


THIRTEENTH CONGRESS)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)

5 DEC -5 P2011

SENATE
Senate Bill No. 2172

RECEIVED BY: 

Introduced by Senator M. A. Madrigal

EXPLANATORY NOTE

The Philippines is a source, transit, and destination country for men, women, and children trafficked for the purposes of sexual exploitation and forced labor. Filipino men and women are often attracted to opportunities abroad with false promises of legitimate employment and are trafficked for commercial sexual exploitation to destinations throughout Asia, the Middle East, Africa, Europe, and North America.

In 2004, an enormous number of 71,084 Philippine women who entered Japan as overseas performing artists are believed to have been women trafficked into the sex trade. Further, Philippine men and women who go overseas to work in domestic service and the construction and garment industries often face exploitative conditions that meet the definition of involuntary servitude. Unfortunately, even within the Philippines, there is internal trafficking from rural to urban metropolitan areas and sexual exploitation of children.

In 2003, the United States Department of State – Office to Monitor and Combat Trafficking in Persons released its Trafficking in Persons Annual Report on Trafficking in Persons. The said annual report assesses the measures adopted by countries in addressing trafficking in persons through a three-tiered monitoring system. In its 2003 Annual Report, the Philippines was classified under Tier 2. Countries under this classification have made significant efforts in combating trafficking in persons, but do not have laws to criminalize trafficking in persons. As a response, Republic Act No. 9208 otherwise known as the "Anti-Trafficking in Persons Act of 2003" was enacted in the said year.

The anti-trafficking law is a milestone in the promotion of human dignity and protection of persons specially women and children against any threat of violence and exploitation. It seeks to eliminate trafficking and the establishment of necessary institutional mechanisms for the protection and support of trafficked persons; and provide penalties for violations of the law.

However, despite this significant development, the number of trafficking incidences incessantly increases. The reasons for such predicament were the government's failure to fully comply with the minimum standards for the elimination of trafficking; failure to provide evidence of increasing efforts to combat severe forms of trafficking, particularly its weak implementation of the anti-trafficking law and a lack of progress in law enforcement; the paltry number of prosecutions and zero convictions; and incomplete available data.

The State Department's 2005 Trafficking in Persons (TIP) report, released on 5 June 2005 by the US Embassy, said the Philippines' continuing inclusion in the watch list resulted from the government's "failure to show evidence of increasing efforts to convict traffickers."

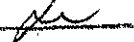
Hence, there is a pressing need to reassess and amend some provisions of the "Anti-Trafficking in Persons Act of 2003" so as to respond to ambiguities of the law. Thus, passage of this bill is earnestly requested.


M.A. MADRIGAL

THIRTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)

5 DEC -5 P3:51

SENATE

RECEIVED BY: 

S.B. No. 2172

Introduced by Senator M.A. Madrigal

AN ACT
AMENDING CERTAIN PROVISIONS OF REPUBLIC ACT NO. 9208,
OTHERWISE KNOWN AS THE "ANTI-TRAFFICKING IN PERSONS ACT
OF 2003," AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

Section 1. Section 2, paragraph 2, of Republic Act No. 9208 is hereby amended to read as follows:

"Section 2. Declaration of Policy. x x x

x x x

It shall be the State policy to recognize the equal rights and inherent human dignity of women and men as enshrined in the United Nations Universal Declaration on Human Rights, United Nations Convention on the Rights of the Child **AND ITS SECOND (2ND) OPTIONAL PROTOCOL ON THE SEXUAL EXPLOITATION OF CHILDREN, CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN AND ITS GENERAL RECOMMENDATION NO. 19 ON VIOLENCE AGAINST WOMEN**, United Nations Convention on the Protection of Migrant Workers and their Families, United Nations Convention Against Transnational Organized Crime Including its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and all other relevant and universally accepted human rights instruments and other international conventions to which the Philippines is a signatory."

Section 2. (a) Section 3, paragraphs (a), (c), (h), of Republic Act No. 9208 are hereby amended to read as follows:

"(a) Trafficking in Persons - refers to 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 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 THEREBY RESULTS IN SEXUAL EXPLOITATION, AND** 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.

The recruitment, transportation, transfer, harboring or receipt of a child, [for the purpose of] **WHICH ACT THEREBY RESULTS IN SEXUAL** exploitation, shall [also] be considered as "trafficking in persons" even if it does not involve any of the means set forth in the preceding paragraph.

THE RECRUITMENT, HARBORING, FACILITATION, EMPLOYMENT OR MANAGEMENT OF ANY PERSON IN ANY INTERNET OR ELECTRONIC FACILITY, WITH OR WITHOUT THE VICTIM'S CONSENT, WHICH THEREBY RESULTS IN, OR IS FOR THE PURPOSE OF DEALING IN PORNOGRAPHY OR FOR ANY FORM OF SEXUAL PURPOSE, SHALL ALSO BE CONSIDERED AS "TRAFFICKING IN PERSONS".

x x x

(c) Prostitution - refers to any act, transaction, scheme or design involving the use of a person by another, for sexual intercourse or lascivious conduct, **OR WITH LEWD DESIGNS**, in exchange for money, profit or any other consideration.

x x x

(h) Pornography - refers to any representation, through publication, exhibition, cinematography, indecent shows, information technology, **INTERNET, CELLULAR PHONE OR OTHER ELECTRONIC MEDIUM**, or by whatever means, of a person engaged in real or simulated explicit sexual activities or any representation of the sexual parts **OR OTHER PRIVATE PARTS** of a person **DESIGNED TO APPEAL TO PRURIENT DESIRES OR** for primarily sexual purposes."

(b) Section 3 of Republic Act No. 9208 is further amended to include the following provision:

“(J) CYBERSEX – REFERS TO A VIRTUAL SEX ENCOUNTER IN WHICH TWO OR MORE PERSONS CONNECTED REMOTELY VIA A COMPUTER NETWORK SEND ONE ANOTHER SEXUALLY EXPLICIT MESSAGES OR IMAGES DESCRIBING A SEXUAL EXPERIENCE.”

Section 3. (a) Section 4, paragraphs (a) to (h), of Republic Act No. 9208 are hereby amended to read as follows:

“(a) To recruit, transport, transfer, harbor, provide, or receive a person by any means, including those done under the pretext of domestic or overseas employment or training or apprenticeship, [for the purpose of] **WHICH ACT THEREBY RESULTS IN** prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

(b) To introduce or match for money, profit, or material, economic or other consideration, any person or, as provided for under Republic Act No. 69585, any Filipino woman to a foreign national, for marriage, [for the purpose of] **WHICH ACT THEREBY RESULTS IN** acquiring, buying, offering, selling or trading him/her to engage in prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

(c) To offer or contract marriage, real or simulated, [for the purpose of] **WHICH ACT THEREBY RESULTS IN** acquiring, buying, offering, selling, or trading them to engage in prostitution, pornography, sexual exploitation, forced labor or slavery, involuntary servitude or debt bondage.

(d) To undertake or organize tours and travel plans consisting of tourism packages or activities, [for the purpose of] **WHICH ACT THEREBY RESULTS IN** utilizing and offering persons for prostitution, pornography or sexual exploitation;

(e) To maintain or hire a person to engage in, **OR WHICH ACT THEREBY RESULTS IN**, prostitution or pornography;

(f) To adopt or facilitate the adoption of persons, [for the purpose of] **WHICH ACT THEREBY RESULTS IN** prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

(g) To recruit, hire, adopt, transport or abduct a person, by means of threat or use of force, fraud, deceit, violence, coercion, or

intimidation, [for the purpose of] **WHICH ACT THEREBY RESULTS IN** the removal or sale of organs of said person;

(h) To recruit, transport or adopt a child to engage in, **OR WHICH ACT THEREBY RESULTS IN THE CHILD'S INVOLVEMENT IN**, armed activities in the Philippines or abroad."

(b) Section 4 of Republic Act No. 9208 is further amended to include the following provision:

"(I) TO MAINTAIN, HIRE, MANAGE, FACILITATE OR ASSIST A PERSON TO ENGAGE IN CYBERSEX OR INTERNET PORNOGRAPHY."

Section 4. (a) Section 5, paragraphs (a), (b), (d) and (e), of Republic Act No. 9208 are hereby amended to read as follows:

"(a) To knowingly lease or sublease, use or allow to be used any house, building or establishment, [for the purpose of] **WHICH ACT THEREBY RESULTS IN** promoting trafficking in persons;

(b) To produce, print and issue or distribute unissued, tampered or fake counseling certificates, registration stickers and certificates of any government agency which issues these certificates and stickers as proof of compliance with government regulatory and pre-departure requirement, [for the purpose of] **WHICH ACT THEREBY RESULTS IN** promoting trafficking in persons;

(d) To assist in the conduct of misrepresentation or fraud for purposes of facilitating the acquisition of clearances and necessary exit documents from government agencies that are mandated to provide pre-departure registration and services for departing persons, [for the purpose of] **WHICH ACT THEREBY RESULTS IN** promoting trafficking in persons;

(e) To facilitate, assist or help in the exit and entry of persons from/to the country at international and local airports, territorial boundaries and seaports who are in possession of unissued, tampered or fraudulent travel documents, [for the purpose of] **WHICH ACT THEREBY RESULTS IN** trafficking in persons;"

(b) Section 5 of Republic Act No. 9208 is further amended to include the following provision:

(H) TO ACT OR OTHERWISE FUNCTION AS AN INTERNET SERVICE PROVIDER WHICH OFFERS, OR MAKES AVAILABLE, ACCESS TO INTERNET PORNOGRAPHIC SITES.

Section 5. Section 6, paragraph (b), of Republic Act No. 9208 is hereby amended to read as follows:

“(b) When the adoption is effected through Republic Act No. 8043, otherwise known as the “Inter-Country Adoption Act of 1995” and said adoption [is for the purpose of] **THEREBY RESULTS IN** prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;”.

Section 6. (a) Section 10, paragraph (g), of Republic Act No. 9208 is herebyt amended to read as follows:

“(g) If the offender is a foreigner, he shall be immediately deported after serving his sentence [and], **HIS VISA TO THE PHILIPPINES SHALL BE CANCELLED AND SHALL** be barred permanently from entering the country;

(b) Section 10 of Republic Act No. 9208 is further amended to include the following provisions:

“(J) IF AN ACCUSED IS CHARGED WITH QUALIFIED TRAFFICKING AND THE TRAFFICKING IS ALLEGEDLY COMMITTED BY A SYNDICATE, ALL BANK ACCOUNTS BELONGING TO THE SYNDICATE SHALL BE HELD IN ESCROW AND ALL PROPERTIES THAT ARE FOUND TO BE FRUITS OF THE CRIME SHALL BE PLACED UNDER THE CUSTODY OF THE COURT.”

Section 7. Separability Clause. – If any provision of this Act is declared invalid, the remainder or any provisions hereof not affected thereby shall remain in full force and effect.

Section 8. Repealing Clause. – The provisions of any law, executive orders, presidential decrees or other issuances inconsistent with this Act are hereby repealed or modified accordingly.

Section 9. Effectivity. – This Act shall take effect fifteen (15) days after its complete publication in at least two (2) national newspapers of general circulation.

Approved.