Revisiting the Element of Exploitation in the Definition of Trafficking in Persons in Republic Act No. 9208

Ryan Jeremiah D. Quan
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Trafficking in Persons has evolved from its first forms as ancient slavery and prostitution, to the intricate systems of human exploitation which exist in the present day. More often than not, the crime is a cross-border one, involving many groups and steps which take a victim from their homeland to remote areas where they are subjected to various forms of illicit work, often with little to no chance of returning home. In the Philippines in particular, the problem has grown so rampant that at one point, the country was classified by the United States Department of State as a “Tier 2 Watchlist” country, which partially meant that the number of people who were victims of trafficking was high, and the conviction rate of people who perpetrated such trafficking was low.

In this Article, the Author revisits Republic Act No. 9208, the country’s anti-trafficking law. Focus is directed towards the element of exploitation, which is believed to be one of the major obstacles in convicting those who are suspected of being traffickers. The Article explains how, given the complicated and multi-layered systems trafficking syndicates have in place at this time, it becomes doubly hard to prove that traffickers have an intent to exploit the would-be victims, especially during the early stages of the trafficking cycle. The Article also argues that while making the attempted and frustrated stages of trafficking punishable may help the situation, it still does not address the problem of the difficulty found in proving intent.

The Author puts forward that a possible solution could be the establishment of disputable presumptions in the current anti-trafficking law. These presumptions shift the burden of evidence (but not the burden of proof) to the accused. The Author argues that this would help the conviction rate in the country, and that such presumption is constitutional and even justified by state policy, particularly the duty of the State to uphold the human dignity of each and every person, something which human trafficking unquestionably violates.