



SENATE

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P.S. Res. No. 224

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

RESOLUTION

DIRECTING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE SERIOUS REPORTS OF BABIES-FOR-SALE IN THE COUNTRY, WITH THE END IN VIEW OF CURBING THIS CRIME BY PROVIDING NECESSARY GOVERNMENT INTERVENTIONS AND LOOKING INTO THE POSSIBILITY OF AMENDING EXISTING LAWS TO AVERT SUCH UNLAWFUL ACTS

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

5 WHEREAS, Article I of Presidential Decree No. 603, s. 1974, otherwise known
6 as "The Child and Youth Welfare Code", declares that "[t]he Child is one of the most
7 important assets of the nation. Every effort should be exerted to promote his welfare
8 and enhance his opportunities for a useful and happy life";

9 WHEREAS, paragraph (1) Article 3 of the aforementioned Code on the rights of
10 the child states that, "[e]very child is endowed with the dignity and worth of a human
11 being from the moment of his conception, as generally accepted in medical parlance,
12 and has, therefore, the right to be born well";

13 WHEREAS, paragraph (8) Article 3 of the same Code declares that it is the right
14 of every child to be given "protection against exploitation, improper influences,
15 hazards, and other conditions or circumstances prejudicial to his physical, mental,
16 emotional, social and moral development";

17 WHEREAS, paragraph (a) Article I, Section 2 of Republic Act No. 8552,
18 otherwise known as the "Domestic Adoption Act of 1998", mandates that the State

1 shall “ensure that every child remains under the care and custody of his/her parent(s)
2 and be provided with love, care, understanding and security towards the full and
3 harmonious development of his/her personality. Only when such efforts prove
4 insufficient and no appropriate placement or adoption within the child's extended
5 family is available shall adoption by an unrelated person be considered”;

6 WHEREAS, paragraph (c) (1) of Article I, Section 2 of aforesaid law makes it
7 the policy of the State in relation to adoption of children to “safeguard the biological
8 parent(s) from making hurried decisions¹ to relinquish his/her parental authority over
9 his/her child”;

10 WHEREAS, paragraph (c) (2) of Article I, Section 2 of the same law states that
11 the State shall “prevent the child from unnecessary separation from his/her biological
12 parent(s)”;

13 WHEREAS, Article VII, Section 1 of the same law imposes the penalty of
14 imprisonment and/or fine should any of the following acts be committed: “ (i)
15 obtaining consent for an adoption through coercion, undue influence, fraud, improper
16 material inducement, or other similar acts; (ii) non-compliance with the procedures
17 and safeguards provided by the law for adoption; or (iii) subjecting or exposing the
18 child to be adopted to danger, abuse, or exploitation”. Imprisonment and/or fine shall
19 also be imposed when any person who commits simulation of birth² as defined under
20 the law – and any physician, nurse or hospital personnel who, in violation of his/her
21 oath of office, shall cooperate in the execution of the aforementioned crime, shall suffer
22 the same penalties in addition to the penalty of permanent disqualification;

23 WHEREAS, paragraph (a) of Article IV, Section 16 of Republic Act No. 8043,
24 otherwise known as the “Inter-country Adoption Act of 1995”, imposes imprisonment

¹ Section 10. Hurried Decisions. – “In all proceedings for adoption, the court shall require proof that the biological parent(s) has been properly counseled to prevent him/her from making hurried decisions caused by strain or anxiety to give up the child, and to sustain that all measures to strengthen the family have been exhausted and that any prolonged stay of the child in his/her own home will be inimical to his/her welfare and interest.” (Domestic Adoption Act of 1998)

² Article VII, Section 1 (b) – “Any person who shall cause the fictitious registration of the birth of a child under the name(s) of a person(s) who is not his/her biological parent(s) shall be guilty of simulation of birth, and shall be punished by prison mayor in its medium period and a fine not exceeding Fifty thousand pesos (P50,000.00).” (Domestic Adoption Act of 1998)

1 and/or fine upon any person who shall “knowingly participate in the conduct or
2 carrying out of an illegal adoption”;³

3 WHEREAS, paragraph (b) of Article VI, Section 16 of the same law considers
4 the act as an offense constituting child trafficking which merits the penalty of *reclusion*
5 *perpetua* when acts punishable under the law are “committed by a syndicate⁴ or where
6 it involves two or more children”;

7 WHEREAS, the Philippines is a state-party to two important United Nation
8 (UN) conventions that uphold the rights and welfare of children, namely, the UN
9 Convention on the Rights of the Child and The Hague Convention on Protection of
10 Children and Cooperation, in Respect of Intercountry Adoption;

11 WHEREAS, The Hague Convention on Protection of Children and Cooperation
12 mandates that all signatory states “should take, as a matter of priority, appropriate
13 measures to enable the child to remain in the care of his or her family of origin”, and
14 “to prevent the abduction, the sale of , or traffic in children.”;

15 WHEREAS, the aforementioned convention establishes the safeguards to
16 ensure that intercountry adoptions take place in the best interests of the child and with
17 respect for his or her fundamental rights as recognized in international law;

18 WHEREAS, recent investigative reports uncovered the “insidious”
19 underground babies-for-sale trade which emerged in various member countries in the

³ “xxx For purposes of this Act, an adoption is illegal if it is effected in any manner contrary to the provisions of this Act or established State policies, its implementing rules and regulations, executive agreements, and other laws pertaining to adoption. Illegality may be presumed from the following acts:

(1)consent for an adoption was acquired through, or attended by coercion, fraud, improper material inducement;

(2)there is no authority from the Board to effect adoption;

(3)the procedures and safeguards placed under the law for adoption were not complied with; and

(4)the child to be adopted is subjected to, or exposed to danger, abuse and exploitation.” (Inter-country Adoption Act of 1995)

⁴ Article VI, Section 16. – “xxx Acts punishable under this Article are deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring and/or confederating with one another in carrying out any of the unlawful acts defined under this Article. Penalties as are herein provided shall be in addition to any other penalties which may be imposed for the same acts punishable under other laws, ordinances, executive orders, and proclamations.” (Inter-country Adoption Act of 1995)

1 ASEAN⁵ and in many parts of the world⁶. This clandestine market where new-born
2 babies are bought and sold in what they describe as “large-scale underground black
3 market” is reportedly being controlled by syndicates;⁷

4 WHEREAS, across Southeast Asia, a considerable number of new-born babies
5 are being sold both online and offline. In the Philippines, where social media platforms
6 are easily and widely accessed by many of our citizens, reports reveal that babies are
7 sold on online channels such as Instagram and Facebook. On the other hand, offline
8 transactions occur outside public hospitals and in slum communities where “6 out of
9 10 women have either sold or know someone who has sold a baby, according to women
10 in slum neighborhoods”. Poverty remains to be one of the main drivers in the
11 prevalence of such atrocious illegal activity, and the continued proliferation of
12 appalling activities relating to the exploitation, trafficking and abuse of babies;⁸

13 WHEREAS, one of the many alarming concerns that have recently surfaced is
14 the reported incidents of kidnapping of babies. This includes the case of Ms. Jennifer
15 Talbot, a US citizen, who was charged with human trafficking for allegedly hiding a
16 six-day-old baby in her carry-on bag in NAIA and attempting to “smuggle” it abroad.
17 After being arrested, she presented a document claiming her legal consent to take-in
18 the baby from his parents. Further investigation by the National Bureau of
19 Investigation (NBI) revealed that the document was not signed by the baby’s mother.
20 Prompted by the incident, charges were filed against both the baby’s parents for
21 violations of our child protection laws;⁹

22 WHEREAS, not long after the said incident broke the headlines, another report
23 of a five-month-old baby allegedly stolen by her “yaya” or babysitter went viral in

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d=2ahUKEwjo17L_goPmAhuBHXAKHZuCCLY4ChDoATAlegQIChAC#v=onepage&q=baby%20for%20sale%20around%20the%20world&f=false

⁷ Chou, C. et al (NA) Retrieved from: <https://interactive.aljazeera.com/aje/2016/malaysia-babies-for-sale-101-east/index.html>

⁸ Billing, L. (14 November 2019) Inside the Underground Baby Trade in the Philippines. Retrieved from: <https://zora.medium.com/inside-the-underground-baby-trade-in-the-philippines-b41113f2dfc4>

⁹ Ruiz, K. (16 September 2019) *Utah mom who 'tried to smuggle Filipino newborn on plane' posted ads for adoptions online* retrieved from: <https://www.dailymail.co.uk/news/article-7457533/Jennifer-Talbot-posted-ads-adoption-months-trying-smuggle-baby-Philippines.html>

1 social media. After public information and reaction, the babysitter returned the baby
2 in a radio-television program and apologized to the parents of the baby;¹⁰

3 WHEREAS, the investigative report on the underground baby trade and the
4 *modus operandi* pertaining to the baby-for-sale trade narrates the horrific stories that
5 surround the underground trade, already so rampant that the operations seem to be
6 with a legal semblance. One story describes the existence of pertinent documents such
7 as a deed of sale of a baby that showed a mother's willingness to give up her child;¹¹

8 WHEREAS, despite the efforts of both the government and non-government
9 organizations to address the illegal baby-for-sale trade, significant solutions remain to
10 be elusive. The National Bureau of Investigation admitted that the agency is "aware of
11 the problem, but is hardly making a dent" on the matter. Despite the echoing of stories
12 from one slum area to another, NBI disclosed that its unit "had rescued only one baby
13 from the agents/sellers";¹²

14 WHEREAS, assessments from experts point out that one of the problem areas
15 that exacerbate the baby-for-sale trade is the adoption system in the Philippines. The
16 current system is described to be tedious, multilayered, and highly bureaucratic, and
17 even takes years to process. Many experts note that our current practice are inadequate
18 in providing capacity-building for social workers to investigate possible illegal
19 activities related to baby-for-sale trade, developing a holistic mechanism to improve
20 the existing system of adoption and child protection by implementing a victim
21 identification process, reporting procedures for this crime, and that we have to craft a
22 legitimate protocol for handling child trafficking reports;

23 WHEREAS, the increasing number of incidents relating to the illicit baby-for-
24 sale trade calls for a comprehensive review of the implementation of our adoption and
25 anti-trafficking laws and processes for possible amendments, considering the multi-
26 faceted and complex problem of the current baby-for-sale trade;

¹⁰ Adel, R. (14 November 2019) 'Stolen' baby reunited with family a day after it was reported missing.
Retrieved from: <https://www.philstar.com/nation/2019/11/14/1968798/stolen-baby-reunited-family-day-after-it-was-reported-missing#gAiKfjBqMbhYF7AF.99>

¹¹ Supra note 4

¹² Quijano, N. (21 November 2019) Babies for sale Retrieved from:
<https://tribune.net.ph/index.php/2019/11/21/babies-for-sale/>

1 WHEREAS, it is imperative to address and bring an end to this menace that
2 may lead to further crimes, such as illicit human organ trade, sex trafficking, child
3 pornography and other abuses against children;

4 WHEREAS, the State must remain ever vigilant in providing utmost concern
5 for the welfare and best interest of every child;

6 WHEREAS, the State must ensure that in mobilizing government agencies in
7 the creation of a peaceful environment that is free from crime and drugs, equal effort
8 is exerted in protecting children and generations yet to come from predators that are
9 operating in circumvention of and in violation of existing domestic and international
10 laws;

11 **NOW THEREFORE, BE IT RESOLVED AS IT IS HEREBY**
12 **RESOLVED**, to direct the appropriate Senate Committee to conduct an inquiry, in
13 aid of legislation, into the serious reports of babies-for-sale in the country, with the
14 end in view of curbing this crime by providing necessary government interventions
15 and looking into the possibility of amending existing laws to avert such unlawful acts.

Adopted,


LEILA M. DE LIMA