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### Совет по правам человека

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**Поощрение и защита всех прав человека,  
гражданских, политических, экономических,  
социальных и культурных прав,  
включая право на развитие**

### **Доклад Специального докладчика по вопросу о торговле людьми, в особенности женщинами и детьми, г-жи Джой Нгози Эзейло**

Добавление

**Миссия на Филиппины\***

#### *Резюме*

В настоящем докладе Специальный докладчик по вопросу о торговле людьми, в особенности женщинами и детьми, уделяет основное внимание распространенным формам трансграничной и внутренней торговли людьми, затрагивающей Филиппины, и оценивает эффективность осуществляемых страной мер по борьбе с такой торговлей. Она также представляет ряд рекомендаций, включая рекомендации, касающиеся усиления потенциала соответствующих государственных должностных лиц, улучшения услуг, оказываемых лицам, ставшим жертвами торговли людьми, и устранения причин, лежащих в основе торговли людьми.

\* Резюме настоящего доклада распространяется на всех официальных языках. Сам доклад, содержащийся в приложении к резюме, распространяется только на том языке, на котором он был представлен.

## Annex

[English only]

### **Report of the Special Rapporteur on trafficking in persons, especially women and children, Ms. Joy Ngozi Ezeilo, on her mission to the Philippines**

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## I. Introduction and methodology

1. Ms. Joy Ngozi Ezeilo, Special Rapporteur on trafficking in persons, especially women and children, visited the Philippines from 5 to 9 November 2012 at the invitation of the Government. The objectives of the visit were to examine prevalent forms of trafficking in persons (“trafficking”) in the country and to assess the effectiveness of measures undertaken by the Government to combat trafficking and to protect the human rights of trafficked persons.

2. During her visit, the Special Rapporteur visited Manila, Cebu and Zamboanga. She met with the Vice-President, high-level officials from the Departments of Justice, Social Welfare and Development, Labour and Employment and the Philippine Commission on Women (PCW). She also met with officials from the Departments of Health and Tourism, the National Bureau of Investigation (NBI), the Philippine National Police (PNP), the Airport Authority, the Commission on Filipinos Overseas (CFO), public prosecutors and members of the Inter-Agency Council Against Trafficking (IACAT). At the regional level, the Special Rapporteur engaged with members of the Regional IACATs in Cebu and Zamboanga, and the Autonomous Region in Muslim Mindanao (ARMM) Council Against Trafficking in Zamboanga. She also met with representatives of the Philippine Commission on Human Rights, ARMM Commission on Human Rights and civil society organizations (CSOs) working in the field of human rights and trafficking in persons. The Special Rapporteur visited the Processing Centre for displaced persons in Zamboanga and shelters for trafficked persons managed by the Government or CSOs. She expresses her gratitude to the Government for its invitation and excellent cooperation, the United Nations Country Team in Manila for its indispensable support and CSOs for their valuable contributions.

## II. Main findings

### A. Forms and manifestations of trafficking in persons

3. The Philippines faces significant challenges as a source country for trafficking, with its citizens being trafficked in different countries of the world. This is mainly owing to the socio-economic conditions prevailing in different parts of the country, which have as underlying factors growing poverty, youth unemployment, gender inequalities, discrimination and gender-based violence, especially of women and girls. In addition, armed conflict, clan feuding and natural disasters cause displacement of large numbers of persons, further adding to the affected communities’ vulnerability to trafficking. These factors have also caused huge internal trafficking from one part of the Philippines to the other, mostly from rural areas to urban cities. Likewise, the prevalence of undocumented persons in certain parts of the country increases their vulnerability to trafficking. The Special Rapporteur found that children, women and men are trafficked within the country and abroad for the purpose of sexual exploitation, including sex tourism, cybersex and pornography, forced and bonded labour, domestic servitude and organ transplantation. In all the instances described below, traffickers use more or less the same *modus operandi* of either luring victims to fake promises of good working and living conditions, including good wages, or making them believe in sham offers of employment, while recruitment agencies (legal and illegal) involved in the trafficking chain charge victims enormous placement fees.

## 1. Trafficking for forced and bonded labour

4. Trafficking of Filipino men, women and children for labour exploitation has proliferated in various sectors, including agricultural, construction, fishing, manufacturing and services industries, whereby the dire economic situation of many Filipinos makes them look for better opportunities and thus fall prey to traffickers. Within the country, victims commonly get trafficked into agricultural and fishing industries, where they are kept in confinement, paid less than promised and induced in debt bondage by being charged for meals and other basic necessities. For instance, traffickers recruit victims from the Visayas region to work in farms and sugarcane plantations in Cavite, or from Zamboanga to work in garbage and dump sites. Moreover, despite a prohibition against employing children for hazardous work, children are also recruited to work in sugarcane plantations and garbage sites. Additionally, they are made to swim in rivers to pick palms for brooms, for example in Mandaue City, or to dive without any equipment from fishing boats in Palawan. In all these cases, children are exploited in similar conditions of debt bondage as adult victims. Local authorities are said to take no action in such cases, while victims and parents see these practices as normal in the absence of any other alternative for earning a living.

5. According to the International Labour Organization (ILO), 1 million Filipino men and women leave the country annually to work abroad and a total of 10 million Filipinos live and work overseas.<sup>1</sup> Many of these overseas Filipino workers (OFWs), men and women, are trafficked abroad, mostly through recruitment agencies forming part of organized criminal networks and often with the help of corrupt local officials. These workers subsequently become victims of forced labour and/or debt bondage in destination countries.

6. The Special Rapporteur was also informed of cases where Filipino women are trafficked to Japan and the Republic of Korea for both labour and sexual exploitation by using marriage schemes. The proliferation of matchmaking sites and mail-order bride services further adds substantially to the scale of this problem, whereby matchmakers lure Filipinas by promises of work or a better life and make them travel abroad through arranged marriages. Traffickers thus introduce young Filipinas to Japanese nationals, who subsequently marry the victims in the Philippines to make them eligible to apply for a spouse visa. Once in Japan, victims are employed as dancers and entertainers in bars. Employers confiscate their passports and identity documents; force them into debt bondage by charging them for all expenses incurred for their recruitment and sometimes abuse them physically and/or sexually.

7. Official statistics of trafficked persons assisted by the Department of Social Welfare and Development (DSWD) show that mostly women and children are victims. However, there is growing evidence of trafficking of men for labour exploitation, particularly on fishing boats. For example, in one case, 20 Filipino men were trafficked to the Solomon Islands on tourist visas and made to work on fishing boats by using falsified documents. They were deceived into believing that all costs would be covered by their employer and, in addition to the promised salary, they would receive a percentage of the catch. Filipinos are also reportedly trafficked by brokers to work on fishing boats in China, Malaysia, Papua New Guinea, Singapore and Taiwan Province of China. These men are commonly misinformed about the type of job or the working conditions. Once on the boat, they are trapped and forced to work under inhumane conditions to pay off their debts. Moreover, licensed agents recruited Filipinos, who were trafficked to Eastern Europe for employment in the service industry, as well as in clubs and hotels in the United States, for example in the widely reported case of “the Florida 15”. However, such cases of trafficking in men

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<sup>1</sup> See <http://www.ilo.org/manila/areasofwork/labour-migration/lang--en/index.htm>.

either go unreported or are often misclassified by authorities both in source and destination countries as illegal recruitment cases or mere labour disputes.

8. Traffickers also use Zamboanga City as a port of exit to entice victims from Zamboanga and the ARMM. In their search for a better livelihood in Malaysia, women are usually trafficked for the purpose of sexual exploitation through prostitution, while men are subjected to forced or bonded labour. A recent study<sup>2</sup> has shown that a higher number of men than women were deported from Malaysia, and who reported that just a few days before they were to receive their wages, Malaysian immigration authorities inspected their workplace and arrested them for lack of legal papers before deporting them. Traffickers thus exploit the labour of Filipino men and then have them deported because of their irregular status before they can even claim their wages.

## 2. Trafficking for domestic servitude

9. The high demand for female domestic workers from the Philippines and the large number of Filipinos seeking overseas employment in this sector has led to trafficking for domestic servitude being one of the most prevalent forms of cross-border trafficking. According to available statistics,<sup>3</sup> approximately 30 per cent of Filipinos deployed to work overseas in 2010 were as domestic workers, with around 1,700 men and more than 97,000 women. However, these statistics reflect only regular recruitment, while a vast majority of women and children are actually clandestinely “recruited” by illegal agents to work as domestic workers, mostly in the Middle East, where victims are locked in their employers’ homes, exploited and physically and/or sexually abused. In the trafficking journey, they are shifted several times from Zamboanga to Tawi-Tawi and then Sabah, always stealthily during the night, with their freedom of movement restricted.

10. The Special Rapporteur met with victims repatriated from Jordan and the Syrian Arab Republic, where they were employed as domestic workers and were subjected to various forms of exploitation. Those repatriated from the Syrian Arab Republic had mostly been illegally recruited with falsified identity and travel documents. Conversely, those from Jordan stated that they had gone through the whole process of regular recruitment for employment in United Arab Emirates as waitresses. Once all formalities were completed, traffickers instead took them to Jordan to work as domestic workers. One victim ran away to escape from her employer’s mistreatment but was arrested and detained for 15 days before being handed back to her employer, who refused to send her back to the Philippines unless she reimbursed the 5,000 Jordanian dinars recruitment fee. She managed to escape again and contacted the Philippine Embassy in Jordan, following which she received assistance and shelter and was finally repatriated two months later.

11. Internal trafficking for domestic servitude is also on the rise. In the past decade, the number of domestic workers in the country reached 2.5 million, with workers commonly exploited. The victims, mostly young women and children from Mindanao, driven by poverty or the fear of being forcefully married and becoming the second or third wife, are effortlessly recruited by traffickers to work as domestic workers in cities such as Cebu, Luzon and Manila. In many cases, victims suffering abuse from their employer try to run away but are reportedly apprehended and brought back to the employer’s house by local Government officials. Furthermore, poor families, in return for little money for buying seeds, are said to often send their children with neighbours, relatives or complete strangers to work as domestic workers, whereby children are exploited and prohibited from

<sup>2</sup> See [http://www.ungift.org/doc/knowledgehub/resource-centre/CSOs/CSO\\_Ateneo\\_Trafficking\\_in\\_Women\\_and\\_Children\\_in\\_ZAMBASULTA.pdf](http://www.ungift.org/doc/knowledgehub/resource-centre/CSOs/CSO_Ateneo_Trafficking_in_Women_and_Children_in_ZAMBASULTA.pdf).

<sup>3</sup> See <http://www.poea.gov.ph/stats/2010%20Deployment%20by%20Occupation,%20Destination%20and%20Sex%202010%20-%20New%20hires.pdf>.

contacting their parents. In cases where parents wanted to take their children back, they were asked to reimburse the down payment they had received plus the money “owed” by their children for board and lodging at the employer’s house.

### 3. Trafficking for sexual exploitation

12. Trafficking in women and children for sexual exploitation is widespread, both cross-border – mainly in Asia and the Middle East – and internally. The continuing demand for sexual services is one of the underlying factors contributing to internal trafficking for sexual exploitation. Victims are subjected to exploitation ranging from cybersex to sexual contact with nightclub customers and full-time prostitution within *casas* (brothels, often disguised as private residences). The numerous raid operations carried out at suspected *casas* and cybersex venues in the country and the large number of victims regularly rescued are telling of the extent to which traffickers are taking advantage of such a thriving industry.

13. The Special Rapporteur met with several victims (aged between 12 and 22) who had been trafficked mostly from the Mindanao region to Cebu and Manila for prostitution. In many cases young girls, who either run away from home to escape their parents’ physical and/or sexual abuse or want to alleviate the economic situation of their families, often approach a neighbour or friend for help. The neighbour/friend deceives them with fake employment opportunities and takes them to big cities, where they get forced into prostitution. They receive no money at all since payments are made directly to *mamasangs* (pimps). Victims work continuously from 6 p.m. to 2 a.m. irrespective of their health conditions and are confined to the *casas*. One child victim also reported that when she became pregnant she was put in a house with several other women and girls who were either pregnant or had already given birth, from where unknown persons forcefully took her baby away from her. Thereafter she was forced back into prostitution until the day she escaped and went to the police.

14. The Philippines had 3.91 million tourists in 2011, representing 5.99 per cent of gross domestic product. However, exploitation of children, especially girls, for sex tourism is alarmingly common and sometimes socially and culturally tolerated in many areas of the country. Sex tourists from various countries can be seen with young children in malls, coffee shops and hotel resorts. The Special Rapporteur was also informed of a case where an Australian national was apprehended by authorities trying to leave the airport with a six-year old Filipina. Furthermore, new technologies have also contributed to trends of child trafficking for cybersex and pornography, which have thus become widespread, particularly amongst the most excluded sectors of the population in some *barangays* (villages). Individuals, driven by abject poverty, thus resort to earning a living by engaging in child Internet pornography and making children pose nude or perform sexual acts through webcams for remote audiences.

15. In one case, a mother sought the help of local authorities to stop cybersex operations by her neighbours, who had purchased a computer on instalment and got an Internet connection. One family member acted as operator while another would perform for foreigners through a webcam, in return for money transfers ranging from \$50 to \$200 (1,200–8,000 Philippine pesos) commensurate to the length of the “show”. Children would be “recruited” for the show and paid 50–200 pesos, while some parents benefitting from this income often did not question it as it eased their day-to-day struggle for a living. This led to more poor families getting involved in cybersex and the entire neighbourhood condoning such lucrative business. Rescue operations in other *barangays* revealed situations where parents themselves made their children perform for remote customers. Movement or operations of traffickers being clandestine makes detection difficult, and when communities and families themselves get involved in the trafficking chain, the

situation becomes far more complex. Additionally, measures taken by local authorities are not necessarily effective. For instance, an ordinance was passed prohibiting closed cubicles in Internet cafés while most cases happened in private homes.

#### 4. Trafficking for the purpose of removal of organs

16. While the removal of organs for the purpose of trafficking is criminalized, there is no law explicitly prohibiting the sale of human organs from a living donor (as opposed to just criminalizing). This has therefore favoured a commercial organ market and the development of transplant tourism in the Philippines. On the one hand, following the measures by the Department of Health (DOH), fewer foreigners arrive to the Philippines for procurement of kidneys; however, on the other hand, many Filipinos are still being trafficked abroad for their organs. For example, in a widely reported case in 2011, Australian authorities investigated a case involving a young Philippine woman trafficked by an Australian national for the purpose of harvesting a kidney. The Special Rapporteur also noted with concern that even children are being trafficked for organ removal. A doctor had recently been apprehended trying to leave the country with two children he claimed to be his relatives, when in fact he was going abroad to harvest their organs.

17. Despite several measures taken by DOH to combat such trafficking at the domestic level, traffickers continue to recruit victims, taking advantage of their destitute situation and promising them huge sums of money in return for their kidneys. International criminal networks engage in recruiting and transporting these donors to transplant clinics, where surgeons and insurance agencies are corrupt. Upon successful removal of the organ, victims are left without any aftercare and often receive no or less money than promised. Traffickers also outwit existing rules by repeatedly briefing “donors” on what to say when they appear before Hospital Ethics Committees, which authorize organ transplants. In two cases, the age of child victims had even been falsified to appear before the Committee as adult donors.

## B. Legislative, policy and institutional framework

### 1. Legislative framework

18. The Philippines is party to the Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (“Trafficking Protocol”) as well as to eight of the nine core international human rights treaties.<sup>4</sup> It has also ratified several ILO conventions, including No. 129 on the abolition of forced labour, No. 105 concerning forced or compulsory labour, No. 182 on worst forms of child labour and No. 189 concerning decent work for domestic workers, in the drawing up of which the Philippines played an active leadership role.

19. The Philippines enacted the Anti-Trafficking in Persons Act (Republic Act 9208) in 2003, hereinafter referred to as “the ATIP Act”. Section 3(a) of the Act, which espoused the definition of trafficking found in the Protocol, has been amended at the time of writing this report<sup>5</sup> to also include “obtaining, hiring, providing, offering” in addition to the “recruitment, transportation, transfer or harbouring, or receipt of persons with or without the victim’s consent or knowledge, within or across national borders by means of threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of

<sup>4</sup> It has not ratified the International Convention for the Protection of All Persons from Enforced Disappearance.

<sup>5</sup> The Expanded Anti-Trafficking in Persons Act of 2012 (RA 10364) amending the ATIP Act was published on 13 February 2013: <http://www.iacat.net/index.php/94-republic-act-no-10364-or-the-expanded-anti-trafficking-in-persons-act-of-2012>.

payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation which includes at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery, servitude or the removal or sale of organs.”

20. Section 3(a) further stipulates that in cases involving children, even when none of the specified means is used, the offence of trafficking will be considered complete. The Act distinguishes between three categories of offences: (a) acts of trafficking (Section 4), punishable by 20 years imprisonment and a fine between 1 and 2 million pesos; (b) acts promoting trafficking (Section 5), punishable by five years imprisonment and a fine between 500,000 and 1 million pesos; and (c) qualified trafficking (Section 6), i.e. aggravated trafficking, punishable by a mandatory life imprisonment and fine between 2 million and 5 million pesos. It also contains provisions relating to the protection, recovery and reintegration of victims, and sets the roles of the different Government agencies involved in combating trafficking. The new amendments to the law, *inter alia*, also institute the offence of attempted trafficking (Section 4A) and lift confidentiality over the identity of persons accused of trafficking in order to warn potential victims.

21. The Migrant Workers and Overseas Filipinos Act of 1995, as amended by Republic Act (RA) 10022 in 2009, further strengthens the protection provided to OFWs. It provides for their repatriation, prohibits reprocessing or alteration of contracts, sets out the policy against illegal recruitment and regulates the ownership of recruitment agencies. This Act also ensures free access to courts and legal assistance for OFWs, and sets the role of government agencies in promoting the welfare and rights of migrant workers.

22. The Labour Code (Presidential Decree No. 442 of 1974, as amended) regulates recruitment and placement activities and sets out minimum labour protection standards for workers. It also prohibits recruitment of children under 15 years old and forbids employment of children under 18 years old in any hazardous or deleterious undertaking. One of the major loopholes of this law, exclusion of “househelpers”<sup>6</sup> from the guarantees afforded to other workers, has been addressed through the enactment of the Domestic Workers Bill.

23. The new Domestic Workers Act (RA 10361), effective as from 10 February 2013, institutes policies for the protection and welfare of domestic workers. It applies to any “person engaged in domestic work within an employment relationship such as, but not limited to, the following: general househelp, nursemaid or ‘yaya’, cook, gardener, or laundry person...”<sup>7</sup> The law sets minimum wages, social security benefits, daily and weekly rests and leave entitlements, and protects domestic workers from any kind of abuse, violence or harassment. In addition to an employment contract, it also requires employers to provide for the basic necessities of domestic workers, including decent board and lodging.

24. The Special Protection of Children against Child Abuse, Exploitation and Discrimination Act (RA 7610 of 1992 as amended by RA 9231 of 2003) affords stronger protection for the working child. It restricts employment of children under 15 years old and prohibits “worst forms of child labour” such as slavery, sale and trafficking of children, including for use in armed conflict and the use, procuring, offering or exposing of a child for prostitution, for the production of pornography or for pornographic performances. Additionally, the Anti-Child Pornography Act of 2009 (RA 9775) seeks to protect children from “from all forms of exploitation and abuse” by producers, transmitters, sellers and users of child pornography, dissemination and consumption, in public and private spaces. It also recognizes child pornography as a transnational crime.

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<sup>6</sup> Labour Code, arts. 141-152.

<sup>7</sup> Domestic Workers Act 2013, Section 4(d).



25. Another relevant piece of legislation is the Anti-Violence Against Women and their Children Act (RA 9262 of 2004). It explicitly states that the Act shall be liberally constructed in order to promote the protection and safety of victims of violence, defined as: (a) causing, threatening and attempting to cause physical harm; (b) placing the person in fear of imminent physical harm; or (c) attempting to compel or compelling the person to engage in conduct which they have the right to desist from. Additionally, it views prostitution of women or children as a form of sexual violence. Moreover, the Philippine Magna Carta of Women (RA 9710 of 2009) is a bill of rights specifically targeting disadvantaged women and includes trafficking in the definition of violence against women.

26. The Anti-Mail Order Bride Law (RA 6955 of 1990) declares unlawful the practice of matching Filipino women for marriage to foreign nationals on a mail-order basis and other similar practices. It provides safeguards against exploitation of Filipino women “in their pursuit of economic upliftment”. However, the modes of matchmaking are limited to only mail correspondence and postal services, while Internet is the most common mode used for trafficking women and girls. Another major weakness of this law is that it provides protection for only women and girls and not men.

27. Lastly, DOH’s Administrative Order 2008-0004-A regulates the practice of kidney transplantation from living non-related donors (LNRD). Foreigners are prohibited from receiving kidneys from Filipino LNRD, and payment as precondition for kidney donation and sale/purchase of kidneys is also strictly prohibited.

## 2. Policy framework

28. The Philippines developed a national plan 2004–2010 for implementing the ATIP Act, focusing on three areas, namely prevention, protection (including law enforcement and prosecution), and recovery and reintegration. In December 2012, it launched its second strategic plan for 2011–2016, adding partnership and cooperation as the fourth area. This plan, developed in consultation with a number of CSOs, is meant to serve as the backbone of national interventions and efforts to combat trafficking and thus harmonize the goals, targets, strategies and activities of other agencies.

## 3. Institutional framework

29. The Philippines has adopted a multidisciplinary approach in combating trafficking with the Inter-Agency Council Against Trafficking (IACAT), established under the ATIP Act. It is composed of high-ranking officials from key Government agencies,<sup>8</sup> with the Secretaries of the Department of Justice (DOJ) and DSWD as chairperson and co-chairperson, and three CSOs working on issues relating to women, OFWs and children. It also has ex officio members.<sup>9</sup> IACAT is mandated to perform numerous functions, including (a) formulating a programme to prevent and suppress trafficking; (b) promulgating rules and regulations for effective implementation of the ATIP Act; (c) monitoring such implementation by member agencies; and (d) training Government officials. IACAT is also tasked with (a) developing a mechanism to ensure timely, coordinated, and effective response to cases of traffick-

<sup>8</sup> Members of IACAT also include the Departments of Foreign Affairs, Labour and Employment, Interior and Local Government, Philippine Overseas Employment Administration, Bureau of Immigration, PNP, PCW, CFO and Philippine Center for Transnational Crimes.

<sup>9</sup> Ex officio members also include the Office of the Vice-President, NBI, the Council for the Welfare of Children, the National Youth Commission and the Anti-Money Laundering Council of the Philippines.

ing; (b) assisting in filing cases against perpetrators; and (c) formulating programmes for victims' reintegration.

30. IACAT has set up operational units in the form of task forces at different strategic locations. Accordingly, 12 multidisciplinary taskforces operate under the National Inter-Agency Task Force Against Trafficking (NIATFAT)<sup>10</sup>, some of which are based at airports, harbours, seaports and other areas known as hotspots where incidence of trafficking is high. The task forces conduct intelligence, surveillance, interception, rescue operations, arrest and investigation of traffickers in coordination with local enforcement agencies. The lead agency in these multidisciplinary arrangements is the DOJ. Additionally, an operation centre, functioning 24-hours, includes a quick reaction team (QRT) composed of prosecutors, law enforcement officers, social welfare investigators and representatives from CSOs. QRT responds to calls from the IACAT hotline, conducts surveillance, centralizes rescue operations and provides speedy emergency services to victims.

31. At the regional level, there is an inter-agency structure similar to IACAT in 17 regions of the country. Regional IACATs (RIACATs) promote and advocate for the incorporation of the ATIP Act's provisions into local ordinances, as well as the institutionalization of national policies and programmes. Under DSWD's lead, RIACATs coordinate anti-trafficking efforts in their respective regions, provide technical assistance to member agencies and submit status reports to IACAT. At the provincial level, either provincial/city/municipal IACATs, chaired by Local Chief Executives, or Provincial Gender and Development Offices, constitute the structure involved in anti-trafficking efforts. In several provinces there are other structures such as "anti-trafficking referral networks" to monitor and assist victims of trafficking.

32. The Bureau of Immigration (BI) is tasked with controlling the entry, stay and exit of foreigners in and monitoring the exit of Filipinos from the country. It is a member of both IACAT and the Presidential Task Force Against Illegal Recruitment. It has established an Integrated Trafficking in Persons Coordinating Committee to administer its trafficking action plan and oversee, coordinate and supervise its anti-trafficking activities. It also instituted a Travel Control and Enforcement Unit in 2010, which operates at all international airports and, *inter alia*, conducts secondary inspection of passengers, undertakes verification of their travel documents and off-loads passengers with fraudulent travel documents and/or doubtful purpose of travel, including where there are signs of passengers being potential victims of trafficking.

33. The Department of Labour and Employment (DOLE) has established a number of agencies that deal with issues concerning OFWs. At domestic level, a Philippine Overseas Employment Administration (POEA) has been set up with offices in different regions. Its core functions include (a) issuing licenses for, regulating and maintaining a blacklist of private recruitment agencies and ship manning companies; (b) evaluating and processing employment contracts; (c) entering into memoranda of understanding on hiring of Filipino workers with labour-receiving countries; (d) facilitating deployment of workers; (e) conducting pre-employment orientation and anti-illegal recruitment seminars; and (f) providing repatriation assistance. Alongside POEA, the Overseas Workers Welfare Administration is tasked with protecting and promoting the welfare and well-being of OFWs and conducting pre-deployment orientation seminars. DOLE also has a national programme against child labour, the Sagip-Batang Manggagawa (SBM) project. It is made up of an inter-agency quick action team for detecting, monitoring, and rescuing child labourers identified as

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<sup>10</sup> NIATFAT is composed of DOJ prosecutors, DSWD social workers, agents of NBI-AHTRAD, PNP and BI officers.

working in hazardous and exploitative working conditions, including bonded labour, commercial sexual exploitation, trafficking for illegal employment and hazardous work.

34. CFO, another agency of DOLE, is tasked with protecting the interests of Filipino emigrants and permanent residents abroad. It also heads IACAT's Committee on Advocacy and Communication, which in March 2011 launched the 1343 Actionline, a 24/7 toll-free hotline to deal with emergency calls from victims of trafficking. CFO also helps Filipinos with issues surrounding interracial marriages and settlement overseas, including information on the risks of trafficking.

35. DOH has established the Philippine Board for Organ Donation and Transplantation to oversee the implementation of policies related to organ transplantation. It also accredits facilities authorized to perform organ transplantation, formulates national ethical standards for organ donation and monitors compliance with such standards.

36. Following the peace deal signed in October 2012 between the Government and the Moro Islamic Liberation Front, the ARMM Regional Government also established its Council Against Trafficking with support from IACAT and United Nations agencies. The Special Rapporteur is encouraged that close collaboration between these two councils may lead to a decline in the number of persons trafficked from the ARMM.

37. With such a plethora of structures, the Special Rapporteur found it difficult to assess how they function in practice and to what extent each of them is useful and effective. Given the intricacy of cases involving trafficking, she underscores the need for harmonizing the actions undertaken by each entity. A framework with specific tools for monitoring and evaluating results and performance of the various agencies, especially at regional and provincial levels, is yet to be formulated. In addition, she received information that in conflict and disaster affected areas, victims are trafficked directly from camps of internally displaced persons. However, RIACATs and PIACATs (Provincial IACATs) have no clearly specified role and responsibility in relation to prevention of and response to trafficking in such emergency settings, leading to no specific measure being taken by these bodies to prevent or respond to trafficking in humanitarian settings.

### **C. Identification of trafficked persons**

38. The primary responsibility for identifying victims of trafficking rests with PNP, and now also with NBI. PNP operates through its regional, provincial, municipal, district and local police units countrywide. It identified 237 female and 30 male victims in 2010, while these numbers increased to 835 and 46 in 2011, whereas in 2012 the number of female victims identified decreased to 612 as compared to that of male victims, which reached 112.

39. Additionally, immigration officials and the airport authority, operating in collaboration with IACAT task forces, conduct monitoring, surveillance and interception of potential victims at airports. Between March 2007 and September 2012, 1,562 passengers had been offloaded at the NAIA Airport Manila, including 275 OFWs having irregularities in their documents, 919 passengers travelling on a tourist visa with the intention of working abroad and 79 children. Fifty-eight trafficking and 48 illegal recruitment cases were filed with DOJ during that period. Moreover, NAIA Airport has an on-spot dental aging examination facility enabling immediate identification of minors. Hence, where task force officials identify a passenger as a minor suspected to be in possession of documents falsifying his/her age, they immediately refer him/her to the airport dentist to determine

his/her age. Passengers are also sometimes referred to hospitals for further bone-aging examination. Additionally, minors travelling without their parents need travel clearance from DSWD and social workers posted at exit points monitor such children travelling abroad.

40. A sea-based task force in Zamboanga and a harbour task force in Manila also conduct surveillance, and identify and intercept trafficking victims. Moreover, Overseas Passenger Assistance Centres at various airports and seaports screen passengers before they board vessels or airplanes for potential signs of trafficking, illegal recruitment and/or exploitation. Since the establishment of such a centre in Zamboanga in 2011, it has profiled 4,149 passengers and intercepted 769 trafficking victims. Likewise, POEA has a labour assistance centre that verifies documents and screens departing OFWs. This enabled identification of 101 suspected victims who were prevented from leaving the country.

41. Hotlines have been designed to facilitate identification of trafficked persons. As of 15 October 2012, IACAT's 1343 Actionline received 13,594 calls from local and overseas sources, which led to repatriation of 114 victims and registration of 193 cases, including 56 trafficking, 58 illegal recruitment and 6 mail-order bride cases. Similarly, DSWD has TIP-Helplines in 16 field offices and a hotline at its central office.

42. The Special Rapporteur acknowledged the dedication shown by the law enforcement officers she met during her visit and the increased number of victims identified in the recent years. However, she notes that, given the scale of both cross-border and internal trafficking, the official figures represent only a very small fraction of the total number of trafficking victims, with many victims having been misidentified as being involved in simple cases of illegal recruitment or treated as criminals, especially in cases involving trafficking for sexual exploitation in prostitution.

43. Moreover, despite widespread acknowledgement of the problem by Government officials, deep-rooted corruption at all levels of law enforcement continues to be a major obstacle in identification of trafficked persons. In numerous cases, law enforcement officials were directly implicated in trafficking cases and such corruption is pervasive, especially at the provincial or local level. Officers accept monetary benefits, while local Government chiefs or executives commonly intervene to protect traffickers from being arrested and prosecuted. The prevalence of corruption has resulted in deep mistrust of law enforcement officers by trafficked persons, many fearing to denounce their traffickers, while CSOs and honest law enforcement officers involved in rescuing victims are forced to operate secretly.

44. Besides corruption and absence of political will in various parts of the country, law enforcement agencies lack the funding required to be adequately equipped in terms of financial, technical and human resources. Operating under such circumstances makes it more difficult for officers to support high demands for intervention and assistance and to rapidly and accurately identify trafficked persons. Consequently, they do not proactively pursue investigations and instead only act upon complaints, relying to a large extent on CSOs' assistance in carrying out rescue operations.

45. The Special Rapporteur acknowledges the Government's intensified efforts in building the capacity of frontline officers to identify victims. A PNP Manual on Investigation of Trafficking in Persons Cases was also developed with the support of the United Nations Office on Drugs and Crime. However, there was no indication whether law enforcement officials used the training or the manual consistently and systematically. Furthermore, high staff turnover rates resulted in replacement of trained officials by untrained staff, which again negatively impacted victims' identification.

46. The very low rate of identified victims trafficked for labour exploitation may also be partially explained by the fact that there are only 300 labour inspectors for the whole

country. The Special Rapporteur was informed that 372 additional inspectors would be recruited. However, DOLE also reckoned that not all existing labour inspectors were trained to identify trafficking victims and that, given the high number of business establishments (800,000 countrywide), DOLE had to prioritize routine inspections to only general conditions of work. Hence, each inspector was only able to daily inspect 1.5 establishments with a minimum of 10 employees. And only when they received complaints related to trafficking did labour inspectors take any action, especially if children were involved, through the SBM quick action team. Conversely, cases involving adult victims are referred to IACAT, NBI and Local Government Units (LGUs). DOLE therefore seems to relegate the responsibility to other agencies when faced with situations of adults trafficked for labour exploitation. Additionally, it views all cases involving issues of underpayment as merely a violation of labour standards and not involving slavery or forced labour, leading to many victims trafficked for labour exploitation falling into the cracks and not being properly identified.

47. The Special Rapporteur also noted that not much focus is placed on trafficking for organ removal. She was informed that health services are devolved to LGUs, so that while at national level the Government has made significant efforts to curb such trafficking, at provincial level this has not been the case. The official number of foreigners coming to the Philippines for organ transplants has declined from over 500 in 2007 to reportedly none in 2012. However, the Special Rapporteur remains concerned that the administrative directives issued by DOH are not being enforced in many Hospital Ethics Committees, which continue to have a huge number of transplants from LNRD. She further notes that DOH is not a member of IACAT, which may also explain this lack of focus.

48. Lastly, the Special Rapporteur is also concerned that law enforcement agencies and the various task forces, confronted with adult victims' unwillingness to cooperate, focus on conducting rescue operations solely in venues where minors are trafficked for sexual exploitation, resulting in many adult victims trafficked for sexual exploitation not being identified. She recalls that victims are usually unaware that they are victims and instead may think that they are being prevented from earning the only living they have. There is therefore a critical need to intensify awareness-raising campaigns targeting such victims.

## **D. Protection, recovery and reintegration of trafficked persons**

49. In terms of protection from further harm to trafficked persons, the Special Rapporteur found that implementation of the legal framework remains weak. She is concerned, for instance, by the lack of witness protection due to which many victims decline to cooperate in investigation and prosecution of their traffickers for fear of reprisals. This is further reflected in the low number of trafficked victims covered by DOJ's witness protection programme, which at the time of the visit was only 30. Additionally, protection provided to victims lasts only during trials, even in the possibility of post-trial reprisal. The only support provided in cases where victims may still face such risks is to allow them to remain in shelters. To date, even this measure has been taken in only one case.

### **1. Non-criminalization of trafficked persons**

50. Section 17 of the ATIP Act explicitly states that trafficked persons shall be recognized as victims and thus not be penalized for crimes directly related to the acts of trafficking. It is noteworthy that, in March 2012, RA 10158 revised article 202 of the Penal Code to decriminalize the offence of "vagrancy". However, prostitution still remains a crime under article 202 so that prostitutes continue to be regarded as criminals. The Special Rapporteur is therefore concerned that trafficked victims involved in prostitution are often treated as criminals and not offered the support they require. Indeed, she met with victims

who confirmed receiving no support at all from concerned authorities. Limited opportunity for reintegration of victims often results in their being re-trafficked and re-victimized.

## **2. Rescue operations**

51. The Special Rapporteur noted that the task forces in different regions have successfully carried out numerous rescue operations in commercial sex and entertainment venues. She was also informed that they closely cooperate with media, *inter alia*, when conducting rescue operations, with the aim to collect admissible evidence against perpetrators. While the Special Rapporteur encourages such cooperation in investigation of trafficking cases, she is also alarmed by the fact that such operations often do not fully respect victims' human rights. In this regard, she heard allegations that, where raids were carried out in the presence of media, victims had been filmed in little or no clothes before being taken to police stations. Media in these cases failed to respect victims' privacy. The Special Rapporteur also observed the disturbing presence of media, questioning victims repatriated from the Syrian Arab Republic and Jordan, immediately after they had arrived at the airport.

52. Additionally, several rescued victims, including children, stated that at the time of the raids and in subsequent interviews and detention, they had not been properly explained why they were "apprehended" or what their rights were. In such circumstances, many refused to cooperate with law enforcement and social welfare officers.

## **3. Support to trafficked persons in recovery and reintegration**

53. Section 23 of the ATIP Act sets out the mandatory services to be provided by concerned Government agencies to victims to ensure their recovery, rehabilitation and reintegration into society. DSWD is the main agency responsible for providing these services and operates 42 residential care units and temporary shelters, including 11 for trafficking victims in different regions. DSWD Crisis Intervention Units provide 24-hour emergency services to victims and quick reaction multidisciplinary teams attend to persons seeking DSWD assistance.

54. Foreign Service Posts (FSPs) under the Department of Foreign Affairs (DFA) have a 24/7 mobile hotline for Filipino victims of cross-border trafficking. DFA officers ensure provision of appropriate assistance to victims, including temporary shelter and medical and legal assistance. Pending investigation, victims are in some cases either accommodated in the Filipino Workers Resource Centers (FWRCs) in destination countries or immediately repatriated. The Special Rapporteur was informed that, due to lack of resources for repatriation, many victims end up staying in FWRCs for long periods and in some cases they are even asked to pay for their lodging after the first year.

55. DSWD also provides financial assistance ranging between 200 and 10,000 pesos to trafficked victims who are either awaiting employment, undergoing skills training, or under the Balik Probinsya Programme. These funds are also available for initiating small businesses or for victim-witnesses who have ongoing court cases. However, the Special Rapporteur notes that such nominal financial assistance is largely insufficient to save the beneficiary victims from their precarious situations.

56. The Special Rapporteur visited the Haven in Manila, which provides assistance and shelter to adult women in disadvantaged situations, namely victims of gender-based violence or those vulnerable to abuse and exploitation, and adult trafficked women. Victims are also provided medical assistance, psychological counselling, dental care, self-care, survival skills and vocational training. The shelter accommodated 312 victims from January to November 2012, including 104 trafficking victims. Trafficked victims normally stay there for a period between three and six months maximum. At the time of the visit, 13

trafficked victims were in the shelter, which was critically understaffed to provide all residents with comprehensive support.

57. The Special Rapporteur also visited Marillac Hills in Manila, a childcare facility providing care and rehabilitation to female children abused, exploited, trafficked or in conflict with the law. From 2009 to November 2012, this facility had sheltered 255 trafficking victims, most had been reintegrated back in their families. At the time of the visit, 91 child victims of trafficking were in the facility together with other children, including 39 children in conflict with the law for mostly crimes against property. Marillac Hills also provides the same services as the Haven and also has a school. The Special Rapporteur expressed grave concerns about hosting children in conflict with the law and victims of trafficking within the same shelter.

58. In Cebu, the Special Rapporteur visited the Regional Haven and Her Space, a processing centre for initial assessment and processing of rescued women and girls trafficked for commercial sexual exploitation. This centre provides victims with food, clothing, personal care items, temporary shelter for maximum two weeks, psychosocial support sessions, orientation on DSWD rehabilitation programmes and services, information and education sessions and legal counselling by lawyers from CSOs. This facility received 867 women and 267 children victims from 2007 to October 2012, of whom 13 women and 249 children were referred to DSWD shelters, while 847 women and 17 children were reintegrated in their families or communities.

59. In Zamboanga, the Special Rapporteur also visited the DSWD Processing Center for displaced persons, a temporary shelter for deportees from Malaysia, the Halfway House for trafficking victims as well as other CSO-run shelters in both Cebu and Zamboanga. She noted that numerous CSO-run private shelters provide housing and other essential services, including vocational and job-readiness trainings, to assist trafficked victims' recovery. However, some CSOs reported not receiving support, financial or otherwise, from the Government (beyond a mere sack of rice for few).

60. Care and support provided to victims in the DSWD-run shelters were highly inadequate, due to the low number of employees compared to the number of victims accommodated, and to the lack of funding. Moreover, although DSWD reported having trained 552 social workers countrywide on victims' recovery and reintegration, the majority of local social welfare officers and shelter employees remained inadequately trained, especially regarding assistance to children and victims trafficked for forced labour. This leads to shelter staff failing to implement victim-sensitive procedures or to otherwise comply with appropriate guidelines resulting in further traumatization of victims, particularly children.

61. Legal services to trafficking victims in the shelters are only limited to prosecution of traffickers. Likewise, many medical needs of victims, especially those requiring specialized care, are met by non-governmental organizations. Additionally, shelters prioritize services for trafficked girls, leaving fewer options for trafficked women, boys and men. With only three facilities in Metro Manila, including a temporary shelter, hosting solely trafficked boys, male victims are left on their own regardless of the outcome of a reintegration assessment, if at all carried out. Lack of support services and residential facilities, particularly for those trafficked for sexual exploitation, deprives them of the necessary services and specialized care needed to cope with trauma and recover.

62. Furthermore, the majority of victims are reintegrated in their families and communities where the services to support their recovery are limited due to local communities' inadequate capacity to undertake the required monitoring and aftercare programmes necessary for a smooth reintegration. Despite a significant increase in the funds allocated to DSWD since 2011, progress in the aftercare services for victims

remained reportedly slow. This is especially so in the absence of commitment from LGUs that are not adequately equipped with necessary professional expertise/manpower and financial resources to meet the needs of trafficked persons. Local social welfare offices are said to routinely take decisions aimed at saving money and staff time to the detriment of victims' best interests. Additionally, lack of coordination between national, regional, provincial and local service providers raises a serious concern as to whether reintegration is the most appropriate remedy for victims, especially in the absence of aftercare, including therapeutic services and capacity-building opportunities, essential to avoid re-trafficking. One positive example, though, is the Reintegration Support Network in Cebu, which provides aftercare to victims reintegrated in Mandaue City. Such models should be replicated throughout the Philippines.

## **E. Investigation, prosecution and punishment**

63. The Government made significant efforts to investigate and prosecute trafficking cases. In addition to training of law enforcement officers, a new training module on trafficking cases was included in the Philippine Judicial Academy. More funds were also allocated to IACAT to increase the number of prosecutors handling trafficking cases. These prosecutors assist law enforcement officers to build up cases and also prosecute perpetrators. This led to an increase in the new cases filed in courts as well as increased investigation into corruption within law enforcement agencies. However, investigation and arrest of offenders seem to be focused on cases involving sexual exploitation. Indeed, of the 106 convictions secured, very few cases pertain to trafficking for labour exploitation, with only 2 of the 31 persons convicted in 2011 for labour exploitation. Likewise, POEA referred only one case of trafficking for forced labour to DOJ in 2011. Moreover, besides cancelling licenses of recruitment agencies involved in the trafficking of OFWs, to date only charges of illegal recruitment have been filed against the persons liable in these establishments. Additionally, corruption among law enforcement officials and other Government employees continues to hinder effective investigation of trafficking cases. The Special Rapporteur received no information on any criminal/administrative action taken against either POEA employees involved in trafficking of OFWs, or any doctor or hospital official implicated in organ trafficking.

64. At the national level, law enforcement agencies have actively engaged in training programmes intended to build capacity for pursuing trafficking cases. However, the effectiveness of law enforcement authorities in investigating and prosecuting traffickers varies when it comes to regional and local levels, especially given that many officials at local level lack a comprehensive understanding of trafficking and not all are adequately trained to handle trafficking cases. Moreover, even if officials in the specialized task forces have adequate expertise, a number of additional factors hamper effective investigation of trafficking cases. For instance, their positions not being "plantilla" positions, they do not have the opportunity for career development in these task forces. Consequently, well-trained officers often transfer to other divisions to seek career advancement. Additionally, the number of investigators and prosecutors handling trafficking cases in the Philippines is still highly inadequate taking into account the scope of the problem in the country, which makes them prioritize operations and investigation according to chances of successful prosecution to the detriment of many victims. Access to justice therefore seems to be mainly focused on convictions and victims are not being assisted in claiming compensations.

65. The limited level of investigation of trafficking cases undeniably has repercussions on the prosecution rate. While recognizing the current Government's enormous efforts, given the prevalence of trafficking, only 1,711 cases were registered by IACAT from 2005 to January 2013, while 106 perpetrators were convicted. The Special Rapporteur is also



concerned over the length of judicial proceedings and the serious backlog of cases pending before courts, around 680 in 2011. It normally takes three to four years for trials to be completed before first instance courts, while one case involving trafficked children lodged in 2004 was still ongoing in 2012. In addition, courts are said not to always abide by the law or follow standard operating procedures. For instance, alleged perpetrators in a trafficking case were released on bail despite it being a non-bailable offence. Hence, such incidents and endemic delays in prosecution and conclusion of trials, combined with other factors such as the long distance between courts and victims' residences and inadequate witness protection, act as strong disincentives for victims to pursue cases.

66. Furthermore, the Special Rapporteur was informed that law enforcement officers, social workers and other service providers were subject to harassment and threats from perpetrators, in attempts to weaken their commitment. In many cases, traffickers also pay parents in order to apply for writs of habeas corpus or amparo to get child victims out of shelters.

## F. Redress

67. The ATIP Act does not explicitly recognize the right of trafficked persons to compensation and instead Section 23(c) stipulates that victims be provided with "free legal services which shall include information on the procedure for filing complaints, claiming compensation and such other legal remedies available to them". No information was received on any court case where compensation was claimed by and/or awarded to victims. Moreover, it is not clear whether this is a result of victims not being adequately informed about their right to compensation or of their decision not to seek compensation as provided under the Civil Code, given the expected delays in trials.

68. Trafficked persons can nevertheless seek nominal compensation under DOJ's Victim Compensation Programme, which grants 10,000 pesos (\$209) as compensation for victims of unjust imprisonment or detention and victims of violent crimes. Of the 102 trafficked victims that applied for compensation between 2008 and October 2012, 71 were granted and 16 denied compensation, while 15 still had their applications pending at the time of the visit. Again, a major barrier to obtaining these funds is the tedious and complicated procedure. Additionally, given the specific requirement to file the application within six months, *inter alia*, from the date victims sustained the "damage or injury",<sup>11</sup> it is often too late for trafficking victims to apply for compensation.

## G. Prevention

69. The Philippines has taken a number of measures aimed at preventing trafficking, including efforts to raise awareness about trafficking in persons. For instance, IACAT developed and disseminated a three-hour television show on trafficking awareness. CFO led a series of measures aimed at raising awareness of Filipinos on the issue, namely (a) community education programmes reaching 90,000 persons in 2011 and 2012 coming from the provinces and cities of Metro Manila; (b) training of 308 participants from different regions to become trainers on advocacy; (c) audio/video infomercials and printed information about the 1343 Actionline; (d) dissemination of the BI guidelines on departure formalities for international bound passengers; and (e) a poster-making contest to campaign against mail-order bride schemes. CFO also established a Foreign Sponsor Watchlist System on foreign partners, including potential traffickers.

<sup>11</sup> See <http://www.doj.gov.ph/victims-compensation-program.html>.

70. Likewise, POEA engaged in awareness-raising on illegal recruitment and trafficking by (a) conducting orientation seminars for over 100,000 potential OFWs; (b) distributing information on the issue to over 50,000 persons; and (c) conducting training for public service officers, law enforcement officials and a seminar targeting tertiary students from the more vulnerable provinces of the country informing them about alternatives to migration.

71. The Special Rapporteur observed that a significant number of children born in Malaysia to Filipino parents, who have been deported back to the Philippines, did not have identification documents, which increases their vulnerability to trafficking. Lack of citizenship significantly restricts their enjoyment of the rights to education, employment opportunities, health services and freedom of movement, which encourages them to resort to unsafe migration avenues at the risk of being trafficked. She was informed of the recent progress made in issuing birth certificates to many of these children, and urges the Government to intensify efforts in this regard.

72. Some FSPs are involved in orientation seminars for Filipinos abroad and maintain contacts with expatriate Filipino communities to continuously raise awareness on rights of migrant workers. They also cooperate with host Governments' agencies in preventing and combating trafficking.

73. DOT launched the Child Wise Tourism (CWT) Programme in 2003 to advocate against child sex tourism, prevent sexual exploitation of children in the country's tourist destinations, and promote ethical and sustainable tourism practices that respect child rights. It conducted workshops to raise awareness on the prevention of child sex tourism targeting tourism industry employees and other relevant key stakeholders such as tourist police, travel and transport associations, tour guides and LGUs.

## **H. Cooperation and partnership**

### **1. Cooperation with civil society**

74. A number of CSOs have engaged with the Government in addressing trafficking, focusing their work on investigation and prosecution of trafficking cases, advocacy, information dissemination and the provision of services to victims. Numerous successful rescue operations and prosecution of trafficking cases were also led by CSOs with experience and expertise. The Special Rapporteur commends the strong partnership between the Government and the CSOs. However, a number of stakeholders expressed the view that this partnership, especially the membership of IACAT, is just with a few CSOs. Others felt that some Government agencies were heavily relying on financial and technical assistance from CSOs, with the danger that should those CSOs pull out, many projects would be at stake.

### **2. International, regional and bilateral cooperation**

75. The Philippines concluded bilateral agreements on labour and consular matters with a number of countries in 2012, including bilateral cooperation specifically against trafficking with Brazil and Lebanon. These agreements aim to promote Filipino workers' rights to fair wages and hours of employment, and to combat all forms of trafficking. It also concluded mutual legal assistance agreements on criminal matters with China and the United Kingdom, and was negotiating similar agreements with Belgium and Ireland at the time of the visit.

76. At the regional level, the Philippines took a leadership role in the adoption of the Association of Southeast Asian Nations (ASEAN) Declaration on Trafficking in Persons. It has further actively advocated for an ASEAN Convention on Trafficking in Persons. Moreover, it also co-drafted a proposal for a legally binding instrument to implement the

ASEAN Declaration on the Promotion and Protection of the Rights of Migrant Workers. At the international level, it is involved in a number of initiatives such as the Bali Process on Human Trafficking, the Colombo Process on Migration, and the Global Forum on Migration and Development.

### **III. Conclusions and recommendations**

#### **A. Conclusions**

77. The Philippines has shown a high level of commitment to combating trafficking, through its comprehensive domestic legal framework, the establishment of IACAT, the multidisciplinary approach adopted by key Government agencies, and its active participation in the region. Despite these improvements at the national level, the Special Rapporteur remains concerned about the layered and differentiated levels of implementation of the policy and legal frameworks in different regions, mainly due to local Governments' varying political will and economic capacity. Further, lack of earmarked funding for specific anti-trafficking programming in the various member agencies of IACAT, coupled with consistent shifts in power among high-level Government officials and lack of uniformity in laws and ordinances, and in accountability structures at all levels of Government, have led to varying levels of prioritization of anti-trafficking activities in the different agencies and at different levels of Government.

78. There is also a lack of standardized and accurate data on the forms and manifestations of trafficking and a corresponding lack of understanding among judges, prosecutors, social service workers and law enforcement officials, resulting in the low number of victims trafficked for organ removal or for labour exploitation being identified. Labour inspectors also do not have the capacity necessary for effective oversight. Additionally, trafficking is still viewed primarily as a problem concerning women and children and programmes and policies on internal trafficking are focused on sexual exploitation, while confusing and conflicting data were received from one agency to the other.

79. Furthermore, corruption in law enforcement has affected the efficacy of Government policies and programmes to combat trafficking. The Special Rapporteur recognizes the Government's continuing efforts to reduce corruption and commends it for having investigated and initiated administrative procedures against several officers of the BI and POEA through the Office of the Ombudsman. However, she received no information on any criminal sanction having been instituted against officials facilitating the activities of traffickers.

80. The prosecution rate remains very low, perpetuating the impunity of traffickers and obstructing victims' access to justice. Delays in investigation and prosecution, together with inadequate witness protection programmes, threats from traffickers and distance of courts from victims' residences, contribute to their unwillingness to cooperate with law enforcement officers. Rescue operations are not sufficiently victim-oriented, may adversely impact trafficked persons' human rights and are mainly focused on children victims.

81. Shelters for trafficked persons lack capacity and funding to provide victims with comprehensive support in their recovery process. There is also lack of dedicated shelter facilities for trafficking victims in general and in particular for adult male victims. A large number of victims are reintegrated in their families or communities without proper assessment, with little or no follow-up, placing them at an increased

risk of being re-trafficked. Furthermore, trafficked persons are often not given enough reflection time in addition to not being systematically informed about their right to compensation.

82. While the Government has actively engaged in awareness-raising campaigns against trafficking, the root causes of trafficking, particularly poverty and demands for cheap and exploitative labour and for sexual services, need to be effectively addressed. Community-based education programmes, although carried out in a number of areas, have not been done on a large scale, while programmes building the livelihood capacity of families sustainably as well other means of economic assistance to them remain insufficient.

## **B. Recommendations**

83. Based on the conclusions, the Special Rapporteur recommends that the Philippines:

(a) Develop a standardized system for the collection of statistical information, disaggregated by age and gender, in collaboration with independent research institutions and CSOs to determine the prevalence rate, forms, trends and manifestation of trafficking, and build capacity for such systematic data collection;

(b) Ensure that its national policy on combating trafficking has specific targets, performance indicators and timelines for implementation as well as mechanisms that are able to review and evaluate implementation, and with meaningful participation of trafficked persons in the designing, monitoring and evaluation of policies, measures and activities aimed at combating trafficking and protecting their human rights;

(c) Allocate sufficient financial and human resources to allow IACAT and its member agencies to perform their respective functions. Alternatively, streamline the existing multi-disciplinary bodies so as to reduce the demands for coordinating such bodies;

(d) Intensify large-scale capacity-building for all relevant public officials including law enforcement officers, immigration officials, judges, prosecutors and labour inspectors, with special focus on increasing the knowledge and skills of front line officials to identify, protect and assist trafficked persons, and increase engagement with CSOs in this regard;

(e) Reinforce the capacity of PNP and NBI to undertake high-quality, ethical and effective investigations;

(f) Effectively address the current policy regarding tenure of office and promotion prospects of officers and ensure continuation of expertise and experience within the task forces;

(g) Strengthen the capacity of prosecutors to effectively prosecute trafficking cases with due attention to the rights of accused persons to a fair trial and the rights of victims-witnesses to protection and support, and consider introducing a system, including specialized courts, to fast-track trafficking-related prosecutions;

(h) Continue strengthening cooperation with other countries with a view to improving the identification and protection of victims and the apprehension of suspects;

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- (i) Intensify the policy of zero tolerance in respect of trafficking-related corruption and complicity by public officials by intensifying efforts to investigate, prosecute and adequately punishing offenders;
- (j) Strengthen the role of labour inspectors in identifying trafficked persons in workplaces and preventing exploitative working conditions and ensure that they are fully involved in the detection of trafficking cases;
- (k) Ensure that the DSWD national referral mechanism is properly understood by all stakeholders, including law enforcement officers and CSOs involved in anti-trafficking initiatives;
- (l) Ensure that raids and rescue operations are victim-centred and do not cause any discriminatory impact on victims and those who are not victims of trafficking, and provide rescued victims with comprehensive information about their rights and ensure that they are not criminalized for any offence directly resulting from their situations as trafficked persons;
- (m) Ensure that shelters provide safe space for trafficked persons' recovery and reintegration as well as comprehensive and individually tailored assistance to all, including male victims, in addition to ensuring access to independent legal advice and social workers and psychologists trained to work with trafficked persons;
- (n) Make available alternative care arrangements for child victims of trafficking, such as staying with foster parents;
- (o) Ensure that trafficked persons are provided with necessary support and assistance to seek remedies;
- (p) Ensure recovery of trafficked persons, particularly when they are reintegrated in local communities, by having specific targets, performance indicators and timelines, to monitor implementation by LGUs and other service providers;
- (q) Intensify efforts to raise awareness about trafficking among journalists and train them in accurate reporting and respecting the privacy of victims;
- (r) Appropriately target specific groups at higher risk of being trafficked, victims' parents as well as employers and brokers in awareness-raising activities, and ensure that victims are also consulted in preliminary analysis, design, monitoring or evaluation of these campaigns;
- (s) Intensify efforts to address the root causes of trafficking, strengthen safe migration options for citizens, and reduce their vulnerabilities to all forms of trafficking;
- (t) Strengthen cooperation with neighbouring countries in preventing and eliminating clandestine movements that contribute to trafficking of migrant workers, while at the same time ensuring options for safe migration; and
- (u) Ensure effective implementation of bilateral and regional MoUs which provide proper protection for migrants.
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