



Philippine Response to Curb Human Trafficking of Migrant Workers *

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Abstract

This paper delves into the issues, challenges and concerns of human trafficking of migrant workers in the country and at the same time evaluates the policy mechanisms of the Philippines in responding to human trafficking in migrant workers.

The era of globalization has tremendously increased the growth of international labor migration which gives rise to the deployment of more migrant workers to developed countries that has placed humankind, especially the migrant workers under serious threats to human trafficking resulting to violation of human rights.

The Philippines, located in the Southeast Asia, with Manila as its capital has an estimated total population of 94 million (2010). With its strategic location and considering its socio-economic conditions in terms of providing jobs to its people, the Philippines has been cited in some publications, as the source, transit and destination country for men, women and children trafficked for labor migration and worst for sexual exploitation.

Keywords: Human Trafficking/ Migration/ Smuggling/ Philippines

Introduction

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Labor migration as defined by the International Organization for Migration (2000) is a cross-border movement for the purpose of employment in a foreign country, which may be used restrictively to cover only movement for the purpose of employment. Relatively, migrant workers under the Philippine law is defined as a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a state of which he or she is not a legal resident, which can be used interchangeably with overseas Filipino worker (Migrant Workers and Overseas Filipinos Act of 1995, Republic Act Number 8042).

With the impact of globalization, labor migration has become an attractive option for both skilled and unskilled Filipino workers to embrace the opportunity to work abroad in order to complement their economic status in the Philippines, which is an “ultimate way out of poverty regardless of risks and problems it entail”¹.

Statistics show that in 2013, the number of unemployed population worldwide is over 197 million (Global Employment Trends 2013). In the Philippines, the current unemployment rate accounts to 7.1 percent as of January 2013, which is not significantly far different from the January 2012 rate of 7.2 percent. Across regions, the National Capital Region (NCR) posted the highest unemployment rate of 9.5 percent and 3.3 percent in Cagayan as the lowest (Philippine Statistics Authority 2013).

Table 1. Employment Rate in the Philippines As of January 2013

Philippines	January 2013 ^{1/}	January 2012
Population 15 years and over (in '000)/2	63,682	62,683
Labor Force Participation Rate (%)	64.1	64.2
Employment Rate (%)	92.9	92.8
Unemployment Rate (%)	7.1	7.2
Underemployment Rate (%)	20.9	18.8

^{1/} Estimates for January 2013 are preliminary and may change.

^{2/} Population 15 years and over is an estimate taken from the 2000 Census-based population projections.

Source: Philippine Statistical Authority, 2013

Unemployment in sending country, like the Philippines, is just one of the chief causes of labor migration which impels not only Filipinos but also other nationalities to work in developed countries and engage themselves in demeaning, dirty, dangerous and difficult jobs.

¹A Synthesis of Project-Handled Trafficked Cases, Combating Trafficking of Women and Children in the Philippines (Anti-Trafficking Project) trafficking.org.ph/papers/documents/synthesis.pdf



It is in this context that migrant workers whether documented or undocumented are faced by problems such as gross exploitation and intolerance in different forms, particularly human trafficking. Human trafficking in many studies is categorized, as an international concern and the third most profitable criminal activity next to drugs and arm trafficking.

Contextualizing Human Trafficking in the Philippines

Trafficking in Persons as defined under the Expanded Anti-Trafficking in Persons Act of 2012 (Republic Act Number 10364) refers to the recruitment, obtaining, hiring, providing, offering, transportation, transfer, maintaining, harboring, or receipt of persons with or without the victim's consent or knowledge. These activities can be done within or across national borders by means of threat, or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person. Such acts may be in the form of exploitation, prostitution, other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs. Furthermore, the law provides that such recruitment, transportation, transfer, harboring, adoption or receipt of a child for the purpose of exploitation or when the adoption is induced by any form of consideration for exploitative purposes shall also be considered as 'trafficking in persons' even if it does not involve any of the elements mentioned in the definition.

The enactment of the law is a milestone legislation in consonance with the State policy that values every human person's dignity and at the same time guarantees full respect of individual's rights. The mechanisms in curbing human trafficking in the country is as well in placed by virtue of RA 10364 wherein development programs are given highest priority especially those that protect Filipinos from any threat of violence and exploitation, elimination of trafficking in persons, and mitigation of pressures for involuntary migration and servitude of persons. These programs support trafficked person's recovery, rehabilitation and reintegration in the mainstream of the society.

The Philippines as the source country posted about one million Filipino men and women who migrate abroad each year for work opportunities while those who are working and living abroad accounts to almost ten million (Human Trafficking.Org 2013). The UN Project Coalitions against Trafficking in the Philippines describes the Philippine government as mostly concerned with the welfare of women who have been trafficked to Japan and exploited in the sex industry based on the Final Report Anti-Human Trafficking Unit Global Programme against Trafficking in Human Beings (United Nations Vienna 2003). This means that these are indications that Filipinas fell under the restraint of Japanese organized crime (Heazle, 1993 cited in the Anti-Human Trafficking Unit - Global Programme against Trafficking in Human Beings). The report also reveals that a large number of Filipino women are victims of traffickers in Korea. However, as reported by the Philippines Center for Transnational Crime (PCTC), Japan is no longer a favorite destination for Filipina "entertainers" and only half of the 150,000 entertainers remain in Japan (Anti-Human Trafficking Unit - Global Programme against Trafficking in Human Beings). Most of these trafficked victims are forced into commercial sex trade. Meanwhile, the largest number of the



people trafficked in the U.S. come from East Asia and the Pacific, which accounts to around 5,000 to 7,000 victims. This is followed by Latin America and Europe and Eurasia with between 3,500 and 5,500 victims, respectively.²

With the concealed characteristics of human trafficking activities, the gathering of statistical data is indeed challenging. As cited by the Philippines Center for Transnational Crime, there are various ways employed in trafficking of persons. These may include inter-marriages, illegal entry, use of fraudulent documents, illegal recruitment and placement and other modes (see Table 2).

These schemes of human trafficking reflect the many facets of committing the crime in the pretext of legal and normal ways of facilitating the commission. Human trafficking as a transnational crime is one of the “most repulsive and rapidly growing activities of organized criminal groups, which can be described as pernicious, preying as it does on the most vulnerable women, children, the poor and least educated.³ It can be said that human trafficking is a consequence of social factors that confront the national, regional and international communities. These social factors include but not limited to poverty, unemployment, poor education, gender inequality, human crises and proliferation of illegal recruiters which breed gross exploitation and abuses of human rights.

Table 2. Schemes or Modes in Trafficking in Persons*

Category	Description
Inter-Marriage Serial/Multiple Sponsorship	Facilitated by sponsoring Filipino applicants to get a visa by a foreign national for a fix marriage and introduce to illegal employment. After assisting the legitimization of the status of Filipino abroad, the foreigner goes back to the target country and repeats the same scheme.
Trafficking by Introduction by Marriage Bureaus, Deception, Marriage for a Fee, Migration through Marriages	Perfected by matchmaking through personal introduction, wedding and travel arrangements. Selection of the bride is chosen from a queue of women at selected five-star hotels. If ever marriage were not concluded, other prospective brides/women are presented as ready substitute.
Internet	With the advent modern technology, the internet is also used in the matchmaking scheme by advertising the names of women seeking marriage along with

² National Crime Victims' Rights Week, April 10-16, 2005, citing U.S. Department of State.2004. *Trafficking in Persons Report*. Washington D.C.: U.S. Department of State; U.S. Department of State.2004. *Report to Congress from Attorney General John Ashcroft on U.S. Government Efforts to Combat Trafficking in Persons in Fiscal Year 2003*. Washington D.C.: U.S. Department of Justice <http://www.ojp.usdoj.gov/ovc/ncvrw/2005/pg51.html>

³ Coalitions Against Trafficking in Human Beings in the Philippines, *Final Report Anti-Human Trafficking Unit Global Programme against Trafficking in Human Beings, United Nations Vienna 2003*, p i



Religion	<p>their picture and personal profile.</p> <p>In human trafficking, religion is not an excuse. Enticing young women to join religious movement is more intense wherein marriage arrangement is made. An example is the Korean Moonies. In 1996, nine hundred eighty-four Filipino women were married in a Korean sect ceremony, after being matched by a computer. A \$2,000 fee is collected from the groom. Documented cases include women eventually sold into prostitution upon arrival in Korea.</p>
Illegal Entry/Fraudulent Documents	<p>Illegal entry by means of air and sea transportation through various entry/exit points in the country is a common scheme used by foreigners. Another scheme is through the use of fraudulent documents such as fake passports and visas.</p>
Illegal Recruitment and Placement	<p>Usually done by non-licenseses or non-holders of authority by the following means as provided for under the Revised Penal Code:</p> <ul style="list-style-type: none">a. Estafa by falsely pretending to possess power, influence, qualification, property, credit, agency, business or imaginary transactions or by means of other similar deceits.b. Falsification of public official documentsc. Complex crime of estafa through falsification of public official documentsd. Direct bribery
Other Modes	<ul style="list-style-type: none">a. Adoption Methodb. Family Toursc. Religious pilgrimagesd. Foreign training or internshipe. Cultural exchange/promotion

*Source: Culled from PCTC Paper on Trafficking in Persons, <http://www.pctc.gov.ph/papers/TraffickingInPersons.htm>, Table constructed by the author 2013.

Poverty is one of the many reasons for the increasing number of human trafficking victims. Poverty incidence makes Filipinos vulnerable to working abroad, especially those who have not finished high school or college degree. Instead of pursuing an education these individuals would rather seek greener pasture in other countries of which they are not citizens of. To some migration is a symbol of brighter



opportunity especially to highly skilled professionals like doctors, nurses and engineers who often can practice their field of specialization but to some who are not, labor migration is an answer to poverty.

While it is true that migrant workers are prime movers of the country's economy for they bring various benefits to both country of origin and destination, they should also be accorded fair, just and equitable treatment regardless of sex, race and religion. The migrant workers are not mere laborers or economic units symbolizing prosperity, wealth and income but they are human resources who have respective rights and privileges.

The Philippines is a case in point where remittances of OFWs have greatly contributed to the growth of the country's Gross National Product (GNP), foreign exchange rate and banking system. It even boosted local consumption of local goods and services. Latest reports from the Bangko Sentral ng Pilipinas (BSP) showed that OFW remittances reached to "\$16 billion for the first eight months of 2013 with a growth of 6.6 percent from 2012" (<http://www.manilatimes.net/ofw-remittances-up-7-4/45330/>). And because of Filipino migrant workers whom we called "Ang Bagong Bayani" (Our New Heroes), the country's economy has indeed primed-up and it has confirmed to the world that Philippines is the home of the great Filipino workers.

The proliferation of illegal recruiters is another reason for the surging of human trafficking victims in migrant workers. This problem has been confronting the country since 1974 and is until now a thriving business due to the high demand of skilled and semi-skilled workers abroad. Illegal recruitment in this sense is defined as any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers and includes referring, contract services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-licensee or non-holder of authority as contemplated under Article 13(f) of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines.⁴

There is an estimated 7.4 million Overseas Filipino Workers (OFWs) who are deployed in many parts of the world. Out of this figure, there are around 1.62 million who are considered as irregular migrants and majority of them are suspected to be victims of human trafficking. Aside from this accounted OFWs, there are those who are classified as undocumented as they pass through backdoor exits via Mindanao, where transport to neighboring countries like Sabah and Malaysia is easily facilitated, and requires no official documentations.⁵

In 2012, the estimated number of undocumented Filipinos overseas, or those with irregular immigration status, was 1.3 million, slightly higher than the previous year's 1.07 million out of 10.48 million Filipinos. Malaysia is the top destination for irregular OFWs, with 447,000 out of 686,000 Filipinos (Commission on Filipino Overseas 2013).

⁴ Republic Act Number 8042, Migrant Workers and Overseas Filipinos Act of 1995

⁵ Combat Trafficking of Women and Children in the Philippines (Anti-Trafficking Report) A Synthesis of Project-handled TIP Cases, September 30, 2009, <http://trafficking.org.ph/papers/documents/synthesis.pdf>



With the growing number of documented and undocumented migrant workers deployed in more than a hundred countries in the world, government's responsibility and accountability to major stakeholders is enormous. Whether these migrant workers are documented or undocumented, they are vulnerable to various forms of intolerance such as human rights violation, economic and sexual exploitation, racial discrimination and xenophobia, poor working conditions, increased health risks and other forms of abuse, including human trafficking into forced labor and among others.

Based on 2013 Trafficking in Persons Report (US Department of State, <http://www.state.gov/j/tip/rls/tiprpt/2013/index.htm>) the Philippines' rating remain in Tier 2-watchlist stage as it did not show evidence of progress in convicting offenders, particularly those responsible for labor trafficking.

IV. Legal Framework

In response to the stated problems, the Philippine Government has initiated several national policies as mechanisms to protect the human dignity and human rights of its migrant workers while away from the home country, especially against human trafficking.

Such government interventions in the recruitment and placement of migrant workers even began in 1974 when then President Ferdinand E. Marcos issued Presidential Decree 442 of the Labor Code of the Philippines which was through the initiative of the late Blas F. Ople who served as the Minister of Labor.⁶

The Labor Code of the Philippines, being an omnibus law for all workers espouses protection to labor, promotes full employment, ensures equal work opportunities regardless of sex, race or creed and regulates the relations between workers and employer. It also assures the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work. By virtue of this provision, the law provided a scheme that considers overseas employment as a program of the government to ensure that workers leaving for overseas jobs are carefully selected with corresponding best possible terms and conditions of employment.

Five years ago, the Philippine government in its pursuit to protect and respect the dignity of every human person and its individual rights, has enacted Republic Act (RA) Number 9208, or the “Anti-Trafficking in Persons Act of 2003”, which serves as a legal mechanism to protect every Filipino citizen against such intolerance. It provides legal measures and development programs to promote human dignity and protect the people from any threat of violence and exploitation. The law also aims to eliminate trafficking in persons and mitigate pressures for involuntary migration and servitude of persons not only to support trafficked persons but more importantly, to ensure their recovery, rehabilitation and reintegration into the mainstream of society. The law further provides that the deployment of overseas Filipino workers can be made only in countries where the rights of Filipino migrant workers are protected. Just

⁶Patricia Sto. Tomas, *Protecting Migrant Workers from the Philippines, ILO Asian Regional Programme on Governance of Labor Migration, Working Paper No. 21, March 2009 p.2*



recently, with the commitment of the Philippine Government to strengthen its legal mechanism against human trafficking, it amended RA 9208 to the Expanded Anti-Trafficking in Persons Act of 2012 (RA 10364). The enactment is in consonance with the State policy that recognizes the equal rights and inherent human dignity of women and men as enshrined in the United Nations Universal Declaration on Human Rights, United Nations Convention on the Rights of the Child, United Nations Convention on the Protection of Migrant Workers and their Families. United Nations Convention Against Transnational Organized Crime Including its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and all other relevant and universally accepted human rights instruments and other international conventions to which the Philippines is a signatory.

Since it is the highest priority of the Philippine government to combat trafficking in persons, it has institutionalized the implementation of its legal mechanism to protect trafficked persons and provides penalties for its violations. This include the establishment of Inter-Agency Council against Trafficking (IACAT) through RA No. 9208, primarily tasked to coordinate, monitor and oversee the implementation of such law. It is composed of different government, non-government (NGOs) and other international development agencies. The agency (IACAT) has also established an Anti-Trafficking Taskforce at the Ninoy Aquino International Airport (NAIA) to intercept undocumented passengers, assist returning trafficked victims and share information on trafficking. In addition with, the Philippine government has maximized its effort to protect trafficked victims by launching several projects in the country and in abroad such as temporary shelters, temporary residency status, relief from deportation, and access to legal, medical and psychological services.

In 2007, then President Gloria Macapagal-Arroyo issued Executive Order Number 548-A creating the Task Force Against Human Trafficking (TFHT) under the supervision of the Commission on Filipino Overseas (CFO) to monitor, entrap, apprehend, investigate and prosecute persons involved in human trafficking. The TFHT has the mandate to recommend to IACAT policies, programs and services that can enhance government's efforts in addressing the problem. Under this task force, the Philippine Overseas and Employment Agency (POEA) intensifies its anti-illegal recruitment campaign by initiating a reintegration program for overseas workers who had been abused while working abroad. Aside from the enhanced prosecution and law enforcement activities, the protection of trafficked victims is also of paramount concern in which agencies like the Department of Social Welfare and Development (DSWD) continues to provide assistance while the Department of Foreign Affairs (DFA) assists trafficking victims abroad and coordinated their repatriation to the Philippines.

Aside from Anti-Trafficking In Persons Act, the Philippine government also adopted major laws that support full respect for human rights. These legislative measures include the Migrants Workers Act (Republic Act No. 10022), Anti-Enforced or Involuntary Disappearance Act (Republic Act No. 10353), Data Privacy Act of 2012 (Republic Act No. 10173), Human Security Law (Republic Act No. 9372) and Terrorism Financing Prevention and Suppression Act of 2012 (Republic Act No. 10168).



The other pillars of the government agency are also working harmoniously to combat human trafficking. The Department of Justice as the lead agency in prosecuting human trafficking offenses has convicted under RA 9208 144 persons for 126 convictions with penalty ranging from 4 years to life imprisonment and the amount of fines from US\$1,681.41 to US\$112,000.00 (Updates on Trafficking in Persons (TIP) Convictions, April 2014). The Philippine law enforcement agencies are also actively taking part in monitoring and combating human trafficking all over the country as well aggressively doing information and education campaign. Aside from these government agencies, civil society organizations are also vigilant in protecting Filipinos against human trafficking.

Along with these laws mentioned above, several policy instruments were issued by the Philippine Government to answer this perennial problem that has been confronting the country. However, until now the proliferation of migrant workers who are victims of human trafficking are surging amidst the present legal mechanism the Republic of the Philippines has. So, now where does the problem lies? When poverty, lack of access to education, unavailability of employment, and other social ills will be summed up together, the tendency of the most vulnerable individuals is to resort to become victims of trafficking.

Conclusions

The remarkable strides that the Philippine Government has been undertaken to curb human trafficking cannot be understated. The number of policy measures, international accords and regional cooperation that the country has are robust enough to mitigate the incidence. However, these mechanisms are not enough to curb the proliferation of this transnational crime. The cooperation of the local community and various stakeholders are foremost important.

One important aspect in curbing trafficking against persons is the collaboration of citizens to bring a community-led cooperation that will lessen the victims of human trafficking. Massive education and information campaign is necessary in alerting all citizens of the cons of being a victim. Given these issues, concerns and challenges confronting the country on human trafficking, it is of paramount concern that the implementation of the existing frameworks including its mechanisms that are incorporated in the law be revisited time and again to know its efficacy and relevance in today's situation.

Having cited as Tier 2 in the 2013 Trafficking in Persons Report (US Department of State, <http://www.state.gov/j/tip/rls/tiprpt/countries/2013/index.htm>), the Philippine Government continues to strengthen its efforts in the areas of prevention, and protection of the rights human trafficking victims and in the prosecution of cases toward a holistic strategy in curbing human trafficking.



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