

TRAFFICKING IN WOMEN AND CHILDREN AND SMUGGLING OF MIGRANTS

*Narcisa H. Guevarra**

I. INTRODUCTION

This Country Report will touch mainly on the global phenomenon of smuggling and trafficking in human beings especially women and children who are the more vulnerable members of society. It will define trafficking in the context of international and domestic laws and practices in the Philippine setting. It will also attempt to explore the different approaches towards the minimization if not total eradication of trafficking and smuggling of humans within and across Philippine borders. Further, it will briefly discuss the development of laws affecting women and children as well as the continuing goal to achieve equality in gender of all Filipinos. Moreover, it will try to link gender-based inequality to the feminization of poverty and the high incidence of violations of rights of women and girl children that make them vulnerable to trafficking and human smuggling. Finally, it will attempt to underscore the implications of a wide gap between rich and poor countries on migration in general, and on human trafficking and smuggling.

II. DEVELOPMENT OF PHILIPPINE LAWS AFFECTING WOMEN AND CHILDREN

A. Historical Background

Historical studies on the role and status of Filipino women prior to colonial rule, showed that they enjoyed a significant position in the family and community. They held positions of power as chief of barangay or served as priestesses, and were allowed to engage in business and hold properties. During that time, the Filipino woman had never been forced to hide herself behind veils, to have bound feet, or walk several paces behind her male companion. The arrival of the Spaniards and the introduction of their Civil Code institutionalized the inequality between the sexes by the imposition of various restraints on women's behavior. She was subjected to her father, brother or husband's power not only with respect to property matters but also as to what actions she could take. The stereotyped role assigned to women as daughter, sister, wife and mother was the basis for legal measures placing them in a position subordinate to men. The American rule from 1898 to 1946, the Japanese occupation from 1941-1944 and the domination of Islamic religion in southern portions of the country shaped the development of Philippine law. Hence, Philippine law has become an unusual blend of local custom and the legal worlds of the civil law, common law, canon law, and Muslim law.

B. Towards Protection and Rights-Focused Legislation

The 1935 and 1973 Constitutions guaranteed women's right to vote, hold public office, to form associations not contrary to law, to express oral or written views on public issues, to peaceably assemble and to petition the government for redress of grievances.

Likewise the Philippine Legislatures has come a long way in upholding the rights of women and in promoting gender equality. Over the years, the role and status of Filipino women have been significantly upgraded by evolving gender responsive legislation. Among the landmark legislation are:

- R.A. No. 6725 entitled "An Act strengthening the prohibition of discrimination against women with respect to terms and conditions of employment";
- R.A. 7192, also known as "Women In Development and Nation Building Act" which provides the legal guarantee for equal rights and opportunity of women in the specified area;
- R.A.7877, also known as the "Anti-Sexual Harassment Act of 1995" which protects the dignity of women in the employment, education or training environment; and

* Committee Secretary,
Committee on Justice,
House of Representatives,
Republic of the Philippines

- R.A. No.7610 also known as the “Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act” which focuses on minor prostitutes as victims rather than as offenders. It also penalizes the act of sexual intercourse with prostitutes.

III. ANALYTICAL FRAMEWORK OF HUMAN TRAFFICKING AND SMUGGLING

A. International Perspectives on Trafficking and Illegal Migration

Reports indicate that the number of migrants all over the world increased from 75 million to about 130 million from 1965 to 1995. Today, about 150 million migrants comprise 2.5% of the world population. Around 700,000 to 2,000,000 women and children are being trafficked each year while about one million child prostitutes in Asia are in danger of being further trafficked. At least 50% of illegal immigrants are assisted by smugglers. Highly profitable, trafficking and smuggling of migrants account for the third largest source of income for organized crime, next only to drugs and guns.

Many countries regard trafficked women as “undesirable and criminal aliens”, crossing borders illegally to take advantage of greener pastures elsewhere. This perspective is reflected in national legislation, particularly in receiving countries, that makes immigration more restrictive, thus obstructing the flow of migrants seeking to enter countries legitimately. Ironically, these restrictive immigration policies also tighten up border controls that often are used to harass vulnerable migrants, but have little effect on the traffickers¹.

B. Philippine Perspectives on Human Trafficking and Smuggling

1. Overseas Employment and/or Migration

The Philippine government considers overseas employment as a development strategy. This is reflective of its continuing effort to increase foreign exchange earnings necessary to keep the nation going. The Migrant Workers and Overseas Filipinos Act of 1995 mirrors this policy when it mandates the Department of Labor and Employment (DOLE) to formulate a comprehensive 5-year deregulation plan on recruitment activities.

The national coffers benefit enormously from income generated from overseas employment of Filipinos. From 1995 to 1999, 2,360,011 overseas Filipino workers contributed US\$ 59,002,750 or PhP 2.06 billion in membership fees to the Overseas Workers Welfare Fund (OWWA) alone. Additionally, the Philippine Overseas Employment Administration is estimated to have collected US\$83,702,000 from Filipinos it has deployed in 1999 alone, based on a US\$100 processing fee per worker. These figures do not include remittances through other channels, mostly informal, and the refunneling of resources of their families into the local economy.

Overseas Filipinos (Ofs) is the general category to describe Filipinos who are either temporarily or permanently living and working abroad. This also includes undocumented Filipinos, as well as brides or spouses of foreign nationals. The top regions of destination of undocumented Filipino migrants are America, Southeast Asia and the Pacific, Europe, and the Middle East. The top ten countries of destination of undocumented Filipinos are the United States, Singapore, Canada, Japan, Italy, United Kingdom, Saudi Arabia, Greece, Germany and France.

An estimate of 2,000 overseas contract workers are legally processed daily in the Philippines, and currently, women account for approximately 64% of all these legal migrants. According to a report submitted by the Commission on Filipinos Overseas, 7.41 million Filipinos are scattered in 187 countries and destinations around the world. Of this number, 1.62 million are irregulars and suspected victims of human smuggling and trafficking.

2. Push Factors for Migration

The Philippines is basically a sending country for smuggling and trafficking in human beings. This is owing to the fact that Filipinos prefer to work abroad in the hope of a brighter future for their family.

¹ Sex Trafficking and Reproductive Health: Links to Migration by Aida F. Santos with Dr. Janice Raymond

122ND INTERNATIONAL TRAINING COURSE REPORTS OF THE COURSE

The Asian economic crisis of the 1990s, coupled with severe environmental disasters (volcanic eruption and violent earthquakes) resulted in severe economic and social dislocation of sectors of the population. There was an increase in company closures, retrenchments and layoffs. The unemployment rate among young people (15-19 and 20-24 age groups) in both urban and rural areas served as one of the push factors for these people to continue leaving the country in search of the proverbial “greener pasture”.

Marrying foreign men was also seen as an opportunity by the women to change their lives economically. It became a social phenomenon in the early '90s as indicated by the fact that over 700,000 Filipinas were married and became fiancées to Australians, Germans, Taiwanese, and British nationals. In Australia, a total of 20,000 Filipino women are married to Aussie men, some 90% of whom came through the system of serial sponsorship. In 1995 up to 1996, hundreds of Filipino women were married in a mass ceremony to members of a religious organization called the “Moonies” a majority of which were South Korean men. In the United States, some 50,000 “mail-order” brides have been reported.

Female overseas migration has been increasing steadily for the past ten (10) years. Women comprise almost 60% of the total number of legally deployed workers, predominantly work in the low-paying service sector, and are mostly single and young, more than 50% whom belong to the age group 20-29.

Available literature on migration reveals the following findings on why there has been a steady increase of female overseas migration:

- official migration policies of the Philippine government in which recruitment of women is actively promoted through its various government units, with the collaboration of recruitment agencies;
- gender stereotyping of women in work situations which traditionally echo their roles as caregivers and “entertainers”, i.e., sex objects;
- growing poverty in the context of structural and adjustment programs that produce landlessness and impoverishment among rural populations, and push more women to join the labor force;
- rise in female-headed households, much of it due to the breakdown in traditional family structures and support systems;
- lack of opportunities for local employment that would allow women to explore better jobs, acquire greater skills, and obtain a more secure future;
- growing family dependence on women for income, especially among poorer households;
- the demand for female migrant workers in more developed countries;
- economic boom in destination countries;
- women’s expanding sense of financial/economic and personal autonomy, both in origin and destination countries;
- a growing number of women and men in destination countries relegate domestic hired help from abroad; and, normalization of prostitution and other activities in the sex industry such as stripping and pornography, often disguised as “entertainment” jobs in destination countries.

Based on these findings, the Coalition Against Trafficking in Women (2001) drew up at least six (6) factors which show women’s vulnerabilities that made trafficking and sexual exploitation an easy route for the recruiters using both legal and illegal means of going through the migration process:

- poverty and lack of economic opportunities;
- low level of education and lack of information about the process of recruitment;
- history of sexual abuse;
- familial pressure;
- sense of personal and economic autonomy of women; and
- alleged success stories of those who migrate for income abroad.

3. Trends and Highlights of Trafficking Cases

In a recent report presented by the Commission on Filipinos Overseas (CFO) the following statistics revealed the magnitude of the problem:

- 959 recorded cases of human trafficking (1992 - March 2001); 1999 accounted for 35% of the cases;
- Victims came from Region III (12.4%); NCR (8.4%); Region IV (8%);
- 65% of the victims were women; 25% of women victims were forced into prostitution;
- 53% were trafficked to the Asia Pacific region, 25% to the Middle East, and 19% to Europe;
- Almost 8% of cases involved intermarriages;
- Trafficking victims paid as much as \$8,500.00 to recruiters;
- 51% of victims were recruited by parties not related/nor known to them; and
- the government repatriated 38%.

IV. WAYS TO EFFECTIVELY TACKLE HUMAN TRAFFICKING AND SMUGGLING OF MIGRANTS

The recommendations presented by the Ateneo de Manila University Research Team under the Philippine-Belgian Project on Trafficking and by the Coalition Against Trafficking in Women (CATW) in its report entitled “Women in the International Migration Process: Patterns, Profiles and Health Consequence of Sexual Exploitation, the Philippine Country Report”, are incorporated in this Report and shall form part of my recommendations.

A. Adoption of the Recommendations under the Philippine-Belgian Pilot Project against Trafficking in Women

The summary of a Research Report by the Ateneo de Manila University Research Team revealed the following recommendations, to wit:

- Adoption of Clear Policies on Women In Migration.
- Redefinition of Trafficking in Women.
- Recognition of Trafficking in Women as a Violation of Human Rights.
- Stringent Measures on Recruitment/Employment Agencies.
- Strong Action Against Corruption.
- Legislation on Trafficking in Women.
- Legal Recognition of Migrant Workers in Host Countries.
- Bilateral Agreement for the Protection of Migrant Women Workers.
- Prosecution of Trafficking.
- Orientation and Training of Government Entities.
- Information Campaigns.
- Empowerment of Women Migrant Workers and their Families.

B. Adoption of the Recommendations under the “Women in the International Migration Process: Patterns, Profiles and Health Consequence of Sexual Exploitation, the Philippine Country Report”

Specific recommendations under the above-entitled report consist of:

1. Legal and Policy Reforms

These include the passage of an effective and comprehensive anti-trafficking law based on women’s human rights and using the new protocol on trafficking; the development of bilateral agreement with host countries for the protection of overseas Filipinos; enhancement of the witness protection program; an immediate review of the policy of overseas contract work as an economic alternative; inclusion of trafficking as a development agenda, as a specific concern under migration.

2. Enhanced Capability of Government to Address Sex Trafficking

This covers such issues as: for the government to upgrade its research and database on trafficking; for government and non-governmental organizations to conduct an effective awareness raising/public education in sex trafficking and illegal migration; the development of appropriate, timely and effective coordination among government agencies; the expansion of the coverage of protection and other social services to illegally recruited migrants; provision of appropriate community-based direct service and gender-sensitive training/capability building to service providers; strengthening GO-NGO private sector collaboration; education and sensitization on trafficking issues of the judiciary and law enforcement sectors.

122ND INTERNATIONAL TRAINING COURSE
REPORTS OF THE COURSE

3. Implementation of Viable and Sustainable Psycho-social and Economic Programs as Preventive and Post-trafficking Strategies

The programs should include the implementation of viable and sustainable poverty-alleviation programs and income-generation activities that specifically target vulnerable groups; development of educational curricula that are packaged for the specific needs of young women and for those who are wanting to pursue an education in their adult years, both as a preventive and post-trafficking mechanism to wean away women from sexually exploitative income-generating activities; development of packages of services to trafficking survivors that are empowering and self-sustaining, including counseling, and the formation of support groups of survivors of sex trafficking.

C. Gender Mainstreaming in the Three Branches of the Government

Recognizing that laws are as good as their implementation, the Philippine government should aggressively implement its Gender and Development (GAD) policy to bring about a more cohesive and comprehensive transformation in government. The efforts the legislative branch has taken to transform laws should be complemented with a parallel enhancement of the mandates of the executive and judiciary branches of government and the reorientation of people within.

Gender-based inequality cripples the development of a country and affects women and girls. Large gender disparities in basic human rights, in resources and economic opportunities, and in political voice are inextricably linked to poverty (World Bank, 2001).

D. Proper Utilization of Limited Resources

With the limited budget for the implementation of laws providing rights and protection to women, children and Filipino overseas workers, the government should ensure that resources are properly utilized, and for this purpose, all existing programs and policies should be harmonized and coordinated to avoid overlap in their execution.

E. Strengthen International Cooperation

Information sharing, mutual legal assistance and efficient border control systems within and among countries are very vital in the success of the campaign against human trafficking and smuggling. For example, the Trilateral Agreement on Information Exchange and Establishment of Communication Procedures signed by the Philippines, Malaysia and Indonesia last May 2002 should be put into force.

F. Promote Legislative Advocacy

1. The Role of the Legislature

GAD sees the powerful role of the Philippine Congress in shifting society's perspective on and respect for human rights, social justice and equality. The legislature not only secures women's rights in the law and in the legal system. It is strategic in influencing any development process because it defines the roles of women and men. It also allocates and mobilizes State resources (by using the power of the purse) to attain the goals of gender equality.

Through its legislative priorities, structures, policies, and processes, the Philippine Congress has the greatest potential to create transformative laws. It is a forum wherein women's experiences are articulated and where imbalances and inequalities in society are corrected. Only a gender-sensitized Congress can really see the urgency of passing protective laws for women and children such as those that will criminalize human trafficking and smuggling, violence against women and other women-specific bills.

Legislators should be encouraged to attend legislator's workshop and learn the application of methodologies in the formulation of gender-responsive laws. The following questions will guide lawmakers in developing legislative proposals that specifically respond to women and gender concerns. These will also help refine the objectives and provisions of general bills and the amendments to be made on existing laws².

² Handbook on "How to be a Gender-Responsive Legislator"

For General Bills:

- Does the bill have underlying assumptions about women and men in terms of their conditions, capacity, etc.? Are those assumptions valid or are they gender-based?
- Will the proposed law equally benefit women and men? How and what ways? If no, what provisions can be included to ensure that women benefit as men do?
- Will it have a negative impact on the people? If yes, what measures can be integrated in the proposed law to minimize the potential differential negative impact of the proposal on women?
- What provisions can be integrated into the general bill to promote women's empowerment and enjoyment of their rights? What provisions can be integrated to move away from gender-based discriminations, if any?
- Is the language gender-sensitive? Does it subsume women under "men" and "people"? Is "men/man" used as a generic pronoun?

For Women-Specific bills:

- What gender-based assumptions underlie the definition of the problem?
- Does it assume certain stereotypes about women and men with respect to capacities, roles, rights, etc.?
- What are its assumptions about women's experience or situation? Are they valid for all women? Or are they true only for some women or groups of women?
- Does the bill contribute to the enhancement of women's rights? How? Does it promote women's status? How?
- Does the bill address the practical or strategic gender needs of women, or both? How?
- Has the bill undergone consultation with the affected sector (if the bill is sector specific)? Who were consulted? Are their inputs taken into consideration? How or in what manner are their inputs integrated into the bill?
- Does the bill promote gender equality and assist in transforming gender relations? How?
- Does the bill take cognizance of and adhere to international instruments on human rights?
- Are resources, materials or otherwise, available for the implementation of the bill once passed?

2. Constant Lobbying for the Passage of the Anti-Trafficking in Persons Act of 2002 (H.B. 4432)

(a) Legislative history of the bill

Various concerned agencies of the government as well as non-government organizations, including the civil society, have been clamoring for the immediate passage of the Anti-Trafficking in Persons bill.

Advocacy for the passage of the bill goes way back in the 9th Congress. In the 11th Congress, the bill passed the third reading at the House of Representatives and reached second reading at the Senate, but due to certain political developments and lack of material time to reach the bicameral level, the bill was not passed.

Having a woman President in the person of Her Excellency, President Gloria Macapagal Arroyo, the bill is expected to see a brighter future this 12th Congress. As a matter of fact, the House of Representatives has passed on 1st, 2nd and 3rd Reading of House Bill No. 4432³ entitled "An Act To Institute Policies To Eliminate Trafficking In Persons Especially Women And Minors, Establishing The Necessary Institutional Mechanisms For The Protection And Support Of Victims Of Trafficking, Providing Penalties Therefor, And for Other Purposes".

(b) Why is a law on trafficking necessary?

There is yet no specific law dealing with anti-trafficking, however, current laws which can be used to punish them include, among others:

- Migrant workers and Overseas Filipino Act. (RA8042)

³ See Annex re: Primer of the Anti-Trafficking in Persons Act of 2002

122ND INTERNATIONAL TRAINING COURSE
REPORTS OF THE COURSE

- Mail Order Bride Law (RA6955)
- Special protection of Children against child abuse, exploitation and discrimination Act (RA 7610)
- Phil. Passport Act of 1996 (RA 8239)
- Art. 340 of the Revised penal Code on the Corruption of minors
- Art. 341 of the revised Penal code on White Slave Trade.

Trafficking is a form of violence and violation of women and children's human rights. A law penalizing acts constituting trafficking in women and minors is consistent with the respect for human rights and dignity, as well as protection to women against any form of exploitation and oppression. Unless a law is crafted which defines the crime and penalizes the same, provides protection to victims, establishes preventive programs and support for victims, trafficking will continue unabated. Specifically, the rationale for the immediate passage of the bill are as follows:

- To harmonize inter-agency efforts to address trafficking in persons;
- To strengthen prosecution and law enforcement efforts;
- To set up effective preventive, protection, prosecution and reintegration programs;
- To increase penalties for traffickers; and
- To fulfill international commitments.

APPENDIX

I. A PRIMER ON THE ANTI-TRAFFICKING ACT OF 2002 (H.B.No. 4432)

A. What is Trafficking under House Bill No. 4432?

The following elements shall constitute trafficking:

- It shall refer to acts constituting the recruitment, transportation, transfer or harbouring, or receipt of persons.

The recruitment, transportation or transfer may be done:

- through legal or illegal means
 - with or w/o the victims consent or knowledge; and
 - within or across national borders
- The recruitment, transfer or deployment often involves any of the following acts:
 - threat of or use of force
 - other forms of coercion
 - abduction
 - fraud
 - deception
 - abuse of power or of position
 - taking advantage of the vulnerability of the person
 - other forms of coercion
 - The purpose of the recruitment, transportation or transfer is for prostitution or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of an organ.

Unlike the simple smuggling of persons, the central feature that characterizes trafficking is the movement of women and minors for the purpose of placing them in modern slavery or servitude and sexual exploitation. Profiting from such exploitation of women and children is the traffickers.

Minors - refers to persons below 18 or those over but are unable to fully take care of themselves from abuse, neglect cruelty, exploitation or discrimination because of a physical or mental disability and condition.

Debt bondage - is the pledging of personal services or labor of a person indefinitely as security for a debt, when the length and nature of services is not clearly defined.

Forced labor and slavery like practices- refer to the extraction of work or services from any person by means of enticement, intimidation or threat, use of force or coercion, including deprivation of freedom, abuse of authority or moral ascendancy, debt-bondage or deception.

B. Can a Woman be Trafficked through Legal Channels?

Trafficking utilizing illegal channels is the usual method. This is done through various means. e.g. illegal recruitment, abduction or kidnapping and leaving the country through the backdoor. The Coalition against Trafficking in Women has identified Pagadian City Zamboanga City, Bungaw, Malaysia as one of the regular routes of illegal traffickers. Trafficking however, can also be done through legal mechanisms. There are cases of licensed recruitment agencies serving as fronts for sex trafficking. All the woman's papers are processed legally. However, it is also the usual practice of such agencies to deceive the woman re: the kind of work they will actually be entering and jobs promised are different from the actual work awaiting the woman in the receiving country. In order to facilitate the entry of woman to receiving countries with strict visa requirements, traffickers use valid documents such as passports and employment contracts in collaboration with their foreign principals. Documented workers may also fall prey to traffickers at the job site.

122ND INTERNATIONAL TRAINING COURSE
REPORTS OF THE COURSE

They are lured through promises of higher earnings.

- well known cases include woman who arrive with entertainment visas only to find themselves forced into sex work. This is the usual cases among entertainers bound for Japan.
- Other cases involve migrant workers who arrive in the country of destination and find themselves forced into exploitative situations without the option to leave due to the confiscation of their travel document by their foreign employer.
- Traffickers also transport woman using tourist visas. The no visa policy among member-countries of the ASEAN has also made it easy to enter these countries. In many cases, these countries serve as jump off points for Filipinos who leave the country as tourists but end up as bonded labor at their destination.

C. How does House Bill No. 4432 or the Anti-Trafficking Bill Seek to Address This Problem?

The Anti-Trafficking Bill (House Bill No. 4432) aims to punish those who engage in trafficking while ensuring that victims are protected. The bill will institute mechanisms to enable victims to establish a new life for themselves through counseling and livelihood programs.

Generating awareness on the issue of trafficking and educating people is a key component to prevent Filipino women and children from becoming future victims of traffickers.

The bill, if enacted into law will create an Inter-Agency Council Against Trafficking to coordinate government efforts on the problem.

D. What are the Acts which Constitute the Crime of Trafficking under the Bill?

1. Acts of Trafficking

The illegal acts covered by the Anti-Trafficking Bill broadly reflects the complexity of the issue. The bill seeks to impose the penalty of reclusion temporal in its medium period to reclusion perpetua and fine of not less than P1,000,000 pesos nor more than P2,000,000 pesos against those who:

- recruit a person for the purpose of prostitution or forced labor and slavery-like practices under any pretext of lawful domestic or overseas employment;
- offer or contract marriage with women and minors for purposes of offering, selling, or trading him or her to engage in prostitution, or to subject him or her to forced labor or slavery-like practices;
- introduce or match for a fee, profit, or any other material or economic consideration, any Filipino woman to a foreign national for marriage under a mail order bride scheme as provided under Republic Act No. 6955, otherwise known as the “Mail-Order Bride Law”, for prostitution or forced labor or slavery-like practices;
- entice, encourage, persuade a person by fraud or by deceit, coercion, intimidation, or by abuse of any position of confidence or authority, or having legal charge, including use of parental, sibling and other authority by family relationship to engage in prostitution or forced labor or slavery-like practices;
- maintain or hire a person to engage in prostitution under the pretext of tours and travel plans to the Philippines;
- recruit persons especially women and minors to engage in prostitution with military forces;
- through promises, threats, violence or any device or scheme, to procure, induce, persuade, entice a person to engage in prostitution or to work in a club, place of entertainment or establishment having reasonable cause to believe that such club, place of entertainment or establishment is used for any such purpose;
- recruit through fraud, coercion, violence or deception a child aged fifteen (15) years and below, to engage in armed activities here and abroad;
- adopt or facilitate the adoption of Filipino minors pursuant to Republic Act No. 8043, otherwise known as the “Inter-Country Adoption Act of 1995”, or employ other similar practices for purposes of forced labor and slavery-like practices or prostitution;
- send persons abroad under the guise of training or apprenticeship, for prostitution, forced labor or slavery-like practices; and

- recruit a person or adopt a minor, whether through domestic or inter-country adoption or through any other acts as enumerated above, with the end in view of removal or sale of the body organs of the recruited person or adopted minor.

2. Other Punishable Acts

It likewise seeks to penalize by prison mayor in its medium period to reclusion temporal in its minimum period and a fine of not less than P500,000 but not more than P 1,000,000 pesos those who:

- undertake tours and travel plans consisting of tourism packages or activities utilizing and offering persons for prostitution.
- lease or sublease any dwelling house with reasonable ground to believe that the lessee/sub-lessee will use it for prostitution, forced labor and slavery-like practices.
- produce, print and issue or distribute unissued, tampered or fake counseling certificates, registration stickers and certificates of any government agency which issues these certificates and stickers as proof of compliance with government regulatory and pre-departure requirements.
- advertise, publish, print or distribute or cause the advertisement, publication, printing, broadcasting or distribution of any brochure, flyer or any propaganda material, including through information technology, like the internet, that promotes trafficking in persons through marriage or other similar relationships with foreign nationals.
- assist in the conduct of misrepresentation or fraud for purposes of facilitating the acquisition of clearances and necessary exit documents from government agencies that are mandated to provide pre-departure registration and services for departing persons.
- facilitate, assist and help in the exit and entry from or to the country at airports and seaports, of persons who are in possession of unissued, tampered or fake documents.
- confiscate the passport, travel documents and other personal documents of victims of trafficking to prevent them from leaving the country or seeking redress from the government or appropriate agencies.

3. Other Penalties

- Permanent revocation and cancellation of the Securities and Exchange Commission registration and license to operate the agency, club or establishment.
- Deportation after serving the sentence in the case of a foreigner.
- Suspension or removal from office in the case of a government officer or employee without prejudice to their criminal liability as provided for in A and B above.

E. What Support Mechanisms are Provided for the Victims?

A law on trafficking is not complete without provisions for helping and supporting trafficked victims. The bill directs the government to establish and implement counseling programs for victims of trafficking. These include the provision of temporary shelters, financial support and legal assistance. Regardless of their legal status in the receiving country, victims of trafficking may avail of the Legal Assistance Fund provided for under the Migrant Workers Act. They are also entitled to avail of the services provided by the Overseas Filipino Resource Centers in foreign countries. The Department of Foreign Affairs and the Overseas Workers Welfare Administration take responsibility for the victims' repatriation to the country.

The bill also provides for the legal protection of victims, who, under the bill cannot be imprisoned or detained for crimes committed directly related to the acts of trafficking enumerated above or in obedience to the orders by the traffickers in relation thereto. Likewise, they enjoy entitlement under the Witness Protection Program and are entitled to damages that may be pronounced by the judge against the traffickers in case of conviction. Finally, the victims have the right to confidentiality at any stage of the investigation, prosecution and trial of a complaint against traffickers.

F. What are the Programs that Address Trafficking in Persons under the Bill?

In order to successfully stop trafficking, we need to institute mechanisms to prevent the victimization of our women and children. The important thing is to provide them relevant information and increase their awareness of the dangers of trafficking. Under the bill, the government must

122ND INTERNATIONAL TRAINING COURSE
REPORTS OF THE COURSE

establish and implement counselling and other programs for victims of trafficking, forced labor and prostitution. For this purpose, the following agencies are mandated to implement the following:

- a) The Department of Foreign Affairs shall make available its resources and facilities overseas for victims of trafficking 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.
- b) The Department of Social Welfare and Development shall implement rehabilitative and protective programs for victims of trafficking. It shall provide temporary shelter to victims of trafficking and develop a system for accreditation among non government organizations, local government units and people's organizations for purposes of establishing centers and programs for intervention in various levels of the community.
- c) The Department of Labor and Employment shall in close coordination with POEA, ensure the strict implementation of, and compliance with, rules and regulations and guidelines relative to the employment of women, locally and overseas. It shall likewise monitor, document and report cases of trafficking in persons especially women and minors, involving labor recruiters and recommend the filing of appropriate sanctions to the Department of Justice.
- d) The Department of Tourism shall formulate preventive measures and enforce them to stop sex tourism packages which contribute to the increase in the trafficking in persons.
- e) The Department of Education and the Commission on Higher Education shall integrate in the subject on social studies core messages on migration and trafficking in elementary, secondary and tertiary levels with emphasis on their implications and social costs to persons and country.
- f) The Department of Justice shall conduct investigations and initiate the filing of complaints involving trafficking in persons as defined in this Act and shall ensure the prosecution of guilty parties and establish a mechanism for free legal assistance for victims of trafficking. Such mechanism must include coordination with DSWD, the Integrated Bar of the Philippines and other NGOs and volunteer groups.
- g) The Department of Health shall make available its resources and facilities in providing confidential health care of victims of trafficking.
- h) The Department of Interior and Local Government shall institute a systematic information and prevention campaign and likewise maintain a data bank for the effective monitoring, documentation and prosecution of cases on trafficking in persons.
- i) The Local Government Units or LGUs shall monitor and document cases of trafficking in persons in their areas of jurisdiction, effect the cancellation of licensees 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, PIA, the CFO, the NGOs and other concerned agencies. They shall encourage and support community based initiatives which addresses the trafficking in persons.
- j) The Commission on Filipinos Overseas (CFO) shall establish and implement a pre-marriage, on-site and pre-departure counseling program for women on intermarriages as authorized under its existing mandate and structure. For this purpose, it shall establish a network of service providers from the national government, LGUs, civic and private organizations, and other community workers for purposes of providing accessible pre-marriage counseling services to the public. This network shall be developed and operationalized through a system of accreditation to be undertaken by CFO. It shall establish the necessary guidelines, rules and regulations for this purpose. It shall continue to conduct guidance and counseling services as a pre-departure requirement, and as a pre-requisite to the issuance of passports to Filipino fiancées and spouses of foreign nationals. It shall

RESOURCE MATERIAL SERIES No. 62

develop and implement guidance and counseling services locally and abroad, through an expanded system of representation in order to adequately prepare Filipino spouses of foreign nationals for their settlement and integration overseas and extend necessary intervention to Filipinos in intermarriages in times of distress.

- k) The Commission on Human Rights shall conduct advocacy and training programs relating to anti-trafficking, monitor the flow of cases during trial and grant financial assistance to victims of trafficking.
- l) The National Commission on the Role of Filipino Women shall actively participate and coordinate the formulation and monitoring of policies addressing the issue of trafficking in women and minors in its policy documents as well as its special concerns. It shall likewise advocate for the inclusion of the issue of trafficking in persons especially women and minors in both its local and international advocacy for women's issues.
- m) The Bureau of Immigration (BI) shall ensure compliance by the Filipino fiancées and spouses of foreign nationals traveling abroad to assume permanent residency with the guidance and counseling requirement as provided in this Act. It shall strictly adopt measures for the apprehension of suspected traffickers both at the place of arrival and departure.
- n) The National Bureau of Investigation (NBI) shall conduct surveillance, monitor and investigate recruiters, travel agencies, hotels and other establishments suspected to be engaged in trafficking in women and minors in accordance with the DSWD, the BI, LGUs and NGOs and take appropriate measures in the prosecution of the violators.
- o) The Philippine Overseas Employment Administration shall formulate and implement a system of providing legal and financial assistance to victims of trafficking who are undocumented in addition to its original mandate.
- p) The Philippine Center for Transnational Crimes shall establish a central database for information on criminal methodologies, arrests and convictions of persons or entities involved in trafficking in persons including strategic research for the formulation of individual and collective strategies for its prevention and detection. It shall set up its co-ordination and cooperation with the International Police Organization (INTERPOL) in the elimination of transnational trafficking.
- q) The Overseas Workers Welfare Administration shall assist in the information and advocacy campaign to eliminate trafficking in persons especially women and minors at the OFW Committees here and abroad. It shall likewise assist in the documentation of trafficking cases particularly among OFWs and ensure the provision of the necessary reintegration package of services; i.e. repatriation, counseling, livelihood and legal services, among others.

G. What are the Functions of the Inter-Agency Council against Trafficking?

The Inter-agency Council shall formulate a comprehensive program to suppress the trafficking in women and minors. It will ensure that the intent of the law is fully implemented. In this regard, it shall coordinate all the programs and projects of the various agencies mentioned above. It will also spearhead the conduct of a massive information campaign on the issue. It can recommend the filing of cases against those who will violate the law. It shall also take the lead in formulating a re-integration program for the victims.

The Council shall be composed of the heads of the agencies above-mentioned, and three representatives from NGOs who shall be nominated by the government agency representatives of the Council for appointment by the President. It shall be jointly chaired by the Department of Social Welfare and Development (DSWD) and the Department of Foreign Affairs (DFA).