

BEST PRACTICES IN THE PROTECTION, PREVENTION, AND PROSECUTION OF HUMAN TRAFFICKING CASES IN ZAMBOANGA CITY

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I. INTRODUCTION

Being a transnational crime, Trafficking in Persons is one of the top three syndicated crimes in the world that generates billions of dollars. In terms of gravity, this modern-day-slavery attacks the very core of humanity. Philippines recognizes the gravity of this transnational crime; thus after becoming a signatory to the “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,” Philippines had its very own anti-trafficking law, Republic Act No. 9208, otherwise known as the “Anti-Trafficking Act of 2003,” which passed in May 26, 2003 and became effective on June 19 of the same year.

This law has been effective for merely eight years. Despite several convictions since 2005 up to 2011, there has only been one Supreme Court Jurisprudence, handed down on 12 October 2011. The Supreme Court affirmed the first human trafficking decision rendered by the Regional Trial Court of Zamboanga City, dated 29 November 2005, finding two Filipinos guilty beyond reasonable doubt of the crimes of Trafficking In Persons and Illegal Recruitment committed by a syndicate with the penalty of two Life Imprisonment and a total fine of 3.1 Million Pesos broken down as follows, to wit: Php 2M Fine in Trafficking in Persons; Php 500,000 Fine in Illegal Recruitment; Php 500,000 Fine as moral damages; P100,000 Fine as exemplary damages. (Supreme Court G.R. No. 195419). The amount of moral and exemplary damages were substantially modified by the Supreme Court as it was increased from Php 50,000.00 respectively.

Having comprehensive anti-trafficking legislation that is strictly implemented is one of the most effective measures to combat trafficking in persons.

Among the Asian neighboring countries, the geographic proximity of Malaysia, economic opportunities, and for some, an extension of their home, lured many Filipinos to cross the Malaysian border, mostly through illegal means or using the ‘backdoor.’ Criminal activities and human rights violations are common in such situations/conditions and trafficking in persons is not an exception.

Philippines is identified generally as a source country from where victims of trafficking in persons are recruited and transported to other countries not only within the Asia and Pacific region but to other parts of the world. However, domestically, trafficking in persons is likewise thriving and is just as lucrative.

There are several places within the Philippines identified as ‘hotspots’. Hotspots may be a province, city or municipality marked as a place where it is identified as a human trafficking source, destination, transit, and an exit point. Zamboanga City is one of those identified ‘hotspots’ in the Philippines.

Law enforcers can easily spot a possible human trafficking victim just by observing at one of the seaports in Zamboanga City. Probable victims’ profiles include among others, young passengers from ages between 12 to 25 years old; mostly girls; first timer in the big city; willing to take risks; without any clear information about their work, salary, employment, employer and place of work. Most of the victims are deceived into believing that they will have decent, good or high paying jobs in Malaysia; thus they would readily cross the border despite the fact that passing through the back door entails dangerous and unsafe conditions of travel.

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In the City's first conviction on human trafficking in 2005, the victim, a 22-year-old woman, was lured into Malaysia with the promised work of waitress at Php 25,000.00 per month. She was sold as a prostitute in one of the bars in Sandakan, Malaysia where she had to serve and have sex against her will with at least three to five male customers in a night, for more than a month until she was rescued. Aside from being raped, she was boxed, pushed and her head banged against the wall by her customers whenever she refused to have sex with them. Five other convictions followed, all involving young women who were exploited for sex or labour in Malaysia.

However, despite the statistics, getting more convictions remains a challenge. Human traffickers simply use different modi operandi to avoid getting detected and making it more difficult for police officers to intercept and arrest perpetrators as well as gather evidence. However, among the usual or common modi include (1) making advanced payment to parents, while recruitment process is still on-going, (2) making unrealistic promises relative to work, salary, food and lodging, (3) spurious documents and papers, (4) quota and networking system by relying on a wide net of "facilitators", (5) paying government personnel to overlook suspicious documents, (6) transport recruits in groups, in twos, or individually but will regroup at port areas, (7) recruiters avoid personal contact with recruits by buying tickets through the internet and sending it through emails, or they sometimes communicate through the social networking system, (8) movements of the potential victims are restricted and they are told to avoid talking to government personnel, other passengers or crew, (9) travel and personal documents are in the possession of the recruiter or the his/her facilitator and are sometimes given to recruits only at the port area already with government stamps on it, and (10) when one port area becomes strict, they simply go through another backdoor or another legal port. These modi operandi make it difficult to secure evidence especially when victims are non-cooperative.

II. DEFINITION OF TRAFFICKING IN PERSONS

As provided under Section 3(a) of Republic Act No. 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 of 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."

Based on the foregoing definition, there are three elements to prove to secure a conviction. These are the ACTS, MEANS and EXPLOITATIVE PURPOSE.

III. ZAMBOANGA CITY CONVICTIONS

From 2005 up to 2011, Zamboanga City has a total of six convictions for violations of Republic Act No. 9208. Section 4 thereof enumerates eight Acts of Trafficking categorized into three kinds, namely sexual trafficking, labor trafficking and organ trafficking. Zamboanga City's six convictions all involve violations of said section, particularly on sexual and labor trafficking. An outlined summary is shown below, as follows:

A. First Conviction in the Philippines

People of the Philippines –vs– HADJA JARMA LALLI y Purih, RONNIE ARINGOY y Masion (convicted) and NESTOR RELAMPAGOS (at large)

- Criminal Case No 21908 – Trafficking In Persons (Section 4(a) in relation to Sections 6(c) and 10(c) of RA No. 9208) filed on 18 August 2005
- Criminal Case No 21930 – Illegal Recruitment (Section 6 in relation to Section 7(b) of RA No. 8042)

- DATE OF DECISION: 29 November 2005; Promulgated on 5 December 2005
- PENALTY: 2 Life Imprisonment and a fine of 2.6 M
 - *In the human trafficking case:* Life imprisonment and a fine of Two million pesos (P2,000,000.00);
 - *In the illegal recruitment case:* Life imprisonment and a fine of Five hundred thousand pesos (P500,000.00);
 - *And to pay offended party the sum of P50,000.00 for moral damages and P50,000.00 for exemplary damages.*

(NOTE: Moral damages of P50,000 was modified and increased to P500,000 while the Exemplary damages of P50,000 was modified and increased to P100,000 by the Supreme Court).
- Heard and tried before Regional Trial Court, Branch 16, with Hon. Judge Jesus C. Carbon, Jr. as the presiding judge
- Prosecuted by City Prosecutor Ricardo G. Cabaron and 3rd Asst. City Pros. Darlene R. Pajarito
- This is a Qualified Trafficking case, committed by a syndicate, involving one (1) young female victim who was recruited in Zamboanga City, brought to Malaysia and prostituted thereat. This case was tried jointly with Criminal Case No. 21930 filed against the accused for Illegal Recruitment and was submitted for decision on 10 November 2005.

B. Second Conviction in Zamboanga City

PP vs. Rosie T. Ociel (convicted) alias “CONCEPCION CATARMAN y OBLIOPAS alias “MOMMY ROCHELLE” alias “MICHELLE”, a certain “GINA CATAMAN”, LenLen Batungbakal, KHOO MING HOI alias “ELWIN”, a certain alias “MICHAEL” and a certain alias “LUCY” (all at large)

- Criminal Case No 21899 – Trafficking In Persons (Section 4(a) in relation to Sections 6(c) and 10(c) of RA No. 9208) filed on 17 August 2005
- Criminal Case No 21898 – Illegal Recruitment (Section 6 in relation to Section 7(b) of RA No. 8042 filed on 17 August 2005
- DATE OF DECISION: 27 March 2007; Promulgated on 27 March 2007
- PENALTY: 2 Life Imprisonment and a fine of 7.2 M
 - *In the human trafficking case:* Life imprisonment and a fine of Five million pesos (P5,000,000.00);
 - *In the illegal recruitment case:* Life imprisonment and a fine of One Million pesos (P1,000,000.00);
 - *And to pay each of the six (6) private complainants the sum of P50,000.00 moral damages and P50,000.00 exemplary damages;*
 - *And to pay the costs.*
- Heard and tried before Regional Trial Court, Branch 16, with Hon. Judge Jesus C. Carbon, Jr. as the presiding judge.
- Prosecuted by City Prosecutor Ricardo G. Cabaron and 3rd Asst. City Pros. Darlene R. Pajarito
- This is a Qualified Trafficking case, committed by a syndicate and in a large scale involving six (6) young female victims who were recruited in Las Pinas, brought to Zamboanga City, thereafter to Malaysia where they were sold as sex slaves. This case was tried jointly with Criminal Case No. 21898 filed against the accused for Illegal Recruitment. After the submission of Memorandum on 30 June 2006, the case was deemed submitted for decision.
- On 28 March 2007, the Honorable Court promulgated its decision dated 27 March 2007 convicting the accused

C. Third Conviction in Zamboanga City

People of the Philippines –vs– EDWINA GUARIN (convicted) and CHARITO REBOLLOS (at large)

- Criminal Case No 21800 – Trafficking In Persons (Section 4(a) in relation to Sections 3(a) of RA No. 9208)

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- Criminal Case No 22151 – Illegal Recruitment (Section 6 of RA No. 8042)
- DECISION: 10 October 2008; Promulgated on 14 October 2008
- PENALTY: 20 years' imprisonment and a fine of P1.7 M
 - *In the human trafficking case:* 20 years' imprisonment and a fine of one million pesos (P1,000,000.00) but not more than two million pesos (P2,000,000.00);
 - *In the illegal recruitment case:* Imprisonment of not less than 6 years and 1 day but not more than 12 years and a fine of not less than two hundred thousand pesos (P200,000.00) nor more than five hundred thousand pesos (P500,000.00);
 - And to pay moral damages.
- Heard and tried before Regional Trial Court, Branch 16, with Hon. Judge Jesus C. Carbon, Jr. as the presiding judge.
- Prosecuted by 3rd Asst. City Pros. Darlene R. Pajarito
- This is a Simple Human Trafficking case involving two (2) young female victims who were recruited in Sangali, Zamboanga City, brought to Malaysia, and exposed them to prostitution thereat. This case was tried jointly with Criminal Case No. 22151 filed against the accused for Illegal Recruitment. On 16 July 2007, this case was submitted for decision. On 14 October 2008, the Honorable Court promulgated its decision dated 10 October 2008 convicting the accused.

D. Fourth Conviction in Zamboanga City

People of the Philippines –vs– FLORA CABRAL y ALDENESE, a.k.a. “Flora Jasmin Aldenese” a.k.a. “Flora Aldenese”, Christopher Yu, Analyn Yu and a certain Francis

- Criminal Case No 22878 – Trafficking In Persons (Section 4(a) in relation to Sections 6(c) and 10(c) of RA No. 9208)
- DATE OF DECISION: 29 July 2010; Promulgated on 6 August 2010
- PENALTY: Life imprisonment and a fine of P2.1 M
 - Fine of Two million pesos (P2,000,000.00);
 - And to pay private complainant the sum of P100,000.00 for moral damages and P50,000.00 for exemplary damages;
 - And to pay the costs.
- Heard and tried before Regional Trial Court, Branch 12, with Hon. Judge Gregorio V. Dela Pena III as the presiding judge.
- Prosecuted by 3rd Asst. City Pros. Darlene R. Pajarito
- This is a Qualified Trafficking case, committed by a syndicate, filed in court on November 28, 2006 involving two (2) young female victims from Camino Nuevo Barangay, Zamboanga City who were recruited in this City to work in Malaysia as cashier or entertainer. Upon reaching Malaysia, they were instead exposed to prostitution. Accused was a resident of Tumaga Barangay, Zamboanga City. This case was submitted for decision on December 2009.
- On 6 August 2010, the Honorable Court promulgated its decision convicting the accused

E. Fifth Conviction in Zamboanga City

People of the Philippines –vs– Arlene Ramos, a.k.a. “Michelle Ramos”, “Arlene Anova”, “Arlene Lee”

- Criminal Case No 22792 – Trafficking In Persons (Section 4(a) of RA No. 9208)
- DATE OF DECISION: 8 February 2011; Promulgated on 8 February 2011
- PENALTY: 20 years' imprisonment and a fine of 1 M
- Heard and tried before Regional Trial Court, Branch 14, with HON. JUDGE REYNERIO G. ESTACIO as the presiding judge.
- Prosecuted by 3rd Asst. City Pros. Darlene R. Pajarito

- This human trafficking case was filed in court on 25 September 2006. Accused, who is from Cabaluay-Catumbal Barangay, this City, recruited two (2) young female residents of Valera St., Barangay Zone 1, Zamboanga City, to work in Malaysia as waitresses. When they reached Malaysia, they were sold to different employers as household helpers without pay. This is Zamboanga City's first LABOR TRAFFICKING conviction and the second in the country.

F. Sixth Conviction in Zamboanga City

People of the Philippines vs. Mary Glen Anos y Dela Torre, Bebe Lim, et. al.

- Criminal Case No. 22969 - Trafficking In Persons (Section 4(a) in relation to Sections 6(c) and 10(c) of RA No. 9208)
- DATE OF DECISION: 1 July 2011; Promulgated on 1 July 2011
- PENALTY: Life imprisonment and a fine of 2.1 M
 - Fine of Two million pesos (P2,000,000.00);
 - And to pay private complainant the sum of P100,000.00 for moral damages and P50,000.00 for exemplary damages;
 - And to pay the costs.
- Heard and tried before Regional Trial Court, Branch 12, with Hon. Judge Gregorio V. Dela Pena III as the presiding judge.
- Prosecuted by 3rd Asst. City Pros. Darlene R. Pajarito
- This is a Qualified Trafficking case, committed by a syndicate, filed in court on January 31, 2007 involving two (2) young female victims who were exposed to prostitution in Malaysia. Victims were from Pagadian City while the accused was a resident of Poblacion Guipos, Zamboanga del Sur. This case was submitted for decision on 31 January 2011.
- On 1 July 2011, the Honorable Court promulgated its decision convicting the accused.

In all the foregoing cases, common evidence presented included the following, to wit:

- Affidavit/ Supplemental Affidavits (of Victims/Relative/Arresting Officer/Witness)
- Certification from the Philippine Overseas Employment Agency (POEA)
- Tickets (Airline/Boat/Bus)
- Complaint sheet/Booking Sheet
- Case Report/ Forwarding Report
- Certification from POEA
- Passports/Travel Documents
- Pictures
- Receipts paid by customers
- Receipts of money sent across border to a co-accused
- Pink paper for short time booking and yellow paper for overnight booking
- Letter of one of the victims to the mother
- Passenger Manifest
- Counter-Affidavit of Accused & that of Witness of Accused

This evidence was identified when the following witnesses testified in court:

- Private complainant/ Victim
- Corroborative Witnesses – Relative/s
- Police Investigator
- Arresting Officer
- Representative from POEA
- Representative from Airlines/Shipping Lines

IV. FACTORS THAT CONTRIBUTED TO THE SUCCESSFUL CONVICTIONS

Prosecuting such a complicated law is not easy especially when cases are victim-centered. A common challenge in prosecuting human trafficking cases is when victims or survivors no longer wish to participate or pursue the case against the human traffickers. Nevertheless, based on the experiences of stakeholders, enumerated below are some of the factors that contributed to the successful convictions in Zamboanga City.

- A. **Speedy Trial.** Prosecution ensures that witnesses are ready and present during the presentation of prosecution's evidence.
- B. **Specially Designated Prosecutor.** Department of Justice issued an order assigning a prosecutor to specially handle all trafficking in persons cases from the preliminary investigation up to the prosecution of the case in court.
- C. **Victims Almost Always are Presented First During Trial.** This is to avoid losing the victim and eventually the case.
- D. **Prosecutor To Conduct More Than One Briefing.** Prosecutors are obliged to prepare the witness for trial; thus the need to meet with the victim more than once, not only to guide the witness but also to be able to establish rapport and make the victim feel comfortable with the concerned duty holders as well as with the environment and the entire court process.
- E. **Focus on the Elements of the Crime in Attacking the Theory of the Defense.** This is to prevent deviation of issues or from the fact that trafficking in persons did occur.
- F. **Submission of a Strong and Well-Written Memorandum at the End of the Trial.** Judges appreciate the submission of Memorandum, as it helps them see the viewpoint of the parties. On the part of the Prosecution, it is an opportunity to give emphasis where it is needed to strengthen its point.
- G. **Relevant Corroborative Evidence is Likewise Presented.** These evidences can strengthen the case and are very useful should victims choose not testify. These include forensic interview records, video recording, child's journal, and testimony of investigators, arresting officers, social workers, medical doctors, and other eyewitnesses who have personal knowledge of circumstances leading to the trafficking in persons incident.
- H. **Gender or Victim Sensitivity.** It is very common that exploited victims are traumatized thus stakeholders are trained to use the Right-Based Approach to avoid re-victimization.
- I. **Enroll Victims in the Witness Protection, Security and Benefit Program.** Victims are empowered to pursue the case and seek justice for themselves and for the other victims when they are enrolled in the Witness Protection, Security and Benefit Program of the Department of Justice. Under such program, financial assistance is provided and as well as personnel security, for victims who receive threats during and even upon termination of trial. A temporary shelter in a safe house is likewise provided to protect them from harassment and possible threats from the human traffickers who are respondents or accused in trafficking in persons cases.
- J. **Presence of Social Workers and Counseling Given to the Victims.** Victims are always accompanied by a social worker from rescue, investigation up to prosecution and trial level. Counseling and post debriefing are likewise provided to help the victims cope with the trauma as well as the stress of pursuing a case.
- K. **Access to the Mandatory Services as Provided for in Republic Act No. 9208.** These mandatory services include providing the victim emergency shelter or appropriate housing, counselling, medical/psychological services, free legal services, livelihood/skills training, educational assistance to a trafficked child, capability building programs, and rehabilitation and reintegration of victim. (Section 23, RA No. 9208). These services or assistance are provided by concerned government and non-government agencies.

- L. **Duty Holders are Knowledgeable about Republic Act No. 9208.** The entire criminal justice system stakeholders are knowledgeable about the law and how to implement it. These stakeholders include police officers, social workers, prosecutor, judges, public defenders, jail officers, local community leaders and officials, and other non-government entities. Enhancement trainings and capacity building seminars on human trafficking are periodically conducted throughout the year.
- M. **Synergize Port-Based Task Forces.** Zamboanga City has local anti-trafficking task forces for sea-base, air-base and land-base which were organized in the last quarter of 2007. These are composed of government agencies in charge with the enforcement of the Republic Act No. 9208. In mid-2008, said task forces were mobilized to intercept, arrest and investigate human traffickers at all ports. These task forces are likewise mandated to rescue/recover and repatriate and rehabilitate victims. In handling human trafficking cases, the task forces are well coordinated. Case conferences are held prior to operation, and debriefing sessions are held thereafter. The task forces also do monitoring work and updates and new leads and information are shared.

V. STRENGTHENING PARTNERSHIP, PROTECTIONS, AND PREVENTIVE MEASURES THROUGH MULTI-AGENCY COLLABORATION

- A. **Continuous Trainings.** This is to update stakeholders with the existing laws and jurisprudence. This involves coordination/collaboration with Department of Justice, non-government agencies and with the Local Government Unit concerned.
- B. **Increase Awareness Among Agency Personnel.** This involves re-echoing what was learned and increasing the agency personnel’s effectiveness or competence in combating trafficking in persons.
- C. **Good Publicity After Conviction.** This is to encourage other women to come forward and pursue their respective cases against traffickers in persons. Media partners can help through print, radio and television coverage in sending a clear message, if not instill fear, among traffickers.
- D. **Continuous Collaboration Among Anti-Trafficking Task Force members.** Task Force members (government and non-government agency-members) continuously meet, monthly or quarterly to exchange information and strengthen ties and referral systems.
- E. **Continuous Anti-Trafficking Campaign/Advocacy Efforts.** This advocacy is very crucial among the youth, women, academe, local government unit community, transport groups, and business community to heighten campaign against trafficking and sustain the message sent as well as to increase the network of partners/stakeholders. Efforts include, among others:
 1. Conducting Basic Awareness and Orientation Seminars on the Salient Features of Republic Act No. 9208;
 2. Fun Run and Walk Inviting all Government Agencies and Non-Government Agencies to Participate;
 3. Posting of Posters and Giving of Handouts, Pamphlets or Information Material;
 4. Setting Up of Trafficking In Persons Videos to be shown at all Port Areas (sea, air and land);
 5. Setting up of an Overseas Passenger Assistance Center at all Port Areas. This is to purposely advocate, rescue, or intercept as well as to give assistance to probable victims of human trafficking and arrest human traffickers who are facilitating the exit of the victims through the legal ports.

However, given all the measures in place, human traffickers revise or change their *modi operandi*, especially at port areas. Their network of “facilitators” may be bus driver or conductor, a porter, or vessel crew or captain. They use local airline budget fares to evade tightening grip in ports, or private tinted vans beyond inspection, or they shipped victims under tarpaulin covers in trucks. Sometimes decoys are sent-off, as illustrated in the testimony of one victim: “Our recruiter divided us into those who have documents, and those who have none. The first group with documents is taken to the authorities for inspection. Our group

without documents was told to discreetly go in pairs, slip out of the terminal, and re-join the other group in a designated point where the bus would wait for us." (15 year old interviewee in Lilo-an, Philippines). Others are simply slipped through at night inside the engine room of the ship, when enforcers and non-government agencies are not closely watching.

VI. CONCLUSION

Having a law with good penal provisions is definitely an important tool to help eradicate human trafficking. However, implementing it and prosecuting human traffickers is another matter. Having a good case, a good lawyer and a good judge can definitely boost the chance of getting a conviction.

Noteworthy to mention are some salient features of Republic Act No. 9208 that greatly contribute to its effectiveness. These include, among others, the legal protection afforded to the victims of human trafficking, who are given immunity from prosecution for crimes directly related to acts of trafficking; that they are entitled to be enrolled in the witness protection program; and that consent of a trafficked person to the intended exploitation set forth in this Act shall be irrelevant (Section 17). Another salient feature of the law is the high penalty imposed on violators.

These foregoing convictions give very strong guidance to future prosecutions and possible convictions of human traffickers on issues like:

- That indeed consent is irrelevant;
- That actual sexual or labor exploitation is not necessary to prove the element of 'Purpose' when victims testified that they were given pills, condoms, and sexy clothing and ordered to entertain male customers by having sex with them;
- That victims' desistance does not necessarily result to acquittal of the accused;
- That there is conspiracy among contacts in different countries;
- That victims feel more empowered and protected once enrolled in the witness protection programme;
- That family support is crucial; and lastly
- That even college students and graduates can be just as vulnerable as those unschooled.

The modus operandi may change but what remains constant is the victims' desire to migrate or relocate to a different place, within or across national border; or victims wanting to work overseas, pushed mainly by economic factors and reinforced by their being 'risk takers but naive' or the attitude of 'Bahala na ang Dios' ('It is up to God'). These circumstances will always be the challenge duty holders face in combating human trafficking. A more frustrating challenge beseeching further attention among partners is corruption in the government. Although, anti-corruption laws are likewise in place, however, like the anti-trafficking law, it requires as much commitment from the duty holders to implement it and pursue the offenders.

Since human trafficking is a transnational crime, commitment not only from domestic stakeholders but from international stakeholders are very much needed. The importance of having a coordinated network within the Asia and Pacific region, and for these countries to share experiences and best practices can greatly enhance capacity and knowledge on how to improve instituted programs and measures in place as well as to strengthen the fight and take the necessary steps in eradicating this syndicated global crime of human trafficking.