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SENATE

P. S. RES. NO. 171

RI . . . BY: *[Signature]*

Introduced by **SENATOR LEILA M. DE LIMA**

RESOLUTION

DIRECTING THE APPROPRIATE SENATE COMMITTEES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE STATUS OF THE IMPLEMENTATION OF REPUBLIC ACT NO. 9344, AS AMENDED, OTHERWISE KNOWN AS THE "JUVENILE JUSTICE WELFARE ACT OF 2006" WITH THE END IN VIEW OF FURTHER STRENGTHENING CURRENT LEGISLATION PROVIDING INTERVENTIONS AND PROTECTION OF CHILDREN IN CONFLICT WITH THE LAW AND ENSURE THAT LEGISLATIVE MEASURES ARE IN PLACE AGAINST PROPOSALS TO LOWER THE MINIMUM AGE OF CRIMINAL RESPONSIBILITY (MACR) FROM FIFTEEN (15) TO NINE (9) YEARS OLD

Whereas, the 1987 Constitution in Article II, Section 13 thereof states that, "[t]he State recognizes the vital role of the youth in nation building and shall promote and protect their physical, moral, spiritual, intellectual, and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civil affairs";

Whereas, the Constitution also provides in Article XV, Section 3 that the State shall defend, *inter alia*, the "[r]ight of 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, the United Nations Convention on the Rights of the Child, a human rights treaty ratified by the Philippines on 21 August 1990, directs State Parties to ensure that all rights therein are enjoyed by each child without discrimination;

Whereas, the Convention on the Rights of the Child under Article II thereof also expressly mandates all State Parties to take all appropriate measures to protect children from punishment on the basis of status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members;

Whereas, prior to the enactment of Republic Act No. 9344, "An Act Establishing A Comprehensive Juvenile Justice And Welfare System, Creating The Juvenile Justice And Welfare Council Under The Department Of Justice,

Appropriating Funds Therefor and For Other Purposes”, otherwise known as the “*Juvenile Justice and Welfare Act of 2006*” more than fifty thousand Filipino children were in detention or under custodial setting, many of whom suffered from physical, psychological and sexual abuse and exploitation;

Whereas, the passage of Republic Act No. 9344 constituted a milestone in terms of human rights due diligence for children. It improved the legal and judicial protection of children in conflict with the laws (CILC) by institutionalizing Article 40 of the Convention on the Rights of the Child which posits that children who infringed penal laws should be treated in a manner consistent with the promotion of their sense of dignity and worth, and which in turn shall reinforce the child's respect for the human rights and fundamental freedoms of others;

Whereas, the *Juvenile Justice and Welfare Act of 2006* also established an important mechanism for policy development, coordination, program implementation, and monitoring through an inter-agency body, the Juvenile Justice and Welfare Council (JJWC);

Whereas, to strengthen its implementation, the *Juvenile Justice and Welfare Act of 2006* was amended by Republic Act No. 10630 enacted in 2013, establishing a comprehensive restorative juvenile justice and welfare system in the country, including intervention program and support youth centers known as the “Bahay Pag-asa” supervised by the local social welfare and development officer. It also introduced ways in which to improve partnerships between JJWC and various leagues of local government officials for the implementation of the law;

Whereas, according to a 2016 study, entitled “*Children in Conflict with the Law: The Case of Street Children in the Philippines*” of the International Journal of Development Research, there is a “felt need to review that existing law for a more effective and efficient implementation on the part of the government.” The study also suggests that “there are still some loopholes on the part of the implementers and other stakeholders on the processes of handling the problems concerning the CILC”;

Whereas, according to the 2014 assessment study commissioned by the United Nations Children’s Fund or UNICEF, entitled “*Evaluation of the Intervention and Rehabilitation Program in Residential Facilities and Diversion Programs for Children in Conflict with the Law*”, the JJWC should:

1. Continue fast-tracking the establishment and strengthening of the Regional JJWC through advocacy support and technical assistance to the regions that are slow in making progress, including the sharing of good practices from the advanced regions;
2. Accelerate the implementation of a monitoring system for its member agencies, which will systematize its data collection in coordination with its member agencies;
3. In collaboration with the regional social welfare offices, the JJWC should further engage local government units and increase their buy-in regarding the establishment of *Bahay Pag-asa* facilities and diversion programs; and

responsibility at 14 to 16 in order to contribute to a juvenile justice system that is in accordance with the Convention on the Rights of the Child;

Whereas, the UNICEF has expressed concern on efforts to lower the current minimum age of criminal responsibility. In its official statement on House Bill No. 002, "*Minimum Age of Criminal Responsibility Act*", which seeks to set the MACR at nine (9) years old, it underscores that reducing the MACR goes against the best interests of the child and threatens the well-being of the most vulnerable children. It likewise underscores that an effective juvenile justice system recognizes the detrimental effects of incarceration of children and seeks to understand how a child develops and tackles the underlying reasons why children commit crimes;

Whereas, the United Nations Committee on the Rights of the Child in its 2009 Concluding Observations to the combined Third and Fourth Periodic Report of the Philippines, has noted with appreciation the enactment of the *Juvenile Justice and Welfare Act of 2006*.

Whereas, in the 2012 Universal Period Review, the Philippines manifested support to various recommendations referencing to juvenile offenders, including ensuring that the MACR is not lowered.

Whereas, comments, observations, and recommendations of treaty-based bodies, charter-based bodies, and specialized agencies of the United Nations where the Philippines is a member, are important in the domestic implementation of legally binding and justiciable human rights stipulated in covenants ratified by the government.

NOW THEREFORE, BE IT RESOLVED AS IT IS HEREBY RESOLVED, to direct the appropriate Senate Committees to conduct an inquiry, in aid of legislation, on the status of the implementation of Republic Act No. 9344, as amended, otherwise known as the "*Juvenile Justice Welfare Act of 2006*", with the end in view of further strengthening current legislations providing interventions and protection of children in conflict with the law, and ensure that the minimum age of criminal responsibility remains at fifteen years of age.

Adopted,


LEILA M. DE LIMA