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REPUBLIC OF THE PHILIPPINES)
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SENATE

RECEIVED BY: 

PSR No. 118

Introduced by Senator Loren Legarda

A RESOLUTION

DIRECTING THE APPROPRIATE SENATE COMMITTEES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO INTERNET PORNOGRAPHY IN THE COUNTRY, WITH THE END IN VIEW OF INTRODUCING REMEDIAL MEASURES TO PENALIZE TRAFFICKING OF PERSONS ON THE INTERNET

WHEREAS, newspaper reports on raids conducted by law enforcement agencies against persons employing young women to perform explicit sexual acts in front of computers with web cameras for paying chat mates/clients of the cyber sex den in the United States, Europe, Asia and in other parts of the world indicate the existence of cyber sex dens in the country;

WHEREAS, regarded as a modern form of prostitution, cyber sex, or sexual activity of arousal through communication by computer and Internet, has allegedly attracted some poor women and children because of high commissions, ranging from US\$2,000 to US\$4,000 a month, while others were allegedly recruited under the pretext of employing them as trainees in computer technology but ended up being participants in cyber sex;

WHEREAS, based on the investigation of the National Bureau of Investigation's *Anti-Fraud and Computer Crime Division*, clients are charged US\$3.99 to US\$4.99 per minute and the operation of sites are based abroad, with the local operators acting as recruiters of models. In such a case, for every US\$3.99, US\$2 goes to the overseas operator, US\$1 to the local operator and only about \$0.50 goes to the model. The rest of the fee covers operating expenses;

WHEREAS, pertinent provisions of the Revised Penal Code and Republic Act No. 9208 or the Anti-Trafficking in Persons Act penalize cyber sex and internet pornography;

WHEREAS, the Revised Penal Code provision applicable to cyber sex and internet pornography is Article 201, which penalizes immoral doctrines, obscene publications and exhibitions and indecent shows. In particular, the penalty of *prision mayor* or a fine ranging from six thousand to twelve thousand pesos, or both, shall be

imposed upon those who exhibit indecent or immoral plays, scenes, acts or shows, whether live or in film, in theaters, fairs, cinematographs or any other place. Such acts include those that serve no other purpose but to satisfy the market for violence, lust or pornography;

WHEREAS, on May 2003, Congress enacted Republic Act No. 9208 otherwise known as an Act to Institute Policies to Eliminate Trafficking in Persons Especially Women and Children, Establishing the Necessary Institutional Mechanisms for the protection and support of trafficked persons, providing penalties for its violations. This law penalizes the trafficking of persons and acts that promote the same;

WHEREAS, trafficking in persons refers to: 1.) the recruitment, transportation, transfer or harboring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders by means of threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, 2.) *the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation which includes at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs (Emphasis supplied);*

WHEREAS, one of the acts which promote or facilitate trafficking in persons is the advertisement, publication, printing, broadcast or distribution, or cause the advertisement, publication, printing, broadcasting or distribution by any means, including the use of information technology and the internet, of any brochure, flyer, or any propaganda material that promotes trafficking in persons;

WHEREAS, despite the presence of these laws, there is a seeming conflict between the treatments of the said laws on persons engaged in cyber sex: the criminal law regards them as prostitutes whose acts are punishable, while the special law treats trafficked persons as victims of the acts of trafficking and as such shall not be penalized for crimes directly related to the acts of trafficking;

WHEREAS, there is a need to reconcile the inconsistency between the two laws to allow for more effective law enforcement, in view of the distinct manner by which internet pornography is perpetrated and in order to cope with the growing sophistication and rapid evolution of information technology that makes it easy for individuals, particularly those abroad, to pull off this type of pornography, to the detriment of the dignity and integrity of our people;

WHEREAS, it is likewise necessary to determine whether a law particularly addressing cyber trafficking is needed or would the stricter enforcement of existing laws be sufficient to address the proliferation of cyber sex dens and internet pornography in the country;

NOW BE IT RESOLVED, AS IT IS HEREBY RESOLVED, to direct the appropriate senate committees to conduct an inquiry, in aid of legislation, into internet pornography in the country, with the end in view of introducing remedial measures to penalize trafficking of persons on the internet.

Adopted,



LOREN LEGARDA
Senator