

Chapter 4

Testing the Guiding Principles on Combatting Corruption related to Trafficking in Persons in the Philippines

This chapter takes stock of the potential practical application of the “Guiding Principles on Combatting Corruption related to Trafficking in Persons” in the context of the Philippines, and explores whether the Guiding Principles effectively address the concerns identified in relation to trafficking in persons and corruption.

With the goal of ensuring that the “Guiding Principles on Combatting Corruption related to Trafficking in Persons” (hereafter, the Guiding Principles) are both relevant and useful in addressing the real-life, practical challenges identified on the ground in relation to trafficking in persons (TIP) and corruption, the Guiding Principles were tested in the Philippines. The first part of the chapter will introduce the legal and institutional framework in place and the general situation in relation to TIP and corruption in the Philippines. The second part of the chapter will highlight how the issues raised in the respective principles have been applied in the context of the Philippines – and/or, if relevant, discuss any challenges or lessons learned in addressing the issues raised in the principles in question. The final part of the chapter will present the feedback on the Guiding Principles provided by stakeholders that were consulted during an OECD fact-finding mission to Manila in August 2015, and the findings from the in-country testing.

The legal framework

The Philippines “Anti-Trafficking in Persons Act of 2003 (R.A. 9208)” (Republic of the Philippines, 2003a) and the “Expanded Anti-Trafficking in Persons Act of 2012 (R.A. 10364)” (Republic of the Philippines, 2012a) that amends R.A. No. 9208 are the primary laws in place on trafficking in persons. Section 4 defines acts of trafficking in persons as recruiting, transporting, transferring, harbouring, receiving, maintaining, obtaining, hiring, providing or offering a person, by non-violent or violent means, for the purpose of sexual (prostitution, acts of lasciviousness, pornography, sex tourism), labour (forced labour, slavery, debt bondage, involuntary servitude), or organ exploitation (removal or sale of organs).

In the “Expanded Anti-Trafficking in Persons Act of 2012 (R.A. 10364)”, the Philippines included the issues of trafficking-in-persons-related corruption in a number of sections. For example, Section 8 amending Section 5(h) makes it illegal “to tamper or cause the destruction of evidence or influence or attempt to influence witnesses in an investigation or prosecution”, and the amendments to Paragraph 5(j) make it illegal “to utilise his or her office to impede investigation, prosecution or execution of lawful order.” Violations of these paragraphs will lead to a penalty of 15 years in prison and a fine between PHP 500 000 and PHP 1 million. Section 9 amending Section 6 defines qualified trafficking as when the offender is a member of the military or law enforcement agencies. The penalty for qualified trafficking is life in prison and a fine between PHP 2 million and PHP 5 million. Section 12 amending Section 10(j) stipulates that “Any employee or official of government agencies who shall issue or approve the issuance of travel exit clearances, passports, registration certificates, counselling certificates, marriage license, and other similar documents to persons, whether juridical or natural, recruitment agencies, establishments or other individuals or groups, who fail to observe the prescribed procedures and the requirement as provided for by laws, rules and regulations, shall be held administratively liable, without prejudice to criminal liability under this Act. The concerned government official or employee shall, upon conviction, be dismissed from the service and be barred permanently to hold public office. His or her retirement and other benefits shall likewise be forfeited.” Finally, Section 13 that amends Section 11 addresses the demand side of trafficking. If the offender is a public official, the Act stipulates that “he or she shall be dismissed from service and shall suffer perpetual absolute disqualification to hold public, office, in addition to any imprisonment or fine received pursuant to any other provision of this Act.”

In addition to the “Anti-Trafficking in Persons Act of 2003 (R.A. 9208)” and the “Expanded Anti-Trafficking in Persons Act of 2012”, there are also a number of related laws that address trafficking in persons, including:

- “R.A. 10365 – “An Act Further Strengthening The Anti-Money Laundering Law, Amending For The Purpose ‘Republic Act No. 9160’, Otherwise Known As The ‘Anti-Money Laundering Act Of 2001’, As Amended” (Republic of the Philippines, 2012b) – where the amendments includes trafficking in persons as a crime that is covered by the Act, thereby making it possible to go after the money of traffickers.
- The “Migrant Workers and Overseas Filipinos Act of 1995, as amended by R.A. 10022 in 2009” (Republic of the Philippines, 2009a) – which strengthens the protection provided to overseas Filipino workers, and provides for their repatriation, prohibits reprocessing or changes to their contracts, establishes a policy against illegal recruitment and regulates the ownership of recruitment agencies.
- “R.A. 6955 – An Act to Declare Unlawful the Practice of Matching Filipino Women for Marriage to Foreign Nationals on a Mail Order Basis and Other Similar Practices, Including the Advertisement, Publication, Printing or Distribution of Brochures, Fliers and Other Propaganda Materials in Furtherance Thereof and Providing Penalty Therefore” (Republic of the Philippines, 1990).
- “R.A. 8043 – An Act Establishing the Rules to Govern Inter-Country Adoption of Filipino Children, and for Other Purposes” (Republic of the Philippines, 1995a).
- The “Special Protection of Children against Child Abuse, Exploitation and Discrimination Act (R.A. 7610) of 1992 as amended by R.A. 9231” (Republic of the Philippines, 2003b) – which restricts employment of children that are under 15 years old and prohibits the worst forms of child labour, such as slavery, sale and trafficking or children, procuring, offering or exposing of a child for prostitution, for the production of pornography or for pornographic performances.
- “R.A. 9995 – An Act Defining and Penalising the Crime of Photo and Video Voyeurism, Prescribing Penalties Therefor, and for Other Purposes” (Republic of the Philippines, 2009b).
- The “Anti-Child Pornography Act of 2009 (R.A. 9775)” (Republic of the Philippines, 2009c) - that seeks to protect children “from all forms of exploitation and abuse including, but not limited to: 1) the use of a child in pornographic performances and materials; and 2) the inducement or coercion of a child to engage or be involved in pornography through whatever means.”
- The “Revised Penal Code, as Amended” (Republic of the Philippines, 1930) - where Title 7, Chapter 2, Section 2 deals with crimes committed by public officers, focusing in particular on bribery in relation to agreeing to perform certain acts or refraining from prosecuting or arresting offenders in consideration of any offer, promise, gift or present.

In relation to corruption, the legislative responses to criminal acts where the offender is a public official are regulated through a number of laws. The “Anti-Graft and Corrupt Practices Act (R.A. 3019)” defines what constitutes corrupt acts and the penalties for violations; the requirements of assets and liabilities disclosure; and the penalties for

unexplained wealth. The “Anti-Graft and Corrupt Practices Act” can be used together with the anti-trafficking acts (R.A. 9208 and R.A. 10364). The Act establishing a “Code of Conduct and Ethical Standards for Public Officials and Employees (R.A. 6713)” (Republic of the Philippines, 1989a) defines the norms of conduct of public officials and employees, the duties of public officials and employees, prohibited acts and transactions (focusing, for example, on conflicts of interests and outside employment), and requirements to disclose and submit statements on assets and liabilities. Other examples include the “Act Defining and Penalizing the Crime of Plunder (R.A. 7080)” (Republic of the Philippines, 1991a) where public officers have acquired ill-gotten wealth of at least PHP 50 million, “An Act Declaring Forfeiture In Favor Of The State Any Property Found To Have Been Unlawfully Acquired By Any Public Officer Or Employee And Providing For The Proceedings Therefor (R.A. 1379)” (Republic of the Philippines, 1955), and “Presidential Decree 46” (Republic of the Philippines, 1972), making it punishable for public officials and employees to receive – and for private persons to give – gifts on any occasion.

During the interviews conducted by the OECD in Manila in August 2015, representatives from government agencies and civil society organisations alike highlighted that the legal framework in place is very good – some even said close to perfect – but that there are serious problems in relation to its implementation. This was reported to be particularly problematic at the local level. For example, there were reports of public officials not having knowledge of the legal framework in place, or if they were aware, they chose to ignore it. One government representative also stated that the law builds upon an ideal that is sometimes hard to execute in the real world. Scholars have also argued that it is “the pervasive government corruption that prevents the proper implementation of programs, enforcement of laws, and prosecution of traffickers” (Guth, 2010, pp. 156-157).

The institutional framework

The Philippine “Anti-Trafficking in Persons Act” establishes an Inter-Agency Council Against Trafficking (IACAT). IACAT is co-chaired by the Secretary of the Department of Justice and the Secretary of the Department of Social Welfare and Development. In addition, IACAT is composed of representatives from the Department of Foreign Affairs, the Department of Labor and Employment, the Philippine Overseas Employment Administration, the Philippine National Police, the Bureau of Immigration, the Philippine Commission on Women, the National Bureau of Investigation, the Department of the Interior and Local Government, the Philippine Center on Transnational Crimes, the Council for the Welfare of Children, the Commission on Filipinos Overseas, and three representatives from non-governmental organisations (NGOs), where one NGO represents women, one NGO represents Filipinos, and one NGO represents children. The NGO representatives are appointed for a term of three years.

Through the creation of IACAT, the Philippines has adopted a multi-disciplinary and multi-stakeholder approach to combating trafficking in persons. IACAT is tasked with performing numerous functions, including: 1) formulating a comprehensive and integrated programme to prevent and suppress trafficking; 2) promulgating rules and regulations for the effective implementation of the “Anti-Trafficking in Persons Act”; 3) monitoring and overseeing the implementation of the Act; 4) co-ordinating the work of the various member agencies; and 5) co-ordinating awareness-raising and outreach activities. In regards to Point 1, the current “National Strategic Action Plan Against

Trafficking in Persons” – the second of its kind – covers the period 2012-16. IACAT is also required to develop a mechanism to ensure the timely, co-ordinated, and effective response to cases of trafficking in persons, to assist in the filing of cases, and to formulate a programme for victim reintegration together with concerned agencies.

According to IACAT, one of its best practices is the creation of a number of taskforces for combatting trafficking in persons. There are 23 taskforces across the Philippines that are composed of prosecutors who do case build-up. In addition, there are 15 regional anti-trafficking taskforces, 6 port-based inter-agency anti-trafficking taskforces, and 2 special national taskforces composed of prosecutors that operate nationally to be able to strike anywhere.

IACAT also has four support units: the temporary victims’ shelter unit; the warrant taskforce; the cyber-trafficking unit; and the Operations Center. The Operations Center addresses the problem of locating witnesses or victims who do not want to come forward or testify, by, for example, establishing temporary shelter for witnesses and trafficking victims (US Department of State, 2013). The Operations Centre operates nationally and includes a quick reaction team that is composed of prosecutors, law enforcement officers, social welfare investigators and representatives from civil society organisations that can respond to calls from the IACAT hotline and conduct surveillance in suspected trafficking hotspots (United Nations, 2013; Inter-Agency Council Against Trafficking, 2012).

Although civil society stakeholders as well as government representatives report that IACAT and its taskforces are functioning well, there has been criticism regarding what the United Nations (UN) Special Rapporteur on Trafficking in Persons dubbed “a plethora of structures”, making it “difficult to assess how they function in practice and to what extent each of them is useful and effective” (United Nations, 2013, p. 11). Moving forward, it would be useful if regular monitoring or a comprehensive evaluation of the functioning of the institutional set-up dealing with trafficking in persons in the Philippines were to be conducted.

The situation in the Philippines

According to the US Department of State’s 2015 *Trafficking in Persons Report*, the Philippines “is a source country and, to a much lesser extent, a destination and transit country for men, women, and children subjected to sex trafficking and forced labor” (US Department of State, 2015, p. 279). Many of the 10 million Filipinos that live abroad and the estimated 1 million that migrate every year are subjected to forced labour and trafficking for sexual exploitation throughout Asia, Europe, the Middle East and North America (ILO, n.d.; US Department of State, 2015). According to the UN Special Rapporteur on Trafficking in Persons, trafficking for domestic servitude is one of the most prevalent forms of cross-border trafficking of Filipinos (United Nations, 2013). Filipinos that want to work abroad have to go through recruitment agencies, and these have to be licensed by the government. However, there have been reports of licensed recruitment agencies that have conducted illegal trafficking activities (Guth, 2010). Within the Philippines, major problems remain in relation to sex trafficking in the major cities and tourist destinations, as well as domestic servitude, forced begging and forced labour in factories (US Department of State, 2015). Men are mostly victims of forced labour and debt bondage in the agricultural, fishing, and maritime sectors (US Department of State, 2015).

In relation to corruption, the US Department of State reported in 2015 that “[p]ervasive corruption undermined government efforts to combat trafficking, and investigations of potentially complicit officials did not lead to criminal convictions and in some cases even failed to secure administrative punishment against offenders” (US Department of State, 2015, p. 280). Furthermore, it was stated that “[p]ublic officials, including those in diplomatic missions abroad, law enforcement agencies, and other government entities, are reported to be complicit in trafficking or allow traffickers to operate with impunity” (US Department of State, 2015, p. 280). The US Department of State (2015) also reported that “some corrupt officials accept payments or sexual services from establishments notorious for trafficking, accept bribes to facilitate illegal departures for overseas workers, downgrade trafficking charges, or overlook unscrupulous labor recruiters” and “conduct indiscriminate or fake raids on commercial sex establishments to extort money from managers, clients, and victims” (p. 280). In addition, the US Department of State (2015) stated that “[s]ome personnel working at Philippine embassies abroad reportedly sexually harass victims of domestic servitude, withhold back wages procured for them, subject them to domestic servitude for a second time, or coerce sexual acts in exchange for government protection services” (p. 280). Similar reports were given from civil society in the interviews conducted by the OECD in Manila in August 2015. Stakeholders highlighted that bribery remained a prominent issue and that pay-offs have resulted in limited apprehensions, prosecutions, and convictions. There were numerous anecdotal accounts from civil society on cases where witnesses had received pay-offs so that they would not testify in court, and other cases where police have been bribed not to file a case or pursue further investigations. In short, it has been argued that if human trafficking in the Philippines is to be significantly reduced, corruption must be curbed (Guth, 2010).

In relation to corruption, stakeholders interviewed highlighted that the culture of corruption is a systemic problem in the Philippines. There is also a deep-rooted culture of gift-giving. Although this has been regulated through the “Anti-Graft and Corrupt Practices Act”, as well as the “Presidential Decree 46”, which makes it punishable for public officials and employees to receive – and for private persons to give – gifts on any occasion, the problem remains. In the end, going after corruption also means going after a highly lucrative additional income that officials have gotten accustomed to. Reforming the civil service is a big task, and although there are reports of agencies trying to reform by offering incentives such as early retirement to get young blood into the organisation, these initiatives were unsuccessful when the young – or in other words not the intended target group for the incentives – accepted early retirement and went into the private sector instead. Moving forward, the government will need to continue devoting attention to its anti-corruption efforts. In regard to how these efforts could be improved, it was suggested that joint taskforces – similar to those that have been implemented for agencies working on trafficking in persons – could be established, thereby making it possible to hand-pick people of integrity and competence within their respective fields to ensure that the laws on anti-corruption are enforced.

In 2013, the UN Special Rapporteur on Trafficking in Persons reported that she did not receive “information on any criminal sanction having been instituted against officials facilitating the activities of traffickers” (United Nations, 2013, p. 19). Echoing this finding, the US Department of State’s 2015 *Trafficking in Persons Report* included a recommendation for the Philippines to “[i]ncrease efforts to hold government officials administratively and criminally accountable for trafficking and trafficking-related offenses through criminal prosecutions, convictions, and stringent sentences” (p. 280).

There are some signs that situation is beginning to change, with a recent example from 2015 of a conviction against a Bureau of Immigration officer for allowing a passenger to pass through immigration inspection with fraudulent travel documents (Bureau of Immigration, 2015).

The Guiding Principles and the Philippines

This next part of the chapter will highlight how the issues raised in the respective principles have been applied in the context of the Philippines – and/or, if relevant, discuss any challenges or lessons learned in addressing the issues raised in the respective principles. Each sub-section will commence with a box stating the principle in question, followed by the application of it in the Philippines.

1. *International co-operation and agreements*

Relevant international conventions are ratified and international co-operation against corruption and trafficking in persons is promoted.

In order to address the issue of trafficking in persons efficiently, there is a need to strengthen the legal basis against corruption and trafficking in persons. This could be done by strengthening international co-operation, and by countries joining international conventions and monitoring systems. It is important that national legislation on counter-trafficking is in line with international standards concerning trafficking in persons and corruption.

The Philippines has ratified the United Nations “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime” (also known as the “Palermo Protocol”) (United Nations, 2000) and the United Nations “Convention Against Corruption” (United Nations, 2003). The Philippines has also ratified several International Labour Organization (ILO) conventions, including the “Convention concerning Forced or Compulsory Labour (No. 29)” (ILO, 1930), the “Convention concerning the Abolition of Forced Labour (No. 105)” (ILO, 1957), the “Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182)” (ILO, 1999), and the “Convention concerning Decent Work for Domestic Workers (No. 189)” (ILO, 2011).

In addition to UN and ILO conventions, the Philippines is also a signatory to the “ASEAN Declaration Against Trafficking in Persons Particularly Women and Children” (ASEAN, 2004a).

The “Manila Declaration to Enhance International Cooperation in Combating Human Trafficking” was signed at the First International Dialogue on Human Trafficking – a gathering that attracted 100 conference delegates from 19 embassies in the Philippines, 11 non-governmental organisations, and 15 government agencies (IACAT, 2015a). The Manila Declaration “recognized that there is an urgent need for a comprehensive international approach to prevent and combat human trafficking” and that “an effective international approach against human trafficking requires innovative actions in the face of changing schemes of perpetrators, along with continued dialogue, exchange of information through sanctioned channels and cooperation among stakeholders” (Canlas, 2015; IACAT, 2015a).

During the interviews conducted by the OECD in Manila in August 2015, government representatives highlighted that the various conventions that the Philippines has ratified have been useful in their fight against corruption. In particular, the “Palermo Protocol” was mentioned as the basis for the national “Anti-Trafficking in Persons Act”.

Processes of international co-operation in terms of mutual legal assistance and extradition are in place and functioning.

Trafficking in persons is often transnational in nature, with 66% of detected victims being trafficked across borders. However, the criminal justice responses to trafficking in persons generally only operate within national borders. Therefore, to efficiently be able to respond to trafficking in persons, countries would benefit from effective processes of international co-operation in terms of mutual legal assistance and extradition. An example of an initiative aimed at achieving this is the “Handbook on International Cooperation in Trafficking in Persons Cases” (ASEAN, 2010) for the ASEAN region. In order to be efficient, mutual legal assistance must allow for international identification, sequestration and seizure of assets accrued by traffickers, and the procedure of mutual legal assistance should be simplified, prioritised, and accelerated. Examples of how to improve cross-border co-operation could be to link regional trafficking-in-persons-focal points with regional anti-corruption focal points, and to identify and propose countermeasures to at-risk points of regional or transnational trafficking-in-persons-related corruption (for example the issuance of travel documents, border transfers and work permits). Law enforcement agencies should be encouraged to proactively share intelligence on transnational TIP networks. Law enforcement co-operation on intelligence is often an essential prerequisite to effective investigations, and it plays a complementary role to mutual legal assistance and subsequent prosecutions.

The “Expanded Anti-Trafficking in Persons Act (R.A. 10364)” allows for extraterritorial jurisdiction and extradition. In relation to extradition, Section 23 states that “[t]he government may surrender or extradite persons accused of trafficking in the Philippines to the appropriate international court if any, or to another State pursuant to the applicable extradition laws and treaties.”

In November 2004, the Philippines together with Brunei, Cambodia, Indonesia, Laos, Malaysia, Singapore and Viet Nam signed the “2004 Treaty on Mutual Legal Assistance in Criminal Matters among like-minded ASEAN Member Countries” (ASEAN, 2004b). Thailand and Myanmar signed it in 2006. The purpose of the treaty is to “improve the effectiveness of the law enforcement authorities of the Parties in the prevention, investigation and prosecution of offences through co-operation and mutual legal assistance in criminal matters.” The Treaty states that Parties should “render to one another the widest possible measure of mutual legal assistance in criminal matters”, specifying that requests should be channelled through a designated Central Authority in each country “to facilitate the orderly, effective and timely execution of requests for mutual legal assistance in criminal matters”, and that the mutual legal assistance should be providing in a form that is useable and admissible in the requesting country.

In 2015, the US Department of State reported that “Philippine officials continued to co-operate with foreign governments to pursue international law enforcement action against suspected traffickers” (2015, p. 281), with six trafficking investigations of this kind being initiated in 2014. This was echoed in the interviews conducted in the Philippines in August 2015. Interviewed government representatives stated that co-operation has been improved, and that they were in regular contact with their foreign counterparts.

2. *Jointly addressing and investigating trafficking in persons and corruption with particular focus on at-risk sectors*

Strategies that address trafficking in persons and corruption, or include corruption issues in anti-trafficking plans, and vice versa, are in place.

Organised trafficking requires systemic corruption. However, few laws or strategies in place jointly address trafficking in persons and corruption. Due to the strong link between corruption/perceived levels of corruption with trafficking in persons, countries are therefore recommended to put in place strategies that jointly address corruption and trafficking in persons, or alternatively include corruption issues in anti-trafficking plans, and vice versa. By streamlining approaches, countries can address the issue by modifying anti-corruption tools or by simply including corruption issues in existing anti-trafficking measures, in particular in trainings and strategies. The importance of ensuring sufficient levels of political will to combat trafficking-in-persons-related corruption at all levels of government should not be underestimated, and the implementation of the laws in place needs to be prioritised.

As mentioned in a previous section on the legal framework in the Philippines, there are a number of provisions in the “Expanded Anti-Trafficking in Persons Act (RA. 10364)” that addresses corruption related to trafficking in persons. Section 8 amending Section 5 (h) makes it illegal “to tamper or cause the destruction of evidence or influence or attempt to influence witnesses in an investigation or prosecution” and Paragraph (j) makes it illegal “to utilize his or her office to impede investigation, prosecution or execution of lawful order.” Violations of these paragraphs will lead to a penalty of 15 years in prison and a fine of between PHP 500 000 and PHP 1 million pesos. Section 9 amending Section 6 defines qualified trafficking as when the offender is a member of the military or law enforcement agencies. The penalty for qualified trafficking is life in prison and a fine between PHP 2 million and PHP 5 million. Section 12 amending Section 10(j) stipulates that “Any employee or official of government agencies who shall issue or approve the issuance of travel exit clearances, passports, registration certificates, counselling certificates, marriage licenses, and other similar documents to persons, whether juridical or natural, recruitment agencies, establishments or other individuals or groups, who fail to observe the prescribed procedures and the requirement as provided for by laws, rules and regulations, shall be held administratively liable, without prejudice to criminal liability under this Act. The concerned government official or employee shall, upon conviction, be dismissed from the service and be barred permanently to hold public office. His or her retirement and other benefits shall likewise be forfeited.” Finally, Section 13 that amends Section 11 addresses the demand side of trafficking. If the offender is a public official, the Act stipulates that “he or she shall be dismissed from service and shall suffer perpetual absolute disqualification to hold public office, in addition to any imprisonment or fine received pursuant to any other provision of this Act.”

In addition to the law, there are trainings conducted on ethical investigation and prosecution by IACAT/the Department of Justice, where parts of the module revisit the values that should be adhered to. Also, there have been trainings organised by NGOs that have focused on the issue of trafficking-in-persons-related corruption. Examples include a training for the Integrated Bar of the Philippines that was organised by the Visayan Forum Foundation, and a three-day training course organised by the Visayan Forum Foundation and the Inter-Agency Council Against Trafficking for frontline officers from the Ninoy Aquino International Airport and Diosdado Macapagal International Airport,

the Bureau of Customs, the Bureau of Immigration, the National Bureau of Investigation, and the Philippine Overseas Employment Agency. These types of initiative could be scaled up in order to reach wider groups of public officials at risk.

Sectors prone to trafficking-in-persons-related corruption are given priority in the implementation of relevant strategies.

When implementing the relevant strategies that address trafficking-in-persons-related corruption, countries are advised to identify and pay particular attention to vulnerable sectors and industries in their specific country context and steps that could be taken to prevent or combat the exploitation of people. This could, for example, entail regulation of labour-intensive sectors, in particular the construction, brothel, agriculture, fishing and textile industries or the foreign labour recruitment sector in a country. Countries are recommended to involve non-governmental actors as well as the private sector in the identification of at-risk sectors and the monitoring of these.

The foreign labour recruitment sector is one of the at-risk sectors for trafficking-in-persons-related corruption in the Philippines. As previously highlighted, many of the 10 million Filipinos that live abroad, and the estimated 1 million that migrate every year, are subjected to forced labour and trafficking for sexual exploitation throughout Asia, Europe, the Middle East and North America (ILO, n.d.; US Department of State, 2015). Filipinos that want to work abroad have to go through recruitment agencies, and these have to be licensed by the Philippine Overseas Employment Agency (POEA). Although the recruitment agencies are licensed by the government in order to ensure that they are following the applicable rules and laws in place and that they are running legitimate businesses, there have been reports of corruption in relation to the issuance of these licenses to illegitimate employment agencies, as well as evidence of government officials changing the status of a suspended employment agency's license after the agency was found guilty of violating recruitment regulations (Guth, 2010). Regardless of the reports of corruption in changing the status of suspended employment agencies, several stakeholders highlighted POEA's blacklisting of employment agencies that are under investigation as a best practice that could be replicated in other countries facing similar problems.

Within the Philippines, at-risk sectors include sex trafficking, domestic servitude, forced begging and forced labour in factories for women and children, and forced labour and debt bondage in agricultural, fishing, and maritime sectors for men (United Nations, 2013). In the interviews conducted by the OECD in August 2015, civil society called for an increased focus from the government on forced labour in relation to agriculture, fisheries, and domestic servitude. Representatives from non-governmental sectors in the country stated that the government has so far mostly focused on sex trafficking, and that this will need to change. The data available supports this statement, with 93% of the convictions that have so far been secured under the "Anti-Trafficking in Persons Act" being sex-trafficking convictions (Pajarito, 2015).

Information and resources are leveraged and shared among relevant actors.

Cases of trafficking and corruption are often dealt with separately. According to the United Nations Office on Drugs and Crime (UNODC), there is a lack of referral to the relevant authorities of: 1) cases of trafficking in persons where there are indicators for corruption; and 2) referral of corruption cases where there are indicators of trafficking in persons. Co-operation is therefore essential among relevant actors to share information and resources. This can be done through the establishment of taskforces or joint operations. It is also crucial to establish protocols between non-governmental organisations (NGOs) and law enforcement bodies to co-ordinate their activities so that both sides understand and acknowledge the efforts and responsibilities of the other.

Furthermore, anti-money laundering systems can be used to detect and prevent the financing of trafficking in persons, and assist in the confiscation of profits from trafficking in persons as well as the prevention of the reinvestment of illicit funds into the criminal trafficking networks. Financial intelligence systems that are already in place can be used to map the activities of trafficking networks and how these networks interact with corrupt officials.

From the outset, the Philippines adopted a multi-disciplinary approach to the work against trafficking in persons with the establishment of an Inter-Agency Council Against Trafficking (IACAT) composed of 13 government agencies and 3 NGOs. In addition to the numerous functions IACAT has been tasked to perform under the “Anti-Trafficking in Persons Act”, its duties also include co-ordinating the work of the various member agencies and co-ordinating awareness-raising and outreach activities. Representatives from government agencies and civil society alike reported that IACAT has been successful in its work. However, what is missing in the membership of IACAT is the inclusion of government agencies in charge of anti-corruption policies and anti-corruption enforcement in the public sector. Considering the link between trafficking in persons and corruption, one suggestion that was highlighted during the consultations conducted on the Guiding Principles was to amend the “Expanded Anti-Trafficking in Persons Act (R.A. 10364)” to include the Office of the Ombudsman in the list of members of IACAT so that information and expertise on corruption and its link to trafficking could be shared. This would also facilitate the dissemination of best practices and lessons learned from the anti-corruption field that could be included in the work conducted in the fight against trafficking in persons.

Although there are numerous examples of cross-agency co-operation and co-ordination, representatives from the non-governmental sector highlighted in interviews with the OECD that, when it comes to data collection, there is still not a functioning shared database in place. Law enforcement continues in part to work in silos, and with the porous borders of the Philippines, this means that criminal elements are able to slip through. Moving forward, it is therefore recommended that more effort is devoted to facilitating the sharing of information between concerned agencies and that data available is collected in a joint database. This will be further elaborated on under the heading “Improvement of Data Collection and Systematic Use of Information” below.

Corruption is also investigated when investigating trafficking in persons.

According to the Council of Europe, investigations and prosecutions of trafficking in persons should be accompanied by investigations into corruption and finances of suspects. In order to effectively deal with trafficking-in-persons-related corruption, indicators need to be developed for actors working in the field of trafficking in persons to detect corruption when investigating trafficking cases.

In relation to victim interviews, there were no reports of any specific interview questions that relate to government officials' involvement in the trafficking process. However, representatives from NGOs highlighted that if any information about a public official's involvement comes up during the interview they conduct in the shelters they manage, this is reported to the relevant agencies. This is an area where improvements could be made – for example, by including specific questions on public officials' involvement in standardised interview templates or by integrating a mechanism for documenting corruption allegations in NGOs' case management systems.

Specialised multi-agency units are established and multi-agency trainings are organised.

At the national level, countries could enhance co-operation between anti-corruption and anti-trafficking practitioners, for example through multi-agency training and specialised multi-agency units staffed by prosecutors and selected police.

IACAT has created a number of taskforces, among which six are port-based, inter-agency anti-trafficking taskforces. For example, if one of these port-based, inter-agency anti-trafficking taskforces is located in a sea port, it would be composed of – among others – prosecutors, social workers, port police, the navy and the coast guard. The creation of joint taskforces has been reported by government representative as a best practice in the case of the Philippines' work against trafficking in persons.

Although there are several examples of multi-agency trainings being organised on the topic of trafficking in persons, there is a need for an increased involvement of anti-corruption stakeholders in these initiatives. This is a suggestion for improvement moving forward.

3. *Transparency and an integrity framework for public officials at risk*

Specific rules/standards of behaviour – such as guidelines or codes of conduct – with respect to corruption and trafficking for public officials at risk are in place. The violations of the codes of conduct entail sanctions.

The conduct of the international peacekeepers, civilian police, intergovernmental and non-governmental organisations' staff and diplomatic personnel has raised serious concerns in relation to trafficking in persons and corruption. According to the cases analysed by the Council of Europe, the problem is reported to be particularly widespread among the police. One way of addressing this can be to include specific rules/standards of behaviour with respect to corruption and trafficking, for example, in codes of conduct. As supervision, discipline, and accountability are key in preventing and combating corruption, effective mechanisms are needed for reporting, investigating and sanctioning the violation of these codes of conduct for officials at risk.

Many of the sectors of public officials that could play a role in trafficking in persons are already covered by codes of conduct. However, some of these codes may need to be updated in order to address the specific issues relating to trafficking in persons. UNODC has proposed a number of specific measures that countries can implement, for example, requesting police staff who are conducting brothel raids to always be accompanied by one or more colleagues, preferably female staff, when conducting raids in brothels.

Section 7 of “Republic Act No. 6713” that establishes a Code of Conduct and “Ethical Standards for Public Officials and Employees” establishes a number of unlawful acts, such as directly or indirectly having any financial or material interest in any transaction requiring the approval of their office; own, control, manage or accept employment in any private enterprise regulated, supervised or licensed by their office unless expressly allowed by law; engage in the private practice of their profession unless authorised by the Constitution or law, provided, that such practice will not conflict or tend to conflict with their official functions; recommend any person to any position in a private enterprise which has a regular or pending official transaction with their office; using or divulging, confidential or classified information officially known to them by reason of their office and not made available to the public to further their private interests, give undue advantage to anyone; or to prejudice the public interest; or solicit or accept gifts. Violations of Sections 7 (Prohibited Acts and Transactions), 8 (Statements and Disclosure) or 9 (Divestment) of the Act is punishable with imprisonment not exceeding five years, or a fine not exceeding PHP 5 000, or both, and, in the discretion of the court of competent jurisdiction, disqualification to hold public office.

Except for the broad legal requirements listed above, interviewed stakeholders did not report on any rules, standards of conduct or specific measures that address the link between human trafficking and corruption. However, there have previously been initiatives aimed at introducing these sorts of measures – such as, for example, the “Handbook on Vulnerabilities of Government Agencies to Corruption and Complicity in Human Trafficking” that was produced by the Visayan Forum Foundation and Ateneo de Manila University. It is suggested that government agencies consider introducing rules or standards of conduct on trafficking-in-persons-related corruption in the future.

The activities of staff working in sectors at risk are performed in a transparent manner.

Sectors at specific risk of corruption in the trafficking-in-persons context need to ensure that their staff’s activities are performed in a transparent manner and that unnecessary bureaucracy is eliminated so that the opportunities for corrupt officials to seek bribes are limited. This is particularly relevant within law enforcement (e.g. border control, customs and immigration authorities) and criminal justice authorities. As raised by UNODC, ensuring that the staff’s activities are performed in a transparent manner does not necessarily mean public disclosure of assets and private interests but rather safeguards, such as for example internal approval systems of tasks to be performed and avoiding having one-to-one meetings with individuals, such as visa and work permit applicants, presumed trafficking victims and suspects. In addition, independent legal audit of trafficking cases could be conducted in order to assure that cases were handled in a correct manner.

Except for the legal requirement in “Republic Act No. 6713” that public officials and employees in general should “provide information of their policies and procedures in clear and understandable language, ensure openness of information, public consultations

and hearings whenever appropriate, encourage suggestions, simplify and systematise policy, rules and procedures, [and] avoid red tape”, there were no reports during the consultations in Manila with representatives from different government agencies and non-governmental organisations on any specific initiatives that aimed at increasing the transparency of public officials’ activities in relation to trafficking. This is especially relevant within the law enforcement and criminal justice authorities that are at particular risk of trafficking-in-persons-related corruption. Moving forward, it is recommended that safeguards and initiatives specifically targeted at these public officials are introduced. In addition, interviewed stakeholders suggested that independent legal audits of trafficking cases could be introduced in order to assure that cases were handled in a correct manner. These independent audits could look into issues such as why cases were dismissed, and if any weaknesses identified were linked to corruption or undue influence.

A wider framework of integrity for public officials is promoted.

In addition to establishing rules/standards on the behaviour of public officials in respect to corruption and trafficking, countries can benefit from promoting a wider framework ensuring the integrity of public officials, including: asset disclosure regime; conflict-of-interest legislation; and whistleblower protection. Of particular focus are issues such as outside positions for police officers (for example when police officers take up positions as security guards for bars and clubs). Officials at risk should also receive general anti-corruption training that could contribute to the prevention and combating of corruption in trafficking in persons. These need to be context specific and address potential issues such as cultures of corruption and gift-giving.

Asset and liabilities disclosure, outside employment and conflicts of interest are all regulated by law in the Philippines. The “Anti-Graft and Corrupt Practices Act (R.A. 3019)” (Republic of the Philippines, 1960) requires in Section 7 that all public officers must submit a statement of assets and liabilities upon taking office, every year during his time in office, and upon the expiration of his office or his resignation. This requirement is also stated – albeit in slightly different wording – in “Republic Act 6713” that establishes a “Code of Conduct and Ethical Standards for Public Officials and Employees”. “Republic Act 6713” also regulates outside employment, stating in Section 7(b) that “Public officials and employees during their incumbency shall not: 1) own, control, manage or accept employment as an officer, employee, consultant, counsel, broker, agent, trustee or nominee in any private enterprise regulated, supervised or licensed by their office unless expressly allowed by law; 2) engage in the private practice of their profession unless authorized by the Constitution or law, provided, that such practice will not conflict or tend to conflict with their official functions; or 3) recommend any person to any position in a private enterprise that has a regular or pending official transaction with their office.” In relation to conflicts of interest, the “Anti-Graft and Corrupt Practices Act” makes it unlawful to “[d]irectly or indirectly having financial or pecuniary interest in any business, contract or transaction in connection with which he intervenes or takes part in his official capacity, or in which he is prohibited by the Constitution or by any law from having any interest” (Section 3[h]) or “[d]irectly or indirectly becoming interested, for personal gain, or having a material interest in any transaction or act requiring the approval of a board, panel or group of which he is a member, and which exercises discretion in such approval, even if he votes against the same or does not participate in the action of the board, committee, panel or group” (Section 3[i]).

There is no whistleblower protection act in the Philippines. An act granting protection, security and benefits to whistleblowers has been discussed for years,¹ but so far, it has not been passed in the Senate. Representatives from government agencies and non-governmental organisations alike highlighted that a law on this would make a substantial difference in their everyday work. For now, there are examples of whistleblower policies in place in a number of ministries. However, as these are not supported or required by law, their enforcement depends solely on the respective ministries that introduced them. In the absence of a whistleblower protection act, protection is only afforded to witnesses under the “Witness Protection, Security and Benefit Act (R.A. 6981)” (Republic of the Philippines, 1991b) and Section 17 of the “Ombudsman Act of 1989 (R.A. 6770)” (Republic of the Philippines, 1989b).

Mechanisms that allow for public officials as well as the public to expose misconduct and report dishonest or illegal activity and that ensure the effective protection from retaliation are in place.

Confidential hotlines or similar measures for whistleblowers may be established so that public officials or private sector employees that witness corrupt behaviour by their colleagues can provide information about these activities. This can be established within government organisations as well as international organisations. Members of the public may also be given clear channels for exposing misconduct and reporting dishonest or illegal activity occurring in public and private sector organisations. Countries need to ensure that whistleblowers are effectively protected from retaliation and intimidation.

Although there is no whistleblower protection act in the Philippines, there is an online platform established called “IDULOG” where it is possible to file complaints against frontline agencies.² Representatives from the non-governmental sector who were interviewed for this report stated that although this “catch all” platform is a good initiative, a web platform will mainly be used in urban areas, which means that it is only reaching a limited proportion of the population. In addition to IDULOG, it is also possible to file complaints on line with the Office of the Ombudsman, or call the OMB hotline.

Moving forward, it is essential that steps are taken to ensure that whistleblowers are effectively protected from retaliation and intimidation. As previously highlighted, there is no whistleblower protection act in place in the Philippines.

The recruitment process of officials is transparent, competitive and subject to independent scrutiny. Upon recruitment, officials receive training, adequate supervision and are subject to regular performance evaluations.

Recruitment of key officials, in particular those employed in anti-corruption or anti-trafficking units, prosecutors and judicial officials needs to consistently be conducted by the means of a transparent and competitive selection process that is subject to independent scrutiny. Upon recruitment, key officials would benefit from receiving training, adequate supervision and be subject to regular performance evaluations. It is important that the training does not only cover instructions relating to specific tasks and responsibilities that the employee will encounter, but also the standards of conduct and values of the organisation.

Regarding the taskforces set up by IACAT, there is no public information on how the recruitment or selection of participants takes place. In interviews conducted with the IACAT Secretariat, it was reported that they were vetted and selected based on their integrity and expertise. Moving forward, it is recommended that the procedures and selection criteria are formalised and communicated to the public, so that it is possible for stakeholders to assist in the monitoring of the process. The same holds true for methods of supervision and performance evaluations.

In relation to the general recruitment processes of public officials, civil society stakeholders indicated that there is still work to be done in order to ensure that processes of hiring and promotion are based solely on merit. It was reported that patronage ties still has a strong influence and importance in the process, with for example, letters of recommendation from high-ranking, elected officials having great influence in qualifying for promotion or hiring.

Key officials receive training so that they are able to correctly identify trafficking victims, understand the nature of the crime, and recognise warning signs throughout the different stages of the trafficking-in-persons process.

In order to correctly identify and deal with trafficking-in-persons cases, it is essential that key officials receive training. Experience shows that the first government official a victim of trafficking is likely to meet is a local police officer and not a lawmaker or diplomat, and if this local police officer has not been trained to identify trafficking victims and understand the crime, there is a heightened risk that the crime is not properly identified. Also, for example, consular staff in countries of origin may benefit from exchanging experiences and being trained in recognising visa applications that could involve trafficking in persons.

In 2014, the Philippine Overseas Employment Agency (POEA) conducted 13 seminars on the expanded anti-trafficking law (US Department of State, 2015). In the past four years, POEA also conducted 157 Anti-Illegal Recruitment/Trafficking-in-Persons Seminars that reached 13 111 participants across the country. In the most recent data available, 90% of the participants in these seminars were prosecutors, local government personnel, law enforcement officers, and Public Service Employment Office employees (United Nations, 2013). The government also provided anti-trafficking training or guidance to its diplomatic personnel and Philippine troops prior to their deployment abroad (US Department of State, 2015).

According to the US Department of State (2015), IACAT and its taskforces conducted 99 trainings and workshops on trafficking in persons, reaching more than 5 000 prosecutors, law enforcers and social workers in 2014.

Several of the stakeholders from both government agencies and non-governmental organisations that were interviewed for this report stated that more trainings were needed for law enforcement officers. Trainings were suggested to deal with the collection of evidence, as minor missteps can make the information collected inadmissible in court. There were also suggestions that more trainings should be conducted for first responders so that they are able to correctly identify the crime as falling under the “Trafficking in Persons Act”. Although some work has been done on this in relation to sex trafficking, there was a call for more trainings that focus on how to identify trafficking in labour cases. If done correctly, it was argued that this could increase the number of prosecutions on forced labour in the Philippines.

Moving forward, it is recommended that the Philippines continues to strengthen its trainings to key officials so that they are able to correctly identify trafficking victims, understand the nature of the crime, and recognise warning signs throughout the different stages of the trafficking-in-persons process.

4. *Awareness-raising and prevention measures for public officials and the general public*

Public awareness regarding the existence, causes, and gravity of trafficking in persons and the active participation of individuals and groups outside the public sector in the prevention of and the fight against trafficking-in-persons-related corruption is promoted.

Article 13 of the United Nations Convention against Corruption (UNCAC) (United Nations, 2003) demands that each State Party shall take the appropriate measures to promote the “active participation of individuals and groups outside the public sector, such as civil society, non-governmental organisations and community-based organisations, in the prevention of, and the fight against, corruption and to raise public awareness regarding the existence, causes and gravity of, and the threat posed by, corruption.” Specific measures to strengthen this participation include:

1. enhancing the transparency of and promoting the contribution of the public to decision-making processes
2. ensuring that the public has effective access to information
3. undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula
4. respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption.

Similarly, Article 9(2) of the United Nations “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children”, establishes that State Parties shall “endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.” The Council of Europe suggests giving particular attention to the development of special awareness programmes in schools.

In order to effectively raise awareness of the linkages between corruption and trafficking in persons, countries can involve and train media and facilitate investigative journalism on trafficking in persons and corruption. Furthermore, media can play an important role in increasing public awareness and knowledge on TIP and corruption hotspots, deterring offenders by highlighting arrests and prosecutions, and rewarding and encouraging successful law enforcement through the publication of success stories.

According to the US Department of State, “[a]uthorities allocated PHP 200 000 (USD 4 500) for community education programmes on trafficking in nine provinces, which reached more than 2 500 participants, including prospective migrants” (2015, p. 281). They also report that the Department of Social Welfare and Development conducted 54 advocacy activities on the anti-trafficking law that reached over 2 000 people across the Philippines. In addition, IACAT funded anti-trafficking forums and orientation workshops for approximately 10 000 students, women and children’s rights advocates, and the Philippine National Police conducted 6 138 community activities to discuss enforcement of the anti-trafficking in persons law (US Department of State, 2015). POEA produced Anti-Illegal Recruitment videos that were viewed 217 742 times, and disseminated 528 750 printed materials in 2014 (Larga, 2015).

The government also made significant efforts to reach out to the public through social media, radio and television. Examples include IACAT and POEA Facebook pages and Twitter accounts,³ IACAT's YouTube channel,⁴ and the weekly public awareness radio programme on 702 DZAS AM.⁵

In regards to participation, there are three NGO members representing women, overseas Filipinos, and children, on the Inter-Agency Council Against Trafficking. They are appointed for a term of three years. This gives NGOs an opportunity to bring their unique perspective and serve as a watchdog in ensuring that IACAT does what it is mandated to do. Given the close co-operation between government agencies and NGOs and some NGOs' reliance on government funding, it could however be questioned if they can speak freely without fear of repercussions.

Non-governmental organisations interviewed by the OECD in August 2015 highlighted that there is a need for more outreach to the younger generation on anti-corruption and integrity. Suggestions included organising meetings between youth and local government officials recognised for their integrity, thereby introducing role models for those interested in careers in the public service.

Targeted awareness-raising measures for all parties involved in anti-trafficking issues are provided.

In addition to general anti-corruption measures, specific awareness raising measures that highlight vulnerabilities, responsibilities, risks, and draw attention to how corrupt behaviour could facilitate the crime of trafficking in persons and the re-victimisation of the trafficked victims are essential to understand the links and forms of trafficking. Consequently, these measures need to be provided for all parties involved in anti-trafficking issues, including police and anti-trafficking organisations.

In the OECD interviews conducted with government agencies and representatives from civil society in August 2015, there were few reports of specific awareness-raising measures that focused on how corrupt behaviour could facilitate the crime of trafficking except for the trainings that were highlighted above. Moving forward, there is a need for the issues of corruption and human trafficking to be better integrated in the different awareness-raising initiatives being implemented by the Filipino government.

Preventive measures for potential victims of trafficking in persons are in place, in particular offering counselling about corruption and trafficking before and after they have undertaken a migration journey and alerting communities of early signs of corruption.

It is essential to build civic response and community awareness about the linkages between corruption and trafficking in persons. Specific measures proposed by the UNODC for potential victims of trafficking include: 1) alerting communities that early signs of corruption in a legitimate migration journey should be considered as warning indicators that trafficking may be taking place; and 2) giving citizens access to free, confidential counselling about corruption and trafficking before and after they have undertaken a migration journey, in order to make them aware of their rights and capable of looking for help if they are infringed in a way that renders them victims of trafficking.

One example of an agency that has invested resources in preventive measures is the Philippine Overseas Employment Agency (POEA). POEA conducts Pre-Employment

Orientation Seminars (PEOS), where workers that are about to go abroad are informed of the laws in their country of destination and precautionary measures against illegal recruitment. These seminars will in the near future become a mandatory requirement before going abroad. POEA has so far reached about 1.33 million participants, with more than 500 000 of these in 2014 alone. The eight modules are also available on line for those who are not near a location where the seminars are given.⁶ So far, PEOS online has received 285 850 visits.⁷ POEA has also developed a PEOS mobile application where it is possible to verify if the employment agency that a future migrant worker is considering is licensed, and if the agency's license is suspended or not. The availability of a job being offered by the agency can also be checked in this mobile application. If it is not listed on line, there is a risk that the job offer the prospective migrant worker has received is fictitious. Between March 2014 and August 2015, there were 90 000 downloads of the PEOS mobile application. It can be downloaded for free. There were no reports of any specific anti-corruption or corruption-awareness components included in the trainings. This could be an addition moving forward.

In addition to the prevention measures implemented by the POEA, there are a number of other public awareness initiatives under way in the Philippines, such as IACAT's television show promoting trafficking awareness, the distribution of printed materials and information made available on social media.⁸ There are also numerous initiatives from civil society that have worked proactively with the education and outreach in at-risk communities. This includes the iFIGHT Movement by the Visayan Forum Foundation that through awareness-raising in partnership with schools and universities in the Philippines aims at preventing human trafficking. These various examples are further elaborated on under the Guiding Principle on Public awareness regarding the existence, causes, and gravity of trafficking in person, above.

5. *Improvement of data collection and systematic use of information*

Data on trafficking in persons are collected, analysed and used systematically.

Most countries are not systematically collecting and analysing data on investigations or prosecutions of public officials relating to trafficking in persons and corruption. There are many reasons for the scarcity of data. Among the most important reasons highlighted by the International Organization for Migration (IOM) are the victims' reluctance to report or testify for fear of reprisals; lack of harmonisation among existing data sources; and the opposition of some countries and agencies to share data. As a crucial step in addressing trafficking-in-persons-related corruption, countries need to focus on the collection of data and information in order to get a better insight into the problem. Because of its transnational nature, data on trafficking-in-persons-related corruption also needs to be collected and aggregated at the regional level. It should be stressed that any legal provisions or policy decisions on data collection and/or the creation of databases need to be accompanied by a commitment of resources for implementation.

Information on corruption provided by victims and NGOs can also be used more systematically. Government agencies working on anti-corruption and anti-trafficking need to co-operate with the non-governmental sector and civil society to ensure that information and experiences from victims are collected (through, for example, interviews) and that this information is passed on to the anti-corruption and anti-trafficking units in government. By improving the data collection and systemic use of information, countries would be allowed to implement targeted responses based on facts.

The "Expanded Anti-Trafficking in Persons Act of 2012 (R.A. 10364)" stipulates that a central anti-trafficking in persons database should be established by the Inter-Agency

Council Against Trafficking (IACAT). The Act also requires all government agencies that are tasked with working on trafficking in persons to submit the data they have to the Council for integration into the central database. As a minimum, the database has to include information on the number of cases of trafficking in persons sorted according to the status of cases (including the number of cases being investigated, submitted for prosecution, dropped, and filed and/or pending before the courts, and the number of convictions and acquittals); the number of victims of trafficking in persons referred to the agency by destination countries/areas and by area of origin; and disaggregated data on trafficking victims and the accused/defendants.

The data that is made available at IACAT's website includes only the date and location of the crime, number of convictions, number persons of convicted, the acts committed as defined by the "Anti-Trafficking in Persons Act", number of years of imprisonment and the amount of the fines (IACAT, 2015b). This means that requirements such as information on the number of cases being investigated, submitted for prosecution, dropped, and filed and/or pending before the courts are either not collected, or if collected, not made publicly available. This makes it difficult to track progress of cases, and to bring attention to cases that have been dropped that could warrant further investigations into the reason for dropping them. Stakeholders have also argued that information on employers of trafficking victims should be made available in the database.

Representatives from the non-governmental sector stated in interviews with the OECD that when it comes to data collection, there is still not a functioning shared database in place. When law enforcement agencies are not co-operating with each other, criminal elements are able to slip through and cross the porous borders of the Philippines. Moving forward, it is therefore recommended that more effort is devoted to facilitating the sharing of information between concerned agencies and that data available is collected in a joint database.

On the topic of TIP-related corruption, government representatives stated that although data on administrative sanctions against public officials probably is available within each ministry, there have been no attempts to aggregate this information at the national level. In relation to administrative sanctions related to TIP, interviewed government officials stated that it was unlikely that this data was available for all government agencies.

Moving forward, it is recommended that data is made available on the number of filed and investigated cases, and not only the number of convictions. Also, it would be valuable to include information on why cases were dropped as this would be a way to identify red flags of potential corruption in the process. In relation to administrative and criminal sanctions, it is recommended that data on the number of investigated and prosecuted government officials in relation to trafficking in persons is extractable from the database.

6. *Lift immunity in corruption and trafficking cases*

Immunity from prosecution of public officials is duly lifted to allow for effective investigation, prosecution and adjudication of corruption and trafficking-in-persons-related offences.

The purpose of immunity is to protect the independence of public officials and make sure that they will make difficult decisions without risking facing personal consequences for this decision (e.g. being sued). According to UNCAC Article 30(2), “Each State Party shall take such measures as may be necessary to establish or maintain, in accordance with its legal system and constitutional principles, an appropriate balance between any immunities or jurisdictional privileges accorded to its public officials for the performance of their functions and the possibility, when necessary, of effectively investigating, prosecuting and adjudicating offences established in accordance with this Convention.” Similarly, in cases of trafficking in persons, countries need to lift the immunity from prosecution of public officials following an allegation of corruption that is supported by evidence.

The “Expanded Anti-Trafficking in Persons Act of 2012 (R.A. 10364)” introduces the following section into the “Anti-Trafficking in Persons Act of 2003 (R.A. 9208)”:

Immunity from Suit, Prohibited Acts and Injunctive Remedies. – No action or suit shall be brought, instituted or maintained in any court or tribunal or before any other authority against any: (a) law enforcement officer; (b) social worker; or (c) person acting in compliance with a lawful order from any of the above, for lawful acts done or statements made during an authorized rescue operation, recovery or rehabilitation/intervention, or an investigation or prosecution of an anti-trafficking case: *Provided*, That such acts shall have been made in good faith.

The law therefore only grants immunity to law enforcement officers, social workers, or others acting in compliance with a lawful order from law enforcement officers or social workers, if the acts committed were lawful and made in good faith. If this is not the case, Section 12 of the “Expanded Anti-Trafficking Act of 2012” that amends Section 10 of “Republic Act No. 9208” establishes:

- a penalty of 15 years in prison and a fine of PHP 500 000 to PHP 1 million to anyone who 1) tampers or causes the destruction of evidence or influences or attempts to influence witnesses in an investigation or prosecution; or 2) utilises his or her office to impede investigation, prosecution or execution of lawful order.
- a penalty of life in prison and a fine between PHP 2 million and PHP 5 million to anyone who commits qualified trafficking, which, for example, is the case if the offender is a member of the military or law enforcement agencies.

In addition, Section 12 of the “Expanded Anti-Trafficking in Persons Act of 2012” that amends Section 10(j) of “Republic Act No. 9208” stipulates that “[a]ny employee or official of government agencies who shall issue or approve the issuance of travel exit clearances, passports, registration certificates, counselling certificates, marriage licenses, and other similar documents to persons, whether juridical or natural, recruitment agencies, establishments or other individuals or groups, who fail to observe the prescribed procedures and the requirement as provided for by laws, rules and regulations, shall be held administratively liable, without prejudice to criminal liability under this Act. The concerned government official or employee shall, upon conviction, be dismissed from the service and be barred permanently to hold public office. His or her retirement and other

benefits shall likewise be forfeited.” Finally, Section 13 that amends Section 11 addresses the demand side of trafficking. Also, if the offender is a public official, the Act stipulates that “he or she shall be dismissed from service and shall suffer perpetual absolute disqualification to hold public office, in addition to any imprisonment or fine received pursuant to any other provision of this Act” (Section 10[j]).

Stakeholders’ feedback on the Guiding Principles and findings from the in-country testing

The “Guiding Principles on Combatting Corruption related to Trafficking in Persons” were well received by government agencies and civil society actors alike. Areas highlighted as particularly relevant included the Guiding Principles’ joint focus on trafficking and corruption – an area that stakeholders believed required further work in the case of the Philippines – and the need for trainings and education on the laws in place so that crimes are correctly identified and public officials know what is expected of them. Suggestions from consulted stakeholders on additional points that could be incorporated, based on their experiences from the Philippines, include:

- a strong focus on the importance of implementation, as good laws on paper will not be enough in addressing trafficking in persons and corruption
- addressing the problems associated with a deeply rooted culture of gift-giving, favours, and money changing hands when formulating and implementing anti-corruption laws and measures
- addressing the importance of ensuring that there is sufficient political will at all levels of government in addressing TIP-related corruption, including at the local level
- introducing independent legal audits of trafficking cases in order to ensure that cases were handled in a correct manner
- highlighting the importance of leadership in putting the issues of trafficking in persons and corruption on the national agenda.

Regarding the principle on “Improvement of Data Collection and Systematic Use of Information”, stakeholders highlighted that it is not enough to mandate the creation of a shared database in the law. There also needs to be a commitment of resources attached to the implementation of the provision.

The testing of the Guiding Principles in the Philippines showed that they not only reflect many of the good practices that country representatives highlighted, but that they also raise recommendations in areas where more work is needed to effectively address trafficking-in-persons-related corruption.

Notes

1. See, for example, Senate of the Philippines (2013), “An Act Providing for the Protection, Security and Benefits of Whistleblowers, Appropriating Funds Therefor and for Other Purposes”, Senate Bill No. 1932, www.senate.gov.ph/lisdata/1825515452!.pdf and Senate of the Philippines (2009), “An Act Providing for Whistleblower Bill of Rights”, Senate Bill No. 3533, www.senate.gov.ph/lisdata/1301611690!.pdf.
2. Available at www.gov.ph/feedback/idulog/.
3. Available at www.facebook.com/IACAT.NEWS, twitter.com/iacatnews, www.facebook.com/mypoea and twitter.com/poeaNews.
4. Available at www.youtube.com/user/iacatnews/videos.
5. Live streamed at www.febc.ph.
6. See <http://peos.poea.gov.ph/index.php/peos/dashboard>.
7. As of August 2015.
8. See, for example: www.facebook.com/IACAT.NEWS, twitter.com/iacatnews and www.youtube.com/user/iacatnews/videos.

References

- ASEAN (Association of Southeast Asian Nations) (2010), *ASEAN Handbook on International Legal Cooperation in Trafficking in Persons Cases*, ASEAN Secretariat, Jakarta, www.unodc.org/documents/human-trafficking/ASEAN_Handbook_on_International_Legal_Cooperation_in_TIP_Cases.pdf.
- ASEAN (2004a), “ASEAN Declaration Against Trafficking in Persons Particularly Women and Children”, Vientiane, 29 November, www1.umn.edu/humanrts/research/Philippines/ASEAN%20Declaration%20Against%20Trafficking%20in%20Persons%20Particularly%20Women%20and%20Children.pdf.
- ASEAN (Association of Southeast Asian Nations) (2004b), “2004 Treaty on Mutual Legal Assistance in Criminal Matters”, Kuala Lumpur, Malaysia, 29 November, <http://cil.nus.edu.sg/rp/pdf/2004%20Treaty%20on%20Mutual%20Legal%20Assistanc%20in%20Criminal%20Matters-pdf.pdf>.
- Bureau of Immigration (2015), “Immigration Officer Instrumental in Conviction of Human Trafficking Syndicate”, press release, Republic of the Philippines, www.immigration.gov.ph/faqs/index.php?option=com_content&view=article&id=795&catid=112.
- Canlas, J. (2015), “Countries unite vs. human trafficking”, *The Manila Times*, 8 June, www.manilatimes.net/countries-unite-vs-human-trafficking/190240/.
- Guth, A. P. (2010), “Human trafficking in the Philippines: The need for an effective anti-corruption program”, *Trends in Organized crime*, 13 (2), pp. 147-166.
- IACAT (Inter-Agency Council Against Trafficking) (2015a), “IACAT lauds international stance against trafficking”, press release, <http://iacat.gov.ph/index.php/159-iacat-lauds-international-stance-against-trafficking>.
- IACAT (2015b), *Resources: Statistics*, database, www.iacat.net/index.php/human-trafficking-related-statistics (accessed on 2 September 2015).
- IACAT (2012), “The Second National Strategic Action Plan Against Trafficking in Persons 2012-2016”, IACAT/UNICEF.
- ILO (International Labour Organization) (2011), “Domestic Workers Convention, 2011 (No. 189)”, Geneva, 16 June, www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:2551460.
- ILO (1999), “Worst Forms of Child Labour Convention, 1999 (No. 182)”, Geneva, 17 June, www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:C182.
- ILO (1957), “Abolition of Forced Labour Convention, 1957 (No. 105)”, ILO, Geneva, 25 June, www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C105.

- ILO (1930), "Forced Labour Convention, 1930 (No. 29)", Geneva, 28 June, www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312174.
- ILO (n.d.), "Labour migration", www.ilo.org/manila/areasofwork/labour-migration/lang-en/index.htm (accessed on 15 March 2016).
- Larga, R.L. (2015), "Awareness-raising and Preventive Measures Against Illegal Recruitment and Trafficking in Persons: The POEA Experience", presentation, OECD Roundtable on Combatting Corruption related to Trafficking in Persons, Cebu City, Philippines, 27 August.
- Pajarito, D. (2015), "Inter-Agency Council Against Trafficking (IACAT)", presentation, OECD Roundtable on Combatting Corruption related to Trafficking in Persons, Cebu City, the Philippines, 27 August.
- Republic of the Philippines (2012a), "Republic Act No. 10364: Expanded Anti-Trafficking in Persons Act of 2012", www.gov.ph/2013/02/06/republic-act-no-10364/.
- Republic of the Philippines (2012b), "Republic Act No. 10365: An Act Further Strengthening the Anti-Money Laundering Law, Amending for the Purpose Republic Act No. 9160, Otherwise Known as The 'Anti-Money Laundering Act Of 2001', As Amended", www.gov.ph/2013/02/15/republic-act-no-10365/.
- Republic of the Philippines (2009a), "Republic Act No. 10022: An Act Amending Republic Act No. 8042, Otherwise Known as the Migrant Workers and Overseas Filipinos Act of 1995, as Amended, Further Improving the Standard of Protection and Promotion of the Welfare of Migrant Workers, Their Families and Overseas Filipinos in Distress, and for Other Purposes", www.poea.gov.ph/ptfair/ra10022.htm.
- Republic of the Philippines (2009b), "Republic Act No. 9995: An Act Defining and Penalizing the Crime of Photo and Video Voyeurism, Prescribing Penalties Therefor, and for Other Purposes", http://www.lawphil.net/statutes/repacts/ra2010/ra_9995_2010.html.
- Republic of the Philippines (2009c), "Republic Act No. 9775: Anti-Child Pornography Act of 2009", <http://www1.umn.edu/humanrts/research/Philippines/RA%209775%20-%20Anti-Child%20Pornography%20Act%20of%202009.pdf>.
- Republic of the Philippines (2003a), "Republic Act No. 9208: Anti-Trafficking in Persons Act of 2003", www.hsph.harvard.edu/population/trafficking/philippines.traf.03.htm.
- Republic of the Philippines (2003b), "Republic Act No. 9231: An Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child, Amending for this Purpose Republic Act No. 7610, As Amended, Otherwise Known as the 'Special Protection of Children Against Child Abuse, Exploitation And Discrimination Act'", [bwsc.dole.gov.ph/images/ppacl/WCP/Republic-Act-No-9231.pdf](http://www.bwsc.dole.gov.ph/images/ppacl/WCP/Republic-Act-No-9231.pdf).
- Republic of the Philippines (1995a), "Republic Act No. 8043: An Act Establishing the Rules to Govern Inter-Country Adoption of Filipino Children, and for Other Purposes", <http://pcw.gov.ph/law/republic-act-8043>.
- Republic of the Philippines (1995b), "Republic Act No. 8042: Migrant Workers and Overseas Filipinos Act of 1995", www.poea.gov.ph/rules/ra8042.html.

- Republic of the Philippines (1992),” Republic Act No. 7610: An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, and for Other Purposes”, www.gov.ph/1992/06/17/republic-act-no-7610/.
- Republic of the Philippines (1991a), “Republic Act No. 7080: An Act Defining and Penalizing the Crime of Plunder”, www.dole.gov.ph/files/RA%207080.pdf.
- Republic of the Philippines (1991b),”Republic Act No. 6981: An Act Providing for a Witness Protection, Security and Benefit Program and for Other Purposes”, www.lawphil.net/statutes/repacts/ra1991/ra_6981_1991.html .
- Republic of the Philippines (1990), “Republic Act No. 6955: An Act to Declare Unlawful the Practice of Matching Filipino Women for Marriage to Foreign Nationals on a Mail Order Basis and Other Similar Practices, Including the Advertisement, Publication, Printing or Distribution of Brochures, Fliers and Other Propaganda Materials in Furtherance Thereof and Providing Penalty Therefore”, www.lawphil.net/statutes/repacts/ra1990/ra_6955_1990.html.
- Republic of the Philippines (1989a), “Republic Act No. 6713: An Act Establishing a Code of Conduct and Ethical Standards for Public Officials and Employees, to Uphold the Time-Honored Principle of Public Office Being a Public Trust, Granting Incentives and Rewards for Exemplary Service, Enumerating Prohibited Acts and Transactions and Providing Penalties for Violations Thereof and for Other Purposes”, www.dole.gov.ph/files/RA%206713.pdf.
- Republic of the Philippines (1989b), “Republic Act No. 6770: An Act Providing for the Functional and Structural Organization of the Office of the Ombudsman, and for Other Purposes”, www.ombudsman.gov.ph/docs/republicacts/Republic_Act_No_6770.pdf.
- Republic of the Philippines (1972), “Presidential Decree No. 46: Making it Punishable for Public Officials and Employees to Receive, and for Private Persons to Give, Gifts on any Occasion, Including Christmas”, 10 November, www.dole.gov.ph/files/PD%2046.pdf.
- Republic of the Philippines (1960), “Republic Act No. 3019: Anti-Graft and Corrupt Practices Act”, www.dole.gov.ph/files/RA%203019.pdf.
- Republic of the Philippines (1955), “Republic Act No. 1379: An Act Declaring Forfeiture in Favor of the State any Property Found to Have Been Unlawfully Acquired By any Public Officer or Employee and Providing for the Proceedings Therefor”, www.lawphil.net/statutes/repacts/ra1955/ra_1379_1955.html.
- Republic of the Philippines (1930), “Republic Act No. 3815: An Act Revising the Penal Code and Other Penal Laws”, www.lawphil.net/statutes/acts/act_3815_1930.html.
- Senate of the Philippines (2013), “An Act Providing for the Protection, Security and Benefits of Whistleblowers, Appropriating Funds Therefor and for Other Purposes”, Senate Bill No. 1932, www.senate.gov.ph/lisdata/1825515452!.pdf.
- Senate of the Philippines (2009), “An Act Providing for Whistleblower Bill of Rights”, Senate Bill No. 3533, www.senate.gov.ph/lisdata/1301611690!.pdf.

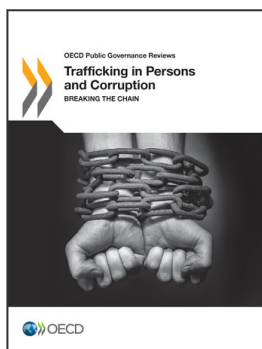
United Nations (2013), “Report of the Special Rapporteur on Trafficking in Persons, Especially Women and Children”, Ms. Joy Ngozi Ezeilo, Addendum, Mission to the Philippines, United Nations General Assembly, Human Rights Council, 23rd session, Agenda item 3, A/HRC/23/48/Add.3.

United Nations (2003), “United Nations Convention against Corruption”, *United Nations Treaty Series*, Vol. 2349, No. 42146, New York, 31 October, p. 41, <https://treaties.un.org/doc/Publication/UNTS/Volume%202349/v2349.pdf>.

United Nations (2000), “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime”, *Treaty Collection*, database, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-12-a&chapter=18&lang=en.

US Department of State (2015), *Trafficking in Persons Report July 2015*, US Department of State, Washington, DC.

US Department of State (2013), *Trafficking in Persons Report June 2013*, US Department of State, Washington, DC.



From:
Trafficking in Persons and Corruption
Breaking the Chain

Access the complete publication at:
<https://doi.org/10.1787/9789264253728-en>

Please cite this chapter as:

OECD (2016), “Testing the Guiding Principles on Combatting Corruption related to Trafficking in Persons in the Philippines”, in *Trafficking in Persons and Corruption: Breaking the Chain*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/9789264253728-6-en>

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