

second  
edition

# R.A. 9208

The Anti-Trafficking in Persons Act of 2003



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## What is “Trafficking in Persons”?

Trafficking in persons involves the recruitment, transport, harboring, or sale of persons, within or across national borders, for the purpose of exploiting their labor. Trafficked persons are forced into prostitution, domestic servitude, bonded sweatshop labor, and other kinds of work or slavery-like practices. Trafficked persons are also victims of organ removal and sale.

Traffickers use coercive tactics including deception, fraud, intimidation, threat, physical force, or debt bondage to control their victims.

Trafficking in persons for prostitution and forced labor is one of the fastest growing areas of international criminal activity. Generating 7-12 billion dollars in profit annually, trafficking in persons is now considered the third largest source of profits for organized crime, next to trafficking in drugs and guns.

Millions of people are trafficked each year around the world by syndicates and criminal groups. The largest number of victims of trafficking in persons comes from Asia.

Women and children are typically the victims of trafficking. They are recruited with promises of decent jobs in foreign countries or provinces. However, instead of moving to decent jobs, trafficked women and children find themselves placed in situations of forced labor and prostitution.

While trafficking in drugs and guns carry severe punishment, trafficking in persons carry only negligible penalties. This is true for many countries. Moreover, while the incidence of mail-order marriages continues to rise, there is zero conviction rate against mail-order agencies.



## The Philippines has a law against Trafficking in Persons: the Anti-Trafficking Act of 2003.



Anti-Trafficking in Persons Act of 2003 is the title of Republic Act No. 9208, a recently enacted legislation that sets up policies to eliminate trafficking in persons, especially women and children. It establishes necessary institutional mechanisms to protect and support trafficked persons. It also provides penalties for violators.

## Trafficking in Persons has certain elements.

Under the Anti-Trafficking in Persons Act of 2003, the elements of trafficking in persons are:

- a. Recruitment, transportation, transfer or harboring, or receipt of person;
- b. Recruitment, transportation, transfer or harboring or receipt of person with or without the person's or victim's consent;
- c. Recruitment, transportation, transfer or harboring, or receipt of person within or across national borders;
- d. Threatening victims or using force or other forms of coercion; abduction, fraud, deception, abuse of power or position; giving or receiving of payments or benefits to achieve the consent of a person having control over another person; and
- e. The recruitment, transportation, transfer, harboring or receipt of person is for the purpose of exploitation such as sexual exploitation, forced labor or services, slavery or practices similar to slavery, and removal or sale of organs or other similar acts.



## There are three categories of trafficking.

The Anti-Trafficking in Persons Act of 2003 punishes three categories of trafficking acts:

- a. Acts of trafficking in persons;
- b. Acts that promote trafficking in persons; and
- c. Qualified trafficking in persons.



Trafficking in Persons must be distinguished from Human Smuggling.

<b><i>Trafficking in Persons</i></b>	<b><i>Human Smuggling</i></b>
Usually involves coercion	Usually does not involve coercion
Characterized by subsequent exploitation after the illegal entry of a person into a foreign country	Characterized by facilitating, for a fee, the illegal entry of a person into a foreign country
Considered a human rights issue	Considered a migration concern

## What are considered acts of Trafficking in Persons?

- a. Recruiting, transporting, transferring, harboring, providing or receiving a person by any means for purposes of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;
- b. Introducing for money or other consideration, any Filipina to a foreigner as a possible spouse or to offer any Filipina to a foreigner as a prostitute;
- c. Offering or contracting marriage for purposes of acquiring, buying, offering, selling or trading a person to engage in prostitution, or other acts of exploitation;
- d. Undertaking or organizing tours and travel plans consisting of tourism packages for purposes of utilizing or offering persons for prostitution, pornography or sexual exploitation;
- e. Maintaining or hiring a person to engage in prostitution or pornography;
- f. Adopting or facilitating the adoption of persons for the purpose of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;
- g. Recruiting, hiring, adopting, transporting or abducting 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; or
- h. Recruiting, transporting or adopting a child to engage in armed activities in the Philippines or abroad.



## What acts constitute Promoting Trafficking?

- a. Knowingly leasing or subleasing property for trafficking purposes;
- b. Producing, printing, issuing or distributing unissued, tampered or fake counseling certificates, registration stickers and other certificates of government used for regulatory and pre-departure requirements for the purpose of promoting trafficking;
- c. Advertising, publishing, printing, broadcasting or distributing, by any means, any brochure, flyer, or any propaganda material that promotes trafficking;
- d. Assisting in the conduct of misrepresentation or fraud for purposes of facilitating the acquisition of clearances and exit documents for the purpose of promoting trafficking;
- e. Facilitating, assisting or helping in the exit and entry of persons from/to the country at international or domestic airports, territorial boundaries and seaports who are in possession of unissued, tampered or fraudulent travel documents for the purpose of promoting trafficking; or
- f. Confiscating, concealing, or destroying the passport, travel documents or belongings of trafficked persons, or preventing them from leaving the country or seeking redress from the government and appropriate agencies; or
- g. Knowingly benefiting from, financial or otherwise, or making use of, the labor or services of a person held to a condition of involuntary servitude, forced labor or slavery.



## What acts constitute Qualified Trafficking?

Qualified trafficking in persons is committed when:

- a. The trafficked person is below 18 years of age;
- b. The adoption is through the Inter Country Adoption Law and the adoption is for prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;
- c. The act is committed by a syndicate or on a large scale;
- d. 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. The trafficked person is recruited to engage in prostitution for any member of the military or law enforcement agencies;
- f. The offender is a member of the military or law enforcement agencies; or
- g. By reason or on occasion of the act of trafficking, the offended party dies, becomes insane, suffers mutilation or is afflicted with HIV or AIDS.



## Who are criminally liable for Trafficking in Persons?

Any person, natural or juridical, who commits any offense under RA 9208 may be punished for trafficking acts.

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.



## Up to when can cases for trafficking acts be filed?

Cases for trafficking acts can be filed up to 10 years after they are committed. If trafficking is committed by a syndicate or on a large scale, cases can be filed up to 20 years after the act. The so-called “prescriptive period” is counted from the day the trafficked person is delivered or released from the conditions of bondage.

## What are the penalties for Trafficking in Persons?

<b><i>Act</i></b>	<b><i>Penalty</i></b>
Qualified Trafficking in Persons	life imprisonment and a fine of P2 million to 5 million
Trafficking in Persons	20 years imprisonment and a fine of P1 million to 2 million
Promoting Trafficking in Persons	15 years imprisonment and a fine of P500,000 to 1 million
Use of Trafficked Persons for Prostitution	<i>first offense:</i> 6 months community service and a fine of P50,000 <i>subsequent offenses:</i> 1 year imprisonment and a fine of P100,000



## Where can Trafficking in Persons cases be filed?



Trafficking cases may be filed in places where:

- a. the offense was committed;
- b. any of its elements occurred; or
- c. the trafficked person resides at the time of the commission of the crime.

## Who can file cases for Trafficking in Persons?



The following may file a case/complaint for trafficking:

- a. the trafficked person;
- b. the trafficked person's:
  1. parents,
  2. spouse,
  3. siblings,
  4. children, or
  5. legal guardian; or
- c. anyone who has personal knowledge of the crime.

## What happens to properties, objects and/or profits used or derived by traffickers?

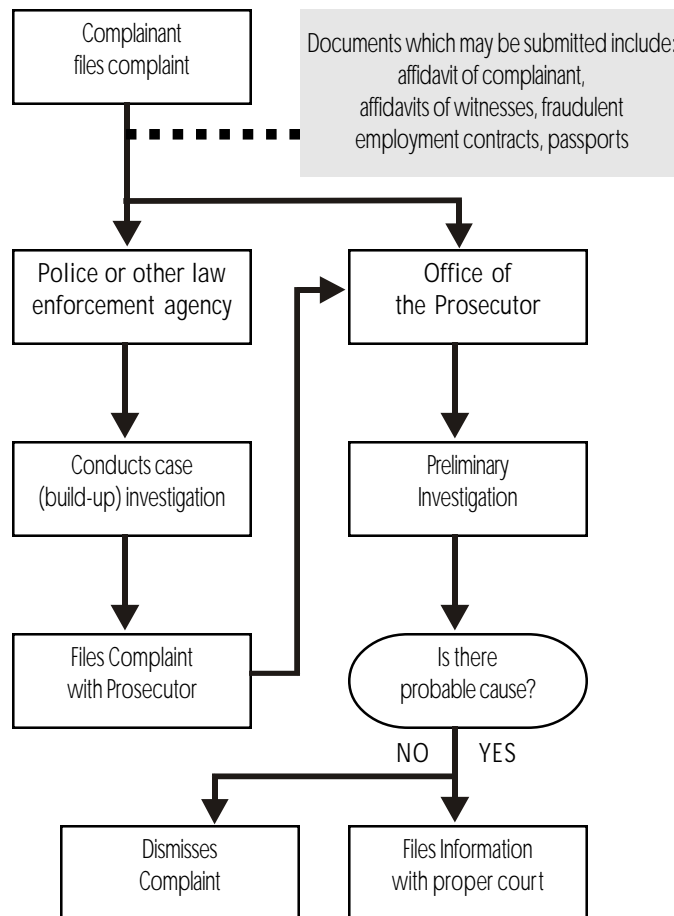
The court shall order the confiscation and forfeiture, in favor of the government, of all the proceeds and properties derived from the commission of the crime.



## May victims of Trafficking in Persons be punished under the law?

Trafficked persons shall be recognized as victims of acts of trafficking and shall not be penalized for crimes directly related to the acts of trafficking or for obeying order of traffickers. It doesn't matter if the trafficked person consented to the intended exploitation.

## What is the procedure for filing cases for Trafficking in Persons?



## What happens to Filipino victims of trafficking located in other countries?

Trafficking victims located in other countries, whether documented or not, shall be repatriated. The DFA shall be responsible for repatriating trafficked victims.

If, however, the repatriation of trafficked persons shall expose them to greater risks, the DFA shall make representations with the host government for the extension of appropriate residency permits and protection, as may be permissible in the host country.



## What government agencies are mandated to implement the Anti-Trafficking in Persons Act of 2003 (RA 9208)?

The Inter-Agency Council Against Trafficking (IACAT), together with other relevant government agencies, are mandated to implement RA 9208. The IAC is composed of the following:

- § Department of Justice (DOJ) as Chair
- § Department of Social Welfare and Development (DSWD) as Co-Chair
- § Department of Foreign Affairs (DFA)
- § Department of Labor and Employment (DOLE)
- § Philippine Overseas Employment Administration (POEA)
- § Bureau of Immigration (BI)
- § Philippine National Police (PNP)
- § National Commission on the Role of Filipino Women (NCRFW)

## NGOs in the Inter-Agency Council Against Trafficking.



Three representatives from NGOs, composed of one representative each from women, children and OFW sectors, shall be part of the IACAT. The representatives are nominated by the government members of the IACAT and appointed by the President for a term of three years. The NGOs shall assist the government in preventing trafficking activities, protecting and re-integrating trafficking victims and prosecuting traffickers.

### What will the DILG do?

- § Conduct an information/advocacy campaign against trafficking;
- § Monitor, document and maintain a databank on trafficking cases;
- § Guide LGUs and barangays on how to monitor recruiters and increase public awareness on trafficking;
- § Promote family and community empowerment to prevent trafficking; and
- § Maximize existing mechanisms and organizations to prevent and suppress trafficking.

### What will LGUs do?

- § Disseminate information on trafficking;
- § Monitor and document trafficking cases;
- § Cancel licenses of erring establishments;
- § Coordinate with other agencies to conduct information campaigns against trafficking;
- § Support community initiatives against trafficking;
- § Provide basic social services to trafficking victims and their families;
- § Pass local ordinances to curb trafficking and protect trafficking victims; and
- § Maximize existing mechanisms and organizations to prevent and suppress trafficking.

## What programs are established for victims of trafficking in persons?

<b><i>Government Programs under the Anti-Trafficking Law</i></b>	<b><i>Implementing Agencies</i></b>
Effective prosecution of trafficking cases	DOJ, POEA, LGUs
Reintegration and rehabilitation programs resulting in gender responsive and anti-trafficking oriented activities	DSWD, OWWA, CHED, DepEd
Counseling and temporary shelter for trafficking victims	DSWD, OWWA
Participation in bilateral, regional, international initiatives and arrangements against trafficking; protection of integrity of Philippine passports	DFA, NCRFW, CFO, BI
Pre-marriage and pre-departure counseling services for intermarriages/OFWs	DFA, OWWA, CFO
Comprehensive community education, advocacy and information campaign programs on trafficking	POEA, NCRFW, BI, DILG, LGUs, CHR, PIA, OWWA, DOT
Monitoring and documentation of trafficking cases	DILG, LGUs, DOLE, OWWA, DOTC
Establishment of database for law enforcement and prosecutory efforts	DILG, LGUs, POEA, PCTC
Mandatory free legal assistance and services	DOJ, DSWD, POEA, CHR, IBP
Medical, psycho-social services, temporary shelter	DSWD, DOH
Livelihood, educational, entrepreneurial and skills training	DSWD, OWWA, TESDA, DepEd
Educational assistance to trafficked children	DSWD, OWWA, DepEd
Complaints, investigation and apprehension system	PNP, BI, NBI, CHR
Monitoring of trafficking related activities in the internet	DOTC, DTI
Integration in proper subject areas on elementary and secondary levels messages on migration and trafficking	DepEd
Integration of anti-trafficking efforts in the barangay level and monitoring government compliance with international human rights treaties.	CHR
Advocate, monitor, promote frameworks and adopt policies on trafficking against children	CWC
Prevention and detection of trafficking with transnational crime dimensions and coordination with international law enforcement agencies	PCTC, NBI

# Trafficking/Smuggling Routes and Destinations



For further information, please contact:



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## Facts and Figures on Trafficking in Persons and Human Smuggling

- § As of December 2001, there were 7.41 million Filipinos living and working overseas.
- § 1.62 million of them are irregular migrants and are suspected to be victims of trafficking or smuggling.
- § There are 935 recorded cases of human trafficking from 1993 to March 2001. [*The actual number of persons trafficked is purportedly much higher. There is a need for a more reliable system on data collection.*]
- § 65% of victims are women; 25% of women victims were forced into prostitution.
- § 53% of victims were trafficked to the Asia-Pacific, 25% to the Middle East, and 19% to Europe.
- § 51% of victims were trafficked with their consent or knowledge, and 49% were deceived.
- § Incidence of mail-order marriages is increasing, yet there is zero conviction rate against mail-order agencies.
- § Global trafficking profit is estimated to be about \$7-12 billion per year, the third largest source of profits for organized crime, next only to drugs and guns.
- § Compared to drugs and arms trafficking, the penalties for human trafficking are lower in many countries.
- § Most Europe-based/bound victims were trafficked by syndicates.
- § Familiar syndicates are the Italian *Camorra*, the Chinese *Triads*, the Russian *Mafia*, and the Japanese *Yakuza*.
- § The Italian *Camorra* operates in Italy, Spain, Germany, Brazil and other parts of Latin America.
- § An estimated 5,000 organized criminal groups constitute the Russian *Mafia*, at least 200 of which with links or operations in 30 different countries.