

Beating the Online Sexual Abuse and Exploitation of Children in the Philippines

Policy Brief



Trigger Warning: Sexual Abuse and Exploitation

If you or anyone you know is a victim of assault, harassment, rape, or any other kinds of sexual violence, please get in touch with the following hotlines:

Department of Social Welfare and Development (DSWD)

☎ (02) 931-8101 to 07

DSWD-NCR Ugnayan Pag-asa Crisis Intervention Center

☎ (02) 734-8639/ 734-8654/
734-8626 to 27

Philippine National Police (PNP)

☎ (8) 723-0401 to 20

PNP-Women and Children Protection Center

☎ 410-3213

NBI-Violence Against Women and Children Desk (VAWCD)

☎ 523-8231 to 38 / 525-6028

PNP Aleng Pulis

📍 PNP Women and Children
Protection Center /
[fb.com/wcpc.didmpnp](https://www.facebook.com/wcpc.didmpnp)

Smart 0919 777 7377

Globe 0966 725 5961

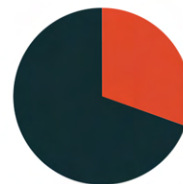
All calls are confidential.

INTRODUCTION

March 29, 2021 marks the 27th year since the Philippines was first connected to the Internet. Almost three decades in, breakthroughs in digital technology have made our daily lives more convenient and efficient, including the lives of Filipino children. Undoubtedly, the Internet has become an integral part of most of the Filipinos' everyday lives. However, despite the positive impact of these advances, digital connectivity also comes with risks and hazards which can prove detrimental to the welfare and development of children.

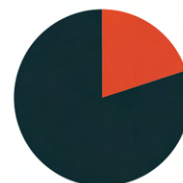
Just like everything else, abuse and exploitation – too – have gone digital. In the Philippines, about 43.8% of children aged 13 to below 18 experience cyber violence.¹ According to the 2016 National Baseline Study on Violence Against Children (NBS-VAC) of the Council for the Welfare of Children and UNICEF, about 25% of the cyber violence suffered by these children involve sexual and explicit exchange and an estimated 2.5% had their own nude body or own sexual activities shown on the Internet, including both real and falsified images.²

Further, the NBS-VAC reports that 20.6% are shown photos or videos of sex organs or sexual activities over the Internet or cell phone.



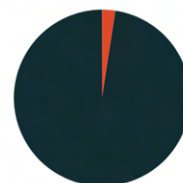
43.8%

of children aged 13 to below 18 experience cyber violence.



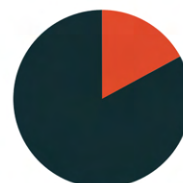
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¹UNICEF, *National Baseline Study on Violence Against Children: Philippines, Executive Summary 8* (2016).

²Id.

The UN Committee on the Rights of the Child (UNCRC), in its General Comment No. 25, recognized that children, as users of ICTs, are exposed to harmful content, interactions with bullies, and harassers which can negatively affect their development.³ The General Comment called on State parties to integrate children's online protection "within national child protection policies." The General Comment further called for the implementation of "measures that protect children from risks, including cyberaggression and digital technology-facilitated and online child sexual exploitation and abuse, ensure the investigation of such crimes and provide remedy and support for children who are victims."⁴ These concerns are evidently reflected in the growing problem of the Philippines on the sexual exploitation of children. In 2018 alone, at least 600,000 child sexual abuse images and videos of Filipino children were uploaded, shared, and possibly sold online.⁵

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The COVID-19 pandemic feared to have aggravated the incidence and threat of online sexual violence against children. It resulted in the confinement of children in their homes due to quarantine protocols enforced by our government. The pandemic also prompted widespread school closures and physical distancing measures and made online platforms and communities essential to maintaining a sense of normalcy. Children and their families have turned to digital solutions to support children's needs to learn, socialize, and play.



³ United Nations Committee on the Rights of the Child. (March 2021). General comment No. 25 (2021) on children's rights in relation to the digital environment. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/GC/25&Lang=en

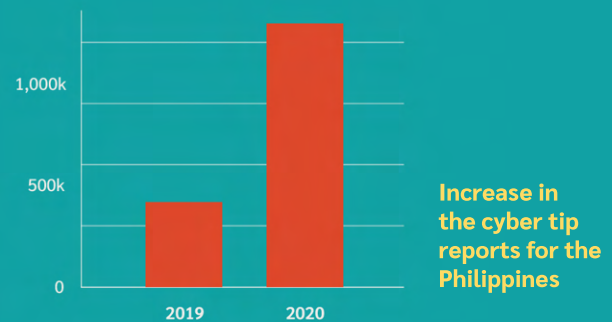
⁴ *Id.*

⁵ UNICEF Philippines, SaferKidsPH advocates to stop online sexual abuse and exploitation of children, available at <https://www.unicef.org/philippines/press-releases/saferkidsph-advocates-stop-online-sexual-abuse-and-exploitation-children> (last accessed Nov 28 2020).

As more and more people embraced the Internet as part of their lives, there is ample evidence to support that cyberspace has also become a platform for sexual abuse and exploitation of children. This exploitation is feared to have escalated during the pandemic where financial difficulties of families became a driver for this violence. In a report released by the Anti-Money Laundering Council (AMLC) in 2020, it noted that “the economic strain suffered by most families during the slowdown or stoppage of various economic activities during the quarantine have made these families vulnerable to online sexual offenders.”⁶ The AMLC explained that various economic factors including the loss of income, restricted movement of children, isolation, increased exposure to online platforms, and the high level of stress and anxiety, all contribute to the increase in the likelihood of children being exploited online.

In a related finding of the Department of Justice, OSAEC in our country significantly spiked during the lockdown imposed by the government. The US-based National Center for Missing and Exploited Children (NCMEC) reported a 209 per cent increase in the cyber tip reports for the Philippines, from January to December 2020 (1,294,750 cyber tips) compared to 2019 (418,422 cyber tips),

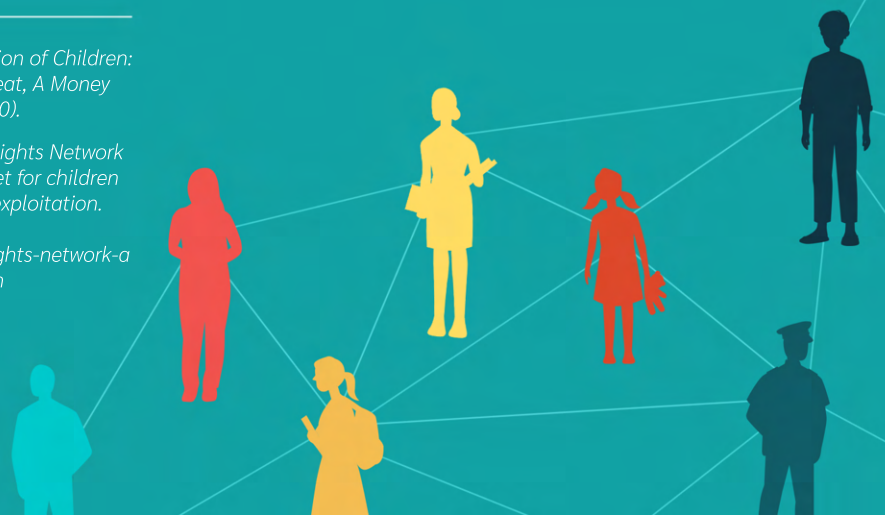
coinciding with the period of the COVID-19 pandemic.⁷ The surge in the number of OSAEC reports during this health crisis reaffirmed the need for a review of our existing laws and policies on OSAEC.



It is within this context that it becomes imperative to ensure that efforts are being taken to minimize, if not eliminate, such potential risks to children in the online environment. A review of the current legal and policy framework and identification of their gaps are key steps to identify sound recommendations that will address the issue of Online Sexual Abuse and Exploitation of Children (OSAEC). An analysis of the roles of both the public sector and the private sector is also integral in addressing the problem of OSAEC. Sexual exploitation of children in the context of cyberspace is an issue that cannot be resolved through a single solution, but it calls for a multi-sectoral, whole-of-society approach that would address all the concerns related to the problem.

⁶ Anti-Money Laundering Council, *Online Sexual Exploitation of Children: A crime with global impact and evolving translational threat, A Money Laundering/Terrorism Financing Risk Assessment*, 11 (2020).

⁷ SaferKidsPH Consortium. (2021, February 8). *The Child Rights Network and SaferKidsPH join the call for a safer and better internet for children and young people amid rising cases of online abuse and exploitation.* Unicef.Org. <https://www.unicef.org/philippines/press-releases/child-rights-network-and-saferkidsph-join-call-safer-and-better-internet-children>



OSAEC as a Global and Regional Emergency

Various experts have pointed out that the surge of OSAEC across the globe has made it into a veritable emergency needing immediate action. “The proliferation of the internet and related communication technologies has resulted in the significant diversification of opportunities for child sex offenders to plan their travel, to communicate anonymously with other child sex offenders, to access, produce and disseminate child sexual abuse images, and to participate in virtual sexual encounters with children without leaving home.”⁸ There are 23,564 identified victims globally and more than 10,752 offenders were identified as of October 2020.⁹

 **23,563**
identified
victims

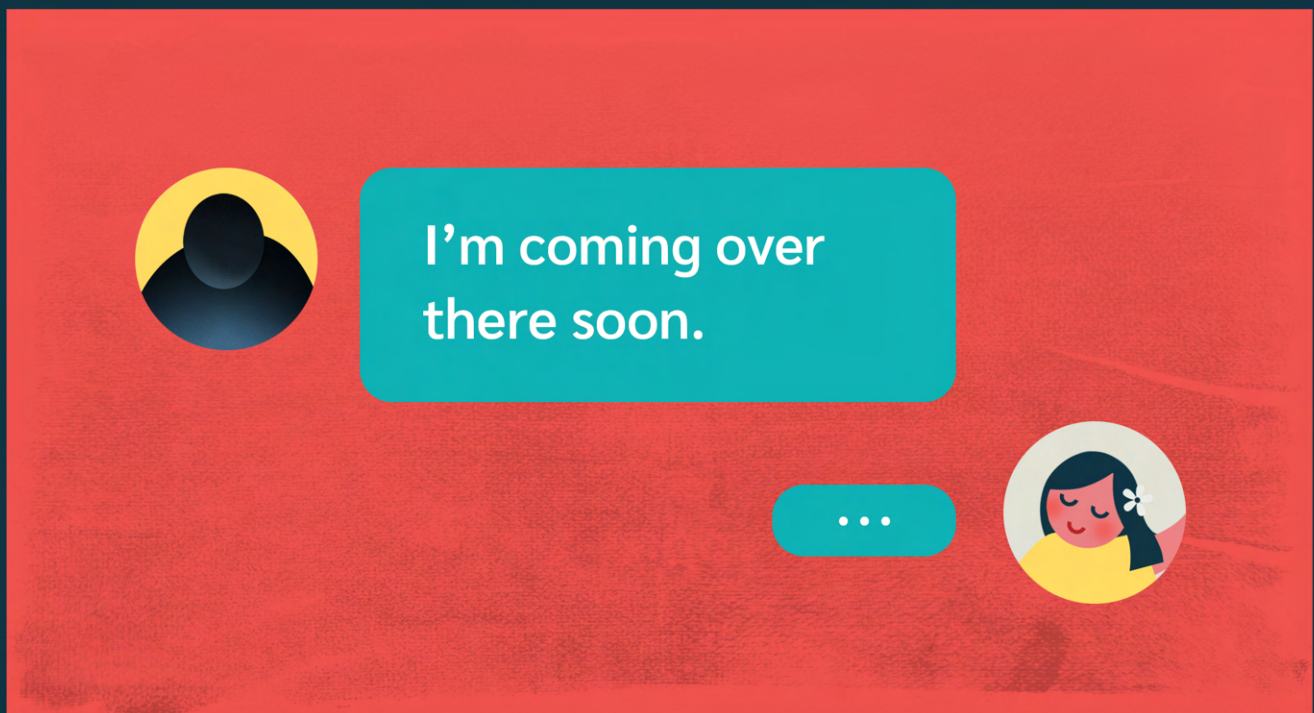
 **10,752**
identified
offenders

At a regional overview, ASEAN is recognized to have become a hotspot for OSAEC. Even if the full extent of OSAEC in the region is unknown, “recent estimates suggest that it is a significant problem and is rapidly increasing.”¹⁰ They often occur in the less

developed countries of the region. Due to poverty, people in these nations take advantage of the easy accessibility of ICTs and available internet access, and the vulnerability of children to earn an easy buck. “Due to the recent introduction of technology in many of these [Southeast Asian] countries, knowledge about this form of violence is still low amongst both children and their parents”.¹¹



The issue of OSAEC is also linked to traveling child sex offenders.¹² They connect with children and their families, and further maintained their connection through ICTs even after returning home. This has been going on for decades now,¹³ and more recently being committed through “online” means. Countries like Thailand, Cambodia, Vietnam, Laos, and the Philippines became the main resort of foreigners and local predators.¹⁴ This can also be observed from the increase in popularity of cybercafes in Southeast Asia. These establishments are the perfect place for OSAEC crimes for they provide the technological needs and privacy for online facilitation.¹⁵ A study on cases of sexual abuse and exploitation of children in Southeast Asia suggests that online abuse and exploitation of children often lead to offline abuse and exploitation.¹⁶



⁸ Deanna Davy, *Regional Overview: Sexual Exploitation of Children in Southeast Asia*, ECPAT International, (2017), 52 available at https://www.ecpat.org/wp-content/uploads/2018/02/Regional-Overview_Southeast-Asia.pdf (last accessed Nov 28, 2020).

⁹ INTERPOL, *International Child Sexual Exploitation database*, available at : <https://www.interpol.int/en/Crimes/Crimes-against-children/International-Child-Sexual-Exploitation-database>. (Last accessed Nov.28, 2020)

¹⁰ Deanna Davy, *Regional Overview: Sexual Exploitation of Children in Southeast Asia*, ECPAT International, (2017), 52 available at https://www.ecpat.org/wp-content/uploads/2018/02/Regional-Overview_Southeast-Asia.pdf (last accessed Nov 28, 2020).

¹¹ United Nations Children's Fund, *What Works to Prevent Online and Offline Child Sexual Exploitation and Abuse* 14 (2020).

¹² Interagency Working Group in Luxembourg, *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse*, 85 (2016).

[This term appears to have a generally agreed meaning and/or can be used without stigmatizing and/or otherwise harming the child. The term "child sex offender" can be used to refer to adults who have committed sex- based crimes against children and represents the most frequently used term in the law enforcement sector. It should not be confused with the term "juvenile offender", where it is a child who has committed an offense.]

¹³ Deanna Davy, *Regional Overview: Sexual Exploitation of Children in Southeast Asia*, ECPAT International, (2017), 13 available at https://www.ecpat.org/wp-content/uploads/2018/02/Regional-Overview_Southeast-Asia.pdf (last accessed Nov 28, 2020).

¹⁴ *Id.* 52.

¹⁵ *Id.* 58.

¹⁶ United Nations Children's Fund, *What Works to Prevent Online and Offline Child Sexual Exploitation and Abuse* 14 (2020).

OSAEC in the Philippine Context

In the Philippine context, digital connectivity has proved to be a double-edged sword. According to a recent report, children engage in online activities to (1) connect, (2) to be informed and engaged, (3) to be educated, and (4) to be entertained.¹⁷ Latest figures show that there are 73.91 million Internet users in 2021, and even more social media users – at 89 million – which is equivalent to 80.7% of the Philippine population.¹⁸

It was also reported that Filipino children spend an average of 82 hours a month using the internet.¹⁹ In 2018, 84% of children aged four to sixteen years old prefer to use the internet than televisions as a source of information and 81% of them already own smartphones.²⁰

Filipino children commonly use the internet to connect with other people most often through social networking sites. “SNS [Social Networking Sites] are the most common means of interacting with friends frequently online, followed by messaging and gaming; IMs [Instant Messaging] are the most common means of interacting with the family online. Children most commonly report chatting to friends they have only, or first, met online through games and then through SNS.”²¹



73.91 million
Internet users in 2021



89 million
social media users in PH



82 hrs/mo
average internet use
of a Filipino child



84%
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of information



81%
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¹⁷ Philippine Kids Online, *The Online Experiences of Children in the Philippines: Opportunities, Risks and Barriers, Technical Report 19* (2020).

¹⁸ Kemp, S. (February 11, 2021). *Digital in the Philippines: All the Statistics You Need in 2021*. DataReportal – Global Digital Insights. <https://datareportal.com/reports/digital-2021-philippines>

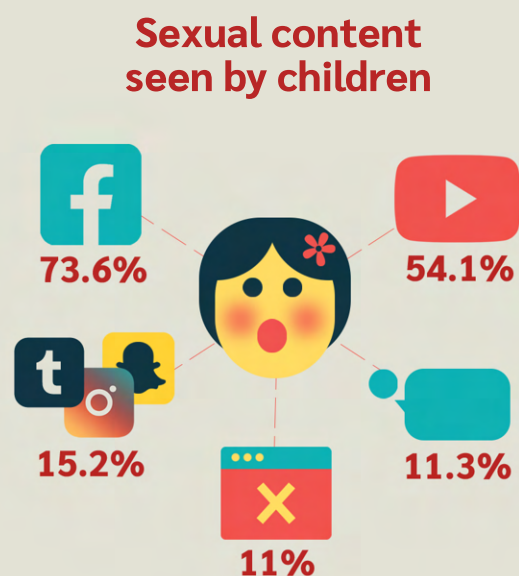
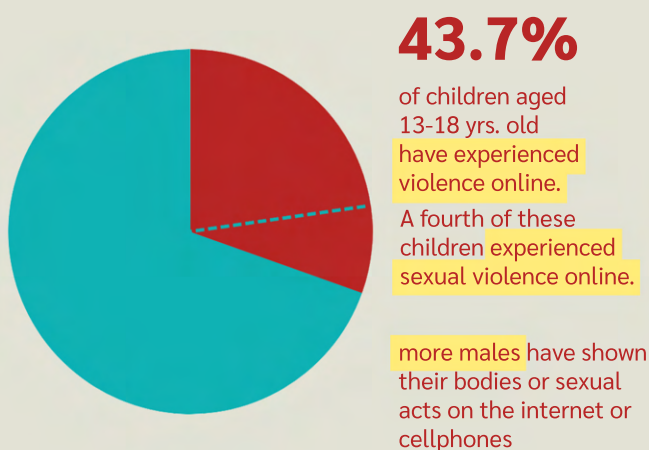
¹⁹ *Business World*, April 25, 2019 available at <https://www.bworldonline.com/filipino-kids-spending-longer-hours-on-the-internet-study/> (last accessed Nov 28, 2020).

²⁰ Philippine Kids Online, *The Online Experiences of Children in the Philippines: Opportunities, Risks and Barriers, Technical Report 19* (2020).

²¹ *Id.* 20.

A recent report on online experiences of Filipino children revealed that more Filipino children are reporting that they have encountered risks online and that they have actively engaged in these online risks.²² According to the National Baseline Study on Violence Against Children in the Philippines conducted in 2016, about 43.7% of children aged thirteen (13) to below eighteen (18) years old have experienced violence online.²³ A fourth of these children have experienced sexual violence online.²⁴ Among these children, more males were reported to have shown their bodies or sexual acts on the internet or cellphones.²⁵ These acts of online sexual violence involve verbal abuse, unsolicited sexual messages, and the exhibition of sexualized photos and videos of children through the internet or exchanges through electronic gadgets.²⁶

As children spend more time online and with the popularity of social networking sites, it is not surprising that children encounter sexualized content on these platforms. It was found in UNICEF's Philippines Kids Online (PKO) Survey that children commonly encounter them on sites such as Facebook and YouTube.²⁷ "In total, three quarters (73.6%) of those children who reported seeing sexual content had seen it on Facebook, while more than half (54.1%) of children reported that they had encountered sexual content on various online video sharing platforms such as YouTube. Less common were online photo-sharing platforms (15.2%), chatrooms (11.3%), or pop-ups on a website (11%)."²⁸



²² Email from Angiereen D. Medina, State Counsel, Department of Justice Office of Cybercrime, (on file with author).

²³ UNICEF, National Baseline Study on Violence Against Children, 8 (2016).

²⁴ *Id.*

²⁵ *Id.*

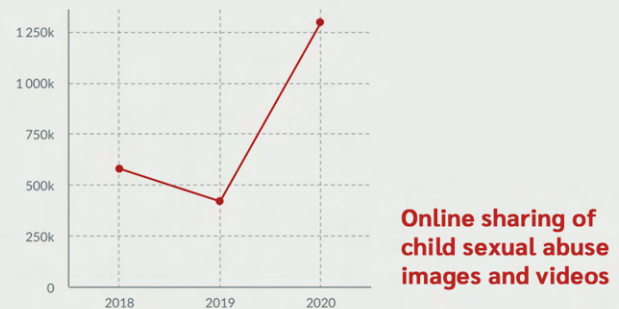
²⁶ *Id.*

²⁷ Philippine Kids Online, *The Online Experiences of Children in the Philippines: Opportunities, Risks and Barriers*, Technical Report 68 (2020).

²⁸ *Id.*

The PKO also showed that while children most commonly access the Internet on their smartphone while at home, many also frequent both libraries, and “Pisonet cafés” to go online. Through these public spaces, children are able to engage online without any supervision. Thus, there is also a need to enforce the regulation and accountability of Pisonet cafés and other public access points to the Internet to ensure they are “child-friendly” establishments.

With the risk and harms of online engagement of children in context, it becomes clear how OSAEC proliferates in our digital spaces. The Philippines has been considered as “one of the top sources of child abuse materials”.²⁹ In 2018, there were 579,006 cyber tips for online sharing of child sexual abuse images and videos according to the Department of Justice Office of Cybercrime (DOJ-OOC). In 2019, there were 418, 422 cyber tips reported³⁰ but in 2020 there were 1,294,750 cyber tips received.³¹ These cyber tips were referred to the Department of Justice by the National Center for Missing and Exploited Children, a US-based agency.



According to the International Justice Mission (IJM), eight (8) in ten (10) victims rescued from online sexual exploitation are minors, with some as young as two months old.³² Moreover, most of the victims they rescue are twelve (12) years old or younger. The data shows how horrendous these crimes are and that perpetrators seek out young child victims. Additionally, it was found that the highest number of OSAEC cases were found in the National Capital Region.³³ However, there are also reported cases in regions VI, VII, VIII, X, and XII.³⁴ Therefore, it shows that victims of OSAEC are widely spread throughout the country. The proliferation of these crimes across the regions of the country reveals the wide range of areas and groups of children that perpetrators can reach because of the extraordinary nature of OSAEC crimes.

²⁹ International Justice Mission, *Online Sexual Exploitation of Children in the Philippines: Analysis and Recommendations for Governments, Industry, and Civil Society*, 36 (2020).

³⁰ #SaferKidsPH, *What is Online Sexual Abuse and Exploitation?* available at <https://www.saferkidsph.org/learn-about-osaec/> (last accessed, Nov 28, 2020).

³¹ SaferKidsPH (February 8, 2021). *The Child Rights Network and SaferKidsPH join the call for a safer and better internet for children and young people amid rising cases of online abuse and exploitation* available at <https://www.unicef.org/philippines/press-releases/child-rights-network-and-saferkidsph-join-call-safer-and-better-internet-children> (last accessed April 27, 2021).

³² International Justice Mission. (2020). *Online Sexual Exploitation of Children in the Philippines: Analysis and Recommendations for Governments, Industry, and Civil Society*. Available at: https://www.ijm.org/documents/Final_OSEC-Public-Summary_05_20_2020.pdf

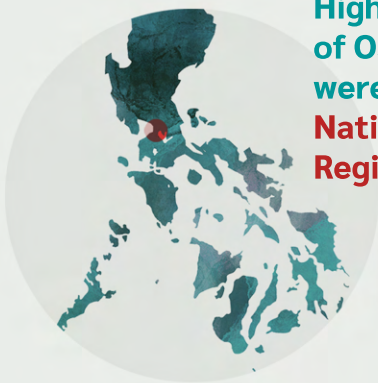
³³ International Justice Mission, *Online Sexual Exploitation of Children in the Philippines: Analysis and Recommendations for Governments, Industry, and Civil Society* 50 (2020).

³⁴ *Id.*



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**Highest number
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There are also reported
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VIII, X, and XII.

chatrooms and many more services. Such practice is in part abetted by the issue of default privacy settings for minors. Social media users below 18 years of age are given accounts whose default privacy and safety settings are public. This allows anyone to send them friend requests, message them, and view and download their content thus making them vulnerable to predators.

“

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Various reports show that OSAEC perpetrators not only involve individuals but also online groups and platforms. Due to the veil of anonymity of these perpetrators in cyberspace, they can freely communicate and reach children, groom them, and entice them to participate in criminal online activities.³⁵ Perpetrators use various online platforms to “broadcast” CSAM, with cyberspace proving to be an efficient venue for distribution and exchange of these materials through websites, emails,

While extant Philippine laws require Internet service providers (ISPs) to “install available technology, program or software to ensure that access to or transmittal” of CSAM will be blocked or filtered,³⁶ ISPs cannot block CSAM from their servers, as they can only take down websites containing OSAEC content, based on URLs reported to the DICT.

³⁵ United Nations Children’s Fund, *What Works to Prevent Online and Offline Child Sexual Exploitation and Abuse 5* (2020).

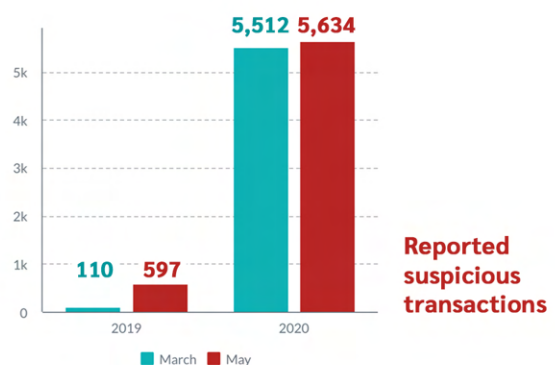
³⁶ Department of Information and Communications Technology. (February 18, 2021). DICT: Telcos, ISPs must comply with law against online child sexual exploitation. DICT. <https://dict.gov.ph/dict-telcos-isps-must-comply-with-law-against-online-child-sexual-exploitation/>

In the ensuing COVID-19 pandemic, a growing phenomenon of self-generated child sexual abuse materials (CSAM) for sale in the Philippines has been observed. Due to the socioeconomic difficulties brought about by the “community quarantine” that imposed months-long lockdowns on whole swathes of communities, children were forced by circumstances to create CSAM and peddle these materials for as low as Php100 in SNS.³⁷

“
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[Child Sexual Abuse Materials]
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in social networking sites.**

Financial institutions also play a large role in the facilitation of OSAEC. The role of credit card companies and banks in reporting OSAEC transactions can be a vital method to trace the perpetrators of these crimes. OSAEC can be detected through the financial trail of the transactions. Apart from being a means to trace the offenders of OSAEC, financial trail of these transactions is also an evidence that can build up a case for the purpose of prosecution.

A risk assessment report released by the Philippine Anti-Money Laundering Council (AMLC) in 2020 showed that these financial institutions play a pivotal role in the spread of OSAEC.³⁸ The AMLC said there had been a significant rise in the suspicious transaction reporting related to OSAEC transactions from the year 2018 to 2019 until June 2020. This rise in suspicious transaction reports is attributed to the increased awareness of covered persons of the use of the financial services in OSAEC transactions. The 2020 AMLC study also stated that majority of the covered persons involved in OSAEC are money service businesses (MSBs). Money service businesses submitted majority of the suspicious transaction reports, with financial transactions typically numerous and of low value to avoid detection. These observations verify the role of MSBs in facilitating OSAEC transactions.³⁹



(<https://business.inquirer.net/307458/ph-saw-surge-in-child-pornography-linked-money-laundering-during-pandemic-amlc#ixzz6sdcaGvU3>)

³⁷ Gavilan, J. (May 23, 2020). Child sex abuse material now peddled for as low as P100 on Twitter. Rappler. <https://www.rappler.com/newsbreak/investigative/besides-private-sex-videos-child-porn-peddled-twitter-philippines>

³⁸ Anti-Money Laundering Council, *Online Sexual Exploitation of Children: A crime with global impact and evolving translational threat, A Money Laundering/Terrorism Financing Risk Assessment*, 11 (2020).

³⁹ *Id* 6.

Financial experts claim that the AMLC fails to hold banking institutions accountable for reporting of OSAEC transactions. The data presented by AMLC focuses on the receiving end of the exchange instead of looking into the whole path of the financial trail. According to financial experts, before remittances abroad are received through these MSBs, the money goes into intermediary institutions first in order to clear and settle the foreign currency coming from a sender abroad and convert it to peso and received by MSBs.⁴⁰ This means that the payments received from MSBs still go through intermediary domestic banking institutions.⁴¹ Therefore, it is logical and reasonable to expect banking institutions to make a significant number of suspicious transactions reports as they are prior touchpoint of OSAEC payments before they reach MSBs. This is the reason why financial experts see the gap in the compliance of banking institutions in its reportorial obligation under the law.

Financial experts averred that banks face the following challenges in effectively monitoring payments involved in these transactions:

- Inadequate electronic monitoring systems that cannot be readily configured to monitor payment patterns.
- Poor system calibration, such as the use of value thresholds, below which payments are not monitored.
- A lack of understanding of OSAEC crimes, OSAEC-specific typologies, and detection scenarios.
- Assumptions around required detection efforts where a bank is a clearing or intermediary bank (i.e. because the bank lacks access to know-your-customer information, it cannot be expected to monitor payments it handles as an intermediary).⁴²

⁴⁰ Consultation with Mr. X and Ms. Y (names redacted for purposes of confidentiality) through Webex (September 15, 2020).

⁴¹ *Id.*

⁴² Shauna Tomkins and Eric Favila, *Stepping Up Surveillance to Crack Down on Online Child Sex Abuse*, December 1 2020, Promontory, available at <https://www.promontory.com/our-expertise/article/5fc529cc8d9bbf0803616a06> (last accessed December 14, 2020).

CASE STORIES



1 “Lorna,” 8 years old

“I want to be a singer someday,” Lorna, 8 years old, muses, as she recalls how she ended up in a UNICEF-supported shelter for children. Lorna is an OSAEC victim, and she was rescued by the police and brought to the center, where she is required to stay until her case is resolved. Instead of performing songs, Lorna was recruited by a neighbor to perform sexual acts on a webcam for foreigners.

"I started doing shows when I was seven years old. Three times a day. I bought food with the payment. It was Php300 (US\$6). My mother didn't know anything about it."

"I feel angry and I want to forget it. I don't like it," Lorna sighed.

"I really miss my mother and my family. They visited me once. I hope they visit again, and we can be reunited."

Lorna's case illustrates how easy it is for perpetrators to target and reach children, as OSAEC can be committed virtually, with the victims not even meeting the perpetrators physically. Even the payment schemes shroud these criminal activities in secrecy.



2 A sweet trap⁴³

In a province near the Philippine capital, Manila, John, a foreigner invited children to his home, luring them with chocolates and bottles of Coke.

“Baltazar,” then 13, and his brother, “Joey,” then 12, recalled that it was after New Year’s Day in 2010 when they first met John. What appeared as an innocent gesture with the foreigner quickly turned sinister. The two boys described the sexual acts John performed on them. They each received Php150 (US\$3) and food from John, as well as gifts like a basketball or a cellphone, which made them want to go back again and again—a sad reality that shows how little it takes for children in deprived situations to fall prey to sexual predators.

While John was kind to them, the boys said they also feared him because he kept a gun in his bedroom. The abuse continued for about a year and a half, without them knowing that

John was filming them. It was later discovered that John shared images of his victims with other sexual predators.

In 2013, the police raided John’s house. He was arrested. There were highly sexualized photos and videos of children found in his computers. There were also boys inside his house during the arrest. Despite these pieces of evidence, the case was dismissed, allegedly after paying bribes to authorities and victims. John was acquitted.

In 2015, John was extradited back to his home country where he was convicted on eight charges of child sexual abuse.

Baltazar and Joey’s case show how OSAEC hotspots can be found in the most unassuming of places. Socioeconomic factors including widespread poverty can easily plunge whole communities into being victims of these criminal activities.

⁴³ UNICEF Philippines. (December 4, 2019). *A sweet trap, a bitter experience for child sex abuse victims*. <https://www.unicef.org/philippines/stories/sweet-trap-bitter-experience-child-sex-abuse-victims>



3 Child sexual abuse: Family business?⁴⁴

In 2011, an undercover agent infiltrated an impoverished village in the Philippines and pretended to be a “Japayuki,” a slang term for a Filipino woman who works in Japan as an entertainer, to search for children who are victims of online sexual exploitation.

When the agent located the sex den, Philippine police then conducted a raid, where they found three girls aged 11, 7 and 3 lying naked on a bed. At the other end of the room stood the mother of two of the children, who was typing on a keyboard. A live webcam feed on the computer screen showed the faces of three white men watching the children perform lurid acts.

“It was the first time we heard of parents using their children,” the agent said. But in the following months, more families were caught in the same area, and in the ensuing years, in other parts of the Philippines.

According to the United Nations, tens of thousands of Filipino children are now involved in a rapidly expanding local child abuse industry already worth US\$1 billion. Families sometimes don’t consider these acts as criminal, as no physical interaction is involved, but the payout is good. In many areas, not only families are involved, but whole communities, abetted by increasing internet speeds, advancing digital technology, and growing ease of money transfers across borders.

⁴⁴ Holmes, O. (November 28, 2017). *How child sexual abuse became a family business in the Philippines*. *The Guardian*. <https://www.theguardian.com/world/2016/may/31/live-streaming-child-sex-abuse-family-business-philippines>

OSAEC under Philippine Laws

The technical term, OSAEC, does not exist under our laws. Instead, extant legislation refers to specific terms including “child pornography,” “child trafficking,” and other cybercrimes. The definitions used by different studies on the subject matter are based on the characterizations used by investigating bodies, civil society organizations, and other stakeholders to classify this type of sexual violence against children. Despite the absence of a legal definition under our laws, abusive and exploitative acts defined in our existing laws technically fall under the definition of OSAEC widely used.

Currently, we have eight penal laws that can be used as the basis for prosecution and provide for penalties for OSAEC acts. These penal laws form part of the legal framework and legislative regime of our country to address the problem of OSAEC. Child Rights Network Philippines prepared a matrix of these related laws, pointing out the features and gaps of the said legislation, and providing recommendations based on preceding studies and consultations with legal experts on how to amend the said laws.⁴⁵ Below is a matrix of these penal laws and other ancillary laws that comprise the legal framework in the Philippines that is relevant to the OSAEC issue:

⁴⁵ Child Rights Network, *Policy Review of Laws in Relation to Online Sexual Exploitation of Children*, Jan 13, 2020. (On file with author).

I. Main Philippine Laws for Child Protection Online

Law	Features	Gaps	Recommendations
1. Republic Act 9775, or the “Anti-Child Pornography Act of 2009”	The law punishes a whole spectrum of acts, which can include OSAEC, related to child pornography from its production and distribution to its possession. It also imposes an obligation to Internet Service Providers (“ISPs”), internet content hosts, mall owners, lessors of business establishments, photo developers, information technology professionals, credit card companies, banks, and governmental branches to help eradicate OSAEC and report cases of child pornography.	The law fails to capture the criminal act of live-streaming sexual acts involving children. The law only involves recorded CSAM. The law also does not capture instances when the materials involved are self-generated sexualized materials or when the offender is also a child. Even though the law should be interpreted in relation to the Juvenile Justice and Welfare Act, it still misses the point that children are still victims regardless if the materials produced are self-generated. The law is also silent on the role of the private sector in the proliferation of CSAM in their platforms.	<p>To address the often-ephemeral quality of the commission of OSAEC, a definition of streaming and live streaming should be included in the law. Because the commission of OSAEC is often perpetrated or initiated through social media networks, there should also be clear obligations imposed on them to not only report OSAEC cases but also to prevent the commission of the same. Social media platforms should be made accountable when they act as facilitators of OSAEC. They need to be mandated to take down, report and assist law enforcement, to enable them to address the creation, circulation and sale of self-generated CSAM.</p> <p>The conflicting provisions in Section 9 of this law and pertinent provisions of the Data Privacy Act should be harmonized to ensure that different interpretations of these two laws cannot be used by ISPs as justification for non-compliance for requests for data on OSAEC cases. The term “proper authority” should also be clearly defined to avoid ambiguity. A safe harbor provision is also recommended to be included to persuade ISPs and other sectors involved in the implementation of the law to meet the set conditions.</p>

I. Main Philippine Laws for Child Protection Online

Law	Features	Gaps	Recommendations
2. R.A. 9208 as expanded by R.A. 10364, or the “Anti-Trafficking in Persons Act”	The original law punishes acts of trafficking as well as acts that promote the trafficking of persons. The amendment punishes persons who use trafficked persons for prostitution and raises the penalty of an offense if the trafficked person is a child.	The law does not specifically address persons who view children online. The amended law also does not impose any obligation on ISPs, internet content hosts, or business establishments to prevent OSAEC-related trafficking, or cooperate in the prosecution against the offenders. It is also insufficient in addressing the reality that children may be recruited online.	The law may be strengthened to provide the obligation to notify and cooperate with law enforcement when it finds reasonable suspicion of OSAEC-related trafficking, ensure that there are technological or other practical safeguards in place to prevent or detect recruitment and trafficking, and train its employees to ensure that they may be able to detect the possibility of unlawful activity.
3. R.A. 10175 or the “Cybercrime Prevention Act of 2012”	The law punishes offenders who commit any of the acts defined and punishable under R.A. 9775 by imposing a penalty that is one degree higher than that provided under the latter law if the unlawful activity was committed using a computer system.	While the law punishes any act, which aids or abets the commission of child pornography, or is an attempt to commit a cybercrime, the said provisions were struck down by the Supreme Court as unconstitutional for being vague.	The law should be amended to sufficiently address persons who may be considered “accomplices or accessories” to OSAEC.
4. R.A. 9995, or the “Anti-Photo and Video Voyeurism Act of 2009”	The law punishes offenders who engage in photo or video coverage of persons who are engaged in sexual activities without their consent and taking into consideration their privacy expectations.	The law does not craft an exception for children wherein their consent should not even be a defense against liability under the law. It also does not focus on the attempt to capture photos or videos, but only on the consummated act.	The law should be amended to remove consent as a defense in cases involving children and punish attempts to capture photos or videos of sexual activities.
5. R.A. 7610, as amended by R.A. 9231, or the “Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act”	The law explicitly defines and punishes child prostitution and other sexual abuse, and child trafficking. Under the amendment, the law now explicitly enumerates prohibited acts constituting the “worst forms of child labor,” which include the sale and trafficking of children, child prostitution and exposure to sexual abuse.	The law has a narrow view when it punishes attempts to commit child prostitution. It also does not cover situations wherein the offender does not get to see videos or children despite trying to lure a child. There is also no clear punishment for an attempt to make a child engage in obscene or indecent shows.	The law should be amended to cover attempts to commit child prostitution, even if the attempt is not successful.

II. Ancillary Laws that Affect Child Protection Procedures

Law	Features	Gaps	Recommendations
1. R.A. 11313 or the “Safe Spaces Act”	The law defines gender-based online sexual harassment as “online conduct targeted at a particular person that causes or likely to cause another mental, emotional or psychological distress, and fear of personal safety. If the offended party is a minor, the law imposes a higher penalty on the offender.	The law does not fully consider OSAEC as one of its punishable crimes.	The law must be amended for the elements of gender-based online sexual harassment to cover OSAEC.
2. R.A. 10929 or the “Free Internet Access in Public Places Act	The law creates a “Free Public Internet Access Program” in public places. It tasks the Department of Information and Communications Technology (DICT), along with other concerned sectors and agencies, to develop standards and mechanisms for the protection of children online.	This is not a penal law. Hence, it will not be able to punish OSAEC. By also giving more spaces free internet access, may lead to more opportunities to perpetuate OSAEC.	The standards and mechanisms to be developed by the DICT should put a premium on existing laws on the rights and protection of the welfare of children.
3. R.A. 4200 or the “Anti Wire-Tapping Law”	The law prohibits “any person, not being authorized by all the parties to any private communication or spoken word, to tap any wire or cable, or by using any other device or arrangement, to secretly overhear, intercept, or record such communication or spoken word” by using recording devices.	The law does not punish OSAEC as it primarily punishes unauthorized intercepting or recording of private communications. It does not contemplate acts constituting OSAEC.	The definition of wiretapping should be amended to include as punishable acts situations that facilitate OSAEC or give access to OSAEC materials.

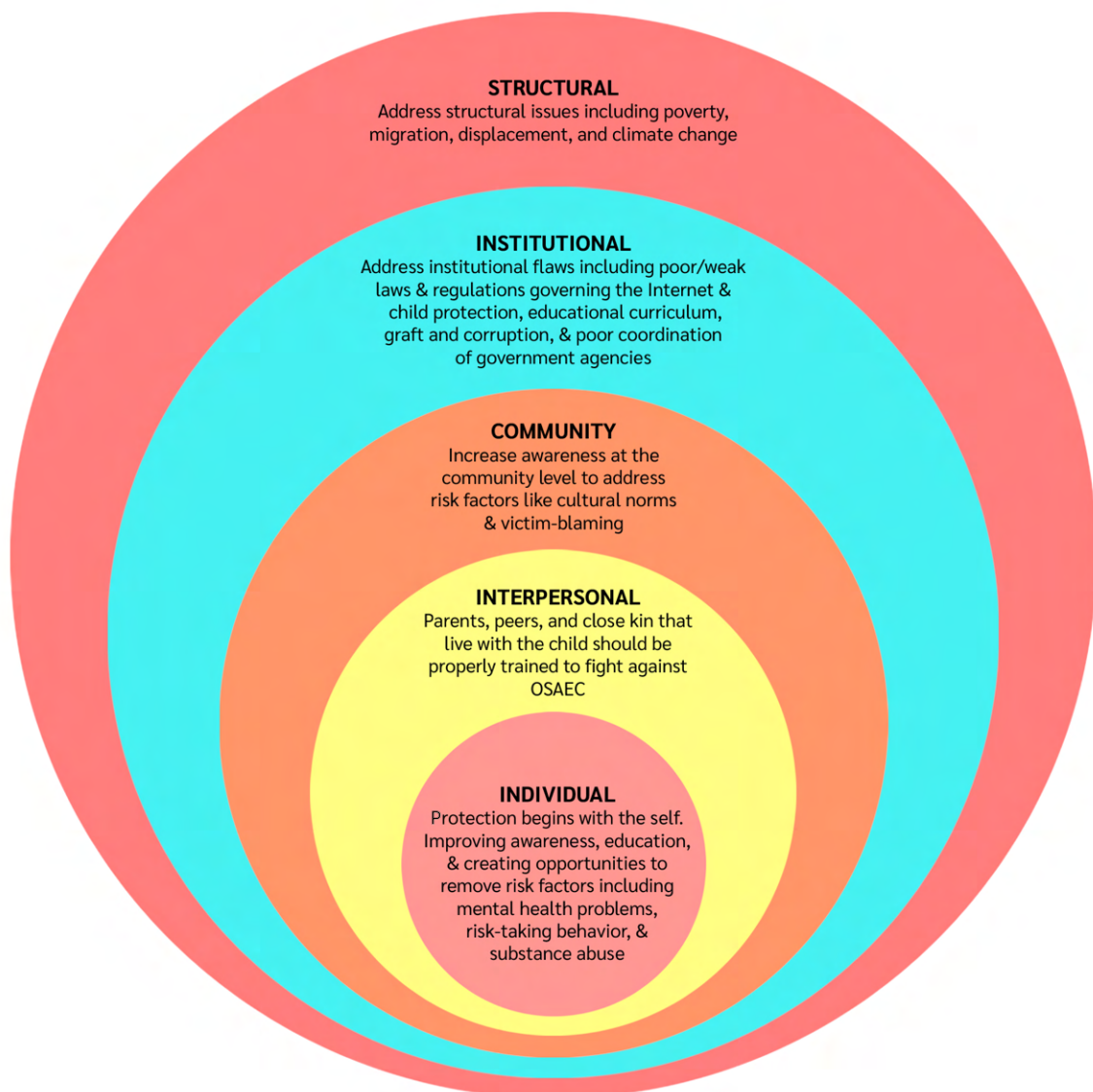
II. Ancillary Laws that Affect Child Protection Procedures

Law	Features	Gaps	Recommendations
4. R.A. 9160, as amended, or the “Anti-Money Laundering Act” (AMLA)	The law seeks “to protect and preserve the integrity and confidentiality of bank accounts and to ensure that the Philippines shall not be used as a money-laundering site for the proceeds of any unlawful activity,” which includes child trafficking and pornography.	As the law essentially punishes the act of using the banking system to make it appear that the proceeds of an unlawful activity originated from legitimate sources, any act constituting OSAEC must first be considered a violation of another penal law before the law itself can be applied. The law also has a high threshold amount, which is P500,000 in one banking day.	The implementing rules of the law should have provisions that are specific enough or realistic enough to account for money transactions that are OSAEC-related. The high threshold amount required before a suspicious account is flagged and reported to the AMLC should also be amended.
5. Banking laws (R.A. 1405, R.A. 6426)	Philippine banking laws, in relation to OSAEC, delve into how the proceeds which are deposited in banks may be inquired into, frozen, or garnished when such proceeds are related to the commission of crimes.	If an offender has a foreign currency deposit account and is convicted of a crime relating to OSAEC, the law technically does not allow the account to be garnished for any monetary penalty imposed by the court.	To strengthen the punishment of OSAEC, there should be explicit legislation that allows garnishment.
6. R.A. 10173 or the “Data Privacy Act”	The law punishes any unauthorized processing, accessing due to negligence, committing improper disposal, processing for unauthorized purposes, unauthorized access, or the intentional breach, malicious or unauthorized disclosure of personal or sensitive personal information, or concealment of security breaches involving sensitive personal information.	The law does not impose higher obligations or higher penalties for entities who handle children’s personal or sensitive information.	There should be a higher standard of responsibility expected for entities that hold a child’s information. This would mean that internet content hosts should be liable in case it allows OSAEC material that identifies a child in their systems. There should be corresponding penalties for such entities who hold a child’s information and do not take steps to protect it.

A holistic approach to beat OSAEC

Layers of Protection vs OSAEC

To beat OSAEC, a holistic approach is needed to address the many multi-layered and inter-related levels that contribute to its proliferation:



OSAEC is a complex form of sexual violence because of the use of information and communications technology for its facilitation and its cross-border characteristics. There are many factors that we need to consider for us to beat this problem. To beat OSAEC, there is a need for a holistic approach in addressing the problem.

Beyond crafting legislation that would address the gaps mentioned in the previous section, the following elements need to be acted upon to effectively address and end OSAEC in our communities:



1 Capacity-building for data gathering, data recording, and investigation

Despite the many established institutions handling the identification of possible cases and their investigation, there is no institutionalized system that will unify the work of these government entities and avoid the duplicity of efforts. Therefore, it is recommended that a centralized system and database be created to have consolidated and verified data of all OSAEC cases in the country, integrating available information maintained by governmental bodies including the DSWD, PNP, and DOJ, among others. This will give the government a better picture of the situation of OSAEC cases in the country and in turn, it will aid in improving the services needed at every stage of prosecution, case management, and victim intervention.



2 Role of the Information and Communication Technology Industry

The private sector plays a role in the detection and investigation of possible OSAEC cases as one of the main channels of reporting. Included are the Internet Service

Providers, Internet Content Hosts, Social Networking Sites, and other technology companies, and banking and financial institutions. Data sharing and cooperation between the government and ICTs is crucial in the investigation of OSAEC cases. The information sought by the government will help in tracing the geographical location of the perpetrator, the type of OSAEC material perpetuated by the offender online, and other previously related online interactions. Thus, the collaborative relationship between the government and ICT companies plays an important role in detection and evidence gathering.



3 Banking and financial institutions

The role of the private sector in addressing OSAEC is related to the role of banking and financial institutions in reporting suspicious transactions that possibly connect to OSAEC offenses. Based on our research and consultation meetings, it was revealed that there was an omission on the part of banking institutions to report suspicious transactions to the AMLC for monetary transactions related to OSAEC transactions. This is revealed in the studies published by AMLC on suspicious transactions on OSAEC. The studies released by AMLC showed that it was money service institutions that made the highest number of suspicious transaction reports. AMLC concluded that most offenders of OSAEC use MSBs as payment channels which justifies their statistics. However,

financial experts averred that there is something amiss in the exceptionally low volume of suspicious transaction reports submitted by banks to AMLC concerning transactions related to OSAEC.



4 Case management

Case management, or the “procedure to plan, seek, and monitor services from different social agencies and staff on behalf of a client,”⁴⁶ is one of the most important aspects of OSAEC response. It begins from the time there is an investigation of an OSAEC case. Law enforcement, social workers, case managers, and aftercare service providers work together in all phases of the resolution of an OSAEC case. While there is an existing “Protocol for Case Management of Child Victims of Abuse, Neglect, and Exploitation” crafted by the DOJ-CSPC, this document has not been updated since 2014, and there is a need to update this set of protocols to include the extraordinary characteristics of OSAEC crimes and its effects on child victims. At present, these protocols do not embody the extraordinary facets of an online nature of abuse and exploitation.

⁴⁶ Committee for the Special Protection of Children. (November 2014). *Protocol for Case Management of Child Victims of Abuse, Neglect, and Exploitation*. Department of Justice. Available at: https://www.doj.gov.ph/files/transparency_seal/2016-Jan/CPN-CSPC%20Protocol%2026Nov2014.pdf



5 Support programs for families and communities

Based on research and consultations, there is still a need to strengthen support programs for Filipino families and communities. This recommendation relates to services and measures that will address the underlying causes or drivers of OSAEC. Studies indicated that poverty is the major driver of violence against children. Providing job opportunities and livelihood services to parents and caregivers will help decrease chances of children being pressured and exploited to provide for the needs of the family. This recommendation is related to the programs implemented by DSWD as a member agency of the IACACP. Services and support for families and communities also include programs to support the reintegration of OSAEC victims back to their families and communities. These services can also ease the pressure off the parents and caregivers for them to be able to give ample supervision over their children.

Related to these programs are educational and awareness raising efforts to inform children, parents, caregivers and members of the community of the drivers of OSAEC and the risks and harms of online engagement of children. At present, there are numerous campaigns for information dissemination on the dangers of OSAEC. Both the public and the private sector lead these campaigns. It is important to emphasize that these efforts should always include the children themselves as they are the most important stakeholders in this issue. •

LIST OF TERMS & ACRONYMS

AMLA	Anti-Money Laundering Act
AMLC	Anti-Money Laundering Council -A Philippine government agency tasked to implement the provisions of Republic Act No. 9160, also known as the “Anti-Money Laundering Act of 2001” (AMLA), as amended, and Republic Act No. 10168, also known as the “Terrorism Financing Prevention and Suppression Act of 2012” (TFPSA)
ASEAN	Association of Southeast Asian Nations
BSP	Bangko Sentral ng Pilipinas
CSAM	Child Sexual Abuse Material -Refers to abusive materials – either photos, videos, or any other form of sexualized web content produced by offenders in exchange of compensation
Cyber tip	Tips or reports from the public about potentially abusive or exploitative material online, such as child sexual abuse images and videos
DICT	Department of Information and Communications Technology
DOJ-OOC	Department of Justice-Office of Cybercrime
DSWD	Department of Social Welfare and Development
IACACP	Inter-Agency Council Against Child-Pornography
ICT	Information and Communications Technology -Refers to ecosystem of devices, applications and networking systems that when combined, allow people, the government, and civil society to interact in the digital world
IJM	International Justice Mission
ISP	Internet Service Provider -A company that provides customers with Internet access through the use of various technologies including dial-up, DSL, cable modem, wireless or dedicated high-speed interconnects
NCMEC	National Center for Missing and Exploited Children
OSAEC	Online Sexual Abuse and Exploitation of Children -Sexual abuse and exploitation of children facilitated through information and communications technologies, including the production, distribution, and selling of indecent materials of children
SNS	Social Networking Sites-Online platforms which people can use to communicate and build social networks or social relationships with other people, like Facebook and Twitter.
UNCRC	United Nations Convention on the Rights of the Child -An international human rights treaty which sets out the civil, political, economic, social, health and cultural rights of children

Beat Online Sexual Abuse & Exploitation of Children