

Republic of the Philippines
Congress of the Philippines
Metro Manila
Fifteenth Congress
Third Regular Session

Begun and held in Metro Manila, on Monday, the twenty-third day of July, two thousand twelve.

[REPUBLIC ACT NO. **10364**]

AN ACT EXPANDING REPUBLIC ACT NO. 9208, ENTITLED "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 AND FOR OTHER PURPOSES"

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

SECTION 1. *Short Title.* -- This Act shall be known as the "Expanded Anti-Trafficking in Persons Act of 2012".

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

"SEC. 2. *Declaration of Policy.* -- It is hereby declared that the State values the dignity of every human person and guarantees the respect of individual rights. In pursuit of this policy, the State

shall give highest priority to the enactment of measures and development of programs that will promote human dignity, protect the people from any threat of violence and exploitation, eliminate trafficking in persons, and mitigate pressures for involuntary migration and servitude of persons, not only to support trafficked persons but more importantly, to ensure their recovery, rehabilitation and reintegration into the mainstream of society.

"It shall be a 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 Elimination of All Forms of Discrimination Against Women, United Nations Convention on the Rights of the Child, 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."

SEC. 3. Section 3 of Republic Act No. 9208 is hereby amended to read as follows:

"SEC. 3. *Definition of Terms.* - As used in this Act:

"(a) *Trafficking in Persons* - refers to the recruitment, obtaining, hiring, providing, offering, transportation, transfer, maintaining, 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 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, adoption or receipt of a child for the purpose of exploitation or when the adoption is induced by any form of consideration for exploitative purposes shall also be considered as 'trafficking in persons' even if it does not involve any of the means set forth in the preceding paragraph.

"(b) *Child* – refers to a 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.

"(c) *Prostitution* – refers to 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.

"(d) *Forced Labor* – refers to the extraction of work or services from any person by means of enticement, violence, intimidation or threat, use of force or coercion, including deprivation of freedom, abuse of authority or moral ascendancy, debt-bondage or deception including any work or service extracted from any person under the menace of penalty.

"(e) *Slavery* – refers to the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.

— "(f) *Involuntary Servitude* – refers to a condition of enforced and compulsory service induced by means of any scheme, plan or pattern, intended to cause a person to believe that if he or she did not enter into or continue in such condition, he or she or another person would suffer serious harm or other forms of abuse or physical restraint, or threat of abuse

or harm, or coercion including depriving access to travel documents and withholding salaries, or the abuse or threatened abuse of the legal process.

"(g) *Sex Tourism* – refers to a program organized by travel and tourism-related establishments and individuals which consists of tourism packages or activities, utilizing and offering escort and sexual services as enticement for tourists. This includes sexual services and practices offered during rest and recreation periods for members of the military.

"(h) *Sexual Exploitation* – refers to participation by a person in prostitution, pornography or the production of pornography, in exchange for money, profit or any other consideration or where the participation is caused or facilitated by any means of intimidation or threat, use of force, or other forms of coercion, abduction, fraud, deception, debt bondage, abuse of power or of position or of legal process, taking advantage of the vulnerability of the person, or giving or receiving of payments or benefits to achieve the consent of a person having control over another person; or in sexual intercourse or lascivious conduct caused or facilitated by any means as provided in this Act.

"(i) *Debt Bondage* – refers to the pledging by the debtor of his/her personal services or labor or those of a person under his/her control as security or payment for a debt, when the length and nature of services is not clearly defined or when the value of the services as reasonably assessed is not applied toward the liquidation of the debt.

"(j) *Pornography* – refers to any representation, through publication, exhibition, cinematography, indecent shows, information technology, or by whatever means, of a person engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a person for primarily sexual purposes.

"(k) *Council* – shall mean the Inter-Agency Council Against Trafficking created under Section 20 of this Act."

SEC. 4. Section 4 of Republic Act No. 9208 is hereby amended to read as follows:

"SEC. 4. *Acts of Trafficking in Persons.* – It shall be unlawful for any person, natural or juridical, to commit any of the following acts:

"(a) To recruit, obtain, hire, provide, offer, transport, transfer, maintain, harbor, 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 prostitution, pornography, or sexual exploitation;

"(b) To introduce or match for money, profit, or material, economic or other consideration, any person or, as provided for under Republic Act No. 6955, any Filipino woman to a foreign national, for marriage for the purpose of 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 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 utilizing and offering persons for prostitution, pornography or sexual exploitation;

"(e) To maintain or hire a person to engage in prostitution or pornography;

"(f) To adopt persons by any form of consideration for exploitative purposes or to facilitate the same for purposes of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

"(g) To adopt or facilitate the adoption of persons for the purpose of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

"(h) To recruit, hire, adopt, transport, transfer, obtain, harbor, maintain, provide, offer, receive or abduct a person, by means of threat or use of force, fraud, deceit, violence, coercion, or intimidation for the purpose of removal or sale of organs of said person;

"(i) To recruit, transport, obtain, transfer, harbor, maintain, offer, hire, provide, receive or adopt a child to engage in armed activities in the Philippines or abroad;

"(j) To recruit, transport, transfer, harbor, obtain, maintain, offer, hire, provide or receive a person by means defined in Section 3 of this Act for purposes of forced labor, slavery, debt bondage and involuntary servitude, including a scheme, plan, or pattern intended to cause the person either:

"(1) To believe that if the person did not perform such labor or services, he or she or another person would suffer serious harm or physical restraint; or

"(2) To abuse or threaten the use of law or the legal processes; and

"(k) To recruit, transport, harbor, obtain, transfer, maintain, hire, offer, provide, adopt or receive a child for purposes of exploitation or trading them, including but not limited to, the act of buying and/or selling a child for any consideration or for barter for purposes of exploitation. Trafficking for purposes of exploitation of children shall include:

"(1) All forms of slavery or practices similar to slavery, involuntary servitude, debt bondage and forced labor, including recruitment of children for use in armed conflict;

"(2) The use, procuring or offering of a child for prostitution, for the production of pornography, or for pornographic performances;

"(3) The use, procuring or offering of a child for the production and trafficking of drugs; and

"(4) The use, procuring or offering of a child for illegal activities or work which, by its nature or the circumstances in which it is carried out, is likely to harm their health, safety or morals; and

"(l) To organize or direct other persons to commit the offenses defined as acts of trafficking under this Act."

SEC. 5. A new Section 4-A is hereby inserted in Republic Act No. 9208, to read as follows:

"SEC. 4-A. *Attempted Trafficking in Persons.*

– Where there are acts to initiate the commission of a trafficking offense but the offender failed to or did not execute all the elements of the crime, by accident or by reason of some cause other than voluntary desistance, such overt acts shall be deemed as an attempt to commit an act of trafficking in persons. As such, an attempt to commit any of the offenses enumerated in Section 4 of this Act shall constitute attempted trafficking in persons.

"In cases where the victim is a child, any of the following acts shall also be deemed as attempted trafficking in persons:

"(a) Facilitating the travel of a child who travels alone to a foreign country or territory without valid reason therefor and without the required clearance or permit from the Department of Social Welfare and Development, or a written permit or justification from the child's parent or legal guardian;

"(b) Executing, for a consideration, an affidavit of consent or a written consent for adoption;

"(c) Recruiting a woman to bear a child for the purpose of selling the child;

"(d) Simulating a birth for the purpose of selling the child; and

"(e) Soliciting a child and acquiring the custody thereof through any means from among hospitals, clinics, nurseries, daycare centers, refugee or evacuation centers, and low-income families, for the purpose of selling the child."

SEC. 6. A new Section 4-B is hereby inserted in Republic Act No. 9208, to read as follows:

"SEC. 4-B. *Accomplice Liability.* – Whoever knowingly aids, abets, cooperates in the execution of the offense by previous or simultaneous acts defined in this Act shall be punished in accordance with the provisions of Section 10(c) of this Act."

SEC. 7. A new Section 4-C is hereby inserted in Republic Act No. 9208, to read as follows:

"SEC. 4-C. *Accessories.* – Whoever has the knowledge of the commission of the crime, and without having participated therein, either as principal or as accomplices, take part in its commission in any of the following manners:

"(a) By profiting themselves or assisting the offender to profit by the effects of the crime;

"(b) By concealing or destroying the body of the crime or effects or instruments thereof, in order to prevent its discovery;

"(c) By harboring, concealing or assisting in the escape of the principal of the crime, provided the accessory acts with abuse of his or her public functions or is known to be habitually guilty of some other crime.

"Acts defined in this provision shall be punished in accordance with the provision of Section 10(d) as stated thereto."

SEC. 8. Section 5 of Republic Act No. 9208 is hereby amended to read as follows:

"SEC. 5. *Acts that Promote Trafficking in Persons.* – The following acts which promote or facilitate trafficking in persons, shall be unlawful:

"(a) x x x

"(b) To produce, print and issue or distribute unissued, tampered or fake counseling certificates, registration stickers, overseas employment certificates or other certificates of any government agency which issues these certificates, decals and such other markers as proof of compliance with government regulatory and pre-departure requirements for the purpose of promoting trafficking in persons;

"(c) x x x

"(d) x x x

"(e) x x x

"(f) x x x

"(g) x x x

"(h) To tamper with, destroy, or cause the destruction of evidence, or to influence or attempt to influence witnesses, in an investigation or prosecution of a case under this Act;

"(i) To destroy, conceal, remove, confiscate or possess, or attempt to destroy, conceal, remove, confiscate or possess, any actual or purported passport or other travel, immigration or working permit or document, or any other actual or purported government identification, of any person in order to prevent or restrict, or attempt to prevent or restrict, without lawful authority, the person's liberty to move or travel in order to maintain the labor or services of that person; or

"(j) To utilize his or her office to impede the investigation, prosecution or execution of lawful orders in a case under this Act."

SEC. 9. Section 6 of Republic Act No. 9208 is hereby amended to read as follows:

"SEC. 6. *Qualified Trafficking in Persons.* – Violations of Section 4 of this Act shall be considered as qualified trafficking:

"x x x

"(d) When the offender is a spouse, an ascendant, parent, sibling, guardian or a person who exercises authority over the trafficked person or when the offense is committed by a public officer or employee;

"x x x

"(f) When the offender is a member of the military or law enforcement agencies;

"(g) When by reason or on occasion of the act of trafficking in persons, the offended party dies, becomes insane, suffers mutilation or is afflicted with Human Immunodeficiency Virus (HIV) or the Acquired Immune Deficiency Syndrome (AIDS);

"(h) When the offender commits one or more violations of Section 4 over a period of sixty (60) or more days, whether those days are continuous or not; and

"(i) When the offender directs or through another manages the trafficking victim in carrying out the exploitative purpose of trafficking."

SEC. 10. Section 7 of Republic Act No. 9208 is hereby amended to read as follows:

"SEC. 7. *Confidentiality.* — At any stage of the investigation, rescue, prosecution and trial of an offense under this Act, law enforcement officers, prosecutors, judges, court personnel, social workers and medical practitioners, as well as parties to the case, shall protect the right to privacy of the trafficked person. Towards this end, law enforcement officers, prosecutors and judges to whom the complaint has been referred may, whenever necessary to ensure a fair and impartial proceeding, and after considering all circumstances for the best interest of the parties, order a closed-door investigation, prosecution or trial. The name and personal circumstances of the trafficked person or any other information tending to establish the identity of the trafficked person and his or her family shall not be disclosed to the public.

"It shall be unlawful for any editor, publisher, and reporter or columnist in case of printed materials, announcer or producer in case of television and radio, producer and director of a film in case of the movie industry, or any person utilizing tri-media facilities or electronic information technology to cause publicity of the name, personal circumstances, or any information tending to establish the identity of the trafficked person except when the trafficked person in a written statement duly notarized knowingly, voluntarily and willingly waives said confidentiality.

"Law enforcement officers, prosecutors, judges, court personnel, social workers and medical practitioners shall be trained on the importance of maintaining confidentiality as a means to protect the right to privacy of victims and to encourage victims to file complaints."

SEC. 11. Section 8 of Republic Act No. 9208 is hereby amended to read as follows:

"SEC. 8. *Initiation and Prosecution of Cases.* –

"(a) *Initiation of Investigation.* – Law enforcement agencies are mandated to immediately initiate investigation and counter-trafficking-intelligence gathering upon receipt of statements or affidavit from victims of trafficking, migrant workers, or their families who are in possession of knowledge or information about trafficking in persons cases.

"(b) *Prosecution of Cases.* – Any person who has personal knowledge of the commission of any offense under this Act, such as the trafficked person, the parents, spouse, siblings, children or legal guardian may file a complaint for trafficking.

"(c) *Affidavit of Desistance.* – Cases involving trafficking in persons should not be dismissed based on the affidavit of desistance executed by the victims or their parents or legal guardians. Public and private prosecutors are directed to oppose and manifest objections to motions for dismissal.

"Any act involving the means provided in this Act or any attempt thereof for the purpose of securing an Affidavit of Desistance from the complainant shall be punishable under this Act."

SEC. 12. Section 10 of Republic Act No. 9208 is hereby amended to read as follows:

"SEC. 10. *Penalties and Sanctions.* – The following penalties and sanctions are hereby established for the offenses enumerated in this Act:

"(a) Any person found guilty of committing any of the acts enumerated in Section 4 shall suffer the penalty of imprisonment of twenty (20) years and a fine of not less than One million pesos (P1,000,000.00) but not more than Two million pesos (P2,000,000.00);

"(b) Any person found guilty of committing any of the acts enumerated in Section 4-A of this Act shall suffer the penalty of imprisonment of fifteen (15) years and a fine of not less than Five hundred thousand pesos (P500,000.00) but not more than One million pesos (P1,000,000.00);

"(c) Any person found guilty of Section 4-B of this Act shall suffer the penalty of imprisonment of fifteen (15) years and a fine of not less than Five hundred thousand pesos (P500,000.00) but not more than One million pesos (P1,000,000.00);

"In every case, conviction shall cause and carry the automatic revocation of the license or registration of the recruitment agency involved in trafficking. The license of a recruitment agency which trafficked a child shall be automatically revoked.

"(d) Any person found guilty of committing any of the acts enumerated in Section 5 shall suffer the penalty of imprisonment of fifteen (15) years and a fine of not less than Five hundred thousand pesos (P500,000.00) but not more than One million pesos (P1,000,000.00);

"(e) Any person found guilty of qualified trafficking under Section 6 shall suffer the penalty of life imprisonment and a fine of not less than Two million pesos (P2,000,000.00) but not more than Five million pesos (P5,000,000.00);

"(f) Any person who violates Section 7 hereof shall suffer the penalty of imprisonment of six (6) years and a fine of not less than Five hundred thousand pesos (P500,000.00) but not more than One million pesos (P1,000,000.00);

"(g) If the offender is a corporation, partnership, association, club, establishment or any juridical person, the penalty shall be imposed upon the owner, president, partner, manager, and/or any responsible officer who participated in the commission of the crime or who shall have knowingly permitted or failed to prevent its commission;

"(h) The registration with the Securities and Exchange Commission (SEC) and license to operate of the erring agency, corporation, association, religious group, tour or travel agent, club or establishment, or any place of entertainment shall be cancelled and revoked permanently. The owner, president, partner or manager thereof shall not be allowed to operate *similar establishments in a different name*;

"(i) If the offender is a foreigner, he or she shall be immediately deported after serving his or her sentence and be barred permanently from entering the country;

"(j) Any employee or official of government agencies who shall issue or approve the issuance of travel exit clearances, passports, registration certificates, counseling certificates, marriage license, and other similar documents to persons, whether juridical or natural, recruitment agencies, establishments or other individuals or groups, who fail to observe the prescribed procedures and the requirement as provided for by laws, rules and regulations, shall be held administratively liable, without prejudice to criminal liability under this Act.

The concerned government official or employee shall, upon conviction, be dismissed from the service and be barred permanently to hold public office. His or her retirement and other benefits shall likewise be forfeited; and

"(k) Conviction, by final judgment of the adopter for any offense under this Act shall result in the immediate rescission of the decree of adoption."

SEC. 13. Section 11 of Republic Act No. 9208 is hereby amended to read as follows:

"SEC. 11. *Use of Trafficked Persons.* – Any person who buys or engages the services of a trafficked person for prostitution shall be penalized with the following: *Provided*, That the Probation Law (Presidential Decree No. 968) shall not apply:

"(a) *Prision Correccional* in its maximum period to *prision mayor* or six (6) years to twelve (12) years imprisonment and a fine of not less than Fifty thousand pesos (P50,000.00) but not more than One hundred thousand pesos (P100,000.00): *Provided, however*, That the following acts shall be exempted thereto:

"(1) If an offense under paragraph (a) involves sexual intercourse or lascivious conduct with a child, the penalty shall be *reclusion temporal* in its medium period to *reclusion perpetua* or seventeen (17) years to forty (40) years imprisonment and a fine of not less than Five hundred thousand pesos (P500,000.00) but not more than One million pesos (P1,000,000.00);

"(2) If an offense under paragraph (a) involves carnal knowledge of, or sexual intercourse with, a male or female trafficking victim and also involves the use of force or intimidation, to a victim deprived of reason or to an unconscious victim, or a victim under twelve (12) years of age, instead of the penalty prescribed in the subparagraph above the penalty shall be a fine of not less than One million pesos (P1,000,000.00) but not more than Five million pesos (P5,000,000.00) and imprisonment of *reclusion*

perpetua or forty (40) years imprisonment with no possibility of parole; except that if a person violating paragraph (a) of this section knows the person that provided prostitution services is in fact a victim of trafficking, the offender shall not be likewise penalized under this section but under Section 10 as a person violating Section 4; and if in committing such an offense, the offender also knows a qualifying circumstance for trafficking, the offender shall be penalized under Section 10 for qualified trafficking. If in violating this section the offender also violates Section 4, the offender shall be penalized under Section 10 and, if applicable, for qualified trafficking *instead of under this section*;

"(b) *Deportation.* – If a foreigner commits any offense described by paragraph (1) or (2) of this section or violates any pertinent provision of this Act as an accomplice or accessory to, or by attempting any such offense, he or she shall be immediately deported after serving his or her sentence and be barred permanently from entering the country; and

"(c) *Public Official.* – If the offender is a public official, he or she shall be dismissed from service and shall suffer perpetual absolute disqualification to hold public office, in addition to any imprisonment or fine received pursuant to any other provision of this Act."

SEC. 14. Section 12 of Republic Act No. 9208 is hereby amended to read as follows:

"SEC. 12. *Prescriptive Period.* – Trafficking cases under this Act shall prescribe in ten (10) years: *Provided, however,* That trafficking cases committed by a syndicate or in a large scale as defined under Section 6, or against a child, shall prescribe in twenty (20) years.

"The prescriptive period shall commence to run from the day on which the trafficked person is delivered or released from the conditions of bondage, or in the case of a child victim, from the day the child reaches the age of majority, and shall be interrupted

by the filing of the complaint or information and shall commence to run again when the proceedings terminate without the accused being convicted or acquitted or are unjustifiably stopped for any reason not imputable to the accused."

SEC. 15. Section 16 of Republic Act No. 9208 is hereby amended to read as follows:

"SEC. 16. *Programs that Address Trafficking in Persons.* - The government shall establish and implement preventive, protective and rehabilitative programs for trafficked persons. For this purpose, the following agencies are hereby mandated to implement the following programs:

"(a) Department of Foreign Affairs (DFA) - shall make available its resources and facilities overseas for trafficked persons regardless of their manner of entry to the receiving country, and explore means to further enhance its assistance in eliminating trafficking activities through closer networking with government agencies in the country and overseas, particularly in the formulation of policies and implementation of relevant programs. It shall provide Filipino victims of trafficking overseas with free legal assistance and counsel to pursue legal action against his or her traffickers, represent his or her interests in any criminal investigation or prosecution, and assist in the application for social benefits and/or regular immigration status as may be allowed or provided for by the host country. The DFA shall repatriate trafficked Filipinos with the consent of the victims.

"The DFA shall take necessary measures for the efficient implementation of the Electronic Passporting System to protect the integrity of Philippine passports, visas and other travel documents to reduce the incidence of trafficking through the use of fraudulent identification documents.

"In coordination with the Department of Labor and Employment, it shall provide free temporary shelters and other services to Filipino victims of trafficking overseas through the migrant workers and other overseas Filipinos resource centers established overseas under Republic Act No. 8042, as amended.

"(b) Department of Social Welfare and Development (DSWD) – shall implement rehabilitative and protective programs for trafficked persons. It shall provide counseling and temporary shelter to trafficked persons and develop a system for accreditation among NGOs for purposes of establishing centers and programs for intervention in various levels of the community. It shall establish free temporary shelters, for the protection and housing of trafficked persons to provide the following basic services to trafficked persons:

"(1) Temporary housing and food facilities;

"(2) Psychological support and counseling;

"(3) 24-hour call center for crisis calls and technology-based counseling and referral system;

"(4) Coordination with local law enforcement entities; and

"(5) Coordination with the Department of Justice, among others.

"The DSWD must conduct information campaigns in communities and schools teaching parents and families that receiving consideration in exchange for adoption is punishable under the law. Furthermore, information campaigns must be conducted with the police that they must not induce poor women to give their children up for adoption in exchange for consideration.

"(c) Department of Labor and Employment (DOLE) – shall ensure the strict implementation and compliance with the rules and guidelines relative

to the employment of persons locally and overseas. It shall likewise monitor, document and report cases of trafficking in persons involving employers and labor recruiters.

"(d) Department of Justice (DOJ) – shall ensure the prosecution of persons accused of trafficking and designate and train special prosecutors who shall handle and prosecute cases of trafficking. It shall also establish a mechanism for free legal assistance for trafficked persons, in coordination with the DSWD, Integrated Bar of the Philippines (IBP) and other NGOs and volunteer groups.

"(e) Philippine Commission on Women (PCW) – shall actively participate and coordinate in the formulation and monitoring of policies addressing the issue of trafficking in persons in coordination with relevant government agencies. It shall likewise advocate for the inclusion of the issue of trafficking in persons in both its local and international advocacy for women's issues.

"(f) Bureau of Immigration (BI) – shall strictly administer and enforce immigration and alien administration laws. It shall adopt measures for the apprehension of suspected traffickers both at the place of arrival and departure and shall ensure compliance by the Filipino fiancés/fiancées and spouses of foreign nationals with the guidance and counseling requirement as provided for in this Act.

"(g) Philippine National Police (PNP) and National Bureau of Investigation (NBI) – shall be the primary law enforcement agencies to undertake surveillance, investigation and arrest of individuals or persons suspected to be engaged in trafficking. They shall closely coordinate with each other and with other law enforcement agencies to secure concerted efforts for effective investigation and apprehension of suspected traffickers. They shall also establish a system to receive complaints and calls to assist trafficked persons and conduct rescue operations.

"(h) Philippine Overseas Employment Administration (POEA) and Overseas Workers and Welfare Administration (OWWA) – POEA shall implement Pre-Employment Orientation Seminars (PEOS) while Pre-Departure Orientation Seminars (PDOS) shall be conducted by the OWWA. It shall likewise formulate a system of providing free legal assistance to trafficked persons, in coordination with the DFA.

"The POEA shall create a blacklist of recruitment agencies, illegal recruiters and persons facing administrative, civil and criminal complaints for trafficking filed in the receiving country and/or in the Philippines and those agencies, illegal recruiters and persons involved in cases of trafficking who have been rescued by the DFA and DOLE in the receiving country or in the Philippines even if no formal administrative, civil or criminal complaints have been filed: *Provided*, That the rescued victims shall execute an affidavit attesting to the acts violative of the anti-trafficking law. This blacklist shall be posted in conspicuous places in concerned government agencies and shall be updated bi-monthly.

"The blacklist shall likewise be posted by the POEA in the shared government information system, which is mandated to be established under Republic Act No. 8042, as amended.

"The POEA and OWWA shall accredit NGOs and other service providers to conduct PEOS and PDOS, respectively. The PEOS and PDOS should include the discussion and distribution of the blacklist.

"The license or registration of a recruitment agency that has been blacklisted may be suspended by the POEA upon a review of the complaints filed against said agency.

"(i) Department of the Interior and Local Government (DILG) – shall institute a systematic

information and prevention campaign in coordination with pertinent agencies of government as provided for in this Act. It shall provide training programs to local government units, in coordination with the Council, in ensuring wide understanding and application of this Act at the local level.

"(j) Commission on Filipinos Overseas – shall conduct pre-departure counseling services for Filipinos in intermarriages. It shall develop a system for accreditation of NGOs that may be mobilized for purposes of conducting pre-departure counseling services for Filipinos in intermarriages. As such, it shall ensure that the counselors contemplated under this Act shall have the minimum qualifications and training of guidance counselors as provided for by law.

"It shall likewise assist in the conduct of information campaigns against trafficking in coordination with local government units, the Philippine Information Agency, and NGOs.

"(k) Local government units (LGUs) – shall monitor and document cases of trafficking in persons in their areas of jurisdiction, effect the cancellation of licenses of establishments which violate the provisions of this Act and ensure effective prosecution of such cases. They shall also undertake an information campaign against trafficking in persons through the establishment of the Migrants Advisory and Information Network (MAIN) desks in municipalities or provinces in coordination with the DILG, Philippine Information Agency (PIA), Commission on Filipinos Overseas (CFO), NGOs and other concerned agencies. They shall encourage and support community-based initiatives which address the trafficking in persons.

"In implementing this Act, the agencies concerned may seek and enlist the assistance of NGOs, people's organizations (POs), civic organizations and other volunteer groups."

SEC. 16. A new Section 16-A is hereby inserted into Republic Act No. 9208, to read as follows:

"SEC. 16-A. *Anti-Trafficking in Persons Database.* – An anti-trafficking in persons central database shall be established by the Inter-Agency Council Against Trafficking created under Section 20 of this Act. The Council shall submit a report to the President of the Philippines and to Congress, on or before January 15 of every year, with respect to the preceding year's programs and data on trafficking-related cases.

"All government agencies tasked under the law to undertake programs and render assistance to address trafficking in persons shall develop their respective monitoring and data collection systems, and databases, for purposes of ensuring efficient collection and storage of data on cases of trafficking in persons handled by their respective offices. Such data shall be submitted to the Council for integration in a central database system.

"For this purpose, the Council is hereby tasked to ensure the harmonization and standardization of databases, including minimum data requirements, definitions, reporting formats, data collection systems, and data verification systems. Such databases shall have, at the minimum, the following information:

"(a) The number of cases of trafficking in persons, sorted according to status of cases, including the number of cases being investigated, submitted for prosecution, dropped, and filed and/or pending before the courts and the number of convictions and acquittals;

"(b) The profile/information on each case;

"(c) The number of victims of trafficking in persons referred to the agency by destination countries/areas and by area of origin; and

"(d) Disaggregated data on trafficking victims and the accused/defendants."

SEC. 17. Section 17 of Republic Act No. 9208 is hereby amended to read as follows:

"SEC. 17. *Legal Protection to Trafficked Persons.* – Trafficked persons shall be recognized as victims of the act or acts of trafficking and as such, shall not be penalized for unlawful acts committed as a direct result of, or as an incident or in relation to, being trafficked based on the acts of trafficking enumerated in this Act or in obedience to the order made by the trafficker in relation thereto. In this regard, the consent of a trafficked person to the intended exploitation set forth in this Act shall be irrelevant.

"Victims of trafficking for purposes of prostitution as defined under Section 4 of this Act are not covered by Article 202 of the Revised Penal Code and as such, shall not be prosecuted, fined, or otherwise penalized under the said law."

SEC. 18. A new Section 17-A is hereby inserted into Republic Act No. 9208, to read as follows:

"SEC. 17-A. *Temporary Custody of Trafficked Victims.* – The rescue of victims should be done as much as possible with the assistance of the DSWD or an accredited NGO that services trafficked victims. A law enforcement officer, on a reasonable suspicion that a person is a victim of any offense defined under this Act including attempted trafficking, shall immediately place that person in the temporary custody of the local social welfare and development office, or any accredited or licensed shelter institution devoted to protecting trafficked persons after the rescue."

SEC. 19. A new Section 17-B is hereby inserted into Republic Act No. 9208, to read as follows:

"SEC. 17-B. *Irrelevance of Past Sexual Behavior, Opinion Thereof or Reputation of Victims and of Consent of Victims in Cases of Deception, Coercion and Other Prohibited Means.* – The past sexual behavior or the sexual predisposition of a trafficked person shall be considered inadmissible in

evidence for the purpose of proving consent of the victim to engage in sexual behavior, or to prove the predisposition, sexual or otherwise, of a trafficked person. Furthermore, the consent of a victim of trafficking to the intended exploitation shall be irrelevant where any of the means set forth in Section 3(a) of this Act has been used."

SEC. 20. A new Section 17-C is hereby inserted into Republic Act No. 9208, to read as follows:

"SEC. 17-C. *Immunity from Suit, Prohibited Acts and Injunctive Remedies.* – No action or suit shall be brought, instituted or maintained in any court or tribunal or before any other authority against any: (a) law enforcement officer; (b) social worker; or (c) person acting in compliance with a lawful order from any of the above, for lawful acts done or statements made during an authorized rescue operation, recovery or rehabilitation/intervention, or an investigation or prosecution of an anti-trafficking case: *Provided,* That such acts shall have been made in good faith.

"The prosecution of retaliatory suits against victims of trafficking shall be held in abeyance pending final resolution and decision of criminal complaint for trafficking.

"It shall be prohibited for the DFA, the DOLE, and the POEA officials, law enforcement officers, prosecutors and judges to urge complainants to abandon their criminal, civil and administrative complaints for trafficking.

"The remedies of injunction and attachment of properties of the traffickers, illegal recruiters and persons involved in trafficking may be issued *motu proprio* by judges."

SEC. 21. Section 20 of Republic Act No. 9208 is hereby amended to read as follows:

"SEC. 20. *Inter-Agency Council Against Trafficking.* – There is hereby established an Inter-Agency Council Against Trafficking, to be

composed of the Secretary of the Department of Justice as Chairperson and the Secretary of the Department of Social Welfare and Development as Co-Chairperson and shall have the following as members:

"(a) Secretary, Department of Foreign Affairs;

"(b) Secretary, Department of Labor and Employment;

"(c) Secretary, Department of the Interior and Local Government;

"(d) Administrator, Philippine Overseas Employment Administration;

"(e) Commissioner, Bureau of Immigration;

"(f) Chief, Philippine National Police;

"(g) Chairperson, Philippine Commission on Women;

"(h) Chairperson, Commission on Filipinos Overseas;

"(i) Executive Director, Philippine Center for Transnational Crimes; and

"(j) Three (3) representatives from NGOs, who shall include one (1) representative each from among the sectors representing women, overseas Filipinos, and children, with a proven record of involvement in the prevention and suppression of trafficking in persons. These representatives shall be nominated by the government agency representatives of the Council, for appointment by the President for a term of three (3) years.

"The members of the Council may designate their permanent representatives who shall have a rank not lower than an assistant secretary or its equivalent to meetings, and shall receive emoluments as may be determined by the Council in accordance with existing budget and accounting rules and regulations."

SEC. 22. Section 22 of Republic Act No. 9208 is hereby amended to read as follows:

"SEC. 22. *Secretariat to the Council.* – The Department of Justice shall establish the necessary Secretariat for the Council.

"The secretariat shall provide support for the functions and projects of the Council. The secretariat shall be headed by an executive director, who shall be appointed by the Secretary of the DOJ upon the recommendation of the Council. The executive director must have adequate knowledge on, training and experience in the phenomenon of and issues involved in trafficking in persons and in the field of law, law enforcement, social work, criminology, or psychology.

"The executive director shall be under the supervision of the Inter-Agency Council Against Trafficking through its Chairperson and Co-Chairperson, and shall perform the following functions:

"(a) Act as secretary of the Council and administrative officer of its secretariat;

"(b) Advise and assist the Chairperson in formulating and implementing the objectives, policies, plans and programs of the Council, including those involving mobilization of government offices represented in the Council as well as other relevant government offices, task forces, and mechanisms;

"(c) Serve as principal assistant to the Chairperson in the overall supervision of council administrative business;

"(d) Oversee all council operational activities;

"(e) Ensure an effective and efficient performance of council functions and prompt implementation of council objectives, policies, plans and programs;

"(f) Propose effective allocations of resources for implementing council objectives, policies, plans and programs;

"(g) Submit periodic reports to the Council on the progress of council objectives, policies, plans and programs;

"(h) Prepare annual reports of all council activities; and

"(i) Perform other duties as the Council may assign."

SEC. 23. A new Section 26-A is hereby inserted into Republic Act No. 9208, to read as follows:

"SEC. 26-A. *Extra-Territorial Jurisdiction.*

– The State shall exercise jurisdiction over any act defined and penalized under this Act, even if committed outside the Philippines and whether or not such act or acts constitute an offense at the place of commission, the crime being a continuing offense, having been commenced in the Philippines and other elements having been committed in another country, if the suspect or accused:

"(a) Is a Filipino citizen; or

"(b) Is a permanent resident of the Philippines; or

"(c) Has committed the act against a citizen of the Philippines.

"No prosecution may be commenced against a person under this section if a foreign government, in accordance with jurisdiction recognized by the Philippines, has prosecuted or is prosecuting such person for the conduct constituting such offense, except upon the approval of the Secretary of Justice.

"The government may surrender or extradite persons accused of trafficking in the Philippines to the appropriate international court if any, or to

another State pursuant to the applicable extradition laws and treaties."

SEC. 24. Section 28 of Republic Act No. 9208 is hereby amended, to read as follows:

"SEC. 28. *Funding.* - The amount necessary to implement the provisions of this Act shall be charged against the current year's appropriations of the Inter-Agency Council Against Trafficking under the budget of the DOJ and the appropriations of the other concerned departments. Thereafter, such sums as may be necessary for the continued implementation of this Act shall be included in the annual General Appropriations Act."

SEC. 25. A new Section 28-A is hereby inserted into Republic Act No. 9208, to read as follows:

"SEC. 28-A. *Additional Funds for the Council.* - The amount collected from every penalty, fine or asset derived from any violation of this Act shall be earmarked as additional funds for the use of the Council. The fund may be augmented by grants, donations and endowment from various sources, domestic or foreign, for purposes related to their functions, subject to the existing accepted rules and regulations of the Commission on Audit."

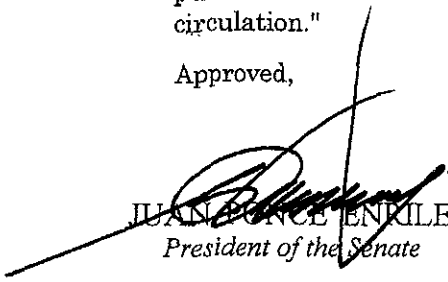
SEC. 26. Section 32 of Republic Act No. 9208 of the *Repealing Clause* is hereby amended to read as follows:


"SEC. 32. *Repealing Clause.* - Article 202 of the Revised Penal Code, as amended, and all laws, acts, presidential decrees, executive orders, administrative orders, rules and regulations inconsistent with or contrary to the provisions of this Act are deemed amended, modified or repealed accordingly: *Provided*, That this Act shall not in any way amend or repeal the provisions of Republic Act No. 7610, otherwise known as the 'Special Protection of Child Against Child Abuse, Exploitation and Discrimination Act.'"

SEC. 27. Section 33 of Republic Act No. 9208 is hereby amended to read as follows:

"SEC. 33. *Effectivity.* – This Act shall take effect fifteen (15) days following its complete publication in at least two (2) newspapers of general circulation."


Approved,


JUAN PONCE ENRILE
President of the Senate



FELICIANO BELMONTE JR.
Speaker of the House of Representatives

This Act which is a consolidation of House Bill No. 6339 and Senate Bill No. 2625 was finally passed by the House of Representatives and the Senate on December 4, 2012 and December 5, 2012, respectively.


EMMA LIRIO-REYES
Secretary of the Senate


MARILYN B. BARUA-YAP
Secretary General House of Representatives

Approved: FEB 06 2013


BENIGNO S. AQUINO III
President of the Philippines



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Office of the President of the Philippines



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