

Among others, the CGRJ seeks to adopt a core strategic plan that would "[t]ransform paradigm and enhance the commitment of the judicial system to gender equality through training and capability-building."³³

With this plan well ahead to being implemented, the judiciary should undoubtedly contribute significantly to the challenges our country faces in fulfilling its commitment to the Convention on the Elimination of All Forms of Discrimination Against Women to eliminate *de jure* and *de facto* discrimination through the development of a more gender-sensitive case law.

The Anti-Trafficking in Persons Act of 2003: Reflections & Challenges Ahead

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I. INTRODUCTION: THE PROBLEM OF TRAFFICKING IN PERSONS

As early as the pre-Hispanic times, it has been recorded that children as well as women were already used to pay the debts of the household.¹ That this practice provided an ideal milieu for the traffic of women and children for

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1. ELIZABETH EVIOTA, *THE POLITICAL ECONOMY OF GENDER: WOMEN AND THE SEXUAL DIVISION OF LABOR IN THE PHILIPPINES* 36 (1992).

employment leaves little doubt. Whether they consented to it or not, these women and children rendered service for payment of debts.

This situation of debt-bondage continued during the Spanish era. In addition to wives and daughters being offered to the clergy and Spanish officials to pay off the gambling debts of Filipino men, hacienda owners who extended extremely high-interest loans to their workers effectively trapped the latter and their children into indebtedness.² When the American occupation came, the situation of children in debt bondage worsened. While some were treated like chattels serving as mortgages, indigenous children, notably Ifugaos and Negritos, were sold into slavery.³ This prompted the Philippine Commission to enact several laws to address the practice of slavery and involuntary servitude. Thus, in 1904, the Commission granted to the Court of First Instance jurisdiction over offenses made punishable by the legislative council of the Moro province in Act. No. 8 which defined the crimes of slave holding and slave hunting.⁴ In 1911, it enacted another law prohibiting "Slavery, Involuntary Servitude, Peonage and the Sale or Purchase of Human Beings in the Mountain Province and the Provinces of Nueva Vizcaya and Agusan, and Providing Punishment Therefor."⁵ Then in 1913, the said Commission which was now called the Philippine Legislature enacted Act No. 2300 which prohibited the following acts:

- a) kidnapping or carrying away another person with the intent of selling into involuntary servitude or hold as slave or someone who assists in the accomplishment of the same;
- b) peonage – anybody who arrests, holds returns to or aids in these acts for the purpose of peonage;
- c) bringing in persons from abroad for slavery or involuntary servitude.⁶

2. *Id.* at 40.

3. ROSARIO DEL ROSARIO & MELINDA BONGA, CHILD LABOR IN THE PHILIPPINES 159-60 (2000).

4. An Act Giving to Courts of First Instance Jurisdiction Over All Offenses Made Punishable by Act Numbered Eight of the Legislative Council of the Moro Province, Entitled "An Act Defining the Crimes of Slave Holding and Slave Hunting, and Prescribing the Punishment Therefor," Act No. 1078 (1904).

5. An Act Prohibiting Slavery, Involuntary Servitude, Peonage and the Sale or Purchase of Human Beings in the Mountain Province and the Provinces of Nueva Vizcaya and Agusan, and Providing Punishment Therefor, Act No. 2071 (1911).

6. An Act Confirming Existing Legislation Prohibiting Slavery, Involuntary Servitude, and Peonage in the Philippine Islands, Subject to Modifications as Provided in Sections Two Hundred and Sixty-Eight, Two Hundred and Sixty-Nine, Two Hundred and Seventy and Two Hundred and Seventy One of the

It was about this time that the children's (especially the girls) entry into prostitution was also beginning to be a growing concern. In the 1932 Report on the Philippines by the Commission on Enquiry into the Traffic in Women and Children in the East of the League of Nations, it disclosed that "internal traffic in native young girls [was] being carried on mainly by so-called employment agencies, which bring poor and ignorant young girls from the country districts to the large cities, particularly Manila, ostensibly as servants. Here they are lured into dance-halls and houses of prostitution... These young ignorant girls are turned over to pimps and panders."⁷

The post-colonial era saw the further "commodification" of children, especially the girl-child. Pimps frequented villages to look for girls, ages 12-14. They gave their parents a small amount of money and then took these girls initially to teach them how to sing and dance and eventually to set them up for prostitution.⁸ The Philippine Report to the United Nations Economic and Social Council, in fact, showed that from 1948-1950, the number of arrests for offenses connected with the traffic of women and children reached 1,410 and the conviction rate was high at 94%.⁹

With the pervasiveness of poverty and the not-so-promising economic opportunities in the country especially in the rural areas, it was obvious that migration from the rural to the urban areas was inevitable. At the same time, there was also a steady rise in the out-migration where more and more Filipinos sought better-paying jobs abroad. Thus, trafficking, both internally and externally, grew and developed into one of the low risk, high profit "industries" in the country.

The modes of trafficking also evolved and took on several forms such as recruitment for entertainment, domestic work, *au pair* arrangements and mail-order brides.¹⁰ As far as the internal traffic of children was concerned, the children were not only taken to urban centers to work as domestic helpers but some were also brought to factories and establishments where

Act of the Congress of the United States approved March Fourth, Nineteen Hundred and Nine, Entitled "An Act to Codify, Revise, and Amend the Penal Laws of the United States and Adopting Measures for Violations of Said Laws," Act No. 2300, § 1 (1913).

7. Department of Social Welfare and Development & United Nations Children's Fund, Commercial Sexual Exploitation of Children in the Philippines: A Situation Analysis, available at http://www.childprotection.org.ph/monthlyfeatures/executive_summary.doc (last accessed Aug. 22, 2004) [hereinafter Situation Analysis].

8. EVIOTA, *supra* note 1, at 136.

9. Situation Analysis, *supra* note 7.

10. Amparita Sta. Maria, *The Legal Perspective in THE PHILIPPINE-BELGIAN PILOT PROJECT AGAINST TRAFFICKING IN WOMEN* 29 (1999).

they worked in sub-human conditions and were not paid adequately. The promotion of tourism in the country and its demand for the sexual services of children also greatly contributed, no doubt, to the upsurge in the commercial sexual exploitation of children, which in turn, further increased the risk of their being trafficked for this purpose.

A. *Trafficking as a Violation of Human Rights*

Trafficking in persons, especially in women and children, is no doubt one of the most severe forms of human rights violation. In trafficking, the victim is not at all treated as a human being but as a commodity — the subject of clandestine commercial transactions. The different modalities by which it is committed reflects the fluidity and invisibility of the trafficking trade itself, making it extremely difficult for law enforcers to go after the traffickers.

In more recent developments, trafficking was also observed as the handiwork of organized criminal groups which operate not only within the domestic level but internationally, thus, necessitating a regional and global response and requiring the cooperation of sending, transit and receiving countries. Because of the indignities and abuses that victims suffer, very few of them are willing to come out in the open and prosecute against their traffickers. This, of course, is on the assumption that the traffickers can actually be caught and brought before the courts. Traffickers, especially those belonging to syndicates or cartels, have become so moneyed and powerful that they can easily corrupt and bribe their way out of the justice system, if they do not choose to first threaten their pursuers with reprisal. Estimates of profits in the trafficking trade run from 7 to 10 U.S. Billion dollars a year.¹¹ Thus, with the low probability of prosecution and high profit guarantee, trafficking in persons, especially women and children continues to flourish, with the people from developing countries being most vulnerable to the enticements and false promises offered by traffickers.

B. *The International Response*

The international community has not been remiss in addressing the trafficking dilemma, at least through the enactment of legal instruments. Treaties and conventions have always been regarded as means to provide international norms for all to follow. They likewise provide various *fora* for discussion and mechanisms for State compliance. Thus, through international efforts, trafficking in persons has gained recognition through various international legal instruments, some dating back even prior to the establishment of the United Nations. Of these various treaties and

agreements, the Convention Against Transnational Organized Crimes¹² (hereinafter the Convention) and the related Protocols are the more recent and prominent enactments related hereto.

The Convention was adopted by the United Nations General Assembly on 15 November 2000.¹³ As provided for in Article 1, the purpose of this convention is “to promote cooperation to prevent and combat transnational organized crime more effectively.” Thus, it mandates States-Parties to take measures to criminalize participation in an organized criminal group (Article 5); criminalize laundering of proceeds of the crime (Article 6); criminalize corruption (Article 8); prosecute, adjudicate and enforce sanctions against offenders (Article 11) and confiscate and seize property or profits derived from such illegal activities (Article 12). The Convention also provides for Extradition, Mutual Legal Assistance, Protection of Witnesses, Assistance to Victims, Training and Technical Assistance and Cooperation with Law Enforcers.

Protocols to this Convention were an anticipated development. Article 37 of the Convention specifically states that in order to be a Party to a related Protocol, “a State or a regional economic integration organization must also be a Party to this Convention.” Thus, three months after the Convention took effect on 29 September 2003, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (The Trafficking Protocol) came into force on 25 December 2003,¹⁴ effectively supplementing the Convention. The Trafficking Protocol, as will be subsequently elaborated upon, is significant in the evaluation of the Philippine law on trafficking which is the subject of this Note. Two further Protocols, namely the Protocol against the Smuggling of Migrants and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, are

12. G.A. Res. 55/25, U.N. GAOR, 55th Sess., Agenda item 105, at 4, U.N. Doc.A/RES/55/25 (2001), available at http://www.unodc.org/unodc/en/crime_cicp_signatures_convention.html (last accessed Aug. 22, 2004) [Convention Against Transnational Organized Crime].

13. *Id.*

14. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, G.A. Res. 55/383, U.N. GAOR, 55th Sess., Agenda item 105, at annex II, U.N. Doc.A/RES/55/383 (2000), available at http://www.unodc.org/unodc/en/crime_cicp_signatures.html (last accessed Aug. 22, 2004) [hereinafter Trafficking Protocol].

11. Available at <http://www.iss.co.za/Pubs/ASR/I2No1/EFitz.html> (last accessed Aug. 22, 2004).

intended as additional supplements to the Convention. While the former took effect on 28 January 2004,¹⁵ the latter has yet to come into force.

C. The U.S. TVPA and the 2004 U.S. Report on Trafficking

Although the United States (U.S.) has not ratified either the Convention or the Trafficking Protocol on Trafficking in Persons, the definition of trafficking in the latter instrument has been incorporated in the latest report of the U.S. (2004 U.S. Report) in relation to the Trafficking Victims Protection Act of 2000 (TVPA). This law, which was later on amended by the Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA), requires the Secretary of State to submit an annual report to Congress.¹⁶ The report assesses the different countries' efforts at combating trafficking through prevention and protection measures with special focus on prosecutions and convictions of traffickers.¹⁷

On the basis of such assessment, the countries are grouped into four tiers, depending on whether or not they have met the minimum standards set by the TVPRA. These minimum standards are generally satisfied if a country has an existing legal framework for the prosecution and conviction of traffickers, with penalties commensurate to the severity of their acts; and more importantly, if there is a significant number of prosecutions and convictions of both traffickers and their accomplices, which may come from the government. The Tiers, on the other hand, are divided according to the extent of the countries' compliance with the said minimum standards. Hence, as stated in the report, the following Tiers are categorized as follows:

TIER 1: Countries whose governments fully comply with the Act's minimum standards.

TIER 2: Countries whose governments do not fully comply with the Act's minimum standards but are making significant efforts to bring themselves into compliance with those standards.

TIER 2 WATCH LIST: Countries whose governments do not fully comply with the Act's minimum standards but are making significant efforts to bring themselves into compliance with those standards, and:

The absolute number of victims of severe forms of trafficking is very significant or is significantly increasing; or

15. G.A. Res. 55/25, U.N. GAOR, 55th Sess., Agenda item 105, at 1, U.N.Doc.A/RES/55/25 (2000), available at http://www.unodc.org/unodc/en/crime_cicp_signatures_migrants.html (last accessed Aug. 22, 2004).

16. Trafficking Victims Protection Act, 22 U.S.C. 7104 § 110(b)(1) (2000), available at www.state.gov/documents/organization/10492.pdf (last accessed Aug. 22, 2004).

17. Trafficking in Persons Report 25 (2004), available at <http://www.state.gov/documents/organization/34158.pdf> (last accessed Aug. 22, 2004).

There is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year; or

The determination that a country is making significant efforts to bring themselves into compliance with minimum standards was based on commitments by the country to take additional future steps over the next year.

TIER 3: Countries whose governments do not fully comply with the minimum standards and are not making significant efforts to do so.¹⁸

Tier placement of countries is done by the U.S. for a specific purpose. Those who fall under Tier 3 by 1 October 2004 may be faced with certain sanctions. At its discretion, the U.S. Government may withhold non-humanitarian and non-trade-related assistance. Funds may also be withheld for participation in educational and cultural exchange programs. Furthermore, the U.S. will likely oppose assistance sought by a Tier 3 country from the International Monetary Fund and the World Bank, save for humanitarian, trade, and certain development-related assistance.¹⁹

The extraterritorial character of the TVPA, as amended, is unique in itself, because it seeks to regulate the conduct on non-nationals with regard to acts of trafficking which may well be outside of the territorial application of its own criminal laws. The U.S. focuses, instead, on the efforts of a country and exerts pressure against it through threatened sanctions, if it deems that such country is not doing enough to prevent trafficking and thus, has failed to meet the minimum standards of compliance set by its law.

With a comprehensive trafficking law coming into effect, it is ironic that in the latest 2004 U.S. Report, the Philippines has been relegated to Tier 2 (Watch List). The reason given for this is the "government's failure to provide evidence of increasing efforts to combat severe forms of trafficking, particularly in terms of its weak implementation of the anti-trafficking law and a lack of progress in law enforcement."²⁰ The report specifically mentions that although the government has investigated trafficking-related offenses, there were only three prosecutions under the new trafficking law (but no convictions) and only two convictions under other laws. The report recommends immediate corrective action through arrest and prosecution of traffickers and government officials who are likewise involved in trafficking.²¹

18. *Id.* at 28.

19. *Id.* at 31.

20. G.A. Res. 49/166, U.N. GAOR, 94th Plenary Sess., U.N. Doc.A/RES/49/166 105 (1994), available at <http://www.un.org/documents/ga/res/49/a49r166.htm> (last accessed Aug. 22, 2004).

21. *Id.*

II. THE NECESSITY FOR A PHILIPPINE LAW ON TRAFFICKING

As earlier stated, the benchmark set by the TVPA in gauging a country's efforts at combating trafficking are the number of prosecutions and convictions and the application of proper penalties according to the severity of the acts committed. It is obvious that the U.S. is of the opinion that these measures are the most effective deterrent to trafficking, and are also the most concrete proof of a country's political resolve to address this problem.

From its initial report in 2001 until last year, the Philippines has consistently been placed in Tier 2. Except in 2003, where Congress finally passed Republic Act No. 9208, known as the Anti-Trafficking in Persons Act, the reports had cited the Philippines' lack of a law that prohibits trafficking, albeit they acknowledged the existence of some related legislation such as the Migrant Workers and Overseas Filipino Act.²²

It must be stressed, however, that the need for a municipal law on trafficking transcends the influence of one country in the same way that the necessity for a specific trafficking law goes beyond a mere state obligation.

The global condemnation of trafficking in persons is more than apparent and its denunciation as an appalling violation of human rights has gained universal acceptance. Despite this however, the absence of an express statute on this problem leaves trafficking to be a potentially ambiguous concept within local borders. Much like international legal instruments, a municipal law that addresses the crime of trafficking captures the essence of this violation and encapsulates it in concrete and precise terms. No longer some amorphous notion, a municipal law explicitly identifies this social dilemma and helps raise the consciousness of the people and more importantly, the law enforcers. A specific Philippine law on trafficking thus gives a much-needed face to this illicit phenomenon, boosting the overall awareness of the same amongst Filipinos.

A Philippine trafficking law also achieves another purpose, that is, the much-needed consolidation of the problem into a single statute. Although the Philippines recognizes the abhorrence of trafficking in persons, current legislation penalizing this activity is scattered amongst various provisions of the Revised Penal Code and other special laws. Thus, victims of trafficking seeking prosecution would have to deal with multiple laws, each only addressing certain aspects of this crime. The more prominent laws addressing trafficking, albeit some indirectly, are as follows:

22. Available at www.state.gov/g/tip/rd/tiprpt (last accessed Aug. 22, 2004). See An Act to Institute the Policies of Overseas Employment and Establish a Higher Standard of Protection, Republic Act No. 8042 (1995) [THE MIGRANT WORKERS AND OVERSEAS FILIPINO ACT OF 1995].

1. The Revised Penal Code²³
 - a. Art. 267 — Kidnapping and serious illegal detention;
 - b. Art. 270 — Kidnapping and failure to return a minor;
 - c. Art. 271 — Inducing a minor to leave his home;
 - d. Art. 272 — Slavery;
 - e. Art. 273 — Exploitation of child labor;
 - f. Art. 274 — Services rendered under compulsion in payment of debt;
 - g. Art. 340 — Corruption of minors;
 - h. Art. 341 — White slave trade;
 - i. Art. 343 — Consented abduction;
2. The Anti-Mail Order Bride Law²⁴
3. The Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act²⁵
4. The Anti-Sexual Harassment Law²⁶
5. The Migrant Workers Act of 1995²⁷
6. The Philippine Passport Act of 1996²⁸

It must be stressed that none of these laws essentially capture the phenomenon of trafficking in its entirety. For most of these, the individual violations are viewed merely as isolated acts. Thus, the focus of the prosecution would only be as regards the specific act pertaining to the relevant law violated. What then are the implications of this approach? For

23. An Act Revising the Penal Code and Other Penal Laws [REVISED PENAL CODE] (1930).

24. An Act to Declare Unlawful the Practice of Matching Filipino Women for Marriage to Foreign Nationals on a Mail Order Basis and Other Similar Practices, Republic Act No. 6955 (1990).

25. An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes, Republic Act No. 7610, as amended by Republic Act No. 7658 and Republic Act No. 7631 (1992) [R.A. No. 7610].

26. An Act Declaring Sexual Harassment Unlawful in the Employment, Education or Training Environment, and for Other Purposes, Republic Act No. 7877 (1995).

27. An Act to Institute the Policies of Overseas Employment and Establish a Higher Standard of Protection, Republic Act No. 8042 (1995).

28. The Philippine Passport Act, Republic Act No. 8239 (1996).

one, trafficking as a phenomenon remains unspoken and unaddressed. Then, aside from the prosecution filing several charges against one person, some defenses such as consent or complicity become available to a trafficker, which would not be the case if there existed a law specifically against trafficking. More importantly, the victims may actually be regarded not as victims, but as violators themselves.

III. R.A. NO. 9208: THE ANTI-TRAFFICKING IN PERSONS ACT OF 2003

Last year, the Twelfth Congress of the Philippines finally passed Republic Act No. 9208, known as the Anti-Trafficking in Persons Act of 2003. Recognizing the need to address trafficking both as a humanitarian concern and international obligation, RA 9208 espoused the following 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 dignity of women and men as enshrined in the United Nations Universal Declaration on Human Rights, United Nations Convention on the Rights of the Child, 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.²⁹

A. *The Definition of Trafficking in Persons*

The commonly accepted definition of trafficking is embodied in the Trafficking Protocol:

...recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of

vulnerability or of 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. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.³⁰

This definition does not necessarily require any form of movement for trafficking to exist. Mere recruitment is already construed as an act of trafficking so long as the end result or its intent is exploitation as defined in the Protocol. The definition has certainly expanded the concept of trafficking, which a decade ago has been characterized by the United Nations General Assembly as "the illicit and clandestine movements of persons across national and international border."³¹

Under RA 9208, trafficking in persons refers to the:

...recruitment, transportation, transfer or harboring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders by means of threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation which includes at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs.

The recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall also be considered as "trafficking in persons" even if it does not involve any of the means set forth in the preceding paragraph.³²

It is quite discernible even from a cursory reading of RA 9208 that the law contains an almost identical definition of trafficking to the Protocol. A closer examination, however, will show that RA 9208 offers an even broader meaning of the phenomenon.

1. The Question of Consent

An interesting feature in the Protocol definition is that the element of force or intimidation is not indispensable. Trafficking can be achieved through fraud, deception and most notably, through the abuse of the vulnerable

30. Trafficking Protocol, § 3(a).

31. G.A. Res. 49/166, U.N. GAOR, 94th Plenary Sess., U.N. Doc.A/RES/49/166 (1994), available at <http://www.un.org/documents/ga/res/49/a49r166.htm> (last accessed Aug. 22, 2004) (emphasis supplied).

32. R.A. No. 9208, § 3 (a).

29. 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, Republic Act No. 9208, § 2 (2003) [R.A. No. 9208].

situation or condition of a person. Hence, consent by the trafficked person is virtually dispensed with, especially if said person is in a vulnerable situation or finds himself or herself powerless or devoid of any choice in the face of a trafficker. Such is almost always the case when the trafficked person is confronted with poverty, unemployment or other factors which inevitably put him or her at a disadvantage.

The insignificance of consent is even diminished further under RA 9208. The law categorically states that trafficking may be committed "with or without the victim's consent or knowledge, within or across national borders...."³³ The law's import clearly intends for consent to be immaterial. This is consistent with its recognition that:

Trafficked persons shall be recognized as victims of the act or acts of trafficking and as such shall not be penalized for crimes directly related to 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.³⁴

The law assumes that whatever prior consent a potentially trafficked person gives the trafficker is really borne out of his or her vulnerable situation, usually because of ignorance of the trafficker's machinations combined with dire economic need. Furthermore, the law wants to emphasize that exploitation, *per se*, is a punishable act and the consent or knowledge on the part of the victim does not make such act less exploitative.

2. The Import of Exploitation

As far as exploitation is concerned, under RA 9208, its meaning encompasses not only sexual exploitation or the exploitation of another person's prostitution but includes all the other exploitative conditions of work which have been the subject of previous international instruments such as slavery, forced or bonded labor, debt bondage and other practices similar to slavery.³⁵

33. *Id.* (emphasis supplied).

34. *Id.* § 17.

35. Thus, R.A. No. 9208, § 3 stresses the inclusion of these acts as means to commission of trafficking by defining the same:

- d) Forced Labor and Slavery - refer 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.
- e) 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

3. Prostitution as a Form of Trafficking

As far as prostitution is concerned, the law infers that for exploitation to take place, the act does not have to involve the exploitation of the prostitution of others. The mere "prostitution of others"³⁶ suffices. In other words, consistent with the country's policy of promoting and protecting the human dignity of both men and women, the law considers the act of prostituting others as trafficking *per se*, regardless of the consent by the victim or the manner of its commission. Under Section 4 (e) of RA 9208, it is an act of trafficking "to maintain or hire a person to engage in prostitution or pornography." The term "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."³⁷ While in existing international instruments prostitution has not been equated with exploitation unless it is forced, as far as the Philippines is concerned, prostitution is simply one form of exploitation. Hence, prostitution, with or without the consent of the person prostituted, would be punishable under trafficking and the person liable is the brothel owner, the pimp and the customer.

B. A Broader Outlook on Transnational Trafficking and Trafficking in Children

Since the Trafficking Protocol is a supplementary instrument to the Convention, its application is intended for trafficking occurring from one country to another, or as Article 4 of the Trafficking Protocol puts it, for

as enticement for tourists. This includes sexual services and practices offered during rest and recreation periods for members of the military.

- f) Sexual Exploitation - refers to participation by a person in prostitution or the production of pornographic materials as a result of being subjected to a threat, deception, coercion, abduction, force, abuse of authority, debt bondage, fraud or through abuse of a victim's vulnerability.
- g) 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.
- h) 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

36. R.A. No. 9208, § 3 (a) (emphasis supplied).

37. *Id.* § 3(c).

offenses that are “transnational in nature and involve an organized criminal group.” Precisely, Article 5 mandates States Parties to enact local trafficking laws and criminalize acts included in the Trafficking Protocol so that internal trafficking can be dealt with at the domestic level.

RA 9208 acknowledges that trafficking is very much a reality within the local front. Unlike the Trafficking Protocol, RA 9208 also covers internal trafficking – those occurring within the confines of the territorial boundaries of the Philippines. To a large extent, the internal trafficking of minors is what occurs at the international level. Most trafficking activities involve movement from the rural to the more urbanized areas where it is perceived by many to offer better prospects of employment; much like Filipinos who seek jobs abroad because there is a demand for their services, and the compensation is well worth the trouble of going overseas.

More significant in internal trafficking, however, is the visible presence of children. Indeed, as early as 1992, Republic Act No. 7610, otherwise known as the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act has already included “child trafficking” as one form of exploitation. In this law, the term has been defined as the act of trading and dealing with children, including buying, selling and barter.³⁸ Thus, trafficking was construed within the context of children being commodified through sale or other similar transactions. These acts alluded more to transnational rather than internal trafficking. Section 8 of RA 7610 and the Rules and Regulations on the Trafficking of Children issued by the Department of Justice³⁹ mostly focus on the illegal transport of children to a foreign country and its various means of achieving the same, such as the illegal or irregular procurement of documents, in order to comply with an ostensibly legal process of transporting children abroad. Subtler forms of internal trafficking, albeit no less exploitative, have not really been construed as “trafficking” by the law.

On 11 November 2000, International Labour Organization (ILO) Convention No. 182⁴⁰ entered into force, which identified the worst forms of child labor and mandated their prohibition and elimination by States-Parties. Foremost in its enumeration of the worst forms of child labor are “all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed

38. R.A. No. 7610, § 7.

39. *See Id.* § 8.

40. Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (ILO No. 82), Nov. 19, 2000, 38 I.L.M. 1207 available at <http://www1.umn.edu/humanrts/instre/i10182.html> (last accessed Aug. 22, 2004).

conflict.”⁴¹ The Philippines ratified this ILO Convention on 28 November 2000.

It was in the subsequent enactment of RA 9208, however, that trafficking in children acquired a broader meaning and significance in the Philippine context. The law also accorded equal importance to the problem of internal trafficking. Thus, aside from sexual exploitation (including prostitution) that has long been associated with trafficking, the law specified the following acts as constituting trafficking:

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.⁴²

If the enumerated acts were committed within the domestic setting, they would fall under the parameters of internal trafficking. Furthermore, if children end up in forced labor, involuntary servitude and debt bondage through any of these acts, they would be considered victims “trafficked.”

C. Policy Formulation and Institutional Support

I. Preventive and Rehabilitative Programs

Although RA 9208 generally concentrates on defining criminal acts of trafficking and penalizing their commission, the law also directs the formulation of policies for the prevention of trafficking and the protection of its victims. Under Section 16, RA 9208 calls for a comprehensive and integrated government effort against trafficking:

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.

The DFA shall take necessary measures for the efficient implementation of the Machine Readable Passports 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.

41. *Id.* § 3 [a].

42. R.A. No. 9208, § 4(a).

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

(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 the purposes of establishing centers and programs for intervention in various levels of the community.

(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) National Commission on the Role of Filipino Women (NCRFW) - 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) - shall be the primary law enforcement agency to undertake surveillance, investigation and arrest of individuals or persons suspected to be engaged in trafficking. It shall closely coordinate with various law enforcement agencies to secure concerted efforts for effective investigation and apprehension of suspected traffickers. It shall also establish a system to receive complaints and calls to assist trafficked persons and conduct rescue operations.

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

(i) Department of the Interior and Local Government (DILG) - shall institute a systematic information and prevention campaign and likewise

maintain a databank for the effective monitoring, documentation and prosecution of cases on trafficking in persons.

(j) 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 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.

Thus, while recognizing the importance of punishing traffickers, it also acknowledges that trafficking is a complex social phenomenon brought about by several socio-economic and cultural factors that must be identified and taken into consideration before a responsive and comprehensive program can effectively be set in place. It attempts to focus both on preventive measures as well as reintegration programs. It requires the coordination and cooperation of various government agencies and departments, including the local government units.

2. Inter-Agency Council

Significantly, RA 9208 creates an Inter-Agency Council Against Trafficking:

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) Administrator, Philippine Overseas Employment Administration;
- (d) Commissioner, Bureau of Immigration;
- (e) Director-General, Philippine National Police;
- (f) Chairperson, National Commission on the Role of Filipino Women;
- (g) Three (3) representatives from NGOs, who shall be composed of one (1) representative each from among the sectors representing women, overseas Filipino workers (OFWs) 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 on 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.

The Council is mandated to formulate programs on how best to prevent people from being further lured by traffickers, how to assist them post-haste when they become victims and how to help them recover and reintegrate into their communities and the society as a whole.⁴³ That the law sets up a framework through which these agencies, departments and the local government can maximize cooperation and coordination reveals a profound understanding that trafficking is fluid as much as it is invisible; and that nothing less than an integrated approach combining the efforts from all these entities is required to ensure successful implementation of the law. This can be clearly seen in Sections 20 to 25 of RA 9208, which cover all the services that should be afforded to trafficked and potentially trafficked persons.

3. Mandatory and Other Services

The mandate of the entities tasked to combat trafficking ranges from research, data gathering and sharing among the government agencies concerned, massive education on trafficking through information dissemination and trainings for capability building and more effective levels of intervention, legal assistance and other mandatory services designed to improve efforts to enhance the victim's recovery, rehabilitation and reintegration. Specifically, RA 9208 provides for the following:

SEC. 23. Mandatory Services to Trafficked Persons. - To ensure recovery, rehabilitation and reintegration into the mainstream of society, concerned government agencies shall make available the following services to trafficked persons:

- (a) Emergency shelter or appropriate housing;
- (b) Counseling;
- (c) Free legal services, which shall include information about the Victims' rights and the procedure for filing complaints, claiming compensation and such other legal remedies available to them, in a language understood by the trafficked person;
- (d) Medical or psychological services;
- (e) Livelihood and skills training; and

43. R.A. No. 9208, § 21.

(f) Educational assistance to a trafficked child.

Sustained supervision and follow through mechanism that will track the progress of recovery, rehabilitation and reintegration of the trafficked persons shall be adopted and carried out.

SEC. 24. Other Services for Trafficked Persons. -

(a) Legal Assistance. - Trafficked persons shall be considered under the category "Overseas Filipino in Distress" and may avail of the legal assistance created by Republic Act No. 8042, subject to the guidelines as provided by law.

(b) Overseas Filipino Resource Centers. - The services available to overseas Filipinos as provided for by Republic Act No. 8042 shall also be extended to trafficked persons regardless of their immigration status in the host country.

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

Clearly, it can be argued that the country's efforts in combating trafficking should not be measured merely by the number of prosecutions and convictions of traffickers and their cohorts in the government, contrary to the suggestions of the 2004 U.S. Report. There are other indicators just as valid to measure a country's initiatives and efforts to combat trafficking, such as the innovative measures of RA 9208 herein discussed. In reality, whether or not prosecutions and convictions can be secured largely depend on other factors such as an enlightened and informed citizenry, capable law enforcers and a strong criminal justice system. Achieving these is no easy task but efforts toward their realization should equally be appreciated.

IV. CHALLENGES TO R.A. NO. 9208

The necessity of developing rights sensitivity, emphasizing the correctness of being documented, inculcates the value that human dignity is every individual's birthright. Therefore, that one should expect nothing less than to be treated with such dignity and to hold that same regard for others are only some of the factors that should be considered in developing strategies toward a more effective dissemination and implementation of the law.

A. A Challenge to Art. 202 of the Revised Penal Code

Currently, Art. 202 of the Revised Penal Code penalizes vagrants and prostitutes:

Art. 202. Vagrant and prostitutes; penalty. — The following are considered vagrants:

x x x

5. Prostitutes.

For purposes of this article, women who, for money or profit, habitually indulge in sexual intercourse or lascivious conduct are deemed to be prostitutes.

Thus, under the Revised Penal Code, a woman in prostitution is considered a criminal offender and is subject to criminal prosecution. Conversely, it is worth noting that the "victim" under RA 9208 is the person prostituted, and he or she is not punished for being so.⁴⁴

If RA 9208 really intended to equate prostitution with exploitation and have the "prostitute" fall under the purview of a trafficked person, then a woman caught in prostitution who would not be penalized for being a trafficked victim, should also not be held liable under Article 202. It is submitted therefore that Art. 202 of the Revised Penal Code should be re-examined in light of RA 9208.

B. Political and Policy Challenges

There are many obstacles that hinder the successful implementation of a law, some more obvious than others. For instance, it is readily apparent that RA 9208, though exacting a heavy task on government agencies, departments and local governments, does not provide a separate budget even for its initial implementation. Section 28 merely instructs these agencies and departments to include the newly added responsibility in their programs with the funding included in the General Appropriations Act. With limited resources, data gathering, research and the mandatory services to trafficked persons, to mention a few, would necessarily be undermined. As comprehensive as the law is, it needs to be well disseminated and, if necessary, explained, especially to those who are tasked to implement it fully. Even the courts should have ready access to this new law and its implementing rules and regulations.

Another hindrance to the implementation of a well-meaning and crafted legislation is the lack of policy and institutional support, because the government does not give it priority or there are no mechanisms or institutions in place to see to its initial success or its continued implementation. There is also the ever-growing concern about a weak criminal justice system, which is often associated with corruption. It is not unreasonable to assume that trafficking, especially because it is identified with

syndicates and organized criminal groups, is a potent source for corruption. It is, in fact, a fairly accurate assumption.

C. Socio-Cultural Challenges

Over and above these obstacles regarding resources, policy and institutional infirmities, a more pressing concern, albeit often overlooked, that confronts the successful implementation of a law like RA 9208 is how to convince the potential victims, the very people that the law seeks to protect, to give serious attention to trafficking, because it could lead to disastrous consequences for them should they fall victim to it, or be adjudged the perpetrators thereof.

I. Migrant Workers

The biggest challenge posed by transnational trafficking is how to instill in the people's minds the dangers and possibilities of falling prey to traffickers, given the fact that the economic conditions of the country force people to migrate for work, either to the already crowded metro cities within the country or to foreign lands. If one has to go by statements given by migrant workers who are stationed in conflict or war-torn countries, they would rather remain in their workplace and risk personal safety and security than to return home and not earn, or not earn enough. Until one realizes the desperation in these words, it is difficult to appreciate the severity of their situation and the length at which they would find solutions to financially alleviate themselves.

Many migrant workers would readily venture to look for economic opportunities, unaware of the prospect of being trafficked even though their means to seek such opportunities are tainted with documentation irregularity, uncertainty of placement or other factors which make working abroad problematic to begin with. This is especially true for women migrant workers who are promised jobs overseas, only to land in brothels or dens for sexual exploitation. It is a truism that the principal factor that pushes the larger part of Filipinos to work abroad is poverty brought about by unemployment and underemployment. Few can argue that migration for work for most is really a matter of necessity rather than a choice. Beyond this, however, there is also the desire to alleviate and elevate the economic condition of the family to a more comfortable level, the dream of working abroad, the lure of being independent⁴⁵ and other reasons that are compelling enough to risk the dangers that remain obscure and distant to those who believe themselves immune from harm and unlikely victims

44. R.A. No. 9208, § 17.

45. Ateneo Human Rights Center, *Summary of Research Report in THE PHILIPPINE-BELGIAN PILOT PROJECT AGAINST TRAFFICKING IN WOMEN 5* (1999).

under an assumption that God would not allow them to meet a tragic fate. It often takes only one success story of a neighbor or town mate who is working abroad to fuel the desire to experience the same opportunity and good fortune. Whatever apprehensions and fears one might have early on are likely to dissipate quickly because the success story had acquired a known face. Confronted with this reality, the task of inculcating the dangers of trafficking and other migrant-related problems into people's consciousness as a preventive measure would naturally be a daunting one; and it would likely remain to be so, unless the country can offer better prospects for employment.

As things stand, the massive information campaigns which the law mandates would already suffer set backs if there are no adequate resources earmarked for them. It is imperative, therefore, that whatever campaigns that are launched when available resources permit, must be carefully thought out and planned in order to effectively convey the realities of trafficking and compel the public to take precautionary measures, opting to go through certified/legitimate agencies. Migrant workers should be made to realize that in looking for work, above-board transactions are preferable than resorting to informal channels just to avoid bureaucratic lines. Corollary to these efforts, the government should endeavor to streamline the procedures in applying for work without sacrificing the protection measures in place. In this way, not only would corruption be minimized, if not abated, but it would also make the legal process a more attractive and viable option for the people.

2. Parents and Children

In internal trafficking in children, specifically for debt bondage or forced labor, the difficulty lies primarily with explaining that these practices are exploitative of children, and as a matter of fact, are considered worst forms of child labor both under national and international laws.

As pointed out earlier, it has been the practice for many parents who find themselves indebted to other people because of dire need, to pledge and deliver their children to creditors in order to render service, usually as household help for the payment of their debts. This practice, in itself, is not illegal, as long as the child is not below fifteen,⁴⁶ nor is it considered a form of debt bondage.

Under the present law on trafficking, RA 9208 defines these practices as

(d) Forced Labor and Slavery - refers to the extraction of work or services from any person by means of enticement, violence, intimidation or threat,

46. R.A. No. 7610, § 12. As a general rule, the law prohibits children below the age of 15 from working.

use of force or coercion, including deprivation of freedom, abuse of authority or moral ascendancy, debt-bondage or deception.

x x x

(g) 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.⁴⁷

Clearly, service rendered in payment of debt only becomes debt bondage when there is no timeframe against which the child's work or service is measured or when there is no certainty as to when the debt would be paid, usually because there was no predetermined salary agreed upon or because the exact amount of the debt has been obscured by additional loans and interests, that the sum total thereof remains unknown to the parent. If the child then refuses to render service in the meantime but is forced by the employer-creditor to remain and continue working, then the child is subjected to forced labor or involuntary servitude. RA 9208 makes both practices trafficking and the parent and creditor-employer criminally liable. Under Section 4 (a) trafficking may be committed if one receives or provides a child "...for the purpose of...forced labor, slavery, involuntary servitude or debt bondage."

However, since these practices have long existed in the country, it is not surprising to find that there would be some difficulty construing them as criminal offenses, much less as "trafficking." It would be quite problematic for people to deal with the idea that the parent can be prosecuted for trafficking just because he or she has failed to clarify the length and nature of the service to be rendered by the child, when the obvious reason behind pledging the services is to pay family debts and not to exploit the child.

The same difficulty can be found in a situation where the employer-creditor refuses to release the unwilling child because the debt contracted by the parent has not yet been fully paid. The child is simply not perceived as one whose consent should be secured, the decision to serve often resting solely with the parents. Hence, even if the child objects to continuing the service, it is not perceived by the employer as something which could be tantamount to forced labor, and thus, he or she risks a conviction for trafficking.

As a matter of fact, prior to RA 9208, outside the blanket prohibition of employing children below 15 years of age (with certain exceptions) provided for by RA 7610, there was no specific law which addressed this practice and labeled it as forced labor. The child's consent was just not considered. Since

47. R.A. No. 9208, § 3 (d), (g).

Philippine laws generally view children as not capable of giving consent, these laws, in a way, also conveyed the message that they were equally incapable of expressing their non-consent. This is exemplified in Article 273 of the Revised Penal Code, which penalizes exploitation of child labor. Under this provision, anyone who retains a minor in his or her service is liable under two conditions: first, retention is against the child's will and second, retention is under the pretext of reimbursing a debt incurred by an ascendant, guardian, or person entrusted with the child's custody. Therefore, if the reason for the retention is really to pay for the debt of the child's parent, ascendant, etc., the offense is not committed even if such act is against the will of the child because the law presumes that it is the parent or ascendant that gave the consent for the minor.⁴⁸ In this particular scenario, under RA 9208, the creditor-employer would now be guilty of trafficking, notwithstanding the acquiescence of the parent to such arrangement.

V. CONCLUSION

Trafficking is a complex problem requiring complex solutions. While the urgency to address it cannot be ignored, a deeper understanding of trafficking suggests that it would be naive to expect that this problem could be addressed by the mere passage of a comprehensive law with stiff penal sanctions. Even with an effective criminal justice system and efficient courts, untainted with corruption and unhindered by fear of reprisal from criminal syndicates, the battle against trafficking could hardly be won if the people are not convinced in their hearts and minds that they can suffer a worst fate than physical discomfort or even deportation. In the extreme, Filipinos might be willing to suffer the hardships inherent to workplaces beset by war. Ultimately, it is still their choice and with the extraordinary resilience that Filipino workers seem to be blessed with, they would probably choose to remain. However, to be treated as a commodity and suffer indignities, violence and humiliation in the hands of traffickers is a different matter altogether. No migrant worker in his or her right frame of mind would want to undergo such harrowing experience. The very possibility of this occurrence is what should be clearly communicated to the people so that they are made fully aware of the perils of working abroad, especially with irregular documents. They must realize that entering into "transactions" and "arrangements" with those claiming to have the capacity to facilitate the procurement of travel or work documents are at high risk of being trafficked and exploited abroad, that traffickers are always on the lookout for would-be migrant workers who are willing to pay and take shorter routes in order to work abroad.

48. *Id.* § 4(a).

Furthermore, if the country has to have an effective reporting of trafficking incidents that could lead to prosecutions, attitudes toward the victims, especially women trafficked for sexual exploitation must also be addressed. A huge factor why trafficking and other offenses which are sexual in nature remain unreported is because Philippine society has long stigmatized victims of these offenses, causing further hurt and humiliation to the already shattered victims. If the society starts showing support rather than contempt for victims of trafficking, then they would be more forthcoming in having their traffickers prosecuted.

As for children in debt bondage and forced labor, RA 9208 would likewise fail if the government cannot effectively reach parents and employers who continue to believe that payment of loans through a child's services or accepting the same as payment is still a welcome practice, especially in the advent the country's ratification of ILO Convention No. 182, the Convention on the Rights of the Child⁴⁹ and other instruments for the protection of children. The public, in general, must understand why these practices that were tolerated before could now lead to trafficking. There must be a transformation on how children are regarded, an awareness and sensitivity to their rights and an appreciation of the importance in allowing them to participate in the decision-making process involving their future.

Arrests, prosecutions and convictions, as expected from the Philippines by the U.S. undoubtedly have their own value as deterrents to the perpetuation of trafficking. However, genuine prevention with long-lasting effects can only be truly achieved through carefully developed strategies to raise the consciousness of the people on the phenomenon of trafficking and why certain practices could be dangerous not only to one's dreams and aspirations but to one's life and limb as well.

Needless to say, the primary push factor which is poverty, brought about by a myriad of other factors, including the lack of employment opportunities, should always be the foremost concern of the government and efforts toward its alleviation, if not eradication, must ever be a priority in its agenda.

49. G.A. Res. 44/25, U.N. GAOR, U.N. Doc. A/RES/44/25 (1989) reprinted in 28 I.L.M. 1448 (1989).