



Child Pornography

in the Philippines

Child Pornography in the Philippines

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The contents of this book reflect the views of the author, and do not necessarily reflect the views of the United Nations Children's Fund or any other United Nations organization.

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Acronyms

AVI	Audio Video Interleave
BID	Bureau of Immigration and Deportation
CALABARZON	Cavite, Laguna, Batangas, Rizal, and Quezon
CD-ROM	Compact Discs-Read Only Memory
CJL	Chief Justice League
CPTCSA	Center for the Prevention and Treatment of Child Sexual Abuse
CRC	Convention on the Rights of the Child
CWC	Council for the Welfare of Children
DOH	Department of Health
DOJ	Department of Justice
DOLE	Department of Labor and Employment
DOT	Department of Tourism
DSWD	Department of Social Welfare and Development
DVD-ROM	Digital Versatile Disc-Read Only Memory
ECPAT	End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes
EDSA	Epifanio Delos Santos Avenue
EUROPOL	European Police Agency
FBI	Federal Bureau of Investigation
FTP	File Transfer Protocol
GNP	Gross National Product
HB	House Bill
HIV/AIDS	Human Immuno Deficiency Virus/Acquired Immune Deficiency Syndrome

INTERPOL	International Criminal Police Organization
IP	Internet Protocol
IRC	Internet Relay Chat
ISP	Internet Service Provider
LCPC	Local Councils for the Protection of Children
MIMAROPA	Mindoro Oriental and Occidental, Marinduque, Romblon, and Palawan
MNCs	Multinational Companies
MRT	Metrorail Transit
NBI	National Bureau of Investigation
NCR	National Capital Region
NGO	Non-Governmental Organization
NSCB	National Statistical Coordination Board
PAT	Philippine Adventure Tours
PD	Presidential Decree
PHP	Philippine Peso
PIA	Philippine Information Agency
PISO	Philippine Internet Service Organization
PLCPD	Philippine Legislators' Committee on Population & Development
PNP	Philippine National Police
PREDA	People's Recovery, Empowerment, and Development Assistance Foundation, Inc.
PST	Psychosocial Trauma and Human Rights Program
RA	Republic Act
SB	Senate Bill
TW-MAE-W	Third World Movement Against the Exploitation of Women
UN CRC	United Nations Convention on the Rights of Children
UNESCO	United Nations Educational, Scientific, and Cultural Organization
UP CIDS PST	University of the Philippines Center for Integrative and Development Studies on Psychosocial Trauma and Human Rights
VAWCD	Violence Against Women and Children Division
VCD	Video Compact Disc
WCCD	Women and Children's Concerns Division
YM	Yahoo! Messenger

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Foreword

The ratification of the Convention of the Rights of the Child and Its Optional Protocols by the Philippine government has resulted in increasing recognition of children in need of special protection. However, in our modern and complex world, problems concerning protection of children are becoming more complex and challenging.

One such problem is the exploitation of children through pornography. It is a highly complex and sensitive issue, yet something we must urgently attend to. With increasing frequency children are being targeted by the pornography industry's seemingly insatiable demand for degrading images of children.

This book recognizes the seriousness of the problem in the country. It demonstrates that child pornography in the Philippines exists. Several factors make children in the Philippines easy prey for those who produce and use child pornography—widespread poverty, public tolerance of prostitution and pornography, sex tourism, availability of advanced communication technology, a lack of stringent laws against child pornography, and inefficient prosecution of those who perpetrate it.

Boundless opportunities exist to distribute and propagate these materials in any form. Advances in technology have made the production, reproduction and dissemination of pornographic images of children simple to carry out and hard to detect. Internet pornography sites and chat rooms, digital cameras and cellular phones have also helped the production and distribution of child pornography.

It is possible to help both potential and actual victims alike by ensuring that children are in school, increasing community awareness of child pornography, adopting early interventions to safeguard children in their families and communities.

We depend on the vigilance of surveillance and rescue teams, and of referral networks that support and assist victims. Moreover, after care services, legal protection, counseling and reintegration are critical in addressing child pornography.

On behalf of UNICEF Philippines, I congratulate the Psychosocial Trauma and Human Rights Program of the University of the Philippines Center for Integrative and Development Studies for this illuminating study of child pornography in the Philippines.

Nicholas K. Alipui
Representative
UNICEF Manila

Introduction

In the early part of 2004, the Philippines was rocked by the news of 17 children being sexually abused by three foreign nationals. Aside from sexually abusing them, the foreigners photographed and took video footage of these children in various stages of undress and in sexually suggestive poses. Some of the photographs and video also documented the sexual abuse of these children.

A few months later, another story came into focus. This time, the news involved an operation staged by the National Bureau of Investigation (NBI) and a Manila-based non-governmental organization (NGO) to capture an Asian national who was said to be producing child pornographic materials, using Filipino children as models. The foreigner was apprehended, together with his Filipino cohorts, in the act of taking video footage of a girl as he made her undress. Aside from the female victim, the foreigner also brought along with him 70 children whom the law enforcement agency suspected would be used for his production.

These are just two of the latest documented cases of child pornography in the country. There are others dating as far back as the late 1960's to the early 1980's that show that child pornography is a real and pressing problem in the Philippines.

To fully understand the problem of child pornography it is important to define what a child is, and what child pornography is.

Legally, a child is a person below 18 years of age. The Optional Protocol to the United Nations Convention on the Rights of the Child (UN CRC) on the Sale of Children, Child Prostitution and Child Pornography, on the other hand, defines child pornography as “any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child.” [Protocol, Article 2(c)] This is done primarily for the sexual gratification of pedophiles or adults interested in children as sexual objects.

Child pornography, along with prostitution and trafficking for sexual purposes, is considered a form of child sexual exploitation and is a fundamental violation of children’s rights. More often than not, child pornography involves the sexual abuse of children. Procurers or pimps earn from these children’s abuse. In other cases, children are themselves given token remuneration in cash or in kind. In such a set up the child is treated as a sexual object or an object of commerce or trade. Its exploitative nature makes it one of the worst kinds of child labor (Free the Children, no date).

It is therefore right for society to protect children from the scandal of child pornography. Fortunately, international and legally binding instruments have already been drafted to ensure such protection. An example of this is the UN CRC, of which the Philippines is a signatory. According to the UN CRC, “states should undertake to protect the child from all forms of sexual exploitation and sexual abuse” and should “take all appropriate national, bilateral, and multilateral measures to prevent:

- a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- b) The exploitative use of children in prostitution or other unlawful sexual practices;
- c) The exploitative use of children in pornographic performances and materials...” (UN CRC, Article 34)

The Optional Protocol enjoins States Parties who ratify it to ensure that the “production, distribution, dissemination, importation, exportation, offering, selling, or possessing child pornography are criminalized if any of those acts are for the purposes of sexual exploitation of the child” [End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT) 2002: 34]. Moreover, the Philippines also has laws to protect children from this.

It is only proper that child pornography should be addressed through legal means because of the pernicious psychological effects that pornographic exploitation brings to children. Needless to say, the pornographic exploitation of children constitutes abuse because it is an act that “debases, degrades, or demeans the intrinsic worth and dignity of the child as a human being” and “gravely threatens or endangers the survival and normal development of children” (Philippines 1991)

Sadly, the effects of pornography on the victims are far reaching and may actually last a lifetime because these images are lasting testaments of a child’s exploitation. In fact, pornographic images of children produced in the 1960’s and 1970’s, in Denmark, Holland, and Sweden are reportedly still making their rounds the world over to this day [Philippine Information Agency (PIA) and United Nations Children’s Fund (UNICEF) 1998].

Based on evidence, the incidence of the pornographic exploitation of children is growing, particularly because of modernized technology and globalization. For instance, the latter part of the 20th century and the early 21st century have seen the rapid development of technology. One of these developments includes the Internet, which allows for the unabated production and distribution of knowledge throughout the world. However, the Internet has unfortunately also become a tool for the mass distribution and sale of detestable materials like child pornography. The advent of high technology gadgets, such as mobile phones equipped with cameras, digital cameras, and computer software, have also aided the easier production and distribution of pornographic images of children.

Although European countries such as Britain, Holland, Sweden, and Denmark have made progress in fighting child pornography, these efforts have not stopped child pornographers from expanding their reach to other locations. Particularly vulnerable are developing countries which have

made tourism as one of their chief sources of revenue. The influx of foreign tourists has opened developing countries to the influx of pedophiles, many of whom are suspected of involvement in the production of child pornography.

There is also a growing prostitution problem in these developing countries, a problem inextricably intertwined with sex tourism. The study conducted by Protacio-Marcelino et al. of the Psychosocial Trauma Program of the University of the Philippines Center for Integrative and Development Studies (Protacio-Marcelino et al 2000: 16) reports that prostitution in the Philippines has become a multi-million dollar illegal industry and is now the fourth largest source of gross national product or GNP of the country.

Prostitution not only sets women up to exploitation and abuse. Children are also equally, if not more, vulnerable to it because there is a greater demand for younger persons among customers. Like girls, boys are also susceptible to being victimized in the sex industry.

Children who work in the sex industry are prone to becoming victims of pornography. They are, after all, the most accessible resource to pedophiles and perverts who may be involved in the production of child pornography.

However, children in the sex industry are by no means the only ones predisposed to become victims of child pornography. Ordinary children may also become victims of pornography as objects of photographic or video images. For instance, exposure to pornographic images is considered a form of sexual exploitation. Studies have shown that exposure of children to pornographic images may desensitize them to pornography by making them think that pornography is normative. This exposure may, as a consequence, have negative psychological effects on children, leading them to think that sexual activity itself is equally "normal" or benign.

Although child pornography is a very real problem in the Philippines, it is seldom recognized. This is perhaps because it is not as vivid or real as children in prostitution, where business is done out in the open and the numbers are huge. It is much easier to see the problems children in the sex industry face compared to the covert problems that child pornography victims face. Moreover, in the absence of media coverage of this victimization, child pornography remains a hidden issue.

Although cases of child pornography have been reported in the Philippines, sources on this are scarcely available. A quick review of the available literature will only yield news reports, internal reports from government and non-government agencies on cases they have handled, and a few academic studies on child pornography.

To address this lack of information on child pornography, UNICEF Manila commissioned the UP Center for Integrative and Development Studies on Psychosocial Trauma and Human Rights (UP CIDS PST) to embark on a study entitled *Rapid Appraisal of Child Pornography in the Philippines,*” which was carried out in the second quarter of 2004. The study aimed to give a rapid but comprehensive review of the issue of child pornography in the Philippines. Specifically, the project examined:

1. The prevalence of child pornography in the Philippines including accounts of actual cases in the country;
2. The mechanics of the production and distribution of child pornography in the country to the rest of the world;
3. The role of poverty, tourism, commercial sexual exploitation of children, and other socio-historical factors in child pornography;
4. The role of the Internet and electronic commerce in the distribution of child pornography;
5. National and international laws that protect children from child pornography and the possible gaps and loopholes in these laws and their implementation;
6. The role of government organizations, non-government organizations (NGOs), and networks of organizations in preventing child pornography and providing intervention to victims; and,
7. Recommendations for combating child pornography in the country.

The research team accomplished these aims by reviewing and consolidating literature on the issue. Gaps in the existing literature were addressed by conducting interviews and focus group discussions with key informants from government and non-government organizations involved in the protection of children against abuse and exploitation.

Out of this research came a technical report which was submitted to UNICEF Manila in the third quarter of 2004.

To make the report available to a wider audience, UNICEF Manila again commissioned the UP CIDS PST to make a version fit for public consumption. This version is the result of this effort. The material is substantially the same as that found in the technical report. For the present report, the team has simplified the language and suppressed the names of some of the respondents to protect their identities and their safety.

This book brings together information on child pornography in the Philippines and assesses the situation on this problem. It is the first of its kind to offer a comprehensive overview on child pornography in the Philippines. This book will be divided into five chapters.

The first chapter gives a general background on child pornography. It discusses the definition of child pornography, issues relevant to it and offers an overview of its history. The chapter also discusses pertinent theoretical frameworks that guided the writing of the report such as the UN Convention on the Rights of the Child and the Orb-Web Model, which shows how child pornography affects children and how children react, to help people contextualize the issue of child pornography. The chapter also provides an overview of the causes of the problem, those involved in the production and distribution of child pornography and calls attention to the role of modern technology.

Chapter Two provides a comprehensive discussion on child pornography as experienced in the Philippines. Following a historical overview of child pornography in the Philippines, some contemporary cases are discussed to introduce some of the issues with which this chapter is concerned. It examines the perpetrators of child pornography and shows the different factors that contribute to the victimization of Filipino children in pornography.

Chapter Three illustrates how advanced technologies contribute to the spread of child pornography. Discussion centers on pornographic websites, electronic mail and electronic newsgroups as well as instant messaging systems and the emergent “webcam” technology and “cybersex”. This chapter raises the role of Internet service providers and video pirates in the problem of child pornography.

Chapter Four examines the Philippine justice system and legal framework, and its role in helping stop the menace of child pornography. Aside from this, the Chapter reviews the effectiveness of these laws in addressing the aforesaid problem. Moreover, it raises important points that need to be addressed should the legislature choose to enact a new law dealing with child pornography in particular.

Chapter Five introduces efforts currently undertaken by both government and non-government agencies to address the problem of child pornography. It discusses the need for a functional referral system that would ensure the protection of children against pornographic exploitation.

The last chapter presents a summary of issues raised throughout the book in the form of challenges to solving the problem of child pornography. These cover the need for awareness and education, coordination of services for victims, and improvements in the law and its enforcement, among others. This last chapter will be most useful for program planners and policy makers in crafting programs or plans of action to assist child victims and combat child pornography.

CHAPTER ONE

An Overview of Child Pornography

Child pornography was largely unheard of prior to the late 1960s. In separate studies, Anson and Pierce (Svedin and Back 1996:11) reveals that “it was rare to find children featured in pornographic materials” prior to 1968. At the start, pornographers only used young-looking adults to mimic the innocence of youth. However, this trend only served to create a market for pornography using youthful models.

What started out as the mere mimicking of the youthfulness of children ended up with children themselves becoming models in pornographic materials. Soon, children “as young as three or four years old” were being drafted to pose for these lewd materials where they were portrayed “in every conceivable sexual position and act” (Svedin and Back 1996: 11-12).

By the 1970’s, child pornography experienced a boom, particularly in the United States of America where an estimated “300,000 to 600,000 children under the age of 16” were fielded as models. (Svedin and Back 1996, *ibid.*) The same thing happened in Sweden where pornographic magazines such as *Lolita*, *Children-love*, *Boys-intensive*, *Lolly-pop*, and *Schoolgirls* featuring children were widely sold in the open market. Child pornography was not

only commercially available, however. Reports were also rife that child pornographic films produced by amateurs were sold in shops and delivered by post in Sweden (Svedin and Back 1996, *ibid.*).

What is child pornography then? This question needs to be answered at the outset since in general, people are hardly aware of what it is. Although people might encounter these pornographic images, they may not really be able to recognize them as such. This is particularly true, for instance, when these images involve teenage children who have already reached physical maturity. It will be wise to remember though that any person below the age of 18 is still considered a child under the law. Thus, teenagers depicted in these images, although they may have reached puberty, are still children. Such images should, therefore, be considered a form of child pornography and treated as illegal.

But this is only one of the issues related to child pornography. For instance, new technologies have emerged, such as the Internet and advanced computer software that can manipulate photographs and potentially create pornographic virtual images. In addition to these are new mobile phone technologies and digital cameras that allow for the quick production and exchange of digital images. Such developments highlight the need for new definitions of child pornography.

The Evolving Definition of Child Pornography

Earlier, citing the 2002 Optional Protocol to the CRC, child pornography was defined as “any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child, the dominant characteristic of which is depiction for a sexual purpose.”

Although the definition is useful, it may be subject to numerous interpretations. For instance, it is silent on the definition of the phrase “whatever means.” Should this include morphed images of children where the photographic image of a child’s head is placed on the naked body of another (older) person? Can this be considered child pornography even though the body in the photograph may no longer be the child’s?

In the United States, concerns were raised over “virtual child pornography” where pornographers use sophisticated computer graphics to create pornographic images of children. The images are so lifelike that it is difficult to tell apart pornography involving real children from its virtual counterpart. In 1996, the US Congress enacted the Child Pornography Prevention Act “which made it a crime to spread ‘virtual’ child pornography on the Internet.” However, the US Supreme Court shot down the law because it considered the law’s definition of virtual child pornography as too broad (Madigan 2002). Thus, subsequent changes have been made to this legal definition. Virtual child pornography is now defined as a “visual depiction... a computer image or computer-generated image that is, or appears virtually indistinguishable from, that of a minor engaging in sexually explicit conduct” (US House of Representatives 2002)

Another form of pornography that is becoming popular among youth and adults alike is *hentai*, a pornographic variety of Japanese cartoons or *anime*. These cartoons feature characters, often resembling adolescent persons, performing sexual activities similar to those in pornographic movies involving real people. Bearing this in mind, should *hentai* be considered child pornography considering the characters are teenagers?

Another issue that should be examined is the relative nature of obscenity or sexual explicitness across cultures. The ECPAT guide for *Protecting Filipino Children Online* (2002: 29) rightfully points out that various interpretations exist in different cultures of what is considered obscene or suggestive. The last line of the definition, “depiction for a sexual purpose” may be interpreted according to cultural circumstances.

Furthermore, there is also the question of whether materials involving adults pretending to be children (i.e. women who dress up in school girl uniforms, who wear pigtails, and who act like they are children) fall under the same category. The rationale behind this, it is argued, is that adults who pretend to be children in pornographic materials may be encouraging, abetting, or legitimizing sexual relationships with children.

It is important in these circumstances to give a clear-cut and unambiguous definition of what constitutes child pornography, given that technological change has itself altered the nature of pornography.

For this purpose, this book will refer to Ireland's Child Trafficking and Pornography Act 1998 (Muntarbhorn 1998: 3). The definition not only addresses all the issues discussed above, but it also leaves little room for ambiguity and misinterpretation.

The Act expands the definition of child pornography contained in the Optional Protocol by including computer-related child pornography. Furthermore, it explicitly defines the parameters of what can be considered as child pornographic material. In the Act, child pornography is defined as:

- a) any visual representation that i) shows a person who is or is depicted as being a child and who is engaged in or is depicted as being engaged in explicit sexual activity, or ii) whose dominant characteristic is the depiction, for a sexual purpose, of the genital or anal region of a child,
- b) any audio representation of a person who is a child or is represented as being a child who is engaged in or is represented as being engaged in explicit sexual activity, or
- c) any visual or audio representation that advocates, encourages, or counsels unlawful sexual activity with children, irrespective of how or through what medium the representation has been produced and, without prejudice to the foregoing, includes a representation produced by or from computer-graphics or by any other electronic or mechanical means." (Sec. 2)

This definition is by far the most comprehensive one among those currently in use. It covers both traditional and technologically-mediated means of production of child pornography. It also includes adults posing as children in pornographic materials. The definition, however, lacks a descriptive listing of possible sexual activities. For this, we turn to the proposed Child Obscenity and Pornography Prevention Act of 2002¹ (HR 2002):

- (i) Actual or simulated sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

- (ii) Bestiality (sexual relations with animals);
- (iii) Masturbation;
- (iv) Sadistic or masochistic abuse;
- (v) Lascivious exhibition of the genitals or pubic area of any person; or
- (vi) Actual sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex, or lascivious simulated sexual intercourse where the genitals, breast, or pubic area of any person is exhibited." [Sec. 3(b), H. Res. 4623]

There are criticisms against providing such a list of possible sexual activities in which children may be engaged in the context of child pornography.

These argue that providing a detailed list may actually limit its scope, when in fact there may still be other forms of sexual activity which children are made to do in a pornographic context. However, such a list is not useless because many may not even be aware that children can be victims in the manufacture and distribution of pornography. Many may also be unfamiliar with what acts children may be asked to do in child pornographic materials. Providing a list of sexual activities can therefore allow people to better understand the problem of child pornography, by informing them of what constitutes child pornography.

Why is it important then to come up with a comprehensive definition of child pornography? For one, it may help avoid ambiguities. A comprehensive definition makes it easier to identify what constitutes child pornography or not. For a long time, child pornography has been seen as a gray area because people, particularly the uninitiated, may not see children as possible objects of sexual attention. Also, children of teenage years who have already reached sexual maturity may no longer be seen as victims in case they fall prey to the machinations of pedophiles.

The Players in the World of Child Pornography

The world of child pornography is made up of different players that may push children to become victims of child pornography. The players can be persons such as pimps, pedophiles, tourists, etc. However, the players can also be social factors and situations that predispose children to become victims of child pornography. These players and factors may act discretely, but they may also be interrelated with one another.

To understand these factors better and the interrelationships they share, this book will adopt the Orb-Web Model (Figure 1), which can serve as a useful tool to look into the different factors that drive children to victimization in pornography. The Orb-Web Model was first used by Corsaro in 1993 for conceptualizing interpretive reproduction. This was later modified by the Protacio-Marcelino et al (2000) on the commercial sexual exploitation of children to interpret the world of children in prostitution.

However, this work will be using a slightly modified Orb-Web Model appropriate to the question of child pornography.

The Orb-Web Model can be likened to a spider's web. The radii or spokes represent different individuals, groups of people, or situations that may influence or facilitate the entry or exit of children into the world of pornography. These spokes may include pedophiles, poverty, sex tourism, and technology as part of the mitigating factors that drive children into the world of pornography. But more than being discrete individuals or players, these players may be, in reality, related to each other.

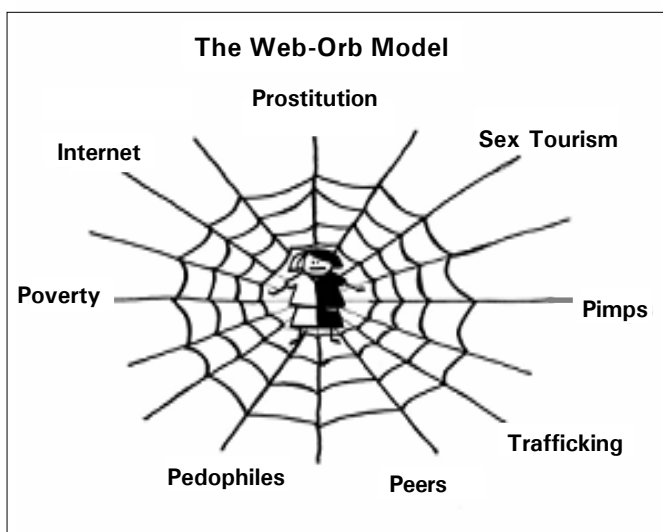


Figure 1. The Orb-Web Model
(Illustration by Ariel Manuel)

The model assumes that the confluence of these different players affects how much the child gets caught in the web and how long the children may stay in the web.

In the middle is a child caught in the web of pornography. The reader should notice that, in the figure, half of the child is shaded while the other half remains otherwise. The shaded portion represents the characteristics of the child that disable him or her from escaping victimization such as fear and helplessness. It may also represent characteristics of the child that make him or her vulnerable to abuse, or characteristics that will make it difficult for the child to get over his or her experiences. On the other hand, the light portion represents enabling characteristics of children that allow them to escape victimization and to remain resilient despite their sordid experiences.

Although the graphic representation shows an equal division between the shaded and non-shaded portions, this does not mean that children have equal enabling and disabling capacities. It might be that children may have more enabling characteristics than disabling characteristics or vice versa.

To understand how the web works, an example is provided. Assume that the possible victim is a girl who may be the sixth child of poor parents in a beach community frequented by tourists. The family's poverty forces this child to help her parents by selling trinkets to tourists visiting the beach.

Because this area is frequented by foreign tourists, the child encounters some of these tourists, who may be pedophiles. One of these tourists shows the child kindness at the onset and tells the girl and her family of his interest to send the child to school. The parents, even though they do not know the tourist personally, allows her to be with the foreigner. This is not only because they believe the child stands to benefit from his generosity, but also because they believe that it is itself a privilege to be in the good graces of a generous foreigner.

As the child is treated kindly by the "friendly" tourist, in stark contrast to the child's parents' harsh disciplinary methods, she establishes affinity with the foreigner. He, in turn, introduces the child to pornography by showing the child sexually explicit images—photographs or video—of children having sex with adults. The child may see no harm in this and may actually believe

that engaging in such acts is normal. Since the child believes that the foreigner means her no harm since he only “thinks” of her welfare, the child does not object to the foreigner asking to take photographs of her, or to take a video of her having sex with him.

The child’s interaction with the different factors may in fact, “reinforce, perpetuate, or even deter,” the child’s involvement in pornography and may be the extenuating factor for the child’s deeper entrapment or disengagement to or from pornography (Protacio-Marcelino et al 2000: 8).

The web’s spiralling pattern suggests that the child does not move in one direction. It may either lead the child deeper into it, or it may lead the child away from entrapment. For instance, a concerned adult, noticing changes in that child’s behavior, could seek an explanation for this, and thus learn of what the child has undergone. Once the adult learns of the child’s experience, the adult may decide to report the incident to authorities such as the Department of Social Welfare and Development (DSWD) or the Philippine National Police (PNP), who may act on the complaint. Thus, the spokes or radii may not only provide a way out for the child, but may also speed up the process of leaving her harrowing experiences.

The following discusses the different players that may contribute to the child being initiated into the world of child pornography. It will start out with the pedophile as a possible player in the victimization of the child.

The Pedophile

O’Grady (1994: 40) defines pedophiles as persons who are “almost always male, whose preferred sexual partner is a child of a particular age.” However, although they may be almost always male, there are also females who can be considered as pedophiles. Preferences of these individuals may vary from “prepubescent children” to “early teen partners.”

Pedophiles often present a confusing picture because they are, in many ways, ordinary people. In fact, pedophiles may even be considered trustworthy and respectable and often hold good standing in the community

(O'Grady 1994: 41; Ruggles, undated). They may even hold positions of trust in society such as teachers, priests, pastors, counselors, etc.

Typologies of pedophiles include the exclusive pedophile who is solely attracted to children and the nonexclusive pedophile who is both attracted to children and adults (Ruggles, undated).

Rädda Barnen (undated) cites Kenneth Lanning's report entitled *Child Molesters—A Behavioral Analysis*, which reveals that "pedophiles almost always collect child pornography and that they treasure child pornography because it represents their most cherished sexual fantasies." Pedophiles also compulsively and systematically collect evidence of their forays with children, often documenting these through photographs and video. For instance, an Australian by the name of Clarence Osborne kept comprehensive records, photos and information of the over 2,500 boys he molested over the years (O'Grady 1994: 39).

The Meese Commission in Australia (Barnen, undated) also reports that child pornographic materials are, by and large, "produced in a 'cottage industry' fashion by pedophiles." This means that pedophiles may be engaged in the personal production of pornography.

Reports have it that so-called sex tourists who visit Asia and Eastern Europe produce the bulk of the existing child pornographic materials.

O'Grady (1994: 43) also shares disturbing information that many pedophiles have, in fact, found a home in many Asian countries as retirees or as small-time businessmen where they are involved in the sexual abuse of children.

Not all pedophiles produce their own child pornographic materials though. Some may just be consumers of child pornography. Walz (1992: 17) makes an important point when she says that the demand for child pornographic materials among pedophile customers provides the impetus for its continued production the world over. Without such demand, the child pornographic business cannot be sustained.

Hartman, Burgess, and Lanning (1984, in Svedin and Back: 16) provide us with a useful typology of the collectors of child pornography. According to

them, there are four types of collectors of child pornography: the *closet collector*, the *isolated collector*, the *cottage collector*, and the *commercial collector*.

The **Closet Collector** keeps his or her collection secret and purchases his or her materials discreetly. It is possible that this person is not directly involved in child abuse but only appreciates the materials belonging to his or her collection.

The **Isolated Collector**, on the other hand, collects pornographic materials of children. He or she may be involved in child abuse but keeps his or her activities secret for fear of being caught.

The **Cottage Collector** shares his or her collection and his sexual activities with others, but is not concerned with making money from his interests.

In contrast, the **Commercial Collector** produces materials, copies them, and profits from the sale of these materials in his or her possession. This person is also engaged in child exploitation.

What kinds of materials do pedophiles and collectors normally acquire? Max Taylor (2001), a professor of Applied Psychology at the University College Cork in Ireland, says that these people are most likely to collect any of the following:

- 1) **Erotica**—these are pictures that do not involve either nudity or sexual behavior. They may be simply pictures of children, or they may have more obvious sexual connotations such as children in swimsuits or underwear. Neither the production of such images nor their possession is considered illegal.
- 2) **Nudity**—some nude photographs of children may not be considered illegal because they may not be sexualized pictures to begin with. An example of this is pictures of children taken in nudist camps where nudism is considered a legitimate activity. The image only becomes sexual depending on the viewer's interpretation. There are also so-called covert photographs, examples of which include pictures of

toddlers and children in various states of undress playing in paddling pools, swimming pools, or on the beach. Photographers may have taken their pictures from afar without the victims' knowledge of having being photographed. According to Taylor, these photos "have a particularly corrosive quality because they are often taken in what [are considered] 'safe' areas, and they sexualize innocent and appropriate play." Another type of images involving nudity would be soft porn pictures that require subjects to pose in front of the camera. These pictures may be taken by professional photographers in settings such as outdoors, hotel rooms, and the like. These photos are "generally implicitly sexual, and make great use of stylized provocative posing, rather than showing explicit sexual behavior." These photographs, according to Taylor, are highly attractive to pedophiles.

- 3) **Explicitly Sexual**—these pictures may "range from pictures focusing on genital or anal areas, through a child or children posing in a sexually explicit way, to pictures of real or simulated sexual assaults conducted either by other children or adults." The images may also include bestiality (which involves sexual activity with animals) and sadism such as bondage or whipping.

Often these pedophiles use pornographic materials for their sexual arousal and gratification. They also use these materials to reassure themselves that their behavior is shared by others because they often belong to networks of pedophiles that exchange pornographic materials. They may use such exchanges as opportunities to establish trust and camaraderie with other pedophiles and to access plenty of other materials. They may also use pornographic materials to seduce children, lower children's inhibitions, and serve as a model for these children to emulate. Some pedophiles use pornographic materials to blackmail children into keeping silent about the abuse, especially when the pedophile makes pornographic materials involving the child. More often than not, they produce these materials to preserve the child's image at the age the child remains sexually attractive to them. Other pedophiles produce such materials to sell these for profit [ECPAT and Interpol (International Criminal Police Organization) 1998: 5; Svedin and Back 1996: 16-17].

The Pedophile Network

In the United States and Europe, networks of pedophiles exist as political lobby groups that fight for the legalization of pedophilia. They also act as venues for pedophiles to meet and to share their interests.

O'Grady (1994: 34) states that these groups espouse particular interests such as sexually abusing young boys or girls. The Australian Customs Service identified more than 50 such organizations and 60 individuals involved not only in structured pedophile activity, but also in the production of pornography. This is according to their recent intelligence assessments concerning pedophile networks in Europe.

Pedophile networks are usually secretive groups and have exclusive membership. O'Grady (1994: 34; 36) shares that members of these groups usually "have learned over a long period of time that they can trust each other and that no police informers have infiltrated their ranks." The members commonly talk about their sexual obsessions but know "for sure that nothing of their conversation will ever go beyond the walls of the room."

Large-Scale Sex Rings

Burgess, et al (1984, in Svedin and Back 1996: 20) report of sex rings that prey on children. According to the report, there are three varieties of sex rings.

The first type consists of "one adult leader and a number of children." In this type, the adult abuses the children and produces pornography but no exchange of child pornographic materials happens between pedophiles. Usually, the adult uses the pornography he produces only for himself.

The second type, which will be elaborated upon shortly, consists of a "group of adults forming a well-structured organization recruiting children, producing pornographic material, and arranging (the) exchange/sale of children's pornographic images." Usually, the second type is an organized syndicate involved in the production of pornography.

The third type is a transitory structure that can be described as a mix between the first two types.

Hiew (1992: 30) states that the second type of sex ring consists of pedophiles that organize themselves and form networks to exploit children for commercial gain. Their operation can be described as large-scale. These “exploiters engage in national and international child sex trafficking through illegal and quasi-legal activities” and may be engaged in “marketing of child pornography, prostitution, nude dancing, procuring sex rings, and outright molestation” of children (Hiew 1992: 30).

In the 1960’s and 1970’s, for example, sex rings that produced child pornography on a large scale were identified in Denmark, Holland, and Sweden. With the stricter implementation of laws against child pornography, these rings ceased to exist in the said countries.

Sex rings are still to be found in Japan. As a result, the country has been described as an “important center for child pornography” (Rädda Barnen, undated).

In Australia, pedophiles are also reportedly involved in the export of child pornography, albeit on a non-commercial basis. This means that pedophiles swap and share materials with each other without money changing hands (Rädda Barnen, undated).

The huge availability of pornographic materials on the Internet, including child pornography also proves with certainty the existence of large-scale sex rings that produce such materials. The Internet has become the rings’ chief medium for the distribution of pornography.

In a recent case, the US Federal Bureau of Investigation (FBI), together with the United Kingdom’s National High Tech Crime Unit, the Europol (European Police Agency), and the Royal Canadian Mounted Police undertook a global investigation of a pedophile sex ring known as *The Brotherhood*, that operates over the Internet. The investigation led to the arrest of 60 people in 11 countries who were later charged for participating in the pedophile network (The Information Warfare Site 2003).

The Pimp

Another important player in the world of pornography is the pimp. *Webster's New Collegiate Dictionary Tenth Edition* (1995) defines a pimp as a "(person) who solicits clients for prostitutes." However, pimps may also peddle children and adults alike who may not necessarily be sex workers in the first place.

Pimps may or may not necessarily be related to the victim. However, there have been reported cases of next-of-kin brokering deals for the victim. Sometimes, parents themselves deliberately peddle their children. There are also those parents who, by choosing to ignore or remain silent over the abuse of their children, may be considered to be peddling them.

Since sex workers are most vulnerable to becoming victims of pornography due to their being accessible "resources" for pedophiles, pimps play an important role in the exploitation of children in child pornography. Children in prostitution may be flagrantly peddled by pimps to pedophiles who may be interested in producing pornographic materials involving these children.

These pimps often act as middlemen and get a percentage of the money the child earns. The pimp often gets the bulk of what the child earns, while the child only receives a measly amount for all the work he or she did. Such arrangements make the situation of the child doubly oppressive.

Factors That Influence the Proliferation of Child Pornography

Apart from these key players, other factors enhance the production and dissemination of child pornographic materials. These include advanced technologies like computer hardware and software, the Internet, digital cameras, mobile phones, and the like. Others may also come in the form of prostitution, child trafficking, sex tourism, poverty, and the availability of pornographic materials in the mainstream. With the presence of these factors, the risk of children getting entangled in the web of pornography is amplified.

Advanced Technology

Digital Cameras. While technology has helped people in a lot of ways, technology has also been used for less than noble purposes. For instance, advances in technology have allowed for the easier production, reproduction, and dissemination of child pornographic images. Because of this, it has made child victimization easier.

One such technology being used for prurient purposes is the digital camera. This can come in the compact varieties that can be brought anywhere to capture images. Such cameras can store hundreds of pictures, effectively doing away with bulky rolls of film and the inconvenience of having the photographs developed in public photo shops. One only needs a printer that can print in full color, and copies can be processed in the comfort of one's home without the fear of discovery or of apprehension by law enforcement agencies.

More advanced varieties of digital cameras are also capable of taking video footage. Hence, these can also be used to create pornographic video images.

Mobile phones. Ubiquitous camera-equipped mobile phones may also be used to produce pornographic images of children. Like digital cameras, these phones can be used to take and store numerous photographic and video images. What makes the mobile phone a perfect tool for the production of pornographic images is the ease with which these phones can be carried around and can be used to take pictures of people without them even knowing it. On the Internet, "amateur" pornographic pictures of unsuspecting individuals are being circulated. Some of these images have been taken using mobile phone cameras. These images can be passed from one mobile phone to another or circulated via email, file transfer protocol (FTP), or websites.

Computer Technology. With the advances in computer technology, pictures from digital cameras and mobile phones can now be easily uploaded onto personal computers. Aside from this, digital photographs can also be downloaded into computers from the Internet or from compact discs and the like. Thus, current computer technology can be used in tandem with other advanced technologies.

Computer technology now enables the storage of voluminous data not only in the form of JPEG and bitmap (photo) files but also files in the form of MPEG (video) files. This can be attributed to the increased memory capacity found in most contemporary personal computers.

New developments in technology have also made it possible to compress big files into smaller files, making it easier to download photographs and movies into computers. A newer video file format called AVI (Audio Video Interleave) files, which are smaller and more compact versions of the bigger and bulkier MPEG files, are now widely available on the Net, again allowing easier access to pornographic movies. Players such as Quicktime, Realplayer, and Windows Media Player are often used to view movies downloaded from the Net. These files in AVI format can be saved on hard disk drives and at the same time, can also be copied to writable CD-ROMs (compact discs-read only memory). This allows for the faster reproduction of pornographic materials.

Files in the AVI format tend to be small in size. One CD, for example, can hold up to four episodes of a 31-minute show. A 31-minute MPEG-format file, on the other hand, can only fit in one CD because these files are usually large. It is possible to download free software from the Internet that will enable the conversion of MPEG files to AVI files. AVI files have become attractive recently as it allows people to store numerous movies on their computers without having to consume too much space in their hard disks. Furthermore, it is a lot faster to download movie files that are in AVI format compared to other similar varieties.

Rädda Barnen (undated) reports, quoting Kenneth Lanning, that since pedophiles are meticulous record keepers, the computer "fills their need for organization, validation, souvenir records, and to find victims." This is because computers now allow for efficient storage of numerous pornographic images.

Another development in computer technology is the CD and DVD-ROM (digital versatile disc-read only memory) writers. These have allowed for the mass production, reproduction, and distribution of pornographic materials. The kinds of CD and DVD-ROM writers may range from single-disc writers to large-scale writers that allow the simultaneous reproduction of numerous CDs and DVD-ROMs. With this, pornographic movies may be mass produced and

distributed on a wider scale. The large amount of pirated CDs and DVDs, including pornographic movies, being circulated in markets all over Southeast Asia indicates the power of these tools to enable mass reproduction of movies.

There are also computer software that can morph photographs, transforming these images. For example, an image of a child may be transformed into a pornographic picture by removing the head of the child from the photograph and pasting it on a picture of someone else's naked body.

Some advanced software also allows for the encryption of pornographic images into what appears to be ordinary computer files. In other words, pornographic images can be embedded in benign computer files. With this, an unsuspecting person would only be able to see the ordinary files but will not be able to know that hidden in them are pornographic images. Computer experts may be needed to recover the encrypted or embedded pornographic images. Pornographers use such technology to protect themselves from being caught by law enforcement agencies.

Internet. The invention of the Internet is viewed as an important milestone because of the speed at which information and knowledge can be exchanged and accessed by anyone at any time. However, the Internet is not a benign technology because of its less than noble aspects. The Internet has itself become a dynamic venue for the distribution of all kinds of pornography.

Although many of these sites are pay-sites (that is, sites that require payment for access) and thus can only be viewed when users give their credit card information, these sites contain free previews that allow anyone interested to sample pornographic photographs or video available on the site. There are also free sites that are either operated by a private individual or by companies specializing in pornography. Anyone who knows how to navigate the Internet, including children, would be able to find these free sites and open them.

The Internet also allows for the unabated exchange of pornographic materials. It is acknowledged that child pornography can be exchanged using email, newsgroups, Internet Relay Chat (IRC), FTP, instant messaging systems, and other similar methods.

A study by Rachel O'Connell found 15 newsgroups containing female child erotica and pornographic pictures containing over 8,720 pictures of female children. In nine other newsgroups, some 2,576 pornographic images of male children were found. She asserts that there is a greater likelihood that there is more vigorous exchange of "private photographs, sensitive information, contacts, etc. through private email, mailing lists, ICQ, and IRC, more than the newsgroups" (no author given, undated).

Consistent with these findings, there are reports that pedophiles use the Internet to communicate with fellow pedophiles, to locate like-minded individuals, to find children to abuse, to transfer and create child pornography, and to profit financially from such ventures. Numerous convictions have been made in different countries such as Italy, the United States, United Kingdom, Germany, Ireland, Switzerland, Hungary, and other countries of these people (no author given, undated).

There is no doubt that the Internet has become a potent tool for pedophiles to exchange and distribute pornographic materials on a personal or mass basis. It has been noted that the distribution of child pornographic images can be done through pay websites, or enthusiasts may exchange these materials with each other through email and newsgroups. Thus, distribution can be done through unpaid person-to-person exchange and through large-scale distribution involving the exchange of money.

The exchange also crosses borders. A pornographic site, for instance, may exist in Europe, but may be accessed by people in the Philippines. At the same time, an adult online entertainment service that offers live cybersex fare can be operated in Manila while a host of customers or viewers may view this from anywhere in the world. In the same way, a pornographer may produce pornographic materials in an Asian country, but may email the pictures he produced to friends in the United States or upload the pictures to the Internet to be viewed by his customers.

In addition, materials produced using digital cameras and mobile phone cameras can be uploaded to the Internet and distributed through email, newsgroups, and chat rooms. These can also be easily posted on websites.

However, the Internet is not only a source of traditional pornography involving children, the Internet is also a source of pornographic cartoons,

particularly *hentai*. *Hentai* are sexually explicit cartoons that portray anywhere from nudity to hardcore sex involving teenagers.

Pornographic Sites and Internet Chat Rooms. Pornography has become widespread all over the World Wide Web. It is estimated that some 40 percent of active websites host pornographic materials. In a research by the Crimes Against Children Research Center in the United States, 25 percent of respondents stated they have been exposed to unwanted pornographic materials while they were surfing the Net (no author, undated).

Large numbers of pornographic sites exist because of the huge profits they make. The large demand for pornographic materials spawns the need to recruit numerous individuals to fill in this need. In the pornography business, it has been found that the younger the models are, the more attractive they will be to consumers. Such demand makes way for the recruitment of children as models for these lewd materials.

But the danger does not only lie in children being recruited as models. The Internet has spawned a generation of children who are savvy enough to maneuver their way around different Internet sites with ease and confidence. These children are most vulnerable to be exposed to pornographic sites. The danger in this is that they may become desensitized to such images and consequently may become desensitized to sexual activity, as has been noted in past research.

Internet-savvy children are also equally at risk of exposure to undesirable elements lurking on the Internet. Some of these are pedophiles who frequent chat rooms to scout for potential victims. In a survey conducted in the United States, 20 percent of young respondents revealed that they have been sexually approached online in the previous year, while one in 33 respondents received aggressive sexual solicitation that includes "receiving an invitation to meet somewhere, telephone calls, or being sent regular mail, money, or gifts" (no author, undated).

Another risk involves a recent innovation called webcams, which make use of the Internet to send a live streaming video feed from one camera and computer to another computer. These allow people to see each other in real time while chatting. These devices are sometimes used for cybersex where chatters perform sexual activities for their chatmates. Unsuspecting children

may be lured to view a webcam feed where an adult chatmate performs sexual activities. Similarly, a child may also be persuaded to perform sexual activities for his or her chatmate. It is reported that this has become a source of pornographic materials produced by amateurs, as it is possible to capture photographic and video images from webcam viewers.

The subject of advanced technology will be discussed further in Chapter 3.

Commercial Sexual Exploitation of Children

One of the sad realities we currently encounter is the increasing commercial sexual exploitation of children. This work defines commercial sexual exploitation as the coercion or the influencing of children by any adult or group to engage in sexual intercourse or lascivious conduct for money, profit, or other similar considerations (Di Giovanni 1997). Anthropologist Michael Tan aptly describes commercial sexual exploitation of children as a function of the commoditization of sex where the child is “reduced to a commodity to be exchanged mainly for money” (ECPAT-Philippines and ECPAT Japan-Kansai 1994: 16).

Children, both male and female alike, are susceptible to becoming victims of commercial sexual exploitation. This may come in the form of prostitution, trafficking, and pornography (Sunga 1999). Among these, the most visible form of exploitation is prostitution.

Prostitution. There are no precise numbers of the total number of children in prostitution. However, it is generally assumed that there are millions of male and female children all over the world who are engaged in prostitution. In the Philippines, estimates of the number of children in the sex industry vary from tens of thousands to hundreds of thousands, depending on the source of the estimates. It does not come as a surprise that children are recruited in prostitution. As Sunga (1999) says:

...in the business of prostitution, the demand for the younger and fresher face and body is always the strongest. That is why where there is prostitution, there are usually, if not always, children involved.

Children are most likely to be lured into prostitution by poverty. Protacio-Marcelino et al (2000: 23) reveal that most of the victims/survivors of child prostitution are offspring either of blue-collar workers or unemployed parents. Thus, children assume the burden of keeping their family's finances stable. More often than not, they have also dropped out of school.

However, poverty is not the sole mitigating factor, as not all poverty-stricken children end up in prostitution. Many children are pushed to work in the sex industry by peer pressure (Protacio-Marcelino et al 2000). Children may start out by being told by their peers of a job that offers quick and easy money. The lure of quick and easy money plus gentle persuasion by their peers entice these children to try out working in the sex industry.

Some children, on the other hand, are driven to prostitution by their own parents (ECPAT-Philippines and ECPAT Japan Kansai 1994: 15).

Another possible reason which Sudarat Srisang (1991: 42) shares as a factor for children to enter the sex industry is unstable family relations.

Children in prostitution are subject to numerous abuses such as being forced by pimps to have sex with their clients. They are also at risk of being physically abused by sadomasochist clients. Protacio-Marcelino et al (2000: 19) state that some have even been killed when these children refused to perform sexual activities with their customers. Children in prostitution are also likely to be exposed to sexually transmitted diseases including HIV/AIDS, for which there is still no affordable and effective cure.

Furthermore, since these children work in the sex industry, they may also encounter clients who may have a penchant for producing pornographic materials. Children in prostitution interviewed by ECPAT (Philippines and ECPAT Japan-Kansai 1994: 66; 74) in Cebu during the early 1990's reveal their experiences of being photographed by both their foreign and local customers. Although some only do it for fun, some customers take these photographs as part of the work of sex rings that produce pornographic materials for profit.

Child Trafficking. An issue connected to prostitution and pornography is child trafficking. Republic Act 9208, a law passed by the Philippine

Congress in July 2002 that states that trafficking of women and children is criminal, defines trafficking as:

...recruitment, transportation, transfer or harboring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders by means of threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation which includes at the minimum, the exploitation or the prostitution of other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs. [Section 3(a)].

Indeed, prostitution on a global level invariably involves the transportation and recruitment of women and children either within a particular country or across borders. In Thailand, many of the women and children in prostitution have been smuggled from nearby countries such as Cambodia and Laos. In the Philippines, trafficking involves the transportation of women and children from the Visayas and Mindanao to Luzon and vice versa. These persons are recruited for various purposes such as prostitution or servitude.

As mentioned earlier, prostitution (with the related activity of child trafficking) can lead children to become victims of pornography.

Sex Tourism. Numerous countries, particularly developing ones, have used tourism to boost their flagging economies. De Leon, Contor, and Abueva (1991: 53) make this important observation:

Governments and international development institutions... have encouraged the influx of tourists into Third World Countries principally as a means to generate foreign currency for the poor nation's coffers....

Because tourists bring precious dollars with them, a country's economic growth can be stimulated. However, the use of tourism to boost local economies does not come without grave social costs. The careless way by which governments promote tourism in their countries have been known to

breed problems such as prostitution and sex tourism. De Leon et al (1991) say:

It did not matter much in what way money was spent by tourists in the country. What was more important was to make sure tourists spent their money....

In different international fora, tourism has come to be regarded as a mitigating factor to the increase in the "magnitude of children lured or sold into prostitution (Ecumenical Coalition on Third World Tourism 1991). The demand for flesh by tourists has inspired the growth and institutionalization of the prostitution industry, both in Southeast Asia and in the rest of the world.

It is interesting to note that sex tourism is being flagrantly advertised on the Internet. Organized sex tours for men interested in illicit sexual activities are often arranged for them not only by travel agencies but also by pedophile networks. Often, these are advertised on the Internet as package tours. In these advertisements, the price for children in prostitution, their location, and the means of finding them are explicitly stated (Protacio-Marcelino et al 2000: 19).

Free the Children (undated) reports of a burgeoning sex tourism industry, involving men who travel to places such as the Philippines, Cambodia, Thailand, North America, and Eastern Europe to engage in sex with children. It has been reported that most of the children exploited in the sex trade are on the average between ages 13 and 18, but cases of children younger than five have also been reported.

De Leon et al (1991) add that the majority of the sex tourists who solicit sex from minors are white males from industrialized nations, followed by Japanese men who prefer older teenage girls.

Encounters with foreign sex tourists can lead to children to become victims of child pornography because of their exposure to pedophiles who are interested in documenting their sexual encounters with children. As mentioned earlier and as studies have found, these people usually keep meticulous records of their encounters with children, through photographs, video, or written accounts.

Sometimes, customers need not be pedophiles. Some clients hardly care if they were engaging in sex with adults or minors. Although they may not be pedophiles, once they are presented with the prospect of engaging minors in sex, they could lose their qualms in having sex with children (O'Grady 1994).

Poverty

Because of poverty, children may be driven to prostitution, or to become street children who beg or peddle their wares on the streets or beach fronts. The latter may become vulnerable to the advances of coldhearted persons who may take advantage of their innocence. Poverty may also drive some parents to peddle their own children in exchange for some cash or a "scholarship." However, poverty is not the sole push factor that leads to the victimization of children in pornography. Mixed with other factors such as peer group pressure and the lure of easy money, poverty may drive children to the world of pornography.

However, lest it be mistakenly assumed that only poor children can become victims of child pornography, children from well-off families may also be equally at risk. For instance, the Internet does not only expose these children to pornographic images; they may also be lured by guileless individuals lurking on the Internet to watch these individuals perform sexual acts. It may also work the other way around with these children being persuaded by unscrupulous individuals to perform sexual acts online.

The Availability of Pornography in the Mainstream

The availability of child pornography in the mainstream may desensitize people to the phenomenon and makes them think that child pornography is normal. It may also induce pedophilic tendencies among some people. Of grave concern is the possibility that people may become blind to the negative effects child pornography has on its victims.

It is also said that pedophiles usually initiate children into sexual acts by making them watch pornographic films or leaf through pornographic magazines. This is to prime children for future sexual activity. It also serves as an example for the child's emulation at a later stage. By making children view such images, the child sees the act as "normal" and something enjoyable, as often children in pornographic films and pictures are depicted as smiling.

Why Child Pornography Must Be Addressed

As human beings, children are entitled to rights which the United Nations Convention on the Rights of the Child (CRC) enjoins all people throughout the world to respect and uphold. These rights ensure that children would be able to reach their full potentials, free from hunger and want, neglect, abuse, and exploitation. These also ensure that they grow up to be productive adults in the future. The UN CRC categorizes the rights of children into four broad categories (Protacio-Marcelino et al 2000: 4):

- Survival Rights which are fundamental to the basic survival of children;
- Development Rights which are fundamental to the healthy development and well-being of children;
- Protection Rights which ensure that children are treated fairly and not abused and exploited; and
- Participation Rights which empower children, enable them to participate in everyday life, and allow them to determine their own future.

One such right relevant to this discussion of child pornography is Article 34 of the UN CRC, which categorically states that children have the right to be shielded from all forms of sexual exploitation and sexual abuse, including their exploitative use in pornographic performances and materials (UN CRC 1989: 10).

However, it must be noted that the rights of children are not to be viewed in isolation, but must also be seen in connection to one another. It is important to use an integrated and holistic approach because the absence of one right would definitely have bearing on a child's enjoyment of other rights. Therefore, depriving children of their other rights under the CRC may deprive them, for instance, of their rights against sexual exploitation under Article 34. It is a given that all these rights ought to be guaranteed so that children can grow in a safe environment that would ensure the preservation of their dignity as human beings.

Why is it important, then, for children to be shielded from pornography?

A Grave Form of Exploitation

An issue inextricably attached to child pornography is that of the child's repeated victimization. Every time pornographic images are viewed by others, the victim's experience of abuse is repeated many times over. Even though the child in question may have already reached adulthood, the cycle of abuse and victimization goes on each time the image is perused by consumers of pornography.

Similar to the endless cycle of victimization, victims of child pornography also experience repeated exploitation every time their images are viewed, because certain individuals are wont to benefit from these images. The distributor of the pornographic image makes money every time a copy of the image is sold. For the minimal investment the pornographer may have made for the production of the pornographic images—because children and their family are often paid a token amount from the abuse, if at all—the pornographer stands to make an immense profit.

The Ecumenical Coalition on Third World Tourism (1991) reports that commercial sexual exploitation of children is estimated to be a multi-billion dollar industry that allows the perpetrators to cash in on the abuse experienced by the children-victims. It does not come as a surprise then that the commercial sexual exploitation of children, pornography included, is considered as one of the worst forms of child labor.

It is of interest to note that many of the children who fall prey to pornographers come from underprivileged homes, according to a study by Collins (1995 in Svedin and Back 1996: 20).

Children Need Protection

Abuse brings about numerous negative effects on children because “they have yet to mature physically, emotionally, psychologically, and socially” (Bautista, Roldan, and Garces-Bacsal 2001: 32). Thus, they need special protection by responsible adults meant to care for them. Although children have the innate capacity to survive, the UN CRC (1989) is explicit with its exhortation that children are vulnerable individuals who need special care and protection.

While children may be capable of making decisions in some aspects of their lives, they may be incapable of making informed choices in others. This is not to say that adults make informed choices all the time. This is only to highlight the fact that children’s experiences—owing to their lifespan and to the relatively narrow range of experiences they have compared to their elders—may be inadequate to prepare them for dealing with certain personalities or experiences. This is especially true when pornographers initiate themselves into the lives of children as friends, allies, or benefactors. Children who encounter such “friendly” individuals may not suspect, much less divine the exploitative motives of these duplicitous individuals. Because pedophiles come into children’s lives as friends or benefactors, as they often do, children may actually believe in the “good” intentions of these people.

Victims of child pornography are haunted by their victimization throughout their lives because pornographic images are permanent testaments of their experience that may be passed on from one individual to another and from one generation to another. Photographs of European and American children who have fallen prey to pornography in the 1970’s still make their rounds in magazines and Internet websites to this day. With the advent of computers and the ease with which images can be stored, duplicated, and distributed, the production and distribution of these images for many years becomes an effortless task. This should serve as enough of a push to protect children from exploitation in pornography.

Child Pornography Invariably Involves and/or Influences the Sexual Abuse of Children

The production of the pornographic image often involves the overt sexual abuse of children. Often, children are made to masturbate, have sex with the perpetrator or with other children, or perform other illicit acts in front of the still or video camera. There is no question that these acts are demeaning, degrading, and potentially life-threatening to children (Barnitz 1998).

While it is generally believed that pornography contributes to the reduction of sexually related crimes because of its cathartic effects on its viewers, recent research seems to repudiate this claim (Svedin and Back 1996). For instance, Abel (1985), Marshall (1985), and Knudsen ([1988] in Svedin and Back 1996: 18) found that pornography stimulates rape-related fantasies in rapists, influences the perpetrators of child sexual crimes, increases the acceptance of physical violence, and reduces the sympathy felt for victims. Moreover, "early and frequent contact with pornographic materials can be related to sexually divergent behavior" (Becker and Stein 1991; Cundron and Nutter 1988, etc. in Svedin and Back 1996: 18-19). This means that exposure to pornography at a young age and the frequency of such exposure may actually pose negative effects on the emergent sexuality of these persons.

Other studies also say that "a large percentage of abusers looked at pornography before committing a sexual crime" (Svedin and Back: 19). These reports appear to rebut the commonly-held view that viewers with access to pornography were supposed to lose their predilections to committing abuse and sexual crimes, as their access to pornography already dissipates their desire to commit abuse and sexual crimes.

It has also been found that before children are sexually abused, many of their perpetrators show pornographic images to children to initiate them into the act. In a survey by Silbert (1989 in Svedin and Black 1996: 19), 22 percent of female sex worker respondents share that they were "abused as children" and that prior to the abuse, their abuser showed pornographic materials to them.

Child Pornography Poses Negative Psychological Effects on Its Victims

It does not come as a big surprise that pornography poses negative effects on its victims, some of them more lasting than the others. Svedin and Back (1996: 21) identifies four reaction patterns of those who have fallen prey to pornography. These are the *integrating pattern*, *avoidance pattern*, *repeating pattern*, and *identification pattern*. They based their categories on the findings of their study involving 62 children who were victims of a sex ring that produced pornography.

The integrating pattern is shown by victims of pornography who feel the least affected by their experiences. Those who display the integrating pattern could talk about their experiences without causing them great anxiety. Victims do not blame themselves; they lay the blame instead on the perpetrators of the abuse. Furthermore, their experience has not hampered their ability to look forward to the future, to function well at home and school, and foster friendship with others (Svedin and Back 1996).

Those who display the avoidance pattern, on the other hand, either deny their experiences or refuse to speak about it. This is because talking about their experiences causes them anxiety. They exhibit fear of their perpetrators and do not think about their future. Often, these children exhibit stress, depression, and self-destructive behavior. They also feel shame over their participation in the abuse (Svedin and Back 1996).

Children who exhibit the repeating pattern develop post-traumatic stress syndrome. Symptoms include overwhelming feelings of self-blame and shame. Often, these children cannot talk about their experience; otherwise, they experience discomfort. They are always haunted by their experiences and are incapable of forging relationships with others. They may also exhibit overt leanings toward sexual activity, which predisposes them to further sexual exploitation (Svedin and Back 1996).

Children who identify with the exploiter tend to reenact what their exploiter did to them. Although they start out as victims, these children may also become abusers of children as adults. They may also exhibit signs of anti-social behavior. According to Svedin and Back (1996: 22), children who

have been exploited for over a year often exhibited the most serious symptoms of anti-social behavior and felt significant identification with their exploiter.

Hiew (1992: 28-29) adds that sexual abuse of children poses "independent, long-term harmful effects for all the victims." What varies is the extent or the degree of these effects. These long-term negative effects may include "maladjustment, instability, and emotional damage in terms of symptoms of depression, low-self esteem, sense of self-blame, guilt, shame, psychiatric illness and disturbed behavior including mistreatment of their own children." They also endure abusive relationships, blame themselves for their problems, and feel depressed and powerless to take action to improve their lives (ibid, 29).

Child pornography cannot be viewed as a lesser problem compared to child sexual abuse and prostitution, since pornography serves as a permanent testament to the abuse of the child. This has the potential to haunt the individual even through his or her adult years. An individual who may have been a victim of pornography may feel ashamed by the act he or she "did" as a child and that it may be discovered by loved ones or other people significant in his or her life. "Did" is in quotation marks here because the child did not willfully partake in the act. Children in all cases of child pornography have encountered coercion, deception, or manipulation by an adult into engaging in sexual acts and permitting its documentation. Moreover, there will also be the paranoia of their acts being discovered later on by loved ones or friends.

CHAPTER TWO

Child Pornography in the Philippines

The late 1960's up to the mid-1970's witnessed the growth of the child pornography industry in many Western countries. By the late 1970's, as a reaction to this burgeoning but highly exploitative industry, the United States and several European countries started to enact and enforce stricter laws to curb the growing number of child pornographic materials being produced and sold in the market. Apart from these, some countries also enacted laws to ensure the prosecution of people possessing copies of child pornographic materials (Svedin and Back 1996: 13).

With these government-imposed strictures, pornographers and pedophiles were forced to move their operations to countries with lax laws and justice systems to allow themselves, as O'Grady (1994: 42) puts it, "unlimited sexual encounters with children with little or no fear of discovery or punishment." Pedophiles chose developing nations such as the Philippines, Thailand, and Brazil where they had easy access to children. O'Grady (1994: 43) went as far as saying that pedophiles:

have found a way to gain permanent residency in an Asian country, either as a retiree or by setting up a small business... In some cases,

pedophile clubs in Europe have purchased a quiet guesthouse on a pleasant beach front... (while others) have opened homes for street children or orphanages which have simply been a cover for pedophile activities.

The temerity of pedophiles to move to developing nations and to engage in their “vice” stems from the fact that many of these developing nations did not have laws to safeguard their children against pedophiles or if they did have laws, the pedophiles have found ways of going around them.

Another factor that attracted pedophiles and pornographers to these developing nations was that children in prostitution and sex tourism were—and still are, to a large extent—widespread in these countries. The services of children can be had as long as these people have the “time and money” and can “find their way around the system and secure a steady supply of children to meet their wants” (O’Grady 1994: 43).

While children in prostitution exist in the Philippines (based on the estimates given by NGOs and government offices), little is known about its actual prevalence in the country. While some data are available, these may not reflect the real number of children being victimized by child pornography.

The extent of pornography in the country can be shown by the statistics from the Department of Social Welfare and Development (DSWD) on the number of cases of child pornography it handled from 2000-2003 (Table 1). Also included in the table below is the number of cases of children working in the sex industry, which were handled by the DSWD.

Table 1.
Reported Cases of Victims of Child Pornography as Compared to Victims. Survivors of Child Prostitution

Case/Year	2000	2001	2002	2003
Victims of Pornography	9	4	7	13
Victims of Prostitution	186	224	245	247

In 2000, of the nine victims of child pornography, four came from Region III (Central Luzon), one from Region VIII (Eastern Samar), and four from Region X (Northern Mindanao). Only one of the eight victims (coming from Region III) is male.

In 2001, of the four child pornography victims that the DSWD reported, three came from Region IV (CALABARZON comprising the provinces of Cavite, Laguna, Batangas, Rizal, and Quezon and MIMAROPA comprising the island provinces of Mindoro Oriental and Occidental, Marinduque, Romblon, and Palawan), while one came from Region III (Central Luzon). All four victims were female.

In 2002, of the seven victims, two were male and five were female. Four came from the National Capital Region (NCR), one from Region VI (Western Visayas), and the two males came from Region IX (Zamboanga Peninsula).

In 2003, of the 13 victims, six were male and seven were female. Three came from the Cordillera Autonomous Region, nine came from Region IV (three males and six females), and one came from Region V (Bicol).

It must be noted that apart from cases reported in Central Luzon, NCR, and the CALABARZON area, victims come from some of the poorest parts of the Philippines such as Eastern Samar, MIMAROPA, Northern Mindanao, and Bicol Regions. This may be an indication that children from poorer communities are at greater risk of falling prey to the machinations of child pornographers because their dire situation may be forcing them to accept offers of quick money.

On the other hand, reported cases in Central Luzon and NCR may be related to the existence of red light districts located in these areas.

However, compared to the number of children who work in the sex industry, the number of victims of child pornography is very low. This should not give readers the impression that child pornography is not a serious problem in the country. As stated earlier, the numbers may in fact be deceiving in that the number of actual cases of child pornography may be higher than documented. This is because pornography is clandestine and is a little-known issue.

Why is it clandestine? Since the production of pornography is done in secret, authorities may not know the exploitation of children unless they or their guardians come out in the open to press charges against perpetrators.

Parents may not know of the abuse more often than not. Even if they know about it, the parents or guardians of the child may not divulge this because they may be beholden to the perpetrator. Some people also tend to treat the matter lightly, thinking that pornography is not a grave issue since the perpetrators are “only taking photographs.” The child may also be afraid to tell his or her parents because of threats coming from the perpetrator.

While authorities may come across hard copies of the pornographic photographs and videos of children in cases where the victims do not press charges against their abusers, tracing the identities of these children may be likened to looking for a needle in a haystack. It is also difficult to identify the nationalities of children because of the physical resemblance between, for instance, a Thai and Filipino child. There is also the issue of age, where girls or boys who have hit puberty and who have mature features may be difficult to identify as children.

Pornography is also a little-known issue. When asked to define what child pornography is, many people are unable to do so, let alone describe what it is. Some people have the misconception that child pornographic materials are only those that feature prepubescent children as models. They may fail to consider that materials featuring pubescent persons over 12 and below 18 years old may be considered child pornographic materials, as these persons are still considered children by the law.

It also often happens that as fast as news appears about victims of child pornography, this news disappears from people’s imagination because other developments have overtaken it. Hence, it is possible that people conveniently disregard the problem.

The following sections compile different cases of child pornography in the Philippines over the past two decades to show that child pornography is a problem this country faces. Among the different factors that will be looked into include who the perpetrators have been and the different factors that have driven Filipino children to be caught in the web of pornography.

Other factors that will be examined are the effects of pornography on children, as documented by social workers who have handled their cases.

The Perpetrators

Most of the documented cases of child pornography in the country have been instigated by foreigners. This is based on the survey of the available literature on child pornography in the country. While some cases involve individuals, other instances of child pornography are believed to have been the handiwork of members of international pornography syndicates.

However, it would be unfair to blame foreign pedophiles and pornographers alone. Filipinos in fact, have also been known to act as accomplices of foreign pedophiles in producing pornographic materials, either as procurers or as business partners. Recently, boosted by the wide reach of the Internet, foreign nationals, with local partners, have established companies dealing in cybersex. There are also Filipinos who produce pornographic materials using mobile phones and digital images for themselves or for sharing with other like-minded individuals. There are also big-time publishers of pornographic magazines and tabloids that often involve young models in their teens.

The following provides a closer look into the identity of these perpetrators of pornography.

Foreign Pornographers

Karlen (1996 in Protacio-Marcelino et al 2002: 18) reveals that child pornography in the Philippines has its roots in the 1970's during the Vietnam War when American GIs from war-torn Vietnam visited different countries in Southeast Asia, including the Philippines, for rest and recreation. During these trips, some soldiers took sexually graphic pictures of children. They did this by offering money to the children to entice them. However, the sorties of these Americans were largely unknown to the public.

What probably brought the issue of child pornography to the fore in Filipinos' imagination are the highly-publicized cases of pedophilia in Pagsanjan, Laguna in the latter part of the 1980's. In 1988, news of widespread pedophilia in the small sleepy tourist town of Pagsanjan was reported in the media. As a result, Miriam Defensor-Santiago, then-director of the Bureau of Immigration and Deportation (BID) ordered a crackdown on suspected pedophiles staying in the area.

According to Kreutz (2002), Santiago ordered the raid in reaction to statements written in books and periodical articles, and reports on television on the pervasive practice of pedophilia in the tourist community. The raid yielded 22 foreign male tourists, mostly elderly males, suspected of being involved in the production of pornography, drug abuse, and the sexual abuse of children.

The 22 arrested foreigners were given the opportunity to voluntarily deport themselves or remain indefinitely in detention pending their investigation. Most opted to leave the country on their own, Three of the accused, including an American, filed a petition for a writ of *habeas corpus* and questioned the legality of their arrest and detention. They accused the law enforcement agents of arresting them without a warrant (Kreutz 2002).

It was the American, Andrew Harvey, who gave the pedophile a human face. Harvey emerged as the perfect example of who a pedophile is. In the earlier section, pedophiles were described as avid and meticulous collectors of records of the children they encounter, including pictures and details of contact persons to whom they may have peddled these children, which Harvey assiduously did.

The *Philippine Daily Inquirer* reports that some 590 Pagsanjan children aged seven to 17 were on Harvey's files where he described in detail the sensitive body parts of boys and girls and the sexual acts he performed with them (Kreutz 2002). In addition, Shay Cullen (1991), an Irish priest who heads the NGO People's Recovery, Empowerment, and Development Assistance Foundation, Inc. (PREDA), reports that names of Harvey's contacts (possible customers to whom Harvey pimped the children) were also found, which included "businessmen in Manila connected to Multinational Companies (MNCs), politicians, government officials, diplomats, and regular tourists."

Also found were pornographic photos of the children Harvey abused. The children were photographed in the nude, with some masturbating and others being molested by Harvey (Kreutz 2002; Cullen 1991). Harvey is suspected to have shared these photographs, along with vivid sexual descriptions of these children and their sexual skills, to prospective customers interested to engage these children in illicit sexual activities (Alforte 2004).

In 1991, another foreigner was arrested and charged with the sexual abuse of children, also involving the production of child pornography. Japanese national Hisayoshi Naoyoshi Maruyama was arrested after two siblings complained that Maruyama took still photographs and videos of them while they were hog-tied and naked. It was also revealed in the report that the two children were also asked to perform sexual acts with each other while he documented the proceedings. The children were aged 10 and 11 at that time. It was also reported that another child who was then seven years old was also photographed naked and taken video footage of. Children were also asked to kiss and perform sexual acts with each other (Villamor 1991).

In 1996, Maruyama was again arrested and charged for pedophilia after he was caught "taking a photograph of a nude 10 year old girl in his room at a tourist inn." The police were able to confiscate his camera. It was found to contain a roll of film that, when examined, revealed sadomasochistic images of hog-tied or blindfolded naked boys and girls (Araneta 1996; Pazzibugan 1996).

Several cases of child pornography were also reported a year earlier in 1995. For instance, Belgian Felix Vanden Haus and Australian Lee Jesse Montana were arrested and charged with pedophilia. The two came in the guise of adopting and supporting children. Caught in their possession were pictures of them abusing boys (Ramirez 1995; Bandera 1995). Another foreigner, British national Derick Turner, was arrested at first for drug pushing; investigators later recovered other incriminating evidence such as four albums of indecent photographs of Filipina and foreign girls, three pornographic magazines, and 52 pieces of pornographic VHS tapes (Laude 1995).

Earlier in the Introduction, a case was mentioned from early 2004, where a total of 17 children were said to have been abused by two Europeans and

one North American in the tourist town of Puerto Galera in Mindoro. Again, the case involved the production of pornography where the children were said to have been photographed and taken video footages of in various states of undress with some of them performing compromising sexual acts with each other or with the pedophiles themselves. The three foreigners were arrested. However, one managed to escape. One committed suicide, while another one still remains in jail undergoing trial. These pedophiles are also suspected of belonging to pornographic rings, but this has yet to be verified in an investigation (Cobarrubias 2004).

Organized Pornographers

Pornographic pictures or videos end up for the private consumption of pedophiles that produce them or end up being published in pornographic magazines, being posted on pornographic websites, or being sold in the black market. Those that are sold for profit are usually produced by organized pornographers who may either be in cahoots with individual pedophiles or groups of pedophiles, or who are part of organized companies that make pornographic materials for a living.

The busting of an international ring in 1996 that transmitted pornographic video images of children on the Internet comes as strong evidence of the existence of organized pornographers worldwide. The group went by the name of *The Orchid Club* with members coming from Europe and North America. In 1998, another group by the name of the *Wonderland Club* was also discovered and busted. The bust yielded over a million pornographic photos of children as young as two years old (ECPAT-Philippines 2002).

The Philippines has not been immune to these organized pornographic groups with images of Filipino children appearing in international pornographic magazines, videos, and Internet websites.

ECPAT Philippines, for instance, shares their experience of finding a pornographic magazine in a Japanese shop containing pictures of Filipino children taken in an island setting. At first, they had a hunch that the children were Filipino. However, through steadfast research and

investigation, ECPAT successfully identified the children as living in a poor community in Manila and traced the location of the shoot to somewhere in Bantayan Island, Cebu. (Alforte 2004; Lorenzo 2004).

In a paper presented at a consultation on the Impact of the Internet and New Media on Children in Bangkok, Thailand in August 2001, Alecks Pabico² (2002) also reports that child pornographic websites called *Paradise Lolita* and *Lollipop*, were shut down in 2000 by Philippine law enforcement agencies. The websites “featured Asian children, including possibly Filipinos, in nude poses and sexual acts.” The company, although it carried a Philippine domain name identifier and provided a Philippine-based email address, was registered to a US company, Kinetic Computer Corporation (Shetty 2002: 265).

The findings of Pabico (2002) indicates that these organized pornographers are already crossing borders to set up their businesses in places such as the Philippines where law enforcement is lax, thus providing little impediment to their business operation. This was also confirmed by the NBI when it busted several cybersex joints featuring Filipina women and children performing live on the Internet. It said that most of these joints are operated by foreign and Filipino partners and that many are connected with pornographic sites based in Western countries.

A quick and random search of free pornographic websites on the Internet by the UP CIDS PST team also yielded pictures of nude Asian teenagers, some of whom are performing sexual acts with each other. The age of these teenagers ranges anywhere between 11 and 17 years old. There were also those who already look like adults. At first, it was difficult to tell where the children were from. However, under closer examination, it was found that the male models were wearing Philippine-made underwear. With this finding, the children were positively identified as Filipinos. This indicates that organized pornographers are already operating here in the country, recruiting Filipino children. Since these pictures were found alongside other pictures featuring Caucasian and other Asian-looking models, this also indicates that it is operated not by a local network but an international one.

Another indication that organized international pornographers have been operating in the country is the arrest in 1997 of a Filipino pimp and

pornographer, Orlando Doctolero. Doctolero was nabbed by security guards at the Luneta Park where he is said to have roamed around hunting for young boys to photograph (Alcantara 1997).

According to the report, Doctolero sent nude photographs of the boys he picked up to Weins Harley, an American. Doctolero is said to have received money for each photograph he sent to Harley. In turn, Harley is believed to work for an international syndicate who buy children for sex. It was reported that Harley sent "detailed instructions on how to capture the young boys in sexy poses," (Alcantara 1997) which could also be an indication that the photographs were being used for pornographic publications or websites.

Still another indication that Harley and Doctolero might be involved in a more organized form of child pornography is the fact that Doctolero had been sent by Harley to other countries such as Thailand to scout for possible victims and had paid for the computer that Doctolero owns (Alcantara 1997). Also, Harley's spending for Doctolero's trip abroad to scout for possible child "models" gives enough reason to suspect that Harley may not be an individual pedophile involved in the "cottage industry" production of pornographic materials. Because Doctolero's missions involved large sums of money, it is possible that Harley may really be part of a bigger group of pornographers or sex traffickers.

In what appears to be the largest case of organized child pornography this decade in the Philippines, some 70 children were said to have fallen victim to a suspected syndicate of pornographers. According to Salaveria's (2004) article in the *Philippine Daily Inquirer*, this suspected syndicate involved a Japanese national and his Filipino cohorts who acted as his procurers. The children were hired to perform for pornographic videos and model for pornographic images.

Facilitating their arrest were the NBI, the DSWD, and the SOS Child Care Foundation. These agencies set up an entrapment operation after the SOS Child Care Foundation received a tip that the Japanese was recruiting children for the pornographic materials he was producing. The Japanese and his associates were scheduled to conduct a shoot in a resort in Los Baños, Laguna with 70 children who came from Metro Manila and a town in the

province of Rizal. The suspects were already starting their shoot when the NBI swooped down on them, catching them in the act of producing the pornographic materials. (Salaveria 2004).

The group has reportedly been operating in the country for over three years now and the shoot they conducted was not the first. An earlier shoot had taken place in the first quarter of 2004. According to NBI Interpol chief Ricardo Diaz, some of the children appear to have been in the trade for some time because "they acted as if they were used to what they were made to do" (Salaveria 2004).

The experience of Irish priest Shay Cullen of PREDA in a Conference he attended in Norway on the Sexual Exploitation of Children is another indication that organized pornographic rings operate in the Philippines. During the Conference, Cullen was surprised to see that pornographic pictures from a magazine that was shown by a conference participant were the very same pictures PREDA used against an accused pedophile. This indicated that the pictures taken by the pedophile were not only for his private consumption but eventually found its way in the world market (Hermoso 2004).

In recent times, coinciding with the Internet boom, cybersex joints have opened. These are establishments that employ men, women, and children to perform live sexual acts, which are then broadcast on the Internet via webcam. These sexual acts range from taking their clothes off to masturbating for the customers and doing other similar acts. It is also reported that there are cybersex joints where both heterosexual and homosexual acts are caught on webcam. Customers with Internet connections and credit cards may view these from a computer at home anywhere in the world.

A number of these joints are found in Central Luzon. Lani (not her real name), who works full time for a local NGO, confirms the existence of numerous cybersex joints in their area. Most of these joints are operated by foreigners, mostly Australians and Americans, who have made the country their home. Usually, these foreigners have Filipino partners for their front men. She suspects that the owners of these joints have business partners abroad. Moreover, she also confirms that these cybersex joints employ children as young as 15 years old.

The NBI also confirms that adult online entertainment providers exist in the country. These joints are offshore offices of adult online service providers in Western countries such as the United States. In May 2003, the NBI raided one of these joints, located at the plush San Lorenzo Village in Makati. According to the *Inquirer* (2003), the company was run by an American national. The joint's main office, however, is located somewhere in Nevada. It keeps an offshore office in the Philippines because it is much cheaper to operate here; Filipinas are paid much less than their US counterparts, and less money is spent on office maintenance. The company set up shop in a Makati mansion, which they subdivided into 10 different rooms, each room having two computers each complete with web cameras.

The company, according to a NBI agent interviewed for the report, employed more than 20 women who went on eight hour shifts, twenty four hours a day. Not surprisingly, the company also employed teenage children. In the raid, the NBI were able to rescue two children aged 16 and 17. The women and girls who worked for the company were not regular women in prostitution, as some were found to be college students while others were waitresses who were either recruited directly by the owners or by their friends.

Local Pornographers

As mentioned earlier, there are also pornographic materials produced by Filipinos themselves. These Filipinos may not necessarily be pedophiles, though. Some of these materials are, in fact, produced by mainstream media outfits as well. However, these pornographers do not really produce pornographic images of very young children or pre-pubescent children. Their brand of pornography involves teenagers, most of whom have reached physical maturity.

In the late 1970's and early 1980's, for instance, *bomba* films became the rage in the country. Major film outfits outdid each other in producing films that involved actresses baring their bodies on screen.

In one of these films in the early 1980's, a minor was hired to play the lead role for a movie that called for the young actress to perform love scenes

with her lead men and also called for her to do a “wet” scene wearing a clingy white chemise that allowed people a peek of her body. Although the actress did not really take off her clothes, the wet scene bared her body. The scene created a stir in society but nonetheless was not considered a form of child pornography. However, the scene can be considered pornographic due to the sexually suggestive nature of the teenage actress’s scene. And although it may not have been a conscious effort on the part of the producers, the movie could be interpreted to encourage sexual relations with minors on account of the sexual nature of some of the lead characters’ scene.

It can be said that the movie was not considered pornographic possibly because the actress, at that time, was already a teenager who had already reached physical maturity. Furthermore, this could indicate the general public’s lack of awareness on what constitutes child pornography.

But the case was not to be the last. Others followed with reports of underage actresses made to bare their flesh onscreen or in magazines. These reports include the cases of several actresses who either bared their skin onscreen or in print. One actress was even said to have been peddled by her own father to appear bare-breasted in a local magazine.

News also broke out about a talent agent in the late 1980’s and early 1990’s who took advantage of scores of teenage boys auditioning to be models. The agent made the boys strip in front of the camera, and sometimes masturbated them or persuaded them to masturbate themselves. The video footage was leaked, unfortunately, to the public and became the object of expose’s by the press. Rather than help stop the exploitation of children, members of the public even contributed to its perpetuation.

Cases of pornographic images of children being published by local tabloids and magazines have also been reported lately. A local gay magazine that is normally sold in secret is known to feature Filipino teenage boys in various states of undress. However, this magazine can sometimes be found being sold out in the open in Cubao, Welcome Rotonda, Quiapo, and Recto. A respondent also shared that he came across the case of a 17-year-old boy who modeled for this magazine. The respondent shares that the boy, at first, was proud of having been taken in as a model by the magazine, but when he was made to realize the impact of his actions, the boy decided to press

charges against the publishers of the magazine. However, the case did not prosper; the judge dismissed the boy's case because he had signed a contract with the publishers possibly precluding such legal action.

Also proliferating in places like Cubao, Quiapo, Recto, Baclaran, and the corner of E. Rodriguez and Quezon Avenue are pornographic magazines, some of which contain strongly sexually-explicit images of adults and teenage children. Local tabloids with sexually suggestive names that feature pornographic images are available in the open market, some with overtly pornographic or semi-pornographic pictures on the front cover.

An issue the UP CIDS PST saw of a particular tabloid contained two fictional stories which could be considered child pornography. One of the stories involved two brothers aged seven and nine who were prostitutes. But the story is hardly a sociological treatise on their life as prostitutes, in fact, the title—"Lollipop Kids II"—is suggestive of the sexualized content of the story. Another story, entitled "Bad Burn" is about the illicit relationship between a female high school teacher and her high school male ward.

Social Factors that Lead to Children's Victimization

The existence of perpetrators is not the only factor that leads children to become victims of child pornography. While it is true that child pornography does not exist without persons behind it (i.e. the perpetrators), there are other factors that appear to increase children's propensity to be entangled in the web of pornography.

Discussions have been made of these in a previous section; however, this has not been anchored in the Philippine context. In this section, the earlier discussion will be tied to the local context by citing information gathered from the review of literature and from interviews.

Although categories have been identified, it must be stressed that the factors mentioned here are not distinct categories. Indeed, these categories may be interrelated with one another. For the purpose of clarity, these shall be discussed as if they were distinct ones.

Prostitution

Prostitution and pornography are two intimately related issues. As Sunga (1999) explains, “child pornography is undertaken to promote child prostitution.” The implicit message that child pornography brings to adult viewers is that children are valid objects of sexual desire, or that it is all right to have sex with children. Under normal circumstances, children are not available for sex; adults turn to children in prostitution to satiate their desire. In a way, this also creates a demand for young and fresh faces to be recruited to work in the sex industry.

However, “child pornography is (also) undertaken as part of the prostitution of a child” because such materials help “to lower the child’s inhibitions or resistance to participation in sexual acts” (Sunga 1999). Indeed, as mentioned earlier, part of the sexual initiation of children involves making them watch pornographic films as these serve as examples to emulate. By showing them these films, children tend to believe that sexual relations between children and adults are normal and other children are doing this as well. Perpetrators also use pornography “to stimulate or increase (their) sexual arousal” (Sunga 1999).

An important point that Sunga (1999) makes is “that most of the victims of child pornography are themselves prostituted children.”

The last point Sunga (1999) makes is notable in that the nature of children’s work in the sex industry makes them extremely vulnerable to becoming victims of pornography. Their work makes them even more susceptible to encounter people who are eager to document their sexual encounters or who may really be interested to produce pornographic materials for private or commercial use.

Prostituted women interviewed for the study confirm the reality of some customers requesting them to pose in front of the camera or to take video footage of their sexual act. They readily told encounters of their colleagues with some foreign and local customers who asked permission to take nude photographs of them for extra money. They also shared the experience of another colleague whose American customer recorded their sexual tryst on video.

In Cebu, the research team encountered a prostituted girl, who looked no more than 16 years old, but claimed she was 18. Her Filipino customer took nude pictures of her using his mobile phone. The girl relented to the request because her customer was “only” using his mobile phone to take her picture. What the girl failed to realize was that these pictures are easy to disseminate via the Internet or between mobile phones. It is also possible to have these pictures printed like a normal photograph.

Another form of prostitution that predisposes children to become victims of child pornography is what the NGO Lunduyan calls mall prostitution where boys and girls hang out in malls to pick up customers (InterPress Service Asia-Pacific 2001). According to Lunduyan’s account, girls usually hang out in cafés or karaoke TV bars, while boys prefer to stay by the mall’s railings until a customer offers them cash or material things in exchange for sex.

It can be assumed that these same children can become victims of pornography, although this is not clearly established because no study has been done on this yet. However, the possibility of them encountering customers interested to produce pornographic materials exists. This is because customers in malls are relatively well-off and may own digital cameras, camera-equipped mobile phones, or even video cameras to take images of these children. Malls are also places wherein foreigners troop to find sexual encounters. It is easy to pick up children in prostitution in malls because they are accessible and transactions are clandestine.

Sex Tourism

The global nature of the modern world has allowed people to travel from one place to another to see and experience other cultures. More often than not, tourists flock to developing countries because of the relatively inexpensive cost of living in such areas and the exotic appeal these countries offer them. Because tourist dollars are necessary to sustain the fragile economies of these countries, tourists are usually welcomed with open arms.

Not all tourists travel with wholesome purposes in mind, however. A growing number of tourists travel for more prurient reasons, that is, to engage in sex tourism. The increasing demand coming from such tourists

has spawned the growth of prostitution in areas where they usually flock. In the last two to three decades, for instance, parts of Asia have become notorious as popular destinations for sex tours.

Indeed, the growth of the prostitution industry coincided with the boom in the tourism industry in many parts of Asia, the Philippines included. Here in the Philippines, prostitution enclaves have sprouted in major cities and tourist areas around the country.

The root of sex tourism in the Philippines can be traced to the time of Ferdinand Marcos. The flagging economy of the country owing to rampant corruption in government, dwindling foreign exchange reserves, and the ballooning interest charged on the national debt pushed Marcos to encourage foreign tourism. This is because tourists help bring in needed dollars to the country (Hermoso and Cullen 1999).

Succeeding presidents have all made tourism part of their administration's agenda. This is not bad in itself because of the numerous benefits it brings the country, particularly in the generation of national income. Although sex tourism is never a part of the country's tourism agenda, it is an unwanted social cost.

For instance, Sunga (1999) and Hermoso and Cullen (1999) report that prostitution thrived in Ermita (in Manila), Pagsanjan, and Olongapo particularly during the late 1970's and 1980's. They were the country's top red light districts where child prostitution and abuse happened. Although these areas have since lost their luster as top red light districts, new enclaves have sprouted in other parts of the country.

Places known as popular quarters of prostitution include Quezon Avenue, Cubao, Quezon Memorial Circle, P. Burgos Street, Makati Avenue, Kalayaan Avenue, and Pasay in Metro Manila. Those known to be popular places for prostitution outside Metro Manila are Angeles City, Pampanga, Cebu City, Subic Bay, Baguio City and other Cordillera provinces, La Union, Davao, Bacolod City, Dumaguete City, and Boracay in Aklan (Sunga 1999).

Where there are tourists seeking the services of prostitutes, children are more likely to fall prey to become victims. This is not to say that tourists

are the sole patrons of these prostituted women and children; sizeable numbers of locals also go to prostitutes for “sexual services.”

An equally flagrant form of sex tourism are tour packages being sold by travel agencies to would-be sex tourists. One such travel agency was Philippine Adventure Tours (PAT) based in Ventura, California, which “specialized in sex tours to the Philippines.” Its owner, Allan Gaynor, “promised prospective sex tourists that they would ‘never sleep alone on this tour,’ and promised ‘sex with a different girl every night’ – ‘two if [they] can handle it’” (Captive Daughters 2004).

According to Captive Daughters, a feminist group based in the United States dedicated to ending sex trafficking worldwide, the PAT offered packages to the Philippines worth US\$1,645. The package included among others “airfare, hotel, and guided tours to bars where one could purchase sex from prostitutes working in the bars as entertainers.”

Although PAT has since closed shop in 1999, Captive Daughter reports that more than 25 other companies offer such tours to the Philippines (Captive Daughters 2004). Unfortunately, many of those who work in the sex industry and exploited by sex tourism are minors, as was discussed in the earlier section.

Another group, Big Apple Oriental Tours “operates sex tours to the Philippines and Thailand for men who are escorted to numerous bars where women can be purchased for all forms of sexual activity.” The travel agency “acts as an intermediary, making introductions and negotiating prices.” One of its tour guides, “Louis Schonberger (even) boasted that his company could provide 15 and 16 year old girls to Big Apple customers for the purpose of sex” (Maloney 2000).

It is clear in this quoted statement from Schonberger how children can easily fall prey to the prostitution trap. And as discussed earlier, prostitution can increasingly lead children to become victims of child pornography.

There are also magazines and foreign travel guides sold in different parts of the world that carry descriptions such as this from *Lolicon Land*, a Japanese pornographic magazine (Sunga 1999):

Manila and Cebu are the treasure lands of girl prostitutes. If you want to buy young girls but cannot afford to go to Thailand, Manila is the best place to go... Night entertainment in the Philippines is one of the most pleasant ones in Southeast Asia... Filipinas are full of hospitality ranging from services in bed to serving food.

However, tourists with less noble intentions need not even go through these travel agencies. Some tourists find their way on their own and some even settle down in communities in the country. Indeed, many captured pedophiles involved in the production of child pornography in the country came first as tourists but managed to stay here for extended periods. O'Grady (1994: 43) shares that some pedophiles buy homes for themselves in local communities where they may offer "scholarship" or financial assistance to children and their families, but with the child as the "remuneration" for their "magnanimity." It may interest readers that the victims of such tourists were not even children in prostitution in the first place. In the following section, the authors will discuss in detail this question of pedophiles and "philanthropy," as it is a common strand tying together many cases reported in this country.

Dolores Alforte (2004) also relates that some pedophiles are setting up foundations and NGOs for street children so that they can have access to as many children as they want.

Poverty

Closely related to the previous two issues is poverty, with which the country has been contending for many years. The National Statistical Coordination Board (NSCB) paints a grim picture of the situation (Ofreneo and Acosta 2001:6):

the proportion of families with income below the poverty line increased from 31.8 percent in 1997 to 34.2 percent in 2000, up by 2.4 percentage points.

Ofreneo and Acosta (2001:6) attribute the rise in poverty levels from 1997 to 2000 to the “financial and economic crisis, coupled with the political crisis which led to the downfall of the Estrada presidency.” The economic woes continue to this day as the Philippines faces its most serious financial crisis since the Marcos administration. A bloated national debt, rampant corruption and wastage in government, as well as the galloping growth of the Philippine population aggravate the country’s current financial situation. Because of the looming fiscal crisis and the predicted collapse of the Philippine economy in the next two years, poverty is expected to sharply increase, bringing huge social costs to the populace.

Srinivasan (1993) shares that poverty is a “predominantly rural phenomenon” given the little attention the government gives to bringing development to these areas. As a consequence, jobs and opportunities are more often than not scarce in rural communities. If jobs are available at all, these jobs usually pay measly salaries. Such lack of opportunities can drive many rural folk to seek greener pastures elsewhere, including women and children who are vulnerable to be smuggled as slaves or prostitutes. Lured by promises of work as household help or waitresses in urban cities, they eventually find themselves caught in the jaws of commercial sexual exploitation.

It is also within this context of poverty that it becomes easier to understand why Filipinos easily warm up to foreigners entering their communities. They see foreigners as bringing needed business to their communities. For instance, the influx of tourists has spawned the creation of cottage industries such as the making of trinkets, necklaces, bracelets, and other souvenir items in many tourist areas, which have helped sustain the lives of people in surrounding communities. It has also created jobs for locals in hotels, resorts, restaurants, and in the transport industry (ferry boat drivers, tricycle drivers, and the like).

Becoming friends with foreigners also becomes a status symbol for the local folk. Puerto Galera social worker Aily Cobarrubias (2004) relates that locals beam with pride when foreigners befriend them. They see this as a source of prestige in the community because foreigners are considered important persons. Their pride heightens further when these foreigners make them their primary objects of philanthropy. True enough, there are indeed

foreigners who are generous enough to help, particularly those who have spare cash to offer the needy residents of the community.

While tourism is a harbinger of economic opportunities for many, it brings with it unwanted and unwarranted social costs. Cobarrubias (2004), for instance, reports that sometimes, the attention of foreigners to particular families breeds animosity among neighbors who may not be receiving the same attention or assistance. A worse form of social cost is when these tourists act as the exploiters and abusers of children.

A typical story of exploitation may go this way. "Philanthropic" foreigners "adopt" children by giving them money to buy things they need such as clothes and school supplies and providing tuition for their education. Because poor parents do not have the resources to send their children to school, let alone buy these supplies for their children, they accept such offers of "magnanimity". Other times, these foreigners lend or give the families large sums of money to start a small business or to have their houses repaired.

It is of interest that this "philanthropy" ties together all the cases of pedophilia and pornography reported from Pagsanjan to Puerto Galera. Because these families are often hard pressed for cash and basic necessities, many of these families welcome the assistance these foreigners extend them. In a way, parents also feel such acts as a rare opportunity that they must not allow to pass. Moreover, these families become beholden and gripped by profound gratitude to these "generous" donors especially because of the Filipinos' sense of *utang na loob* (debt of gratitude).

However, there are times these "philanthropic" acts are done with less than noble intentions and in exchange for these "gifts" is explicit or implicit permission to abuse children. The Puerto Galera case, which involved the sexual abuse of 17 minors (Cobarrubias 2004) and which PREDA (2004) estimates to number to "more than 25 children" serves as an instructive example of this.

The 11 year old girl who first notified her school principal about her sexual abuse said that she was "adopted" by an elderly gentleman from the United States. The terms of the adoption entailed that she live with the American

who had already taken temporary residence in their community. Aside from “adopting” her, the American also paid for the renovation of her parents’ house, gave them money, and gifted the girl’s brother with a pig for his livelihood.

While the acts of the American appeared generous, the American had other intentions in mind. For instance, the girl was fondled, forced to perform oral sex and had sex with the American.

Her disclosure resulted in the arrest of the American and another 61-year-old German who had also taken temporary residence in San Isidro, Puerto Galera. The arresting police officers were accompanied by municipal social workers. They were able to rescue three children. The arresting team also recovered different kinds of vibrators, a video camera and a personal computer containing pornographic files such as photographs and videos containing images of the suspects abusing the children (PREDA 2004 and Cobarrubias 2004).

It is clear that the case is not just a case of abuse but also a case involving child pornography. Sadly, no one appears to know whether these pictures and videos have been released as pornographic materials in the market.

It should be noted the girl disclosed that her mother was aware about the sexual abuse, but chose to turn a blind eye. The girl also reported that her mother even threatened to beat her when she refused to sleep with the man. Apparently, the man had been giving the mother money each time he abused the girl. In this sense, the mother had been willingly prostituting her child in exchange for monetary reward.

This willingness also appeared in the Pagsanjan case where some parents freely allowed their children to sleep with foreigners and to be photographed while naked or in compromising sexual positions with the pedophiles. These were allowed because the pedophiles gave the children and their respective families compensation, which took the form of allowances, service fees, seed money for livelihood ventures, and money to have their houses constructed or repaired.

It is curious that a lot of these Pagsanjan parents were reportedly disgusted over the arrest of the foreigners. They did not understand why the foreigners were arrested when in fact, the foreigners had been extremely generous to them. This was because many of the foreigners acted as benefactors who sent the children to school or provided livelihood for the family. In other words, these foreigners financially supported the families of the victims.

As no study has yet been undertaken to understand why parents of child prostitution victims still identify with the tormentors of their children, one can only guess their parents' motives despite discovering the abuse their children suffered. With the pedophiles giving them money, these families get a taste of a better life, free from worries over where they would get money to feed their families. They may also reason that their children will grow up anyway, and they believe that foreigners may, due to their "kind" nature, take them as their wives later on (if they are girls). As for the boys, the parents probably assume that since they are boys they have nothing to lose.

This may also be due to the debt of gratitude or *utang na loob* which these parents feel they owe their foreign benefactors. Because of this, they convince themselves that the abuse of their children is a small price to pay for the cash they receive, which allows them to survive on a daily basis. Future studies may suitably examine the motives of these parents for turning a blind eye to their children's abuse. In the absence of these studies, therefore, the authors can only offer these plausible explanations.

Peer Influence

The study of Protacio-Marcelino et al (2000: 174-176) study on children in the sex industry found that peer influence is the most influential factor in the entry of children into the industry. It is peers who initiate and introduce other children to become prostitutes. Readers must note here, however, that other factors also come into play such as parental abuse and neglect, weak social ties with adults, the absence of a supportive and enriching environment, or difficulties in school.

As with prostitution, this appears to be true with child pornography as well. Lisa (not her real name), a former bar girl from Angeles, temporarily worked in cybersex joints. She shared that she got her job as a performer through a friend who invited her. Another former bar worker, Lani (not her real name), reveals that after a cybersex joint was raided by the NBI in Angeles, the joints have become stricter in hiring workers. Hiring is solely done through the recommendation or referral of girls who already work for these joints.

Lisa (2004), for instance, shares that she considered working at a cybersex joint because other girls said that it was easier and much safer to work in such places because she no longer had to have sex with customers. Also, they noted that she stood to be paid more money compared to working in a night club.

The revelations of Lani and Lisa only serve to affirm the findings of the Protacio-Marcelino et al (2000: 176) that children enter prostitution through peer influence. In the same way, they may enter pornography through the same route.

In the earlier-mentioned case involving 70 children, the rescued children were found to have been recruited by fellow street children. Ben (not his real name), a child advocate from ECPAT who was part of a surveillance team, shares that the street children belonged to cliques or *barkadas*. A member of the *barkada* and her mother invited other street children to come along with them. To lure the children into participating, the children were offered PHP3,000, clothes, and food.

Cultural Factors

Although we have already established how some players and factors contribute to children being victims of pornography, there are other factors that need to be examined. One of these factors is culture, which can strongly influence how people act and how they perceive things.

In the 1980's when the news of rampant pedophilia and child pornography in Pagsanjan gripped the nation, many wondered why some parents decried the arrest of their children's tormentors and why some willingly allowed

foreigners to victimize their children. One explanation, which was discussed earlier in the section on poverty, was that the parents saw the foreigners as their salvation from abject poverty because they received money and provisions they never imagined they could have.

Another possible explanation is that children are seen as parental property. One would hear some parents blurt out to their children, "*Anak lang kita,*" which means, "You are just my child." Such a statement carries the pejorative connotation that parents have complete power over their children as the former gave them life. Since children were brought forth into the world by their parents and provide the means to sustain them, some parents believe children should return such generosity with gratitude. If they so wish, parents may deny children their rights because they are no more than just children who are indebted to parents for giving life to them and sustaining them.

Other parents are also wont to say: "*Kahit tadtarin pa ang buto mo ng pinong-pino di ka makakabayad sa utang na loob mo sa magulang mo.*" Translated, the statement reads: *Even though your (the child's) bones are ground to dust, you shall not be able to pay your debt of gratitude to us (the parents).*" Although one would hear this less frequently with the changing attitudes and ideas about children of Filipinos, some parents, particularly traditional ones or those from marginal communities, still subscribe to such ideas. These cultural beliefs may explain in part how some parents do not have qualms in peddling their children to pedophiles for money. In this instance, parents may also hold as more important the welfare of the family in general (e.g. having a decent house, money for food and other provisions, and having a steady stream of income) compared to the welfare of a particular child.

Another cultural factor that may aid child pornography is the macho culture of Philippine society. One recent sign of the existence of such a macho culture is the *Kinse Anyos* ad of a popular alcoholic beverage that came out in the media sporting the now infamous line, "*Nakatikim ka na ba ng kinse anyos?*" ("Have you tasted a fifteen-year-old?").

The company that placed the billboard vehemently denied that they were endorsing pedophilia, and stated that the tagline only asks people whether they have tried the company's fifteen year old alcoholic beverage. However,

the double *entendre* did not escape the attention of feminist groups who were quick to condemn the ad as having prurient references to and encouraging sexual relations with young girls. These groups have since lodged a formal complaint in court against the company and have succeeded in having the ad pulled out from the media.

Readers may find it interesting that this alcoholic beverage company, like many others in the industry, is known to feature scantily-clad women in various suggestive poses in its advertisements. These advertisements send a message that women can be treated as (sexual) objects. They perpetuate the idea that to be macho, a man has to drink alcohol and has to have a coterie of women.

Such a macho image, feminists say, encourage the objectification of women; females are no more than objects of desire. But the ad may not really be far from reality. In all likelihood, it actually reflects the dominant macho culture of the Philippines, which prizes the youth and virginity of girls. Because of this, girls become the natural objects of the prurient desires of men (Protacio-Marcelino et al 2000: 176), where the younger the girl, or the fresher her face is, the better it is for “real” men. This is particularly true of the world of prostitution where men pay higher fees for a night with virgin girls.

Such cultural factors may actually be contributing to people thinking that it is all right for children to be objects of sexual desire, or that is all right to see teenage girls posing in the nude or engaging in sexual relations with men, or that parents have the right to do anything to their children because they are their children’s stewards after all.

Effects of Pornography on Children

Although the effects of pornography in general on children is still under contention as different studies say different things (i.e. some say pornography has no negative effects on children while others refute this), Hermoso (2004) makes an interesting observation that almost all the cases of sexual abuse PREDA encountered involved pornography. He mentions,

for example, that children would watch pornographic videos with their abuser as part of their initiation to the sexual act. Thus, the immediate effect of pornography is the “sexualization” of children. It makes them believe that sexual relations between adults and children are normal and serves to arouse their sexual instincts.

For those who have themselves been the objects of pornography (i.e. those who were used as models for pornographic pictures and films), Regine Banillo (2004) of the Center for the Prevention and Treatment of Child Sexual Abuse (CPTCSA) reports that she has observed varying effects in children. Banillo, who handled the cases of children from Puerto Galera, shares that although some children were able to cope faster, others were not as resilient. Some could not get over the trauma of their experience. For instance, one of her clients was so traumatized that the girl no longer wanted to leave the house during the daylight hours out of a profound sense of shame.

Banillo reports that she has also seen this sense of shame in other victims although to a lesser degree. This sense of shame is probably the reason why some of the children failed to report their abuse. Shame and loss of self-worth, according to Banillo (2004), may be rooted in an aspect of Filipino culture that prizes virginity. Since some children have lost their virginity, or they perceive that they have lost their virginity because they have been “fingering” by the perpetrators, they feel that they are dirty and sinful. Some children were reported to have said, “*Hindi na ako magkakaanak o magkakaasawa kasi fininger ako.*” (I will never be able to bear children or I will never be able to marry because I was “fingering” or touched in my private parts.) This sense of shame is most evident among adolescents. In contrast, the younger children did not have such feelings. Most only felt anger because their sexual abuse led them to experience physical discomfort or pain.

She has also observed children blaming themselves for their abuse. Some children were asking themselves “*Bakit ako sumama?*” (Why did I go with [the abuser]?) “*Bakit ako pumayayag?*” (Why did I allow this to happen?). This is a common reaction of victims of abuse. Sadly, most do not realize that the abuse was not their fault but of the persons who abused them.

Aside from this, Banillo also reports that the victimization of children in pornography may lead to other psychological problems such as self-destructive behavior, binge drinking, and bouts of anger. There is also the risk of the children falling prey to abuse once more.

Possibly aggravating the psychological make-up of the children are the negative attitudes of the community towards the children's victimization. Some members of the community stigmatize the children as if their victimization were their fault. Banillo also shares that some adults attach cruel epithets to the victims. For instance, some of the girls are called "five fingers," in reference to them experiencing being fingered by their abusers.

As a matter of interest, many people do not realize how children who have fallen prey to pornography are affected by their experience. Some parents in Pagsanjan, Laguna, for instance, appeared not to realize the negative impact pornography may have had on their children. They merely considered the pornographic images as mere photographs particularly those only involving nudity. They felt this was an innocuous act without negative meaning. Parents were more apt to violently react when the photographs showed the pedophile molesting their children.

CHAPTER THREE

Child Pornography, Technology, and the Internet

The role of technology in child pornography can be described, at best, as nebulous. This is because developments in technology happen so rapidly that even before one could understand these developments, technology has already evolved, and as a result, so has child pornography. O'Grady's (1998) description of computer technology best encapsulates the rapidity by which computer technology is evolving:

The other factor which will change our world dramatically is the diminishing of the constraints of time and space. With even the most sophisticated of modern computers, we have to remember that we are still only at the Model T Ford stage of development. The next generations of computer development will continue to change our perceptions of time and space in unimaginable and dramatic ways.

We can only hope to imagine and understand how technology will change us only when we understand how technology, particularly the Internet is changing us now.

Over the years, technological changes brought about related changes in the production and distribution of child pornographic materials. For instance, some 20 years ago, pornographic materials made use of film cameras, the output of which required developing in darkrooms. Processed film and the resulting photographs had to be stored, probably in numerous bulky boxes that ate up space. In order to reproduce these photographs, they had to be manually developed again. The photographs were also published in magazines that had to be mailed to subscribers who in turn had to store them most probably in bins. The magazines probably took weeks to arrive, assuming they were not lost somewhere along the way. If they were lost in transit, this would probably cause the subscriber to worry that he would be found out as a subscriber of child pornographic materials.

Technological development radically changed all these. As was discussed in earlier sections, technology such as digital cameras, webcams, computer hardware and software, and the like have all drastically changed the production and distribution of child pornographic materials. This also spawned new forms of pornography that was probably unimaginable some 20 years ago.

For instance, with a digital camera, a person intending to produce pornographic materials no longer has to worry about buying several rolls of film. A digital camera would suffice because it could store hundreds of pictures at a time, and these pictures could be retrieved and stored in a personal computer. Also, one no longer needs a darkroom for developing because one merely needs to print it using a full-color printer, or one could just save hundreds and even thousands of pictures unto a CD-ROM or hard disk drive. Thus, the problem of bulky storage is averted.

Distribution is generally done by electronic mail, thus recipients can download these images in a matter of seconds or minutes. Also, pictures can be posted unto newsgroups or websites for all members and users to see. Pornographic magazines may no longer need to be in circulation because these images are already available from websites that specialize in pornography.

New computer technology also allows people to see each other through web cameras, thus facilitating what is known as cybersex. This is where people may perform sexual acts in front of each other in real time regardless of

geographic location. Advanced graphic design software also enables image manipulation or the creation of virtual persons or children engaged in sexual acts.

There have also been recent reports that it is now possible to encrypt or conceal pornographic images in non-pornographic files to evade being caught by law enforcement agencies.

The possibilities are limitless and to a point, staggering and unimaginable. These are just some of the ways technology has aided the production and dissemination of child pornography. What was a potentially helpful tool in the beginning has come to have an exploitative use. This use of technology for debauchery is not just a phenomenon in developed countries, these are realities people face in developing world nations like the Philippines. Indeed, because these technologies are already available in the country, Filipino children are at greater risk of being victims of child pornography both as viewers and as victims by pornographers themselves.

It is more disturbing if one considers that adults with little understanding of new technology would be unable to know of a child's abuse, and how new technology aids in the victimization of children. In this chapter, greater detail will be paid to the different ways Filipino children become victims of child pornography through these technologies.

The Internet

The ECPAT (2002) Guide on Protecting Filipino Children Online describes the Internet as a vast global network of computer networks. Whoever has access to the Internet has access to "a wide range of information, computer services and resources." The Internet has not only allowed for access to information and resources; it has also made it easier and faster to communicate and exchange computer files. People with access to the Internet may browse the World Wide Web, which is a "collection of virtual documents called 'websites' containing information on just about any conceivable topic." Moreover, such websites have links to other sites thus aiding the efficient exchange of information.

Of interest in this context is the disturbing fact that the Internet is also a huge repository of pornography. What is fearsome about the Internet is that anyone with knowledge on “surfing the Net,” children included, may have access to pornographic materials. As the Internet transcends geographical boundaries, pornography hosted elsewhere can be accessible to anyone regardless of where they are; hence the ability of the Internet to spread pornography is far-reaching and all-encompassing.

While parents can block access to pornographic websites from their home terminals, such software-based filters tend to be unreliable. Sometimes, pornographic sites manage to evade the filtration systems of personal computers. For instance, while UP’s computer system can prohibit access to certain pornographic sites, numerous pornographic websites can still be visited despite the system’s filtering application.

The proliferation of cyber cafés in urban areas, both large and small, in this country has also allowed for easier access to pornographic sites by Filipino children. If one visits these cyber cafés, it is no longer surprising to find children and teenagers who surf pornographic sites, with few cyber café operators stopping these children from accessing those pages.

It is not just a matter, however, of children being able to access pornographic sites. The Internet, it emerges, may also be entrapping children into becoming victims of pornography itself.

The section will place the role of the Internet in the context of disseminating child pornography in the Philippines. The next sub-section will include a background on the Internet. It will also show how Internet Service Providers (ISPs) may help stamp out the problem of child pornography.

The World Wide Web

According to journalist Rudy Abular (2004), around 40 percent of available sites on the Internet are “devoted to sexually-oriented materials.”

The Internet has become such a huge virtual library of pornographic materials that it is now leading to the slow death of pornographic publications (Leaño 2004). This is because access to pornography sites offers more privacy, ease, and breadth of access. With anonymity, extensive availability of materials, low costs, and easy access to pornography, enthusiasts find using the Internet a better option than buying and reading pornographic magazines.

The availability of pornography is so pervasive that a search using the key word “porn” would yield thousands upon thousands of sites offering pornographic images and videos. A whole range of pornography is available on the Internet that caters to the varying tastes, interests, or fetishes of users and potential users. One will find websites that dedicate themselves to one or more of the following types of pornography: *heterosexual, gay, lesbian, amateurs, child porn, bondage, sadomasochism, bestiality* (for people who are aroused by seeing people having sex with animals), *chubs* (for people who get turned on by fat people), *elderly, scat* (for people who get aroused by the mix of sex and excrement), *teenage girls and boys, anal, Asian, bi-racial, ebony, hentai or pornographic cartoons*, and a whole array of sexual perversions and interests.

Although there is no blatant display or advertisement of child pornography, a number of the sites in question contain pictures of males and females who are possibly below 18 years old despite notices announcing all models are at least 18 years old. This is not surprising, as it is held that the younger the model, the more attractive they are to patrons. One would also stumble upon adults dressed up in high school clothes, with descriptions such as *First Time, First Love, De-virginized, Barely Legal* and the likes—descriptions that allude to initial sexual encounters, which cater to such macho fantasies as having sexual trysts with young virgin girls.

Perhaps it is the increasing condemnation of child pornography, especially those involving prepubescent children, that makes prepubescent child pornography more difficult to find on the Internet. Prepubescent pornography reportedly exists; however, these are shared in private between pedophiles. This is because there are keen efforts from international agencies nowadays to arrest not only the producers of child pornography but also its patrons and accomplices.

In a landmark case in Buffalo, New York, for instance, the owner of the ISP *Buffnet* pleaded guilty before the State Supreme Court for misdemeanor for knowingly providing access to child pornography. This was after it had failed to take action after being notified that one of its newsgroups was distributing child pornography (Scheerer 2001). Hence, child pornographers and child pornography enthusiasts are now more careful in peddling their wares online.

Back in the 1990's, it was still possible to find blatantly child pornographic websites or those that featured prepubescent children. However, these sites were more or less temporary. Lorenzo (2004) shares that child pornographic sites occasionally appeared on the web that lasted for two to three days, after which these sites disappeared and changed website addresses. Sometimes, these websites appeared only for hours, only to disappear again. This was to evade detection by law enforcement agencies. Lorenzo also states that child pornographers, particularly those who belong to networks of pornographers, are able to track down the change in web addresses because their networks properly inform them through email or newsgroups.

How are child pornographic materials distributed on the Internet? How may children become victims of this?

Free Pornographic Websites

It was mentioned earlier that numerous free pornographic pages can be found on the Internet. One only needs to type the key word "porn" or "sex" for a search engine query and a plethora of links to web pages are readily available, some of which are free pornographic web pages. Many of the free pages are teasers for paid pornographic websites, which will be examined later. It is of interest that these free web pages link to other free web pages and paid websites. It should also be noted that the free pages are usually samplers that give a preview of what can be found on their paid website counterparts.

The UP CIDS PST team stumbled upon numerous pictures of adults dressed like children. For example, the team saw women wearing high school uniforms, their hair tied in pigtails, as they suck on a candy bar. Many of these are Caucasian women and some were Asian.

However, the search also yielded pictures of persons suspected to be children. The ages of these children probably range from 11 to 17 years of age. There were sets of pornographic images of teenagers/children positively identified as Filipinos. Undergarments labeled with popular brands available only within the Philippines suggest that the boys wearing them are Filipino. The build and facial structure of the children also confirm these earlier findings.

Filipino teenagers in these pictures are seen in various nude poses. There are also those portrayed doing overt sexual acts (oral sex, penetration, etc). One of the pairs comprised a boy who looked no more than 12 years old and a girl of around 14 or 15 years old. There was also a picture set consisting of a girl who looked 16 years old and a Filipino man probably in his 20's. At the start, the girl and the man were wearing school uniforms. However, in later frames, both had already taken their clothes off and were already engaging in sex. Some of the frames also had the girl biting her finger to emphasize that she is a young, innocent girl.

In a random search, the team found around eight pairs of boys and girls including naked pictures of what is believed to be a 12-year-old boy. Although the boy already has pubic hair, one could tell that he is still at the early stages of puberty.

The existence of these photographs proves that child pornographic rings are already operating in the country. An investigation identifying the children in question, the location where these photographs (and videos) were taken, and the likelihood of their involvement in the sex industry can be of interest. One must also consider the means of enticing these children to perform for the camera, as well as their recruiters and apprentices.

Also available on the Internet are a good number of free *hentai* sites. *Hentai*, as mentioned, is a pornographic variety of *anime* or Japanese cartoons. In an informal interview with some teenagers, it was found that a number of

respondents were familiar with *hentai* and have actually seen parts of these. A few of the male respondents revealed that they personally know of peers who are into these cartoons. But teenagers are not the only patrons of these pornographic cartoons. Many of its patrons, according to a source, are in fact adults who are into kinky sex.

It must be noted that anyone who is adroit in navigating the web, children included, are always in danger of being exposed to free pornographic web sites because of the ease with which these sites can be accessed. Although home computers may have filtering software to disallow access to pornographic websites, there is no certainty that these filters will work.

Paid Pornographic Websites

As stated in the preceding section, free pornographic sites often act as teasers for paid pornographic websites. Any person with a valid credit card could then access these sites. Such a restriction prevents children from accessing such sites.

A large number of photographs and videos, priced at affordable rates, can be obtained from these paid websites. Subscriptions can cost anywhere between US\$3.99 and US\$25. Subscriptions last from three days (on a trial basis) to one year (for regular subscriptions). The subscriber can access an unlimited number of pornographic materials, if one believes the ads found on these sites. In fact, many of the sites boast that they offer fresh images on a daily basis.

If this is true, there will be a constant search for fresh and new faces and bodies to grace these materials. Thus, the victimization of children continues because of this steady demand.

Since the team did not have the opportunity to view the contents of the paid sites, it is hard to tell whether the sites contain child pornographic images of the pre-pubescent variety. It should be safe to surmise, though, that these sites probably contain child pornographic images as the previews yielded pictures of teenage children.

Many of the opening pages of the paid web sites feature adults pretending to be children (i.e. wearing pigtails, school uniforms, eating lollipops, and the like). Adults posing as children can fit the definition set out in Chapter one for child pornography as these images contribute to the belief that children are valid objects of sexual desire. Moreover, it condones and encourages sexual relations with children because it feeds on fantasies that it is normal for adults to desire children.

The NBI reports that some pornographic websites are run from the Philippines. In 2004 the agency raided a child pornography website in Bulacan. A tip from a task force in the American state of New Jersey that monitors the exchange and sale of child pornographic images on the Internet led the NBI to arrest two Filipinos operating the pornographic website.

The Filipinos had no direct involvement in the production of pornographic images. However, they had operated and maintained the pornographic website. The two suspects acquired the images they sold from other pornographic websites and from collectors of pornography with whom they exchanged photographs. According to the NBI, it is a big possibility that the two suspects are part of a pornographic ring, or that the two belong to a network of pornography enthusiasts who exchange pornographic materials on an active basis via the Internet.

Email and E-groups

ECPAT-Philippines reports that back in the 1980's pedophiles mainly exchanged photographs of children through snail mail. The process took weeks, and mail could either be lost or discovered by postal workers who in turn may expose the illicit actions of pedophiles.

However, the Internet and email can aid the quick and efficient exchange of pornographic images between pedophiles. In a matter of minutes, pedophiles can exchange scanned or digital images of children. The size of one's email box and bandwidth capacity can limit the number of images and videos received through the Internet. With email providing a relative level of privacy, pedophiles may continue swapping child pornographic images in secret.

Aside from email, pedophiles and pornography enthusiasts also use electronic newsgroups (popularly known as e-groups) to exchange pornographic materials. Pabico (2002: 263) confirms this:

Child pornography has turned to the Internet as a medium where pedophiles and pimps contact each other, exchange information on bulletin boards about their sexual interests in children, post links to teen porn sites and pass around photos in newsgroups and chat rooms.

Although newsgroup host servers prohibit the posting of pornography, one can still find numerous pornographic materials. What is worse is that group pages containing these pornographic materials are accessible to anyone if the group is open to the public.

Most newsgroups that feature pornographic materials contain images downloaded from pornographic websites or pictures scanned from printed pornography. On the other hand, some newsgroups contain pornographic pictures of amateur or non-professional models who may or may not have been paid fees to perform or to pose for these pornographic materials. It may also be possible that some of these “amateur models” are unaware that their pictures have been taken and posted on the Internet.

One of the team’s respondents (name withheld to protect the person) shared information on a newsgroup that requires members to post amateur pictures of females. When the team visited the site, no clearly lewd photographs were available, but only pictures of women in compromising situations. Pictures sampled include women and girls in skirts with their panties showing taken from different angles, or those involving partial or full breast exposure, or other such situations. The women and girls featured on this site are ordinary women—office workers, school and college girls, and others. The photographs seem to have been taken by people using mobile phones equipped with digital cameras.

However, the aforesaid source also reports that some restricted-access folders in the newsgroup site contain pornographic images only available to privileged members. To gain privileged membership, one has to post naked pictures of females (ranging from teenage girls to women) they have shot themselves. The respondent surmises that those whose pictures appear in

these folders of the e-group are either prostitutes or ordinary girls who have no qualms about posing nude in front of the camera.

According to respondent, members also exchange photographs through email on a regular basis. Any photograph sent by email can easily spread as these could be sent to friends who, in turn, can send it to a dozen other friends. The respondent also shared that members can opt to have pornographic pictures of women and girls sent through email via these e-groups.

There is also another Manila-based newsgroup that advertises and reviews girlie bars in and around Metro Manila and other major cities in the country. No nude pictures of the females are present on the website; the pictures of the females posted were those of women and girls working as bar hostesses. The respondent shares that this group, however, could be a venue for customers to meet girls and women who may be willing to have their photographs taken in the buff.

Instant Messenger Systems

Some software applications allow people to chat using the Internet with people from anywhere in the world. Examples are Yahoo! Messenger (YM) and MSN Messenger, and the somewhat older Internet Relay Chat or IRC. While many of the available chatrooms are wholesome places where people can make friends, talk about common interests, or seek romance, there are also raunchy channels catering to people seeking sexual gratification.

Gratification can come in the form of people talking "dirty" with each other. For instance, they may type sexually suggestive messages. With the advent of audio input and output for computers, people can also use a messenger system to engage in sexually charged audio conversations. They can also exchange pornographic materials through the messenger's file transfer mechanism. Also, with webcams, people can see and engage each other in cybersex. It is not surprising, then, that some users are unafraid to expose themselves or perform sexual acts for their viewers.

Anjo (not his real name, interviewed in 2004), an instant messenger enthusiast, shares that it is common for people to swap pornographic images through the instant messenger services. These photographs are either photographs downloaded from free or paid websites or these are sometimes amateur photographs of themselves or other people. According to him, amateur pictures are popular on the Internet due to their realism when compared to pictures of professionally photographed models.

He admits that he has received photographs of teenagers—some of whom are possibly children. He says that some are pictures of amateurs while others are of professional models. He has also chatted with boys he estimates to be between 15 to 17 years old and engaged them in cybersex, where he and the boys performed sexual acts in front of the camera for each other. These boys come from different parts of the globe, some of whom are Filipino. Indeed, with such Internet tools, it is possible that children are able to participate in such conversations and to actually try out cybersex.

Anjo admits that some of the channel names³ that may be found in the instant messenger services network include “teenage boys,” “boys 18 and below,” “Asian boys,” “teenage sex,” and similarly named channels. Most users of such channels are adult Caucasians in their 30’s to 50’s. He says that on the main channel, some of the participants openly seek a private conversation with teenage boys. Thus, it is a fact that pedophiles are lurking on the Internet, awaiting their prey.

O’Grady (1994: 72) confirms this by sharing the story of an undercover police officer who pretended to be a 13 year old boy and left a message on a computer bulletin board. According to O’Grady, the police officer received several dozen messages from adult men hoping to meet the “boy” a few hours after he posted the message on the Net.

Another respondent speaks about a new form of victimization of children related to instant messaging services, and recent developments in mobile phone technology that allow people to pass prepaid credits or “load” (in Philippine parlance) from one mobile phone to another. According to him, some people, mostly teenagers, are made to expose their private parts or take off their clothes in chat rooms to receive mobile phone credits from

PHP50 to PHP500 in value. The amount depends on what the teenagers will be made to do. Lower amounts are given for genital exposure while highest amounts are given for masturbation. This is a form of pornography and prostitution, as one is doing sexually charged acts for others' satisfaction and for financial gain.

Cybersex is not a harmless activity it appears to be. On the surface, it seems safe because it is conducted in private between chatters. However, unknown to many, webcam images of another party can be captured, for example, by pressing the keys Control-Print Screen. It is then possible to spread these pictures through email and through newsgroups.

According to Anilkumar Samtani, assistant professor at Singapore's Nanyang Technological University, "children unwittingly contribute to the violation of their own privacy when participating in on-line communication." Dr. Samtani adds, "Quite apart from the solicitation of children into child pornography, the availability of pornographic material that can be accessed by children can also be viewed as a transgression on the rights of children" (InterPress Service 2001a).

Child pornography that is produced during chat sessions may be harder to monitor and control because of the private nature of the interaction between the child and his or her viewer. Such privacy is useless, because as the reader has seen, images can become public with the possibility of children's images making the rounds of the World Wide Web.

Cybersex Channels

Aside from paid and free websites, the UP CIDS PST also encountered sites which offer cybersex or lewd shows that happen in real time. These may feature male and female models that perform sexual acts on camera as the customers wish. Performances can involve models simply taking their clothes off, or masturbating on camera, or engaging in sexual acts such as oral or genital sex with another model.

Through these websites, customers can interact with models by typing messages or by talking to them through a microphone (voice chat). Customers usually tell the models the sexual acts they want them to perform. According to Abular (2004), cybersex encounters between customers and models can last from “30 minutes to an hour or two.”

Lisa and Lani, former bar girls from Angeles who performed briefly for cybersex joints, share that most women in the sex industry now prefer to work in such joints. There are two reasons: one, it is relatively safer in that they no longer require physical contact with customers. Two, women receive more pay from cybersex than from engaging in actual sex with their customers.

According to them, models are pressured to sustain the interest of their viewers because the longer the customer stays with them, the more these girls are paid. Customers pay by the minute when they access these sites. It thus comes as no surprise that owners of these joints rake in a lot of money that contribute to the billion dollar industry that is pornography (Torrecampo 2002).

Recent raids conducted by the NBI have established that Filipino female recruits perform for these cybersex websites. The NBI and the Philippine National Police (PNP) conducted raids on some of these joints in Makati, Angeles, Cebu, and even down south in Davao (Oliva 2003). Occasionally, minors were among those working in these joints.

For instance, on 16 March 2004, the NBI raided the premises of an adult entertainment company in Barangay Balibago, Angeles City, Pampanga. A Briton, and an unidentified American own the establishment (Gardner 2004 and Abular 2004). The website operated from a warehouse just outside Angeles City.

Gardner (2004) reports that the website was called *honeydoll.com*. It featured Filipino boys and girls as young as 11 years old engaged in sex acts. These acts were then broadcast live to customers in Britain. In addition, Gardner said that “underage children were being paid to act out grotesque sex scenes.” According to his report, pedophiles access the website for as much as £50 per session. Customers usually paid by credit card for “30 minute one-on-one webcam sessions with a child they could

order to perform sex acts.” They also “sent images of themselves in a two-way session” or they had “the children perform sexual acts with each other.”

Another raid conducted in Angeles City by the PNP-Angeles involved a local Internet café. It was owned by a Filipina and a foreigner. The establishment doubled as a cybersex joint employing women performers. The raid also yielded one minor, a 16 year old girl from Lanao del Norte.

Although the NBI and the PNP have raided several such joints in the Angeles City area, sources confirm that numerous joints are still in business. The team was told that some of these have moved into the former Clark Air Base where they quietly operate. There are also cybersex joints in Laguna, Mandaue City in Cebu, and Davao, according to sources. Australians, Germans, and Americans operate most of these joints and employ women and children alike. Some of these also pose as Internet cafés.

Sex Tourism and the Internet

Contrary to what one may believe, advertising the Philippines as a destination for sex is done in the open. The Internet has, in recent years, become the most potent venue for the promotion of sex tourism in the country. Name of some websites cast Asia and the Philippines as prime destinations for such kinds of tours. A quick survey of the Internet yielded sites that describe in detail places in the Philippines that can be visited for sex.

For instance, one of the sites is called *Angeles City (Philippines) Sexguide*. The site contains links to other pages that advertise and review bars and hotels in Angeles City, Pampanga. Some of these links contain pictures of nude Filipinas. There are also links to other websites, containing tag lines like “Visit Wet-T-Shirt-Queen.com for nude Filipinas!” or “AsianStreetMeat.com videos of cute girls becoming f—k toys.”

Another site, called *Asian Sex Tours*, also promotes the Philippines and Thailand as sex tour destinations. The site touts Asia as a place where men

can find sex, marriage, and adult vacations. Another tag line on the website says “Sex is everywhere in the Philippines.”

Lady Paradise is more overt with its description of the Philippines as a sex destination. One of its teasers says “Philippine Sex Travel—Sexy Nude Asian girls from Manila and Angeles showing pussy.” It also says, “Don’t forget the whole reason for going on a vacation in the first place is to have fun! And you will have loads of fun in a tropical island vacation with abundant opportunity to meet many, many young, beautiful Asian ladies.”

Jane’s Regional Guide offers reviews and links to websites that advertise countries from all over the world as destinations for sex for both heterosexual and homosexual patrons. The site contains reviews of websites that advertise places such as Thailand, Cambodia, Shanghai, Tokyo, Singapore, and the Philippines. In the site, there are links to websites that offer information on the night life in Makati, Manila, Angeles, Subic, and Boracay. There are also links to websites of bars in the country.

There is another site called the *WSG Forum* that contains links to sex travel guides, information on bars, and escort services in the Philippines. Another site called *Go2Phil* promotes itself as a “Single Male Travel Guide to Asia—Philippines, Thailand, Cambodia, Vietnam, and China.” The site also contains pictures of scantily clad women.

One of the sites, interestingly, states in explicit terms:

Our tours are for grown men who like grown women. Please DO NOT EVEN ASK us about pictures or tours involving children.

While it is good that it unequivocally tells its prospective customers that it does not condone child prostitution nor pedophilia, it is silent about children involved in sex tourism.

Some local government officials may deny the existence of child prostitutes in their areas. This is because the government supposedly requires workers to submit their birth certificate before they are issued city or municipal health cards. However, such documents could be forged. Thus every so often, children in prostitution are rescued by law enforcement agents and the DSWD.

Mall prostitutes are also prone to being targeted by sex tourists. Unlike other prostitutes, they are not subject to government regulations and are often minors. Foreign tourists frequented a once-popular mall in Manila known to be a place where young children in prostitution hang out.

O'Grady (1994: 57) quoting Kevin Ireland gives a pertinent observation about the possibility of foreign tourists engaging children in sex:

...tourists often shed not only their inhibitions but also an element of social awareness and responsibility. External inhibitory factors within the host environment of certain locations are often low or non-existent, in that there are few constraints limiting contact between adults and potential sex partners. In such locations the ready availability of children means that there is no resistance of the child to overcome.

O'Grady (1994: 58) adds another important observation. Although tourists may not be preferential pedophiles (pedophiles aroused by children and who choose children as their sexual partners), they may accept the offer to have sex with children in foreign countries because "it seemed a more natural thing for them to do in the foreign context" and "because it is simply available and cheap and because it offers the novelty of a new experience." O'Grady also notes that "when a child is freely offered to an adult without conditions and without risk there will always be those who will want to experience this novel kind of sexual relationship." It is safe to suppose that tourists who intend to visit places for sex are more likely to engage children in sex. However, this is not to say that all tourists engage in sex tourism.

Previous sections discussed how children in prostitution are most vulnerable to pedophiles wanting to take pornographic images of them. O'Grady (1994: 75) unequivocally illustrates this:

...a child who is already in bondage as a prostitute is in no position to exert any choice about anything. The very act of prostituting a child takes away any possibility of a consensual agreement. The child cannot argue for the use of a condom or for the price of the service or against the use of a video film.

Encryption

Asia Acts Executive Director Amihan Abueva (2004) shares a new development in computer-mediated pornography called encryption where seemingly ordinary photographs or even texts have child pornographic images embedded in them. Only people who have the key or password may be able to recover these encrypted images. Such technology is used to avoid detection by authorities. It is reported that some of these images are swapped via email or via CD-ROMs.

Internet Service Providers

Internet Service Providers (ISPs) serve as the Internet's backbone because "ISPs run the computers... referred to as 'servers,' that make up the Internet." ISPs also provide Internet users with either cable, broadband, or dial-up connections to the Net (ECPAT 2002: 9).

An Internet connection allows people to "gain access to websites, email-based mailing lists and discussion groups, and chat channels," and "upload and download files in various ways on the Internet." In addition, ISPs also "provide storage or web space and an address on the Internet" for those "who want to run their own website." (ECPAT 2002: 10),

ISPs can therefore play a big role in stopping child pornography. For instance, they can help monitor websites that contain child pornographic images and help identify people who run and subscribe to these sites. However, ISPs may be reluctant to do this because they may want to keep the confidentiality of their customers with the goal of protecting their business. In fact, ECPAT (2002: 11) points out that ISPs do not release personal information about subscribers for fear that it might infringe on the rights of their customers and thus put ISPs in jeopardy.

The NBI confirms that as a policy, ISPs do not release information regarding their customers. The NBI relies on well-placed sources in ISPs who are committed to helping stamp out crime on the Internet and are willing to share information with the NBI.

ISPs assign a unique Internet Protocol (IP) address to all individual computers that use its service to log onto the Internet. An IP address is a number that can locate a particular computer on the Internet (ECPAT 2002). IP addresses are assigned whenever users log onto the Internet. Depending on the user's Internet service, an IP address for individual users may vary each time the user logs on. Users with broadband Internet access, on the other hand, may be given static IP addresses. These addresses enable the efficient allocation of Internet resources and control of traffic. It is possible to trace IP addresses to individual users "by checking the ISP's usage log to see what user account was assigned a specific IP address at a specific time." The logs, according to ECPAT, also reveal the telephone number that connected to the ISP's network.

IP address logs are important in indicting pedophiles or pornographers as their telephone numbers and location can be traced. Such information can build a case against a pedophile or child pornographer who uses the Internet to run a child pornographic website, to exchange child pornographic materials, or to view child pornographic websites.

However, ISPs' reluctance to divulge personal information remains a barrier against the effective prosecution of pedophiles and patrons of child pornography. Hermoso (2002) shares that after attending a UNESCO experts' meeting, PREDA approached ISPs to take action against child pornographic websites. They encouraged these service providers to investigate websites they are hosting and to go beyond simply filtering content. Unfortunately, the ISPs were unenthusiastic about the suggestion as their customers, they claimed, have the right to privacy.

Changing Technology, Evolving Styles

Advancements in technology and its accessibility herald the easier production, storage, and distribution of child pornographic materials. It is unfortunate that seemingly harmless technologies such as camera-equipped mobile phones make it possible to produce sexual images. As these technologies become available, anyone who may be interested in producing such materials can do so. In this section, we will look into how these technologies assist in furthering pernicious ends.

Of Digital Cameras and Camera-equipped Mobile Phones

According to a respondent, Filipino “amateur pornographers” are producing smut pictures using their mobile phones and posting them to newsgroups or sending them by email. Some newsgroups, for instance, encourage their members to produce smut pictures using their mobile phone cameras and to share these pictures with other members.

With these digital tools, the mass production of pornography has never been easier than it is now. While digital cameras are starting to replace traditional manual cameras, they have not fully replaced these yet. However, imaging hardware or scanners can convert printed or published photographs to digital images and make them available for mass distribution through the Internet, CDs, and the like.

CD-ROMs and DVDs

High technology computers equipped with CD and DVD burners aid in the fast but unauthorized reproduction or “pirating” of movies. These movies are for sale along busy streets and in malls across Manila and elsewhere. While piracy is a crime in itself, piracy can also aid in the commission of crimes against children.

Dealers found in malls sell numerous bootleg copies of movies. These can range from the classics to contemporary movies, including Filipino films. This is also true of other areas such as Cubao, Quiapo, Recto, Arlegui, EDSA (near the MRT Station in North EDSA), and as far south as Cebu City. Included in the types of movies sold are hardcore pornographic films of every imaginable category, including child pornography.

Spotted in an ocular inspection conducted by the UP CIDS PST in Cubao were a number of VCDs of Caucasian and Asian teenagers including Filipinos, engaging in sexual acts. One video entitled *Children's Porn* featured pictures of very young Asian children on the cover. Also, pictures of Caucasian and Asian women made up like young girls with pigtails and lollipops, or even in school uniform, graced the covers of various titles. There were also *hentai* videos available.

Jon Joaquin (2003) encountered bootleg copies of child pornographic movies in Davao City. He shares that he was shocked to see a VCD “whose cover showed a young girl, maybe seven or eight years old, performing oral sex on an adult male sex organ.” He also reported seeing movies that carried the titles, *First Time Sluts* and *Cebu Scandal—Boarding House Video*. The titles of these movies also reek of child pornography, with its references to virgin and underage girls.

CHAPTER FOUR

Child Pornography, the Law, and the Philippine Justice System

Even before the Convention on the Rights of the Child came into effect on 2 September 1989, the Philippines already had Presidential Decree no. 603 or the Child and Youth Welfare Code (as amended). To a large extent, the law was groundbreaking in the sense that only a decade and a half after the rights of children were first articulated in 1959, and almost two decades before the United Nations came up with the CRC in 1989, the Philippines was already providing for the protection of children and for the promotion of their rights as human beings. The law, signed on 10 December 1974 and implemented on 13 August 1975, commits the Philippine government, in theory at least, to the promotion of the welfare of children. However, it was only recently that PD 603 received public attention despite its enactment in 1975.

Article 1 of the law declares children the “most important asset of the nation” and as such “every effort should be exerted to promote [the] welfare and enhance [the] opportunities [of children] for a useful and happy life.” To do this, social institutions such as the family, school, church, community, and government are responsible for developing children’s individual traits and attitudes and preparing them for the responsibilities of adulthood.

As assets of the nation, *all* children enjoy rights and privileges befitting their human dignity. They enjoy their dignity and worth as human beings from the moment of their conception [Art. 3(1)]. They are also entitled to become well-rounded individuals and to receive necessities such as shelter, food, medical attention, and education. Article 3 (8) of the same decree also ensures the right of every child “to protection against exploitation, improper influences, hazards, and other conditions or circumstances prejudicial to [their] physical, mental, emotional, social and moral development.”

The law is important in that it ensures children the right to survival, protection, development, and participation, which are the very rights that the UN CRC upholds. In 1991, as a further sign of the country’s commitment to upholding the rights of children, the Philippines became one of the signatories of the UN Convention on the Rights of the Child.

International Laws

The UN Convention on the Rights of the Child (1989)

The UN Convention on the Rights of the Child, according to dela Cruz and her associates (2001: 10), “is considered as the most developed standard that protects the welfare of children and promotes their development.” By ratifying this Convention, the Philippines commits itself on an international level to the continuing protection of children.

Three important features of the UN CRC have great bearing on the issue of child pornography. These are non-discrimination, the principle of the best interests of the child, and the indivisibility of and interdependence of children’s rights.

Non-discrimination “ensures that all children in the countries who signed the convention enjoy all rights enumerated in its provisions... regardless of their age, race or ethnic origin, social class, political or religious belief, and physical condition” [de la Cruz et al. 2001: 11, citing Art. 2(1)]. The principle of the best interests of the child guarantees that their welfare and well-being would be placed above else (cf. Art. 3). Lastly, the indivisibility and interdependence of their rights assures the protection of their rights to survival, protection, development, and participation through meaningful legislation (de la Cruz et al. 2001: 11-13). As a signatory to the UN CRC, the Philippines is bound to uphold the rights set out in the convention and to implement these rights by appropriate laws.

The Convention guarantees the protection of children against sexual exploitation in Article 34, which states that:

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral, and multilateral measures to prevent:

- a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- b) The exploitative use of children in prostitution or other unlawful sexual practices;
- c) The exploitative use of children in pornographic performances and materials.

Of particular interest for this study is the last item which mandates states who are parties to the UN CRC to protect children from becoming victims of pornography.

It is unfortunate that there is a tendency to consider child pornography as a mere accessory to the greater problem of child sexual abuse and prostitution. Thus, it can be viewed as a less serious problem than the other two. Moreover, people are also inclined to view it as nothing more than a record of the abuse that the child endured. Thus, even the authorities may not give it the attention that it deserves.

The statement of the police officer responsible for the case of pornographer Hisayoshi Maruyama is telling of this, who was quoted as saying, "*Hindi naman niya ginagalaw ang mga bata, basta tinitignan lang niya at kinukunan ng mga litrato*" ['He (Maruyama) was not really doing anything to the children except to look at them and to take their pictures.' (Villamor 1991)]. The statement disregards the negative effects of the experience on its victims and condones the pornographer's activities. It assumes that the activities brought about by the pornographer were harmless.

Fortunately, the UN CRC recognizes the harm pornography does to children and the gravity of the problem. Thus, the Convention places child pornography on the same level as sexual abuse and sexual exploitation as a form of child exploitation. Furthermore, it emphasizes that child pornography is an issue that parties to the UN CRC should address as it is as grave a problem as these two forms of sexual exploitation.

**Optional Protocol to the Convention on the Rights of the Child on
the Sale of Children, Child Prostitution and Child Pornography
(2000)**

The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography, which was adopted by the UN General Assembly on 25 May 2000, enlarges the provisions in the UN CRC on child pornography. The Protocol states that the production, distribution, dissemination, importation, exporting, offering, selling, or possessing child pornography are criminalized if any of those acts are for the purpose of sexual exploitation of the child [Art. 3 (1)]. An attempt to commit any of the acts, or complicity or participation in any of the acts must also be covered under the criminal law of the ratifying states. [Art. 3 (2)].

The UN Optional Protocol is important in that it does not only prohibit the production and distribution of child pornographic materials, but also prohibits the import and export of child pornography. Moreover, offering, selling, or possessing child pornographic materials are considered criminal offenses by the Protocol. By including these provisions, the Protocol states in unconditional terms that child pornography is a serious offense because it is a crime against children. It therefore treats any act that aids child pornography as a criminal offense.

The Philippines signed the Optional Protocol on 8 September 2000 and ratified it on 26 August 2003. As a signatory, the country is expected to implement the Protocol two years after ratification.

ILO Convention 182 (1999)

International Labor Organization Convention 182 (1999) or the *Worst Forms of Child Labour Convention* seeks to prohibit and eliminate the worst forms of child labor. According to the Convention, it is urgent that some forms of child labor are a problem that ought to be stopped. Article 3 (3) of the Convention includes, among others, the “use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances” as one of the worst forms of child labor.

The Philippines, as a signatory to the Convention, is again expected to design and implement programs of action to eliminate as a priority the worst forms of child labor through counterpart national legislation and to effectively implement and enforce the provisions of the national legislation (cf. Articles 7 and 8).

Other Relevant Philippine Laws

Although the Child and Youth Welfare Code can be considered important for the protection of the rights and welfare of children, it does not contain provisions for the protection of children against child pornography. At that time, child pornography was not recognized as a problem. In fact, the very first case of child pornography that gained national attention came a decade after the law came into force.

Although the Code provides that parents need to protect children and punishes parents reneging on their duties to protect them, the law is silent on the issue of the sexual exploitation of children including their victimization in pornography. The closest law that can offer protection is Article 59 (7), which declares that it is a crime for parents to directly or

indirectly exploit children by using them for purposes of begging and other acts which are inimical to their interest and welfare. Another is item (9) of the aforesaid Article, which also punishes parents for causing or encouraging the child to lead an immoral and dissolute life.

The statements “acts inimical to their interest and welfare” and “causing children to lead immoral and dissolute life,” may perhaps be applied to parents who directly peddle their children to pedophiles for sexual (including pornographic) purposes. Other than that, the Code is silent on the criminal liabilities of those who perpetrate pornography. The law is also silent on the questions of abuse and sexual exploitation of children.

However, the law does contain provisions in protecting children against exposure to pornography. For instance, Article 95 states that “it shall be the duty of all civic associations and youth associations to bring to the attention of the proper authorities their exhibition of indecent shows and the publication, sale, or circulation of pornographic materials.” Furthermore, it also enjoins families and the community to “cooperate with each other in counteracting and eliminating such influence as may be exerted upon children by useless and harmful amusements and activities, obscene exhibitions and programs, and establishments inimical to health and morals.”

While the law only serves to protect children from exposure to pornography, it fails to consider that children themselves may become victims of pornography.

Despite the historically driven lapses in the law, the law is still important in that it created the Council for the Welfare of Children, a government body under the Office of the President that coordinates “the implementation and enforcement of all laws relative to the promotion of child and youth welfare” (Art. 207).

In addition, the law also encourages the creation of Local Councils for the Protection of Children that will ensure, among others, “the proper performance of the duties of parents,” the protection and assistance of “abandoned or maltreated children and dependents,” and coordination of “activities of organizations devoted to the welfare of children and secure their cooperation” (Art. 87).

The creation of the CWC and the encouragement of the creation of LCPCs ensure there will be structures in government to ensure the rights of children are always upheld and that laws pertinent to them are enacted.

Laws on the sexual exploitation of children, including child pornography, were only enacted 18 years after PD 603 was promulgated. This was when Congress enacted Republic Act No. 7610 (the Child Abuse Law of 1992) and Republic Act No. 9208 (the Anti-Trafficking in Persons Act of 2003). There has always been a law against pornography, namely Article 201 of the Revised Penal Code. However, the law makes no distinction between adult and child pornography.

The following will be a review of existing laws in the Philippines that may be helpful in combating child pornography. Muntarhorn (1998) states that laws play an important role as countermeasures against child pornography; hence, it is important to review the laws for their effectiveness in the dealing with the crime.

Article 201 of the Revised Penal Code

Article 201 of the Revised Penal Code deals with "Immoral Doctrines, Obscene Publications, and Exhibition of Indecent Shows." It prescribes a penalty of between six to 12 years in jail or a fine ranging from PHP6,000 to PHP12,000 for the authors, publishers, and sellers of obscene literature, those who exhibit indecent or immoral shows, and those who distribute material considered offensive to the morals of people.

It is of interest for this study that the law does not specifically refer to child pornography. Instead, it refers to pornography in general or what it calls "obscene publications" and "exhibition of indecent shows." The law states that persons found guilty of the following would be penalized:

those who 'in theaters, fairs, cinematographs, or any other place, exhibit, indecent or immoral plays, scenes, acts or shows, whether live or in film, which are prescribed by virtue hereof, shall include those which... serve no other purpose but to satisfy the market for violence, lust, or pornography... and are contrary to public order,

morals, and good customs, established policies, lawful order, decrees, and edicts' [cf. Article 201 (2)(b), Rev. Penal Code].

The law also calls for the punishment of people who "sell, give away, or exhibit films, prints, engravings, sculpture or literature, which are offensive to morals" [Art. 201 (3), Rev. Penal Code].

In essence, the law punishes people who perform for pornographic purposes and who distribute pornography. However, it does not specify penalties for those who produce pornography. Also, the law deals mainly with pornography in general.

One of the glaring lapses of the law is its failure to provide a precise definition of pornography. The closest it gets to a definition is by stating that these are "obscene publications and exhibitions." Although one may have ideas what obscene publications and exhibitions are, these are still subject to varying interpretations. The law thus comes across as vague and ambiguous. Another lapse is that the law may also lead to children being charged for involvement in pornography especially if they perform for it.

The Child Abuse Law (RA 7610, 1991)

The main aim of RA 7610, "An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes," enacted on 22 July 1991, is for the State "to provide special protection to children from all forms of abuse, neglect, cruelty, exploitation and discrimination, and other conditions prejudicial to their development; provide sanctions for their commissions and carry out a program from prevention and deterrence of and crisis intervention in situations of child abuse, exploitation and discrimination." (Sec. 2)

RA 7610 (Sections 3.b.1 and 2) defines child abuse, among others, as the habitual or non-habitual maltreatment of children which may include psychological abuse, neglect, cruelty, sexual abuse, and emotional maltreatment. It also includes any deed or words which debase, degrade, or demean the intrinsic worth and dignity of the child as a human being.

The Act addresses obscene publications and indecent shows involving children by providing punishment for people who:

...hire, employ, use, persuade, induce or coerce a child to perform in obscene exhibitions and indecent shows, whether live or in video, pose or model in obscene publications or pornographic materials or to sell or distribute the said materials shall suffer the penalty of *prison mayor* in its medium period. (Sec. 9)

The penalty for those crimes involving children who are 13 years old up to 17 years old would be six to 12 years in jail, possibly about eight years or so. On the other hand, if the crime involves children under 13 years old, the crime carries a heavier penalty such that "the penalty shall be imposed in its maximum period," (Sec. 9, 2nd par.) or 12 years. Also, caregivers of children who cause them "to be employed or to participate in an obscene play, scene, act, movie or show or in any other acts" covered by the law are also criminally liable. (Sec. 9, 3rd par.)

The law also penalizes establishments or enterprises which promote, facilitate, or conduct activities that can be constituted as child prostitution, and other sexual abuses, child trafficking, obscene publications and indecent shows and other acts of abuse. Establishments and enterprises which allow this will be immediately closed and their license to operate revoked. Furthermore, an "off limits" sign shall be prominently displayed in the establishment by the DSWD (Sec. 11).

It should be mentioned here that the Act is strict because it makes owners of these establishments answerable for the crime.

The law can preempt the commission of sexual abuse against children because it carries stiff penalties against:

- a) any person who shall keep or have in his company a minor under 12 years old or 10 years or more his junior in any public or private place, hotel, motel, beer joint, discotheque, cabaret, pension house, sauna or massage parlor, beach and/or other tourist resort similar places;

- b) any person who shall induce, deliver or offer a minor to any one prohibited by this Act to keep or have in his company a minor as provided in the preceding paragraph
- c) any person, owner, manager, or one entrusted with the operation of any public or private place of accommodation, whether for occupancy, food, drink, or otherwise, including residential places, who allows any person to take along with him to such place or places any minor herein described.... " (Sec. 10)

Penalties include the "maximum period [of imprisonment] if the offender has been convicted under this Act." The maximum penalty shall also be dealt to "parents, guardians, ascendant, stepparent, collateral relative, manager of an establishment, or public officer, or employee who commit the crime." Offenders of foreign origin, on the other hand, are to be deported after serving their sentence and shall be forever barred from entering the country. (Sec. 41)

RA 7610 improves upon Article 201 of the Revised Penal Code as it also enables the punishment of producers of pornography and those who pimp children for the purpose of pornography. Moreover, it also addresses in an explicit way the needs of children in these cases.

Other important features of the law include the empowerment of duly authorized officers or DSWD social workers to take custody of the child when the child has been proven to have been sexually abused, seriously injured, or neglected by the child's caregivers. The law also guarantees the speedy trial of the child's case.

Anti-Trafficking in Persons Act (RA 9208, 2003)

Republic Act 9208 or the "Anti-Trafficking in Persons Act" responds to the growing number of cases of trafficking of women and children for "purposes of prostitution, sexual exploitation, forced labor or services, slavery, servitude, and the removal or sale of body organs" [Sec. 3(a)]. Sexual exploitation can be construed to include the exploitation of women and

children in pornography. Although the law covers different forms of people trafficking, this book will focus on those parts of the law relevant to child pornography.

Section 3 of the Act defines trafficking in persons as the “recruitment, transportation, transfer or harboring, or receipt of persons” within or across national borders for the purpose of exploitation as enumerated in the preceding paragraph. This may come “with or without the victim’s consent or knowledge.” It could also be “by means of threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or position.” Moreover, trafficking may involve “taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person... for the purpose of exploitation,” including sexual exploitation.

Sexual exploitation refers to “participation by a person in prostitution or the production of pornographic materials.” The person’s participation may have been a result of being “subjected to threat, deception, coercion, abduction, force, abuse or authority, debt bondage, fraud, or through abuse of a victim’s vulnerability” [Sec. 3 (f)].

The law is important in that it provides a clear definition of pornography. This is in contrast with older laws that merely describe pornography as obscene materials or publications that may be contrary to the public morals (Art. 201, Rev. Penal Code), “obscene exhibitions and indecent shows, whether live or in video,” and “obscene publications or pornographic materials” (RA 7610).

People may not really agree with what constitutes pornography, as even the definitions in the law are subject to differing interpretations. There is also a wide-ranging debate regarding what is obscene and indecent. Such ambiguities in the Revised Penal Code and RA 7610 may in fact make them less effective than they should be.

However, the law does not come without guides when it comes to defining obscenity. For instance, Sunga (1999) states that “the test of obscenity is whether the matter tends to ‘deprave or corrupt those whose minds are open to such immoral influences and into whose hands such a publication

may fall and also whether or not such publication or act shocks the ordinary and common sense of men as an indecency.’”

However, the test of obscenity still leaves much to be desired in terms of providing us a definite explanation of what is obscene or not. This is primarily because people have varying and subjective definitions of what is immoral or what is shocking to their senses. Some people may not find pictures of people having sex as shocking compared to others.

The United States judiciary uses the Miller test to recognize obscenity (Sabangan 2003) a test derived from the 1973 Supreme Court decision in *Miller v. California*. The test looks at:

- 1) Whether the average person, applying contemporary standards, would find that his/her work, taken as a whole, appeals to the prurient interest;
- 2) Whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and,
- 3) Whether the work, taken as a whole, lacks serious, literary, artistic, political, or scientific value (cf. 413 US 13, 1973, majority opinion).

Aiming to address gaps in past legislation, RA 9208 defines pornography as “any representation, through publication, exhibition, cinematography, indecent shows, information technology, or by whatever means, of a person engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a person for primarily sexual purposes.” [Sec. 3 (h)] The definition applies both to adult and child pornography. The Act thus addresses the lapses in the two laws previously mentioned and provides a lucid definition of pornography, even if it may be ambiguous.

It is important that information technology is now included in RA 9208 as a means through which pornography may be distributed. In 1994, the Philippines was already connected to the Internet (ECPAT 2001: 9), while the two laws earlier cited had been formulated before the advent of the internet.

The law is comprehensive as it penalizes those who may be involved in the production of pornography and the pimps who may supply women or children to these pornographers. The law also contains provisions in punishing those involved in sex tourism [Sec. 4(d)], “those who maintain or hire a person to engage in prostitution or pornography” (ibid.), and “those who adopt or facilitate the adoption of persons for the purpose of prostitution, pornography, or sexual exploitation, etc” [Sec. 4(f)].

An act is considered trafficking when a child is involved in pornography [Sec. 6(a)], when the foreign adoption of the child is for the purpose of prostitution, pornography, sexual exploitation, and the like [Sec. 6(b)], and when the crime is committed by a syndicate or in large scale [Sec. 6(c)]. A syndicate involves “a group of three or more persons conspiring or confederating with one another to traffic persons. On the other hand, large scale trafficking involves the trafficking of “three or more persons, individually or as a group” (ibid.).

Under Section 10 of RA 9208, people who engage in the trafficking of persons, those who undertake or organize sex tours, those who maintain or hire persons, and those who adopt or facilitate the adoption of persons for the purpose of prostitution, pornography, and the like shall receive a penalty of 20 years of imprisonment and a fine of not less than PHP1M but not more than PHP2M. Those who engage in the illegal transport of children and who adopt children for the purposes of pornography or those who belong to a syndicate or commit large scale trafficking shall be imprisoned for life and fined not less than PHP2M but not more than PHP5M.

Foreigners found guilty of crimes under the Act shall be “deported after serving his sentence” and shall “be barred permanently from entering the country” [Sec. 10(g)].

The law also provides that those who buy or engage the services of trafficked persons for prostitution are to suffer penalties ranging from six months of community service and a fine of PHP50,000 or imprisonment of one year and a fine of PHP100,000. This is a welcome development because victims of pornography may actually be children in prostitution and may have been forcibly transported to different parts of the country.

The Law on Eliminating the Worst Forms of Child Labor (RA 9231, 2003)

RA 9231, being “An Act Providing for the Elimination of the Worst Forms of Child Labor,” implements the earlier cited ILO Convention on the subject. It also amends the Child Abuse Act, also mentioned earlier. Following the Convention, the law includes “the use, procuring, offering or exposing of a child for prostitution, for the production of pornography or for pornographic performances” [Sec. 12-D (2)], added to RA 7610 by Sec. 3 of this Act). The law also sanctions violators of this Act. Thus, Sec. 16 of RA 7610, as amended, mandates the following penalties for those who violate Sec. 12-D (2):

- b) Any person who violates the provision of Section 12-D of this act or the employer of the subcontractor who employs, or the one who facilitates the employment of a child in hazardous work, shall suffer the penalty of a fine of not less than one hundred thousand pesos (PHP100,000.00) but not more than one million pesos (PHP1,000,000.00), or imprisonment of not less than twelve (12) years and one (1) day to twenty (20) years, or both such fine and imprisonment at the discretion of the court.
- c) Any person who violates Sections 12-D(1) and 12-D(2) shall be prosecuted and penalized in accordance with the penalty provided for by RA No 9208 otherwise known as the “Anti-trafficking in Persons Act of 2003”: Provided, that such penalty shall be imposed in its maximum period.

Electronic Commerce Law (RA 8792, 2000)

In June 2000, the Philippine Government enacted Republic Act 8792 or the Electronic Commerce or E-Commerce Act. The law, hailed as one of the most comprehensive laws against cybercrime, covers 10 types of computer crimes. Despite its comprehensive nature, “the law is silent on the issue of child pornography [on the Internet]” (ECPAT Philippines 2002).

Executive Order 265 on Transnational Crime

Executive Order 265, which is an Order “Defining the Approach and Institutional Mechanism for the Government’s Comprehensive Program on Combating Transnational Crime” was signed on 23 January 2004. Prior to this, the Philippine Center on Transnational Crime was created on 15 January 1999 “to formulate and implement a concerted program of action of all law enforcement intelligence and other agencies for the prevention and control of transnational crime” (Preamble).

This fulfills the country’s commitment when it ratified the UN Convention against Transnational Organized Crime and its Protocols. Consequently, the Philippine government is committed to creating “domestic criminal offences to combat the problem, and [to adopt] new, sweeping frameworks for mutual legal assistance, extradition, law-enforcement cooperation and technical assistance and training” (Sec. 1).

At the same time, cooperation with other parties to the Transnational Crimes Convention will allow the Philippines and other signatories to rely on one another in investigating, prosecuting, and punishing crimes committed by organized criminal groups where either the crimes or the groups who commit them have some element of transnational involvement. This should make it much more difficult for offenders and organized criminal groups to take advantage of gaps in national law, jurisdictional problems or a lack of accurate information about the full scope of their activities (United Nations 2000).

Such cooperation becomes necessary especially in the area of child pornography. This is because many of the producers of pornography are foreigners who are often able to evade arrest and detention by escaping to their countries of origin.

Finally, another executive issuance, Executive Order 220 (2000), creates an Executive Council to Suppress Trafficking in Persons, Particularly Women and Children. One of the issues currently being addressed by the presidential order is child pornography.

International efforts are underway to try perpetrators of child pornography in their countries of origin even though they have committed their crimes elsewhere, including the Philippines. For instance, lawyer Eric Mallonga relates that some child pornographers in the United States and the Netherlands have been charged and tried in their respective countries for crimes they committed in the Philippines. This is an example of how transnational cooperation may work for the benefit of children victimized by pornography.

Pending Bills in the Legislature

Several bills in the Senate and the House of Representatives are being crafted to increase the protection of children against child pornography. An example is HB 1306, which aims to amend RA 7610. The bill mandates a hold departure order for people caught abusing children below 12 years old. It also penalizes law enforcers and members of the judiciary and the Department of Justice found “willfully abetting” crimes under RA 7610 or assisting the escape of accused persons (PLCPD 2002). The bill thus addresses the issue of foreign pedophiles being able to flee the country after posting bail in court.

Another proposal, HB 1524, seeks to amend provisions in RA 7610 covering trafficking, pornography, child labor, and investigation of child abuse cases. The proposed bill mandates the active involvement and participation of the Department of Justice (DOJ), Department of Labor and Employment (DOLE), Department of Health (DOH), Department of Tourism (DOT), and local social workers and enforcers in protecting the rights of children. Under the proposed amendment, Internet-mediated child pornography will be punishable by law.

Senate Bill (SB) 763 or the proposed “Computer Pornography Act” declares it punishable by law for a remote computer facility operator or electronic communication service provider to attempt or to transmit communication that contains indecent materials to children. It also calls for the punishment of electronic communication service providers to willfully permit the use of their facility to transmit indecent materials to children (PLCPD 2002).

However, it is unclear whether these laws will be enacted at all. Furthermore, it is preferred that Congress enact a law explicitly dealing with child pornography, as it is a problem that requires the full, equal, and clear attention of everyone as any other case of child exploitation.

CHAPTER FIVE

Efforts to Address the Problem of Child Pornography

The problem of child pornography is a complex problem that requires the concerted efforts of different agencies to solve it.

It is complex because of the numerous interrelated issues affecting it. Among these are poverty, globalization, sex tourism, technology, culture, pedophilia, child sexual abuse, exploitation, prostitution, and many other things. Addressing it thus calls for a multi-pronged approach that will deal with these other issues. Without this approach, there will be no real solution to child pornography.

Issues such as pedophilia, prostitution, and sexual abuse can overshadow child pornography. It is unfortunate that there is an impression that child pornography is a mere accessory to these other forms of sexual exploitation. There is also the impression that pornography is not too serious a problem

because these are just photographs or video of children. Such a cavalier attitude persists even when the pictures or videos involve sex with an adult or a fellow child.

Sometimes, people treat this kind of pornography as a mere testament to child abuse rather than as a problem in itself. In the “absence” of sexual molestation, they may not see anything wrong with pedophiles taking pictures of children in the nude. This could be because Filipinos do not see any malice in the nudity of prepubescent children. However, such an attitude only serves to lay the foundation for further child exploitation.

Since child pornography is beginning to be understood by people, they tend to pay less attention to it. Dolores Alforte (2004) shares that non-governmental organizations (NGOs) or civil society organizations are only starting to see the real problem that child pornography is.

For a long time, few NGOs, if at all, made pornography as part of their advocacies because unlike prostitution and sexual abuse, there is a certain degree of anonymity in pornography. Unless a pornography victim comes out and speaks up, the abuse suffered by the child remains unknown.

Unlike prostituted and abused children, children in pornographic materials cannot speak. They cannot tell what their names are, where they are from, when they were victimized, how they were lured to pornography, what they feel, and how they may want to be helped. Pornographic materials are mute testaments to their abuse that cannot tell us anything about the children except the act of abuse they suffered.

Victims of pornography can only speak when someone discovers their case. This happened, for instance, when ECPAT Philippines stumbled upon a pornographic magazine in Japan containing pictures of Filipino children. ECPAT’s serendipitous discovery of the magazine led to the identification of these children. How many cases like this, then, have been uncovered?

When children decide against speaking of their experience, or when no one discovers their abuse, all one has are the silent photographs or video footage. In such a scenario children will most likely remain anonymous, never to be helped.

With prostitutes and abused children, their victimization is apparent, making it much easier to address their situation. In child pornography, such opportunities seldom occur. It is often difficult to find these children. Where for instance, will one find the child on the film or photograph? Is it even possible to know their country of origin, or what their real ages are? Aside from the difficulty of tracking down children's identities, no assurance exists that children would be willing to come out and to testify against those who abused them. How would one then locate these perpetrators of abuse when they have already fled the country? Solving the problem of child pornography poses both difficulties and possibly unanswered questions.

Because of such difficulties, NGOs did not see pornography as a practical endeavor to pursue. They may have also felt that there were other more pressing concerns because child pornography invariably came with sexual abuse and exploitation. However, with an increase in reported cases of child pornography, and with new technologies that speed up and facilitate the production, distribution, and exchange of child pornographic materials en masse, people are starting to take notice.

The ratification of the UN CRC also helped a lot in making civil society organizations see child pornography as an equally important advocacy. Also, recent World Congresses on the Sexual Exploitation of Children have repeatedly emphasized that child pornography is an equally grave problem that society must address.

In the Philippines, in particular, the issue is starting to catch on because of the increasing number of cases being reported. The reported case of 70 children being trafficked for pornographic purposes highlights the seriousness of this problem. This has forced many NGOs and government organizations or agencies (GOs) to think about the issue and their organization's stand and response to this. As a result, NGOs and GOs are now starting to draft plans of action should they encounter child pornographic cases in the future, while some are already preparing to make pornography as part of their advocacies. Never has the problem of child pornography seen so much interest as it is now, which augurs well for children being lured into this.

This section will examine existing programs of NGOs and GOs that aim to solve the problem of child pornography. It does not serve as a comprehensive review of available programs, as this covers only those programs by NGOs and government agencies interviewed by the research team.

The section will be arranged thematically, according to those services, programs, and practices that may bear on the fight against child pornography. It will look into ongoing cooperation between different agencies and where such cooperation can be further strengthened.

Services for Child Pornography Victims

Monitoring

Solving the problem starts with monitoring incidents of child pornography and reporting these to the proper authorities. Such monitoring can either be online or on the streets, where pornographic magazines, tabloids, DVDs and CDs are for sale.

According to Meneses (2004), the Anti-Fraud and Computer Crimes Division of the NBI monitors the Web for signs of pornography and other cybercrimes. This is usually done in response to reports being filed on a case of child pornography on the Internet, for example.

Recently, the NBI “received sophisticated computers from the US Justice Department to help combat the problem of child pornography. The computers are equipped with high tech hardware such as bay for hard drives, a software that can copy the contents of other hard drives without the danger of introducing viruses to their own computers” (Obanil 2004). Meneses reports that the Division uses these computers to look for and track down cyber criminals. However, the Division does not only monitor child pornography but also all forms of cyber crimes.

For a long time, PREDA has monitored the Internet for child pornographic websites. Once, they located child pornography websites, they reported to

an NGO in Switzerland. The civil society organization there, in turn, undertook to trace the sites. However, PREDA has since stopped its monitoring activities because there were fears that their designated monitors, due to their continuous exposure to pornography, were beginning to become desensitized.

The newly formed NGO, *Kapakanan ng mga Bata* is also involved in monitoring the Web for child pornographic materials. It is especially interested in finding out local child pornographers' methods and bases of operation.

Another organization, the Philippine Alliance Against Pornography, monitors the proliferation of smut magazines and CDs being sold openly in the streets. However, their focus is more general in scope when it comes to pornography, which means it does not distinguish between adult and child pornography.

Monitoring activities are important as these may lead to cases of child pornography being reported to proper authorities. This need not be done solely by NGOs and GOs because the public may be effective partners of NGOs and GOs as well. It is likely that the public may encounter cases of child pornography—even suspected cases of child pornography—on their daily forays (on the street or on the Internet). It is, however still unclear to the public where they should report these cases. In fact, at times the police themselves fail to report or to do something about the open peddling of smut magazines, newspapers, and CDs in the streets.

Col. Yolanda Tanigue, chief of the Women and Children's Concerns Division of the PNP in Camp Crame, said that people may report such cases to her office and to other WCCDs of the different police detachments all over the country. In cases where reports made to local PNPs are ignored, she adds that reports could be made to Camp Crame instead.

Aside from the PNP, people can also consult the Violence Against Women and Children Division (VAWCD) of the NBI if the case concerns obscene publications and indecent performances involving women and children. For cases involving the Internet (i.e. child porn on the Internet or Cybersex), the public may contact the Anti-Fraud and Computer Crimes Division of the NBI (Meneses 2004).

The Council for the Welfare of Children (CWC) is another agency that monitors the protection of the rights of children. It is an agency created through Presidential Decree No 603 or the Child and Youth Welfare Code. It is responsible for coordinating and monitoring the implementation of all laws concerning children (Council for the Welfare of Children 2004).

Legal Services

An essential aspect of the work against child pornographers is preparing cases against those accused and seeing the trial and conviction of perpetrators of pornography.

Success or failure of any case lodged against the perpetrators of sexual abuse, including pornography, requires solid case preparation. At this point, law enforcement officials are at the forefront, making sure that all items of evidence are intact and properly collected to ensure their admissibility in court. Otherwise, they may not be able to build a strong case against the perpetrators. They must also be aware of the laws pertinent to pornography (Article 201 of the Revised Penal Code, RA 7610, and RA 9208) so that they can file the appropriate cases that will ensure the conviction of perpetrators.

PREDA has been involved in the collection of evidence against perpetrators of child sexual abuse and pornography in the past. For instance, PREDA assisted in building cases against Richard Agnew, Hisayoshi Maruyama, and William Harvey.

At this point, it is important that proper and free legal assistance are available to victims. Different GOs and NGOs such as the Child Justice League (CJL), CWC, ECPAT, PREDA, and others refer victims to lawyers who may assist them with their cases, often for free.

Once cases are in courts, it is important to watch those cases and ensuring their proper progress. This is important because of the often plodding movement of the Philippine justice system. Also, reported cases of collusion between perpetrators, judges, and the police require such vigilance. This ensures that the case and its proceedings prosper. PREDA appears to be

very active in assisting children who have fallen victim to different forms of sexual exploitation. The most celebrated case they watched was that of Rosario Baluyot, who died after a vibrator part was left inside her sexual organ.

ECPAT has also handled cases of different children who have fallen prey to pornographers. They have helped in building cases against these perpetrators, have accompanied children to court hearings, and have made sure that the cases are pursued to the end. According to Lorenzo (2004), ECPAT has allied with the CJL in providing legal services to victims of child pornography and other forms of child sexual exploitation.

Counseling and Protective Services

The DSWD is the chief government agency that takes care of abused children. It has social workers who provide counseling to victims and maintains homes in different parts of the country where child victims can be brought for protective custody. The DSWD has taken charge of some of the 70 children victimized recently by a suspected child pornographic syndicate. Some of the children have been brought to DSWD shelters, while others have been referred to their partner NGOs.

The DSWD works together with different NGOs that run shelters, especially when the DSWD can no longer accommodate child victims in their shelters.

Aside from the DSWD, ECPAT also employs able social workers who counsel victims of child sexual exploitation. It also maintains a home where child victims can be brought for protective custody. Sometimes, it also fields its social workers to take care of the needs of child victims, as in the Puerto Galera case, and works with social workers from other NGOs.

Another civil society organization, Stairway Foundation, has also been taking care of the victims of child pornography in Puerto Galera. The NGO hired the services of social workers from the Center for Prevention and Treatment of Child Sexual Abuse (CPTCSA) to assist in counseling 17 children victimized by pornographers.

CPTCSA conducts individual and group counseling for victims of child abuse including child pornography. It has come up with modules to assist its social workers in conducting counselling. The focus of the sessions is for children to be able to speak up and to see their experience objectively. The counseling process may run for 10 to 13 sessions.

Advocacy

Advocacy by organizations raises this issue in the public arena and disseminates information on how to prevent sexual abuse as public attention and education is crucial in solving the problem.

The CPTCSA is at present involved in such campaigns with its personal safety program. The CPTCSA is a non-profit, child-focused institution that promotes the prevention and treatment of child sexual abuse. The personal safety program involves translating and adapting modules and materials from the United States on prevention of sexual abuse. These modules will be integrated into national school curricula in the future. The modules and materials, among other things, include discussions on the safe and unsafe (i.e., sexual) kinds of touching, reporting sexual abuse to elders and authorities, and other related issues.

Although the modules do not particularly discuss the victimization of children in pornography, modules on the different “kinds of touches” urge children to remember that other people are not allowed to touch their private parts (Yacat and Balanon 2002). The modules can be further enhanced by including discussions on the evil of people taking sexually oriented photographs and videos of them. Another issue that can be added is online child exploitation, especially through instant messaging services.

While such education is very important, it may only be able to target children in school and ignore the large number of those out-of-school youth who are prone to becoming victims of pornography.

ECPAT has started to make plans to include pornography as part of its advocacy. Plans are also on the way to make child pornography in particular

as one of its flagship issues in the coming years. It is also preparing to lobby Congress to pass bills against child pornography and other forms of sexual exploitation.

Since child pornography is associated with sex tourism, the Department of Tourism (DOT) also engages in advocacy against the commercial sexual exploitation of children. It has a program called Child-wise Tourism. The program conducts seminars for hotel owners and community members in tourist areas on the prevention of child sexual exploitation. In Banawe, an organization of hotel owners concerned about the problem takes notes of tourists who enter the area and monitor their movements (Lorenzo 2004).

Inter-Agency Cooperation on Various Levels

It is a huge task and formidable for the NBI to monitor the World Wide Web for possible cases of Internet-mediated pornography in the country. Thus the agency could use help from foreign agencies in carrying out its role. These foreign agencies, like the Federal Bureau of Investigation (FBI), have sophisticated equipment to monitor and track down child pornographers on the Internet. Moreover, such international cooperation is necessary since pornography is not just a local issue but an international one that requires concerted effort in its resolution.

Although the computers recently donated by the FBI to the NBI may be powerful, there are still certain things the computers cannot do. For instance, the computers only have limited capacity to store electronic evidence. Computers nowadays can indeed possess large file space but there are still capacity limits to be overcome. Thus, the government needs to acquire additional hardware, but it comes with an exorbitant price tag.

The computers are also unable to recover destroyed files. However, the cooperation between the NBI and the FBI allows the former agency to send destroyed files to the FBI, which has sophisticated equipment to recover those files. This is what the NBI had done to the files on the hard disk drive of the child pornographers in Puerto Galera, after the files had been mysteriously deleted.

Aside from the FBI, the NBI also cooperates with other international agencies such as the Interpol, or the International Criminal Police Organization. Often, international agencies seek the NBI's help in investigating cases of child pornography. This is especially true when the pornographic images are broadcast from the Philippines.

The process of monitoring also requires cooperation between various local agencies both within and outside the government, who can then track child pornography in their areas. They could serve as informants for law enforcement agencies and groups concerned with the welfare of children.

Cooperation between agencies also addresses the need to provide comprehensive services for child victims. This especially applies if the cases involve a huge number of children, as in the case involving 70 children. Due to the large numbers involved, the DSWD could not take care of the children on their own. The scenario underscores the need for better cooperation to ensure that all victims will be given the range of services they need.

Some agencies are already cooperating with each other to ensure that this is possible. ECPAT, for instance, cooperates with the CJL when there is a need for legal services. The DSWD also endorses abused children to NGO-run shelters whenever the DSWD shelters can no longer accommodate additional clients. The experience of Stairway Foundation, when it contacted the CPTCSA to provide counseling services to the child victims of pornography, is another concrete example of cooperation happening between NGOs.

Such cooperation between government and civil society is important because it is the welfare of the children that is at stake; it is necessary for everyone to ensure that the rights of the children are protected.

The Need for a Functional Referral System

In a meeting sponsored by the UNICEF on child pornography, participants were unanimous in their call for a guide that would make sure law

enforcement agencies follow proper procedures to ensure that cases of child pornography are handled properly and that the guilty are convicted.

A referral system is also essential in handling cases of child pornography to avoid compromising the welfare of children. This need is highlighted by the case of the Japanese national, which involved an entrapment operation conducted by certain government and non-governmental organizations. While the entrapment may have landed the suspected perpetrators in jail, it may also have traumatized the 70 children caught in the entrapment operation. Questions have been raised on this: "Should the children have been included in the operations?" "Could there have been other ways to catch the perpetrators without compromising the children or without exposing them to harm's way?" "Did the entrapment procedures conform to ethical standards?"

Had there been a functional referral system in place that would ensure the welfare of these children, such discussions could be obviated. As the UN CRC unequivocally states, the children's interests should always be paramount.

One positive result of the experience is that key stakeholders are now talking about the appropriate steps to take when handling such cases.

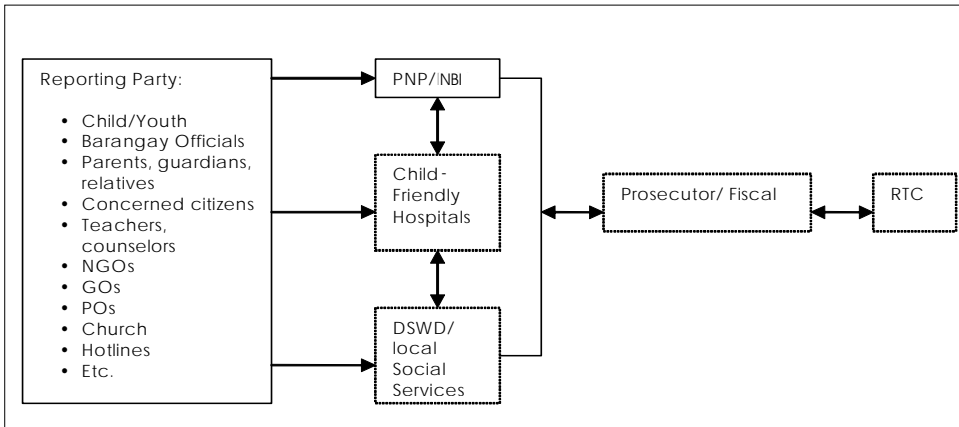
An appropriate referral system is important because it taps the proper agencies to handle victims of child pornography. Although different agencies handle sexual abuse cases, few have policies that directly deal with these victims.

A referral system flow chart followed by most NGOs and government agencies involved in handling cases of child abuse is given by Balanon and Verba (2001) in a monograph entitled *Improving the Referral System for Child Abuse Cases in the Philippines*.

The flow chart may be useful for handling cases of child pornography as well, especially because of its flexibility. Balanon and Verba (2001) say: "It must be stressed that this flow chart is a guide and that this should be adapted according to the contingencies of the particular area." What is important here is that the flow chart stresses the need for cooperation between different stakeholders in handling children's cases. As the chart

does not specifically apply to child pornography cases, this may be revised to take child pornography into account, and to recognize it as an equally valid aspect in cases of child abuse.

Figure 2 A Common Flow Chart for Child Abuse Cases
(Balanon and Verba 2001)



Revised version of DSWD’s flow chart for referring cases of child abuse.

Both key stakeholders and the public alike should be aware of this flowchart, so that all may know what to do when they encounter cases of child pornography. Also, people should be conscious of the issue of child pornography and should be helped to realize that this is a serious and pressing problem.

CHAPTER SIX

Issues, Challenges, and Recommendations

The factors and players that facilitate the entry of children into pornography were discussed earlier in neat and discrete categories. In real life, however, this may be untrue as these factors are inextricably linked with one another, creating a tight web where children may be caught and trapped. This is the rationale for the orb-web model discussed in an earlier section, which best illustrates the links between factors and players that influence the existence of child pornography in the country. Evidence gathered by the research team appear to validate the idea that factors and players weave a web that may ensnare children into pornography.

The issue of poverty is a good starting point to illustrate this problem. The authors earlier mentioned that poverty grew during the Marcos years, and with the boom in international tourism, governments from Marcos to his successors saw this as a way of helping keep the nation afloat. However, while tourism may bring economic gain to the country, it can also bring in pedophiles in search of prey.

The desperation caused by poverty forces parents from rural communities to peddle their own children to foreign tourists as prostitutes or as models for pornographic purposes. Often, these parents offer their children in exchange for money, livelihood, or house repair. This “assistance” makes parents more than willing to sell their children for exploitation. They may even rationalize that these children are in good hands and that this would ensure the survival of their whole family.

There are also parents who willingly give their children to recruiters who promise children work in big cities as maids or waitresses. Unfortunately, these trafficked children may find themselves in brothels as sex workers. They may also encounter customers who will ask for additional services like having a (sexually suggestive) photo or video taken of them or they may also end up performing in cybersex brothels.

However, not all children are peddled by their parents or pimps. Circumstances sometimes force children to become victims of pornography. As an example, children compelled to work in resort areas to help augment their family income can become accessible to pedophiles who may take advantage of their innocence. These foreigners may start befriending them by offering small gifts or tokens. As these children often come from very poor families and probably receive minimal attention or material comfort from their parents, such attention from foreigners becomes a welcome and refreshing experience for many of them. The “gifts” and “kindness” these children receive may make them feel indebted to these foreigners (*utang na loob*). Thus, they may not be able to refuse sexual advances or requests for sexual favors including asking for their pictures to be taken.

Well-off children, however, are as vulnerable to be victims of pornography as poverty-stricken children. These children may often have access to computers and the Internet which would expose them to all sorts of pornographic materials, including child pornography. It is not necessary to have access to the Internet though, as sometimes pornographic materials are sold openly in the streets. Exposure to these may have the potential to desensitize children and make them believe that pornography is normal, that there is nothing wrong with children portrayed as sexual beings.

With such desensitization, some children may become adventurous with their sexuality. Earlier, the authors spoke of children willing to perform sex in front of web cameras in exchange for mobile phone load credits. They may, without their knowledge, encounter pedophiles in search of very young children to exploit. They may also be unaware that it is possible to capture their video or still images for whatever purpose it may serve the pedophiles.

There are also Internet cafés in key Philippine cities that have cubicles where people can chat in private and do anything they may want to do. In some of these, customers engage in cybersex with their chat mates. It must be noted that these people who engage in cybersex are not sex workers but are amateurs driven by a sense of adventurism. There is a possibility, which has yet to be confirmed, that children may also be engaging in cybersex through these Internet cafés.

Challenges in the Fight Against Child Pornography

At this point, readers should be aware how children enter the web of pornography and how they may be initiated into exploitation. This section summarizes the challenges that have emerged from previous sections, emphasizing that they need to be addressed in the fight against child pornography.

Child Pornography: As a Little Understood and Covert Issue

Child pornography is a little understood issue mainly because children are not often seen as objects of sexual affection by most Filipinos. There is a tendency to treat naked pictures of children, especially pictures of pre-pubescent children, as innocuous because they are not perceived as sexual beings. Moreover, child pornography is only condemned as a dreadful crime when it chronicles sexual molestation. When this happens, there is the further tendency to see it as no more than secondary to other forms of

sexual abuse. This mindset trivializes the real extent of the problem and deprives it of the attention it truly deserves.

On the other hand, child pornography is a covert issue because unless the victims report their experience or identify themselves, their exploitation will remain hidden. Unlike prostitution or rape, pornography's victims do not speak out precisely because there is a seeming harmlessness in the act of taking their photographs or video. There is also the tendency for children to view their actions as normative, for it has been seen that these criminals often prime them by making them watch child pornographic movies.

Child pornography is only starting to be recognized as a critical international and local issue, which does not help the lack of available information. Although Western countries have started their campaigns against child pornography a few years ago, it is only now that interest on the issue is picking up in the Philippines. It is also only now that people are beginning to know and understand the issue of child pornography, if at all. Sadly, the problem of child pornography only comes to public attention when the media feasts on the publicity caused by celebrated cases. When the cases are forgotten, the problem also disappears from the public awareness.

There is also the general perception that only foreign pedophiles are capable of exploiting children. However, Filipinos are equally capable of harming children in pornography. This must be stressed so that attribution to perpetrators can be properly placed. Filipinos not only act as producers of pornography, they can also act as accomplices, as pimps of children, and as fronts for foreign operators.

It is Difficult Identifying Victims, Perpetrators, and Users of Child Pornography

Victims often remain anonymous. It is also difficult to ascertain their nationalities and places of origin. This difficulty in identifying them makes it harder to help them—harder, that is, unless they report their abuse.

This inability to come forward also makes it difficult to track down those who caused the abuse. Since some perpetrators are foreigners, they may have already fled the country before their crimes are reported, or cases are filed against them, or before they can be arrested. Furthermore, victims may not even know the perpetrators' real identities. Victims may only know the perpetrators by their aliases; therefore, if the criminals evade arrest and are able to flee, it becomes even harder to identify them.

This challenge also applies to pornography being mediated by instant messenger systems, making it next to impossible to find out who may have done the deed. The Internet is also a system where users are largely anonymous. The perpetrator may be abroad or in the country, but in both cases it is almost from elsewhere making it impossible to file a case.

There is also the difficulty of identifying users of Internet-based child pornography. Although the government of the United Kingdom has reported success in identifying child pornography users through their credit cards, the possibility of doing that in the Philippines may be impossible. This is because credit card companies are unwilling to share information about customers.

It is Difficult to Know the Age of a Child Victim

Identifying a victim as being a child is not too difficult a task when the victim is prepubescent. However, once the child reaches the ages of 15 to 17, the task becomes more difficult because the child has already reached full physical maturity. With this, it is harder to tell whether the victim is already an adult or still a child. It is also problematic when children in prostitution report themselves as being 18 years old when they are not. Because they look mature or they produce fake birth certificates, they evade assistance from concerned agencies and other people.

There is also the problem of people sporting uncaring attitudes towards victims who have already reached full physical maturity. People may view these children as adults, and thus would see nothing wrong when they pose in pornographic materials. For instance, when a starlet confessed that someone took nude photographs of her when she was sixteen, people

hardly complained about this. There was also little or no effort to prosecute the people behind the starlet's exploitation. This is just one incident though; others have occurred before.

The UN CRC and pertinent Philippine laws explicitly describe children as those no older than eighteen years old. Even if the child may have reached physical maturity, this does not give anyone the right to exploit these children in pornography. There is a clear knowledge gap in people as to what being a child is.

Technology Contributes to the Nebulousness of the Problem of Child Pornography

With the advent of advanced technology, child pornography has become an extremely nebulous issue. It is an issue so hazy that people have a vague idea of the different forms of child pornography.

People also fail to realize that with the Internet, children of all stripes may fall prey to victimization, regardless of class or circumstance. This is especially true of children who have access to the Internet and children imbued with a strong sense of adventurism, of those who are prone to succumb to peer pressure or the wily prodding of a pedophile on the Internet, or of sexually charged children.

People May Not Know How to Use Technology—or Do Not Even Have It At All

Related to the previous discussions are gaps in people's knowledge and use of technology. Abueva (2004) states that her work with Asia-Acts has brought her to different rural communities to train municipal social workers, city social workers, police, local NGO and state workers, and school principals on the trafficking of women and children. In her visits to these communities, she has observed that many of these people do not even have telephones and access to the Internet in their offices nor do they know how to use the Internet. She sees this as a drawback against the fight against

child pornography especially because it largely happens on the Internet nowadays.

Without knowing how to use the Internet or even having access to it, these primary caregivers of children will find it hard to imagine how computer technology and the Internet help produce and disseminate child pornography. This is, of course, not only true of people in rural areas. Many Filipinos, even in urban communities, have no access to such technology and do not know how to use it.

Child Pornography is Interlinked with Other Forms of Sexual Exploitation

Although child pornography should be considered as a discrete form of child sexual abuse, one should take care to remember that child pornography is inextricably linked with other forms of sexual exploitation. A child victimized in pornography has most likely experienced sexual abuse under the hands of those who make pornography. The child may be working in the sex industry, or he or she may have been trafficked for the purpose of sexual exploitation. It is therefore important to discuss pornography in the context of other forms of sexual exploitation and abuse to help people understand that although pornography is an issue worthy of separate attention, it is still anchored upon other forms of sexual abuses and exploitation.

Statistics on Child Pornography Appear Deceptive

The DSWD's statistics, presented earlier in this work, show few cases of child pornography. However, the number of child pornography victims may actually be higher. There are several reasons for this.

First, victims may not really see anything wrong with their experience and hence will not feel the need to report their exploitation. This is particularly true of children victimized on the Internet, as they believe they have given "consent" to a chat mate to see them naked, for instance, in front of the

webcam. This belief gives them no reason to believe they are victims. Shame and embarrassment in engaging in cybersex can also be another cause.

Second, those who work for the sex industry may also see no need to claim being victims because they may rationalize that this is part of their job and that they are remunerated for this.

Third, as one respondent shared, police reportedly do not list child pornography down in their blotters because there is “no” law that explicitly prohibits child pornography. Rather, they are more likely to classify this as sexual abuse, child trafficking, or exploitation. If rape has been involved, the crime is classified as rape.

All these factors can possibly contribute to the low numbers of reported cases of child pornography, despite its widespread presence on the Internet and in media which may prove otherwise.

Credit Card Companies and ISPs Refuse to Cooperate

Customer privacy protection policies enforced by credit card companies and ISPs may also pose obstacles to the fight against child pornography. Due to these policies, companies may refuse to divulge information against customers who may be hosting child pornographic websites or who may be subscribing to child pornographic images from porn websites.

Since these companies run a business, some could care less what kinds of sites their Web servers host for their customers, what websites they visit, or to what websites they subscribe. There may be no mechanism for ISPs to watch the sites their customers set up, visit, or subscribe to or they may not have enough resources or manpower to police their customers.

Although the Philippine Internet Service Organization (PISO), an association of ISPs, “has adopted an ethical code emphasizing self-regulation within the framework of sound Filipino values,” one cannot tell if all ISPs go by this ethical code.

Child Pornography Is an International Issue that Needs International Cooperation

Child pornography is an international issue especially because it is produced for a wider international market. Pornography may be produced in the Philippines but these materials would eventually find their way to a global market. With technology and the Internet, pornographic materials can be easily distributed throughout the world.

The difficulty in telling the national origin of the victims of pornography highlights the importance of approaching the issue with an international perspective. The problem should be approached without regard to national boundaries because by nature, pornography, especially with the advent of the Internet, transcends them. Different countries must therefore step up cooperation to help solve the problem.

Child pornography cannot be solved on a local basis alone especially because producers and distributors of child pornography are not only cottage-industry-type producers but also organized international networks of pornographers. This requires cooperation from the international community to help in the prosecution and arrest of perpetrators, especially if the perpetrators return to their origin. This is where extradition agreements will come in handy. It is also useful to try a person who has committed crimes abroad in their home countries.

Moreover, the fact that children are involved requires immediate and unconditional action. This could come through legislation and stringent ways of monitoring and preventing the entry and movement of pedophiles between countries. Also, international action is needed against the proliferation of child pornographic images on the Internet.

Furthermore, international cooperation would help address Philippine law enforcement agencies' lack of sophisticated equipment to trace website operators and subscribers of child pornography. International agencies with such technology can offer valuable assistance to local agencies. In return, these agencies can help by arresting operators located in the country.

It is also important for countries to cooperate in the prosecution of those responsible for child pornography. Lawyer Eric Mallonga (2004) recounts the case of a New York-based travel agency. The company had been selling sex tours to Angeles City and Subic since the early 1990's. Recently, the Office of the Attorney General of the United States assumed responsibility for prosecuting the criminal offenses committed by the travel agency. In handling this case, the Attorney General applied the Protection Principle. The principle states that if the United States can protect any American national outside their borders, then it should also be able to prosecute their own nationals who commit criminal acts outside their territorial borders.

Mallonga also cited the case of a Dutch national who tried to smuggle child pornographic materials across Dutch borders and was caught by Dutch authorities. Although the Dutchman committed his crime in the Philippines, he was found guilty by the Netherlands courts of child pornography.

The Relationship Between Art, Media, and Child Pornography

A thin line separates art from pornography. There is still an ongoing and often confused debate on what constitutes one from the other. However, such debates should not apply to any work that involves children. Any picture, illustration, or work of "art" involving children in sexually suggestive poses or those that can be construed as such, should be considered pornographic because children should be protected from being treated as objects of sexual desire.

Gaps in the Laws on Child Pornography

Although some provisions in current Philippine laws address the issue of child pornography, the country has yet to come up with a law that particularly caters to the needs of children victimized in pornography. Why is this important? Children's situations as victims of pornography are unique enough not to make child pornography part of pornography in general.

It is assumed here that children are vulnerable individuals. Although children may have the capacity to decide for themselves, they may not realize the full extent of the consequences of their actions given their relative inexperience and their continuing development. Also, although it is recognized that while children may have the capacity to weather their more sordid experiences because of their inherent resilience, there is still a possibility that they would end up forever scarred by their experiences, compared to adults in similar situations.

How will a law specifically address these issues? First, a law that specifically caters to the exploitation of children in pornography would allow people to fully realize the gravity of child pornography and to stop themselves from considering pornography as a mere accessory to sexual abuse or prostitution. Secondly, such a law will allow people to know that this is a problem that should be addressed with precision. Lastly, this law can address the possible lapses the current laws may have in dealing with child pornography.

This section will examine these lapses and look into possible ways of addressing these lapses through more effective legislation against child pornography. Moreover, the section raises pertinent issues that should be considered in drafting legislation designed to combat child pornography. The contents of this section are not meant to be prescriptive. Rather, they are meant to spark further discussions on the issue of child pornography.

The Need to Expand the Definition of Child Pornography. Although the definition provided by RA 9208 provides a more or less comprehensive definition of pornography compared to those found in Article 201 of the Revised Penal Code and RA 7610, there are still gray areas in that definition. The foremost source of these gray areas is that the definition really deals with pornography in general, which applies both to adults and children. This makes the definition inappropriate in dealing with child pornography per se.

A comprehensive, tighter, and explicit definition of child pornography will help “provide greater clarity for the issue” (Muntarbhorn 1998). The need is underscored by the findings of the UP Law Center-ISP which found that “even courts and judges themselves do not know how to define pornography” (Sabangan 2003). Aside from this, there are other related and unanswered questions.

One question being asked is, should pornographic materials involving adults dressed up like and pretending to be children be considered a form of child pornography? This is a valid consideration since adults who pretend to be children *may* contribute to seeing children as valid objects of sexual desire. Also, considering that the UN CRC explicitly stipulates that children be protected from all forms of sexual exploitation and abuse, should dressing up as children be considered child pornography and therefore illegal because it may encourage sexual relations with children?

Governments in Europe are considering the issue of adults portrayed as children in pornography. One outcome of this consideration is the Irish Republic's Child Trafficking and Pornography Act 1998, which includes adults dressing up as children in their definition of child pornography. Should the Philippines then do the same on the pretext of offering more protection to Filipino children?

Another matter to consider in an expanded definition of child pornography is audio recordings made of children engaged or represented as being engaged in explicit sexual activity. Although some may argue that this does not constitute a graphic sexual representation of children, it however desensitizes children to the danger by making it appear that sex with children is okay.

Related to this is printed literature that cast children in explicitly sexual roles. Should these be part of a reconstituted definition of child pornography as well, since this may also contribute making children legitimate objects of sexual desire? In the course of this study, stories from tabloids were encountered with graphic descriptions of minors engaging in sex.

An expanded definition of child pornography must necessarily take into consideration the evolution of technology that includes pseudo-pornography (Muntarhorn 1998), which "entails the depiction of a child even though there was no actual involvement of a child in the physical sense." This may be rendered using computer software and may include any of the following (Taylor 2001):

- 1) Digitally altered and appropriately sexualized images of bodies such as a child in a swimming costume where the costume is removed or the body is replaced with a naked picture;

- 2) Separate images may be combined in one photograph, as in for example a picture of a baby whose hand is superimposed onto an adult penis;
- 3) A montage of various pictures, some of which are sexual in character.

To this, Muntarbhorn (1998) adds that pseudo-pornography may include child-like images or virtual images of children created through computer graphics.

There is also the need to consider *hentai* or pornographic anime or cartoons. Another consideration is including a detailed listing of sexual activities involving children to clear any legal ambiguities.

The Need to Enact Laws That Will Address Internet-Mediated Child Pornography. Because most of the Philippine laws dealing with child pornography were enacted prior to the boom of the Internet industry, these laws expectedly have not taken into account the role of the Internet in child pornography. As mentioned in Chapter Four, the Revised Penal Code, as amended, was first enacted in 1930 or 64 years prior to the first time the Philippines was connected to the Internet. The Child Abuse Law, RA 7610, was enacted in 1991 or three years before the Internet made its way to the country in 1994. However, RA 9208's definition of pornography does mention information technology as a medium that may be used to transmit pornography.

In an article written for the *Manila Times*, Annie Ruth Sabangan (2003) raises the issue of the absence of laws against cybersex crimes in the Philippines and discusses the "gray areas" in the laws that may be allowing the proliferation of "Internet sex."

She speaks here of cybersex where a woman may engage in virtual sex with a client. In such a scenario, a woman or girl, for instance, may be "seen fondling her private parts or masturbating in front of a web camera... with her moans and gasps... audible through the computer headset." While at it, her "client can view and hear [her] sexual exhibition and command her to do other kinky acts by... paying (the website) through his credit card." At the same time the woman is doing this, the client is also seen and heard

masturbating. They are also exchanging sexually-charged messages through the headset or through messages on screen.

Sabangan (2003) notes that such exchanges between the client and the performer has every element of prostitution as defined in the Revised Penal Code. Article 202, Section 5 of the Revised Penal Code, as amended, states that prostitution involves women or men who, for money or profit, habitually indulge in sexual intercourse or lascivious conduct (authors' emphasis). Thus, cybersex has all the necessary elements of prostitution: the woman, the client, the money, and the conduct of lascivious acts save for sexual intercourse, which requires that both parties actually make physical contact.

Does working for a cybersex joint then count as prostitution? What if the customer is overseas? How would one prosecute a woman engaged in "prostitution" when both the "prostitute" and customer are in different locations and when both "prostitute" and customer do not have physical contact with each other? How would one charge the client who may be abroad and who is probably in the privacy of his own home? And what of the act is done in private? While they virtually have an audience of one or several men, women engaging in this activity are physically doing their sexual acts in the privacy of a room or a cubicle.

In a similar case encountered by the NBI when they raided a cybersex joint in Makati, the NBI opted to charge the women (minors were also involved in this) with pornography using Article 201 of the Revised Penal Code since it involved a form of performance and exhibition of "indecentcy".

However, while the law assumes public exhibition, in this case, the women engaged in cybersex are performing their acts in private. How does the law then apply? One may argue that the case will stand because the law states that the immoral acts or shows referred to in the Code may be done in *any other place*, an ambiguous statement that may refer to any place, anywhere in the world. Given, though, that the law was enacted some 70 years ago, can *any other place* indeed be interpreted to include cyberspace? It is interesting to note, as Sabangan reports, that no case was filed against the owner of the cybersex joint because Article 201 only prosecutes those involved in performing "indecentcies."

Such situations highlight the possible inadequacy of the Revised Penal Code in combating crimes occurring in cyberspace. Inherent weaknesses in the Code could have been addressed by the use of RA 9208. This act penalizes the recruitment of women and children in pornography and includes in its definition of pornography Internet technology as a possible medium for its dissemination. However, RA 9208 talks about information technology in general terms, enabling creative lawyers to look for loopholes.

Furthermore, how can the law and its enforcers protect children who chat through Internet Relay Chat and various Instant Messenger software? They may while chatting, and through the prodding of a pedophile, perform sexual acts in front of the webcam. What if their video or photographic images on screen are captured by the pedophile and emerge on a pornographic website? Can parents sue the website owners and seek redress for their children? Also, what of Filipino children who are exploited, for instance, by pedophiles in the country? They are those whose images may end up in websites hosted overseas. Can parents or the Philippine government sue the website owners for exploitation of children and argue for the site's closure? (Sabangan 2003).

Sabangan (2003) also raises the issue of whether parents can sue the owner and operator of a website if they find out their children are "addicted to cybersex." One of her respondents shares that it is possible and that it would be easier to sue if the operator is in the Philippines. However, this would be a problem if the operator is outside the country. She states that it is also possible to file a case against the foreign operator, but the problem would lie in acquiring jurisdiction over this person who is outside Philippine jurisdiction.

It is also difficult to trace from where these websites are operated. However, it is possible, given the appropriate technological means, to do so, but at great cost. This cost alone may dissuade people from pursuing cases against the sites and their operators. Also, questions of jurisdiction may arise if the site is found to be based outside the Philippines, thus rendering any evidence potentially inadmissible.

A case encountered by the NBI, somewhat illustrates the situation. Gaerlan (2004) reports a case he handled involving two Filipinos based in Bulacan uploading pornographic pictures of children to a website in the US. Counsel

for the defense raised the issue of the Philippines' jurisdiction over those materials because they have been uploaded to a website whose main operations were abroad. Since the evidence the NBI presented originated from this foreign-based website (to where the images were uploaded), the lawyer pointed out that the evidence should be inadmissible because they were obtained from outside the Philippines.

Such questions should be among the considerations the Philippine government must examine in drafting laws against transnational crimes.

The Need to Punish Possessors of Child Pornography. While Article 201 of the Revised Penal Code, RA 7610, and RA 9208 are not remiss in imputing criminal liability to exhibitors, distributors, producers, employers, and pimps of child pornography, none of these contain provisions prohibiting and penalizing the possession of child pornography.

Providing for penalties against the possession of such materials can help in apprehending child pornographers. Possession by pedophiles is easier to prove than production or distribution, and penalties can deter them from possible exploitation of children.

Making possession of child pornographic materials illegal may also emphasize the seriousness of the State in stamping out the scourge of child pornography.

However, this provision will only work if the pornographic materials involve pre-pubescent children who can easily be identified. Children who have reached puberty and whose bodies have reached their adult state may be more difficult to identify as such. Hence, pornographers who possess photographs of pubescent and mature-looking children may be more difficult to prosecute.

One of the concerns frequently discussed with regard to the punishment of people who possess child pornography is that this may infringe the rights of these persons to free expression. Some people, according to Muntarhorn (1998: 4) see this as "a conflict between freedom of expression and child rights...." However, he is emphatic that "there is no real conflict in this regard, as freedom of expression is not an absolute right and is usually

constrained by... other public policy consideration, including child protection.”

Charging pedophiles who keep child pornographic materials is in line with the Declaration and Agenda for Action of the World Congress against Commercial Exploitation of Children in Stockholm, Sweden in 1996. Among the measures agreed upon include (Muntarbhorn 1998: 2):

Develop or strengthen and implement national laws to establish criminal responsibility of service providers, customers, and intermediaries in child prostitution, child trafficking, child pornography, *including possession of child pornography* (italics supplied), and other unlawful sexual activity....

It should be part of the Philippines’ commitment to include such provisions in its laws, having signed the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography, which stipulates that those involved in the “production, distribution, dissemination, importation, exporting, offering, selling, or *possessing*” (*authors’ emphasis*) child pornography should be criminalized.

The Culpability of ISPs. Another issue to consider is the possible culpability of Internet service providers (ISPs) in hosting child pornographic sites. Muntarbhorn (1998: 5) shares the ongoing exchanges on this subject:

One lobby claims that the ISP should not be liable at all for the flow of information through them as a conduit. A contrary lobby advocates some responsibility for the ISP on the basis that many ISP store third party information on their own information (which may contain child pornography) prior to transmitting it to end-users, and the proximity of such a setting the ISP implies a degree of responsibility.

Furthermore, Muntarbhorn (1998) relates that “some countries have now opted for laws which incriminate the ISP if they intentionally carry child pornography or are negligent about it.” ISPs in receipt of reports from individuals or government or non-governmental bodies about the existence of child pornographic sites are required to act on these by investigating or

taking action after the complaint. Failure to do so would result to them being “held to be negligent.”

An example of such legislation is the German Information and Communications Services Act (1997). The law, according to Mutarbhorn (1998), states:

- Full responsibility has to be assumed by providers (ISPs) who offer their own content on the Net;
- Conditional responsibility has to be assumed by providers who provide third-party content on the Net. These providers can in future be held responsible for illegal third party content only under two conditions: the particular content must be positively known to them, and it must be technically feasible and reasonably to be expected of them to block such individual content. This reasonableness clause makes it clear that the provider will not be required to make every conceivable effort to prevent utilization of illegal content;
- No responsibility will be expected of providers who merely provide access to the utilization of third-party content. Such providers are not to be treated differently from providers of telecommunications services, who do not know the content communicated and in fact must not know because of the secrecy of telecommunications.

The Need for Uniform and Substantial Penalties for Child Pornographers and Enthusiasts. The enactment of the Anti-Trafficking in Persons Act (RA 9208) bodes well for those opposed to child pornography. Any offense committed under the Act is non-bailable. That is, anyone caught recruiting, transporting, or harboring children for the purpose of pornography may not post bail and will remain in jail for the duration of their trial. This prevents foreign pedophiles from leaving the country without serving time for their crimes as some in the past have done. The law also calls for stiff monetary penalties that may range from PHP1M to PHP5M.

This is not the same, however, for those who are charged with the distribution (exhibiting, selling, and other similar acts) of pornography, who are only required to pay between PHP 6,000 to PHP 12,000. It is interesting

to note that all the laws discussed in this work call for a term of between six to 12 years in jail as the heaviest sentence for different crimes committed under their purview.

True enough, ECPAT (1998) adds that “there are often significant differences in the penalties available under legislation between production/distribution, and possession (in the case of the Philippines, possession is not yet considered a criminal act), the latter being less heavy penalized.” Another example of this inconsistency in punishment is the Child Abuse Act (RA 7610), which calls for a heavier penalty for crimes committed against children below 13 years of age compared to crimes committed to children 13 years old or older.

However, ECPAT unequivocally argues that penalties should be heavy and uniform regardless of whether those concerned are producers, possessors, or distributors of child pornography, to emphasize that child pornography is a grave crime because it is done against children.

Lapses in Law Enforcement and Weaknesses of the Philippine Justice System

This section will examine the perceived gaps in law enforcement and the Philippine justice system in addressing the problem of child pornography. In order to aid law enforcement, prosecutors, and the courts, one needs to see how law enforcement and the justice system can be strengthened to help curb the problem of child pornography.

Problems in Enforcing Laws. It is often said that the Philippines has the best laws in the world; however, the problem lies in enforcing them.

For instance, people are seen to be violating laws openly, with little or no reaction from law enforcers. Prostitution is a case in point. Although laws such as Article 202 of the Revised Penal Code, and RA 9208 and 7610, all prohibit prostitution, particularly the recruitment of minors in prostitution, women, men, and children are still seen selling their flesh on the streets.

Enclaves in different parts of Metro Manila and other major cities in the country have sprouted where prostitutes are available to interested parties. In Cebu, for instance, a whole *barangay* thrives on the business with little reaction from the local and national government. People, it appears, have turned a blind eye on this. Also, cybersex joints in Angeles still exist even if, as respondents report, the community is aware of these places and their location.

Once in a while, police raid establishments suspected of harboring prostitutes and accosting prostitutes plying the streets, however there is a widespread impression that these raids are just for show. What is even more reprehensible is that some men in uniform condone the proliferation of the trade and coddle its operators for a fee. They act as protectors or sometimes as operators themselves. Otherwise, they are in collusion with local politicians in coddling owners of prostitution establishments who support them. Sometimes, law enforcement agents become the customers of sex workers as well. The UP CIDS PST (2000: 20) reports that sometimes, they “force children prostitutes to have unprotected sex with them, and leave without paying the child.”

It is no surprise then that prostitution continues to flourish in the Philippines. With prostitution including those involving children not properly addressed, it is not surprising that child pornography may be here to stay as well. Without proper action from law enforcement agencies, pedophiles and customers including pimps and operators will boldly go on with their actions.

It is also sad that, reports state, foreigners caught producing and possessing pornographic images of children only have to pay off the police to be free from liability. In addition, some police officers reportedly destroy evidence or help the accused escape from incarceration.

Another example is the utter disregard for the Revised Penal Code, which expressly bans the sale, giving away, or exhibition of pornographic materials. The law is violated with impunity in many streets of the metropolis, where pornographic tabloids, magazines, and videos are being peddled out in the open, sometimes even in the presence of policemen.

Sometimes, however, the streets are rid of vendors of hard core pornographic VCDs including child pornographic ones. These vendors, though, manage to return a few days after the raids. Policemen make their rounds in the area but sadly do nothing about the blatant sale of these pornographic VCDs. It is more ironic that some vendors are only a few hundred meters away from the headquarters of the Philippine National Police along Epifanio Delos Santos Avenue (EDSA). However, it must be noted that this lack of vigilance among police is not universal; there are also those who are as vigilant as their duties demand of them.

Ignorance of the Law. Law enforcement is not the only problem. It also appears that people are generally not aware of existing laws.

For instance, the Child Abuse Act (RA 7610) states that is illegal for:

any person [to] keep or have in his company a minor under 12 years old or 10 years or more his junior in any public or private place, hotel, motel, beer joint, discotheque, cabaret, pension house, sauna or massage parlor, beach and/or other tourist resort and similar places....

Even with such laws in force, no one seems to mind seeing foreigners with children in many areas in the country. For instance, spotted in Puerto Galera during the research team's field visit was a Caucasian man in his late 40's to early 50's walking by the Puerto Galera wharf with a bevy of girls— 5 of them—who were anywhere between 14-17 years old. The man was spotted buying ice cream for the giggling girls. Some of these girls were heavily made-up. Sometimes, they held the arm of the Caucasian. Also spotted on the beach were old Caucasian men with young Filipino girls and boys. But this does not only happen in Puerto Galera. One would occasionally see similar sights in different tourist destinations in the country.

There is also a general impression that people have little knowledge of the new law on trafficking of women and children. They cannot be blamed for this ignorance, because even judges and law enforcement persons are not aware of the Anti-Trafficking in Persons Act (RA 9208).

For instance, some of those cases encountered by the research team clearly involved trafficking because girls originated from the Visayas and Mindanao to work in cybersex joints in Luzon. However, charges lodged against the owners of the joints only covered violations of Article 201 of the Revised Penal Code and the Child Abuse Law. Such laws, relative to the newer RA 9208, have less teeth, because offenses covered by the laws are bailable ones with a lighter financial penalty. Although a more stringent law already exists to combat child pornography, some law enforcement agencies still insist on using the relatively tamer Article 201 and RA 7610 in filing cases against pornographers precisely because they do not know about the existence of RA 9208 yet.

The government appears to have scored some victories in filing their cases against the Japanese suspect and his associates, who were said to be involved in the recruitment and transportation of some 70 children to Los Baños, Laguna. The NBI filed charges against the Japanese and his Filipino associates for violating Section 4 (a) and Section 6 (a) in relation to Section 10 (c) of the Anti-Trafficking in Persons Act. Since this is an offense without bail, the suspects remain in jail awaiting trial. What is interesting about this case is that the NBI shared that the City Prosecutor did not have a copy of the Act and hinted that the prosecutor was not familiar with it.

Another problem raised by one of the respondents is that it is difficult to pursue cases in Philippine courts, particularly those that pertain to cyber crimes like online pornography, because judges, particularly the older ones (this may not be necessarily true of all judges) may not be computer-literate or Internet-savvy. With their having little understanding of computers and the Internet, they cannot be expected to competently hear the cases before them. A law enforcement agent also shares that sometimes, they even have to go out of their way to explain to judges in very elementary terms how computers and the Internet work to help these judges fully understand the cases they are handling.

This is what prompts Efren Meneses (2004), the head of the Anti-Fraud and Computer Crimes Division of the NBI, to emphasize that prosecutors, judges, and law enforcement agents attend training seminars and similar sessions on cybercrime.

Procedural Errors, Glitches, and Weaknesses. In a UNICEF-sponsored meeting on child pornography, some participants from civil society organizations shared that a problem they frequently encountered in having pedophiles prosecuted is having cases against these people dismissed due to technicalities.

For instance, some law enforcers fail to secure search or arrest warrants. In the absence of a search warrant, the evidence they find are inadmissible in court even if these were damning for pedophiles. This results in cases against them being dismissed by the courts.

Another issue that arose in the discussions is the possibility of foreign suspects leaving the country even in the midst of an ongoing trial. When asked whether foreigners can be held in the country while their trial is ongoing, Meneses (2004) replied that hold departure orders are not necessarily issued against foreigners who have pending cases in the country. This makes it possible for foreigners to leave the country in the middle of their trial.

According to Meneses, hold departure orders are only issued by the court when the person is the subject of a warrant of arrest, if the person escapes from prison, or if he is a fugitive from the law. A person who has posted bail usually does not have such a warrant hanging above his or her head so it is usually easy for them to flee. A hold departure order also takes effect during preliminary investigation by law enforcement agents. But once the investigation is closed and the case is already ongoing in court and the foreigner has already posted bail, the foreigner may already have the opportunity to flee or evade prosecution.

It should be noted here that courts issue hold departure orders at their discretion. According to lawyer Eric Mallonga (2004), courts usually issue hold departure orders when the offense committed by the perpetrator carries a penalty of six months and one (1) day and above. However, there would be a problem if members of the judiciary are in connivance with perpetrators or if they fail for one reason or another to issue the hold departure order.

Meneses (2004) also says that the best thing to do is to put the perpetrator on a watch list. However, being on the watch list does not guarantee that a foreign suspect does not leave the Philippines. Being on the watch list only

assures that every time a person on the watch list tries to leave the country, the Bureau of Immigration and Deportation (BID) simply alerts the prosecutor. Should the prosecutor allow the person to leave since he has posted bail and he has made the necessary promissory commitments to the court to come back for his arraignment, then the foreigner may leave—sometimes, never to return. Atty. Meneses was candid when asked what the chances are of these foreigners coming back. He said: “I don’t say it’s 50-50. Going back is 10 to 90—90 against going back and 10 going back” (2004).

Protracted Process of Justice. Another issue is the protracted process of prosecution. This is a serious problem, as the accused may be able to escape or flee the country, especially if the accused had been granted bail. One such case was shared by Capt. Erlinda Tullao of the Angeles City police. Captain Tullao is the chief investigator in the case of a foreigner who operated a cybersex joint in Angeles. Although Capt. Tullao followed arrest procedures and gathered numerous items of evidence against the foreigner and his female associate, the slow wheels of justice invalidated her hard work. It took the city prosecutor some time to do the preliminary investigation. This, unfortunately, provided the suspect a chance to flee and evade arraignment.

General Recommendations

The list of challenges discussed is not an exhaustive one, but cover only some of those that may derail efforts against child pornography. Based on these challenges, the research team identified recommendations that may help address the problem of child pornography. Respondents have also contributed some of the recommendations.

Strengthen National and International Cooperation to Address Child Pornography

- Since child pornography is an international issue, efforts to fight it require international cooperation. No purely local solution exists for this problem, as networks of pornographers involve people from different countries. Meaningful and successful solutions require such cooperation, especially if technology is shared by more affluent states in the effort. Existing links between law enforcement agencies such as the FBI, Interpol, and the NBI should therefore be further strengthened. The Philippines would especially benefit from this since Western countries may have the necessary technology to combat the problem.

Fostering relationships with key stakeholders from other nations would allow for a more efficient fight against pornography. Among the possible actions that can be explored is judicial cooperation with other states. This allows for the extradition of criminals who have escaped to their countries of origin or their prosecution in their countries of origin for crimes committed elsewhere.

- Cooperation among civil society organizations and government agencies ought to be strengthened to efficiently serve victims of child pornography. This is important in the fight against pornography because these key stakeholders do not simply confront individual pornographers. It is a whole system or network that continuously exploits and abuses children.

Moreover, not all services that victims need such as counseling, protection, advocacy, and the like can be provided by any one agency. This is because different NGOs and government agencies are limited in providing a whole range of services. Hence, these agencies must establish a referral system that would allow them to direct child victims to agencies that can give them the services they need.

- Related to the preceding point is the need to define the roles of NGOs and government agencies in handling cases of child pornography for the sake of efficiency. Such clear role definitions would help ease referrals under the system proposed earlier. The welfare of the child will also be upheld as this would ensure that children would receive the services they need from the proper agency.
- Explore how policy makers can elicit the cooperation of credit card companies and ISPs in tracking down people who distribute and subscribe to child pornography. These companies play a major role in stamping out the problem because they can offer useful leads to law enforcement agencies.

Employ a Holistic Approach to Solving the Problem of Child Pornography

- The fight against pornography should use a holistic and multi-pronged approach. It cannot be viewed as separate from other forms of child sexual exploitation because the problem of child pornography is almost always tied to those forms. It is also related to other social issues, such as prostitution, sex tourism, and the proliferation of pornography in the mainstream. Aside from this, culture and poverty bear on child pornography.

Any effective program against child pornography should therefore be more than a mere crackdown on pornography. Arrests are a first step, and only one part of the answer.

Programs to combat child pornography must also deal with prostitution, child trafficking, and sex tourism. Key stakeholders should also be willing to confront the issue of poverty as it drives many to join the flesh trade.

These stakeholders must also continue to provide people with key social services such as health, education, and livelihood

assistance. This is particularly meant for the less well-off, to prevent them from resorting to desperate measures in order to live.

Poverty is not the only mitigating factor in the proliferation of child pornography because well-off children are equally liable to falling prey to pornographers, especially with the Internet and other high tech gadgets. Advocacy is thus needed on this front.

- There is a need to strengthen the child protection system that involves different key stakeholders such as law enforcement agencies, civil society, and government institutions tasked with the care of children.

Advocacy and Education Needs to be Enhanced

- It is important that people are educated on the problem of child pornography. This is to solve their relative ignorance on the nature of this problem. Efforts to educate the public should also follow a multi-pronged approach to ensure that the greatest number of people will be reached:
 - a) Media information campaigns should be made to make the public understand the nature of the problem of child pornography. Media has become the most powerful educational force in the Philippines, due to its wide reach and influence. Any effective campaign against pornography should therefore involve all forms of media, whether print or broadcast.
 - b) Local civil society organizations and government agencies should make campaigns against child pornography as part of their grassroots advocacy to make sure that their constituents are properly informed. Because many

victims come from poor communities, the help of NGOs working with them is indispensable as well.

- c) Lessons on child pornography and other forms of sexual exploitation should be included in both grade school and high school curricula. Although lessons on sexual abuse will soon be part of the school curriculum, the topic of child pornography has yet to be included as well.
 - d) People involved in the care of children (police, social workers, judges, and others) should be properly briefed on the issue of child pornography (including pertinent laws) and proper procedures in handling cases of child pornography. The DOT should also intensify its efforts to promote its project, Child-Wise Tourism, by continuing its training programs for hotel and resort owners and operators on child sexual exploitation. The project makes people aware of the issues and encourages them to help in fighting child pornography. Unfortunately, due to lack of funds, the DOT has been conducting this sporadically. The government must allocate resources for the program to ensure that responsible tourism is practiced and ensured by its stakeholders.
- Print and broadcast media practitioners should also be educated on child pornography as sometimes they may not be aware that they may already be exploiting children in pornography. Standards and sanctions should also be imposed to prevent some sectors of the media and the show business community—talent agents, directors, and the like—who may be engaging in the production of pornography or in the exploitation of children.
 - It is important that adults learn how to use technology responsibly, especially computers and the Internet. They should also know the various forms of internet-mediated pornography in order to better protect and care for children

- The public must be made aware of laws on child pornography since an informed public can be an effective partner in stamping out child pornography.
- This awareness campaign also covers law enforcers and members of the judiciary. Awareness of existing laws would aid in the identification of the problem and the prosecution of perpetrators of pornography.

Enact Relevant and Up-to-date Legislation

- The Philippine government should enact legislation that specifically addresses child pornography. The law should lay down an unambiguous definition of pornography in general, and child pornography in particular. It should also include provisions that would address the kinds of pornography brought on by advances in technology and the Internet.
- The law should consider the culpability of Internet Service Providers (ISPs) which host child pornographic sites, especially if the ISPs intentionally host child pornography or are negligent about it.
- No distinction should exist between “more serious” or “less serious” offenses when it comes to child pornography. Thus, producers, exhibitors, distributors, employers, and pimps of child pornography should all be handed the same heavy penalties to totally deter the pornographic exploitation of children. Providing severe and equal punishment for all those involved in the sexual exploitation of children (including pornography), may clearly drive home the point that children must not be trifled with. Also, the Child Abuse Law (RA 7610) may perhaps be changed to end age distinctions in punishing acts committed against children. Following the rights-based approach of the UN Convention on the Rights of the Child, the rights of all children regardless of age should be treated as indivisible.

- The mere possession of child pornographic materials should also be illegal. There will be no producers of child pornography if there are no consumers.

Strengthen Law Enforcement and the Justice System

- It is important that law enforcement agencies are properly trained in the collection of evidence and in proper investigation procedures to ensure the prosecution of those responsible for child pornography.
- The possibility should be explored of denying departure rights to foreigners charged with the abuse of children, including the production of child pornography, while their cases are being heard in court. This is particularly meant for those agencies responsible for the transit of foreigners in this country, particularly the BID and the DOJ.
- Government should also consider preparing a registry of convicted pedophiles from other countries, which would allow the BID to bar the entry of foreigners who are on the list.
- Efforts against the proliferation of child pornography in video and in print on the streets should also be intensified.
- There should be campaigns to strengthen the enforcement of laws on child pornography. Law enforcement agents and members of the judiciary proven to be flouting the law or assisting perpetrators to escape prosecution should be penalized.
- There should also be campaigns that would ensure that the prosecution of perpetrators of child pornography would be done as fast as possible. Any delay only serves to heighten the abuse and victimization of children. This is because protracted proceedings only lengthens the victims' agony while they await their tormentors' fate.

- The crime of child pornography should be classified as a crime against humanity and should fall under the principle of universal jurisdiction since pornography crosses borders especially with new technologies and the Internet.

Embark on Further Research to Better Understand the Issue of Child Pornography

- As it stands, this study only presents a rapid appraisal and a general picture of the situation of child pornography in the Philippines. To better understand the issue, further research on child pornography must be pursued.

For instance, further research needs to categorically know the extent of child pornography in the country to aid appropriate action addressing the problem. The unavailability of reliable statistics on the extent of the problem may lead some people to mistakenly believe that child pornography does not require immediate attention. It follows that a quantitative study of the issue of child pornography should also be complemented by qualitative studies on the problem.

Research should also be done on the psycho-social effects of victimization on children to address gaps in the present literature on the subject. This also ensures that proper psychosocial care can be given to children who have become victims of pornography.

The ubiquity of pornography on the Internet and the prevalence of child pornography among children in the sex industry, among other things, can also provide rich data for further study.

Research can also be done on the perpetrators of child pornography. For instance, it will be good to explore what leads individuals to patronize child pornography.

Finally, another possible area that can be examined is the connection between the consumption of adult pornography and the consumption of child pornography.

End notes

¹ This bill failed to pass the 107th Congress of the United States. However, much of it appears as part of the enacted Prosecutorial Remedies and Tools Against the Exploitation of Children Act of 2003, also known as the PROTECT Act. – editor

² The paper by Mr. Alecks Pabico entitled “Strengthening the Role of Media and Industry in Protecting Children in Cyberspace” was later published together with the other papers presented in the consultation organized by the Asian Media Information and Communication Center and the School of Communication and Information, Nanyang Technological University (Shetty 2002).

³ Users of YM who want to chat with people can either chat with friends or they can click on particular folders where they would find people who share their interests. When a user clicks the folder, he is led to a section where he would find different groups. The user will choose a group he may be interested in and there find people he can either chat with in private or in the main frame.

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