

Disrupting Harm

**Evidence from 13 countries on the context, threats, and children's perspectives of
online child sexual exploitation and abuse.**

Detailed Analysis of Interviews with Government Duty Bearers

Philippines

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This report is a summary of preliminary data collected for this research project. The perspectives contained herein represent the individuals interviewed and surveyed. Support from the Fund to End Violence Against Children does not constitute endorsement.

Introduction

Disrupting Harm: evidence to understand online child sexual exploitation and abuse (OCSEA), is a unique and collaborative research partnership between ECPAT International, INTERPOL, and UNICEF Office of Research – Innocenti. Leveraging their specific expertise, each partner sheds light on separate but interconnected areas: context, threats and children’s perspectives on online child sexual exploitation.

- Context by ECPAT International through portraying laws & policies in action;
- Threat by INTERPOL through the collection of crime and other data;
- Children’s voices by UNICEF Office of Research - Innocenti through surveys with children and their caregivers.

The countries of focus in Southern and Eastern Africa region are: Ethiopia, Kenya, Mozambique, Namibia, Rwanda, South Africa, Tanzania, and Uganda. The countries of focus in the Southeast Asian region are: Cambodia, Indonesia, Malaysia, Philippines, Thailand, and Vietnam.

Research took place between 2019 and 2021. Up to nine separate research activities were undertaken in each country by the three project partners. Preliminary analysis for each activity was first conducted before the results across all the nine activities were consolidated into each national country report.

This report is the preliminary analysis conducted by ECPAT International of interviews conducted with an identified sample of government duty bearers whose mandates include addressing online child sexual exploitation and abuse at a national level. The aim of interviews was to identify emerging issues and trends, recent progress and upcoming plans and priorities in the Philippines’ current legislative and policy environment.

In the Philippines, six interviews with a total of seven participants were conducted from July 2020 to September 2020.

ID Number	Ministry/Government Agency	Position
RA1-PH-01-A	Commission on Human Rights	Commissioner
RA1-PH-02-A	Department of Interior and Local Government	Undersecretary
RA1-PH-03-A	Department of Information and Communication Technology	Information Technology Officer
RA1-PH-04-A	Council for the Welfare of Children	Division Head
RA1-PH-04-B	Council for the Welfare of Children	Planning Officer II
RA1-PH-05-A	Department of Justice	Assistant State Prosecutor
RA1-PH-06-A	Department of Social Welfare and Development and Inter Agency Council Against Child Pornography	Undersecretary for Operations

In the Philippines, the Interviews were conducted utilising a semi-structured interview schedule that allowed for exploration of emerging issues. Due to the COVID-19 pandemic, interviews were conducted both in-person and virtually.

Public awareness

OCSEA has been recognised as a critical issue in the Philippines for some time: *“Child pornography¹ existed [in the Philippines] even long before...When people started to use the computer, we already saw that there are abuses being experienced by children so that the Republic Act on anti-child pornography included [this issue] already... But most of the abuses are already online”* (RA1-PH-04-A, Division Head, Council for the Welfare of Children). Another participant also elaborated on why OCSEA is a significant problem in the Philippines *“I think it's also a factor that the Philippines is really a very tech savvy country. We can access the Internet very readily, that this shows that there are really a lot of Filipino Internet users, also children who use the Internet. And I think it's one factor that the Philippine government looked at and created the law to prevent child pornography”* (RA1-PH-04-B, Planning Officer II, Council for the Welfare of Children).

In terms of awareness-raising work on OCSEA, all participants referred to various activities that their ministries and departments were undertaking to raise public awareness on OCSEA, though these appear to be challenging. All participants mentioned that shortages in funding to support OCSEA-awareness raising activities hampered their efforts, along with a lack of skilled and trained staff to implement activities. It was noted that information on OCSEA varied from agency to agency, with no clear and reliable messaging at national level being available. However, the use of online platforms was noted as effective in raising public awareness on OCSEA, for example, [SaferKidsPH](#) – an initiative delivered through and funded by an Australian consortium of organisations. A notable step from government was the establishment of a grievance mechanism available to the general public in order to report OCSEA cases anonymously. The number of anonymous complaints reported via this mechanism has steadily increased suggesting growing public awareness.

The participant from the Department of Information and Communications Technology mentioned that recently, there has been an increase in activities from government agencies and other stakeholders in an attempt to prevent OCSEA cases through training and public events: *“Before this pandemic, we did conduct seminars in schools, and even some government agencies requested digital parenting programmes. We do get a lot of requests on this. It's something that I believe we had not been looking into before, engaging the parents and the family themselves and on how they can institute measures at home, because really right now it's in the home that children get access via devices. And it's really the parents who would give the device...So, we see a great need to empower parents in this area”* (RA1-PH-03-A, Information Technology Officer, Department of Information and Communications Technology).

Research and surveys about OCSEA are other key approaches being used to better understand the issue and generate evidence-based solutions. As stated by the interviewee from the Council for the Welfare of Children: *“We actually have the Global Kids Online survey² and we have identified several forms of online*

¹ ECPAT prefers the terms ‘child sexual exploitation/abuse materials’ in line with [Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse](#).

² Byrne, J., Kardefelt-Winther, D., Livingstone, S., Stoilova, M. (2016). [Global Kids Online Research Synthesis, 2015-2016](#). UNICEF Office of Research Innocenti and London School of Economics and Political Science.

abuse being experienced by children in the general population. So that includes commercial exploitation of children. We also have child pornography, cyber bullying, exposure to sexually explicit content, cyber trafficking for sexual purposes, online grooming, cyber enticement and solicitations, sexual activities and risk-taking behaviours and active facilitated offline sexual abuse. So that includes the online geo activated platforms that promote sexual abuse” (RA1-PH-04-B, Planning Officer II, Council for the Welfare of Children).

The participant from the Department of Social Welfare and Development also mentioned the work to raise public awareness of the threat of OCSEA that the government has undertaken: *“we [the Department of Social Welfare and Development] have cascaded the Safer Internet Day Philippines, which was issued by the Office of the President, by proclamation number 417 last February 5, 2018, declaring the second Tuesday of February of every year will be Safer Internet Day Philippines” (RA1-PH-06-A, Undersecretary for Operations, Department of Social Welfare and Development). The significance of Safer Internet Day in the Philippines was highlighted by the Department of Social Welfare and Development: “The Safer Internet Day Philippines has been recognised by the Inter-Agency Council Against Child Pornography as an advocacy strategy and has been reflected in its National Response Plan to address OCSEA. The National Response Plan serves as a guide for government agencies, local government units, civil society organisations, private sector and other stakeholders to address the gaps in prevention, responses, capacity building, policies and child protection mechanisms, particularly on OCSEA. In order to attain this task, the National Response Plan had devised five ‘Key Result Areas’ on Advocacy and Prevention; Law Enforcement and Prosecution; Protection, Recovery and Reintegration; Research and Management Information System; and Resource Mobilisation and Partnership.”³*

³ Philippine Information Agency. (2021). [DSWD, other anti-child pornography council members lead Safer Internet Day celebration this February.](#)

Government Ministries/Agencies

The following are the inter-agency councils and government agencies indicated by respondents as having clear, designated mandates on OCSEA:

- Inter-Agency Council for the Welfare of Children (under the Council for the Welfare of Children)
- Inter-Agency Council Against Trafficking
- Inter-Agency Council Against Child Pornography
- Department of Social Welfare and Development
- Department of Justice
- Department of Information and Communication Technology
- Department of the Interior and Local Government
- Philippine National Police
- National Bureau of Investigation
- Commission on Human Rights

The Inter-Agency Council for the Welfare of Children is mandated to coordinate the implementation and enforcement of all laws; formulate, monitor and evaluate policies, programmes and measures for children: “The Council for the Welfare of Children is part of inter-agency structures. The one mentioned earlier was the Interagency Committee on anti-Child Pornography, because some time in 2012, we passed a law which is a law on anti-child pornography. It includes the definition on those abuses that are committed to children online, including grooming. The role of the Council for the Welfare of Children being a policy and coordinating agency is on advocacy and education. We do not have anything directly on the implementation of the programmes. But the Council for the Welfare of Children, along with other agencies, government and civil society organisation partners, are assigned to spearhead advocacy efforts along with preventing child pornography abuses online” (RA1-PH-04-A, Division Head, Council for the Welfare of Children).

The Inter-Agency Council Against Trafficking oversees the 1343 Action line emergency hotline for victims of trafficking and coordinates, monitors and oversees efforts to combat human trafficking, including child trafficking. The council is co-chaired by the Department of Justice and the Department of Social Welfare and Development and is comprised of 24 anti-human trafficking task forces established in 8 regions and 7 interagency task forces in major seaports and airports.

By virtue of RA 9775, an Inter-Agency Council Against Child Pornography was created in 2009.⁴ It serves as the primary government coordinating mechanism to address child sexual abuse materials and monitors and implements the Anti-Child Pornography Act. It is comprised of 12 government agencies and 3 NGOs. The Department of Social Welfare and Development chairs the council, while there are also three members from NGOs and one member from the Human Rights Commission.

⁴ Inter-Agency Council Against Child Pornography. [About Us](#).

The majority of participants saw the Department of Social Welfare and Development, the Inter-Agency Council Against Trafficking and the Inter-Agency Council Against Child Pornography as key agencies driving collaboration, while other government bodies work in supporting roles. The Philippine National Police is another agency that every interviewee mentioned as an important stakeholder in addressing OCSEA, however, the participants reflected on the high rotation of staff and concerns with the way that many untrained police officers engage with OCSEA victims as barriers to success.

Another factor reducing the effectiveness of collaboration is the duplication of work/responsibility, for example, multiple hotlines for reporting OCSEA cases (see figure 1).

Figure 1: OCSEA Hotlines^{5,6}



OSAEC HOTLINES	
DSWD Recovery and Reintegration Program for Trafficked Persons (RRPTP) Hotline	(02) 8931 9141
Text DSWD <space> blockchildporn<space> URL address and send to 2327 or Text blockchildporn <space> URL address and send to 0918 912 2813	
Commission on Filipino Overseas TIP Hotline	1343
PNP Patrol	911
PNP Women and Children Protection Center	0919 777 7377
PNP Anti Cybercrime Group	(02) 723 0401 local 5354
NBI	(02) 523 8231 to 38 local 3454 to 3455
DOJ Office of Cybercrime	(02) 524 82 16

Each agency has its own hotline number which may not only confuse the general public but also unnecessarily increase the workload of officials if the same case is reported to more than one agency. Moreover, without an effective database management system, it is possible that reported OCSEA cases will not be systematically stored or managed, further reducing the effectiveness of OCSEA-related law and policy.

⁵ The Philippines uses the term “Online Sexual Abuse and Exploitation of Children” or OSAEC in the same meaning of OCSEA.

⁶ Brooke Villanueva. (2021). [The bad touch: online child exploitation in the Philippines](#), *Philippine Star*

Capacity

The lack of staff and training were the two main issues reported during the interviews, as quoted by interviewees from different departments: *“the Department of Information and Communications Technology was just formed in 2016. It's actually the newest agency in the country and the Cyber Security Bureau is even younger. It's about three years old. So, we're not even done hiring everyone yet. All the needed staff. It's not even done yet”* (RA1-PH-03-A, Information Technology Officer, Department of Information and Communications Technology); *“We really lack manpower so much so that one social worker is equivalent to around three hundred cases of child survivors. I don't think that's really humanly possible for one social worker to handle this kind of loaded cases. We have already sought the assistance of the Department of Budget and Management for the hiring of additional social workers”* (RA1-PH-06-A, Undersecretary for Operations, Department of Social Welfare and Development).

The participants from the Council for the Welfare of Children described the importance of training on OCSEA provided to the relevant government agencies: *“I think one of the aspects of the training would be how do the service providers handle, for example, the victims when a family or a parent or even a child reports a violation. So how will a police officer or a social worker or a local government official handle that? Because we do not want to re-traumatise the child by mishandling when the child comes to the service providers. So that would be part of the training that are given to that at the different service providers mentioned earlier”* (RA1-PH-04-A, Division Head, Council for the Welfare of Children). However, the other interviewee also noted that he was not able to join any trainings related to OCSEA because another staff member who had then retired attended, and there are quotas on how many could attend the trainings *“I'm afraid that I have not really joined one of the training as well, because the one that previously joined at Council for the Welfare of Children has already retired from service”* (RA1-PH-04-B, Planning Officer II, Council for the Welfare of Children).

In terms of technical training, the Department of Information and Communications Technology is mandated to provide training for other implementing agencies, as explained by the participant from the Department of Information and Communications Technology *“we have the Philippine National Computer Emergency Response Team; it is under the Cyber Security Bureau and basically their mandate is for incident response. So, there are trainings [by this team] related specifically on identifying the threats, these threats that enter Philippine cyberspace. So really more on the technical side. And so, when there is, for example, a need for law enforcement agencies that say they need assistance on forensics or other technical matters, then if they make a request to the Department of Information and Communications Technology, then we can provide, but it's only support to our law enforcement agencies and prosecution as well”* (RA1-PH-03-A, Information Technology Officer, Department of Information and Communications Technology).

The high rotation and turnover of staff in implementing organisations, especially the police, was seen to have a big impact on OCSEA knowledge and skill retention amongst staff. This was elaborated by the participant from the Department of Justice who said: *“in most organisations, just like the police here in the Philippines, the turnover of personnel from one organisation to the other is fast. It may appear that for this year, these police personnel are working with Inter-Agency Council Against Trafficking or handling trafficking in persons. Then for the next year, he or she may be working with another type of cases. So,*

there are transitions. There are movements also of personnel that is why each and every year we see that our personnel gave the best or if not a good training in handling trafficking in persons cases” (RA1-PH-05-A, Assistant State Prosecutor, Department of Justice). The same participant also discussed the need for government officials and staff to be trained on how to deal with sensitive and gender-based issues like OCSEA: “a different type of training that is required. As I said, since these OCSEA cases are also gender based type of crimes. I do think we need more women in the police force. I said that women should be more in the police force. I think they are more equipped with handling the emotional gravity of the offence” (RA1-PH-05-A, Assistant State Prosecutor, Department of Justice)

Budget

The majority of interviewees could not provide detailed information about budget allocated for OCSEA because it is hidden as part of the budget for children. As the participant from the Department of the Interior and Local Government explained *“we don't have budget for that, but we lodged it in the NGO, in the local government units... there's a percentage in every municipality, in every city, there's a percentage for addressing the issues of children” (RA1-PH-02-A, Undersecretary, Department of the Interior and Local Government). The participant from the Department of Information and Communications Technology also stated “we do have an allotted budget for advocacy. That's part of what we call our annual work and financial plan of the agency. So, our government agencies have what we call the annual work and financial plan and for Department of Information and Communications Technology cyber advocacy is part of our annual budget” (RA1-PH-03-A, Information Technology Officer, Department of Information and Communications Technology). Hence, the budget for OCSEA is hidden in advocacy activities of the Department.*

Good practices

The participant from the Department of the Interior and Local Government stated its participation to the Inter-Agency Council Against Trafficking's Local Government Unit Roadshow on Anti-Trafficking in Persons. The roadshow aimed to promote the prevention of human trafficking right at the localities.⁷ According to the interviewee, the Department of the Interior and Local Government also has a partnership with an international funding organisation, which has led to positive outcomes to counter trafficking in persons, including OCSEA, in the Philippines.

Policies and Laws

Assessments

The majority of participants referred to the Republic Act 9775,⁸ or the Anti-Pornography Act of 2009 as the main law dealing with OCSEA. The law prescribes the Common Roles and Responsibilities of Inter-Agency Council Against Child Pornography Member Agencies. Besides RA 9775, a number of other regulations have been developed in the Philippines to fight against OCSEA. However, loopholes remain in

⁷ [Department of the Interior and Local Government Philippines Facebook](#). (2019).

⁸ Republic of the Philippines. (2009). [The Anti-Child Pornography Act of 2009 \(Republic Act No. 9775\)](#).

legislation that even law enforcement units are uncertain how to address, especially in cases of OCSEA where perpetrators are children's family members or guardians, or if victims also become actively involved in the offences, for example, facilitating abuse of their peers.

The Philippines does not have any regulations specifically addressing OCSEA. OCSEA crimes fall under various laws like the Anti-Child Pornography and Cybercrime Prevention Acts, but there is no all-encompassing law that clearly includes the full range of OCSEA activities.⁹ In addition, when court proceedings have completed, OCSEA victims are not legally entitled to receive any long-term care to further prevent them from becoming victims of sexual abuse and exploitation.

Several regulations were mentioned during the interviews, such as the Republic Act No. 10175,¹⁰ or the Cybercrime Prevention Act of 2012 that provide particular mandates and powers to the National Bureau of Investigation and Philippine National Police. Analysis of these regulations will be covered elsewhere in Disrupting Harm activities.

In a media interview, the Social Welfare Undersecretary also highlighted the non-compliance of Internet service providers with a certain provision of the Anti-Child Pornography Act. According to the Anti-Child Pornography Act, Internet service providers are required to inform the Philippine National Police and the National Bureau of Investigation within seven days of obtaining facts or circumstances regarding any form of child pornography engagement on their servers. However, she noted the National Telecommunications Commission and the Department of Information and Communications Technology have failed to report any Internet Service providers, despite the law being enacted for 10 years.¹¹ To address this non-compliance, in January 2021, The President's Office ordered¹² the National Telecommunications Commission to penalise Internet Service Providers that allow their platforms to be used for OCSEA.¹³ With this amendment, it is hoped that non-compliance will be mitigated and the effectiveness of collaboration among government bodies and inter-agency councils will improve.

The Department of Social Welfare and Development is also working with ECPAT Philippines to address the non-compliance of Internet Service Providers, as the participant from this department mentioned *"we [the Department of Social Welfare and Development] are working on the Memorandum of Agreement with ECPAT Philippines in establishing a hotline for online sexual exploitation of children and the monitoring compliance of Internet Service Providers to create a technical working group to study and monitor the Internet Service Provider compliance with the Internet Service Provider duty to install filtering and blocking technology to prevent access to any form of child pornography and OCSEA"* (RA1 PH 06, Department of Social Welfare and Development).

⁹ Michelle Abad. (2019). [Internet service providers fail to report sites transmitting child porn – DSWD](#), *Rappler*.

¹⁰ Republic of the Philippines. (2012). [The Cybercrime Prevention Act of 2012 \(Republic Act No. 10175\)](#)

¹¹ Michelle Abad. (2019). [Internet service providers fail to report sites transmitting child porn – DSWD](#), *Rappler*.

¹² Filane Mikee Cervantes. (2021). [NTC ordered to penalize ISPs enabling online child sexual abuse](#), *Philippine News Agency*

¹³ Brooke Villanueva. (2021). [The bad touch: online child exploitation in the Philippines](#), *Philippine Star*

The participant from the Department of Social Welfare and Development also highlighted a number of other laws that can be used to address OCSEA cases, such as the ‘Protocol on the Case Management of Children, Victims of Abuse, Neglect and Exploitation’ based on RA 7610¹⁴ *“In handling OCSEA cases, government offices and personnel use ‘the Protocol on the Case Management of Children, Victims of Abuse, Neglect and Exploitation’, which is based on RA 7610 or otherwise known as Special Protection of Children against Abuse, Exploitation and Discrimination Act”* (RA1-PH-06-A, Undersecretary for Operations, Department of Social Welfare and Development), and RA 10929,¹⁵ the Child Online Safeguarding Policy: *“the Child Online Safeguarding Policy. Department of Social Welfare and Development is in coordination with IACACP and in consultation with the telecommunication companies and civil society organisations, was tasked to develop an online protection safeguarding the policy to mitigate the effects of the implementation of the Act to children...Department of Social Welfare and Development will follow up on the finalisation and approval of the Department of Information and Communications Technology regarding the child online safeguarding policy under a free Internet service”* (RA1-PH-06-A, Undersecretary for Operations, Department of Social Welfare and Development)

Others highlighted legislation relating to human trafficking, that while not specifically aimed at children, could also be applied to cases involving children: *“we have the human trafficking law that is the Republic Act 9208 as amended.¹⁶ That’s against human trafficking in general. It will be qualified a human trafficking crime, meaning that the penalty will be higher if it’s committed against a child. So that’s our main law that we use right now and it is passed just recently, just this century, it’s a modern or a relatively new law”* (RA1-PH-05-A, Assistant State Prosecutor, Department of Justice). The participant from the Department of Information and Communications Technology also explained how legislation relating to technology such as RA 10844¹⁷ could be used to protect children: *“it is the mandate of the department to empower the use of the disadvantaged segments of the population and that includes the children”* (RA1-PH-03-A, Information Technology Officer, Department of Information and Communications Technology).

Besides laws, participants also mentioned mandates and protocols that government agencies use when handling OCSEA cases, such as the ‘Protocol for Case Management of Child Victims of Abuse, Neglect and Exploitation’ by the Committee for the Special Protection of Children: *“We have already launched the online case management protocol where we saw the digital platform in intervening for these children. The most important role in this kind of intervention is the role of the National Bureau of Investigation and the Philippines National Police because it is the Philippines National Police and the National Bureau of Investigation that really operates and really conduct rescue operations to these children. So recently, the launching of this digital platform of case management protocol and case management intervention on the part of the social workers and on the part of the Department of Social*

¹⁴ Republic of the Philippines. (1992). [Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act \(Republic Act No. 7610 of 1992\)](#)

¹⁵ Republic of the Philippines. (2017). [Free Internet Access in Public Places Act](#)

¹⁶ Republic of the Philippines. (2003). [Anti-Trafficking in Persons Act of 2003](#)

¹⁷ Republic of the Philippines. (2015). [Department of Information And Communications Technology Act of 2015](#)

Welfare and Development is very helpful in terms of psychosocial counselling for these survivors” (RA1-PH-06-A, Undersecretary for Operations, Department of Social Welfare and Development). Highlighted in the Protocol are the roles and responsibilities of various government agencies and their partners commencing from reporting or referral of child abuse cases up to its termination, making sure that child abuse cases are prioritised and are attended to with utmost sensitivity and confidentiality.¹⁸ Hence, the Protocol aims to establish and strengthen the multi-disciplinary team/approach to address OCSEA. While these multi-disciplinary teams of police, prosecutors, judges, lawyers and health care providers have been established, weakness remains in terms of the capacity of team members. As stated by several interviewees, officials working on OCSEA should receive trainings to enhance their knowledge and skill. The justice actors involved in OCSEA cases did not directly mention the Protocol, however their working approach is child-friendly and multi-disciplinary which is aligned with the Protocol’s purpose.

Also mentioned were the ‘Guidelines on the Management of Compensation for Victim-Survivors of Online Sexual Abuse and Exploitation of Children’, and the participant from the Department of Information and Communications Technology also mentioned the Budapest Convention which supports law enforcement mechanisms in the Philippines *“I think it’s also noteworthy to mention that the Philippines is a signatory to the Budapest Convention, giving another venue for collaboration among law enforcement agencies”* (RA1-PH-03-A, Information Technology Officer, Department of Information and Communications Technology). Commitment to this convention means the Philippines aims to address the threats posed by crimes via the Internet, including child pornography.¹⁹

Challenges and limitations

The participant from the Human Rights Commission provided information on legal loopholes relating to OCSEA identified by her own analysis and a report written by the International Justice Mission.²⁰ These are explained in the table below.

Existing Provisions	Gaps in the Law
<p>Section 31 of RA 9775 provides the following duties of an internet Service Provider in child sexual abuse material cases:</p> <p>1. An Internet Service Provider/Internet content host shall install available technology, programme or software, such as, but not limited to, system/technology that produces hash value</p>	<p>According to the International Justice Mission Report, law enforcement encounters a high volume of reports from Internet Service Providers that contain very little information. The International Justice Mission proposes that “service providers should internalise responsibility in ensuring protection of children on their platforms and report any available</p>

¹⁸ Department of Justice. (2013). [The Protocol for Case Management of Child Victims of Abuse, Neglect and Exploitation](#)

¹⁹ Camille Elemia. (2018). [Senate approves treaty against cybercrime, child pornography](#), Rappler

²⁰ International Justice Mission. (2020). [Online Sexual Exploitation of Children in the Philippines: Analysis and Recommendations for Governments, Industry, and Civil Society](#).

<i>Existing Provisions</i>	<i>Gaps in the Law</i>
<p>or any similar calculation, to ensure that access to or transmittal of any form of child sexual abuse material will be blocked or filtered;</p> <p>2. Service providers shall immediately notify law enforcement authorities within seven days of facts and circumstances relating to any form of child sexual abuse material that passes through or are being committed in their system; and</p> <p>3. Service providers or any person in possession of traffic data or subscriber's information, shall, upon the request of law enforcement or competent authorities, furnish the particulars of users who gained or attempted to gain access to an Internet address that contains any form of child sexual abuse material. Internet Service Providers shall also preserve customer data records, specifically, the time, origin and destination of access, for purposes of investigation and prosecution by relevant authorities under Sections 9 and 11 of RA 9775.</p>	<p>associated information as allowed by law, rather than the minimum amount required by law. By providing more complete information, Internet Service Providers can help remove obstacles to effectively identify offenders and victims. Higher quality data will allow service providers, law enforcement and others to better identify and respond to concerning issues and trends."</p>
<p>Section 30 of the Electronic Commerce Act, or RA 8792²¹ exempts Internet Service Providers from any civil or criminal liability if it merely provides access with respect to the electronic data message or electronic document. This exemption is further qualified by circumstances providing that the Internet Service Provider: (i) must not have actual knowledge of the unlawful nature or infringing activity in relation to the material, (ii) does not receive a financial benefit directly attributable to the infringing activity, and (iii) does not directly commit any infringement or any other unlawful act nor induce another party to commit. The exemption applies provided that there exists no contrary obligation imposed on the service</p>	<p>These provisions exempting Internet Service Providers from liability must be repealed to force them to be more proactive in detecting OCSEA-related content in their servers.</p> <p>Future legislation should impose stricter obligations on Internet Service Providers to monitor content and/or remove unlawful or infringing material within their systems.</p>

²¹ The Republic of the Philippines. (2000). [Electronic Commerce Act of 2000](#)

Existing Provisions	Gaps in the Law
<p>provider under a contract, licensing or other regulatory regime established under written law. Neither should there be a contrary obligation imposed under any written law or by a court order.</p> <p>This is also substantially reproduced in Section 20 of the Implementing Rules and Regulations of the Cybercrime Prevention Act.</p>	

In terms of live-streaming, RA 9775 does not explicitly cover live-streaming of sexual content. However, the following acts under Section 4 of RA 9775 could be interpreted to capture the act of live-streaming of child sexual abuse in real time. (RA1-PH-01-A, Commissioner, Commission on Human Rights) Section 4 - Unlawful or Prohibited Acts. – It shall be unlawful for any person:

- a) To hire, employ, use, persuade, induce or coerce a child to perform in the creation or production of any form of child pornography;
- b) To produce, direct, manufacture or create any form of child pornography; To publish offer, transmit, sell, distribute, broadcast, advertise, promote, export or import any form of child pornography.

Regarding the implementation of the law, the participant from Council for the Welfare of Children highlighted criticism of the law by telecommunication companies as well as the response from child rights advocates: *“Actually, because there are some criticisms to the current law right now, some of the telecommunication companies said that some provisions in the law are unconstitutional because they say that using telecommunications to prevent child pornography is unconstitutional and it intrudes to the privacy of Internet users. But child rights advocates argue that before taking it as unconstitutional, implement the law first, because ever since the inception of the law, the telecommunication companies have never been very receptive to that provision. That’s why that provision has not been implemented yet, although we see that can really contribute to the prevention of child pornography”* (RA1-PH-04-B, Planning Officer II, Council for the Welfare of Children). To overcome this challenge, the same participant commented *“I think it’s really just about strengthening the policy advocacy and really asking these companies, these other stakeholders in the law to really implement the law first instead of looking into changing the law. Because the most common feedback that we have right now is that there are stakeholders arguing about some provisions of the law. But in the first place, we haven’t really implemented it faithfully to the most effective way that we would want it to be. And changing the landscape again would entail budgetary resources, other allocations that would somehow make the work inefficient.”*

The participant from the Department of Information and Communications Technology also mentioned issues related to the implementation of RA 9775: *“There is a gap between compliance to that particular law, specifically on the side of the service providers. And so, there are current government efforts to improve compliance, led by a technical working group which the Department of Information and Communications Technology leads on cybercrime prevention, specifically on the implementation of Republic Act 9775. This working group is tasked with identifying technologies that could help enable providers to comply”* (RA1-PH-03-A, Information Technology Officer, Department of Information and Communications Technology). The working group includes representatives from the National Telecommunications Commission, the Department of Social Welfare and Development, the Department of Justice and the International Justice Mission.

Future developments

The Human Rights Commissioner stated in their interview that a public-private collaboration called [“SaferKidsPH Consortium”](#) was developed as a six-year initiative (2019-25) to deal with OCSEA. This consortium consists of the Asia Foundation, Save the Children Philippines, the Government of Australia and is led by UNICEF. [SaferKidsPH](#) aims to create a safer environment for children: *“we call on the Government, NGOs, Communities, Parents, Caregivers and young people to play an active role in; (1) adopting positive behavior towards protection of children from online abuse and exploitation, (2) strengthening investigation, prosecution and adjudication of OCSEA cases consistent with national legislation, and (3) improving service delivery for prevention and protection of children against online sexual abuse and exploitation in OCSEA hotspots”* (RA1-PH-01-A, Commissioner, Commission on Human Rights).

The participant from Council for the Welfare of Children also stated that a series of consultations on child rights including OCSEA have been developed and regularly implemented *“right now, we are actually conducting a lot of children's consultations, we did one in February before the onset of the lockdown because of COVID-19. The inputs were actually presented to the Regional Child Online Protection Conference and actually there in Thailand that was conducted. And so, we have included two child participants in the forum that was conducted in February to the conference in March, where they presented along with the UNHCR Secretary General on violence against children. So, I think the inputs were well received and both were actually considered in the formulation of the regional plan of action that was created by the ASEAN Secretariat for Online Sexual Exploitation of Children”* (RA1-PH-04-B, Planning Officer II, Council for the Welfare of Children).

In regard to collaboration between the Department of Information and Communications Technology and ECPAT on online child protection platforms, the participant from Department of Information and Communications Technology commented on the upcoming collaboration on the development of a reporting hotline *“We [the Department of Information and Communications Technology] rely on sources from law enforcement agencies, and also from NGOs which is really a big help. Our partner is a very long-time partner, actually, and we are in the process of finalising the memorandum of agreement between the Department of Information and Communications Technology and ECPAT on the hotline, the national*

hotline. Even before these, we there have been we have been engaging with ECPAT on child online protection initiatives” (RA1-PH-03-A, Information Technology Officer, Department of Information and Communications Technology).

In February 2019, a bill entitled "An Act Protecting Children from Traveling Sex Offenders and for Other Purposes" was filed in the Senate of the Philippines. The bill included, *inter alia*, a provision that would bar foreign sex offenders, including those whose names are listed in any sex offender registry, from traveling to the country.²² The bill also directed the Department of Justice to establish a sex offender registry.²³ However, as the participant from the Department of Justice commented, this legislation has still not been passed: *“up to now, I think that bill is still on the process of being passed currently, as far as I know. If I can remember, it is still with our lawmakers. It has it has not been passed yet... somehow, I would say that it is still in the pipeline. I know that the discussions on that matter has been continuing. So hopefully there’s a chance that it would be passed sooner or later”* (RA1-PH-05-A, Assistant State Prosecutor, Department of Justice).

Progress has also been made related to extradition. In terms of extradition, the Extradition Law provides that extradition *“may be granted only pursuant to a treaty or convention.”*²⁴ As per the Implementing Rules and Regulations of Cybercrime Prevention Act, the criminal offences described under Chapter II of the Act are considered extraditable in any extradition treaty to which the Philippines is a party, provided that the offence in question is punishable under the laws of both the parties with imprisonment for at least one year or by more severe punishment.²⁵ This would make OCSEA offences, subject to these conditions, extraditable. This further implies that the principle of double criminality is applicable in extradition treaties for OCSEA offences. The Anti-Child Pornography Act provides that the Department of Justice, in consultation with the Department of Foreign Affairs, “shall endeavour to include child pornography among extraditable offenses in future treaties.”²⁶ Foreign perpetrators could therefore be criminalised under this law with collaboration with international partners: *“[It] goes with the offender that must tackle with or handle with the law in so far as the Philippines concerned, is extraterritorial in nature. That is why the law, in particular for human trafficking, can reach the offender even if outside the jurisdiction. But of course, it must require the help of our international [government] partners”* (RA1-PH-05-A, Assistant State Prosecutor, Department of Justice).

²² Senate of the Republic of Philippines. (2019). [Ban foreign sex offenders from traveling to PH -- Koko](#).

²³ Senate of the Republic of Philippines. (2019). [Ban foreign sex offenders from traveling to PH -- Koko](#)

²⁴ Republic of the Philippines. (1977). [The Philippine Extradition Law \(Presidential Decree No. 1069\)](#), Section 3.

²⁵ Republic of the Philippines. (2012). [Implementing Rules and Regulations of Cybercrime Prevention Act of 2012](#), Rule 5, Section 25(g).

²⁶ Republic of the Philippines. (2009). [The Anti-Child Pornography Act of 2009 \(Republic Act No. 9775\)](#), Section 23.

Law enforcement

Law enforcement mechanisms

Interviewees reported that there is a huge number of OCSEA cases in the Philippines. The participant from the Department of Justice highlighted the importance of protecting all child victims of OCSEA *“Under the law, there is no distinction. Equal protection must be provided, or the law see the victim, that must be protected as equal, whether local or whether a Filipino or a foreign nationality”* (RA1-PH-05-A, Assistant State Prosecutor, Department of Justice). However, loopholes were identified related to equal treatment, especially between boys and girls. For example, sexual abuse against boys has a lesser penalty than sexual abuse committed against girls and raping boys is considered only sexual assault.²⁷

Another concern is the minimum age of sexual consent being age 12, the lowest in Southeast Asia. As the age of sexual consent is so low, perpetrators sexually abusing and/or exploiting children older than 12 will not be prosecuted and face lesser punishment. In August 2019, the House Bill No. 4160 was submitted to the Congress to increase the minimum age of sexual consent from 12 to 16.²⁸ As of October 2020, the Senate counterpart bill was also approved at the committee level, yet there has been no further action since then.²⁹

Victims of OCSEA can also seek compensation through country-managed funds. In this regard, the Child Protection Act permits the courts to impose a fine on the offender which would be administered as a cash fund by the Department of Social Welfare and Development and disbursed for each child victim’s rehabilitation.³⁰ As the participant from the Department of Justice explained: *“There is a provision for a trust fund that can be used for the benefit and welfare of victims of human trafficking. It’s a good provision because the law provides for the funding that we must utilise...we must prioritise the victim. One thing to rescue them and another thing to give them after rescue care or attention, so one aspect, which is to provide them with perhaps a livelihood programme that would really help them as survivors of human trafficking”* (RA1-PH-05-A, Assistant State Prosecutor, Department of Justice). It appears that non-national victims of OCSEA offences can also seek compensation through these funds, however this was not confirmed by the participant as he had only worked with children who were Filipino or half Filipino, but he believed that in principal, all victims regardless of nationality should be able to access these funds. Others noted issues with the effectiveness of compensation for OCSEA victims. For example, the compensation is just a paper victory if perpetrators cannot find money or property to compensate to victims as ordered by the court. For victims of trafficking cases, the court may rise the amount payable from PHP50,000 to PHP500,000 for moral damages and PHP50,000 to PHP100,000 for exemplary damages, however, not all OCSEA cases are related to human trafficking.

²⁷ Inquirer News. (2020). [Romualdez’s bill plugs loophole exploited by sexual predators.](#)

²⁸ Gabriel Pabico Lalu. (2020). [CHR to Congress: Pass bill raising age of sexual consent.](#)

²⁹ Jude Acidre. (2020). [Increasing the age of sexual consent.](#)

³⁰ Republic of the Philippines. (1992). [Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act \(Republic Act No. 7610 of 1992\)](#), Section 31(f).

In relation to reporting, the participant from the Department of Justice explained that anonymous complaints are acceptable as long as the complainant can provide more information related to the reported issues: *“for example, we receive an email, then perhaps we can respond by saying or asking, do you have additional information on this, to investigate we need the particular names, the addresses of the person being complained of or perhaps do you have a link or the website or the Web page that you are referring to? As long as there is an action on our part that we have to read it out, that's the thing that we must do”* (RA1-PH-05-A, Assistant State Prosecutor, Department of Justice). This approach should encourage people and victims to report more sensitive cases like OCSEA because they do not need to disclose their identity in the complaints.

Another reporting platform is the 911 National Emergency Hotline: *“That [911 National Emergency Hotline] was issued by the president, President Rodrigo Duterte. That is the whole of the government approach. This manual is only a component of the EO 56 [Executive Order 56] because EO 56 covers all forms of necessary interventions from the government and rescue operation”* (RA1-PH-06-A, Undersecretary for Operations, Department of Social Welfare and Development).

Challenges and limitations

The participant from the Department of the Interior and Local Government mentioned the difficulty of a monitoring system and a lack of manual supporting barangay³¹ offices on OCSEA and the limited capability of officials at local level to deal with OCSEA cases: *“On the part of the Department of the Interior and Local Government determining cases of OCSEA, of course, you have to monitor them all the time, 24 hours is quite difficult at the local level...hopefully soon the Interagency Council Against Trafficking, headed by the Department of Justice, as well as the inter-agency on anti-child pornography, headed by the Department of Social Welfare and Development, will be able to develop a training manual in determining or identifying cases of OCSEA for the barangay level because OCSEA has happened mostly inside the household...obviously, not all local officials are capable of doing everything, considering that there are a lot of concerns of the local level that they need to address”* (RA1-PH-02-A, Undersecretary, Department of the Interior and Local Government).

The problem related to collaboration with telecommunication companies was also raised by the participant from the Council for the Welfare of Children: *“it's actually the companies themselves that are asking to block those pornographic sites that are not very receptive to that idea. So, that is actually one of the main features of the law to really compel these telecommunication companies to hinder the access of Internet users to these sites that promote child pornography and with them not being very cooperative and supportive. I think it's really a barrier for the Philippine government and the rest of the stakeholders working on child sexual abuse and exploitation to really protect children online”* (RA1-PH-04-B, Planning Officer II, Council for the Welfare of Children).

³¹ Barangay's are small administrative divisions in the Philippines.

Successes

A number of successes were noted by participants. The participant from the Council of the Welfare of Children highlighted the maintenance of an inter-agency/multidisciplinary approach: *“I think one of the best practice or the good practice of the country is really maintaining an inter-agency approach, because that's really been very difficult. I think it would have been very difficult for a lone agency to address the issue on children. So, I think this is one thing that I think we have been practicing, maintaining a multidisciplinary and inter-agency structure to address the issues. And of course, because if we maintain this kind of approach, then we are able to identify great recommendations, very sound recommendations to address issues on children”* (RA1-PH-04-A, Division Head, Council for the Welfare of Children). The same participant also highlighted the strong relationship between civil society organisations and the government: *“The relationship of the civil society with the Philippine government is very strong. It used to be the relationship long time ago, it was wasn't good. There would always be distrust between the government and the civil society organisations. But today, the relationship is very strong. I don't think I can identify anything that can be improved in terms of the relationship. But so far, we enjoy the support of the civil society organisations in pushing for the concerns of children, whether it is in legislation, whether it is in the programme implementation in advocacy. I think they have always been there”* (RA1-PH-04-A, Division Head, Council for the Welfare of Children)

Another participant from the Council for the Welfare of Children noted the success of the establishment of Inter-Agency Council Against Child Pornography: *“I think one of the good implications of having the IACACP is really providing that coordination platform so that agencies can really talk about the issues and how they can formulate plans and policies on online sexual abuse and exploitation of children. Aside from that, actually, the IACACP trains multidisciplinary teams, composed of the stakeholder translations of the members of the IACACP. So that includes the social workers, law enforcers, healthcare providers and even the members of the local councils for the protection of children that we have in local communities. So, the training is going to continue. I think it's really a good mechanism on how we can identify red flags in their communities and how we can efficiently coordinate the response and services at the community level when it comes to online sexual abuse and exploitation”* (RA1-PH-04-B, Planning Officer II, Council for the Welfare of Children).

The proposed criminalisation of Internet Service Providers for non-cooperation with the Department of Social Welfare and Development was also lauded as a notable success: *“We've discovered some loophole and the limitation in the law. That's why in during the 2018 Manila dialogue with the legislators, we proposed for the amendment of some provisions of the Anti-Pornography Act. The provision on making it criminally liable for those Internet Service Providers, because this kind of crime would not have been possible, I believe, if the Internet Service Providers could intercept at their level, what are the pornographic acts. I think the Internet Service Providers have a way of detecting whether the one using is a child or the particular website is a pornographic site. So that's the loophole in the law because the law merely provides administrative fines against Internet Service Providers, but not the criminal aspect...we are proposing - and I think it's already at the level of committee hearing at the House of Representatives - there is a need to*

criminalise those Internet Service Providers who do not cooperate with us in the combat against these online sexual abuse against children” (RA1-PH-06-A, Undersecretary for Operations, Department of Social Welfare and Development).

Challenges

The COVID-19 pandemic increasing the number of OCSEA cases was raised as a challenge by the participant from the Council for the Welfare of Children: *“One of the problems we have encountered actually very recently and because of the pandemic, of course, is that the children are already online or most of their time they are they are online. And so, there was a report actually to the Department of Justice on the increase in the number of violations online. So, I think this is one of the problems that we really encounter. I think it will not only be the Philippines that encounter that. Almost all of us now are mostly communicating through online. Our children are communicating through online. So, I think this will be one of the problems that we are encountering right now. But how do we deal with that? Especially because the reporting system, if how would the children or anybody else report the abuses that are being faced by the children online. We have existing helplines here in the Philippines and not only with the government, but also with the Civil Society Organisations. So, they have established these helplines. But of course, the access to it is another aspect that we have to consider” (RA1-PH-04-A, Division Head, Council for the Welfare of Children).*

The other participant from the Council for the Welfare of the Children also highlighted a number of issues. Firstly, that youth don’t view some behaviours related to OCSEA as harmful: *“my first point is that children do not think that online sexual violence is something that they need to report. We actually have studies that support this claim because they think that when performing online would not harm them because the perpetrators are just in the screen. But we all know that the effects are not just physical, but also translates to psychological implications. So, I think that one barrier that we can explain” (RA1-PH-04-B, Planning Officer II, Council for the Welfare of Children)* and secondly that cultural factors in the Philippines centres around the rights and autonomy of the family: *“according to the National Baseline Study and Violence Against Children, there are also family members who perpetrate sexual violence. This also includes online sexual exploitation and abuse. The Philippines, being a really family centric society, it’s really difficult for children to report their parents, to report their family members who are perpetrating violence against them. So, there is really a culture of silence among the victims. And it’s really hard to penetrate families when the violence happens inside the home” (RA1-PH-04-B, Planning Officer II, Council for the Welfare of Children).*

The lack of a database and inconsistencies in databases on OCSEA were also highlighted as challenges by multiple participants: *“the database on child crimes and crimes involving children online is a challenge. I’m sure you might have encountered that already. It’s currently a challenge. So, it is a challenge because only when the Department of Information and Communications Technology came into place that the need for a national database on this particular crime against children online really surfaced” (RA1-PH-03-A, Information Technology Officer, Department of Information and Communications Technology).* In

addition, the participant from the Department of Social Welfare and Development mentioned that each database contains different sets of information which is also a challenge for practitioners: *“the problem here is that we have different data because not all survivors are being interviewed under the Department of Social Welfare and Development. Some went investigation, but it's still pending. So, if you would have a comparative matrix, probably the Philippines National Police and National Bureau of Investigation have different data to the Department of Social Welfare and Development data”* (RA1-PH-06-A, Undersecretary for Operations, Department of Social Welfare and Development).

A number of participants also raised the challenges faced due to a lack of knowledge on digital devices: *“the challenge that we encounter is more when we try to talk about the technical measures that parents can employ. That's a bit of a challenge because you have to really understand the different levels of knowledge that your audience have. So that's why we try to get the audience profile first so that we can adjust our materials and ensure that the participants will really understand and will really be able to benefit from the programme. It's more on changing the mindset on the responsibility of parents. The main thing that we see when we engage the parents is that they do not really see the range of threats that children are exposed to once they turn on the Internet, it's really a lack of understanding on the threats. It's the lack of knowledge on what is really going on when a child goes online. That's something that we are trying to help our citizens on making the parents understand that once a child gets online, there's a myriad of threats that they have to face and be able to responsibly address. So that's what we're trying to get across the parents”* (RA1-PH-03-A, Information Technology Officer, Department of Information and Communications Technology). Besides parents, staff and officials working in the implementing agencies should also learn how to use digital devices and technologies: *“we must also learn the latest technology being used, you know, and for prosecutors and in the end for judges, we must appreciate electronic evidence in an interview in a new way a few decades ago. There are no such thing as chat logs, right? Now, we are presenting these forms of evidence in court, which must be appreciated by the judge in prosecuting it”* (RA1-PH-05-A, Assistant State Prosecutor, Department of Justice).