

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 4694

Introduced by: REP. MEL SENEN S. SARMIENTO

EXPLANATORY NOTE

Every day, 3,000 Filipinos leave the country to work abroad. With a few clothes stuffed in a bag, a little amount of money, their passport, and their dreams, our countrymen tread an uncharted terrain. The OFWs offer their strength and skills to foreign lands no matter how difficult the job is or how homesick they become. This kind of sacrifice merits them the term, mga Bagong Bayani.

Some will be lucky to reach their dreams in a greener pasture. They would come back in the country able to buy things they could only dream of if they stayed. But others would not be so fortunate- more often than not these are the victims human trafficking.

We've heard of OFWs being abused and maltreated by their employers abroad. The abuse would range from holding of their compensation, to forcing them work in the most inhumane condition, to physically abusing them. More saddening stories are those when one Bagong Bayani is returned to our country in a box, lifeless.

The Philippines passed RA 9208, also known as the Anti-Trafficking in of Persons Act of 2003, which instituted policies to eliminate trafficking in persons especially women and children. It also established the necessary institutional mechanisms for the protection and support of trafficked individuals.

Despite having an anti-Trafficking Law, the Philippines belongs in the Tier 2 Watch list by the United States of America. This basically means that the country does not fully comply with the minimum standards for the elimination of trafficking.

Some of this bill's objectives include increasing effort to vigorously investigate and prosecute government officials complicit in trafficking; expanding the coverage of the crime to include accomplices; outstripping the privilege of confidentiality of the offender; and refining the roles of government agencies in the crusade against trafficking.

It must be noted that from 2003 to 2009, 938 trafficking cases were filed. Nonetheless, as of February 2011, only 47 people were convicted (Department of Justice Inter-Agency Council Against Trafficking). This bill aims to strengthen the law.

The approval of this bill is therefore earnestly requested.



MEL SENEN S. SARMIENTO

1 AN ACT AMENDING REPUBLIC ACT 9208, ENTITLED "AN ACT TO
 2 INSTITUTE POLICIES TO ELIMINATE TRAFFICKING IN PERSONS
 3 ESPECIALLY WOMEN AND CHILDREN, ESTABLISHING THE NECESSARY
 4 INSTITUTIONAL MECHANISMS FOR THE PROTECTION AND SUPPORT OF
 5 TRAFFICKED PERSONS, PROVIDING PENALTIES FOR ITS VIOLATIONS,
 6 AND FOR OTHER PURPOSES"

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

9 **Section 1. Title.** This Act shall be known as the "Anti-Trafficking in Persons Act of
 10 2003".

11 **Section 2. Declaration of Policy.** - It is hereby declared that the State values the dignity
 12 of every human person and guarantees the respect of individual rights. In pursuit of
 13 this policy, the State shall give highest priority to the enactment of measures and
 14 development of programs that will promote human dignity, protect the people from
 15 any threat of violence and exploitation, eliminate trafficking in persons, and mitigate
 16 pressures for involuntary migration and servitude of persons, not only to support
 17 trafficked persons but more importantly, to ensure their recovery, rehabilitation and
 18 reintegration into the mainstream of society.

19 It shall be a State policy to recognize the equal rights and inherent human dignity of
 20 women and men as enshrined in the United Nations Universal Declaration on
 21 Human Rights, United Nations Convention on the Rights of the Child, United
 22 Nations Convention on the Protection of Migrant Workers and their Families, United
 23 Nations Convention Against Transnational Organized Crime Including its Protocol
 24 to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and
 25 Children and all other relevant and universally accepted human rights instruments
 26 and other international conventions to which the Philippines is a signatory.

27 **Section 3. Definition of Terms.** - As used in this Act:

28 (a) *Trafficking in Persons* - refers to:

- 29 (1) Any act of recruiting, obtaining, harboring, maintaining, offering, providing,
 30 transporting or transferring any natural person (i.e., the "victim"), with or
 31 without the victim's consent or knowledge, within or across national borders,
 32 (2) by means of intimidation or threat, use of force or other forms of coercion,
 33 abduction, fraud, deception, debt bondage, abuse of power or of position or of
 34 legal process, taking advantage of the vulnerability of the person, or the
 35 giving or receiving of payments or benefits to achieve the consent of a person
 36 having control over another person,

(3) for the *purpose* of exploitation or profiting from exploitation – where exploitation includes, at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, involuntary servitude, the removal or sale of organs, or engaging in or assisting the illegal trafficking of drugs, violent crime, or armed activities.

Where the trafficking victim is a child, any *act* identified at Section 3(a)(1) for any purpose identified at Section 3(a)(3) shall also qualify as trafficking in persons – whether or not the act covered by Section 3(a)(1) uses any means identified at Section 3(a)(2), and whether or not the offender knows that the victim is a child or has any other *mens rea* relating to the victim being a child. However, if this Act defines a purpose of trafficking with reference to a means in Section 3(a)(2), the *purpose* shall involve that means regardless of whether or not the victim is a child. (Thus, for example, a person recruiting a child for forced labor trafficks that child even without employing any means in Section 3(a)(2), yet has a purpose ultimately to use such a means in extracting work or services from the child.)

(b) *Obtaining* – as used in Section 3(a), refers to getting in any form of a natural person or a natural person's services, whether or not by contract or for consideration, and includes (without limitation) getting by receiving, acquiring, buying, hiring, employing, renting, abducting, adopting, or marrying.

(c) *Harboring* – as used in Section 3(a), includes (without limitation) providing a place to stay or security for, limiting the liberty of, or limiting access to, any person.

(d) *Maintaining* – as used in Section 3(a), includes (without limitation) making available, or directly or indirectly managing the availability or receipt or enjoyment of, necessities, conveniences, or other things of value, such as food, drink, clothing, shelter, bedding, running water, money, work, or work facilities or supplies of any kind.

(e) *Abuse of power or of position* – includes (without limitation) any abuse of authority or moral ascendancy.

(f) *Child* – refers to a person below eighteen (18) years of age or one who 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.

(g) *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 being given by any person to any other person.

(h) *Forced Labor or Services, Slavery, and Involuntary Servitude* – refer to the extraction of work or services from any person by any means in Section 3(a)(2).

(i) *Sexual Exploitation* – refers to participation by a person in prostitution; in the production of pornography in exchange for money, profit or any other consideration being given by any person to any other person, or where the participation is caused or facilitated by any means in Section 3(a)(2); or in sexual intercourse or lascivious conduct caused or facilitated by any means in Section 3(a)(2).

(j) *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.

(k) *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.

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

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

(a) To traffick in persons; or

(b) To traffick in persons indirectly in any of the following ways:

(1) To act for any purpose in Section 3(a)(3) by (i) directly or indirectly getting any other person or persons, with or without knowledge of a purpose in Section 3(a)(3), to perform any act in Section 3(a)(1), and (ii) directly or indirectly getting any other person or persons, with or without knowledge of a purpose in Section 3(a)(3), to perform any means in Section 3(a)(2) – where that act and that means concern the same victim; or

(2) To cooperate in the commission of trafficking in persons, for any purpose in Section 3(a)(3), by performing any other act without which the trafficking would not have been accomplished, or by directly or indirectly getting any other person – whether or not the other person acts alone – to perform any act without which the trafficking would not have been accomplished.

Section 5. Acts Facilitating or Attempting Trafficking in Persons. – It shall also be unlawful for any person, natural or juridical, to commit any of the following acts, which promote, facilitate, or attempt trafficking in persons:

(a) *Accomplice Liability.* – To cooperate as an accomplice in a violation of Section 4 by any act, including but not limited to any of the following:

- 109 (1) Leasing, subleasing, using or allowing to be used any house, building or
110 establishment;
- 111 (2) Producing, printing, issuing or distributing unissued, tampered or fake
112 counseling certificates, registration stickers and certificates of any government
113 agency which issues these certificates and stickers as proof of compliance
114 with government regulatory and pre-departure requirements;
- 115 (3) Advertising, publishing, printing, broadcasting or distributing, or causing the
116 advertisement, publication, printing, broadcasting or distribution by any
117 means, including the use of information technology and the internet, of any
118 brochure, flyer, or any propaganda material;
- 119 (4) Facilitating the acquisition of clearances and necessary exit documents from
120 government agencies that are mandated to provide pre-departure registration
121 and services for departing persons;
- 122 (5) Facilitating, assisting or helping in the exit and entry of persons from/to the
123 country at international and local airports, territorial boundaries and seaports
124 who are in possession of unissued, tampered or fraudulent travel documents;
125 and
- 126 (6) Confiscating, concealing, or destroying any passport, travel document, or
127 personal document or belonging of any trafficked person.
- 128 (b) *Accessory Liability.* – To act as an accessory to any violation of Section 4.
- 129 (c) *Attempt Liability.* – To attempt or to facilitate a violation of this Act in any of the
130 following ways:
- 131 (1) By attempting to commit an act or acts constituting a violation of Section 4, by
132 commencing the violation directly by one or more overt acts but without
133 performing all the acts of execution which should produce that violation by
134 reason of some cause or accident other than the offender's own spontaneous
135 desistance;
- 136 (2) By getting or helping a child to travel alone to a foreign country without a
137 valid reason therefor and without clearance issued by the Department of
138 Social Welfare and Development or written permit or justification from the
139 child's parent or legal guardian;
- 140 (3) By recruiting, or being any party to an agreement to have, a woman or couple
141 bear a child, adopt a child, or provide a child for adoption, either for
142 consideration or for any purpose in Section 3(c);
- 143 (4) By a doctor, hospital or clinic official or employee, nurse midwife, local civil
144 registrar or any other person simulating or falsely representing birth for any
145 purpose in Section 3(c); or

(5) By engaging in the act of finding children among families, hospitals, clinics, nurseries, day-care centers, or other child-caring institutions for any purpose in Section 3(c).

Section 6. *Qualified Trafficking in Persons.* – Violations of Section 4 of this Act are considered as qualified trafficking;

(a) When the offender knows or is reckless in failing to know that the trafficked person is a child, or when the trafficked person is a child under twelve (12) years of age or is demented;

(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 prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

(c) When the crime is committed by a syndicate, or in large scale. Trafficking is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with one another. It is deemed committed in large scale if committed against three (3) or more persons, individually or as a group;

(d) When the offender is 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;

(e) When the trafficked person is recruited to engage in prostitution with any member of the military or law enforcement agencies;

(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, in violating Section 4, the offender directs or manages the trafficking victim in carrying out the exploitive purpose of the trafficking – whether the offender does so directly, or indirectly through one or more other persons. For purposes of this paragraph, directing and managing include, without limitation, instructing the victim or another person, and supporting a policy or pattern of practice guiding the victim or another person.

Section 7. *Confidentiality.* –

(a) At any stage of the investigation, prosecution and trial of an offense under this Act, law enforcement officers, prosecutors, judges, court personnel and medical practitioners, as well as parties to the case, shall recognize 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 shall not be disclosed to the public.

(b) Where the prosecution or trial of a trafficked person's case is or was conducted behind closed-doors, 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 information technology to cause publicity of the name and personal circumstances of the trafficked person, or any other information tending to establish the identity of the trafficked person, in association with that case or with being victimized by or otherwise involved in trafficking in persons - unless (i) the court in which the prosecution or trial was or is conducted, with due consideration for the current and future welfare of the trafficked person, issues an order allowing it, or (ii) the trafficked person knowingly and voluntarily agrees, in a duly notarized written statement, to allow it.

Section 8. Prosecution of Cases. - Any person who has personal knowledge of the commission of any offense under this Act, the trafficked person, the parents, spouse, siblings, children or legal guardian may file a complaint for trafficking.

Section 9. Venue. - A criminal action arising from violation of this Act shall be filed where the offense was committed, or where any of its elements occurred, or where the trafficked person actually resides at the time of the commission of the offense: *Provided*, That the court where the criminal action is first filed shall acquire jurisdiction to the exclusion of other courts.

Section 10. Penalties and Sanctions. - The following penalties and sanctions are hereby established for the offenses enumerated in this Act, with imprisonment penalties defined, where possible, by The Revised Penal Code (R.A. 3815, as amended):

(a) Any person who violates Section 4 shall suffer, for each such violation, the penalty of *reclusión temporal* in its maximum period to *reclusión perpetua* 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) - except that, for any violation of Section 4 that is also qualified trafficking under Section 6, the person shall suffer, for each such qualified offense, the penalty of *reclusión perpetua* to 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);

- 223 (b) Any person who violates Section 5 shall be penalized according to The Revised
224 Penal Code for the appropriate offense - i.e., that of an accomplice, accessory, or
225 attempt - by lowering, as necessary, the penalty prescribed in paragraph (a) of this
226 Section for a completed Section 4 offense - except that the fine for any Section 5
227 violation shall be not less than Five hundred thousand pesos (P500,000.00) but not
228 more than One million pesos (P1,000,000.00);
- 229 (c) Any person who violates Section 7 shall suffer, for each such violation, the
230 penalty of *arresto mayor* to *prisión correccional* in its minimum period and a fine of not
231 less than One hundred thousand pesos (P100,000.00) but not more than Three
232 hundred thousand pesos (P300,000.00);
- 233 (d) If the offender is a corporation, partnership, association, club, establishment or
234 any juridical person, the penalty shall be imposed upon the owner, president,
235 partner, manager, and/or any responsible officer who participated in the
236 commission of the crime or who shall have knowingly permitted or failed to prevent
237 its commission;
- 238 (e) The registration with the Securities and Exchange Commission (SEC) and license
239 to operate of the erring agency, corporation, association, religious group, tour or
240 travel agent, club or establishment, or any place of entertainment shall be cancelled
241 and revoked permanently. The owner, president, partner or manager thereof shall
242 not be allowed to operate similar establishments in a different name;
- 243 (f) If the offender is a foreigner, he shall be immediately deported after serving his
244 sentence and be barred permanently from entering the country;
- 245 (g) Any employee or official of government agencies who shall issue or approve the
246 issuance of travel exit clearances, passports, registration certificates, counseling
247 certificates, marriage license, and other similar documents to persons, whether
248 juridical or natural, recruitment agencies, establishments or other individuals or
249 groups, who fail to observe the prescribed procedures and the requirement as
250 provided for by laws, rules and regulations, shall be held administratively liable,
251 without prejudice to criminal liability under this Act. The concerned government
252 official or employee shall, upon conviction, be dismissed from the service and be
253 barred permanently to hold public office. His/her retirement and other benefits shall
254 likewise be forfeited; and
- 255 (h) Conviction by final judgment of the adopter for any offense under this Act shall
256 result in the immediate rescission of the decree of adoption.
- 257 **Section 11. Use of Trafficked Persons.** - Any person who buys or engages the services
258 of a trafficked person for prostitution shall be penalized as follows, with
259 imprisonment penalties defined, where possible, by The Revised Penal Code:

260 (a) First offense – *prisión correccional* in its minimum period, without possibility of
261 probation, and a fine of not less than Fifty thousand pesos (P50,000.00) but not more
262 than One hundred thousand pesos (P100,000.00); and

263 (b) Second and subsequent offenses – *prisión correccional* and a fine of not less than
264 One hundred thousand pesos (P100,000.00) but not more than Two hundred
265 thousand pesos (P200,000.00).

266 (c) The following subparagraphs give exceptions to paragraphs (a) and (b) of this
267 Section:

268 (1) If an offense under paragraph (a) or (b) involves sexual intercourse or
269 lascivious conduct with a child, the penalty shall be *reclusión temporal* in its
270 medium period to *reclusión perpetua* and a fine of not less than Five hundred
271 thousand pesos (P500,000.00) but not more than One million pesos
272 (P1,000,000.00); and

273 (2) If an offense under paragraph (a) or (b) involves carnal knowledge of, or
274 sexual intercourse with, a male or female trafficking victim and also involves
275 the use of force or intimidation, a victim deprived of reason or otherwise
276 unconscious, or a victim under twelve years of age, instead of the penalty
277 prescribed in the subparagraph above the penalty shall be a fine of not less
278 than One million pesos (P1,000,000.00) but not more than Five million pesos
279 (P5,000,000.00) and the penalty of imprisonment prescribed by The Revised
280 Penal Code for rape under the circumstances of the offense (except that the
281 victim may be male or female), with any penalty of death replaced by a
282 penalty of *reclusión perpetua* with no possibility of parole; except that

283 (3) If a person violating paragraph (a) or (b) of this Section knows that the person
284 to provide prostitution services is or will be trafficked to provide those
285 services, the offender shall not be penalized under this Section but under
286 Section 10 the same as a person violating Section 4; and if in committing such
287 an offense the offender also knows a qualifying circumstance for that
288 trafficking, the offender shall be penalized under Section 10 for qualified
289 trafficking. If in violating this Section the offender also violates Section 4, the
290 offender shall be penalized under Section 10 for a Section 4 trafficking
291 violation and, if applicable, for qualified trafficking instead of under this
292 Section.

293 (d) *Acts Facilitating or Attempting the Use of Trafficked Persons.* – It shall also be
294 unlawful for any person, natural or juridical, to commit any of the following acts,
295 which facilitate or attempt the use of trafficked persons for prostitution:

296 (1) *Accomplice Liability.* – To cooperate as an accomplice in a violation of any
297 paragraph (a) through (c) of this Section;

298 (2) *Accessory Liability.* – To act as an accessory or accessory after the fact to a
299 violation of any paragraph (a) through (c) of this Section; or

300 (3) *Attempt Liability.* – To attempt to commit an act or acts constituting a violation
301 of any paragraph (a) through (c) of this Section, by commencing the violation
302 directly by one or more overt acts but without performing all the acts of
303 execution which should produce that violation by reason of some cause or
304 accident other than the offender's own spontaneous desistance.

305 A violation of this paragraph shall be punished according to The Revised Penal
306 Code – *i.e.*, with penalties for accomplice, accessory, and attempt liability arrived at
307 by lowering, as necessary, the penalties prescribed in paragraph (a), (b) or (c) of this
308 Section for the relevant completed violation.

309 (e) *Deportation.* – If a foreigner commits any offense described by paragraph (b) or (c)
310 of this Section or violates paragraph (d) of this Section as an accomplice or accessory
311 to, or by attempting, any such offense, he shall be immediately deported after
312 serving his sentence and be barred permanently from entering the country.

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

317 The prescriptive period shall commence to run from the day on which the trafficked
318 person is delivered or released from the conditions of bondage and shall be
319 interrupted by the filing of the complaint or information and shall commence to run
320 again when such proceedings terminate without the accused being convicted or
321 acquitted or are unjustifiably stopped for any reason not imputable to the accused.

322 **Section 13. Exemption from Filing Fees.** – When the trafficked person institutes a
323 separate civil action for the recovery of civil damages, he/she shall be exempt from
324 the payment of filing fees.

325 **Section 14. Confiscation and Forfeiture of the Proceeds and Instruments Derived from**
326 ***Trafficking in Persons.*** – In addition to the penalty imposed for the violation of this
327 Act, the court shall order the confiscation and forfeiture, in favor of the government,
328 of all the proceeds and properties derived from the commission of the crime, unless
329 they are the property of a third person not liable for the unlawful act; *Provided,*
330 *however,* That all awards for damages shall be taken from the personal and separate
331 properties of the offender; *Provided, further,* That if such properties are insufficient,
332 the balance shall be taken from the confiscated and forfeited properties.

333 When the proceeds, properties and instruments of the offense have been destroyed,
334 diminished in value or otherwise rendered worthless by any act or omission, directly
335 or indirectly, of the offender, or it has been concealed, removed, converted or
336 transferred to prevent the same from being found or to avoid forfeiture or

337 confiscation, the offender shall be ordered to pay the amount equal to the value of
338 the proceeds, property or instruments of the offense.

339 **Section 15. Trust Fund.** – All fines imposed under this Act and the proceeds and
340 properties forfeited and confiscated pursuant to Section 14 hereof shall accrue to a
341 Trust Fund to be administered and managed by the Council to be used exclusively
342 for programs that will prevent acts of trafficking and protect, rehabilitate, reintegrate
343 trafficked persons into the mainstream of society. Such programs shall include, but
344 not limited to, the following:

345 (a) Provision for mandatory services set forth in Section 23 of this Act;

346 (b) Sponsorship of a national research program on trafficking and establishment of a
347 data collection system for monitoring and evaluation purposes;

348 (c) Provision of necessary technical and material support services to appropriate
349 government agencies and non-government organizations (NGOs);

350 (d) Sponsorship of conferences and seminars to provide venue for consensus
351 building amongst the public, the academe, government, NGOs and international
352 organizations; and

353 (e) Promotion of information and education campaign on trafficking.

354 **Section 16. Programs that Address Trafficking in Persons.** – The government shall
355 establish and implement preventive, protective and rehabilitative programs for
356 trafficked persons. For this purpose, the following agencies are hereby mandated to
357 implement the following programs;

358 (a) Department of Foreign Affairs (DFA) – shall make available its resources and
359 facilities overseas for trafficked persons regardless of their manner of entry to the
360 receiving country, and explore means to further enhance its assistance in eliminating
361 trafficking activities through closer networking with government agencies in the
362 country and overseas, particularly in the formulation of policies and implementation
363 of relevant programs.

364 The DFA shall take necessary measures for the efficient implementation of the
365 Machine Readable Passports to protect the integrity of Philippine passports, visas
366 and other travel documents to reduce the incidence of trafficking through the use of
367 fraudulent identification documents.

368 It shall establish and implement a pre-marriage, on-site and pre-departure
369 counseling program on intermarriages.

370 (b) Department of Social Welfare and Development (DSWD) – shall implement
371 rehabilitative and protective programs for trafficked persons. It shall provide
372 counseling and temporary shelter to trafficked persons and develop a system for

373 accreditation among NGOs for purposes of establishing centers and programs for
374 intervention in various levels of the community.

375 (c) Department of Labor and Employment (DOLE) – shall ensure the strict
376 implementation and compliance with the rules and guidelines relative to the
377 employment of persons locally and overseas. It shall likewise monitor, document
378 and report cases of trafficking in persons involving employers and labor recruiters.

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

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

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

394 (g) Philippine National Police (PNP) – shall be the primary law enforcement agency
395 to undertake surveillance, investigation and arrest of individuals or persons
396 suspected to be engaged in trafficking. It shall closely coordinate with various law
397 enforcement agencies to secure concerted efforts for effective investigation and
398 apprehension of suspected traffickers. It shall also establish a system to receive
399 complaints and calls to assist trafficked persons and conduct rescue operations.

400 (h) Philippine Overseas Employment Administration (POEA) – shall implement an
401 effective pre-employment orientation seminars and pre-departure counseling
402 programs to applicants for overseas employment. It shall likewise formulate a
403 system of providing free legal assistance to trafficked persons.

404 (i) Department of the Interior and Local Government (DILG) – shall institute a
405 systematic information and prevention campaign and likewise maintain a databank
406 for the effective monitoring, documentation and prosecution of cases on trafficking
407 in persons.

408 (j) Local government units (LGUs) – shall monitor and document cases of trafficking
409 in persons in their areas of jurisdiction, effect the cancellation of licenses of
410 establishments which violate the provisions of this Act and ensure effective
411 prosecution of such cases. They shall also undertake an information campaign

412 against trafficking in persons through the establishment of the Migrants Advisory
413 and Information Network (MAIN) desks in municipalities or provinces in
414 coordination with DILG, Philippine Information Agency (PIA), Commission on
415 Filipinos Overseas (CFO), NGOs and other concerned agencies. They shall
416 encourage and support community based initiatives which address the trafficking in
417 persons.

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

421 **Section 17. Legal Protections to Trafficked Persons.** – In addition to protections
422 provided elsewhere by law, including in this Act, trafficking in persons victims shall
423 be entitled to the following:

424 (a) Trafficked persons shall be recognized as victims of the act or acts of trafficking
425 and as such shall not be penalized for crimes directly related to the acts of trafficking
426 enumerated in this Act or in obedience to the order made by the trafficker in relation
427 thereto. In this regard, the consent of a trafficked person to the intended exploitation
428 set forth in this Act shall be irrelevant.

429 (b) The appropriate social welfare and development office, whether a DSWD or a
430 city or municipal social welfare and development office, shall automatically have
431 authority to take protective custody of any child allegedly exploited by any person
432 for whom a valid affidavit of arrest has been executed or valid arrest warrant has
433 been issued for any violation of Section 4, Section 5, or Section 11. This authority is in
434 addition to any other lawful authority that DSWD or any city or municipal social
435 welfare and development office has to take custody of a child, and is subject to that
436 office's lawful discretion in caring for the child's welfare, including the discretion to
437 release, or to refuse to release, the child to the child's parent or guardian, with due
438 consideration for the child's best interests.

439 (c) *Protection Orders.* A protection order issued under this Act is for the purpose of
440 preventing attempted or actual violence, harassment, intimidation, or bribery
441 against any victim of a crime under Section 4, Section 5 or Section 11 (including any
442 victim of a criminal attempt), or facilitating the opportunity and ability of that victim
443 to recover from, or to pursue legal remedies for, any such crime. A protection order
444 issued under this Act shall be enforced by law enforcement agencies. Protection
445 orders that may be issued under this Act are barangay protection orders (BPOs),
446 temporary protection orders (TPOs), and permanent protection orders (PPOs). The
447 issuance of a BPO or pendency of an application for a BPO shall not preclude a
448 petitioner applying for, or a court from granting, a TPO or PPO. A BPO under this
449 Act may include only one or more of the forms of relief indicated in subparagraphs
450 (1)-(3) below. A TPO or PPO under this Act may include any one or more of the
451 forms of relief indicated in subparagraphs (1)-(5) below.

- (1) Ordering the respondent to abstain from directly or indirectly contacting, communicating with, threatening, harassing or annoying an alleged trafficking in persons victim or any other person associated with or related to the alleged victim;
- (2) Ordering the respondent to stay away, at a specified distance, from an alleged trafficking in persons victim or any other person associated with or related to the alleged victim, or from any specified place frequented by the alleged victim or any other person associated with or related to the alleged victim;
- (3) Ordering the respondent to refrain from using, or to surrender to the issuing authority for appropriate disposition, any firearm or deadly weapon, or to be disqualified from possessing or using any firearm or deadly weapon including, without limitation, by revocation of a license or disqualification for obtaining a license;
- (4) Ordering the respondent to provide restitution for any actual damages that petitioner caused an alleged trafficking in persons victim, including but not limited to lost or damaged property, lost income, and medical expenses; or
- (5) Ordering any other relief as deemed necessary to protect and to provide for the safety and well-being of an alleged trafficking in persons victim, including (without limitation) by protecting and providing for the safety and well-being of any other person associated with or related to the alleged victim, provided that the alleged victim and any designated person associated with or related to the alleged victim consent to such relief.

A BPO, TPO, or PPO under this Section may be obtained by any person authorized to petition for a protective order under R.A. 9262 (with the "offended party" for purposes of this Section being limited to an alleged trafficking in persons victim), by the means for obtaining an order of the same kind (i.e., BPO, TPO, or PPO) under R.A. 9262. Any alleged trafficking in persons victim, whether male or female, may be the beneficiary of a protective order under this Section. Any violation of an order issued pursuant to this Section shall be punished according to the penalty provided for an analogous violation of an order issued pursuant to R.A. 9262. Nothing in any order issued pursuant to this Section shall limit the authority of social welfare and development offices, including (without limitation) as to the authority described in paragraph (b) of this Section.

Section 18. Preferential Entitlement Under the Witness Protection Program. – Any provision of Republic Act No. 6981 to the contrary notwithstanding, any trafficked person shall be entitled to the witness protection program provided therein.

Section 19. Trafficked Persons Who are Foreign Nationals. – Subject to the guidelines issued by the Council, trafficked persons in the Philippines who are nationals of a foreign country shall also be entitled to appropriate protection, assistance and

492 services available to trafficked persons under this Act: *Provided*, That they shall be
493 permitted continued presence in the Philippines for a length of time prescribed by
494 the Council as necessary to effect the prosecution of offenders.

495 **Section 20. Inter-Agency Council Against Trafficking.** - There is hereby established an
496 Inter-Agency Council Against Trafficking, to be composed of the Secretary of the
497 Department of Justice as Chairperson and the Secretary of the Department of Social
498 Welfare and Development as Co-Chairperson and shall have the following as
499 members:

500 (a) Secretary, Department of Foreign Affairs;

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

502 (c) Administrator, Philippine Overseas Employment Administration;

503 (d) Commissioner, Bureau of Immigration;

504 (e) Director-General, Philippine National Police;

505 (f) Chairperson, Philippine Commission on Women; and

506 (g) Three (3) representatives from NGOs, who shall be composed of one (1)
507 representative each from among the sectors representing women, overseas Filipino
508 workers (OFWs) and children, with a proven record of involvement in the
509 prevention and suppression of trafficking in persons. These representatives shall be
510 nominated by the government agency representatives of the Council, for
511 appointment by the President for a term of three (3) years.

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

516 **Section 21. Functions of the Council.** - The Council shall have the following powers
517 and functions:

518 (a) Formulate a comprehensive and integrated program to prevent and suppress the
519 trafficking in persons;

520 (b) Promulgate rules and regulations as may be necessary for the effective
521 implementation of this Act;

522 (c) Monitor and oversee the strict implementation of this Act;

523 (d) Coordinate the programs and projects of the various member agencies to
524 effectively address the issues and problems attendant to trafficking in persons;

- 525 (e) Coordinate the conduct of massive information dissemination and campaign on
526 the existence of the law and the various issues and problems attendant to trafficking
527 through the LGUs, concerned agencies, and NGOs;
- 528 (f) Direct other agencies to immediately respond to the problems brought to their
529 attention and report to the Council on action taken;
- 530 (g) Assist in filing of cases against individuals, agencies, institutions or
531 establishments that violate the provisions of this Act;
- 532 (h) Formulate a program for the reintegration of trafficked persons in cooperation
533 with DOLE, DSWD, Technical Education and Skills Development Authority
534 (TESDA), Commission on Higher Education (CHED), LGUs and NGOs;
- 535 (i) Secure from any department, bureau, office, agency, or instrumentality of the
536 government or from NGOs and other civic organizations such assistance as may be
537 needed to effectively implement this Act;
- 538 (j) Complement the shared government information system for migration
539 established under Republic Act No. 8042, otherwise known as the "Migrant Workers
540 and Overseas Filipinos Act of 1995" with data on cases of trafficking in persons, and
541 ensure that the proper agencies conduct a continuing research and study on the
542 patterns and scheme of trafficking in persons which shall form the basis for policy
543 formulation and program direction;
- 544 (k) Develop the mechanism to ensure the timely, coordinated, and effective response
545 to cases of trafficking in persons;
- 546 (l) Recommend measures to enhance cooperative efforts and mutual assistance
547 among foreign countries through bilateral and/or multilateral arrangements to
548 prevent and suppress international trafficking in persons;
- 549 (m) Coordinate with the Department of Transportation and Communications
550 (DOTC), Department of Trade and Industry (DTI), and other NGOs in monitoring
551 the promotion of advertisement of trafficking in the internet;
- 552 (n) Adopt measures and policies to protect the rights and needs of trafficked persons
553 who are foreign nationals in the Philippines;
- 554 (o) Initiate training programs in identifying and providing the necessary
555 intervention or assistance to trafficked persons; and
- 556 (p) Exercise all the powers and perform such other functions necessary to attain the
557 purposes and objectives of this Act.
- 558 **Section 22. Secretariat to the Council; Office of the Inter-Agency Council Against**
559 **Trafficking; Office Appropriations. -**

- 560 (a) *Secretariat.* – The Department of Justice shall establish the necessary Secretariat
561 for the Council.
- 562 (b) *Office of the Inter-Agency Council Against Trafficking.* – There is also hereby
563 established the Office of the Inter-Agency Council Against Trafficking as an attached
564 agency to the Department of Justice (DOJ). The Office shall provide ongoing support
565 for the functions and projects of the Council. The Office shall be headed by an
566 executive director, which shall be the Council Secretary or another person appointed
567 by the Council.
- 568 (c) *Appropriations.* – The amount necessary to carry out the functions of the Office of
569 the Inter-Agency Council Against Trafficking shall be included in the General
570 Appropriations Act of the year following enactment of this Act into law and
571 thereafter.
- 572 **Section 23. Mandatory Services to Trafficked Persons.** – To ensure recovery,
573 rehabilitation and reintegration into the mainstream of society, concerned
574 government agencies shall make available the following services to trafficked
575 persons:
- 576 (a) Emergency shelter or appropriate housing;
- 577 (b) Counseling;
- 578 (c) Free legal services which shall include information about the victims' rights and
579 the procedure for filing complaints, claiming compensation and such other legal
580 remedies available to them, in a language understood by the trafficked person;
- 581 (d) Medical or psychological services;
- 582 (e) Livelihood and skills training; and
- 583 (f) Educational assistance to a trafficked child.
- 584 Sustained supervision and follow through mechanism that will track the progress of
585 recovery, rehabilitation and reintegration of the trafficked persons shall be adopted
586 and carried out.
- 587 **Section 24. Other Services for Trafficked Persons.** –
- 588 (a) *Legal Assistance.* – Trafficked persons shall be considered under the category
589 "Overseas Filipino in Distress" and may avail of the legal assistance created by
590 Republic Act No. 8042, subject to the guidelines as provided by law.
- 591 (b) *Overseas Filipino Resource Centers.* – The services available to overseas Filipinos as
592 provided for by Republic Act No. 8042 shall also be extended to trafficked persons
593 regardless of their immigration status in the host country.

594 (c) *The Country Team Approach.* – The country team approach under Executive Order
595 No. 74 of 1993, shall be the operational scheme under which Philippine embassies
596 abroad shall provide protection to trafficked persons insofar as the promotion of
597 their welfare, dignity and fundamental rights are concerned.

598 **Section 25. Repatriation of Trafficked Persons.** – The DFA, in coordination with DOLE
599 and other appropriate agencies, shall have the primary responsibility for the
600 repatriation of trafficked persons, regardless of whether they are documented or
601 undocumented.

602 If, however, the repatriation of the trafficked persons shall expose the victims to
603 greater risks, the DFA shall make representation with the host government for the
604 extension of appropriate residency permits and protection, as may be legally
605 permissible in the host country.

606 **Section 26. Extradition.** – The DOJ, in consultation with DFA, shall endeavor to
607 include offenses of trafficking in persons among extraditable offenses.

608 **Section 27. Reporting Requirements.** – The Council shall submit to the President of the
609 Philippines and to Congress an annual report of the policies, programs and activities
610 relative to the implementation of this Act.

611 **Section 28. Funding.** – The heads of the departments and agencies concerned shall
612 immediately include in their programs and issue such rules and regulations to
613 implement the provisions of this Act, the funding of which shall be included in the
614 annual General Appropriations Act.

615 **Section 29. Implementing Rules and Regulations.** – The Council shall promulgate the
616 necessary implementing rules and regulations within sixty (60) days from the
617 effectivity of this Act.

618 **Section 30. Non-restriction of Freedom of Speech and of Association, Religion and the Right
619 to Travel.** – Nothing in this Act shall be interpreted as a restriction of the freedom of
620 speech and of association, religion and the right to travel for purposes not contrary
621 to law as guaranteed by the Constitution.

622 **Section 31. Separability Clause.** – If, for any reason, any section or provision of this
623 Act is held unconstitutional or invalid, the other sections or provisions hereof shall
624 not be affected thereby.

625 **Section 32. Repealing clause.** – All laws, presidential decrees, executive orders and
626 rules and regulations, or parts thereof, inconsistent with the provisions of this Act
627 are hereby repealed or modified accordingly: *Provided*, That this Act shall not in any
628 way amend or repeal the provision of Republic Act No. 7610, otherwise known as
629 the "Special Protection of Children Against Child Abuse, Exploitation and
630 Discrimination Act".

631 **Section 33. Effectivity.** – This Act shall take effect fifteen (15) days from the date of its
632 complete publication in at least two (2) newspapers of general circulation.

633
634 Approved,