

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

House Bill No. 4804



INTRODUCED BY REPRESENTATIVE LIZA LARGOZA-MAZA

EXPLANATORY NOTE

The continued perpetuation and increasing incidence of prostitution in our country is another testament to the rampant cases of human rights violations.

The Philippines topped the list of Southeast Asian countries with the highest number of prostitutes according to the International Labor Organization (ILO). In its 1998 report entitled "*The Sex Sector-The Economics and Social Bases of Prostitution in Southeast Asia*", the ILO said that there are approximately 500,000 Filipino women engaged in prostitution. Of that number, it estimated that 75,000 are underage. Our Department of Education gives a higher figure — 300,000 child prostitutes during the 1995-96 period. And these numbers may not have even taken into account those engaged in "seasonal" prostitution.

Our existing legislations do not seriously address prostitution. Worse, the existing Article 202 of the Revised Penal Code decrees that only women can be called prostitutes and thereby implies that only women may be involved in prostitution. Thus, it confines prostitution to the providers of sexual services who, in the system of prostitution, are actually victims rather than perpetrators.

In our society, prostitutes or WOMEN who, for money or profit, indulges in sexual intercourse or lascivious conduct, are seen as the ultimate expression of prostitution, they are the most prominent and convenient targets of moral outrage and legal sanctions. Thus, when prostitution is mentioned, the focus is immediately on women, including children, who personally provide sexual services. The assumption is that women in prostitution "seduce" or attract men and, as such, they are viewed as the problem. This view shows utter lack of understanding of prostitution as a system, and of prostitutes as individuals caught up in that system.

It is high time that we pass a law that will ably combat and seriously address the system of prostitution, punish its real perpetrators and amply protect the rights of the individual victims who are caught up in the system. The instant proposed bill aims to achieve these purposes. It is for this reason that it is earnestly sought.

Liza L. Maza
LIZA LARGOZA-MAZA

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AN ACT
ENSURING PROTECTIVE MEASURES AND SUPPORT FOR THE VICTIMS OF
THE SYSTEM OF PROSTITUTION, IMPOSING PENALTIES ON ITS
PERPETRATORS AND AMENDING FOR THE PURPOSE THE REVISED PENAL
CODE , AND FOR OTHER PURPOSES

*Be it enacted by the Senate and the House of Representatives of the Philippines in
Congress assembled:*

SECTION 1. Short Title – This Act shall be known as “The Anti-Prostitution Act of 2005.”

SECTION 2. Declaration of Policies. -- The State:

(a) declares its commitment to end the continuing sexual exploitation of women and children and all forms of gender-based violence by comprehensively addressing the factors that perpetuate sexual exploitation;

(b) recognizes prostitution as a human rights violation which calls for coordinated and sustained response from all agencies of government;

(c) recognizes that women and children are systematically victimized by and in the system of prostitution and must, therefore, be given protection and support by the State, instead of being treated as criminals;

(d) recognizes that addressing prostitution is essential for women and children to genuinely and meaningfully participate in nation-building; and

(e) recognizes international commitments to end all sexual exploitation by creating an enabling environment where human rights of women and children are observed.

SECTION 3. Definition of Terms. – The following terms are defined for purposes of this Act:

(a) Prostitution -- any act, transaction, scheme or design involving the use of a person by another, for sexual intercourse or lascivious conduct in exchange for money, profit or any other consideration.

- (b) Person exploited in prostitution – refers to any person used or employed for another person’s sexual gratification, exploitation or pleasure and for the monetary gain or profit of others, as defined in Section 4 (a) of this Act.
- (c) Child- refers to a person below eighteen (18) years of age or who is over eighteen (18) but is unable to fully take care of protect of herself/himself from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.
- (d) Establishment – refers to any business enterprise or establishment, including but not limited to, sauna bath, massage parlor, discotheque, bar, restaurant, resort, lodging, house, motel, hotel, ship, vessel, or any dwelling, house, structure or building, or any group, association, organization or services such as escort services, serving as a cover or venue for, or which engages in, prostitution activities as defined in Section 4 of this Act.
- (e) Sexual exploitation - shall include, but not limited to, having sexual intercourse with or performing any form of lascivious act with the person giving, conveying or delivering the money or consideration, or with another person or performing or demonstrating sexual or lascivious acts in the presence of another person or persons or a crowd.
- (f) Cult – shall include, but not limited to fanatic groups that entice, recruit, condition any person to become sexual offering in organizational rituals as part of membership requirements.

SECTION 4. Punishable Acts. -- Prostitution is a crime committed by:

- (a) any person who gives, conveys or delivers money or any consideration in exchange for another’s sexual exploitation, or any person who is the recipient of the sexual act involved in the sexual exploitation of another but who did not give, convey or deliver money or any consideration. Provided, however, that for purposes of this Section, the actual performance of the acts by the person exploited in prostitution is not a requirement for the offender to be prosecuted under this provision;
- (b) any person who knowingly performs any sexual or lascivious acts with a person exploited in prostitution who is given as gift, payment or favor;
- (c) any person, who recruits, induces, persuades, entices, compels, kidnaps, or in any manner procures a person for the purpose of exploiting the person in prostitution;
- (d) any person who recruits another person purportedly for lawful employment but actually for the purpose of exploiting the person in prostitution;
- (e) any person who recruits, induces, persuades, entices, compels or in any manner procures or causes a person to work in an establishment or join in any cult or similar organization knowing that the same is involved in activities defined in paragraph (a) of this Section or when he/she has reasonable cause to believe that such establishment is involved in the said activities;
- (f) any person who transport a person or persons from one place to another for purpose of exploiting the person or person in prostitution;
- (g) any person who receives or gives or agrees to receive or give money or anything of value or any consideration in exchange for or for the purpose of procuring or recruiting, in any manner, a person or persons to be exploited in prostitution;

- (h) any person who organizes or arranges travel, tours, and other tourism-related activities which involve the sexual exploitation of any person as defined in (a) above or the escort services of any person who is expected to perform the sexual acts defined in (a) above;
- (i) any person who as part of cult obligation entices, recruits and offer any person as sexual offering or favor to other members of the cult.
- (j) any person who in any manner or under any pretext advertises, organizes, arranges, manages, promotes or facilitates the commission of any of the acts defined in this Section;
- (k) any person who derives profit or advantage from any of the acts defined in this Section as owner, operator, manager, head, director, officer, or agent of the establishment where any prostitution activity defined in this Section takes place;
- (l) any person who uses information technology such as cyberspace, satellite, television, or any form of media to promote any of the acts defined in this Section;
- (m) any person who derives profit or advantage from any of the acts defined in this Section as owner, operator, manager, head, director, officer or agent of the establishment serving as a cover or venue for any prostitution activity , or aiding another establishment or person involved in any prostitution activity;
- (n) any person who leases, subleases, or in any other manner allows the use of any dwelling, house, structure or building knowing that the lessee/sub-lessee intends to use or uses it for prostitution activities as defined in this Section, or continues with the lease, sublease or any other arrangement for its use knowing that the place is being used for prostitution. For the purpose of this paragraph, the owner of the dwelling, house, structure or building used for prostitution and his/her agent shall be presumed to have knowledge that the place is being used or intended to be used for prostitution unless he/she disproves it.

SECTION 5. Attempt to commit child prostitution.—An attempt to commit prostitution of a child under Section 4 (a) of this Act is committed by:

- (a) Any person who, not being a grandparent, parent, guardian or blood relative of a child, is found alone with the said child inside a room or cubicle of a house, inn, hotel, motel, pension house, apartelle, or any similar establishment, vessel, vehicle or any hidden or secluded area, or under circumstances which would lead a reasonable person to believe that the child is about to be prostituted;
- (b) Any establishment providing entertainment or relaxation to the public *such as* sauna, bath parlor, massage parlor, discotheque, bar, videoke or sing-a-long establishment, resort, lodging house, motel and hotel, and any other similar establishments, which employs a child under circumstances which would lead a reasonable person to believe that such employment is for purposes of or aids prostitution.
- (c) Any person receiving services from a child who is employed under the circumstances mentioned in the immediately foregoing sub-section.

SECTION 6. Aggravating Circumstances – The following are considered aggravating circumstances:

- (a) When those who promote, facilitates, allows or caused the commission of any of the acts defined in Section 4 and 5 and who in any manner provides protection to the perpetrators of the said acts is a member of the military or police establishment, or any government official or any person in authority;
- (b) When the crime is committed by a syndicate, or in a large scale. Prostitution is deemed carried out in a large scale when carried out by a group of three or more persons conspiring and confederating with one another. It is deemed committed in a large scale if committed against three or more persons or as a group;
- (c) When the offender is an ascendant, parent, sibling, guardian or a person who exercises authority over the person being prostituted;
- (d) When the person who is the recipient of the sexual act involved in the sexual exploitation is a member of the military or law enforcement agencies; and
- (e) When the person who is the recipient of the sexual act involved in sexual exploitation knows that he/she has HIV/AIDS.

SECTION 7. Who may commit the prohibited acts. The acts defined in Section 4 of this Act may be committed by any natural or juridical person, establishment, association, movement, cult, religious group or any organization. For the purpose of Section 4, the term “person,” when used to refer to the offender, shall be interpreted to include the aforesaid persons or entities whenever applicable.

SECTION 8. Penalties and Sanctions.

(a) Any person found guilty of the acts defined in Section 4, paragraphs (a) and (b) shall suffer the penalty of *prison mayor* in its medium period, unless the person exploited in prostitution is a child, in which case the penalty shall be *reclusion temporal* in its medium period. *Provided*, however, that if the act against the child constitutes rape under Art. 266-A paragraph (1) of the Revised Penal Code as amended by R.A. 8353 or rape by sexual assault under Art. 266-A paragraph (2) or the Revised Penal Code as amended by R.A. 8353, the offender shall be prosecuted under Art. 266-A paragraph 1 or 2, as the case may be, *Provided*, further, that the penalty for violation of Art. 266-A paragraph 2 involving a child shall be *reclusion temporal* in its medium period. If the act against the child constitutes acts of lasciviousness, the offender shall be prosecuted under Art. 336 of the Revised Penal Code, *Provided*, however, that the penalty shall be *reclusion temporal* in its medium period.

(b) The penalty of *reclusion temporal* in its minimum period shall be imposed when the offender is an ascendant, parent, guardian, stepparent, collateral relative within the fourth degree of consanguinity or affinity, or exercises parental authority or moral ascendancy over the person exploited in prostitution. This penalty shall also apply to any offender who is the common-law spouse of any of the persons aforementioned. If the offended party is a child, the penalty shall be *reclusion temporal* in its medium period.

(c) The penalty of *reclusion perpetua* and a fine of five hundred thousand pesos (P500,000) shall be imposed on the offender who is a member of the police or military establishment, or a government official or employee. In addition, the offender shall be perpetually disqualified from holding any appointive position or from running for any elective position in government.

(d) The owner and operator or manager, or the directors and officers, of the establishment, corporation, partnership, or association found to be engaged in any of the acts defined in Section 4 shall suffer the penalty of *reclusion perpetua* and a fine of not less than five hundred thousand pesos (P500,000) but not more than one million pesos (P1,000,000) each; provided, however, that if the person exploited in prostitution is a child, the fine shall be one million pesos (P1,000,000), provided, further, that the responsible agents and employees shall suffer the penalty of *reclusion temporal* in its medium period, and provided, further, that if the person exploited in prostitution by the responsible agents or employees is a child, the penalty shall be *reclusion temporal* in its maximum period.

In addition, the establishment, corporation, partnership or association shall be immediately closed and its registration and/or license to operate shall be revoked, without prejudice to the filing of other charges under other applicable laws. A sign with the words “**CLOSED FOR VIOLATION OF ANTI-PROSTITUTION ACT**” shall be conspicuously displayed outside the establishment by the Department of Social Welfare and Development for such period as the Department may determine, which shall not be less than one (1) year. The unauthorized removal of such sign shall be punishable by *arresto mayor* in its maximum period.

(e) Any person found guilty of the act defined in Section 6 (e) shall suffer the penalty of *reclusion temporal* in its minimum period and a fine of three hundred thousand pesos (P300,000), provided, however, that if the person exploited in prostitution is a child the penalty shall be *reclusion temporal* in its maximum period and a fine of five hundred thousand pesos (P500,000)

(f) Any other person found guilty of any of the acts defined in Section 4 and not falling under Sec. 8 (a), 8 (b), 8(d) and 8 (g) shall suffer the penalty of *reclusion temporal* in its minimum period and a fine of three hundred thousand pesos (P300,000); provided, however, that if the person exploited in prostitution is a child the penalty shall (P500,000); provided, further, that if the offender is a woman who is also exploited or had been exploited in prostitution, she shall suffer the penalty of *prision correccional* in its maximum period and no fine shall be imposed on her.

(g) When the offender is a foreigner, he shall be deported immediately after service of sentence and permanently barred from entry into the country.

(h) Any person found guilty of an attempt to commit child prostitution shall suffer the penalty of *prision correccional* in its medium period, without prejudice to the filing of other criminal charges under other applicable laws; provided, however, that in cases falling under Section 5, paragraph (b), the owner and operator or manager, or the directors and officers of the establishment shall suffer the penalty of *prision correccional* in its medium period and a fine of three thousand (P300,000);

In addition to the penalty of imprisonment and fine, any person who is found guilty of any of the acts provided under Section 4 and 5 of this Act shall undergo a rehabilitation program and community service with the Department of Social Welfare and Development (DSWD) which shall not be shorter than the three months nor longer than one year, provided, that only first-time offenders shall undergo such rehabilitation and community service program. The DSWD shall submit to the court a report of the rehabilitation and community service of the offender.

SECTION 9. Civil Liability for prostitution. –Persons exploited in prostitution may file independent civil cases for damages against the persons responsible for their exploitation.

SECTION 10. Prosecution under this Act or RA 9208 – Acts or omissions covered and penalized under this Act may be prosecuted under this Act or under RA 9208 or the Anti-Trafficking in Persons Act whenever the latter is applicable; provided, however, that the institution of a criminal complaint under this Act, arising from the same act, transaction, design or scheme, shall be a bar to the institution of another criminal complaint under RA 9208, or vice versa.

SECTION 11. Prosecution of Cases – Any person who has personal knowledge of the commission of any offense under this Act, or the persons exploited in prostitution, the parents, siblings, legal guardians, spouse, children or law enforcement agencies or the Task Force created under this Act may file a complaint for prostitution.

SECTION 12. Applicability of Republic Act No. 7309 and Republic Act No. 6981. Persons exploited in prostitution shall be covered by the Witness Protection, Security and Benefit Act, or Republic Act No. 6981. They may also file claims with the Board of Claims created under Republic Act 7309. For the purpose of the application of Republic Act No. 7309, persons exploited in prostitution shall be deemed victims of violent crimes under Section 3, paragraph (d) thereof.

SECTION 13. Responsibilities of government agencies in anti-prostitution efforts.— Local government units shall exercise their powers to curb prostitution within their respective jurisdictions. Their responsibility shall include conducting education and public information campaign against prostitution and to eradicate the negative views attached to persons forced into prostitution.

The national government shall ensure that local government units conscientiously engage in activities to curb prostitution, provide support for the same, and intervene when necessary.

The NBI and PNP shall continuously conduct surveillance and monitor establishments to prevent prostitution. They shall promptly investigate any establishment suspected to be engaged in activities constituting prostitution under Section 4 of this Act and shall take appropriate measures, in coordination with the local government unit concerned and other relevant government agencies, for the speedy prosecution of the offenders.

The Department of Tourism (DOT) shall undertake corrective and enforcement measures to stop activities in tourism constituting, promoting or facilitating prostitution.

SECTION 14. Liability of local government units. Provinces, cities and municipalities shall be liable for damages to persons exploited in prostitution when it is proven that the responsible authorities had knowledge or were informed of the activities constituting prostitution but did not take proper action within a reasonable period of time.

The responsible authorities shall be deemed to have knowledge of the prostitution activities when the same are common knowledge in the community.

SECTION 15. Requirements for hotels, motels and lodging houses. Notwithstanding any legislation, ordinance or rule to the contrary, every motel or lodging area shall:

- (a) maintain a reception and registration area for guests and patron that is readily within the public view;
- (b) strictly require the registration of every guest and patron in the reception and registration area referred to above, and for this purpose keep a registration book at all times;
- (c) maintain good lightning in all its entrances, exits, driveways and garages.

No hotel, motel or lodging shall be allowed to operate in any part of the Philippines without complying with the preceding requirements.

For the purpose of this Section, hotels, motels and lodging houses already operating shall have six months from the effectivity of this Act to comply with this provision.

SECTION 16. Human rights of persons exploited in prostitution. Persons exploited in prostitution have human rights which must be respected, protected and promoted by all branches, agencies and instrumentalities of the government in law enforcement drives, criminal prosecution, civil suits, service provision, and program development and implementation. These rights include, but are not limited to:

- (a) the right to be treated as human beings,
- (b) the right to dignity and security of person,
- (c) the right against any form of discrimination,
- (d) the right to equal protection of the law,
- (e) the right to be protected from abuse and exploitation,
- (f) the right to seek redress for violations of their rights and to have their complaints appropriately addressed,
- (g) the right to fair and humane treatment,
- (h) the right to sensitive and appropriate legal, health, and other social services,
- (i) the right to organize themselves and fight for their legitimate concerns, and
- (j) the right to be consulted on any governmental initiative affecting them

Persons exploited in prostitution shall not be detained on the occasion of or by reason of a raid or in the name of law enforcement. No raids shall be conducted unless it is carried out with the presence of at least one registered social worker or one representative from a non-governmental organization known to be working with women exploited in prostitution.

During raids of establishments, and at any stage of the investigation, prosecution and trial of complaints for violation of this Act, law enforcers, prosecutors and judges, shall not disclose to the public the name, personal circumstances and other information that will establish the identity of the person exploited in prostitution, unless the latter consents thereto in writing.

It shall also be the duty of law enforcers to ensure that persons exploited in prostitution are not exposed to the media on the occasion of a raid. Law enforcers who allow or facilitate the exposure to the media of persons exploited in prostitution shall suffer the penalty of *arresto mayor* in its maximum period, without prejudice to the filing of other criminal and administrative charges under applicable laws.

Any journalist, reporter, editor, publisher or producer of print and broadcast media who exposes to the public the identity of any person exploited in prostitution without her or his consent thereto in writing, or causes the publication of any picture that violates the dignity and other human rights of the persons exploited in prostitution, shall suffer the penalty of *arresto mayor* in its maximum period. In addition, the owner or publisher of the print or broadcast media found guilty of the violation shall pay a fine of five hundred thousand pesos (P500,000). This shall be without prejudice to the right of persons exploited in prostitution to file a civil action for damages for the violation of their human rights or for any injury caused them by the publication.

SECTION 17. Entrapment prohibited. Law enforcers shall not use entrapment as a method in law enforcement activities when the same will involve the sexual exploitation of persons as defined in Section 4 (a) and (b) of this Act. A law enforcement officer who resorts to this method shall be punished under Section 4 (a) and (b) of this Act.

SECTION 18. Social Services Programs. There shall be a National Anti Prostitution Task Force composed of the Department of Social Welfare and Development as lead agency, the National Commission on the Role of Filipino Women, the Department of Labor and Employment, the TESDA, TLRC, the Department of Health, the Department of Interior and Local Government, the Department of Justice, the National Bureau of Investigation, the Philippine National Police, three (3) non-government organizations (NGOs) selected by NGOs providing support services to victims of prostitution, and three (3) representatives of persons exploited in prostitution. The National Anti-Prostitution Task Force shall perform the following functions:

- (a) develop a program addressing prostitution and the needs of persons exploited in prostitution and those vulnerable to be exploited in prostitution. The program shall include public information and education campaign against prostitution and on human rights of women in prostitution, crisis intervention services, education assistance, and socio-economic assistance such as sustainable livelihood skills training and financial support for small-scale businesses, among others;
- (b) identify and, if necessary, create centers in strategic places all over the Philippines that will provide health services including education, counseling and therapy, temporary shelter and other crisis intervention services to persons exploited in prostitution. The rape crisis centers established under Republic Act No. 8505 and the hospital-based protection units for women and children may also serve as centers servicing persons exploited in prostitution. Each center shall establish a network of health care and other services providers to address the needs of persons exploited in prostitution;
- (c) ensure that units are created within relevant government agencies, particularly those composing the Task Force, that shall focus on addressing prostitution and the needs of persons exploited in prostitution. This shall include units within the National Prosecution Service Offices in local government units that shall specifically focus on the prosecution of offenders under this Act;
- (d) ensure that relevant government agencies work in close coordination with each other in addressing prostitution and the needs of persons exploited in prostitution;
- (e) develop and implement a training program for law enforcers, public prosecutors, judges, government lawyers, government health care providers, social workers and barangay officials that aims to increase their understanding of prostitution as a system, and equip them with the perspective and skills to appropriately address the needs of persons exploited in prostitution, respect, protect and promote their human rights, and pursue the prosecution of offenders;
- (f) ensure that local counterparts of the Task Force are created in every municipality, city and province; and
- (g) promulgate, when necessary, rules and regulations for the effective implementation and enforcement of this Act.

SECTION 19. Services for Children in Prostitution –

- (a) develop programs addressing the welfare of children in prostitution. These programs should include but not limited to counseling, shelters, health services, education assistance and livelihood support specifically geared for children;
- (b) develop rescue services that is sensitive to the needs and welfare of children

SECTION 20. Appropriations. The amount necessary to carry out the provisions of this Act is hereby authorized to be appropriated in the General Appropriations Act of the year following the enactment of this law and every year thereafter.

All local government units are likewise mandated to allot not less than five (5%) percent of their gender and development (GAD) budget and not less than five (5%) percent of the local development fund of local government units (LGUs) for programs, projects and activities aimed to control prostitution activities their jurisdiction.

SECTION 21. Separability Clause.—If any provision of this Act is declared invalid or unconstitutional, the remaining provisions not affected thereby shall continue in full force and effect.

SECTION 22. Suppletory Application. The provision of the Revised Penal Code shall have suppletory application to this Act.

SECTION 23. Repealing Clause. Articles 202 and 341 of the Revised Penal Code are hereby repealed. Article III, Section 5 and 6 of the Republic Act No. 7610 and all other laws, decrees, ordinances and rules inconsistent with the provisions of this Act are hereby modified or repealed accordingly.

SECTION 24. Effectivity Clause. This Act shall take effect upon completion of its publication in at least two (2) national newspapers of general circulation.

Approved,