

National Laws

Legislation of Interpol member states on sexual offences against children

Philippines - Filipinas

Manila

This information is up to date as of September 2006

I. Ages for legal purposes

Age of simple majority

18 years old

Age of consent for sexual activity

18 years old

Age of consent for marriage

18 years old. Article 5 of the Family Code of the Philippines states "Any male or female of the age of eighteen years or upwards not under any impediments mentioned in Articles 37 and 38, may contract marriage"

Article 37: Marriage between the following is incestuous and void from the beginning, whether the relationship between the parties is legitimate or illegitimate.

Article 38: The following marriages shall be void from the very beginning for reasons of public policy;

- (1) Between collateral blood relatives, whether legitimate or illegitimate up to the fourth civil degree;
- (2) Between step-parents and step-children
- (3) Between parents-in-law and children-in-law;
- (4) Between the adopting parent and the adopted child;
- (5) Between the surviving spouse of the adopting parent and the adopted child;
- (6) Between the surviving spouse of the adopted child and the adopter;
- (7) Between an adopted child and a legitimate child of the adopter;
- (8) Between adopted children of the same adopter; and
- (9) Between parties where one, with the intention to marry the other, killed that other person's spouse or his or her own spouse

However, the legal capacity of either party may be defective, as when a girl and a boy between 18 and 21 years of age (i.e. below 21 years) gets married without parental consent. A defect in any of the essential requisite as mentioned (absence of parental consent) does not render the marriage void but makes it only voidable, i.e. valid until annulled.

II. Rape

Republic Act 8353-Anti rape Law, and certain provisions of the Revised Penal Code and a special Law RA 8353 *enumerating therein the punishable acts and the circumstances qualifying the offender for a stiffer penalty, either life imprisonment or Reclusion Perpetua or Death, e.g. if the offender is a public officer, a relative parent or guardian or a member of the Armed Forces of the Philippines and a Law Enforcement agency, a religious leader and a teacher.*

III. Other forms of child sex abuse

Republic Act 9208- or the "Anti-Trafficking in Persons Act of 2003.

IV. Child prostitution

Section 5 of the Republic Act N° 7610, which is an 'Act for Stronger Deterrents and Special Protection against Child Abuse, Exploitation and Discrimination, Providing Penalties for its violation and for Other Purposes', defines 'children exploited in prostitution and other sexual abuse' as '*Children, whether male or female, who for money, profit or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct*'

'The penalty of reclusion temporal in its medium period to reclusion perpetua shall be imposed upon the following:

a) Those who engage in or promote, facilitate or induce child prostitution which include, but are not limited to, the following:

(1) Acting as a procurer of child prostitute;

(2) Inducing a person to be a client of a child prostitute by means of written or oral advertisements or other similar means;

(3) Taking advantage of influence or relationship to procure a child prostitute; or

(5) Giving monetary consideration, goods or other pecuniary benefit to a child in prostitution.

b) Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subjected to other sexual abuse;

Provided, that when the victim is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, as amended, the Revised Penal Code, for rape or lascivious conduct, as the case may be; Provided, that the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be reclusion temporal in its medium period; and

c) Those who derived profit or advantage therefrom, whether as manager or owner of the establishment where the prostitution takes place or of the sauna, disco, bar, resort place of entertainment or establishment serving as a cover or which engages in prostitution in addition to the activity for which the licence has been issued to said establishment.'

Section 6 of the above-mentioned Act defines an Attempt to Commit Child Prostitution under Section 5, Paragraph (a), as

'The act when a person who, no relative of child, is found alone with the said child inside the room or cubicle of a house, an inn hotel, motel, pension house, apartelle or other similar establishments, vessel, vehicle or any other hidden or secluded area under circumstances which would lead a reasonable person to believe that the child is about to be exploited in prostitution, and other sexual abuse.

There is also an attempt to commit child prostitution, under paragraph (h) of Section 5 hereof when any person is receiving services from a child in a sauna parlour or bath, massage clinic, health club and other similar establishments. A penalty lower by two (2) degrees than that prescribed for the consummated felony under Section 5 hereof shall be imposed upon the principles of the attempt to commit the crime of child prostitution under this Act, or in the proper case, under the Revised Penal Code.'

V. Child pornography

There is no specific legislation for Internet related sexual offences though there will soon be enactment of specific law for this purpose .Local government unit issue ordinances that shall regulate, deter and punish offenders relating to Internet sexual offences . At the moment, there are laws which contain provisions on pornography that aim to deter the existence of child pornography, child prostitution and other forms of child abuse.

Article V, Section 9 of the above-mentioned Act establishes that Obscene Publications and Indecent Shows concern:

'Any person who shall hire, employ, use, persuade 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 be penalized.

If the child used as a performer, subject or seller/distributor is below twelve (12) years of age, the penalty shall be imposed in its maximum period.

Any ascendant, guardian, or person entrusted in any capacity with the care of a child who shall cause and/or allow such child to be employed or to participate in an obscene play, scene, act or movie shall be imposed a penalty of prison mayor in its medium period.'

ARTICLE 201 of the revised penal code, on immoral doctrines, obscene publications and exhibitions and indecent shows. Penalties shall be imposed upon the following:

- a- Those who shall publicly expound or proclaim doctrines openly contrary to public morals;*

- b- *The authors of obscene literature, published with their knowledge in any form; the editors publishing such literature, and the owners/operators of the establishment selling the same;*
- c- *Those who, in the theatres, fairs, cinemas or any other place, exhibit indecent or immoral plays, scenes, acts of shows, it being understood that the obscene literature or indecent or immoral plays, scenes, acts of 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..."*
- d- *Those who shall sell, give away or exhibit films, prints, engravings, sculptures or literature which are offensive to morals.*

The mere possession of obscene literature, pornographic material and images is not punishable under the above legislation. However, with the modern technologies Philippine law enforcers are pushing for legislation that shall specifically address child pornography and prostitution especially in the Internet.

Age in child pornography legislation :

The country still adopts the international definition of a child in all its legislations, which is below 18 years old and although above eighteen, but with a mental capacity of a child below 18.