



**Women's  
Priority  
Legislative  
Agenda  
for the 18th Congress**

**Enacting the  
Anti-Prostitution Law  
(Amending Articles 202 and  
341 of the Revised Penal Code)**

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*This policy brief provides the rationale for amending Articles 202 and 341 of the Revised Penal Code on Prostitution and White Slave Trade. It also presents recommendations on how to address the system of prostitution in the Philippines by providing legal protection and support services for its victims and shifting the criminal liability to those who exploit people in prostitution.*

**WHAT IS THE ISSUE? WHY IS THE ISSUE IMPORTANT?**

Article 202 of the Revised Penal Code, as amended by Republic Act No.10158, penalizes women who engage in prostitution, to wit:

**“Article 202. Prostitutes; Penalty.** – For the purposes of this article, women who, for money or profit, habitually indulge in sexual intercourse or lascivious conduct, are deemed to be prostitutes.

Any person found guilty of any of the offenses covered by this article shall be punished by arresto menor or a fine not exceeding 200 pesos, and in case of recidivism, by arresto mayor in its medium period to prison correctional in its minimum period or a fine ranging from 200 to 2,000 pesos, or both, in the discretion of the court.”

The law not only sanctions prostituted women exclusively, it fails to recognize that prostitution, a form of sexual exploitation and violence against women and girls, is a human rights violation. It is an exploitative system that commodifies, objectifies and dehumanizes women, men, and children who are being sold within it. It reinforces the subordinate status of the more vulnerable individuals in conditions of poverty, especially women and young girls, as it serves the instant sexual gratification of the more privileged “cliente” who are mostly male.

The number of individuals, both female and male, who are lured and trapped into prostitution gives much cause for great alarm. In the 1998 study by the International Labor Organization (ILO), it was estimated that there were at least half a million prostituted persons in the Philippines. In a 2009 study entitled “Philippines: Women Struggling to Achieve Sexual Equality,” estimated that around 800,000 persons in the country were engaged in prostitution.

Further, in the 2012 report by the Department of Justice (DOJ), it was estimated that there were at least 60,000 to 100,000 prostituted children in the country, the majority of whom were girls aged 13 to 18 years old. The DOJ emphasized that this number is expected to be greater as “the incidence and prevalence of children

in prostitution are grossly unreported due to its underground nature.” The DOJ also reported that since 2005, the Philippines recorded a total of 327 Trafficking in Persons (TIP) convictions involving 353 trafficking offenders as of 2017.<sup>i</sup>

Women who enter into prostitution settle with the limited options available to them due to poverty, unemployment, under-education, and other socio-economic conditions that put women at greater risk. These dire conditions force women into prostitution, which according to survivors, is “the choice made by those who have no choice”.<sup>ii</sup>

Prostitution exists in various venues from street solicitation, bars, brothels, “akyat-barko”, massage parlors, escort services, sex tourism, cybersex, and local and international sex trafficking. Recently, technology in the form of certain mobile applications are also being used to “book” prostituted persons at an estimated cost.<sup>iii</sup>

The most common underlying cause that primarily sustains prostitution is the continuing presence of “demand.” The demand of customers for sexual services fuels prostitution. If there were no customers, users or buyers, or when demand is counteracted, there would be much-decreased supply or the number of victims would reduce.

The exploitative roots of prostitution have been acknowledged by many countries and have served as the basis for legal reform which focused on the demand side of the system. One of these countries is Sweden, the first European Union Member State which penalized the purchasing of sexual services. The government also ensured that women in prostitution are given support to help them get out of the system and rebuild their lives.<sup>iv</sup> The Swedish model on prostitution was adopted by Norway and Iceland in 2009 and is now referred to as the “Nordic Model”.<sup>v</sup> The Nordic Model was also adopted by France in 2013 and Northern Ireland in 2015.

The Socialist Republic of Vietnam issued in 2003, a Presidential Order promulgated which penalized pimps,

traffickers, brothel owners, and buyers. The policy also allowed for the financing of the medical, educational, and economic rehabilitation of women who were prostituted.

In the Philippines, the existence of gender inequality, rampant unemployment, under-education, and economic disparity appear to be the root causes of prostitution. This unfortunate situation will continue as long as the market for sexual exploitation exists. Addressing the system of prostitution by penalizing the real culprits – the traffickers, pimps, customers or buyers of sex and the exploiters, and decriminalizing those who are exploited in the system of prostitution, will eventually lead to eradicating the problem of prostitution and will help in promoting women’s rights and gender equality in the country.

**WHAT ARE THE EXISTING LAWS OR POLICIES RELATED TO THE ISSUE?**

Article II, Section 11 of the 1987 Philippine Constitution provides that “the State values the dignity of every human person and guarantees full respect for human rights”. Article XIII, Section 1 of the fundamental law also states that “the Congress shall give highest priority to the enactment of measures that protect and enhance the rights of all people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitable diffusing wealth and political power for the common good”.

Republic Act No. 9710 or the Magna Carta of Women specifically recognizes that prostitution is an act of violence against women from which women should be protected. The MCW also mandates the amendment or repeal of laws that are discriminatory to women which include, among others, Article 202 of the Revised Penal Code (RPC) on the definition of prostitution (Section 12).

Article 341 in the Revised Penal Code on White Slave Trade (as amended by B.P. Blg. 186) imposes a penalty of imprisonment from 8 to 12 years “upon any person who, in any manner, or under any pretext, shall engage in the business or shall profit by prostitution or shall enlist the services of any other person for the purpose of prostitution.”

Republic Act No. 9208 or the “Anti-Trafficking in Persons Act” (as amended by R.A. No. 10364) explicitly defines prostitution as “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.” It also penalizes the use of trafficked persons for prostitution (Section 11) and gives legal protection to prostituted persons who are victims of trafficking (Section 17).

Republic Act No. 10158 or “An Act Decriminalizing Vagrancy” only repealed portions of Article 202 of the Revised Penal Code that pertained to vagrancy, leaving behind the portion that penalizes prostituted women.

Quezon City Ordinance No. SP-1516, series of 2005<sup>vi</sup> recognizes persons in prostitution as victims. It imposes penalties only on the perpetrators, such as the pimps and recipients of sexual services. It also provides services to persons exploited in prostitution through education campaigns against prostitution, crisis intervention service, education, and socio-economic assistance, sustainable livelihood skills training, financial support for scale businesses, integration and complete after-care programs, health services, counseling, and temporary shelter.

The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others which was approved by the UN General in 1949 states that “prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family, and the community”.<sup>vii</sup>

The UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) requires the State to “take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women” (Article 6).

The Beijing Platform for Action (BPfA) adopted in 1995 defined trafficking in women and forced prostitution as a form of violence against women (Article 113 [b]).

**POLICY RECOMMENDATION**

Addressing the issue of prostitution necessarily starts with strengthening the legal framework within which law enforcement agencies work. There must be significant efforts to reduce the incidence of prostitution by focusing on its “demand side”. This means that criminal liability should be shifted to clients (customers or recipients of sexual services) and the exploiters (pimps, traffickers, brothel owners). Imprisoning women in prostitution is not the answer. It is thus recommended that a law amending the Revised Penal Code provisions on Prostitution and White Slave Trade be enacted and takes into consideration the following provisions:

**1. Define prostitution** – as “any act, transaction, scheme or design involving the purchase, promotion of sale or use of a person by another, for sexual intercourse, lascivious conduct, including sexual favors or other forms of humiliating, degrading or exploitative behavior, in exchange for money, profit or any other consideration.”

**2. Define person exploited in prostitution or a prostituted person** – to refer to “any person who is used, employed, or exploited for another person’s sexual gratification or pleasure, and for the monetary gain or profit of others.”

**3. Target the demand side; criminalize those who exploit people in prostitution** – the problem of prostitution will be effectively addressed if those who fuel its demand are penalized.

**4. Treat women in prostitution as victims NOT criminals** – this proposes the removal of penal sanctions to women in prostitution, without taking any further measures to regulate or legalize prostitution. This should recognize that prostituted persons are not criminals but victims of the system of prostitution who deserve protection, not punishment. This, however, does not

automatically exempt prostituted persons who themselves commit any of the prohibited acts of prostitution (such as pimping other people) from criminal liability.

**5. Establish support mechanisms for prostituted persons to get out of the system of prostitution** – this recognizes that the road to recovery for survivors of prostitution is long and arduous. To aid them, the government should facilitate the provision of support services to victims such as in the form of psychosocial counseling, legal assistance, and referral to appropriate training and government programs

<sup>i</sup> 2017 DOJ Annual Report. Retrieved from [https://www.doj.gov.ph/files/Annual\\_Reports/2016%20Annual%20Report%20\(%20revised%2010-11-17\).pdf](https://www.doj.gov.ph/files/Annual_Reports/2016%20Annual%20Report%20(%20revised%2010-11-17).pdf)

<sup>ii</sup> Melissa Farley, "Prostitution, trafficking and cultural amnesia: What we must not know in order to keep the business of sexual exploitation running smoothly," *Yale Journal of Law and Feminism*, (2006), 102.

<sup>iii</sup> Pates, K. P. R. (2016, March 14). Paid sex in the digital age. *SunStar Philippines*. Retrieved from <https://www.sunstar.com.ph/article/63183>

<sup>iv</sup> "A person who obtains casual sexual relations in exchange for payment shall be sentenced - unless the act is punishable under the Swedish Penal Code - for the purchase of sexual services to a fine or imprisonment for at the most six months. Attempt to purchase sexual services is punishable under Chapter 23 of the Swedish Penal Code" (Sweden, Law Prohibiting the Purchase of Sexual Services) 1998.

<sup>v</sup> Nordic Model (sometimes known as the Sex Buyer Law) is an approach to prostitution that decriminalizes all those who are prostituted, provides support services to help them exit, and makes buying people for sex a criminal offense, in order to reduce the demand that drives sex trafficking.

<sup>vi</sup> An Ordinance Addressing the System of Prostitution, Imposing Penalties on its Perpetrators, Providing Protective Measures and Support Services for the Prostituted Persons, and for Other Purposes.

<sup>vii</sup> <https://www.ohchr.org/EN/ProfessionalInterest/Pages/TrafficInPersons.aspx>