

DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT

AREA/ PROVISION	COMMENTS/ INPUTS
QUESTIONNAIRE CONCERNING THE PRACTICAL OPERATION OF THE 1980 AND 1996 CONVENTIONS	
PART I. RECENT DEVELOPMENTS	
<p>1.1 (Significant Developments in the State regarding the legislation or procedural rules applicable)</p>	<p>a. International child abduction:</p> <ul style="list-style-type: none"> - The RA 9372 or the Human Security Act of 2007 was passed; Act Defining Terrorism, Establishing Institutional Mechanisms to Prevent and Suppress its Commission, Providing Penalties Therefor and for other purposes was Approved by the President on March 06, 2007. This was enacted to secure the State and protect the Philippines from Terrorism. It further classifies kidnapping as a form of terrorism. Under Section 3 of the said law indicated "Any person who commits an act punishable under any of the following provisions of the Revised Penal Code: Article 267 (Kidnapping and Serious Illegal Detention)." <p>b. International Child Protection</p> <ul style="list-style-type: none"> - 10 years after ratifying the UN Convention on the Rights of the Child (UN CRC) in July 1990 and the Optional Protocols on 1) Involvement of Children in Armed Conflict and 2) Sale of Children, Child Prostitution and Child Pornography in 2002, the Philippines, through the Special Committee for the Protection of Children formulated the <i>Comprehensive Programme on Child Protection (CPCP) 2006-2010</i> that aimed to build a protective and caring environment for Filipino children who are at risk, disadvantaged and vulnerable to abuse, neglect, exploitation and violence. - The Philippines, through the Council for the Welfare of Children (CWC) as attached agency of the Department of Social Welfare and Development (DSWD) formulated the Philippine National Strategic Framework for Plan Development for Children (2000-2025), or <i>Child 21</i>. It established a framework and roadmap for child protection and development designed to guide and rationalize all efforts for children in the Philippines. It built on the basic rights-based categories i.e. survival, protection, development and participation putting into consideration the life cycle of children from prenatal stage to adolescence stage (13-17 years). Accordingly, the CWC developed its priority legislative agenda for the 15th Congress such as Strengthening Foster Care, Prohibiting Corporal Punishment, Removing Distinction/Discrimination Against Illegitimate Children, Amending the Law on Statutory Rape and Protecting Children in Armed Conflict

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<p>1.3 (Summary of any other significant decisions concerning the interpretation and application of the 1980 and/or 1996 Convention (s) given since the 2006 Special Commission)</p>	<p>among others. A stakeholder's dialogue was conducted on HIV Policies Affecting Children and Young People and National Baseline Study on Violence Against Children (VAC)/Maltreatment.</p> <p>Relative to international child protection, the Philippines, through the DSWD, facilitated the discussion on the <i>Guidelines for the Protection of the Rights of Trafficked Children</i> (2007). The Guidelines was adopted by the 6th ASEAN Ministerial Meeting for Welfare and Development (AMMSWD) in Ha Noi, Vietnam.</p> <p>Basic Content of the ASEAN Guidelines for the Protection of the Rights of Trafficked Children:</p> <ul style="list-style-type: none"> • Definitions (includes the expansion of the definition of child trafficking) • General Principles And Reiteration of the Rights of Trafficked Children • Guidelines for Specific Measures for the Care of Trafficked Children <p>A special feature of the South East Asian Guidelines is the principle of state giving care and protection to service providers through:</p> <ul style="list-style-type: none"> • Compensation • Legal Assistance • Support System • Capacity Building <p>Along Child Protection, under RA 6972 An Act Establishing A Day Care Center in Every Barangay, instituting therein a Total Development and Protection of Children Program, Appropriating Funds Therefore, and for other purposes was approved by the President on November 23, 1990. Accordingly, the Department issued Memorandum Circular (MC) No. 25 in CY 2004 entitled, "Policies on the Standard Reporting on Day Care Centers (DCCs) and Day Care Workers (DCWs)" to provide directions in generating and reporting data relative to the DCS implementation, as well as the status of accreditation of DCCs and DCWs. Accordingly, the DSWD, through its Policy Development and Planning Bureau (PDPB), generates quarterly statistical data on DCCs and DCWs from the consolidated reports submitted by DSWD Field Offices (DSWD FOs) in 16 Regions. In connection with that, data are supplied by DCWs themselves at the barangay level, consolidated by local social welfare and development offices (LSWDOs) at the city or municipal level and submitted to the DSWD FOs for consolidation at the regional level.</p> <p>In 2006, an assistance from UNICEF amounting to P1,557,290.00 was approved. Accordingly, the Department developed the ECCD-Information System that would address the current monitoring and reporting system which is manual, slow, difficult and prone to errors/inconsistencies. Upon full deployment and implementation nationwide, the ECCD-IS would replace the existing manual reporting on the DCS and the entire ECCD Program.</p>

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	<p>As to date, a total of 1,278 LGUs including 1,066 staff from different Provincial/City/Municipality Social Worker and Development Officers and some Provincial Day Care Federation Presidents of Regions NCR, CAR, I, II, III, IV-A, IV-B, V, VI, IX, X, XI, XII, Caraga (except for Dinagat Island & Surigao) and ARMM benefited from the conducted demo-orientation on the said information system. The ECCD-Information System will be fully operational nationwide by 2nd Semester of CY 2011 once the demonstration-orientation is completed in ARMM.</p> <p>Another law on Child Protection is the passage of RA 7610 or Child Abuse Act. Fourteen years past since the passage of the said law, a publication by the Visayan Forum Foundation, Inc. "very few cases on child labor have been filed in court, with fewer ever reaching conclusive decisions by the justice system. Recently the Philippines flexibly upgraded this child protection law with more specific provisions against abusive child labor. The new act aims to eliminate the worst forms of child labor and gives stronger protection for victims. It also increases penalties against abusers up to P1 million and 20 years of imprisonment. This first step makes the Philippines a worldwide model in aligning national policies to the spirit of the most widely ratified International Labor Organization Convention No. 182 on the worst forms of child labor."</p> <p>The RA 9231, "An Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child, Amending for this Purpose Republic Act 7610, As Amended, Otherwise Known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act" recognizes ILO Convention 182 on the elimination of the worst forms of child labor as a crucial commitment to the international community. It stipulates that, if working in non-hazardous conditions, children below 15 years old can work not more than twenty hours a week, at most 4 hours a day. The law limits children 15-17 years old to work not more than 8 hours a day or 40 hours a week. Night work from 8 pm to 6 am is prohibited. An ILO study reveals that working beyond these prescribed hours of work will be detrimental to a child's development. Children should receive and have possession of their own wages. Parents or legal guardians can set up a trust fund from at least 30% of the child's earnings solely for the purpose of future support, education or skills training.</p> <p>Courts will impose a fine of 100 thousand pesos to 1 million pesos, and imprisonment of 12 to 20 years against any person engaging any child in the worst forms of child labor such as:</p> <ul style="list-style-type: none"> • Slavery such as the sale and trafficking of children, debt bondage, serfdom, including recruitment of children for use in armed conflict • Prostitution and pornography • Use of children for illegal activities, including drug trafficking,

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	<ul style="list-style-type: none"> • Work that is hazardous and harmful to the health, safety and moral of children <p>Employers should provide the working child access to at least primary and secondary education. The Department of Education shall design and make available to working children alternative and non-formal education courses. The government shall also provide working children with free and immediate legal, medical and psychological services. These victims will be exempted from paying filing fees for recovering civil damages.</p> <p>The new law emphasize on Section 16-B, says the engaging any child in the worst forms of child labor will be penalized by imposing the maximum period of jail term of 20 years, including the maximum fine of P5 million. Parents will also be responsible if they force their children into hazardous work. They will be fined 10 thousand pesos, or be required to render community service for a period of 30 days to one year, imposed to maximum period if they violate three times. While Department of Labor and Employment (DOLE) may close down business firm found violating anti-child labor provisions." The Department served about 69 cases of Child Labor victims for CY 201.</p> <p>On RA 9208 or The Anti-Trafficking in Persons Act was passed in 2003. The passage of this law made the Philippines one of the few countries in Asia to have enacted an anti-trafficking legislation. The law established an Inter-Agency Council Against Trafficking (IACAT) composed of government agencies, non-government organizations and other civic organizations to develop and implement comprehensive programs to prevent trafficking. The Department functions as the IACAT Secretariat. In the Philippines, there is no official centralized database to track the number of trafficked persons, the Department established the National Referral System (NRS for the Recovery and Reintegration of Trafficked Persons. It is a mechanism that established and/or strengthens the referral network of agencies dealing with trafficked persons. It provides guidance to service providers to effectively deliver a full range of assistance and protection to trafficked persons. Likewise, it includes seven (7) standard referral and reporting forms, Recovery and Reintegration (RR) Forms, to ensure uniformity of documents and avoidance of repetitive interviews to trafficked persons. As of December 30, 2010, a total of 1,218 trafficking cases had been served in the data banking system, and 35 national agencies, NGOs and LGUs had encoded their cases.</p>
<p>QUESTIONNAIRE ON THE DESIRABILITY AND FEASIBILITY OF A PROTOCOL TO THE HAGUE CONVENTION OF 25 OCTOBER 1980 ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION</p>	
<p>PART I – POSSIBLE COMPONENTS OF A PROTOCOL</p>	
<p>1.1</p>	<p>The provision expressly authorizing mediation/conciliation/negotiation and</p>

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<p>(Expressly authorizing the use of mediation/ conciliation/ other means to promote the amicable resolution of cases under the convention)</p> <p>1.29 (Addressing issues of substance and procedure surrounding the use of such means)</p>	<p>other modes of alternative dispute resolution would be useful and would ensure the exhaustion of all possible remedies and the expeditious resolution of controversy, hereby giving primordial consideration to international child abduction. Issues and substance of the procedure must be included in the protocol relating the same to applicable laws and/or existing model law on arbitration proceedings. Recognition and enforcement of the awards or the result of the mediation/conciliation/negotiation and other modes of alternative dispute resolution should also be clearly defined in the protocol.</p>
<p>POLICY RECOMMENDATIONS:</p> <ol style="list-style-type: none"> 1. Utilize the UN-CRC in dealing with international child abduction cases as it relates to articles 3, 7, 9, 10, and 11 of the said convention; and 2. Advocate for the ratification of the earlier mentioned Hague Conventions. 	