

Disrupting Harm

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

Detailed Analysis of Access to Justice and Legal Remedies in the Philippines
Interviews with Justice Actors

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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 interview sample consisted of eight individuals, which include three police officers, one public prosecutor, two judges and two lawyers. All interviewees received the questions to prepare and a consent form to sign before the interviews. The interviewees play different roles in supporting children to participate in criminal cases against OCSEA perpetrators. Their roles have been briefly outlined as follows:

- Investigation and interrogation: The three interviewed police officers work with OCSEA-related crimes, each in a different bureau: one is working at the Women Children Protection Center, another is working at the Philippine Internet Crimes Against Children Center which is under the Women Children Protection Center, and the last police officer is working at the Trafficking in Persons Division which is also under the Women Children Protection Center.
- Prosecution: The two interviewed judges were both from the family court. Both of them have more than 10 years of experience working in the justice process related to child protection, including OCSEA. They also have experience working as public prosecutors and public defenders before taking up the position of judges. The public prosecutor who was interviewed has extensive experience of working for children’s rights and has also been recognised in the media for their contribution towards the issue. The interviewed public prosecutor works closely with a multi-disciplinary team, especially with police officers, social workers and lawyers.
- Multi-disciplinary team: Two lawyers at the Children’s Legal Bureau participated in the interview. As part of a multi-disciplinary team, they provide critical support to the law enforcement unit in terms of evidence gathering, and social workers and community in terms of services and treatment provided to the children and their families. In addition, they are involved in advocacy activities to raise public awareness of OCSEA.

TYPES OF OCSEA OFFENDERS

In the Philippines, many OCSEA cases involve perpetrators from foreign jurisdictions, therefore it is important to understand the types of perpetrators before proceeding with the main findings of the interviews. Generally, there are two types of offenders involved in OCSEA cases:

Perpetrators

Perpetrators are usually from foreign countries.¹ According to SaferKids Philippines, perpetrators groom children online and pay for videos or pictures of children to be sold or shared online.²

Facilitators

“The term “facilitator” (also known as the “intermediary”) refers to the individual whose conduct facilitates or aids and abets the (sometimes commercial) contact sexual offence against the child. The facilitator may be, but is not necessarily, the person who receives the benefit or payment for the sexual exploitation of a child. The facilitator may be a taxi driver, a hotel receptionist, a family member, or anyone putting an abuser in contact with a child for sexual exploitation, whether she/he is paid for this “service” or not. It can also include the private sector in the domain of Information Communication Technologies and financial services.”³

Both “perpetrators” and “facilitators” are sexual offenders and can be prosecuted for crimes. Often, the “perpetrators” (often referred to as the “primary offenders”) are prosecuted in their own jurisdictions (home countries), while the “facilitators” (sometimes called “intermediaries” or referred to as “secondary offenders”) are prosecuted in the Philippines. Two interviewees reported that in the Philippines, the offenders based outside the Philippines pay the Filipino facilitators who are often family members of victims (Senior Assistant Provincial Prosecutor Cebu, Department of Justice, RA4-PH-03-A; Police Major, Philippine National Police Women and Children Protection Center/Philippine Internet Crimes against Children Center, RA4-PH-08-A).

¹ SaferKidsPH. (n.d.). [What is Online Sexual Abuse and Exploitation of Children?](#)

² *Ibid.*

³ ECPAT International. (2016). [Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse](#). 89.

Access to the Justice System

Services provided to victims of OCSEA during the criminal justice process

The Women Children Protection Center plays a critical role in providing services to OCSEA victims. One interviewee explained the responsibility of the Women Children Protection Center: *“the function of our office is to conduct an investigation on the trafficking in persons, including the violence against women and children. Our office is the one that handles the investigation and the enforcement of laws against trafficking in persons and violence against women and children, and we also gather intelligence and conduct operations in cases of trafficking in persons, which include computer-based [computer-facilitated] investigation and prostitution of children”* (RA4-PH-07-A). It appears that all services available to OCSEA victims are available to child sexual abuse victims generally.

Five other interviewees also mentioned that their operational processes relate to the Women Children Protection Center. For example: *“when a complaint is filed before the police station by a child victim, it is a standard operating procedure for the women and children desk to refer the child to the protection center which is a one stop shop establishment of the local government for abused children”* (Judge, Regional Trial Court, Branch 71, Pasig City Supreme Court, RA4-PH-01-A).

Explaining further the working of Women Children Protection Center, one of the interviewees said: *“In the Philippines, our police or the Philippine National Police have these specific offices for women and children, it's the Women and Children Protection Center. And for every Barangay,⁴ there is also a women and children protection desk... So, cases or complaints involving children and women go to that specific department and there are specific police officers”* (Legal Officer, Children’s Legal Bureau, RA4-PH-04-A).

Another organisation that was mentioned by three interviewees is the Department of Social Welfare Development, especially in terms of social welfare services and consultation provided to children and their families: *“With the help of the social workers, the Department of Social Welfare Development, the social workers are the ones helping us during the entrapment, usually we coordinate, and we do the operation jointly so that they are the ones who will give the psychological evaluation...it is not traumatic for the children to separate from their parents. And the social worker can explain literally why we do the entrapment or why we are doing this, why we need to rescue or why we need to separate the victim from her parents”* (RA4-PH-07-A). By thoroughly explaining the process to children, social workers play an important role in making it less traumatic for children. In addition, the Department of Social Welfare Development provides services to assist child victims during and after the trial process to ensure the children’s well-being (Legal Advocacy Officer, Children’s Legal Bureau, RA4-PH-06-A).

Regarding the differential treatment afforded to boys and girls in terms of services, one interviewed lawyer commented *“I can say that there is a huge difference [between girls and boys] because if the victims are girls, the problem is they would be mixed with girls who have violated the law or are in conflict with the law because there is no separate facility for children in conflict with the law. In the case of boys, there are separate facilities for children in conflict with the law and boys who are victims.”* (Legal Officer, Children’s Legal Bureau, RA4-PH-04-A). This interview shows that though OCSEA laws

⁴ The smallest administrative division in the Philippines.

in the Philippines afford equal protection to all children below the age of 18, in practice, child victims might be discriminated against based on their gender.

As well as the difference in services provided, the penalty ordered to perpetrators who sexually abuse and exploit boys and girls is also different: *“If we look at rape, because there are also instances in which the child sexual exploitation and the OCSEA could be also filed together with rape. And if it's rape, there is a huge difference between girls and boys, because if it's a girl victim, then the penalty would reach even up to forty years. But if it's a boy, it'll be around 12 years, or it could be really lower because there's no penetration of a vagina, which is how we define it in our revised penal code, that there should be penetration. For the boys, it's only the anus. And we call that sexual abuse only. It's not rape by sexual intercourse. That's the part of the law that really differentiates boys and girls.”* (Legal Officer, Children's Legal Bureau, RA4-PH-04-A). On a more positive note, the interviewee mentioned that the Senate is reviewing a bill to amend the present law⁵ and provide fair treatment between boys and girls in this respect.⁶

From the interviews, it appears that the two interviewed lawyers have a broader scope of work compared to other interviewees working closely with the multi-disciplinary team, especially police officers, social workers and prosecutors, as well as community and relevant organisations. As one of the lawyers explained: *“From the start, we usually conduct an investigation when we receive reports of a particular online exploitation happening in a specific place. Usually, the number of [child] victims involved is not yet very certain. So, we conduct the investigation and we closely work with the police or the law enforcement. And then we conduct case conferences to verify information, to gather data until we set a schedule for entrapment so the police will conduct the entrapment operation and we usually go with them as lawyers to help them, to assure them that we are abiding by the requirements of the law in terms of warrantless arrest. And there are also instances where an arrest is done with a warrant. So, we still help police officers in obtaining a search warrant. And then until the arrest of the perpetrator, we assist in taking judicial affidavits of some of our clients, of the children, of witnesses, their parents. In addition to the legal service or preparing all the legal work until the filing of the case and leading to the prosecution, to the trial until judgment... we also closely work with the Department of Social Welfare Development, and other non-government organisations, we call them shelters, where the children will be placed for processing until such time that they're ready to be reintegrated to their respective communities. We also work with other organisations for their psychosocial services and we also help there... We work with other organisations in helping their [child victims] families, especially with their livelihood. So, in those respects, we are more on coordinating with other agencies, but primarily we are on the legal services”* (Legal Advocacy Officer, Children's Legal Bureau, RA4-PH-06-A). Besides doing the usual tasks, these lawyers actively coordinate with other agencies in activities such as conducting investigations and aiding and assisting the police in carrying out lawful arrests, providing psychosocial services, etc. Such cross-sectoral collaborations could lead to sharing of resource and expertise, and could therefore prove beneficial for successful investigations and prosecutions, given the complex and sophisticated nature of OCSEA crimes.

⁵ Republic of the Philippines. (1997). [Revised Penal Code of 1930 \(as amended by Republic Act No. 8353\)](#), Article 266-A; [Republic of the Philippines. \(1930\). Revised Penal Code of 1930 \(Act No. 3815\), Section 266-B.](#)

⁶ Republic of the Philippines. (2020). [House Bill No. 7836.](#)

How OCSEA cases come to the attention of criminal justice actors

Since all the interviewees are government officials, children come to their attention mainly through reports received by police officer's and from a referral system, or through the general mechanism established under the criminal justice system for prosecutors and judges: *"Usually, the child victim comes to my attention only when a case is filed in court. Except, of course, if the city's social welfare development office will file a petition for protective custody of the child, then that is the time that I can take cognisance of the case of the child to know if the child will have to be given to the city social welfare department office"* (Judge, Regional Trial Court, Branch 71, Pasig City Supreme Court, RA4-PH-01-A).

One interviewed prosecutor noted that in case of OCSEA or child abuse, victims generally prefer public prosecutors over private ones: *"I don't get to choose what cases I will prosecute. So, it depends on the cases referred to my court if it involves online sexual exploitation, abuse of children, unless the private offended party or the victim opts to engage the services of a private prosecutor. But almost always the private offended party in these cases don't hire private prosecutors to do that. So, we don't get to choose what cases we handle in courts"* (Senior Assistant Provincial Prosecutor Cebu, Department of Justice, RA4-PH-03-A).

An interviewed lawyer mentioned another mode through which OCSEA cases come to their attention: *"The children come to our office, come to our attention through reports from our community watch groups or child rights advocates, it could also be from our partner NGOs, and even sometimes through our partner private organisations, because we also do conferences with the private sector. So, since they're already aware, they will report like about a possible paedophile"* (Legal Officer, Children's Legal Bureau, RA4-PH-04-A). Insofar as the OCSEA cases involving non-national perpetrators are concerned, foreign law enforcement partners refer such cases to the Philippine Internet Crimes Against Children Center (Police Major, Philippine National Police Women and Children Protection Center/Philippine Internet Crimes against Children Center, RA4-PH-08-A).

Regarding accepting anonymous complaints, the same interviewee answered that *"we asked them [anonymous complainer] to disclose everything we have to know, so we actually have an online form for our reporting so that we could gather whatever that is necessary for us to conduct an investigation or for us to refer the case to the proper government agency...lack of information would make it hard for us to do our work...but if there is already necessary information that would also enable us to do the investigation, we conduct our own surveillance and investigation first before directly coordinating with the law enforcement agency."* Therefore, although anonymous complaint is acceptable, the complainants are asked to disclose all the necessary information pertaining to the case. This is critical to aid the investigation efforts of the law enforcement authorities.

Regarding online anonymous complaints, another interviewed lawyer pointed out that, according to her, online complaints have increased during the COVID-19 pandemic since the complainants are not afraid that their identity will be exposed. Some complaints are even submitted by victims, which has never been done in the past, although she faced another challenge to identify those victims for rescue: *"Although we have received reports already from victims themselves, they would really say that because it's online and they seem to feel that their identity is confidential. So, I think that is really the hardest part. The incidents have happened already in the past, and yet this is the only time they have reported the incident because [normally] they are afraid to report. And I think that is the reason, the*

primary reason why in the past we never received complaints from the victims themselves” (Legal Advocacy Officer, Children’s Legal Bureau, RA4-PH-06-A).

Participation in the Justice Process

Description of how children participate in the criminal justice process

Children can participate in the criminal justice process as victims or as witnesses. The Philippines developed a ‘child examination witness rule’ to ensure the credibility of child victims/witnesses, as stated by one of the interviewed lawyers: *“The child examination witness rule, that is the law allowing children to be credible witnesses, because generally we know what the law says is that a child cannot be a witness or is not a credible witness, because when you present a witness in court, they must be competent. So, there are instances in the past where the competency of the child is questioned because they would say that a child does not fully understand yet, everything. So now, we have this child examination witness rule wherein the child is considered a competent witness”* (Legal Advocacy Officer, Children’s Legal Bureau, RA4-PH-06-A). Here, the interviewee has referred to the Rule on Examination of Child Witness passed by the Supreme Court into law in 2000.⁷ Under the rule, a child is presumed to be qualified to appear as a witness, unless contrary is proved through a competency examination.⁸

Description of what the criminal justice professionals see as the hardest part for children taking part in criminal cases against their abusers

Based on the inferences drawn from the interviews, it appears that reporting remains the hardest part for child victims due to a variety of reasons. Most children are afraid to report a crime: *“And in fact, out of the many victims, like at least five child victims, only one would report that [crime]. And she would say that my parents are unaware of this and I’m afraid to tell them. I did not tell them because I’m afraid of what would happen to me and my family. I’m afraid that the videos of me would be circulated”* (Legal Advocacy Officer, Children’s Legal Bureau, RA4-PH-06-A). These findings are in line with previously conducted research which showed that children exploited in prostitution or pornography are particularly unlikely to report abuse.⁹ Children’s silence about their experiences could negatively impact their chances to access justice.¹⁰

Another difficulty that children taking part in criminal cases face is when the abusers are their own parents or relatives. Reporting about experiences of abuse or exploitation committed by a parent or relative would be the reason their parents or relatives are put in jail, leading to children feeling guilty for reporting OCSEA cases against abusers who are members of their own family. Several interviewees confirmed this issue through the interviews, for example: *“So there are several instances that are so difficult for the child who has this kind of experiences and especially telling their story. There is always the shame to tell the story. They’re hesitant, especially if the perpetrator is his or her parents”* (Judge, Regional Trial Court, Branch 71, Pasig City Supreme Court, RA4-PH-01-A).

Consequently, children are often reluctant to participate in the justice process. An interviewee highlighted how in the majority of the cases in the Philippines the perpetrator is the mother of the child: *“More than 50 percent or roughly around 60 percent are actually mothers of these children. So,*

⁷ Supreme Court of the Republic of the Philippines. (2000). [Rule on Examination of a Child Witness](#).

⁸ Supreme Court of the Republic of the Philippines. (2000). [Rule on Examination of a Child Witness](#), Section 6.

⁹ ECPAT International. (2017). [Through the Eyes of the Child: Barriers to Access to Justice and Remedies for Child Victims of Sexual Exploitation](#). 19.

¹⁰ *Ibid.*, 19.

it gets very traumatic for the child victim feeling guilty that she's the reason why their mom is being arrested" (Chief and Trafficking in Persons Division, Philippine National Police Women and Children Protection Center, RA4-PH-05-A). This guilt might prevent children from reporting cases. One of the interviewees from Women Children Protection Center noted that when parents are arrested, children might struggle with separation anxiety (RA4-PH-07-A).

Another respondent talked about how difficult it is for children to disclose the details of their traumatic experiences owing to trust issues: *"There is actually a challenge to interview an OCSEA survivor, knowing that they have trust issues simply because how can they trust an interviewer? Well, in fact, the very first person that must have protected them, actually their mothers who were their abusers"* (Chief and Trafficking in Persons Division, Philippine National Police Women and Children Protection Center, RA4-PH-05-A).

The interviewee from the Women Children Protection Center also talked about logistical challenges in children accessing justice, for example some child victims/witnesses facing difficulty to travel from their residence to the court: *"It's hard for the children to attend court duties especially if they are far from the court, that is one of the challenges. The distance really matters, there will be a slow criminal justice system because of this distance"* (RA4-PH-07-A). The interviewee further stated that the COVID-19 pandemic has further exacerbated this problem as due to lockdown restrictions, children are unable to attend court in person.

Description of what is done by different criminal justice professionals (police, judges, prosecutors, lawyers, or other relevant staff) to make the process easier for children

The interviews showed that there are several mechanisms in place to make the criminal justice process easier for child victims. These include:

The establishment of the Women Children Protection Center: The interviewee from the Women Children Protection Center traced the Center's origin to the first women's desk that was created in 1993. Explaining the purpose to establish the Women Children Protection Center, the interviewee said: *"In 1992, there was the enactment of laws especially on violence against women and children, and on child abuse. The Women and Children Protection Desk was established (...) to create a sole agency to cater to the cases of women and children involving violence, exploitation, maltreatment and abuse"* (RA4-PH-07-A).

A key feature of the workings of the Women Children Protection Center is the adoption of a multi-disciplinary approach for gathering information from child victims and child witnesses. In this context, one interviewed judge explained: *"When the child is in the child protection center, there will be only one questioning, and expert people will be there. The police, the social service worker, the doctor and the psychologist. So, they will be there observing the child while the police are asking questions and maybe they can give some questions to the police to be answered by the victim. Now, when, upon observation of the psychologist, she feels that the child is traumatised, she will immediately conduct the psychological evaluation of the child. And then she finds that the child has to be referred to an expert. Then the psychologist will bring the child to the Philippine General Hospital for psychiatric evaluation and to give also services there"* (Judge, Regional Trial Court, Branch 71, Pasig City Supreme Court, RA4-PH-01-A). This multi-disciplinary way of working adopted by the interviewees is embedded

in the Philippines’ Protocol for Case Management of Child Victims of Abuse, Neglect and Exploitation, 2013.¹¹ The Protocol acknowledges that child victims need an array of services as their needs are multi-faceted. A multi-disciplinary approach is therefore critical for cases involving child victims of abuse, neglect and exploitation.¹²

Role of experts: One interviewed judge shared that she usually asks the social worker to prepare the social case studies report that will be submitted to her. The report will explain about the background of the child victims, which will help the judge to make proper considerations. Beside the social case studies report, this interviewee also asks the social workers to conduct a parental capability assessment to check if the parents are capable enough to take care of victims (Judge, Regional Trial Court, Branch 71, Pasig City Supreme Court, RA4-PH-01-A).

As explained previously, the abusers of OCSEA cases in the Philippines are often the parents or relatives of victims. Consequently, children are often reluctant to participate in the justice process. To overcome such obstacles, the interviewees stated that a trustful and friendly environment must be established by experts, such as social workers, to ensure that the identity and dignity of the children are protected: *“So, with that, usually as a judge, I will ask the social worker to counsel the child, with the help of the psychologist. And also, there are instances where the child victim will be fearful of the perpetrator, especially if he or she knows the perpetrator... So it is important that, especially since this is a very sensitive case, the police, the judges and other adults must be conscious of the confidentiality, or the identity of the victim and also the procedure, the real name of the victim and her personal circumstances must be withheld from the public”* (Judge, Regional Trial Court, Branch 71, Pasig City Supreme Court, RA4-PH-01-A).

Some children might also take years to open up and tell their stories: *“There are even cases where I have talked to them for more than a year already. They disclosed to me some things. But then when I asked them if that’s all that happened, they would always say no. It’s very hard for them to disclose everything that happened... the social worker is very helpful in putting the right mood and setting the mood of the child to disclose”* (Legal Officer, Children’s Legal Bureau, RA4-PH-04-A). This signifies the valuable service that the social workers provide in the whole process.

In addition, the social workers play a key role in preparing the child victims and witnesses to be familiar with the court procedure, ensuring that the children are not nervous during the testimony. One of the interviewees working as a judge stated: *“I will ask the social worker to let the child be familiarised with the court procedure, if possible to bring the child to the court and the social worker will explain where she’s going to sit when she gives testimony and what should be her behaviour when she is inside the courtroom”* (Judge, Regional Trial Court, Branch 71, Pasig City Supreme Court, RA4-PH-01-A).

Collaboration of a multi-disciplinary team: Although the Women Children Protection Center is established, a multi-disciplinary team including the police, social workers, local community and others needs to collaborate for long-term and comprehensive protection of child victims and witnesses. One of the judges clarified: *“If I can see that the child is afraid, I would always issue a proper protection order, that the accused will have to stay away from the child or to communicate with her directly or indirectly. And I will have to provide the Barangay where the minor is living, and the police precinct*

¹¹ Department of Justice. (2013). [Protocol for Case Management of Child Victims of Abuse, Neglect, and Exploitation](#), 28.

¹² *Ibid.*, 11.

situated in the place where the child is living, a copy of my protection order so that they will know, and they will be aware that this child is being protected by the court” (Judge, Regional Trial Court, Branch 71, Pasig City Supreme Court, RA4-PH-01-A).

Another interviewed judge also mentioned the importance of a multi-disciplinary team through the child protection network: *“In the Philippines we have the child protection network. It’s an organisation, which is based in the Philippine General Hospital, and it handles psychological, physiological [aspects] to assist the child, the victims so that they could be prepared and at least be advised on what will happen, and also being taken care of” (Judge, Supreme Court of the Philippines, RA4-PH-02-A).*

Another respondent commented: *“We actually have the protocols firstly, whenever we engage or work on an operation involving children, there must be a social worker presence. And then before we conduct the operation, we already identify to which shelter we are going to put them after filing of the case, and then is there will be arrangements” (Chief and Trafficking in Persons Division, Philippine National Police Women and Children Protection Center, RA4-PH-05-A).*

Virtual participation in criminal proceedings: As discussed previously, for some child victims/witnesses, it is difficult to travel from their residence to the court and the COVID-19 lockdown restrictions in the country have only made it more difficult for them (RA4-PH-07-A). However, the problem can be solved by enabling online meetings and court participation. Regarding this, one respondent noted: *“During this new normal, we can implement this kind of [online] venue easily and there will be an interaction or communication with the court and the children who will be appearing in court, I think this is one solution that we can develop. This is best, especially in court wherein they can appear even if they are far from the court. We can use this kind of venue. I think this is a very good venue for the witnesses so that they can appear in court. I think we can really use this and we can actually recommend this because [otherwise] children cannot appear in court” (RA4-PH-07-A).* The interviewee also expressed that she would recommend continuing to use the tools even after the COVID-19 pandemic since it is useful.

Rule on Examination of a Child Witness and the protocol on case management: The Supreme Court, via Circular A.M. No. 004-07-SC dated 21 November 2000, passed the Rule on Examination of a Child Witness.¹³ These rules contain tools and mechanisms to minimise the trauma on children.¹⁴ One interviewee talked about her experience using a video tape in-depth interview, which is one of the tools envisaged by the examination rules:¹⁵ *“There are so many tools or mechanisms under the rules that we can utilise to minimise trauma on the part of children. One is the video tape in-depth interview, which I used in my case. The first one I used in 2011, immediately after the children were rescued, they underwent debriefing and we identified who among the children can give truthful narration of what happened, and then I recommended that all of the children undergo a forensic interview by a child protection specialist who is trained as a forensic interviewer, because that is also one of the ways required under our rules...we recorded the forensic interview of all the children. This is also to avoid multiple interviews that may retraumatise the children” (Senior Assistant Provincial Prosecutor Cebu, Department of Justice, RA4-PH-03-A).* Another interviewee stated: *“We can use the videotaped interview, we do an in-depth interview so that they will no longer appear in court. This venue is very*

¹³ Supreme Court of the Republic of the Philippines. (2000). [Rule on Examination of a Child Witness](#).

¹⁴ *Ibid.*

¹⁵ *Ibid.*, Section 27.

good, and we can recommend this kind of avenues for children or for victims to testify in court” (RA4-PH-07-A).

Another tool created under the examination rules is LiveLink.¹⁶ LiveLink was created to help reduce the pressure or anxiety of child victims/witnesses during the testimony. One of the interviewees shared how LiveLink technology works: *“The child would be testifying in a separate room, not inside the courtroom. Now, in my situation, in my court, the child sits inside my office and then the accused, the counsel for the accused and the public prosecutor and me, we sit inside the courtroom. So that child would be able to testify bravely because there’s no face-to-face confrontation between him and the accused and the right of the accused is still respected because the accused could see the child testifying in the court monitor inside the courtroom”* (Judge, Supreme Court of the Philippines, RA4-PH-02-A). However, according to another interviewee, the LiveLink technology is available only in some family courts: *“Unfortunately, not all courts, family courts in the Philippines are equipped with the necessary facilities”* (Senior Assistant Provincial Prosecutor Cebu, Department of Justice, RA4-PH-03-A). For the courts that cannot use this tool, the implementing partners solve the problem by positioning the children out of sight of the perpetrators and will turn to point their finger to the perpetrators only when the judge asks, rather than making the child sit face-to-face with the perpetrators at the witness stand.

The position of child victims in the court room was mentioned by another interviewee: *“In the view of the child examination witness rule, I would request that the children will testify and he will be seated in such a way that he will not directly see his perpetrator...our social worker will also try to hide the perpetrator. We will block the view of the perpetrator just to avoid our child witness to be traumatised”* (Legal Advocacy Officer, Children’s Legal Bureau, RA4-PH-06-A).

The statements of the interviewees show that these rules are being implemented in practice. According to one interviewee, the rules on child examination together with the Protocol for Case Management of Child Victims of Abuse, Neglect, and Exploitation, 2013 developed by stakeholders such as ECPAT and the Department of Justice¹⁷ provide a robust framework for handling cases involving children: *“ECPAT helped in the creation of our protocol for case management for child abuse cases. This case management is on the part of the Department of Justice while, on the part of the judiciary, the Supreme Court develop the rules on examination of a child witness. So, combining the tool and training our law enforcement officers, prosecutors and social workers and judges, that’s a very good thing for the judiciary. Since there are lots of conviction due to those trainings”* (Judge, Supreme Court of the Philippines, RA4-PH-02-A).

Memorandum of Agreement with the Anti-Money Laundering Council: According to one interviewee, the Memorandum of Agreement with the Anti-Money Laundering Council can effectively support his work on international money transactions between foreign offenders/primary offenders and facilitators based in the Philippines: *“[The Anti-Money Laundering Council] has the overall control of all the financial institutions here in the Philippines. So, if we request, let’s say, a bank account, so we just go to the Anti-Money Laundering Council or even just the names of individuals who are suspected to be receiving money from foreign offenders, we will just request this information with the Anti-Money*

¹⁶ *Ibid.*, Section 25.

¹⁷ Department of Justice. (2013). [Protocol for Case Management of Child Victims of Abuse, Neglect, and Exploitation](#).

Laundering Council. So, they're the ones usually providing information, although we do not have a direct agreement, a formal agreement with Western Union, we are in close cooperation with a high ranking officer at Western Union whom we can directly contact via email to request information about individuals that are suspected of receiving money from abroad. Besides, we have a direct contact with PayPal including PayPal transactions. And we have just started collaborating with the European money transfer [companies]. We had the first online meeting with them, explaining to them that we need their assistance to further investigation because a lot of foreign offenders are from Europe. And also, we have collaboration with our local money remittance [companies] here” (Police Major, Philippine National Police Women and Children Protection Center/Philippine Internet Crimes against Children Center, RA4-PH-08-A). Generally, the perpetrators based in other countries will transfer the money to Filipino facilitators using several providers. As stated by the same interviewee: “We have also investigated PayPal accounts, MoneyGram, there are a few bank accounts. And just lately, we are engaging with the other facilitators who are utilising Bitcoin. So, it’s getting hard for us, but still, we are doing our best to get them” (Police Major, Philippine National Police Women and Children Protection Center/Philippine Internet Crimes against Children Center, RA4-PH-08-A).

Five Pillars Dialogue: This mechanism was introduced by one of the interviewed lawyers working at the Children’s Legal Bureau. In summary, the dialogue encourages the information sharing among ‘five pillars’ in the justice system including the Children’s Legal Bureau, the prosecution, law enforcement, the judiciary and civil society, in terms of child protection and promotion of the rights of the child as stated by laws. Besides sharing information, the five pillars also engage in advocacy to raise awareness. Under this dialogue, the Children’s Legal Bureau also assists the law enforcement unit on the cases to ensure that every step is lawful and acceptable: *“To the law enforcement, we assist them in gathering necessary evidence, pieces of evidence such that only the affidavits of our witnesses, but even actual and physical evidence like the computers, the data in the computers. At the same time, the arrest, because those are very crucial and critical aspects which will really impact the result or the outcome of the case, for example, if the arrest is unlawful, then definitely if the arrest becomes illegal. So, it will really impact the case or if our evidence is not sufficient, if we were not able to preserve our electronic evidence like the recordings or the videos or the photos, if we don't follow the rule in preserving our evidence, then the evidence becomes unacceptable. Or we cannot present in court any more so than our case becomes weak. If you don't have sufficient evidence and this is a criminal case and this is a very heavy case, so we need to prove it beyond reasonable doubt. So, there must be no doubt to the judges in convicting the perpetrator” (Legal Advocacy Officer, Children’s Legal Bureau, RA4-PH-06-A).*

The establishment of Philippine Internet Crimes Against Children Center: One of the interviewees spoke about the Philippine Internet Crimes Against Children Center which was established in 2009, as one of the critical mechanisms to protect children from OCSEA: *“In 2009, Philippine Internet Crimes Against Children Center was created as a result of this agreement between the Philippine law enforcement and our foreign partners, which became the founding partners of the Philippine Internet Crimes against Humanity Center. So, these are the Australian Federal Police, the National Crime Agency of the United Kingdom, and the International Justice Mission. So, I think you know about the background of these NGOs, so these three founding partners, they are supporting this center, the Philippine Internet Crimes Against Children Center, all the aspects belonging to the center in terms of capacity building, training of personnel, resources like equipment” (Police Major, Philippine National Police Women and Children Protection Center/Philippine Internet Crimes against Children Center,*

RA4-PH-08-A). Therefore, the Philippine Internet Crimes Against Children Center is supposed to provide support to law enforcement in terms of digital evidence gathering which is a significant challenge for local police officers and law enforcement units.

Besides the Philippine Internet Crimes Against Children Center, the interviewee (Police Major, Philippine National Police Women and Children Protection Center/Philippine Internet Crimes against Children Center, RA4-PH-08-A) identified the following mechanisms that are partly involved with OCSEA case management:

- The Philippine National Police Anti-Cybercrimes Group: *“it is a separate unit that has a broad coverage pertaining to cybercrime. Actually, it includes also the online sexual exploitation of children. But considering that there is another office which is mandated to investigate all types of trafficking in persons in which the online sexual exploitation of children is trafficking in persons case, by nature, it just so happens that there is a component of the cybercrime. So that is why this can also be considered cybercrime. Philippine National Police Anti-Cybercrimes Group has a broad mandate of cybercrime, all types of cybercrimes... Philippine National Police Anti-Cybercrimes Group works in collaboration with Women Children Protection Center...all cases pertaining to online sexual exploitation of children are referred by foreign law enforcement partners to Philippine Internet Crimes Against Children Center.”*
- The AngelNet Project: *“this is an online reporting mechanism about all forms of online exploitation of children. It is within the Philippine National Police Anti-Cybercrimes Group.”* However, the interviewee was uncertain whether this project was still active.
- Bantay Bata 163: *“Bantay Bata 163...is connected with the Department of Social Welfare and Development, so when you report about any kinds of abuse to the children, then you have to call that number 163...it is a non-government entity under a TV network - a social welfare programme...they [Bantay Bata 163] usually refer the case to these Department of Social Welfare Development and then Department of Social Welfare Development finds a reason for further investigation than they forwarded to the law enforcement.”*

It must be noted that most of these mechanisms do not specifically exist for victims of OCSEA but for all child victims in general.

Description of what is done by different criminal justice professionals (police, judges, prosecutors, lawyers, or other relevant staff) to make the process harder for children

Despite the presence of rules, laws and procedures on paper which establish child-sensitive justice, the justice systems often end up retraumatizing the children. In this regard, the interviewed judges mentioned that implementers and specialists, such as the police, doctors, prosecutors and judges can retraumatise OCSEA victims due to repeated questions. However, this problem can be overcome by employing the services of the Women Children Protection Center. The Women Children Protection Center provides social workers and experts to work with child victims and child witnesses in a child-friendly manner.

Additionally, the lack of knowledge and skills of the police at the local level to handle OCSEA cases, which are related to technology, is a big challenge: *“Most of the online cases are being handled by police officers at the national level. So, the police officers at the local level are not trained to handle this kind of cases...Just imagine the stress of going to a faraway place when she [the victim] can just*

report in the place where she is residing” (Judge, Regional Trial Court, Branch 71, Pasig City Supreme Court, RA4-PH-01-A). This may hinder reporting of OCSEA cases.

Another issue that could complicate the process, and which was pointed out by one of the interviewees, is that police officers could be involved in tampering with evidence, whether deliberately or not: *“When police officers are negligent in collecting evidence, sometimes they are even the ones tampering with the evidence”* (Judge, Supreme Court of the Philippines, RA4-PH-02-A).

Compensation

Support to OCSEA child victims to seek compensation

One of the interviewed police officers explained how Filipino child victims can seek compensation from the primary offenders (based outside the Philippines), using the multi-disciplinary approach, in particular through the social worker: *“Although not all countries provide compensation like [in the case of] the Australian nationals, even if they're convicted, it's not in their law to provide compensation or restitution to the victims. But with regard to the US, they have and some of the Nordic countries as well”* (Chief and Trafficking in Persons Division, Philippine National Police Women and Children Protection Center, RA4-PH-05-A). The interviewee went on to say that whenever the authorities from a country where the perpetrator has been convicted reaches out to them regarding help with the payment of compensation to the child victim, they help them connect with the child through a social worker: *“We have already several cases where the Filipino child victims actually received compensation... In several cases that we handled, it's actually the country where the convicted felon [lived/resided] reached out to us to seek our help in order to facilitate the payment of the compensation”* (Chief and Trafficking in Persons Division, Philippine National Police Women and Children Protection Center, RA4-PH-05-A).

The interviewee from the Women Children Protection Center stated that it is a duty of the Department of Social Welfare Development to support children to seek and obtain monetary compensation: *“I think when it comes to money, the compensation or financial assistance, this is the work of the Department of Social Welfare Development”* (RA4-PH-07-A). The interviewee explained a case wherein a child victim sought education related financial assistance and support from the Department of Social Welfare Development and the Department of Social Welfare Development was able to provide it. The interviewee further mentioned that the Department of Labour and Employment also helps victims with compensation and financial assistance (RA4-PH-07-A).

Experiences related to supporting children to seek compensation (difficulties, strategies, successes)

According to the interviewed judges, compensation can be claimed under different provisions and requested from the offenders:^{18 19 20} *“When I decide the case, usually the judge will include already the civil indemnity, the moral damages, the exemplary damages and other actual damages of the victim who was filing the case”* (Judge, Regional Trial Court, Branch 71, Pasig City Supreme Court, RA4-PH-01-A).

It is noteworthy that the Philippines does not have guidelines for OCSEA compensation (this is further elaborated on in section (c) below). Therefore, in the Philippines, the courts order compensation on a case-by-case basis, taking into consideration the relevant damages. In this context, one of the interviewed lawyers explained: *“In the Philippines, though, there are different kinds of damages. So, we have actual damages. We have nominal damages, exemplary damages. So, all of those kinds of damages which are applicable for compensation. So, it can be actual, for example, the cost of actual*

¹⁸ Republic of the Philippines. (1992). [An Act Creating A Board of Claims Under the Department of Justice for Victims of Unjust Imprisonment or Detention and Victims of Violent Crimes and For Other Purposes \(RA 7309\), Section 2\(b\).](#)

¹⁹ Republic of the Philippines. (2003). [An Anti-Trafficking in Persons Act 2003 \(RA 9208\).](#)

²⁰ Republic of the Philippines. (2009). [The Anti-Child Pornography Act of 2009 \(RA 9775\)](#), Section 14.

expenses for medication if the children went through medical examinations or medication for treatment or whatever. And then we also have the moral damages for the humiliation that the children experienced for the abuse. We also have exemplary damages. So, to set an example against that abuser, because of course, this is really something that we should deter from doing so actually, all of the different damages that are applicable can be given to the children...aside from the criminal aspect of a case, there is a civil aspect. So that's where compensation comes in, the civil aspect for damages in the form of compensation" (Legal Advocacy Officer, Children's Legal Bureau, RA4-PH-06-A). The interviews also highlighted that courts award damages for, among other things, mental distress or other intangible injury: *"In our criminal justice system, aside from rendering judgment of conviction in criminal cases, the court would also award damages in favour of the minor complainant. So, in my recent decision, I awarded moral damages in the amount of 10,000 US dollars for each of the minor victims"* (Judge, Supreme Court of the Philippines, RA4-PH-02-A).²¹

One interviewed judge mentioned the plea bargaining as a significant system to help children receive compensation: *"Except if when the accused will enter into a plea bargaining agreement and then he will apply for probation, then that's the time that I will impose as one of the conditions, the payment of the civil aspect of the case. And by that, the accused will be forced to work hard to produce that money, otherwise he will have to be imprisoned if you cannot produce the money"* (Judge, Regional Trial Court, Branch 71, Pasig City Supreme Court, RA4-PH-01-A).

The plea bargaining is also utilised as an alternative approach to spare the children from the formal court process. One interviewee mentioned: *"we're promoting plea-bargaining as a victim-centred approach also now"*(Senior Assistant Provincial Prosecutor Cebu, Department of Justice, RA4-PH-03-A). Elaborating on this further, the interviewee said: *"It spares the child from going through the formal court process. So, this is one of the ways by which we can protect the child from being traumatised. And this expedites the criminal justice process, because once there is a plea-bargain that is entered between the parties, the sentence may be reduced, but we can still get a conviction without letting the child go through the criminal justice process."* Whilst alternative approaches are needed while dealing with child victims, the authorities must ensure child victims do not face any kind of pressure to settle with offenders, even when they are willing to participate in a criminal prosecution. Such agreements should only be approved after consideration of the child's views and best interests, as well as the potential risk of harm to others.²² Such cautions are already in place for trafficking cases in the Philippines and contained in the law itself.²³ These should also apply to OCSEA cases.

One interviewed judge explained that there is a compensation from the Department of Justice, but then the child will have to apply for that with the assistance of the social worker, who helps the child to file a claim at the Department of Justice (Judge, Regional Trial Court, Branch 71, Pasig City Supreme Court, RA4-PH-01-A). It must be noted that pursuant to the provisions of the Anti-Child Pornography Act, a child victim of OCSEA is considered a victim of a violent crime under the Act creating a Board of Claims under the Department of Justice for Victims of Unjust Imprisonment or Detention and Victims of Violent Crimes and for Other Purposes and hence, is eligible to seek compensation under this Act.²⁴

²¹ The case concerned national perpetrators and foreign victims.

²² ECPAT International. (2017). [Through the Eyes of the Child: Barriers to Access to Justice and Remedies for Child Victims of Sexual Exploitation](#). 153.

¹⁹ Republic of the Philippines. (2003). [Anti-Trafficking in Persons Act of 2003 \(RA 9208\)](#), Section 11(c).

²⁴ Republic of the Philippines. (2009). [The Anti-Child Pornography Act of 2009 \(Republic Act No. 9775\)](#), Section 14.

Consequently, child victims of OCSEA can file a claim up to 10,000 pesos (approx. US\$199 as of July 2021) with the Board of Claims under the Department of Justice.²⁵

Limited information was shared by the interviewees about the compensation provided by the government agencies. Mostly, the interviewees implied that the compensation is supposed to be paid by perpetrators.

It was observed that the interviewees not only support the right of children to seek compensation, but also assign the experts to supervise the children and the family in terms of financial management. For example, *“in case the accused can pay, money is given to the parent or the guardian who is taking care of the child, but of course, as a social worker, it's also part of her job to see to it that the money will go to the child and will be used for the child, because even if the case has already been finished in my court, I still continue ordering the social worker to supervise the Guardian or the person where the child is being turned over, not in case the parents of the child victim is in prison because of the crime”* (Judge, Regional Trial Court, Branch 71, Pasig City Supreme Court, RA4-PH-01-A).

Besides awarding compensation, an interviewed judge also mentioned how, through their orders, they attempt to ensure that the compensation is spent to support the children’s life: *“We had an agreement that it [the compensation money] would be spent for their education and for their needs. I am not sure of the progress of such agreement, but that was what we as a team agreed together with the local social welfare office and other NGOs”* (Legal Officer, Children’s Legal Bureau, RA4-PH-04-A). Echoing the same sentiment, one of the interviewed lawyers explained: *“according to the law, the compensation can actually be given to the child themselves. But because of their minority [age] under the law, the parents should manage the money. So, the parents will take care of the money. But in this case, it actually depends if the court determines that the parents are not fit to take care of the affairs of the children, especially the monetary award, then the court can appoint a specific person. So, it could be a relative or a next of kin, or if the children by then becomes of age already. So, the money will be given to them right away. But if they are still minors by the time the judgment is served, then the compensation can go to the parents and if not fit to a person who is fit to take care of the affairs, such as a social worker or any court appointed person”* (Legal Advocacy Officer, Children’s Legal Bureau, RA4-PH-06-A).

Types of compensation sought and/or received (money for medical bills/hospital expenses; money for suffering; money to help cover the costs of attending court, traveling, etc.)

Another lawyer elaborated on the types of compensation provided to victims, noting that getting compensation from the abusers is not easy: *“for the money that they have to pay for the expenses in hospital or for the case, it would be actually very minimal because there are government facilities that caters to that. What they would be spending most of is the [medical] fare, which is minimal except for this epidemic where the fare goes double for public utility schemes. And as for the compensation or the damages that they receive from the perpetrator is in so far, in my experience, we are having a hard time getting the compensation from the perpetrators”* (Legal Officer, Children’s Legal Bureau, RA4-PH-04-A).

²⁵ Republic of the Philippines. (1992). [An Act creating a Board of Claims under the Department of Justice for Victims of Unjust Imprisonment or Detention and Victims of Violent Crimes and for Other Purposes](#), Section 4.

Besides the monetary compensation ordered by the court, the interviewed prosecutor talked about other types of financial assistance, including subsistence allowance and free medical and hospitalisation services: *“We provide them [child victims] with subsistence allowance, especially if the perpetrators are parents in the witness protection program, we usually house them in the Department of Social Welfare and Development. Or we also have our safe houses in the witness protection programme. So, we house them there. So, we give them financial assistance. It's actually subsistence allowance. So, we provide them that. We provide free medical and hospitalisation service. So, should they need hospitalisation or medical attention while the surplus witnesses in the case, we provide them with all these. So that is what we do”* (Senior Assistant Provincial Prosecutor Cebu, Department of Justice, RA4-PH-03-A).

The interviewee from the Women Children Protection Center told of her experience regarding compensation awarded to OCSEA child victims, which she considered inadequate and limited. She recommended that additional compensation should be paid to victims of abuse, maltreatment, violence and exploitation: *“I would like to recommend for an additional compensation to the victims of abuse, maltreatment, violence and exploitation. In my own experience, they [the victims] are not given real money but only support and the government is paying for them, but no money involved”* (RA4-PH-07-A).

Main barriers to seeking/obtaining compensation

Besides the barriers mentioned above, it was clear from the interviews that professionals could better support children to seek compensation if the abusers are foreigners, especially those coming from developed countries such as in or the US. Moreover, claiming monetary compensation from Filipino abusers is difficult, since the majority of them come from low income backgrounds and are unable to pay the compensation. Below is a summary of other issues interviewees identified as barriers to OCSEA victims claiming compensation:

- Compensation is a paper victory: *“Even if I order the child damages, civil indemnity, exemplary damages and all kinds of awards, if the perpetrator has no money or assets, the child cannot receive anything... even if I execute the writ of execution, if they have no property to execute, the court cannot do anything because an accused cannot be in prison if they can't, let's say, pay the damages, unless it is one of the conditions of the probation”* (Judge, Regional Trial Court, Branch 71, Pasig City Supreme Court, RA4-PH-01-A) This indicates that while in theory, compensation may be possible, in reality there might be no compensation for the victims if the perpetrators do not have the means to pay large sums of money.
- No guidelines on compensation: The prosecutors and the judges need to determine how to support children to access compensation. Claiming compensation depends on the expertise of the justice actors and multi-disciplinary team, such as social workers. The interviewed prosecutor shared how the Philippine government moves to overcome such barriers in case of foreign judgments: *“The Inter-Agency Council Against Child Pornography, already have prepared the Guidelines on the Management of Compensation for Victims, Survivors of Online Sexual Abuse and Exploitation. So, the coverage here is you have a foreign judgment, and then the award goes to children, victims in the Philippines, victims of online child abuse and exploitation”* (Senior Assistant Provincial Prosecutor Cebu, Department of Justice, RA4-PH-03-A). However, the real difficulty arises in cases wherein the parents are the perpetrators. In this

regard, the same interviewee explains “...without the guidelines, it's really very difficult if the perpetrators are the parents because we're talking about minors here, so who will manage the compensation of the child” (Senior Assistant Provincial Prosecutor Cebu, Department of Justice, RA4-PH-03-A). Though the concern regarding lack of guidelines is valid, this should in no way act as a barrier to compensation.

- Delayed and inadequate compensation provided by the government: The interviews suggest that there might be delays in the payment of compensation. Moreover, compensation paid to child victims of OCSEA may not always be adequate: “There is a provision as to that, as it's called livelihood assistance, the victims and their families would actually receive approximately ten thousand pesos and it would be used for a livelihood programme. But the problem is most of the victims of OCSEA are victims because of poverty. So, what happens sometimes is that the financial assistance that is given by the government would end up being used to something like a one-time payment. So, there's also a problem with the implementation of the money, though there is indeed a delay in the receiving of the cash. It would actually just come, especially if the social worker in your community is active and closely coordinating with the family and if the family is cooperating with the proper agency” (Legal Officer, Children’s Legal Bureau, RA4-PH-04-A). This underscores the need to pay adequate compensation and to avoid unnecessary delays in the execution of decrees granting compensation to child victims.
- Compensation award depends on the judges and evidence: One of the interviewed lawyers raised the point that compensation will be given when the evidence can prove the guilt of the accused and when the judge is favourable to the child victims: “Compensation is only given when the judgment is favourable to us or favourable to the child. So that means we won in a case that's the only time that we will receive compensation. So, all the challenges in the trial, for example, the witnesses that we have, there are really, unfortunately instances when the judge is not able to appreciate the evidence that we submitted, such as the testimony of the children. And we need to be realistic as well that most of these perpetrators have the financial capacity to pay for really expensive lawyers. So, the trial system itself or the justice system really becomes difficult because this is adversarial. So, our perpetrators are proven or are presumed to be innocent until proven guilty” (Legal Advocacy Officer, Children’s Legal Bureau, RA4-PH-06-A). The situation will be worse if the children are not willing to testify.
- Poverty of the child victims and their family: The interviewee from the Women Children Protection Center stated that it is not easy for child victims and their family to follow up with the Department of Social Welfare Development in terms of compensation due to poverty: “I think poverty is one of the barriers. They cannot easily access the government assistance or programme because just obtaining or getting a fare is difficult, it's hard for them to go to the Department of Social Welfare Development to follow up the case. I think that is one of the factors that it's hard for them to obtain what is being provided by the government, but as I told you, it is the responsibility of the social worker to follow up the concerns of the victims” (RA4-PH-07-A). This seems to imply that in case the social workers fail to assist the child victims and their families, especially those from an low income background, the latter might be denied their right to seek compensation.

Successes

Possibility to highlight one or more cases where (some) things were done well and where the child got proper access to justice.

One of the interviewed judges shared the successful bilateral collaboration between the Philippines and Australia, as well as the expertise of police officers to investigate an OCSEA case where the primary offender was from Australia. Due to the intelligence provided by the Australian federal police, the Philippine National Police were able to entrap the facilitator based in the Philippines (Judge, Supreme Court of the Philippines, RA4-PH-02-A). The facilitator of this case, who was an aunt of the child victims, was convicted to 40 years imprisonment. OCSEA cases often have an international dimension to them. Hence, the multi-jurisdictional collaboration and cooperation between law enforcement authorities is indeed commendable and if the same approach is applied uniformly across all OCSEA cases across the country, it will lead to more successful prosecutions.

Similarly, an interviewed prosecutor talked about one successful case that the multi-disciplinary team in the Philippines worked on in collaboration with justice actors in the US to claim compensation for the child victims: *“It’s the case of an NGO in the Philippines where there are two Filipino children who were abused sexually online. So, what happened was the perpetrator, even before the case in the Philippines started, a case abroad was already filed against the foreign creditor. And then he learned that the children in the Philippines were willing to testify against him in the States, because the NGO in the Philippines was willing to bring the children to the United States for the children to testify. So, when the foreign creditor learned about it, he entered into a plea bargaining [agreement]. So, he was required by his country court to compensate the children in the Philippines. So, there was a process that was done and one of the children was able to receive her award [compensation]”* (Senior Assistant Provincial Prosecutor Cebu, Department of Justice, RA4-PH-03-A). As discussed previously, plea bargaining should be allowed only after taking a child’s interest and welfare into consideration. Such agreements should not be the rule, but must be carefully evaluated on a case-by-case basis.

Challenges/Changes Needed

Main challenges described by the criminal justice professionals

COVID-19 pandemic: Due to the COVID-19 pandemic, the number of OCSEA cases have increased since more people have become unemployed: *“The problem with the lockdown is that our children are more vulnerable to sexual exploitation. [As] people have lost their jobs, they turn to child pornography, which is easy money. And you could just use the young kids inside your house. So right now, we see a proliferation of these kinds of cases, human trafficking and child trafficking [...] We're really doing our best to prevent trafficking, but right now with a lockdown, COVID-19, poverty, it's really a challenge”* (Judge, Supreme Court of the Philippines, RA4-PH-02-A).

Poverty: As many as five interviewees stated that poverty is the most important challenge for working on OCSEA. The interviews confirmed that there is a link between OCSEA and ‘*Utang na loob*’ or ‘debt of gratitude’, which is a form of social debt that may play a strong role in holding a child in a situation that he or she would otherwise choose to walk away from. In addition to ‘*utang na pera*’ (financial debt), *utang na loob* is a particularly strong sense of obligation that is treated with great seriousness in Philippine culture. This debt can be owed, in particular, to someone for providing shelter or commodities in a time of need. Within the context of live-streaming OCSEA, *utang na loob* could be felt toward a parent, caregiver or even broker who had provided for the basic needs of a child and could be a common factor by which a child may remain in an exploitative situation.²⁶ One of the interviewees commented: *“Utang na loob is really happening, especially in poor sectors of our society, where they have no opportunity, they have no choice. So, they succumb to that, although it's against their will, but they have no choice. So, they just have to give in to the perpetrator”* (Judge, Regional Trial Court, Branch 71, Pasig City Supreme Court, RA4-PH-01-A).

For example, once the perpetrator gives money to the family, the perpetrator can ask them for something in return, such as child sexual abuse material. Children may even think that they are helping their family to earn more income. One of the interviewees stated that *“they [the children] see themselves as persons who have benefited from the perpetrator...he gave us cell phones, he gave us money”* (Legal Officer, Children’s Legal Bureau, RA4-PH-04-A).

Frequent rotation of police officers: Frequent rotations of police officers hamper the effectiveness of OCSEA training programmes. It also not a very cost-effective exercise in terms of time and effort invested in training programmes: *“The problem is they would be transferred to another office. So, there's a new set of police officers who are not trained by the way...we really work hard to train prosecutors, police officers, but we get the news that they are transferred. And then we have to train new ones again and also with the judges”* (Judge, Supreme Court of the Philippines, RA4-PH-02-A).

This high rotation further affects the knowledge and skill of police officers, as one of the interviewed lawyers mentioned: *“The problem is there are some police officers that aren't sensitive in terms of interviewing the children. There are also some police officers, in my experience, that put some elements of the crime in the affidavit of the children, just to make sure that the case won't be dismissed, but it isn't really necessary to put another element of the crime there if you just know, and if you just hear what words of disclosure of the children. So that's a big problem that we have, the vast shifting of the*

²⁶ UNICEF Philippines, Terre des Hommes (unpublished). Live-streaming Online Child Sexual Exploitation in the Philippines (Regions III and IV).

police officers. Instead of having them already trained, they would be assigned to another department, a new police officer would be there with no experience handling children. Then they would have problems getting the affidavits and filing the complaint” (Legal Officer, Children’s Legal Bureau, RA4-PH-04-A).

However, one of the interviewed police officers stated that the rotation is done at the supervisory level and should not be a big issue for the operational level: *“The personnel handling victims, they stay longer”* (Chief and Trafficking in Persons Division, Philippine National Police Women and Children Protection Center, RA4-PH-05-A).

Another police officer who is also working at the Women Children Protection Center (RA4-PH-07-A) commented: *“I think it is the commitment to work on cases of women and children, particularly on OCSEA.”*

Lack of reporting: As informed by one of the interviewed prosecutors: *“In most of our cases, children’s critical situation of being abused are brought to our attention only because of referrals from foreign law enforcers and many of them [the children] have been abused for an average period of two years already. In the first online and sexual exploitation case I worked on, the children had been abused for more than two years on the day that they were rescued”* (Senior Assistant Provincial Prosecutor Cebu, Department of Justice, RA4-PH-03-A).

Lack of expertise of multi-disciplinary team: One of the interviewed police officers stated that some judges and prosecutors lack knowledge and understanding about OCSEA and human trafficking, which becomes a challenge for them to proceed for the case: *“We also encounter prosecutors or judges who have not yet been trained on how to handle cases like this. So, like I’ve mentioned a while ago, we are advocating for the use of the interview not to retraumatise a child, but there are other courts or some courts, would still rely on the actual interview of the child or that subject the child to be present during the trial. So, it is not favourable to the child, considering that she needs to retell all over again her story with pointing fingers at the accused who happens to be the mother. So, it’s kind of difficult for them as well”* (Chief and Trafficking in Persons Division, Philippine National Police Women and Children Protection Center, RA4-PH-05-A). This seems to suggest that lack of knowledge and training on the part of the judges and prosecutors not only affects their ability to handle OCSEA cases but also their duty to ensure child-sensitive justice.

The nature of OCSEA offenders: As discussed previously, the interviewees shared information that the abusers of OCSEA are mostly parents or relatives of the victims, which is a critical challenge for working on OCSEA cases, since the children are reluctant to tell of their experiences of abuse and exploitation to the police officers or other experts: *“They love their parents, and then they feel guilty about being part of the criminal justice process. So that’s also one very difficult part, how to solicit their cooperation. I have experienced that almost all of the children don’t testify, especially if the ones involved are parents. That’s really the most challenging part”* (Senior Assistant Provincial Prosecutor Cebu, Department of Justice, RA4-PH-03-A).

One of the interviewed police officers mentioned that *“[At] the onset of the interview, it takes a while before our investigators could actually get the child to narrate their experiences or the exploits that they have encountered”* (Chief and Trafficking in Persons Division, Philippine National Police Women and Children Protection Center, RA4-PH-05-A). Hence, the nature of OCSEA offenders can also contribute to the delay of trial proceeding. Since OCSEA cases are sensitive and may intertwine with

family issues in some way, it is quite possible that the professionals working in the justice and rescue process might be sued by the victims' family. The interviewed lawyers from the Children's Legal Bureau explained how a habeas corpus case was filed against one of their social workers because the parents wanted custody of the child after the rescue operation (Legal Advocacy Officer, Children's Legal Bureau, RA4-PH-06-A).

Long-term care for OCSEA child victims/ witnesses: Information gathered from two of the interviews indicated that long-term care for OCSEA child victims is also a challenge, although the interviewees did not say this directly: *"Once these minor victims reach adulthood, they would be released on their own or to their relatives or the same persons who abused them, that is my concern. For me, during the actual trial proceedings, they are being taken care of but I am more of an aftercare services-oriented person, considering that they have to be reintegrated back into society. And if they would be reintegrated back with their family or abusers, then we didn't help the minor"* (Judge, Supreme Court of the Philippines, RA4-PH-02-A).

Collaboration with internet providers: One interviewee stated that internet companies are not obligated to provide information to law enforcement units: *"There is no memorandum of understanding or agreement with the internet company, actually. That's really the gap...when asking data from internet companies to be able to gather more information so we can identify who these persons are behind this cell phone number or IP address. But the problem here is that the data within them is covered with existing law here, which is the Data Privacy Act, so that is always the reason why they could not provide us the information"* (Police Major, Philippine National Police Women and Children Protection Center/Philippine Internet Crimes against Children Center, RA4-PH-08-A). This is a point of concern since reporting by internet companies could prove to be crucial in helping law enforcement provide a timely and effective response to suspected cases of OCSEA.

Moreover, the lack of information from internet companies can delay prosecution. The same interviewee also stated that the government has made some progress to overcome this challenge, although it seems ineffective: *"the President speaks about the cell phone companies here having the mandates. When it comes to child pornography, because under the child pornography law, there is a mandate there that the that these telephone companies and internet providers shall provide periodic reports to law enforcement of all child pornography materials transmitted through the network...we did not receive that stuff [periodic report] from the very beginning"* (Police Major, Philippine National Police Women and Children Protection Center/Philippine Internet Crimes against Children Center, RA4-PH-08-A).

Recommendations

Training - One interviewee recommended that: *“For me as a judge, I would suggest that the local police officers in the locality where the child is located or is a resident must also be trained so that the child will not have to go to the national office to report the incident and or they will have had to be referred to the national office...they [child victims] should report it within the place where they are residing so that they will not be stressful for them”* (Judge, Regional Trial Court, Branch 71, Pasig City Supreme Court, RA4-PH-01-A). Unfortunately, according to the interviews with three police officers, increasing training on OCSEA is not a priority issue.

Public awareness - Most of the interviewees stressed the need to spread awareness among the general public about the extent of the problem of OCSEA in the Philippines: *“There must be a promotion of public awareness about this problem, because I believe not all, not only the Philippines knew the problem, the magnanimity of this problem, so they just heard it, but they have not really seen it often”* (Judge, Regional Trial Court, Branch 71, Pasig City Supreme Court, RA4-PH-01-A).

One of the interviewees stressed the important link between awareness and empowerment: *“We need to raise awareness to the community, to the children as well so that we can empower them to have the courage to report abuses because this type of crime is unlike any other crime. This is a heated crime. It's literally in one corner of their house where the neighbours might or might not, but most of them might not be aware of the existence or the occurrence of crime”* (Chief and Trafficking in Persons Division, Philippine National Police Women and Children Protection Center, RA4-PH-05-A).

Specialisation of key personnel: The interviewed lawyers stated that although the Philippines has laws related to OCSEA, a stronger, more proactive and specialised law enforcement is needed. Also, the digital evidence gathering process is expensive and requires skillful practitioners: *“I would say it's more on the process because we have laws already in place, although it is not necessarily all set, but we were able to look at the other laws which already penalise this thing. So, for example, child pornography, OCSEA is under child pornography and it's also under trafficking. So, we have the law, but I think it's more on how we make use of the law. So, in relation to that, all electronic evidences have to be submitted to our cybercrime group for verification. So, they need to be verified and it really takes a lot of time and it's really very expensive. So, I think that is the challenge there in terms of reviewing and preserving our electronic evidence so that that's where the difficulty comes to us”* (Legal Advocacy Officer, Children’s Legal Bureau, RA4-PH-06-A).

Recovery and rehabilitation for OCSEA victims: In this regard, an interviewee suggested: *“I think we also need to focus more on the programmes being catered to the child survivors, if they are effective and if it is actually addressing the trauma that they have experienced so that after the intervention, they can go back to a normal life and go back to the school and be whole again”* (Chief and Trafficking in Persons Division, Philippine National Police Women and Children Protection Center, RA4-PH-05-A).

Social welfare services to support child protection: One of the key reasons forcing children into OCSEA is poverty. One of the interviewed lawyers at the Children’s Legal Bureau therefore recommended that: *“we need to come up with solutions such as providing for livelihood for the families, because that is really the primary reason children go to this kind of endeavour, because they think that they can help their family. The money that they receive will be given to the family for food. So, I think our government must intensify and strengthen their mechanisms in helping these children*

who are really the most vulnerable, especially the most vulnerable members of the family” (Legal Advocacy Officer, Children’s Legal Bureau, RA4-PH-06-A).

Technical support provided to the Women Children Protection Center: The interviewee from Women Children Protection Center shared some difficulties related to the Women Children Protection Center’s workload to justify why as a Women Children Protection Center official, she would expect to receive more technical support to strengthen the work quality of the Women Children Protection Center: *“Our unit is the one operating the Trafficking in Persons or OCSEA and even the traditional cases of trafficking. We really need to have additional support for our operations. Then, of course, training the newly assigned police officers in our office, as they are not exposed yet to OCSEA. We found out that there are really a lot of OCSEA cases sometime in 2015, and up to now OCSEA is increasing. The number of cases is increasing from 2015 to date, although it happened maybe before, but we did not discover it. It was the year when we saw the first case of OCSEA. So, I think we need to train all the police and even the social workers. And I would like to recommend to conduct a video in-depth interview training or for the social workers and the Philippine National Police. Trainings on OCSEA as well. And, of course, laptops are very vital in conducting engagement for this. Advise the facilitators. We really need this” (RA4-PH-07-A).*

The independence of the Women Children Protection Center: One of the interviewed police officers raised a concerning point regarding the lack of functional autonomy of the Women Children Protection Center. According to him, the Women Children Protection Center lacks its own budget and relies on the funding from the Directorate for Investigation and Detective Management. The interviewee suggested that Women Children Protection Center be made into an independent office like Philippine National Police- Anti-Cybercrimes Group. Women Children Protection Center should have its own annual budget and regional offices. It should have the authority to train personnel specifically for OCSEA (Police Major, Philippine National Police Women and Children Protection Center/Philippine Internet Crimes against Children Center, RA4-PH-08-A). The interviewee further stated that the Women Children Protection Center would work more effectively if it were established as an independent unit.