



Republic of the Philippines
CITY COUNCIL
Quezon City
16th City Council

PO2004-106

24th Regular Session

ORDINANCE NO. SP- **1516**, S-2005

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.

Introduced by Councilors ANTONIO E. INTON, JR., RESTITUTO B. MALANGEN, ALMA F. MONTILLA, ERIC Z. MEDINA, JORGE B. BANAL, JR., JOSEPH P. JUICO, FRANCISCO A. CALALAY, JR., ALLAN BUTCH T. FRANCISCO, DANTE M. DE GUZMAN, VOLTAIRE GODOFREDO L. LIBAN III, WINSTON "Winnie" T. CASTELO, RAMON P. MEDALLA, BERNADETTE HERRERA-DY, ELIZABETH A. DELARMENTE, AIKO MELENDEZ, DIORELLA MARIA SOTTO-DE LEON, JANET M. MALAYA, FRANZ S. PUMAREN and JULIAN M.L. COSETENG.

WHEREAS, prostitution has always been viewed as a problem about women and children - those usually bought. However, it is also a problem about business establishment and the buyers themselves, who are predominantly men and often shielded from the laws;

WHEREAS, international instrument such as 1949 convention for the suppression of Prostitution and the convention for the elimination of Discrimination against Women clearly encourages states to stop violence against women, particularly all forms of sexual exploitation, as a party to the Convention, the Philippine State is therefore obliged to institute mechanisms to eliminate various forms of sexual exploitation, including prostitution;

WHEREAS, the Declaration of Principle and State Policies of the 1987 Constitution mandates that the State shall ensure the fundamental equality before the law of women and men;

Orig.

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WHEREAS, pursuant to the general welfare clause of Republic Act No. 7160 or the Local Government Code of 1991, every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare;

WHEREAS, the Anti-trafficking of Persons Act of 2003 or Republic Act No. 9208 expressly prohibits the trafficking of persons by any means for the purpose of prostitution, pornography, and sexual exploitation;

WHEREAS, there is an immediate need to eliminate prostitution, to penalize its perpetrators and patrons, as well as to protect its victims.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF QUEZON CITY IN SESSION ASSEMBLED:

SECTION 1. Definition of Terms. - The following terms are defined for purposes of this Ordinance:

- a. Prostitution - any act, transaction, scheme or design involving use of a person whether woman, man or child for the sexual gratification, exploitation or pleasure of another in exchange for cash, profit or other consideration, or any act that promote or facilitates the accomplishment of the said act, transaction, scheme or design, as specifically defined in Section 2 of this Ordinance.
- b. Person exploited in prostitution - refers to a woman, man or child used or employed for another person's sexual gratification, pleasure or exploitation and for the monetary gain or profits of others, as defined in Section 2 of this Ordinance.

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- c. Child - refers to any person below eighteen (18) years of age or one who is over eighteen (18) but is unable to fully take care of or protect himself/herself from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.
- d. Sexual Exploitation - refers to the participation or engagement of a person for any sexual acts in exchange for cash, profit or other consideration as a result of being subjected to a threat, deception, coercion, abduction force, abuse of authority, debt bondage, fraud or through abuse of his/her vulnerability.
- e. Sexual Act - refers to sexual intercourse, including genital-to-genital, oral-to-genital, anal-to-genital, or oral-to-anal intercourse or contact, bestiality, masturbation, sadistic or masochistic abuse, exhibition of the genitals or pubic area of any person, and other acts presumed to obtain sexual gratification for the buyer, whether the same is made between persons of the same or opposite sex.
- f. Establishment - refers to any business, enterprise or establishment, including but not limited to, sauna bath, massage parlor, discotheque, bar restaurant, resort, lodging house, motel, hotel, theater, ship, vessel, cab, taxi, or any other vehicle, or any dwelling, house, structure or building serving as a cover or venue for the prostitution, or any group, association or organization that engages in prostitution activities as defined in Section 2 of this Ordinance.
- g. Solicitation - refers to any manners of procurement or buying of sexual services with money or any other consideration as payment.

SECTION 2. Punishable Acts, - Prostitution is a crime committed by:

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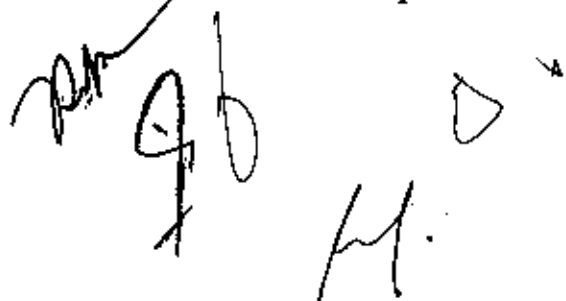
- a. Any person who solicits, gives or delivers money or any other consideration in exchange for the actual performance or mere demonstration of a sexual activities as defined in Section 1(e) of this Ordinance by a person exploited in prostitution, regardless of whether the person giving or delivering money or any other consideration is the recipient of such sexual act;
- b. Any person who is the recipient of a sexual act as defined in Section 1(e) of this Ordinance, whether such a recipient has given or delivered money or any other consideration for the procurement of a person exploited in prostitution; Provided, however, that for purpose of this Section, being a recipient shall include a person or persons or crowd with whom or for whom a person exploited in prostitution has actually performed or merely demonstrated such a sexual act;
- c. Any person who transports, induces, persuades, entices, compels, kidnaps, recruits or in any manner procures or causes a person to work in establishment knowing that the same is involved in prostitution activities or when he/she has reasonable cause to believe that such establishment is involved in the said activities;
- d. Any person who organizes or arranges travel tours and tourism-related activities that involve the sexual exploitation of any person as defined in Section 1(b) above, or the escort services of any person who is expected to perform the sexual acts as defined in this Ordinance;
- e. Any person who advertises, organizes, arranges, manages, promotes or facilitates in any manner or under any pretext, the commission of any of the acts prohibited under this Section;
- f. Any person who uses information technology such as cyberspace, satellites, television, film, radio, prints or any form of media to promote any of the prohibited acts defined in this Section;

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- g. Any person who derives profit or advantage from any of the prohibited acts defined in this Section as owner, operator, manager, head, director, officer or agent of the establishment where any prostitution activity defined in this Section takes place or of the establishment serving as a cover or venue for such prostitution activity or aiding another establishment or person involved in any prostitution activity;
- h. Any person who lease, subleases or in any manner allows the use of any dwelling, house, structure, building, land or any other property knowing that the lessee/sublessee intends to use or uses it for prostitution activities as defined in this Section. For the purpose of this paragraph, the owner of the dwelling, house structure, building, land or any other property used for prostitution and his/her agent shall be presumed to have knowledge that the place is being used or intended to be used for prostitution unless he/she disapproves it;
- i. Any member of the military or police establishment, or any government official or employee, or any person in authority who commits, cause or promotes, facilitates, allows or tolerates the commission of any of the act defined in this Section, or who, in any manner, provides protection to the perpetrators of the said acts;

For purpose of this Section, it is understood that the prohibited acts of prostitution may be committed in any establishment as defined in Section 1(f) above or in any other place not otherwise mentioned in Section 1(f).

SECTION 3. Persons Liable. - The acts defined in Section 2 of this Ordinance maybe committed by any natural or juridical person, establishment association, club, movement, cult, religious group or organization. For the purpose of Section 2, the term "person" when used to refer to the offender, shall be interpreted to include the aforesaid persons or entities whenever applicable.

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SECTION 4. Penalties and Sanctions. -

a. Any person found guilty of the acts defined in Section 2(a) and (b) shall be penalized as follows:

First Offense - Six (6) months of mandatory human rights education on the plight of the victims of prostitution and a fine of Four Thousand Pesos (P4,000.00);

Second and Subsequent Offenses - imprisonment of six (6) months and a fine of Four Thousand Pesos (P4,000.00);

However, when the person exploited in prostitution referred to in Section 2 (a) and (b) is a child, the penalty shall be as follows:

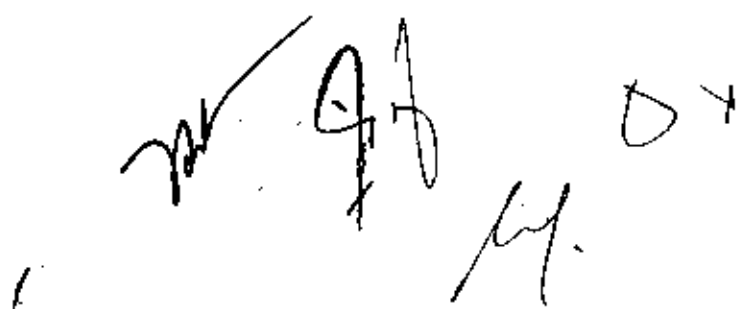
First Offense - imprisonment of one (1) year and a fine of Four Thousand Pesos (P4,000.00);

Second and Subsequent Offenses - imprisonment of one (1) year and a fine of Five Thousand Pesos (P5,000.00);

b. Any person found guilty of the acts defined in Section (c) and (d) shall suffer the penalty of imprisonment of six (6) months and a fine of Four Thousand Pesos (P4,000.00); Provided, however, that when the person exploited in prostitution under Section 2 (c) and (d) is a child, the penalty shall be one (1) year imprisonment and a fine of Five Thousand Pesos (P5,000.00);

c. Any person found guilty of the acts defined in Section 2 (e), (f), (g), and (h) shall suffer penalty of imprisonment of one (1) year and a fine of Five Thousand Pesos (P5,000.00);

d. Any person found guilty of the acts defined in Section 2 (i) shall suffer the penalty of one (1) year imprisonment and a fine of Five Thousand Pesos (P5,000.00);

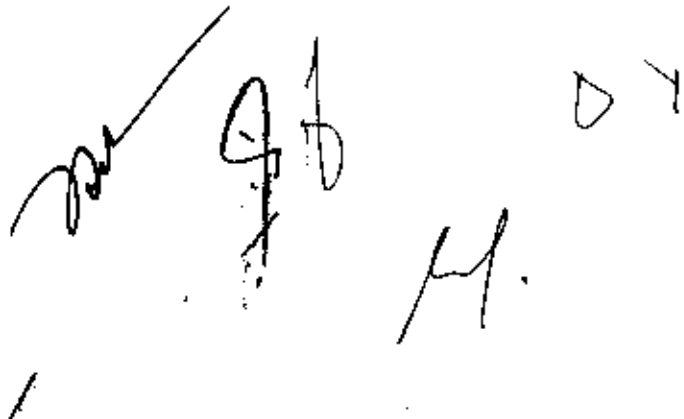
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- e. When the offender is a legal or common-law spouse, ascendant, parent, guardian, steppant, collateral relative within the fourth degree of consanguinity or affinity or one who exercises parental authority or moral ascendancy over the person exploited in prostitution, he/she shall suffer the penalty of one (1) year imprisonment and a fine of Five Thousand Pesos (P5,000.00). This penalty shall also apply to any offender who is a legal spouse or common-law spouse of any of the persons aforementioned;
- f. When the offender is any establishment as defined in this Ordinance, the penalty shall be impose upon the owner and operator or manager, or the directors and officers, or the responsible officers or agents of the establishment, corporation, partnership or association found to be engaged in any of the acts defined in Section 2 of this Ordinance.

In addition, the establishment, corporation, partnership or association shall be immediately closed and its registration and/or license to operate shall be revoked. A sign with the words "off limits" shall be conspicuously displayed outside the establishment by the City government for such period as it may determine, which shall not be less than one (1) year. The unauthorized removal of such sign shall be punishable by imprisonment of six (6) months.

- g. When the offender is a person who is also exploited in prostitution or had seen exploited in prostitution, he/she shall be penalized as follows:

First Offense - the offender shall undergo three (3) months of mandatory counseling and rehabilitation program with the Department of Social Welfare Development;

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Second Offense - imprisonment of one (1) month and mandatory counseling and rehabilitation program with the DSWD for six (6) months;

Third Offense - imprisonment of six (6) months and mandatory counseling and rehabilitation program with the DSWD for six (6) months;

Fourth and Subsequent Offenses - imprisonment of one (1) year and mandatory counseling and rehabilitation program with the DSWD from six (6) months to one year;

Notwithstanding the criminal liability imposed upon the offender under this provision, such liability shall not operate to divest him/her of the rights, benefits and protection accorded to persons exploited in prostitution under this Act.

- h. When the offender is a foreigner, he/she shall be deported immediately after service of sentence and permanently barred from entry into the country;
- i. Any person found guilty of an attempt to commit child prostitution shall suffer the penalty of imprisonment of one (1) year and a fine of Five Thousand Pesos (P5,000.00), without prejudice to the filing of other criminal charges under other applicable laws;

Except to the extent referred to in Section 4 (g) above, any person found guilty of any prohibited act under Section 2 shall, in addition to the penalty of imprisonment and fine, undergo a rehabilitation program with the DSWD for a period of not less than three (3) months but not longer than one (1) year; provided, that only first-time offenders shall undergo such rehabilitation program. The DSWD shall submit to the court a report on the rehabilitation of the offender.

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SECTION 5. Responsibilities of the City Government in Anti-Prostitution Efforts. The City government shall exercise its power to curb prostitution within its respective jurisdiction. It shall be unlawful for any city government agency or office to issue licenses or permits for the operation of any establishment that is used or intended to be used for any prostitution activity. Any such license or permit already issued prior to the effectivity of this Ordinance shall be deemed automatically revoked or cancelled and shall not be renewed.

It is also the responsibility of the City government to conduct public information campaign against prostitution, carrying out rescue operations and ensuring the safety or security of victims of prostitution.

SECTION 6. Social Services and Programs. - There shall be a Local Anti-Prostitution Task Force composed of the following:

- a. Social Services and Development Department as lead agency
- b. City Health Department
- c. Philippine National Police (PNP)
- d. Three (3) non-government organizations to be selected by NGOs providing support services to victims of prostitutions
- e. Three (3) representatives of persons exploited in prostitution

The Local Anti-Prostitution Task Force shall perform the following functions:

- i.) Develop a program in addressing prostitution and the needs of persons exploited in prostitution and those vulnerable to be exploited in prostitution. The program shall include public information and education campaign against prostitution, crisis intervention service, education assistance, socio-economic assistance such as sustainable livelihood skills training and financial support for scale businesses, and integration and complete after-care programs for persons exploited in prostitution , among others;

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- ii.) Identify and, if necessary, create centers in strategic places all over the city that will provide health services, including counseling and therapy temporary shelter and other crisis intervention services to persons exploited in prostitution. The rape crisis centers established under Republic Act No. 8505 and the hospital-based protection units for women and children may also serve as centers servicing persons exploited in prostitution. Each center shall establish a network of health care and other service providers to address the needs of persons exploited in prostitution;
- iii.) Ensure that units are created or identified within relevant government agencies, particularly those composing the Task Force that shall focus on addressing prostitution and the needs of persons exploited in prostitution. This shall include units within the National Prosecution Service Offices in local government units that shall specifically focus on the prosecution of offenders of this Ordinance.
- iv.) Ensure that relevant government agencies work in close coordination with each other in addressing prostitution and the needs of persons exploited in prostitution;
- v.) Develop and implement training program for law enforcers, public prosecutors, judges, government lawyers, government health care providers, social worker and barangay officials that aims to increase their understanding in prostitution as a system, and equip them with the perspective and skills approximately address the needs of persons exploited in prostitution, respect, protect and promote their human rights, and pursue the prosecution of offenders;
- vi.) Ensure that counterparts of the City Task Force are created in barangays where prostitution is reported to be rampant;

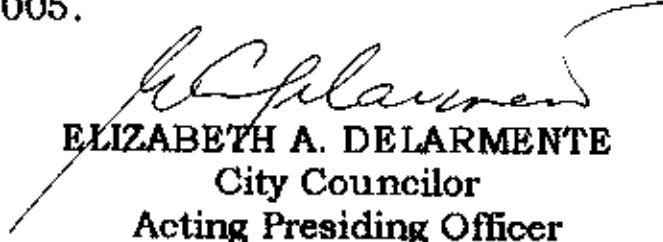
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- vii.) Undertake and lead the prosecution of any violation of this Ordinance; and
- viii.) Promulgate, when necessary, rules and regulations for the effective implementation and enforcement of this Ordinance.


SECTION 7. Separability Clause - If any provision of this Ordinance is declared invalid or unconstitutional the remaining provisions not affected thereby shall continue in full force and effect.

SECTION 8. Effectivity Clause - This Ordinance shall take effect upon its approval.


ENACTED: March 15, 2005.


ELIZABETH A. DELARMENTE
City Councilor
Acting Presiding Officer

ATTESTED:



EUGENIO V. JURILLA
City Council Secretary

APPROVED: MAY 03 2005


FELICIANO R. BELMONTE, JR.
City Mayor

CERTIFICATION

This is to certify that this Ordinance which was APPROVED on Second Reading on March 15, 2005, was finally PASSED on Third/Final Reading under Suspended Rules by the City Council on the same date.


EUGENIO V. JURILLA
City Council Secretary

