



Right to Identity of Foundlings: Challenges and Solutions



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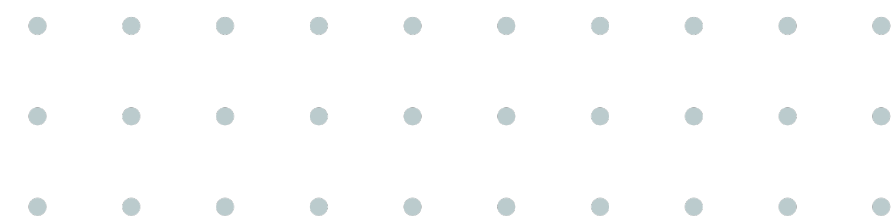


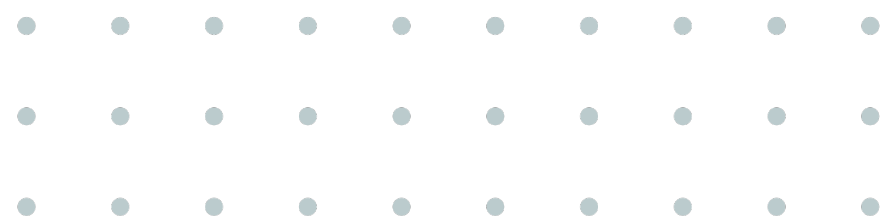
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UN CONVENTION ON THE RIGHTS OF THE CHILD

ARTICLE 7 .The **child shall be registered immediately after birth** and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

ARTICLE 8.1.States Parties undertake to respect the right of the **child to preserve his or her identity**, including **nationality, name and family relations**.

2. States Parties shall provide appropriate assistance and protection, with a view to **re-establishing speedily his or her identity**.



POE-LLAMANZARES V. COMELEC (2016)

- Grace Poe was found as an abandoned newborn in a church.
- In 1974, she was legally adopted by a popular Filipino Showbiz couple.
- She declared herself a natural-born citizen when she filed for candidacy for the 2012 Senate Elections and 2016 Presidential Elections
- Respondents filed for the annulment of her candidacy for material misrepresentation of her citizenship and residency arguing that determination of citizenship follows the jus sanguinis principle.





WIN THE STATUS OF FOUNDLINGS THAT OF A NATURAL-BORN FILIPINO

To deny full Filipino citizenship to all foundlings and render them stateless just because there may be a theoretical chance that one among the thousands of these foundlings might be the child of not just one, but two, foreigners is **downright discriminatory, irrational, and unjust.**

Given the **statistical certainty** 99.9% - that any child born in the Philippines would be a natural born citizen, **a decision denying foundlings such status is effectively a denial of their birthright.**

There is no reason why this Honorable Court should use an improbable hypothetical to **sacrifice the fundamental political rights of an entire class of human beings.** Constitutional interpretation and the use of common sense are not separate disciplines.



POE- LLAMANZARES

V. COMELEC

(2016)

- Domestic laws on adoption support the principle that foundlings are **Filipinos**. In particular, R.A. No. 8552, R.A. No. 8042 and this Court's Rules on Adoption, expressly refer to "Filipino children." In all of them, foundlings are among the Filipino children who could be adopted.
- These laws **do not provide** that adoption confers citizenship upon the adoptee. Rather, the **adoptee must be a Filipino in the first place to be adopted.**
- Adoption deals with status, and a Philippine adoption court will have jurisdiction only if the adoptee is a Filipino.

2016(

DAVID V. SENATE ELECTORAL TRIBUNAL AND POE-LLAMANZARES (2016)

After the 2013 Senatorial elections, a petition was filed to unseat Poe-Llamanzares as Senator for not being a natural-born citizen of the Philippines.

This case followed *Poe-Llamanzares v. COMELEC* and was published in the same year.



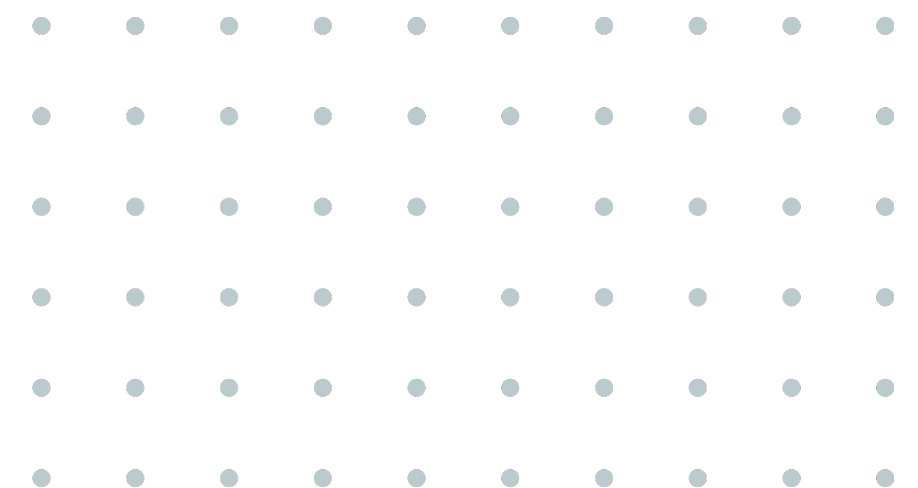


FOUNDLINGS ARE NATURAL-BORN FILIPINO CITIZENS

Foundlings' misfortune in failing to identify the parents who abandoned them **cannot be the foundation of a rule that reduces them to statelessness.**

The Court mentioned the ratification of the UNCRC, highlighting children's rights:

- to immediate registration and nationality after birth;
- **against statelessness**; and
- against discrimination on account of their birth status.



“To hold, as petitioner suggests, that private respondent is stateless is not only to set a dangerous and callous precedent. It is to make this Court an accomplice to injustice.”

Foundlings are **vested with the rights to be registered and granted nationality upon birth**. To deny them these rights, deprive them of citizenship, and render them stateless is to undermine their development.



DAVID V. SET

Our statutes on adoption allow for the recognition of foundlings' Filipino citizenship on account of their birth.

They benefit from this without having to do any act to perfect their citizenship or without having to complete the naturalization process. Thus, by definition, they are natural-born citizens.

Repatriation results in the recovery of the original nationality. This means that xxx **if he was originally a natural-born citizen before he lost his Philippine citizenship, he will be restored to his former status as a natural-born Filipino.**

Mary Grace Poe-Llamanzares is a natural-born Filipino citizen qualified to hold office as Senator of the Republic.



SUBSEQUENT LEGISLATION AND PROGRAMS

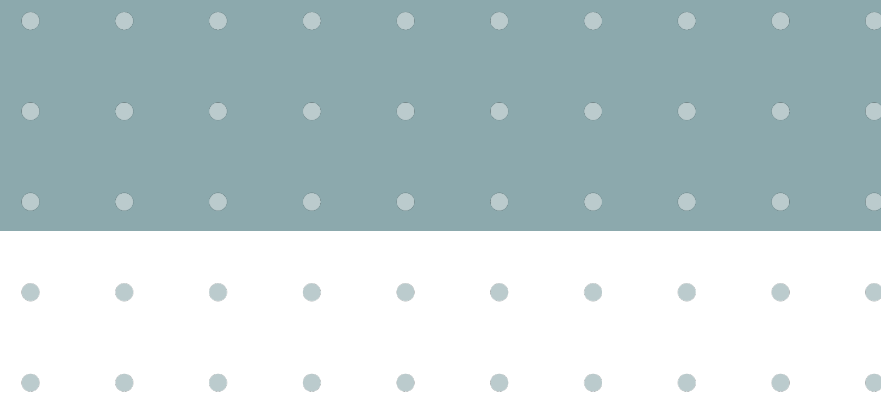
Since the 2016 Decisions, certain statutes and programs have been established for the benefit of foundlings.



CONCURRENCE WITH THE 1961 CONVENTION ON THE REDUCTION OF STATELESSNESS

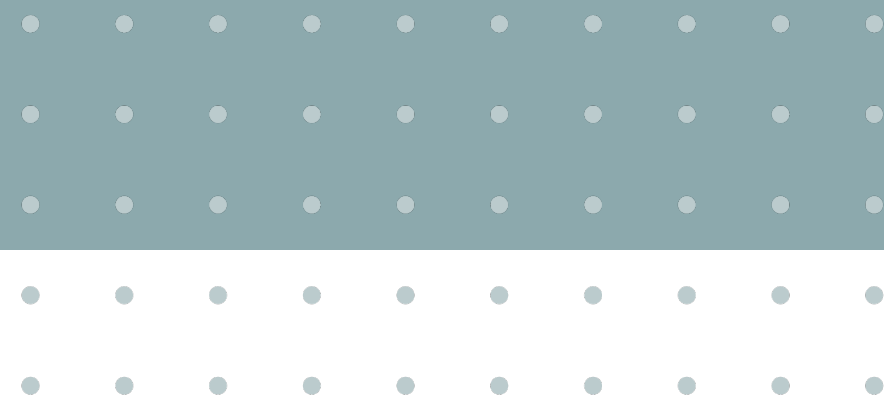
*“The Republic of the Philippines declares that a foundling found in the Philippines, in the absence of evidence to the contrary, is presumed born to a Filipino parent, and therefore, a **Filipino citizens.**”*

Senate Resolution No. 134, January 25, 2022



FOUNDLING RECOGNITION AND PROTECTION ACT AND IMPLEMENTING RULES AND REGULATIONS

RA 11767, May 6, 2022
IRR, September 9, 2022





RA 11767 SEC. 3

A foundling shall be a deserted or abandoned child or infant with unknown facts of birth and parentage. This shall also include those who have been duly registered as a foundling during her or his infant childhood, but have reached the age of majority without benefitting from adoption procedures upon the passage of this law.



STATUTORY DEFINITION






WHAT IS THE STATUS OF A FOUNDLING?

A foundling found in the Philippines and/or in Philippine embassies, consulates and territories abroad is **presumed a natural-born Filipino citizen.**

A foundling is accorded with rights and protections at the moment of birth equivalent to those belonging to such class of citizens whose **citizenship does not need perfection or any further act. --RA 11767**



SAFE HAVENS

Safe Haven refers to a person, non-government or government facility that will act as a **temporary custodian** of the infant or child.

Among them:

- Licensed child-caring agency
- Licensed child-placing agency
- Church
- Department of Health (DOH)-accredited health facilities, including hospitals;



DUTIES OF FINDER



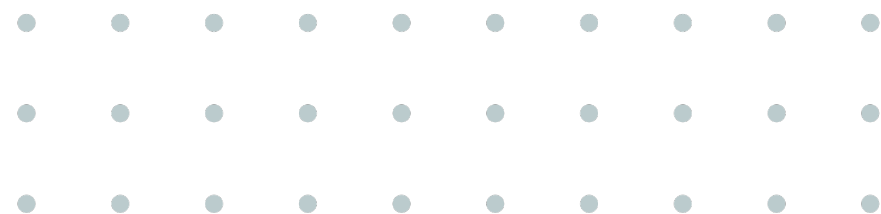
Section 9 imposes the duty to:

- **Immediately report** within forty-eight (48) hours, the **discovery of the foundling** to either the LSWDO, or Punong Barangay or police station or any safe haven provider where the foundling was discovered.
- Cooperate in any way possible with the proper authorities in the conduct of a **proactive and diligent search and inquiry to establish the identity of a foundling.**

DUTIES OF PHILIPPINE EMBASSIES AND CONSULATES

Section 11 imposes the duty on Embassies and Consulates to:

- Conduct **investigation**
- Prepare a comprehensive and exhaustive **report** on the foundling
- Facilitate the **registration and issuance of the COLB** of the foundling
- Coordinate with the DFA and NACC for the referral of the foundling to a **licensed and accredited child caring agency** or a residential care facility.



REGISTRATION OF THE FOUNDLING

All platforms (television, radio, print, or tri-media, and other social media platforms) shall be used to locate the whereabouts of the parents.

If unknown, a **Certificate of Live Birth** shall be issued.

If found, the parents and/or legal guardian may petition the NACC to **recover legal custody.**



DOMESTIC ADMINISTRATIVE ADOPTION AND ALTERNATIVE CHILD CARE ACT

RA 11642, January 6, 2022



SECTION 4, RA11642

Foundling refers to a deserted or abandoned child of unknown parentage and whose date or circumstances of birth on Philippine territory are unknown and undocumented. This shall also include those with the above circumstance of birth during their infancy and/or childhood, and have reached the age of majority without benefiting from adoption procedures;

CAN FOUNDLINGS BE ADOPTED?

Yes. Any child issued a Certificate Declaring a Child Legally Available for Adoption (CDCLAA) can be adopted. The CDCLAA is issued to a foundling after the issuance of a foundling or birth certificate.





MINOR FOUNDLINGS MAY APPLY FOR A PHILIPPINE PASSPORT

Being a Filipino citizen, foundlings may apply for a Philippine passport.

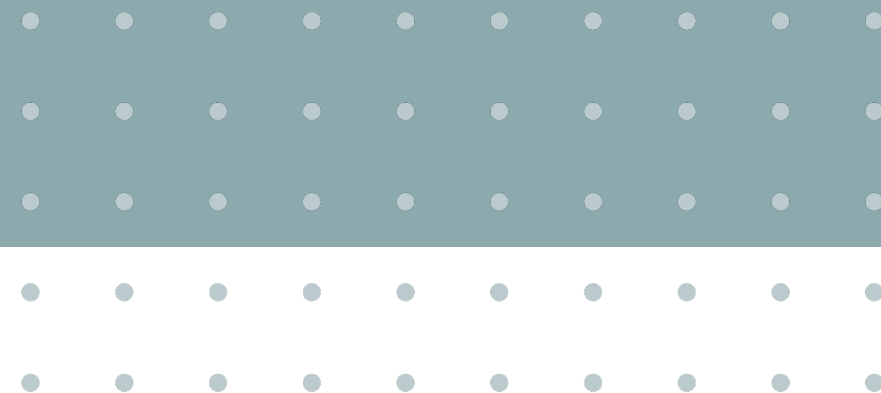
For minor applicants who are foundlings, an adult guardian, through the presentation of a letter of guardianship issued by a Family Court and a Department of Social Welfare and Development clearance, may file for the minor's passport application.

NEW PHILIPPINE PASSPORT ACT, *RA 11983, 2024*



NATIONAL AUTHORITY FOR CHILD CARE

*The agency in charge of State services relating to
the protection and welfare of children*

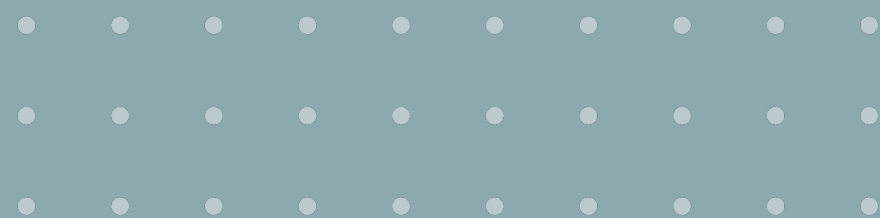


REUNITING ABANDONED CHILDREN WITH THEIR BIOLOGICAL PARENTS

Two children up for adoption were reunited with their maternal grandmother on January 9, 2024.

The Certificate Declaring a Child Legally Available for Adoption (CDCLAA) was cancelled on December 23, 2023.





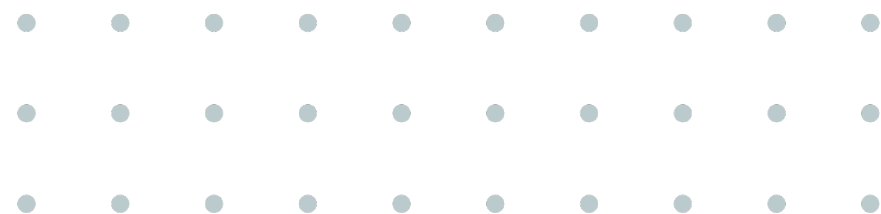
CHALLENGES TO THE CHILD'S ACCESS TO JUSTICE



IMPLEMENTATION OF SAFE HAVENS

Since the enactment of RA 11767, newborn babies were found abandoned or dead in “safe havens.”

In 2024, a House Resolution was filed to review the effectiveness of the safe haven provisions in protecting newborns.

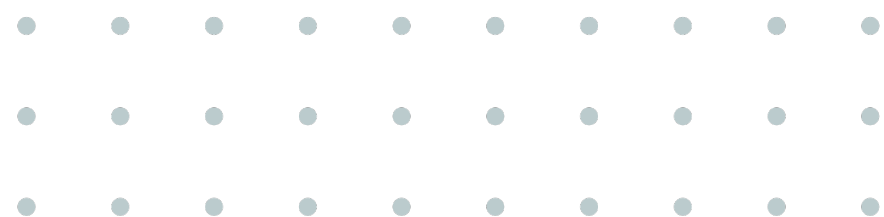


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LENGTHY ADOPTION PROCESS

Social workers take three years at most to ascertain that a child has no family through a “diligent search.”

Despite improvements through the enactment of a new adoption law that made adoption an administrative instead of a judicial procedure, the processing of documents remains lengthy and tedious.



THANK YOU!

