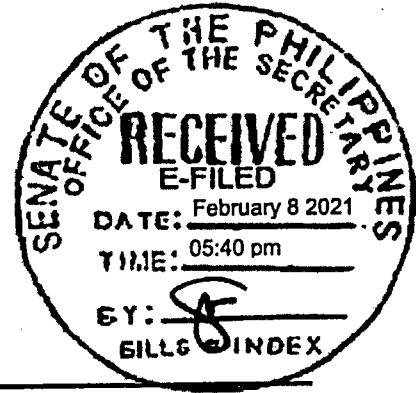


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)

SENATE

P.S.R. No. 642



Introduced by Senator FRANCIS N. PANGILINAN

RESOLUTION

DIRECTING THE SENATE COMMITTEE ON WOMEN, CHILDREN, FAMILY RELATIONS, AND GENDER EQUALITY TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE RISING INCIDENCE OF ONLINE ABUSE AND EXPLOITATION OF CHILDREN IN THE COUNTRY

WHEREAS, Section 3(2), Article XV of the 1987 Constitution mandates the State to defend the right of the children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development;

WHEREAS, in addition to the relevant provisions of the Revised Penal Code, there are various domestic laws that punish the abuse and sexual exploitation of children online in its various iterations: 1) Republic Act No. 10364 or the "Expanded Anti-Trafficking in Persons Act" (2012); 2) R.A. No. 10175 or the "Cybercrime Prevention Act" (2012); 3) R.A. No. 9775 or the "Anti-Child Pornography Act (2009); 4) R.A. No. 9208 or the Anti-Trafficking in Persons Act" (2003); 5) R.A. No. 9231 or the "Anti-Child Labor Law" (2003); and 6) R.A. No. 7610 or the "Special Protection of Children Against Abuse, Exploitation, and Discrimination Act," among others;

WHEREAS, according to the United Nations Office on Drugs and Crime, online child sexual abuse and online child sexual exploitation involve the use of information and communication technology as a means to sexually abuse and/or sexually exploit children. An Ateneo Law Journal article¹ notes that this covers a spectrum of offenses, including the creation, production, distribution, and sale, of child pornography online, punishable by various domestic laws;

WHEREAS, under R.A. No. 7610, any person who shall engage 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, shall suffer the penalty of reclusion perpetua. The penalty shall be imposed in its maximum period when the victim is under 12 years of age;

WHEREAS, since 1989, the Philippines has been a signatory to the United Nations Convention on the Rights of the Child. Said treaty reaffirms that "children's rights

¹ Aritao, B. L. P. E., & Pangilinan, J. S. B. (2018). *Online Sexual Exploitation of Children: Applicable Laws, Casework Perspectives, and Recommendations*. Ateneo Law Journal, 63(185), 185-236. Retrieved from <http://ateneolawjournal.com/Media/uploads/601bc2ca46dbcc668a376e6388fd819b.pdf>. Accessed on 8 February 2021.

require special protection and call for continuous improvement of the situation of children all over the world, as well as their development and education in conditions of peace and security. It enumerates the political, economic, social, health, and cultural rights of every child regardless of their race, religion or abilities;

WHERAS, the Philippines is party to the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, which requires the prohibition of the sale of children, child prostitution and child pornography. The country is also party to the Budapest Convention on Cybercrime (2018) and has entered into bilateral treaties with other States [e.g., the United Kingdom of Great Britain and Northern Ireland (2009), the United States of America (1995), and Australia (1988), among others] on mutual legal assistance on criminal matters;

WHEREAS, a national study by the Council for the Welfare of Children and the United Nations Children's Fund (UNICEF) found that children and youth aged 13-24 are affected by high levels of violence in the country with three in five experiencing physical violence, one in five suffering from sexual violence, and three in five being affected by psychological violence. In 2017, the UNICEF tagged the Philippines as the top global source of child pornography. In 2018, the UNICEF has also characterized the country as "the global epicenter of the live-stream sexual abuse trade" with one in five Filipino children vulnerable to online sexual exploitation;²

WHEREAS, the Department of Justice (DOJ) Office of Cybercrime received at least 600,000 cybertips of sexual images of Filipino children in 2018. Said figure is more than a 1,000% increase from the previous 45,645 in 2017. However, out of the thousands reported in 2018, only 27 convictions of perpetrators were made;³

WHEREAS, according to the UNICEF and Child Rights Network, among the factors that allow for the easy proliferation of the sexual exploitation of children online are: 1) widespread poverty and resorting to online sexual exploitation of children as a form of income; 2) cheap internet and smartphones; 3) ability to speak English well; 4) wide availability of money remittance centers; 5) prevailing norms of secrecy; 6) lack of parental supervision, sometimes caused by parents having to work abroad; and 7) lack of resources to investigate and prosecute perpetrators, and rescue and rehabilitate victims, among others;⁴

WHEREAS, the United States Department of State, in its 2020 Trafficking in Persons (TIP) Report, declared the Philippines to have remained at Tier 1 since 2016, which means the government fully meets the minimum standards for the elimination of trafficking. Notwithstanding this, the sexual exploitation of children online has continued to proliferate and increase at alarming rates. There remains considerable gaps, particularly in government efforts to investigate, prosecute, and convict complicit officials and labor traffickers, and creation of a central database for information on illegal recruiters and human trafficking cases, among others;⁵

² Andy Brown. *Safe from harm: Tackling online child sexual abuse in the Philippines*. Available at <https://blogs.unicef.org/east-asia-pacific/safe-harmtackling-online-child-sexual-abuse-philippines>. Accessed on 8 February 2021.

³ Rappler, *Fast Facts: Why online sexual exploitation of children happens in the Philippines*. Published on 11 February 2020. Available at <https://www.rappler.com/newsbreak/iq/251532-things-to-know-online-sexual-exploitation-children-philippines>. Accessed on 8 February 2021.

⁴ *Ibid.*

⁵ US Department of State. *2020 Trafficking in Persons Report: Philippines*. Available at <https://www.state.gov/reports/2020-trafficking-in-persons-report/Philippines/>. Accessed on 8 February 2021.

WHEREAS, according to a report released in May 2020 by the Washington-based International Justice Mission (IJM), in partnership with the U.S. Department of State and the Philippine Inter-Agency Council Against Trafficking, there was a consistent, sharp rise in the number of IP addresses used in child sexual exploitation from 23,333 in 2014 to 81,723 in 2017. The report also found that online-sexual exploitation of children was usually a "family-based crime" where the abuse was usually perpetrated by biological parents or other relatives of the victims;⁶

WHEREAS, according to the National Bureau of Investigation (NBI), the proliferation of commercial adoption in the country has also expanded online. On 08 February 2021, the NBI was reported to be working with the Department of Social Welfare and Development (DSWD) to track down the persons and groups behind 48 Facebook accounts that claim to facilitate online illegal adoption;⁷

WHEREAS, in 2019, the NBI's International Operations Division has intercepted a group of child traffickers who were trying to sell an infant in a department store. Two of the perpetrators were the parents of the child while the others were brokers who set up a social media account to look for buyers and negotiate the price;⁸

WHEREAS, the DSWD noted in October 2019 that internet service providers (ISPs) have not been fully compliant with the provisions of the Anti-Child Pornography Law, particularly their role in informing the PNP and the National Bureau of Investigation (NBI), within a week of receiving knowledge, of child pornography engagement in their servers;

WHEREAS, the public threads on Facebook and other social media platforms where the details of illegal adoption are openly discussed are alarming. To address this, Facebook has consolidated its existing policies into one dedicated section focusing on human exploitation and continues to remove any of such content as soon as it becomes aware of it;⁹

WHEREAS, a study published by the investigative group Tech Transparency Project (TPP) found that Facebook has not been fully enforcing its own standards on banning child exploitation content on its platform over the past six (6) years. Only 9% of 366 cases between January 2013 and December 2019 were investigated by the US Department of Justice because Facebook alerted authorities, while the rest of the investigations were initiated without the prompts from the tech giant;¹⁰

WHEREAS, at present, there is no all-encompassing law that covers the full range of online abuse and exploitation of children, which, according to the Child Rights Network, includes (1) recruitment and online technology; (2) stages of commission; (3) participation in the offense; and (4) corresponding penalties;

⁶ International Justice Mission. *Online Sexual Exploitation of Children in the Philippines*. Available at https://www.ijm.org/documents/studies/Final_OSEC-Public-Summary_05_20_2020.pdf. Accessed on 8 February 2021.

⁷ PhilStar. *DSWD: Babies for adoption on Facebook*. Published on 8 February 2021. Available at <https://www.philstar.com/headlines/2021/02/08/2076131/dswd-babies-adoption-facebook>. Accessed on 8 February 2021.

⁸ Channel News Asia. *Facebook: An emerging black market for Philippines' baby trade*. Published on 9 March 2020. Available at <https://www.channelnewsasia.com/news/asia/facebook-emerging-market-for-philippines-baby-adoption-trade-12469826>. Accessed on 8 February 2021.

⁹ *Ibid.*

¹⁰ The Guardian. *Over 300 cases of child exploitation went unnoticed by Facebook - study*. Published on 04 March 2020. Available at <https://www.theguardian.com/technology/2020/mar/04/facebook-child-exploitation-technology>. Accessed on 8 February 2021.

WHEREAS, government must look into the compliance of ISPs and social media platforms with relevant domestic laws and the role they play in the proliferation of online abuse and sexual exploitation of children, address the gaps in the implementation of and compliance with existing laws, and come up with a more comprehensive and all-encompassing law or policy to ensure that Filipino children are protected at all times against such crimes;

NOW, THEREFORE, BE IT RESOLVED, as it is hereby resolved, to direct the Senate Committee on Women, Children, Family Relations, and Gender Equality to conduct an inquiry, in aid of legislation, on the rising incidence of online abuse and exploitation of children in the country.

Adopted,

A handwritten signature in black ink, appearing to be 'Francis N. Pangilinan', is written over a horizontal line. The signature is stylized and somewhat cursive.

FRANCIS N. PANGILINAN