other than his or her parents, or with one parent where there is an ongoing legal custody battle, children must obtain a travel clearance from the Department of Social Welfare and Development and present the travel clearance to the Immigration Officer prior to departure. Based on information received from the Department of Social Welfare and Development, a minor traveling with one parent, whose parents are not in an ongoing custody battle, does not need to obtain a travel clearance in order to exit the country.<sup>11</sup>

### Custody

In the Philippines, there are specific provisions concerning custody that are supported by the Sharia Courts and applicable to the Muslim population.<sup>12</sup> For instance, Presidential Decree No. 1083, The Code of Muslim Personal Laws, first established in 1977, addresses custody, guardianship, paternity, divorce, and settlement of estates. According to Sharia law, girls may be married any time after puberty, but boys may not be married before the age of 15.<sup>13</sup> In 2012, parts of the Code of Muslim Personal Laws were found to be contradictory to the Philippine Constitution, particularly in regards to gender equality.<sup>14</sup> There has been discussion of possible legal reform to address this contradiction.<sup>15</sup>

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<sup>10</sup> Revised Penal Code of the Philippines, Act No. 3815 (1930), Chapter 1 of Crimes Against Liberty, Section 2, Articles 270 and 271. (on file with the International Centre for Missing & Exploited Children).

<sup>11</sup> Email Correspondence with Florita Villar, Under Secretary at the Dep't of Social Welfare and Dev. (Feb. 19, 2014) (on file with the International Centre for Missing & Exploited Children).

<sup>12</sup> *Courts for Muslims: A Primer on the Philippine Shari'a Courts*, at [http://www.muslimmindanao.ph/shari'a/code\\_muslim.pdf](http://www.muslimmindanao.ph/shari'a/code_muslim.pdf) (last visited Apr. 25, 2016) (on file with the International Centre for Missing & Exploited).

<sup>13</sup> *Republic of the Philippines Legal System/History*, EMORY LAW SCHOOL (on file with the International Centre for Missing & Exploited Children).

<sup>14</sup> Isabelita Solamo, *The Sharia Courts and the Philippine Code of Muslim Personal Laws* (on file with the International Centre for Missing & Exploited Children).

<sup>15</sup> Isabelita Solamo-Antonio, *Dossier 27: The Shari'a courts in the Philippines: Women, Men, and Muslim personal law*, Dec. 2005 (on file with the International Centre for Missing & Exploited Children).

### Reporting Mechanism

Currently, in order to report a missing child, the Philippine National Police requests that a report be made to the local *barangay*<sup>16</sup> “frontline agency,” which then informs the National Police.<sup>17</sup> The public also can call the police emergency hotline number 117. However, a few other hotlines/helplines also exist for the protection of children. Bantay Bata 163 is a child helpline that acts as the child welfare arm of the ABS-CBN Foundation. The mission of the helpline is to protect disadvantaged and at-risk children through a nationwide network of social services.<sup>18</sup> The organization works with local police to confirm reports and plan rescue missions for abused and exploited children.<sup>19</sup> It also has a network of volunteer lawyers and doctors who provide services to children who are sick or injured, provide a home for children, and manage a feeding program for those children who are unable to be reunited with their families.<sup>20</sup>

The Council for the Welfare of Children, under the Department of Social Welfare and Development, has also partnered with the police to increase awareness about the human trafficking hotline that is managed by the Inter-Agency Council Against Trafficking under the Department of Justice.<sup>21, 22</sup> This hotline, the 1343 Action Line,<sup>23</sup> was established in 2011 and serves to connect trafficking victims and their families with immediate assistance by referring them to the specific government agency or NGO that can meet their needs. The hotline also serves as a database for the documentation of trafficking cases involving Filipinos.<sup>24</sup> According to the Commission on Filipinos Overseas (CFO), the 1343 Action Line registered over 17,000 calls between March 2011 and July 2013, which has led to the rescue of 259 victims.<sup>25</sup>

### Investigation of Missing Child Cases

The Philippine National Police, under the Women and Children’s Protection Division of the Criminal Investigation and Detection Group, handles cases of missing children. Cases involving kidnapping for ransom are forwarded to the Police Anti-Crime and Emergency Response Unit for Organized Crime and Kidnapping with Ransom. Beginning in April 2013, in order to improve the overall response time for these cases, the Chief Director General of the Philippine National Police announced that the agency

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<sup>16</sup> A *barangay* is the smallest administrative division in the Philippines and is the native Filipino term for a village, district, or ward.

<sup>17</sup> Email correspondence with Officer Alexander Ramos, Philippine National Police (Feb. 20, 2014) (on file with the International Centre for Missing & Exploited Children).

<sup>18</sup> *About Us*, ABS CBN BANTAY BATA 163, at <http://www.abs-cbnfoundation.com/bb163/about.html> (last visited Mar. 30, 2016) (on file with the International Centre for Missing & Exploited Children).

<sup>19</sup> *Combating child abuse in the Philippines*, CAF AMERICA, at <http://www.cafamerica.org/story/combating-child-abuse-in-the-philippines/> (last visited Mar. 30, 2016) (on file with the International Centre for Missing & Exploited Children).

<sup>20</sup> *Id.*

<sup>21</sup> Email correspondence with Florita Villar, *supra* note 249.

<sup>22</sup> INTER-AGENCY COUNCIL AGAINST TRAFFICKING (IACAT), at <http://www.doj.gov.ph/> (last visited Mar. 30, 2016).

<sup>23</sup> *About Us*, 1343 ACTION LINE, at <http://1343actionline.ph/> (last visited Mar. 30, 2016) (on file with the International Centre for Missing & Exploited Children).

<sup>24</sup> Jerrie M. Abella, *PHL govt launches anti-human trafficking hotline*, GMA NEWS, Mar. 20, 2011, (on file with the International Centre for Missing & Exploited Children).

<sup>25</sup> Apipa P. Bagumbaran, *Human Trafficking hotline 1343 rescues 259 victims*, PHILIPPINE INFORMATION AGENCY, Nov. 27, 2013, at <http://news.pia.gov.ph/index.php?article=1521385456247> (last visited Mar. 30, 2016) (on file with the International Centre for Missing & Exploited Children).

would begin responding to cases of missing children immediately after such incidents were reported.<sup>26</sup> This new policy applies to children ages 12 and under.

Depending on the case, it appears that the investigation may be handled by a number of different units within the Philippine National Police. It is unclear how these units coordinate and work together to minimize duplication.

According to an official at the Department of Social Welfare and Development, the Department of Justice's Committee for the Special Protection of Children (CSPC) issued a Protocol for the Case Management of Child Victims of Abuse, Neglect, and Exploitation in order to guide relevant agencies. The CSPC coordinates and manages investigations and prosecutions involving violations of the Special Protection of Children Act of 1992.<sup>27</sup> The procedures include a flow chart and detailed guidelines describing how child abuse, neglect, and exploitation cases should be managed, reported, and handled, and what roles each agency has in the process.<sup>28</sup> Additionally, in April 2013, in response to a surge in missing children's cases, the Philippine National Police set up a Task Force, *Sagip Anghel*, to look into unsolved cases of missing children in metropolitan Manila. This team is composed of the National Capital Region Police and the Criminal Investigation and Detection Group.<sup>29</sup> Immediately following the launch of the Task Force, 18 minors were rescued by the Quezon City Police District and turned over to the Department of Social Welfare and Development to be reunited with their parents.<sup>30</sup>

### Case Management/Database

There is currently no national database or case management system dedicated to missing children.<sup>31</sup> However, Missing Persons Philippines is a free online database where individuals can register missing family members. At the time of publication, only eight adults were listed as missing.<sup>32</sup> It appears the database was first established to help reunite families displaced by natural disasters.

### Alert Mechanism

Although the Philippines does not have a rapid emergency child alert system, once a case is reported and an investigation has begun, photos of children who are missing are displayed on police vehicles to raise awareness.<sup>33</sup> Since January 2012, Caring for our Children, a U.S.-based foundation that gives grants to small NGOs working to protect children from abuse, reports that the National Capital Region Police Office has recorded 40 cases of missing children, and of these, 36 have been solved.<sup>34</sup> It seems that the majority of these cases were runaways who had experienced problems with parents or

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<sup>26</sup> Abigail Kwok, *No More Delay: Police Forgo 24 hour wait before responding to missing children cases*, INTERAKSYON.COM, Apr. 26, 2013, at <http://www.interaksyon.com/article/59550/no-more-delay-police-forego-24-hour-wait-before-responding-to-missing-children-cases> (last visited Mar. 30, 2016) (on file with the International Centre for Missing & Exploited Children).

<sup>27</sup> Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act, *supra* note 247.

<sup>28</sup> Email correspondence with Florita Villar, *supra* note 249.

<sup>29</sup> *Task Group Formed to Probe Missing Children*, CARING FOR OUR CHILDREN FOUNDATION, Apr. 10, 2013, at <http://www.caringforourchildrenfoundation.org/?tag=task-group-sagip-anghel> (last visited Mar. 30, 2016) (on file with the International Centre for Missing & Exploited Children).

<sup>30</sup> Kathlyn dela Cruz, *Saghip Anghel rescues 18 minors*, ABS-CBN NEWS, Apr. 12, 2013, at <http://www.abs-cbnnews.com/nation/metro-manila/04/12/13/sagip-anghel-rescues-18-minors> (last visited Mar. 30, 2016) (on file with the International Centre for Missing & Exploited Children).

<sup>31</sup> Email Correspondence with Officer Alexander Ramos, *supra* note 255.

<sup>32</sup> *Missing Persons Philippines*, MISSING PERSONS DATABASE, at <https://sites.google.com/site/missingpersonsphilippines/about-us/faqs> (last visited Mar. 30, 2016) (on file with the International Centre for Missing & Exploited Children).

<sup>33</sup> Kathlyn dela Cruz, *supra* note 268.

<sup>34</sup> *Task Group Formed to Probe Missing Children*, *supra* note 267.

relatives.<sup>35</sup> To address these issues, the Philippine National Police has also implemented two other campaigns, “Oplan Sagip Anghel” (Operational Campaign Against Child Abuse and Exploitation) to combat child abuse, maltreatment, and exploitation, and “Oplan Nena” (Operational Campaign Against Prostitution, Lewd Shows and Vagrancy) to reduce the prevalence of prostitution and sex trafficking.<sup>36</sup>

### Trafficking

The Special Protection of Children Act defines child trafficking and criminalizes the promotion, facilitation, and induction of a child into prostitution.<sup>37</sup> In 2003, the Philippines established the Anti-Trafficking in Persons Act, which strengthens the definitions and regulations specified in the 1992 Special Protection of Children Act by including forced labor, prostitution, debt bondage, sex tourism, and sexual exploitation.<sup>38</sup>

Furthermore, in September 2013, Senate Bill No. 1623, the “Best Practices Against Trafficking in Persons Act,” was introduced under the Committee on Justice and Human Rights. This Bill mandates that the Department of Justice create guidelines for best practices and improve implementation of the Anti-Trafficking in Persons Act.<sup>39</sup> A joint public hearing was held on 12 February 2014 to discuss Senate Bill No. 1623 and a possible multi-disciplinary approach to creating and employing such guidelines.<sup>40</sup> However, this Bill, as well as the National Missing Children Recovery Program Act Senate Bill No. 351, also discussed in a joint public hearing on the same day, have not been approved by the legislature.

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<sup>35</sup> *Id.*

<sup>36</sup> Eldie Aguirre, *Police get tough on abuse of minors*, PHILIPPINE DAILY INQUIRER, July 24, 2011, at <http://newsinfo.inquirer.net/28521/police-get-tough-on-abuse-of-minors> (last visited Feb. 21, 2016) (on file with the International Centre for Missing & Exploited Children).

<sup>37</sup> Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act, *supra* note 247, at Section 5.

<sup>38</sup> Anti-Trafficking in Persons Act of 2003, Rep. Act No. 9208, May 26, 2003 (on file with the International Centre for Missing & Exploited Children).

<sup>39</sup> Senate Bill No. 1623, Sixteenth Congress of the Rep. of the Philippines, First Regular Session, at <http://www.senate.gov.ph/lisdata/1775014984!.pdf> (last visited Feb. 21, 2016) (on file with the International Centre for Missing & Exploited Children).

<sup>40</sup> Email correspondence with Florita Villar, *supra* note 249.