

**R.A 7610
SPECIAL PROTECTION AGAINST CHILD
ABUSE**

**Child Abuse Law
June 20, 1992**

OUTLINE

- I. Policy, Principles and Definitions;
- II. Program;
- III. Child Prostitution and Sexual Abuse;
- IV. Child Trafficking;
- V. Obscene Publications and Indecent Shows;
- VI. Other Acts of Child Abuse;
- VII. Sanctions for Establishments;
- VIII. Working Children;
- IX. Indigenous Communities;
- X. Armed Conflict;
- XI. Remedial Procedures;
- XII. Common Penal Provisions;
- XIII. Final Provisions.

**SECTION 2. DECLARATION OF STATE
POLICY AND PRINCIPLES.**

- To provide special protection to children;
- Provide sanctions;
- The State shall intervene in behalf of the child;
- The best interests of children shall be the paramount consideration.

CHILDREN

Children refers to persons below 18 years old or those of age but are unable to fully take care of themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.

**CHILD ABUSE REFERS TO
MALTREATMENT, WHETHER HABITUAL
OR NOT, AND INCLUDES:**

- a) Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment;
- b) Any act by deeds or words which debases, degrades, or demeans the intrinsic worth and dignity of a child as a human being;
- c) Unreasonable deprivation of his basic needs for survival, such as food and shelter; or
- d) Failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death.

CLASSIFICATION

- Art III. Child Prostitution and Sexual Abuse.
- Art IV. Child Trafficking.
- Art V. Obscene Publication and Indecent Shows.
- Art VI. Other acts of child abuse.

**ARTICLE III. CHILD PROSTITUTION AND
SEXUAL ABUSE.**

Unlike the RPC where a prostitute must be a female, under RA 7610, a child, whether male or female may be a prostitute.

PROSTITUTION AND SEXUAL ABUSE.

Causes

- Prostitution:
 - Money;
 - Profit;
 - Any other consideration.
- Sexual Abuse:
 - Coercion,
 - Influence of any adult, syndicate or group

OFFENDERS

- a. Those who engage in, promote, facilitate or induce child prostitution.

1. Procurer (pimp/bugaw)
2. Induce another to be a client;
3. Take advantage of influence/relationship;
4. Threaten or use violence;or
5. Giving monetary consideration, goods or other pecuniary benefit.

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

**If the child is under 12 yrs old, the offender shall be liable for statutory rape/acts of lasciviousness under the RPC.*

c. Those who profit or derive advantage from child prostitution. The manager or owner of the establishment where the prostitution takes place.

OLIVARES vs CA
GR No. 163866, July 29, 2005

The elements of sexual abuse under Section 5, Article III of R.A 7610 are as follows:

1. The accused commits the act of sexual intercourse or lasciviousness conduct.
2. The said act is performed with a child exploited in prostitution or subjected to other sexual abuse.
3. The child, whether male or female, is below 18 years of age.

SEC. 32, ART. XIII, of the IRR of RA 7610 defines lasciviousness conduct as:

The intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks, or the introduction of any object into the genitalia, anus or mouth, of any person, whether of the same or opposite sex, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual

desire of any person, bestiality, masturbation, lascivious exhibition of the genitals or pubic area of a person.”

“Child subjected to other sexual abuse”

Furthermore, it is inconsequential that the sexual abuse occurred only once. As expressly provided in Section 3 (b) of R.A. 7610, the abuse may be habitual or not. (Olivarez)

NOT LIMITED TO PROSTITUTION.

As expressly provided in Section 3 (b) of R.A. 7610, the abuse may be habitual or not. It must be observed that Article III of R.A. 7610 is captioned as “Child Prostitution and Other Sexual Abuse: because Congress really intended to cover a situation where the minor may have been coerced or intimidated into lascivious conduct, not necessarily for money or profit. The law covers not only child prostitution but also other forms of sexual abuse.” (Olivares)

AMPLOYO vs PP
GR No 157718
April 26, 2005

Thus pursuant to the foregoing provision [Sec.5(b)], before an accused can be convicted of child abuse through lascivious conduct on a minor below 12 yrs of age, the requisites for acts of lasciviousness under Article 336 of the RPC must be met in addition to the requisited for sexual abuse under Section 5 of Rep. Act No. 7610.

R.A. 7610	ART. 336
1. The accused commits the act of sexual intercourse or lascivious conduct;	1. That the offender commits any act of lasciviousness or lewdness;
2. The said act is performed with a child exploited in	2. That it is done under any of the ff circ:

prostitution or subjected to other sexual abuse; and	-by using force or intimidation; or -when the offended party is deprived of reason or otherwise unconscious; or -when the offended party is under 12 yrs of age; and
3. The child, whether male or female, is below 18 years of age.	3. That the offended party is another person of either sex.

ARTICLE 266-A. RAPE (RA 8353, Oct 22, 1997)

Rape is committed:

1. Man, carnal knowledge of a woman:
 - a) Through force, threat, or intimidation;
 - b) When the offended party is deprived of reason or otherwise unconscious;
 - c) By means of fraudulent machination or grave abuse of authority; and
 - d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

SEXUAL ASSAULT

2. By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.

*Finger is considered an instrument. Note that inserting any instrument or object does not include mouth.

Section 5 (b) may even cover a case of **consensual sexual** intercourse.

Consensual sexual intercourse or even acts of lasciviousness with a minor who is 12 yrs old or older could constitute a violation of Section 5(b) of R.A. No. 7610. For section 5 (b) punishes sexual intercourse or lascivious conduct not only with a child exploited in prostitution but also with a child subjected to other sexual abuse. (PP vs OLAYON, GR No 171863, Aug 20, 2008)

Section 2 (g) of the Rules and Regulations on the Reporting and Investigation of Child Abuse Cases, promulgated to implement R.A. No. 7610

Sexual abuse includes "the employment, use, persuasion, inducement, enticement or coercion of a child to engage in, or assist another person to engage in, sexual intercourse or lascivious conduct or the molestation, prostitution, or incest with children. (Olayon)

CONSENSUAL SEXUAL INTERCOURSE

For consensual sexual intercourse or lascivious conduct with a minor, who is not exploited in prostitution, to thus fall within the purview of Section 5(b) of RA No 7610. "persuasion, inducement, enticement or coercion" of the child must be present. (OLAYON)

PP vs LARIN
GR No 128777
Oct 7, 1998

It is an accepted rule that different people react differently to a given situation or type of situation. One cannot reasonably expect uniform reactions from victims of sexual assault. Carla's submissiveness to Larin's lascivious conduct does not exonerate him from criminal liability, as the law does not require physical violence on the person of

the victim. Moral coercion or ascendancy is sufficient.

PP vs MATIAS
GR No 186469
June 13, 2012

- Below 12 years of age, Article 266-A(1)(d) of the RPC, reclusion perpetua.
- 12 years or older, the offender should be charged with either sexual abuse under Section 5(b) of RA 7610 or rape under Article 266-A (except paragraph 1[d]) of the RPC.

ATTEMPT TO COMMIT CHILD PROSTITUTION.

1. Any person not being a relative of a child;
2. Is found alone with the child inside a room or cubicle of an, inn, hotel, motel, pension house, apartelle or other similar establishment, vessel, vehicle or any other secluded area;
3. Under circumstances that would lead a reasonable person to believe that the child is about to be exploited in prostitution or other sexual abuse.

THERE IS ALSO AN ATTEMPT TO COMMIT CHILD PROSTITUTION WHEN:

Any person receives services from a child in a sauna parlor or bath, massage clinic, health club and other similar establishments.

ARTICLE VI. CHILD TRAFFICKING

There is child trafficking when a person engages in trading and dealing with children including but not limited to the act of buying and selling of a child for money, or for any other consideration, or barter.

ATTEMPT TO COMMIT CHILD TRAFFICKING.

1. When a child travels to a foreign country alone w/o valid reason and w/o clearance from the DSWD or written permit from parents or guardian.
2. When a pregnant mother executes an affidavit of consent for a consideration
3. Recruiting women or couples to bear children for the purpose of a child trafficking.
4. When a hospital personnel or employees of a clinic or local civil registrar simulates birth for the purpose of child trafficking
5. When a person engages in the act of finding children among low-income families, hospitals, clinics, etc. for the purpose of child trafficking.

ARTICLE V. OBSCENE PUBLICATION AND INDECENT SHOWS

Any person who hires, employs, uses, persuades, induces, or coerces a child to perform in obscene exhibitions and indecent shows, whether live or in video, pose, or model in obscene publications or pornographic material is liable under this provision.

ARTICLE VI. OTHER ACTS

Section 10 (a) Any act of child abuse, cruelty or exploitation or be responsible for other conditions prejudicial to the child's development, but not covered by the RPC.

SECTION 10 (a) vs SEC 5 (b)

As Section 10 refers to acts of child abuse prejudicial to the child's development other than child prostitution and other sexual abuse under Section 5, attempt to commit child prostitution, child trafficking,

attempt to commit child trafficking, and obscene publications and indecent shows, the Court of Appeals did not commit grave abuse of discretion in holding that “xx ‘sexual abuse’ (as defined under Section 5) xxx is a completely distinct and separate offense from ‘child abuse’ (as defined under Section 10).” (Olayon)

De Ocampo vs Secretary of Justice, 2006
Jan 25, GR No 147932

Petitioner’s single act of illegally banging the heads of her students had two distinct victims, namely Ronald and Lorendo. Therefore, petitioner has to face prosecution for cruelty to each victim. For Ronald’s death, petitioner is being charged with homicide under Article 249 of the RPC in relation to Section 10(A), Article VI of RA 7610 punishable by reclusion perpetua. However, this does not mean that petitioner is being charged with the distinct offenses of homicide and child abuse for Ronald’s death. On the pther hand, for her cruelty to Lorendo, petitioner is being charged with violation of Section 10(A), Article VI of RA 7610 punishable by prion mayor in its maximum period.

DE GUZMAN vs PEREZ, GR No. 156013,
July 25, 2006

The law expressly penalizes any person who commits other acts of neglect, child abuse, cruelty or exploitation or be responsible for other conditions prejudicial to the child’s development including those covered by Article 59 of PD 603 “but not covered by the RPC.”

The “neglect of child” punished under Article 59(4) of PD 603 is also a crime (known as “indifference of parents”) penalized under the second paragraph of Article 277 of the RPC. Hence, it is excluded from the coverage of RA 7610.

SECTION 10 (b)

Any person who shall keep in his company a minor 12 yrs or under or who is 10 yrs more his junior in any public or private place. Exempted are those related w/in the 4th civil degree of consanguinity or affinity or any bond recognized by law, local custom, tradition, or acts in the performance of a social, moral or legal duty.

SECTION 10 (c)

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.

SECTION 10 (d)

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.

SECTION 10 (e)

Any person who shall use, coerce, force or intimidate a street child or any other child to:

- 1) beg
- 2) act as conduit or middlemen in drug trafficking or pushing; or
- 3) conduct any illegal activities perpetua

SECTION 11. SANCTIONS ON ESTABLISHMENTS.

All establishments and enterprises which promote or facilitate child prostitution and other sexual abuse, child trafficking, obscene publications and indecent shows, and other acts of abuse shall be immediately closed and their authority or license to operate cancelled, without prejudice to the owner or manager thereof being prosecuted under this Act and/or the RPC.

SECTION 12. EMPLOYMENT

Children may be employed:

1) under the sole responsibility of his parents or legal guardian and where only members of the employer's family are employed: no danger; primary and/or secondary education.

2) In public & entertainment or information through cinema, theater, radio or television is essential:

-parent or guardian

-DOLE

- a. ensure the protection, health, safety and morals of the child;
- b. measures to prevent the child's exploitation or discrimination; and
- c. continuing program for training.

SECTION 14. PROHIBITION

Advertisements involving:

-alcoholic beverages

Intoxicating drinks

-tobacco and its byproducts and

-violence

CHILDREN, ZONES OF PEACE.

SECTION 22. Children as Zones of Peace.

Children are hereby declared as Zones of Peace. It shall be the responsibility of the State and all other sectors concerned to resolve armed conflicts in order to promote the goal of children as zones of peace.

WHO MAY FILE COMPLAINTS

- Offended party
- Parents or guardians
- Ascendant or collateral relative within 3rd degree of consanguinity
- Officer, social worker, representative of a licensed child-caring institution
- Officer or social worker of the DSWD

- Brgy. Chairman
- At least 3 concerned, responsible citizens where the violations occurred. (Art IX, Sec 27)

SECTION 29. CONFIDENTIALITY

At the instance of the offended party his name may be withheld from the public until the court acquires jurisdiction over the case.

SECTION 29. UNLAWFUL

Editor, publisher, and reporter or columnist in case of printed materials, announcer or producer in case of television and radio broadcasting, producer and director of the film in case of the movie industry, to cause undue and sensationalized publicity of any case of violation of this Act which results in the moral degradation and suffering of the offended party.