



**Universal Periodic Report 2017 (UPR)  
27th session  
Human Rights Council**

**Child Sexual Abuse and Sexual Exploitation  
in the Philippines**

Joined submission between

**Apprentis d'Auteuil Foundation**  
(ECOSOC special consultative status)

**CAMELEON Association Inc. (CAI)**

**Center for the Prevention and Treatment of Child Sexual Abuse  
(CPTCSA)**

**Action Against Violence and Exploitation, Inc. (ACTVE)**

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## I – INTRODUCTION

- 1- The **APPRENTIS D'AUTEUIL FOUNDATION** hosts, educates, trains and places young people with important social, familial and affective difficulties. These young boys and girls often originate from families in distress (conflicts, illnesses, unemployment, poverty). The Foundation has its own establishments in France, where it was born 150 years ago, and supports local NGOs in Southern countries. The **APPRENTIS D'AUTEUIL SUISSE FOUNDATION** supports the international actions of the Apprentis d'Auteuil Foundation.
- 2- Founded in 1997, **CAMELEON ASSOCIATION, INC. (CAI)** is a French-Filipino NGO whose goal is helping abused and disadvantaged children and families in the Philippines, particularly in Western Visayas Region (Panay and Negros Island). Its main thrust is to protect and rehabilitate sexually abused girls. CAMELEON also provides scholarship for poor but deserving students and raises awareness against child abuse through a dynamic advocacy program.
- 3- Founded in 1995, the **CENTER FOR THE PREVENTION AND TREATMENT OF CHILD SEXUAL ABUSE (CPTCSA)**'s goal is to deal with all aspects of child sexual abuse, from prevention to treatment, working with the young sex offender to the young victim, working with individual children, groups of children, families, schools, and any child-related institution. Our services range from building broad-based awareness to deep research, from training interested individuals to professionals and high-powered stakeholders. CPTCSA was the first organization in the Philippines to focus on child sexual abuse; that is, on the abuse of children by their own people (as different from abuse in the sex trade and trafficking).
- 4- **ACTION AGAINST VIOLENCE and EXPLOITATION INC. (ACTVE)** was registered with the Philippine Securities and Exchange Commission in 2014 with the goal of providing legal aid to poor and marginalized women and children who are victims of gender-based violence and exploitation. Its founders have been in the field of child protection and human rights for more than 15 years.

## II - DESCRIPTION OF THE CONTEXT AND LINK WITH THE PREVIOUS UPR RECOMMENDATIONS

- 5- This Universal Periodic Review (UPR) 2017 is an update of the 2012 UPR, although no specific recommendations were acted upon in terms of child abuse, particularly sexual abuse. The following recommendations were accepted by the government of the Philippines with the need to improve their implementation:

Rights or areas	Recommendations number	Coming from	Recommendations 2012	Status 2016
<b>12.5 Prohibition of torture and cruel, inhumane or degrading treatment</b>	129.24	Uruguay	Carry out education and awareness raising campaigns to inform parents and other actors of non-violent methods to discipline and educate children (and the right of children to protection)	
	129.24	France	Ensure compliance with the rights of children and women to prohibit in particular corporal punishment, and to implement a plan of action against domestic violence	
<b>5.1 Constitutional and legislative framework</b>	129.10	Brunei	Maintain the momentum to actively pursue efforts to further protect the rights of women and children, especially through the enactment of legislation	
<b>16. Right to an effective remedy, impunity</b>	129.29	Netherlands	Address concerns about impunity through reforms in the criminal justice system, as well as to ensure speedy investigation, arrest, prosecution, trial and conviction of perpetrators	
	129.29	Republic of Korea	Take measures to resolve the cases of delayed justice and impunity, including through judicial reforms	

6- In 1990, the Philippines ratified, the **United Nations** Convention on the Rights of the Child, the Declaration of the Rights of the Child, a legally-binding international agreement setting out the civil, political, economic, social and cultural rights of every child, regardless of their race, religion or abilities.

7- According to a study conducted by the United Nations Children's Emergency Fund (UNICEF) published in 2015 on Analysis of Domestic Laws Related to Violence against Children in ASEAN Members, the Philippines **does comply with international laws** related to child rights.<sup>i</sup>

8- Based on government records, **59%** of the 9,445 **reported rape cases were filed in court**, while many other victims and their families chose not to file cases due to the slow judicial process.

9- According to the Center for Women's Resources (CWR) despite more than **37 laws**, executive and administrative orders to protect women and children, the victims of violence are getting younger and the abusers are becoming bolder and harsher.<sup>ii</sup> The CWR also found that **every 53 minutes** a woman or a child is raped, with 70% of the victims of rape being children. The number of **recorded rape cases increased by 92%** from 5,132 in 2010 to 9,875 in 2014. Thus, while existing laws are complete and well formulated, their **implementation remains a question**.

10- Many more cases, however, are unreported. According to an international study (from the University of Barcelona published in *Clinical Psychology Review* in 2009, "*Prevalence of Child Sexual Abuse in Community and Student Samples: A Meta-Analysis*,") which analyzed 65 research studies across 22 countries to estimate an "overall international figure" for such abuse, it shows that the highest prevalence rate of child sexual abuse geographically was found in Africa (34.4%). Europe showed the lowest prevalence rate (9.2%). America and Asia had prevalence rates between 10.1% and 23.9%. The Philippines officially records less than 0.01% of cases of sexual abuse!<sup>iii</sup>

11- Taking this data further, CPTCSA conducted a study in Mindanao using a questionnaire to 698 students (male and female) from 4 selected schools among grade 6 and 4<sup>th</sup> year high school students. The positive answer to the questions on sexual victimization includes non-specific sexual assault (15%), sexual assault by a known adult (9.9%), sexual assault by a peer (16.6%), rape (14%), pornography (3.7%), sexual exposure (21%), verbal sexual harassment (8%), statutory rape and sexual misconduct (6.2%). The average percentage of students responding yes to these questions is 12%. Rape ranked 4<sup>th</sup>. The highest ranked sexual victimization was sexual exposure and the lowest was pornography.<sup>iv</sup> The gap in this data from the percentage of cases that make reports is vast.

12- In January 2016, research by Child Rights International Network (CRIN): *A Global Report On Access To Justice For Children*, revealed that the Philippines ranked 58th in the world in children's access to the courts to defend their rights. The ranking of States in this report was reached by scoring each country against international standards for access to justice for children. These standards come from treaties that States have voluntarily ratified, resolutions they have negotiated at the UN and guidelines developed by the UN's specialized agencies.<sup>v</sup>

13- Several **cultural and social traits** are **barriers** to reporting cases such as, the importance of preserving the reputation of the family, the fear of revenge from the perpetrators and a macho culture. This represents a higher hindrance to disclosure of rape incidents, particularly for boys. Although boys represent 7% of the reported victims according to statistics from the

Department of Social Welfare and Development (DSWD), the CPTCSA survey indicates that boys were sexually abused about the same as girls.<sup>vi</sup>

14- Poor economic conditions of rape victims and the long periods of trial are the most common reasons why families stop fighting for legal justice and opt for plea-bargaining between the victim and the perpetrator. The Supreme Court G.R. Nos. 163972-77, March 28, 2008 explained that plea bargaining in criminal cases is a process whereby the accused and the prosecution work out a mutually satisfactory disposition of the case subject to court approval. It usually involves the defendant's pleading guilty to a lesser offense or to only one or some of the counts of a multi-count indictment in return for a lighter sentence than that for the graver charge. Plea bargaining is authorized under Section 2, Rule 116 of the Revised Rules of Criminal Procedure. In the case of one CAMELEON girl, she and her family accepted the plea-bargaining worth Php 250,000.00 (Euros 5,000.00) wherein she stated the following reasons: *"Primarily, it was because it's affecting my professional career. As a teacher, I found it hard to always be absent to my work/classes just to go back to Negros and attend the court hearing and eventually, it would be postponed. It took more than 6 years but the status was still on the preliminary stage, and it affects my family a lot."* She went on to further explain that, *"it is said that within a specific time, the perpetrator will render community service being under observation and if he commits crime then he will be put back in jail."*

15- Based on CAMELEON Association's experience in Western Visayas, it takes **5-7 years with a public prosecutor** for a case to go on trial before the verdict is given. One case even dragged for 11 years.

16- The long procedure in the courtroom due to postponement of hearings, absence of judges, prosecutors and public attorneys entails **absenteeism** from school for the victims, making it difficult for them to move on. In addition, the long legal process and repeated investigations can be **traumatic** for children. They must revisit the incident many times and be confronted with their perpetrator, sometimes very close to him in the courtroom.

17- **Psychological support** is needed to help overcome flashbacks, anxiety, low self-esteem, depression or even suicidal attempts. Particularly, when the case is going through investigation conducted by the inquest or investigating prosecutor. ACTVE's observation has been that many prosecutors who are not assigned to designated family courts have no training on child sensitive approaches. One lady prosecutor commented during investigation that the victim *"wanted it"*. A 12-year old boy who was raped by his neighbour and family friend had to face his abuser in a very close setting with an antagonistic prosecutor blaming him in front of the abuser and the office personnel for having persisted to go and watch TV at the abuser's house despite the fact that he had been raped. The boy later on lamented that the investigating prosecutor *"sounded angry with me"*. **Victim blaming** continue to persist in the justice system because of pervasive stereotyping of victims and lack of understanding of victimization.

18- In case the girl becomes pregnant from the rape, the trauma is even greater. A CAMELEON girl who got pregnant due to rape shared the following testimony: *“If I would remain hopeless and depressed, nothing will happen with my life. Of course, at first, I really felt ashamed. I reached the point of always feeling aloof and being criticized by others especially when I got pregnant. When I bore my child at 13, I almost never wanted to hold her and sometimes I got annoyed whenever she cries. Sometimes, I tell myself I wish she’s not here. At present she’s 6 years old and about to enroll in a pre-school and I will soon graduate. I’m asking myself “What if when time comes she would ask me about her father? What should I answer?”* The choice between telling the truth to the child or lying is a real dilemma in the child’s construction of personal identity.

19- According to statistics gathered by CAMELEON from several Prosecutors’ Offices in Iloilo and Capiz province, less than **2% of the perpetrators** of sexual abuse on minors were sentenced. In comparison, 30% of CAMELEON girls were rendered justice because their perpetrators were convicted.

20- To prevent and focus on child abuse, **the creation of a Council for the Protection of Children in every city or municipality of the Philippines** was supported by Republic Act 4881, which was enacted by senate and congress in 1967. Pursuant to DILG MC No. 2002-121 dated August 5, 2002, LGUs are encouraged to organize/reorganize their respective Local Council Protection of Children (LCPC) per provisions of PD 603 as amended and RA 8980. The LCPC shall be responsible in planning and spearheading programs with the end in view of making the locality child-friendly. <sup>vii</sup>

21- According to the Local Government Code of the Philippines (Republic Act 7160), the Barangay is the smallest unit of administrative division. Thus, the Department of Interior and Local Government Memorandum Circular 90-04 enjoined the heads of the barangays to establish a **Barangay Council for the Protection of Children (BCPC)**. However, aside from many BCPCs not being functional, the chairmanship of BCPC is dependent on a barangay chair who only has an elective term of three (3) years which compromises the long term sustainability of the council.

22- With the objective to promote zero-tolerance policy for any act of child exploitation, violence and discrimination and other forms of child abuse, the Department of Education (DepEd) issued the **Child Protection Policy** or CPP (DepEd Order No. 40, s.2012), which puts primary importance on the well being of children. It also mandates all elementary and secondary schools to create a Child Protection Committee (CPC), composed of school officials, teachers, parents, students, and community representatives. Since its establishment in 2012, **41% of the public schools in the country have not yet created their CPCs**<sup>viii</sup>.

23- Lastly, a lack of **reliable documentation on child abuses** cases, improper segregation of relevant data, overlapping of data between agencies (PNP, Barangay, DSWD) and weak coordination among concerned barangays, schools and other agencies on children’s welfare, result in inadequate and unsubstantial references about child abuse in the Philippines. Yet,

data sources such as statistical reports, researches and case example are crucial in **crafting policies and programs** that answer the needs of the children.

### III – CURRENT CONDITIONS ON PROTECTION OF RIGHTS OF CHILDREN

24- Statutory rape: The Anti-Rape Law of 1997 otherwise known as RA 8353 amends the definitions of rape in the revised penal code. In chapter 3, it specifies that any a sexual act with anyone below 12 years of age is a rape. This means that over that age or by 12 years old, sexual intercourse is possible provided that there is consent and that no force is used. Philippines is one of the countries in Asia which has the lowest age of sexual consent or emancipation at 12 (14 in China, 15 in Cambodia, 16 in Brunei, Hong Kong and Malaysia, 17 in Indonesia and 18 in India). This is an obstacle to render justice to the victims who are 13-17 years old since they have to prove that they didn't agree to the sexual intercourse. Further, RA 8353 classifies two types of rape by providing for rape by sexual assault where the sexual act is committed through anal or oral orifice. Rape by sexual assault has a penalty of 12 years (prision mayor), whereas, rape through vaginal penetration is penalized by capital penalty (reclusion perpetua) and is therefore non-bailable. When advised that the offender can post bail for the crime, the 12 year old boy's face registered shock and desperation. His mother exclaimed in disbelief, "*But why?! My son was raped!*"

25- The 12-year old threshold on consent also impacts sexual exploitation of children, particularly child prostitution and trafficking of children for sexual purposes. ACTVE has observed that sex tourists are targeting children below 16 and above 12 years old. There have been many cases of offenders grooming children for sexual exploitation. In cases handled by ACTVE, particularly child sexual abuse and exploitation where children have been groomed by the offender, most child-victims do not want to testify against their exploiter, and see the latter as someone who provide them with friendship, guidance and oftentimes, financial support. Hence, child-victims do not report and do not wish to pursue complaints against their exploiter. Many times, parents are also complicit in the sexual exploitation of their children.

26- A position of trust relates to a person's **influence and persuasion** over a young person. That person is in a position of reliability, truth and strength, while the young person is in a position of vulnerability and weakness. Position of Authority includes any relationship where **someone has power over a young person** such as teachers, priests, and policemen. Both the persons of trust and persons of authority's proximity to the child help them convince the child that the crime is acceptable. This aspect of trust and power help to create greater trauma for children because they were hurt and betrayed by a person who was supposed to protect them.<sup>ix</sup> In this case, children are burdened with protecting the offender from imprisonment, keeping the family together and keeping silent about the abuse. This inappropriate burden often causes children to accommodate the abuse by convincing themselves that the relationship and actions are all right.<sup>x</sup>

27- Under existing rules, courts have to abide by **child-friendly procedures** mandated by the Supreme Court under its groundbreaking Rules on Examination of Child Witnesses, including the use of special persons to assist the child when he/she is in court and providing kid witnesses with toys, pillows and other ‘security blankets.’<sup>xi</sup> Unfortunately, they are not implemented and only very few courtrooms in the Philippines adopted the **video-conferencing technology** that allows the testimony of the child to be taken not inside the courtroom, despite the fact that as observed and seen by ACTVE, there is positive impact and palpable relief experienced by a child testifying through live-link television testimony.

28- As stipulated in Family Courts Acts of 1997, the Presiding Judge, as well as the **court personnel of the Family Courts**, shall undergo **training** and must have the experience and demonstrated ability in dealing with child and family cases.<sup>xii</sup>

29- As observed by all those signing this document, **many prosecutors and judges are not trained** in setting a child-friendly condition of the courtroom, especially in single court rooms, when young victims give their testimonies. Thus, this is a barrier to achieving justice. The lack of facilities and equipped personnel was reinforced when Senator Ralph Recto urged the Congress to restore items from the original Supreme Court (SC) proposal, spurring his colleagues in the Senate to go through back to the SC's "original wish list in 2014." Among the items that were not endorsed by the Government when the proposed 2015 budget was submitted to Congress were:

Funding for e-court support to streamline cases, Php152 million for new equipment, funding to hire 2,239 court legal researchers and 3,089 personnel for 172 new Child and Family Courts<sup>xiii</sup>

30- Based on 2015 PNP statistics of child sexual abuse in Western Visayas, the total number of rape and incest cases was 580, with 486 of the perpetrators **(84%) at large**. In most of the situations, the perpetrator leaves his municipality and settles in another, sometimes in the same region, sometimes in a different one. Those **un-arrested perpetrators can move on in their lives and reproduce their crimes on other victims**. The absence of an organized police system to arrest at large-perpetrators gives them a chance to escape justice.

31- Pursuant to the mandate under Executive Order 53 dated August 11, 2011, “Protocol for Case Management of Child Victims of Abuse, Neglect, And Exploitation in the Philippines” and DepEd Order No. 40, s. 2012 (The Department of Education’s Child Protection Policy), **teachers and administrators in public schools have the duty to report** all incidents of suspected child abuse.

32- Based on a **survey conducted by CAMELEON to 549 teachers** in several municipalities of Iloilo Province, **53 cases of sexual abuse had been identified** by them during their professional life but only **26 were reported**; that is, only 50% of the identified cases. Given that the teachers are the front-liners of the children and that a teacher faces a minimum of 40 students every year in its class, the number of reported cases is very low (4.7%). Most of them regularly repeat that they don’t know where and how to report cases.

### **33. RECOMMENDATIONS ON PROTECTION**

**33.1. Amend the age of sexual consent or emancipation from 12 years to 16 years for Statutory Rape and remove rape classification or provide the same penalty for vaginal rape and rape by sexual assault.**

**33.2. Remove subsequent valid marriage between the offender and victim as ground to extinguish criminal action or penalty for rape.**

**33.3. Enact laws that would aggravate the penalties for perpetrators of sexual abuse who are persons of trust or authority for the children.**

**33.4. Allocate funds that will ensure the availability and provision of equipment and facilities such as monitors and video cameras in family courts and as well for the trainings of judges and all personnel involved.**

**33.5. Fill vacancies and appoint trained judges in Family Courts.**

**33.6. Mandate Regional Trial Courts including public attorneys and prosecutors who conduct preliminary and inquest investigations of cases of child abuse and exploitation to require/undergo trainings on providing child-friendly/child sensitive approaches and legal procedures.**

**33.7. Mandate the full implementation of the Rule on Examination of Child-Witness, and provide child-victims and child-witnesses with Court-Appointed Guardian ad Litem (CASAGAL).**

**33.8. Strengthen collaboration among law enforcement agencies and barangay officials in intensifying the arrest of at-large perpetrators.**

**33.9. Mandate schools to make teachers aware of their responsibility to report cases of sexual abuse and train them on how to do it.**

**33.10. Enact law to promote positive disciplining and prevent harmful practices of inflicting corporal punishment by parents, teachers, guardians and those exercising parental authority to instill discipline on children.**

#### IV – CURRENT CONDITIONS ON PREVENTION

34- **Functional LCPCs** (Local Council for the protection of Children) are those who meet regularly, have minutes of meetings, action plan and approved budget for children, and submit annual reports on children. DILG evaluation results as of September 2009 show that for Provinces and Highly-Urbanized Cities 83% of the LCPC are considered functional; this figures goes down to 67% for municipalities and **52% for barangays**. Those statistics don't include the provinces, cities, municipalities and barangays who didn't submit their evaluation and who represent 22% of the total number of LGUs. According to CAMELEON Association, many barangay officials have stated that they don't really know how to operationalize their BCPC.

35- Key factors in the prevention of child abuse are the **collaboration between barangays, schools and law enforcement agencies**. Although the presence of a teacher in every BCPC is mandated to ensure partnership of communities and schools on child protection, many barangays don't have any school representatives in their BCPCs. The presence of school representative, which are appointed on a long-term period, can help improving the sustainability of the 3 year elected BCPC member terms.

36- **Children who are taught about preventing sexual abuse** at school are more likely than others to tell if they had, or were actually experiencing sexual abuse. Last May 8, 2009, in partnership with Center for the Prevention and Treatment of Child Sexual Abuse (CPTCSA), the Department of Education issued order No. 45, mandating the **inclusion of Personal Safety Lessons** (PSL) in school curriculum. The aim of PSL is to equip children and young people who are at school with the knowledge and skills in determining whether or not a particular touch is a form of abuse, prevent sexual abuse, and create a systematic reporting and action procedure. A few years later little is reported about those PSL from many schools trained and provided with full materials.<sup>xiv</sup>

37- Based on CAMELEON Association's data among 20 randomly selected barangays in its communities in Iloilo Province (Passi City, Bingawan and San Enrique), it was found out that none of them have records of child abuse cases since complaints are, according to them, forwarded to Women and Children's Protection Desk (WCPD). Inconsistencies between figures coming from different sources, double data recording among the Philippine National Police (PNP), Department of Social Welfare and Development (DSWD), and schools are obstacles in assessing the real situation of child abuse in the Philippines. The absence of a reliable system based on the same criteria and indicators among agencies prevent policy makers to measure the extent of the issue of child sexual abuse and therefore to address them in their localities.

## **38. RECOMMENDATIONS ON PREVENTION**

**38.11. Capacitate Council for the Protection of Children in all levels of local government units.**

**38.12. Ensure active involvement of school representatives in the Barangay Council for the protection of Children.**

**38.13. Strictly implement the Inclusion of topics on Child Abuse Prevention in the curriculum of primary and secondary schools (Kinder I- Grade XII) of the public and private institutions.**

**38.14. Enact and Implement yearly training for teachers on prevention and reporting of child sexual abuse cases.**

**38.15. Organize and enact proper collection of reliable data banking on children's welfare at the levels of the barangays, schools, municipalities and the law enforcement agencies.**

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