



PHILIPPINES

| Legal System | Constitution | Bill of Rights | Country Structure | Form of Government |
|---|--------------|----------------|-------------------|--------------------|
| Common Law Civil Law Religious Law Customary Law | Written | Yes | Single State | Republic |

1. INTRODUCTION

1.1. Philippines and Modern Slavery (Human Trafficking)

The Republic of the Philippines is one State consisting of 81 provinces and 38 chartered cities. All state authority is exercised and controlled by one president vested with executive power, one supreme court and lower courts established by law vested with judicial powers, and one bicameral congress vested with legislative powers.¹

The Constitution of the Republic of the Philippines includes a bill of rights that provides for some fundamental human rights and freedoms.² Those rights and freedoms consist of the right to not be deprived of life, liberty, or property without due process of law.³ The Philippines passed legislation targeting human trafficking in 2003,⁴ and amended it most recently in 2012.⁵

The U.S. Department of State ranks the Philippines as a Tier 1 country.⁶ This ranking means that the Government of the Philippines fully meets the minimum standards for the elimination of trafficking. These efforts included improving the coordination of services for returning Filipino migrant workers who were victims of trafficking overseas; convicting and punishing traffickers, including an official complicit in sex trafficking and labor traffickers; increasing assistance to survivors who provide testimony; and increasing the use of prosecution procedures that reduce the potential for further harm to trafficking victims.⁷

Traffickers exploit domestic and foreign victims in the Philippines, and traffickers exploit victims from the Philippines abroad.⁸

¹ Constitution of the Republic of the Philippines, articles 6–8, available at: https://www.constituteproject.org/constitution/Philippines_1987.pdf?lang=en.

² *Id.*, art. 3.

³ *Id.*, art. 3(1).

⁴ Anti-Trafficking in Persons Act of 2003, Republic Act No. 9208 (2003) (ATPA), available at: <https://www.officialgazette.gov.ph/2003/05/26/republic-act-no-9208-s-2003/>.

⁵ Expanded Anti-Trafficking in Persons Act of 2012, Republic Act No. 10364 (2012), available at: <https://www.officialgazette.gov.ph/2013/02/06/republic-act-no-10364/>.

⁶ U.S. DEPARTMENT OF STATE, TRAFFICKING IN PERSONS REPORT 406 (June 2020), available at: <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.

⁷ *Id.*

⁸ *Id.* at 408.

Forced labor and sex trafficking of men, women, and children remain a problem in the Philippines. Traffickers exploit women and children from rural communities, conflict and disaster-affected areas, and impoverished urban centers in sex trafficking, forced domestic work, and other forms of forced labor in tourist destinations and urban areas around the country. Traffickers tend to exploit men in forced labor in the agricultural, construction, fishing, and maritime industries.⁹ Filipino migrant workers are at particular risk of being exploited by labor and sex traffickers.¹⁰ According to law enforcement, the Philippines is one of the largest known sources of online sexual exploitation of children.¹¹

The Philippines is a source, transit, and destination country for international trafficking. However, the more significant challenge faced by the Philippines is as a source country.¹²

The primary organization that deals with human trafficking in the Philippines is the Philippine Inter-Agency Council against Trafficking (**IACAT**).¹³ It was created under RA 9208 to implement the law, formulate policies, issue rules and regulations, disseminate information on trafficking laws in the Philippines, assist prosecution of violations of criminal offenses, keep records of trafficking statistics, and coordinate with other government agencies to implement the law.¹⁴ The IACAT is well-funded and heavily involved in efforts to combat human trafficking in the Philippines.¹⁵

1.2. Philippines' Policy and Legal Position

The Philippines has developed and enforced a relatively robust legal framework for combating human trafficking. The Philippines' Congress passed Republic Act Number 9208, the Anti-Trafficking in Persons Act of 2003 (**ATPA**). This Act serves as the primary governing law instituting policies to eliminate trafficking in persons, establishing institutional mechanisms for protection and support of trafficked persons, and defining and prescribing penalties for criminal offenses. Republic Act No. 10364 amended the ATPA in 2012. In addition to the ATPA, the Philippines has instituted a variety of other laws to reduce trafficking among vulnerable groups, including migrant workers, overseas Filipino workers, and children.

Along with the ATPA, the Philippines has the Philippine Program Against Child Labour (**PPACL**), which is the official national program on the elimination of child labor.¹⁶

The Philippines has adopted a number of international treaties committed to curtailing human trafficking, including the United Nations Convention against Transnational Organized Crime (**Palermo Protocol**).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² Philippines, ACCOUNTABILITY HUB (2021), available at: <https://accountabilityhub.org/country/philippines/>.

¹³ *Inter-Agency Council Against Trafficking*, GOVERNMENT OF THE PHILIPPINES (last visited Nov. 23, 2021), available at: <https://iacat.gov.ph/>.

¹⁴ *Id.*

¹⁵ See TRAFFICKING IN PERSONS REPORT, *supra* note 6, at 408.

¹⁶ *Child labour in the Philippines*, INTERNATIONAL LABOUR ORGANIZATION (last visited Nov. 23, 2021), available at: <https://www.ilo.org/manila/areasofwork/child-labour/lang--en/index.htm>.

2. OVERVIEW OF PHILIPPINES’ LEGAL APPROACH TO COMBATING MODERN SLAVERY AND HUMAN TRAFFICKING

2.1. Philippines’ Regional and International Law Obligations

2.1.1. Fundamental human rights

The Philippines has acceded to or ratified: the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1952), the Abolition of Forced Labour Convention (1960), the Supplementary Convention on The Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1964), the International Covenant on Economic, Social and Cultural Rights (1974), the Convention on the Elimination of All Forms of Discrimination against Women (1981), the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (1986), the International Covenant on Civil and Political Rights (1986), the Convention on the Rights of the Child (1990), the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1995), and the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (2000).¹⁷

2.1.2. Slavery and trafficking

The Philippines has ratified a number of international protocols and conventions prohibiting modern slavery and trafficking. These include the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention against Transnational Organized Crime, the Protocol against the Smuggling of Migrants by Land, Sea and Air, and the Abolition of Forced Labour Convention.¹⁸

Regionally, the Philippines ratified the Association of Southeast Asian Nations (**ASEAN**) Convention Against Trafficking in Persons in 2017.¹⁹ After the Philippines deposited its instrument of ratification, that Convention became a legally binding regional regime.²⁰ The aims of the Convention are preventing and combating human trafficking, protecting and assisting victims, and promoting regional cooperation to eliminate trafficking.²¹

¹⁷ *Ratification Status for Philippines*, U.N. HUMAN RIGHTS TREATY BODIES DATABASE, available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=137&Lang=EN; *Ratification of International Human Rights Treaties - Philippines*, UNIV. OF MINN. HUMAN RIGHTS LIBRARY, available at: <http://hrlibrary.umn.edu/research/ratification-philippines.html>.

¹⁸ *Id.*

¹⁹ Yen Ne Foo, *ASEAN Convention against Trafficking in Persons: A Regional Approach to Fighting Human Trafficking*, in *NON-TRADITIONAL SECURITY IN THE ASIA-PACIFIC*, 155–59 (Alistair D.B. Cook & Tamara Nair eds., 2021), available at: https://www.worldscientific.com/doi/10.1142/9789811224430_0026.

²⁰ *Id.*

²¹ Cliff White, *Thailand ratifies ASEAN convention against human trafficking*, SEAFOODSOURCE (July 26, 2006), available at: <https://www.seafoodsource.com/news/environment-sustainability/thailand-ratifies-asean-convention-against-human-trafficking>; see also ASEAN Plan of Action Against Trafficking in Persons, Especially Women and Children (2020), available at <https://asean.org/asean2020/wp-content/uploads/2021/01/APA-FINAL.pdf>.

2.1.3. Effect under Philippines' law

Under the Philippines' legal system, a treaty is equal to an Act of Congress once it has been "transformed" into national law and thus become the "law of the land."²² Under Article VII, Section 21 of the Philippines' Constitution, a treaty or international agreement becomes valid and effective when two-thirds of the Senate approve it by vote.²³

The Philippines has ratified three protocols connected to human trafficking: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime Preamble, supplementing the United Nations Convention against Transnational Organized Crime (2002), the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (2002), and the Optional Protocol to the Convention on the Elimination of Discrimination against Women (2003).²⁴

2.2. Human Rights Protections Under Philippines' Law

The Philippines' legal framework with respect to human rights is derived solely from domestic regulation; there is not a human rights clause in the Constitution.²⁵

One such regulation is Republic Act No. 9851, the Philippine Act on Crimes Against International Humanitarian Law, Genocide, and other Crimes Against Humanity.²⁶ The Act makes international crimes of genocide, crimes against humanity, and war crimes punishable by national law.²⁷ The Act also provides for criminal liability of superiors and government officials that fail to prevent human rights abuses and provides for universal jurisdiction, provided the suspect is in the Philippines.²⁸

Nevertheless, human rights organizations have reported extrajudicial executions during the beginning of the COVID-19 pandemic, as well as human rights violations perpetrated under the Government's "war on drugs."²⁹

2.3. Criminalization of Modern Slavery

The Anti-Trafficking in Persons Act of 2003 and its 2012 amendment are the primary laws penalizing forms of modern slavery. Section 4 of the 2012 amendment, for example, defines and prohibits all acts that could

²² *Southeast Asian Region Countries Laws: Philippines-Treaties*, UNIVERSITY OF MELBOURNE (last visited Nov. 23, 2021), available at: <https://unimelb.libguides.com/c.php?g=930183&p=6722006> (citing International Encyclopaedia of Laws: Constitutional Law - the Philippines, Part 1: Sources of Constitutional Law, Chapter 1: Treaties, §2 Hierarchy, 33–34).

²³ *Id.*

²⁴ *Ratification of Human Rights Treaties*, *supra* note 17.

²⁵ *Id.*

²⁶ Philippine Act on Crimes Against International Humanitarian Law, Genocide, and other Crimes Against Humanity, Republic Act No. 9851 (2009), available at: <https://www.officialgazette.gov.ph/2009/12/11/republic-act-no-9851/> (2009).

²⁷ *National Implementation of IHL*, INTERNATIONAL COMMITTEE OF THE RED CROSS (last visited Nov. 23, 2021), available at: <https://ihl-databases.icrc.org/applic/ihl/ihl-nat.nsf/0/234D37D36F42CBC1C12576B900293CC4>.

²⁸ *Id.*

²⁹ *Philippines 2020*, AMNESTY INTERNATIONAL (2020), available at: <https://www.amnesty.org/en/location/asia-and-the-pacific/south-east-asia-and-the-pacific/philippines/report-philippines/>; see also TRAFFICKING IN PERSONS REPORT, *supra* note 6.

be considered trafficking.³⁰ Section 6 of the amendment also punishes accomplices to modern day slavery, indentured servitude, and other forms of trafficking.³¹

2.4. Supply Chain Reporting

No legislation or policies in the Philippines directly require reporting of human trafficking in supply chains or oblige private businesses to control their supply chains to hinder human trafficking.

However, under the Migrant Workers and Overseas Filipinos Act of 1995, illegal recruitment activity, either because the recruiter is not licensed to recruit or hire employees under the labor code or because a licensed recruiter is using illegal recruitment methods, is a criminal offense.³²

2.5. Investigation, Prosecution, and Enforcement

2.5.1. Investigation and prosecution of criminal offenses

The Philippine National Police and the Bureau of Immigration, both members of IACAT, are responsible for investigating possible trafficking in persons. The National Prosecution Service and the National Bureau of Investigation, both located within the Philippines Department of Justice, also investigate and prosecute human trafficking.³³

Local authorities prosecute crimes through the judicial system. Prosecution begins with an inquest stage, later followed by a trial if the offender does not accept a plea bargain.³⁴ Particularly for cybercrimes against children, investigators tended to create recorded child victim interviews, which are then later used in the prosecutions.³⁵

2.5.2. Mutual assistance/international cooperation

The Philippines is a party to numerous international conventions and treaties that encourage international cooperation against trafficking and information sharing on trafficking. Refer to Sections 1.2. and 2.1.

³⁰ ATPA Amendments, section 4, available at: <https://www.officialgazette.gov.ph/2013/02/06/republic-act-no-10364/>.

³¹ *Id.*, section 6.

³² *Labour Exploitation: Philippines*, ACCOUNTABILITY HUB (last accessed Nov. 23, 2021), available at: <https://accountabilityhub.org/country/philippines/#Labour%20standards>.

³³ See TRAFFICKING IN PERSONS REPORT, *supra* note 6, at 406–07; <https://www.doj.gov.ph/vision-mission-and-mandate.html>; <https://www.doj.gov.ph/national-prosecution-service.html>; <https://www.doj.gov.ph/agencies.html>.

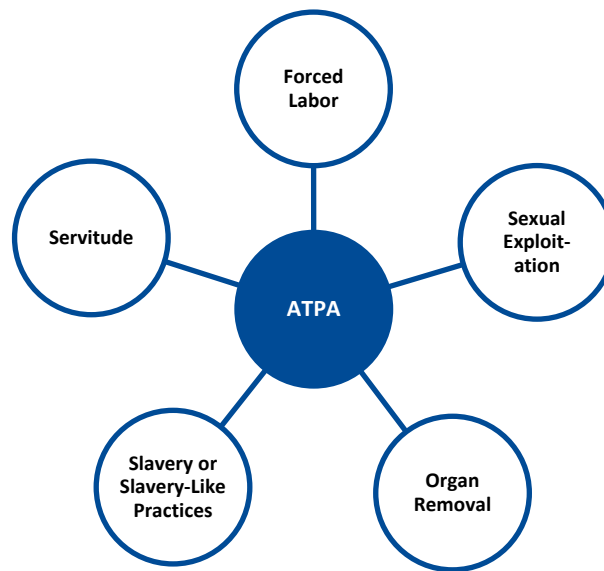
³⁴ *See id.*

³⁵ *Id.*

3. PHILIPPINES’ FEDERAL CRIMINAL OFFENSES RELATING TO SLAVERY, SLAVERY-LIKE CONDITIONS, AND HUMAN TRAFFICKING

3.1. Overview of Criminal Offenses

The Philippines’ general criminal code does not address offenses related to slavery, slavery-like conditions, or human trafficking.³⁶ Instead, five separate acts outline criminal offenses connected to modern slavery. These acts are the 2003 Anti-Trafficking in Persons Act with 2013 amendments, the Migrant Workers and Overseas Filipinos Act of 1995, the Special Protection of Children Against Abuse, Exploitation and Discrimination Act, the Elimination of Worst Forms of Child Labour Act, and the Anti-Violence Against Women and Their Children Act of 2004.



3.2. Slavery Offenses Under the Criminal Code

3.2.1. General

The ATPA of 2003 and its 2012 amendments are the primary laws that make “[a]ll forms of slavery or practices similar to slavery, involuntary servitude, debt bondage and forced labor” a crime.³⁷

Section 4 of the ATPA defines acts that constitute human trafficking:

It shall be unlawful for any person, natural or juridical, to commit any of the following acts:

³⁶ Because the Philippines has a single-state government structure, all offenses, including human trafficking, are dealt with only at a national level.

³⁷ 2012 ATPA, section 4(k)(1).

(a) To recruit, obtain, hire, provide, offer, transport, transfer, maintain, harbor, or receive a person by any means, including those done under the pretext of domestic or overseas employment or training or apprenticeship, for the purpose of prostitution, pornography, or sexual exploitation;

(b) To introduce or match for money, profit, or material, economic or other consideration, any person or, as provided for under Republic Act No. 6955, any Filipino woman to a foreign national, for marriage for the purpose of acquiring, buying, offering, selling or trading him/her to engage in prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

(c) To offer or contract marriage, real or simulated, for the purpose of acquiring, buying, offering, selling, or trading them to engage in prostitution, pornography, sexual exploitation, forced labor or slavery, involuntary servitude or debt bondage;

(d) To undertake or organize tours and travel plans consisting of tourism packages or activities for the purpose of utilizing and offering persons for prostitution, pornography or sexual exploitation;

(e) To maintain or hire a person to engage in prostitution or pornography;

(f) To adopt persons by any form of consideration for exploitative purposes or to facilitate the same for purposes of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

(g) To adopt or facilitate the adoption of persons for the purpose of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

(h) To recruit, hire, adopt, transport, transfer, obtain, harbor, maintain, provide, offer, receive, or abduct a person, by means of threat or use of force, fraud, deceit, violence, coercion, or intimidation for the purpose of removal or sale of organs of said person;

(i) To recruit, transport, obtain, transfer, harbor, maintain, offer, hire, provide, receive or adopt a child to engage in armed activities in the Philippines or abroad;

(j) To recruit, transport, transfer, harbor, obtain, maintain, offer, hire, provide or receive a person by means defined in Section 3 of this Act for purposes of forced labor, slavery, debt bondage and involuntary servitude, including a scheme, plan, or pattern intended to cause the person either:

(1) To believe that if the person did not perform such labor or services, he or she or another person would suffer serious harm or physical restraint; or

(2) To abuse or threaten the use of law or the legal processes; and

(k) To recruit, transport, harbor, obtain, transfer, maintain, hire, offer, provide, adopt or receive a child for purposes of exploitation or trading them, including but not limited to, the act of baring and/or selling a child for any consideration or for barter for purposes of exploitation. Trafficking for purposes of exploitation of children shall include:

(1) All forms of slavery or practices similar to slavery, involuntary servitude, debt bondage and forced labor, including recruitment of children for use in armed conflict;

(2) The use, procuring or offering of a child for prostitution, for the production of pornography, or for pornographic performances;

(3) The use, procuring or offering of a child for the production and trafficking of drugs; and

(4) The use, procuring or offering of a child for illegal activities or work which, by its nature or the circumstances in which it is carried out, is likely to harm their health, safety or morals; and

(l) To organize or direct other persons to commit the offenses defined as acts of trafficking under this Act.³⁸

Section 4-A further provides a criminal offense for attempted trafficking in persons, and specifies extenuating circumstances in which children are considered trafficked.³⁹ The elements of attempt under the ATPA are (1) an act (2) to initiate the commission of a trafficking offense as defined in the ATPA (3) for which the offender fails to or does not execute all elements (4) by accident or any reason other than “voluntary desistance” or abandonment.⁴⁰

Further, Section 4-B penalizes accomplice liability for human trafficking, and Section 4-C defines and punishes accessories to trafficking schemes.⁴¹ The elements of accomplice liability under the ATPA are (1) knowingly (2) aiding, abetting, or cooperating in (3) an act punishable under the ATPA (4) either before or during the commission of the punishable act.⁴² The elements of accessory liability are (1) knowledge of the commission of an illegal act as defined in the ATPA (2) without participating in the act as a principal or accomplice, yet (3) taking part in the act by doing any of the following: profiting in the act or assisting the offender in profiting, concealing, or destroying the body or instruments of the crime to prevent their discovery, or harboring, concealing, or assisting in escape of the principal.⁴³

Finally, Section 5 penalizes promotion and facilitation of trafficking.⁴⁴ Examples of acts that the ATPA defines as criminal offenses are:

(b) To produce, print, and issue or distribute unissued, tampered or fake counseling certificates, registration stickers, overseas employment certificates or other certificates of any government agency which issues these certificates, decals and such other markers as proof of compliance with government regulatory and pre-departure requirements for the purpose of promoting trafficking in persons;

* * *

(h) To tamper with, destroy, or cause the destruction of evidence, or to influence or attempt to influence witnesses, in an investigation or prosecution of a case under this Act;

(i) To destroy, conceal, remove, confiscate or possess, or attempt to destroy, conceal, remove, confiscate or possess, any actual or purported passport or other travel, immigration, or working permit or document, or any other actual or purported government identification, of any person in order to prevent or restrict, or attempt to prevent or restrict, without lawful authority, the person’s liberty to move or travel in order to maintain the labor or services of that person; or

(j) To utilize his or her office to impede the investigation, prosecution or execution of lawful orders in a case under this Act.

³⁸ *Id.*, section 4.

³⁹ *Id.*, section 4-A.

⁴⁰ *Id.*

⁴¹ *Id.*, section 4-B–4-C.

⁴² *Id.*, section 4-B.

⁴³ *Id.*, section 4-C.

⁴⁴ *Id.*, section 5.

The ATPA also identifies circumstances that constitute qualified, or aggravated, trafficking in persons:

(d) When the offender is a spouse, an ascendant, parent, sibling, guardian or a person who exercises authority over the trafficked person or when the offense is committed by a public officer or employee;

* * *

(f) When the offender is a member of the military or law enforcement agencies;

(g) When by reason or on occasion of the act of trafficking in persons, the offended party dies, becomes insane, suffers mutilation or is afflicted with Human Immunodeficiency Virus (**HIV**) or the Acquired Immune Deficiency Syndrome (**AIDS**);

(h) When the offender commits one or more violations of Section 4 over a period of sixty (60) or more days, whether those days are continuous or not; and

(i) When the offender directs or through another manages the trafficking victim in carrying out the exploitative purpose of trafficking.

This chart shows the relevant penalties, including imprisonment and fines, for the described offenses:

| HUMAN TRAFFICKING PENALTIES IN THE PHILIPPINES | Duration of imprisonment | Amount of the fine |
|--|--------------------------|--------------------------------|
| Human trafficking offense without aggravating circumstances | 20 years | PHP 1,000,000 to PHP 2,000,000 |
| Attempt | 15 years | PHP 500,000 to PHP 1,000,000 |
| Accomplice to any form of trafficking | 15 years | PHP 500,000 to PHP 1,000,000 |
| Any promotion of trafficking, including government officials using their position or office to impede investigation of trafficking | 15 years | PHP 500,000 to PHP 1,000,000 |
| “Qualified Trafficking,” i.e., Trafficking with aggravating circumstances, including, e.g., when the trafficker is exploiting someone who is particularly vulnerable or under their control, or when the trafficking causes death of the victim, insanity, mutilation, or contraction of HIV/AIDS. | Life Imprisonment | PHP 2,000,000 to PHP 5,000,000 |
| Breaking confidentiality regarding the victim’s identity and trafficking circumstances in a trafficking investigation or prosecution | 6 years | PHP 500,000 to PHP 1,000,000 |
| Use of Trafficked Persons, i.e., engaging in prostitution with trafficked persons | 6–12 years | PHP 50,000 to PHP 100,000 |

3.2.2. Extraterritorial application

The ATPA creates extraterritorial jurisdiction over human trafficking crimes as defined in the Act.⁴⁵ Section 26-A provides jurisdiction to the Philippines over an act of human trafficking outside of the country when the suspected trafficker is a Filipino citizen, the trafficker is a permanent resident of the Philippines, or the act was committed against a citizen of the Philippines.⁴⁶

The ATPA further clarifies that the Philippines may not prosecute a trafficker if a foreign government has already prosecuted or is prosecuting the person for similar conduct, unless the Secretary of Justice approves prosecution.⁴⁷ Section 26-A also gives the Government permission to surrender or extradite individuals accused of human trafficking to an international court or another country to be prosecuted.⁴⁸

3.3. Slavery-Like Offenses in Philippines' Legal Order

3.3.1. Servitude

The ATPA includes “slavery” and “servitude” in the definition of “trafficking.” Therefore, the crime of servitude is punished as a human trafficking offense under the ATPA. Refer to Section 3.2.1.

Slavery is also prohibited under the Revised Penal Code of the Philippines.⁴⁹

3.3.2. Forced labor

The ATPA includes forms of forced labor or services in its definition of “trafficking.” Therefore, the crime of forced labor is punished as a human trafficking offense under the ATPA. Refer to Section 3.2.1. The ATPA also defines “forced labor” as:

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 including any work or service extracted from any person under the menace of penalty.⁵⁰

The Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act, Section 12-D, defines forms of child labor to include “debt bondage and serfdom and forced or compulsory labor.”⁵¹ The constitutive elements of the offense are unclear. The Act simply prohibits child labor, including in the form of forced or compulsory labor, and states that it is punishable by the penalties provided in the ATPA.⁵² The Revised Penal Code also makes forced child labor a crime.⁵³

⁴⁵ *Id.*, section 26-A.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ Revised Penal Code, Republic Act No. 33815, title 9, section 3, article 272 (1930), available at: https://lawphil.net/statutes/acts/act_3815_1930.html.

⁵⁰ ATPA, section 3(d).

⁵¹ Special Protection of Children Against Abuse, Exploitation and Discrimination Act (SPCAEDA), section 12-D (1).

⁵² *Id.*, section 16(c).

⁵³ Revised Penal Code, title 9, section 3, article 273.

3.3.3. Deceptive recruiting for labor or services

Again, the ATPA arguably applies to deceptive labor practices under the umbrella definition of “human trafficking.”⁵⁴ The definition of “forced labor”, which falls within human trafficking in the ATPA, includes “the extraction of work or services from any person by means of ... deception.”⁵⁵ However, there is not a specific provision for deceptive recruiting.

The Philippines recognizes “illegal recruitment” as a crime under the Migrant Worker’s Act (**MWA**) of 1995 (RA 8042) and the Labor Code.⁵⁶ The elements of illegal recruitment are (1) the offender does not have a valid license or general authority required by law to engage in recruitment and placement of workers, and (2) the offender commits any of the activities specified as “recruitment” or “placement” as defined in Section 6 of the MWA or in Article 13(b) of the Labor Code.⁵⁷

Generally, the punishment for illegal recruitment is between 12 years and a day and 20 years of imprisonment, a fine between PHP 1,000,000 and 2,000,000, or both.⁵⁸ However, if the illegal practices are on a larger scale, they may be charged as economic sabotage, which elevates the potential punishment to life imprisonment, a fine between PHP 500,000 and 1,000,000, or both.⁵⁹

3.3.4. Early and forced marriage

No laws in the Philippines address early or forced marriage.⁶⁰ However, in September 2021, a bill titled the Prohibition of Child Marriage Bill (HB 9943) passed in the House of Representatives.⁶¹ The Senate approved a counterpart measure in November 2020.⁶² The next step in the legislative process is for the Congress of the Philippines to convene a Bicameral Conference Committee hearing to align on all provisions of the bill, before submitting it to the Office of the President.⁶³

3.3.5. Debt bondage

The ATPA penalizes debt bondage under the umbrella definition of “human trafficking.” In Section 3(i), debt bondage is defined as:

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

⁵⁴ See ATPA, section 3(a) (“Trafficking in Persons—refers to the recruitment, ... hiring, ... of persons with or without the victim’s consent or knowledge, within or across national borders by means of ... deception.”).

⁵⁵ ATPA, section 3(d).

⁵⁶ Migrant Worker’s Act, Republic Act No. 8042 (1995); see also Persida Acosta, *Illegal Recruitment and Estafa*, MANILA TIMES (Apr. 15, 2021), available at: <https://www.manilatimes.net/2021/04/15/legal-advice/dearpao/illegal-recruitment-and-estafa/863941>.

⁵⁷ *Id.*

⁵⁸ MWA, section 7(a).

⁵⁹ MWA, section 7(b) and section 6(m)–(n); see also Acosta, *supra* note 56.

⁶⁰ See *Forced Marriage Overseas: Philippines*, PREVENT FORCED MARRIAGE. ORG (last visited Nov. 23, 2021), available at: <https://preventforcedmarriage.org/forced-marriage-overseas-philippines/>.

⁶¹ See *Plan International Philippines commends House approval of Bill to Prohibit Child Marriage*, RELIEFWEB (Sept. 9, 2021), available at: <https://reliefweb.int/report/philippines/plan-international-philippines-commends-house-approval-bill-prohibit-child>.

⁶² *Id.*

⁶³ *Id.*

or when the value of the services as reasonably assessed is not applied toward the liquidation of the debt.⁶⁴

Thus, similarly to other subsets of human trafficking, the constitutive elements of the offense and penalties are the same as for human trafficking under the ATPA. Refer to Section 3.2.1.

The general Penal Code of the Philippines also makes debt bondage a crime.⁶⁵

3.3.6. Any other relevant offenses

Philippines has no other relevant slavery-like offenses.

3.3.7. Extraterritorial application of the offenses

Only offenses recognized under the ATPA have extraterritorial application. Refer to Section 3.2.2.

3.4. Human Trafficking/Smuggling-Related Criminal Offenses

3.4.1. International and domestic trafficking/smuggling of people

ATPA defines the offense of trafficking in persons to include the transportation, transfer, harboring, providing, or receipt of persons.⁶⁶

The Revised Penal Code also punishes the purchase, sale, kidnapping, or detention of human beings to enslave them. Refer to Section 3.3.1.

3.4.2. International and domestic trafficking in children

The ATPA's offense of trafficking in persons applies to all persons including children.

Additionally, the Special Protection of Children Against Abuse, Exploitation and Discrimination Act (SPCAEDA) prohibits trafficking in children under Article IV.⁶⁷ A person commits child trafficking under the Act if they "engage in trading and dealing with children including, but not limited to, the act of buying and selling of a child for money, or for any other consideration, or barter."⁶⁸

The penalty for child trafficking under the SPCAEDA ranges from imprisonment for 12 years and a day to 20 years or 30 years to life (*reclusion temporal* or *reclusion perpetua*).⁶⁹ The maximum length of imprisonment will be imposed if a victim is under the age of 12.⁷⁰ Attempted child trafficking may be punished by a penalty lower two degrees than that imposed on the principals in the attempt.⁷¹

⁶⁴ ATPA, section 3(i).

⁶⁵ Revised Penal Code, title 9, section 3, article 274, available at: https://lawphil.net/statutes/acts/act_3815_1930.html.

⁶⁶ ATPA, section 3(a).

⁶⁷ Republic Act No. 7610, Special Protection of Children Against Abuse, Exploitation and Discrimination Act, Article IV (1992), available at: <https://www.officialgazette.gov.ph/1992/06/17/republic-act-no-7610/>.

⁶⁸ *Id.*, Art. 4, Sec. 7.

⁶⁹ *Id.*; Revised Penal Code, Ch. 3, Sec. 1, Art. 27.

⁷⁰ SPCAEDA, Art. IV.

⁷¹ *Id.*

3.4.3. *Victim harboring*

The ATPA's offense of trafficking in persons includes the harboring of trafficked persons.

3.4.4. *Extraterritorial application of human trafficking and smuggling offenses*

Refer to Section 3.2.2.

3.4.5. *International and domestic organ trafficking*

ATPA's offense of trafficking in persons prohibits the exploitative use of trafficked persons for the removal or sale of their organs.⁷²

3.5. Online Exploitation of Children Offenses

The ATPA framework governs online exploitation of children. Sections 4(k)(2) and (4) of the ATPA prohibit “[t]he use, procuring or offering of a child for prostitution, for the production of pornography, or for pornographic performances,” and “[t]he use, procuring or offering of a child for illegal activities or work which, by its nature or the circumstances in which it is carried out, is likely to harm their health, safety or morals,” which could include the production or distribution of child pornography online. Refer to Section 3.2.1. for relevant penalties.

Article V of the SPCAEDA prohibits obscene publications and indecent shows that include children. It provides that:

Any person who shall hire, employ, use, persuade, induce or coerce a child to perform in obscene exhibitions and indecent shows, whether live or in video, or model in obscene publications or pornographic materials or to sell or distribute the said materials shall suffer the penalty of prison mayor in its medium period.

Persons guilty of obscene publications or indecent shows under Article V are subject to imprisonment for six years and one day to 12 years.⁷³ The maximum penalty will be imposed if a victim is under the age of 12.⁷⁴

Finally, the Anti-Child Pornography Act of 2009 (**ACPA**) prohibits the production, distribution, and possession of child pornography.⁷⁵ The ACPA also imposes a responsibility on internet service providers (**ISPs**) to notify the Philippine National Police or National Bureau of Investigation within a week from obtaining information that “any form of child pornography is being committed using its server or facility.”⁷⁶ Internet content hosts are similarly prohibited from hosting any form of child pornography on their sites and required to report to the proper authorities “the presence of any form of child pornography” within a week of learning of it.⁷⁷

⁷² ATPA, section 3(a); see also section 4(h).

⁷³ SPCAEDA, article V; Revised Penal Code, chapter 3, section 1, article 27.

⁷⁴ *Id.*

⁷⁵ Anti-Child Pornography Act of 2009, Republic Act No. 9775, section 4 (2009), available at: <https://www.officialgazette.gov.ph/2009/11/17/republic-act-no-9775-s-2009/>.

⁷⁶ *Id.*, section 9.

⁷⁷ *Id.*, section 11.

The penalties and sanctions under the ACPA vary from imprisonment of *arresto mayor* (one month and one day to six months) to *reclusion perpetua* (30 years to life) and fines from PHP 50,000 to PHP 5,000,000.⁷⁸ Further, the Cybercrime Prevention Act of 2012 increased the penalty imposed to “one (1) degree higher than that provided for in [the ACPA], if committed through a computer system.”⁷⁹

3.6. Child Sex Tourism Offenses

The only law governing child sex tourism is the ATPA. It generally penalizes sex tourism, but does not refer to child sex tourism.⁸⁰ Refer to Section 3.2.1. for further information.

3.7. Anti-Money Laundering Legislation

The Anti-Money Laundering Act (**AMA**) and its 2012 amendment define the offense of money laundering:

Money laundering is committed by any person who, knowing that any monetary instrument or property represents, involves, or relates to the proceeds of any unlawful activity:

- (a) transacts said monetary instrument or property;
- (b) converts, transfers, disposes of, moves, acquires, possesses or uses said monetary instrument or property;
- (c) conceals or disguises the true nature, source, location, disposition, movement or ownership of or rights with respect to said monetary instrument or property;
- (d) attempts or conspires to commit money laundering offenses referred to in paragraphs (a), (b) or (c);
- (e) aids, abets, assists in or counsels the commission of the money laundering offenses referred to in paragraphs (a), (b) or (c) above; and
- (f) performs or fails to perform any act as a result of which he facilitates the offense of money laundering referred to in paragraphs (a), (b) or (c) above.⁸¹

The Act also states that someone who has knowledge of a covered or suspicious transaction and fails to report it to the Anti-Money Laundering Council may commit money laundering.⁸² The Act includes human trafficking among the relevant unlawful activities.⁸³

The penalty for money laundering under the AMA is imprisonment of seven to 14 years and a fine between PHP 3,000,000 and two times the value “of the monetary instrument or property involved in the offense.”⁸⁴

⁷⁸ *Id.*, section 15; *see also* Revised Penal Code, chapter 3, article 27.

⁷⁹ Cybercrime Prevention Act of 2012, Republic Act No. 10175, chapter 3, section 8 (2012), available at: <https://www.officialgazette.gov.ph/2012/09/12/republic-act-no-10175/>.

⁸⁰ ATPA, section 3(g); *see also* section 4(k).

⁸¹ An Act Strengthening the Anti-Money Laundering Act of 2001, Republic Act No. 10365, section 4 (2013), available at: <https://www.officialgazette.gov.ph/2013/02/15/republic-act-no-10365/>.

⁸² *Id.*

⁸³ *Id.*, section 3(i)(i).

⁸⁴ *Id.*, section 14.

The penalty for attempted money laundering is imprisonment of four to seven years and a fine between PHP 1,500,000 and PHP 3,000,000.⁸⁵

4. PHILIPPINES' SUPPLY CHAIN REPORTING LEGISLATION

No supply chain reporting legislation obligates private businesses to control their supply chains to hinder trafficking in persons.

5. FORCED LABOR: OVERVIEW OF PHILIPPINES' APPLICABLE EMPLOYMENT AND MIGRATION LAWS

5.1. Employment Law Rights for Victims of Human Trafficking and Forced Labor

Few civil mechanisms are available to victims of trafficking seeking remedies. One option is to bring a lawsuit under the AMA to seize assets used in or purchased with the proceeds of human trafficking.⁸⁶ Although it does not dictate the mechanism or process through which a victim may seek a civil remedy, the ATPA does stipulate that the victims of trafficking are exempt from payment of filing fees when filing civil actions for damages.⁸⁷

5.2. Applicability of Employment Legislation in the Context of Forced Labor or Trafficking

No legislation, other than the ATPA, addresses forced labor and potential remedies for those who were victims of forced labor.⁸⁸

5.3. Statutory Rights

The Labor Code of the Philippines (1974) provides various rights to work and to certain working conditions.

5.3.1. *Rights to minimum wages, entitlements, and other applicable minimum standards*

Under the Labor Code of the Philippines, Filipino workers have a right to a minimum wage, which Regional Tripartite Wages and Productivity Boards determine by region.⁸⁹ Further, the Labor Code dictates that the “normal” hours of work for an employee is eight hours daily.⁹⁰ Employees are also entitled to a differential

⁸⁵ *Id.*

⁸⁶ *ABA ROLI, Partners Pursue a New Anti-Human Trafficking Strategy*, AMERICANBAR.ORG (Sept. 1, 2012), available at: https://www.americanbar.org/advocacy/rule_of_law/where_we_work/asia/philippines/news/news_philippines_partners_pursue_new_anti_human_trafficking_strategy_0912/; see also AMA, section 12.

⁸⁷ ATPA, section 13.

⁸⁸ See Monash University and University of Nottingham, *Philippines*, ANTISLAVERY IN DOMESTIC LEGISLATION, available at: <https://antislaverylaw.ac.uk/country/philippines/>.

⁸⁹ Presidential Decree No. 422, Labor Code of the Philippines, chapter 2 (1974), available at: https://lawphil.net/statutes/presdecs/pd1974/pd_442_1974.html.

⁹⁰ *Id.*, book 3, title 1, chapter 1.

in their regular wage for every hour worked at night, additional compensation for overtime work, and an hour for a meal period each day.⁹¹

The minimum employable age is 15 years of age.⁹²

Workers in the Philippines are also entitled to maternity leave⁹³ and dental and medical care.⁹⁴ The Secretary of Labor and Employment is required to “set and enforce mandatory occupational safety and health standards to eliminate or reduce occupational safety and health hazards in all workplaces.”⁹⁵

The Labor Code also prohibits unfair labor practices and provides mechanisms to bring both civil and criminal claims when unfair labor practices are employed.⁹⁶

5.3.2. Claims available in relation to misrepresentations and “sham” arrangements

Other than previously described ATPA provisions that penalize illegal recruitment, no laws in the Philippines address sham arrangements and misrepresentations by employers. The Labor Code does reinforce the prohibition against obtaining a false employer license by prohibiting giving “false notice, testimony, information or document or commit[ing] any act of misrepresentation for the purpose of securing a license or authority under this Code.”⁹⁷

5.3.3. Claims available in relation to unlawful deductions, loans, and debt bondage

The Labor Code does not authorize any claims for unlawful deductions, loans, or debt bondage. The ATPA addresses these claims.

5.3.4. Remedies

Refer to Section 7.

5.4. Rights to a Safe Workplace and Compensation Associated With Injuries or Illness

The Labor Code sets occupational health and safety standards.⁹⁸ It further provides temporary and permanent total disability benefits for workers if they sustain an injury or become ill because of their work.⁹⁹ The claimant must apply to the National Labor Relations Commission to receive this compensation.¹⁰⁰

⁹¹ *Id.*

⁹² *Id.*, book 3, title 3, chapter 2.

⁹³ *Id.*, book 3, title 3, chapter 1.

⁹⁴ *Id.*, book 4, title 4, chapter 4.

⁹⁵ *Id.*, book 4, title 4, chapter 2.

⁹⁶ *Id.*, book 5, title 6, chapter 1–3.

⁹⁷ *Id.*, book 1, title 1, chapters 2 and 3.

⁹⁸ Labor Code, book four, title 1.

⁹⁹ *Id.*, book 4, title 2, chapter 6.

¹⁰⁰ *Id.*

5.5. Access to Justice and Practical Issues Associated With Enforcing Social Legislation

The Department of Labor and Employment (**DOLE**) enforces the labor laws.¹⁰¹ It is unclear the extent to which the DOLE provides access to justice for employees and victims of trafficking. The U.S. Department of Labor has concluded that the Philippines has made moderate advancements in enforcing employment and labor laws protecting against child labor, but that law enforcement continues to fail to take action against government officials who promote unfair and illegal labor practices.¹⁰²

5.6. Interaction Between Employment Law and Migration

5.6.1. *Employment rights affected where employment is unlawful under migration law*

The Labor Code states that “foreigners who violate the provisions of this Title shall be subject to immediate and summary deportation by the Commission on Immigration and Deportation and shall be permanently barred from re-entering the country without the special permission of the President of the Philippines.”¹⁰³ The Labor Code does not provide exceptions for victims of forced labor who have the right to bring employment claims. The ATPA is also silent as to whether victims of forced labor or trafficking face criminal sanctions under migration laws.

5.6.2. *Rights/remedies available under applicable migration law and regulations*

Refer to Section 7.

5.7. Employment Laws and Child Labor

The Philippines prohibits and punishes employers of child labor. The Labor Code sets the minimum working age at 15, except where children work directly under the sole responsibility of their parents or legal guardian, and their employment does not interfere with schooling, which is compulsory for children between the ages of six and 12.¹⁰⁴ Children under the age of 15 may also be employed in public entertainment or information.¹⁰⁵ The Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act prohibits the worst forms of child labor, including all forms of slavery and trafficking of children, debt bondage, serfdom, and forced labor. Refer to Section 3.3.2. The Act further establishes the principal’s joint liability for a subcontractor’s employment of children in child labor or in hazardous work, and it sets a penalty of 12 to 20 years of imprisonment, a fine ranging from PHP 100,000 to PHP 1,000,000, or both.¹⁰⁶

Child labor appears to be a persistent issue in the Philippines. While recent efforts to eliminate online sexual exploitation of children have been relatively effective, the enforcement of child labor laws remains challenging due to the low number of inspectors, lack of resources for inspections, and inspectors’ inability

¹⁰¹ Alejandro Navarro & Rashed Pomoy, *The Employment Law Review: Philippines*, THE LAW REVIEWS (Mar. 18, 2021), available at: <https://thelawreviews.co.uk/title/the-employment-law-review/philippines>.

¹⁰² See *Child Labor and Forced Labor Reports: Philippines*, BUREAU OF INTERNATIONAL LABOR AFFAIRS (2020), available at: <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/philippines>.

¹⁰³ Labor Code, book 5, title 8, chapter 4.

¹⁰⁴ *Labour Exploitation: Philippines*, ACCOUNTABILITY HUB (last accessed Nov. 23, 2021), available at: <https://accountabilityhub.org/country/philippines/#Labour%20standards>; refer to Section 5.3.1.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

to assess penalties.¹⁰⁷ Children tend to perform dangerous tasks in agriculture and gold mining, and the Government has not adequately protected children engaged in drug trafficking from inappropriate incarceration or physical harm during detention.¹⁰⁸

6. GOVERNMENT PROCUREMENT RULES

The Government Procurement Reform Act of 2003 as amended regulates public procurement of goods, works, and services¹⁰⁹ It establishes general procurement rules and practices. The Government Procurement Policy Board established by that Act is required to set and ensure the application of fair procurement standards and practices for government and statutory bodies.¹¹⁰ That Board has promulgated standards and guidelines known as the Implementing Rules and Regulations (**IRR**). The Implementing Rules and Regulations do not address human trafficking.¹¹¹

7. RESTITUTION AND VICTIM COMPENSATION

No provisions in the ATPA or other legislation authorize restitution or compensation for victims of human trafficking. However, the Philippines does have a victim compensation program for victims of “violent or personal crime and unjust imprisonment or detention.” Trafficking victims might be eligible.¹¹²

The ATPA says only that trafficked persons may be provided counseling, emergency shelter or housing, free legal services, medical or psychological services, or educational assistance from “concerned government agencies.”¹¹³ According to the U.S. Department of State, the Philippines’ Government has not reported any orders of restitution paid by traffickers to the victims, but its crime victims’ compensation program awarded unknown amounts to 27 victims of trafficking in 2020.¹¹⁴

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¹⁰⁷ *Child Labor and Forced Labor Reports: Philippines*, BUREAU OF INTERNATIONAL LABOR AFFAIRS, available at: <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/philippines>.

¹⁰⁸ *Id.*

¹⁰⁹ Government Procurement Reform Act, Republic Act No. 9184 (2003), available at: https://lawphil.net/statutes/repacts/ra2003/ra_9184_2003.html.

¹¹⁰ *Id.*, article XX.

¹¹¹ See generally website at: <https://www.officialgazette.gov.ph/images/uploads/20160826-IRR-RA-9184-procurement-reform.pdf>.

¹¹² *Victims Compensation Programs: Philippines*, NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE (2005), available at: https://www.ncjrs.gov/ovc_archives/reports/intdir2005/philippines.html.

¹¹³ ATPA, section 23.

¹¹⁴ TRAFFICKING IN PERSONS REPORT, *supra* note 6, at 407.

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