TRANSNATIONAL CRIME AND THE PHILIPPINES CASE: 
AN ASSESSMENT OF THE IMPLEMENTATION OF THE ANTI-TRAFFICKING IN PERSONS ACT OF 2003

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ABSTRACT

Trafficking in Persons (TIP) is one of the fastest growing and the third most profitable transnational crime activity. It is often referred to in the modern world as a new structure of slavery. The Philippines is one of the leading exporters of human labor throughout the world. With a global shift in labor, Overseas Filipino Workers (OFW) are susceptible to trafficking schemes that encompass forced labor, sexual abuses and prostitution. Addressing TIP requires strong partnership and collaboration among government agencies, states and international organizations and should bridge the gaps and harmonize collective efforts to combat TIP in the local, national and transnational level.

This study illustrates the efforts of the Philippine government, through the Interagency Council Against Trafficking in Persons (IACAT) in enhancing its initiative against TIP. Through Republic Act 9208 which is also known as the Anti-Trafficking in Persons Act of 2003, IACAT was formally established and tasked to coordinate, monitor, and oversee the effective implementation of anti-TIP programs. The study also explores opportunities in which the State, in partnership with other stakeholders can promote discourses on resolutions to the TIP problem. Furthermore, the study demonstrates institutional mechanisms and capacity building to assess the IACAT’s implementation of its programs, especially on key conceptual synergies on prevention, prosecution, protection and reintegration, and partnerships in solving pertinent problems.

Field of Research: Trafficking In Persons, Inter Agency Council Against Trafficking, Anti-Trafficking In Persons Act of 2003

1. Introduction

Trafficking in Persons: An Overview

Trafficking in Persons (TIP) is a serious threat to humanity. It is perceived in the modern world as a new structure of slavery. Millions of people around the world are being trafficked due to an increase in the level of poverty, high rate of labor migration, lack of economic opportunities, existence of military conflict, and presence of illegal recruiters in most labor exporting countries. According to the UN Global Initiative to Fight Human Trafficking, there is an estimated 2.5 million people being subjected to forced labor and sexual exploitation as a result of TIP (www.unglobalcompact.org) . Majority of the trafficked victims come from countries with less developed economies such as most nations in the African continent, South and South-East Asia, Central and South America, and several countries in Eastern Europe.

The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime or the Trafficking in Persons Protocol was adopted under the United Nations Convention Against Transnational Organized Crime to initiate a concerted global effort against the problem. The Protocol defines TIP (stated in Article 3) as follows:
“Trafficking in persons shall mean the recruitment, transportation, transfer, harboring, or receipt of persons, by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or of a position of vulnerability or of the giving or receiving payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal of organs.” (UN Palermo Protocol, 2001)

TIP comprises three interrelated factors: a.) means, i.e. how trafficked persons are recruited from the country of origin, b.) mode, i.e. how trafficked persons are moved and (c.) purpose, i.e. the exploitation of the persons trafficked at the receiving country or destination. The Protocol also defines provisions meant to guide the formulation of national criminal offenses and criminal actions, and support and assistance procedures for victims (UNODC, 2006).

With TIP expanding its global reach and volume, national governments are legislating and implementing strict laws that penalize offenders in order to decrease incidences. Strict border control, immigration policies, and security monitoring are being implemented in order to curb the presence of traffickers and protect their potential victims. Regional and international cooperation are also established in order to strengthen partnership and accountability among various nations in combating TIP.

2. Statement of the Problem and Research Questions

This study examines the Philippines’ capacity to address the problem of TIP at a legal and institutional level. The study also deals with the international obligations of the Philippines in combating TIP. The following describes the study’s research problem and research questions:

Research Problem

How does the implementation of Republic Act 9208 or the Anti-Trafficking in Persons Act of 2003, through the creation of the Inter-Agency Council Against Trafficking (IACAT) address, combat and resolve the Philippines’ efforts against TIP?

Research Questions

1. How does the IACAT implement the core synergies of a.) prevention, b.) prosecution, c.) protection and reintegration and d.) partnership against TIP?
2. What are the major initiatives and challenges of the Philippines as a State Party to the UN TIP Protocol?
3. What are the best practices and possible areas of improvement that the Philippine government can adopt in order to meet its international obligations?
3. Research Framework

The study began by identifying the basic definition and essential terms on TIP, as defined by the UN Protocol and RA 9208. In the first stage of any framework, it is vital to operationalize the problem in order to properly define and formulate solutions for it. The first part classifies TIP as a transnational crime, which entails addressing it as an act that transcends national borders, therefore requiring the cooperation and action of more than one state. Though TIP can be categorized both as a national and transnational crime, the study focuses on TIP in the context of the UN Protocol.

The second stage of the framework focuses on the Philippines’ effort in resolving the TIP issue. The Philippines, as a State Party to the Protocol has the principal duty and obligation to implement it. Its laws and programs must therefore comply with the standards set in the Protocol.

The third stage of the framework covers the Anti-Trafficking in Persons Act of 2003. One of the highlights of this law is the creation of the IACAT. The IACAT is composed of government agencies and select non-government organizations tasked to work towards the elimination of TIP.

The fourth stage illustrates IACAT’s institutional mechanism and capacity building to combat TIP as the main research framework of the study. IACAT’s institutional mechanism and capacity building
embody the effectivity and efficiency of the law in addressing the following anti-TIP core aspects: a.) prevention, b.) prosecution, c.) protection and reintegration, and d.) partnership. The fourth stage will thus encompass best practices on the implementation of the anti-trafficking law. The final evaluation shall be a demonstration of the Philippines’ compliance with the UN Protocol.

4. Methodology

The study utilizes qualitative research and applied historical analysis as the main research methodology in exploring the efficient and effective implementation of the anti-trafficking law in the Philippines. In using historical analysis, the study was able to draw best practices from the IACAT’s implementation of the law since it was passed in 2003. Any gaps or areas for improvement in implementing the law were also identified as a necessary process of adaptation against ongoing trends in trafficking.

The study reviews country reports and historical texts as part of its research method. Philippine country reports on TIP, government papers, annual accomplishment reports (including the IACAT’s), and statistical records were used in order to enrich the collection of data. The anti-trafficking law and the succeeding Expanded Anti-Trafficking in Persons Act of 2012 (Republic Act No. 10364), and the UN Protocol are some of the international and national legal instruments that were gathered for the study. The study also examined the IACAT’s National Strategic Action Plan Against Trafficking in Persons for 2004-2010 and 2012-2016.

5. Research Findings

The Anti-Trafficking in Persons Act of 2003

On 26 May 2003, then President Gloria Macapagal-Arroyo signed Republic Act No. 9208 otherwise known as the Anti-Trafficking in Persons Act of 2003 (IACAT, 2003). “This particular law pertains to specific policies in eliminating trafficking in persons especially women and children in establishing the necessary institutional mechanisms for the protection and support of trafficked persons (RA.9208, 2003)” Republic Act No. 9208 aims to uplift human dignity and protects the people from any existence and threat of violence and exploitation. The law also guarantees the immediate recovery, rehabilitation, and reintegration of trafficked victims into the mainstream society (RA 9208, 2003).

“The Article III, Section 6 of the Republic Act No. 9208 stated the creation of the Inter-agency Council Against Trafficking (IACAT) on which it is tasked to coordinate, monitor, and oversee the implementation of Act. According to Article III, Section 9, the Council have powers and functions to:

a.) Formulate a comprehensive and integrated program to prevent and suppress the trafficking in persons,

b.) Promulgate rules and regulations for the effective implementation of this Act,

c.) Monitor and oversee the Act,

d.) Coordinate the programs and projects of various member agencies,

e.) Conduct massive information dissemination and campaign through local government units (LGU’s), concerned agencies, and NGOs,

f.) Direct other agencies to immediately respond to the problems brought to their attention and report to the Council on Action,

(g.) Assist in the filing of cases against violators of this Act,

h.) Formulate reintegration program for trafficked persons ...” (RA 9208. 2003)

“In addition to that, Article III, Section 7 which is the composition of the IACAT stated that the council shall be composed of the following:
(a) Secretary, Department of Justice (DOJ) as Chairperson;
(b) Secretary, Department of Social Welfare and Development (DSWD) as Co-Chairperson
(c) Secretary, Department of Foreign Affairs (DFA) as Member;
(d) Secretary, Department of Labor and Employment (DOLE) as Member;
(e) Administrator, Philippine Overseas Employment Administration (POEA) as Member;
(f) Commissioner, Bureau of Immigration (BI) as Member;
(g) Director-General, Philippine National Police (PNP) as Member;
(h) Chairperson, National Commission on the Role of Filipino Women (NCRFW) as Member;
(i) One (1) representative from an Non-Government Organization (NGO) representing the women sector as Member;
(j) One (1) representative from an NGO representing the Overseas Filipino Workers (OFWs) sector as Member;
(k) One (1) representative from an NGO representing the children sector as Member” (RA 9208, 2003)

The IACAT’s vision is geared on the promotion of a just, humane and gender-fair society that will protect and empower Filipino people especially women and children from all kinds of exploitation. It also directed in enabling Filipinos to exercise their rights and realize their potentials in the development of the country and sustaining a peaceful and meaningful family life (IACAT, 2004). The IACAT’s formation of strong institutional mechanisms extends an increase synergy and coordination against TIP. IACAT can further operate in a more cohesive and orchestrated manner with the partnership of local government units and relevant NGOs. IACAT’s capacity building targets various stakeholders ranging from service providers to social workers, to law enforcers and prosecutors, and street level bureaucrats. This strong institutional mechanism and capacity building open opportunities to improve the Philippines’ effective implementation of Republic Act 9208 in responding to the four key areas on TIP.

Prevention and Advocacy Aspects of Trafficking in Persons

The prevention aspect is the most essential element in the implementation of the Anti-Trafficking in Persons Act of 2003. IACAT’s preventive measures are anchored in the increase of awareness, knowledge and commitment among stakeholders to TIP. The IACAT established public awareness dealing with the prevention of this crime through efficient a.) formation of public awareness on TIP and its respective pertinent laws and possible legal measures in preventing victimization, b.) mobilization and empowering communities to prevent and suppress incidences of trafficking cases at the local level, especially in areas with high incidences of trafficking, c.) creation of capacities among front line workers to develop training modules among consular/assistance to nationals (ATN) officers, social workers, labor service officers and immigration primary inspectors and d) establishment of transparent inter-agency coordination mechanism that deals on pre-marriage and pre-departure counselling program, implementation of immigration laws and legal travel requirements, and education program on overseas employment (IACAT, 2013).

The Philippine Overseas Employment Administration (POEA) is the primary agency that initiates pre-employment orientation services and seminars pertaining on both anti-illegal recruitment and TIP cases. This particular agency also organized Capability Enhancement Trainings that targets the local government units in order for the latter to effectively manage their local employment systems. Also, due to the increasing influx of Overseas Filipino Workers, the Commission on Filipino Overseas (CFO) delivers pre-departure orientations and registration services for safe migration measures (IACAT, 2013).

In further enhancing the preventive measures, the Department of the Interior and Local Government (DILG) has issued a Memorandum Circular regarding the Implementing Guidelines in the Establishment and Management of a Referral System on Violence Against Women. This
memorandum targets women and children, as the most vulnerable sector to be victimized by TIP (IACAT, 2013). The IACAT also utilized a worldwide web, Facebook page and hotline numbers to bridge information awareness and educate the Filipino public in making them vigilant about the root causes and effects of TIP.

Finally, one of the hallmarks of preventive measures being done by the Philippine government is the strong implementation of the “New Guidelines on Departure Formalities for International Board Passengers in all Airports and Seaports in the Country.” The Bureau of Immigration (BI) is the implementing agency in this particular measure. In the new guidelines, Filipino and foreign travellers may undergo a primary and secondary inspection. In the primary inspection, the immigration officer usually checks the travel, employment and other pertinent documents of the traveller.

If there are any forms of suspicious actions and information on the traveller and/or inconsistent configurations with his/her documents, the immigration officer will immediately enforce the secondary inspection. In the secondary inspection, the immigration officer makes certain clarificatory questions by accessing thoroughly the passenger’s age, educational attainment and capability to travel, and might ask for travel clearance issued by the Department of Social Welfare and Development, in case of minors travelling (IACAT, 2013). Hence, the immigration officer then has the discretionary power to offload departing passengers, if any of the previous requirements were not duly satisfied. Through the offloading policy being strictly implemented, the Philippines is taking critically its commitment in enforcing its preventive measures in combating TIP.

Prosecution of Offenders and Law Enforcement Aspect

In fighting any forms of TIP, the sword is usually dependent to the law enforcement and prosecution. It is important to create and implement innovative trafficking laws that will revolutionize the legal system against growing number of trafficking offenders. The enforcement and prosecution of law must be sharpened to the highest degree through the implementation of harsh penalties for any unlawful acts. The Department of Justice (DOJ) serves as the Chair of the IACAT and the major government agency in prosecuting cases of trafficking. The DOJ, via its primary function, implements various victims/ witness protection and assistance programs that are geared in practicing gender sensitivity at all stages of the judicial process. The IACAT, through the DOJ is highly committed in imposing convicted offenders in imposing the maximum sentence of life imprisonment among traffickers (IACAT, 2013).

Below is table 2 indicating the conviction rate of trafficking offenders since the inception of the Anti-Trafficking in Persons Act of 2003:

<table>
<thead>
<tr>
<th>YEAR</th>
<th>Total Number of Convictions</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003</td>
<td>2</td>
</tr>
<tr>
<td>2004</td>
<td>30</td>
</tr>
<tr>
<td>2005</td>
<td>67</td>
</tr>
<tr>
<td>2006</td>
<td>120</td>
</tr>
<tr>
<td>2007</td>
<td>190</td>
</tr>
<tr>
<td>2008</td>
<td>263</td>
</tr>
</tbody>
</table>
The DOJ assures the prosecution of persons proven guilty of violating the Anti-Trafficking in Persons Act of 2003. Pursuant to Section 26 of the Implementing Rules and Regulations (IRR) of the said law, the IACAT created Law Enforcement Task Forces Against TIP and Quick Reaction Teams (QRT) which comprises of prosecutors, law enforcement investigators, welfare officers and non-government organizations. The DOJ is highly committed in organizing immediate investigation, effective case-build up management, and speedy prosecution of TIP through the institutionalization and continued operations of specialized anti-trafficking task forces in various regions in the country. These fifteen (15) task forces are established in major strategic locations in the country that allot special importance to the critical entry and exit points in the Philippines and the place of origin of the trafficked victims (DOJ, 2014)

On the same hand, the Philippine National Police (PNP) also coordinates with government prosecutors and other law enforcement agencies in order to achieve successful and fast prosecution of cases on TIP. The PNP was able to train 25,264 PNP Women Officers in order to improve their investigative skills and guarantee the success of filling appropriate criminal cases that is geared with gender sensitivity and values formation (DOJ, 2014). As of May 2013, the PNP was able to establish 1,913 Women and Child Protection Desks (WCPD) throughout the country. WCDPs are consistent in conducting focus group discussion on specific areas for any anti-trafficking updates and information brigades (PNP, 2013). Furthermore, the IACAT created a Manual on the Labor Dimensions of Trafficking in Persons: A Manual for Investigators, Prosecutors, Labor Inspectors and Service Providers which is designed to provide knowledge on the basic parameters of forced labor, recommendation for special investigative techniques, legal options and protection and other forms of assistance to victims and survivors (DOJ, 2014).

D. Protection and Reintegration Aspect

Protection and reintegration caters to the formation of environment wherein trafficked persons especially women and children are given quality care and security in guaranteeing their right access to proper medication, psychological counselling, and recovery facilities. The protection and reintegration aspect also emphasized the encouragement of victims to participate in the legal process. The Department of Social Welfare and Development (DSWD) is the primary government agency that caters to the protection and reintegration of trafficked victims. The DSWD has formulated and implemented the Recovery and Reintegration Program for Trafficked Person (RRPTP). The RRPTP is a nationwide framework that delivers a comprehensive package of programs and services in partnership with different stakeholders. The RRPTP offers a wide array of victim care services that is composed of a.) temporary shelter and recovery service, b.) Counselling and stress debriefing, c.) medical examination, d.) livelihood assistance, e.) skills training, f.) support to TIP

<table>
<thead>
<tr>
<th>Year</th>
<th>Case On Trial</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>310</td>
</tr>
<tr>
<td>2010</td>
<td>182</td>
</tr>
<tr>
<td>2011</td>
<td>396</td>
</tr>
<tr>
<td>2012</td>
<td>251</td>
</tr>
<tr>
<td>2013</td>
<td>91 (810 case-on trial)</td>
</tr>
<tr>
<td>TOTAL</td>
<td>1,902</td>
</tr>
</tbody>
</table>

Source: IACAT 2013 GTIP REPORT
victims and witnesses and g.) back to province transportation services (IACAT, 2013). In the implementing guiding principles of the DSWD for the RRPTP program, one of its anchored principles is accessibility. The principle of accessibility directs to the DSWD’s program to make its basic services available to all victims-survivors regardless of age, religion, ethnic origin, and social class. According to these principles, victims-survivors have the rights to avail all relevant services under the DSWD’s recovery and reintegration program. The DSWD is also encouraging NGO partners to collaborate with various government agencies in order to deliver immediately the basic services needed to victim-survivors and their families (DSWD & USAID, 2011).

In relation to that, a research conducted by the Coalition Against Trafficking of Women in Asia and the Pacific (CATW-AP) was integrated in the DSWD Recovery and Reintegration Program which indicates that women-victims of trafficking have mutual summary in terms of the following features: a.) Individual Level, b.) Family Level, c.) Community Level and d.) Societal Level. The CATWP-AP has provided the DSWD relevant findings that women are prone to be trafficked due to these arrays of societal life that ranges on diverse factors such as: a.) Lack of Education and insufficient information about the recruitment process, b.) Sexual abuse and exploitation, c.) Domestic violence, d.) Lack of economic opportunities, e.) Poverty, and f.) Power relations and gender inequality (DSWD & USAID, 2011).

Through this framework, one of the intervention levels under the DSWD recovery and reintegration program is the multi-sectoral collaboration and coordination among agencies specifically the local councils that addresses anti-trafficking and anti-violence against women and children. It was stated under the directive of the intervention, the importance for this program to be accessible by the engagement of the Local Government Units (LGUs) and Non-Government Organizations (NGOs) at the community based-level (DSWD & USAID, 2011). It is encouraged by the DSWD among the national government, LGUs and NGOs to collectively develop revolutionary mechanisms in order to response and suffice the needs of the victims and protect women and children against all forms of violence and exploitation.

The IACAT’s National Strategic Action Plan Against Trafficking in Persons 2012-2016, reflected the IACAT’s key strategies, programs and projects resulted to better institutionalization of the utilization of database, case management and referral system. The establishment and constant improvement of referral networks at all levels had made these frameworks functional by all means. The key strategies to be employed by the Council in collaboration with their respective partnered NGOs is to enhance and replicate protective strategies for trafficked victims or at risk persons in transit areas and to adopt technical support for the adoption of models for comprehensive and quality community and center-based services among various stakeholders(DSWD & USAID, 2011).

Table 3 below illustrates the cases of TIP in accordance to the purpose and gender of the victims in the Philippines for the year 2012:
Table 3: Types of Trafficking and Gender of Trafficked Victims (18 years old and above)

<table>
<thead>
<tr>
<th>Purpose of Trafficking</th>
<th>Male TIP Victims</th>
<th>Female TIP Victims</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debt Bondage</td>
<td>9</td>
<td>4</td>
</tr>
<tr>
<td>Forced Labor</td>
<td>395</td>
<td>435 (2nd)</td>
</tr>
<tr>
<td>Pornography</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>Removal / Sale of Organs</td>
<td>24</td>
<td>3</td>
</tr>
<tr>
<td>Sex Tourism</td>
<td>0</td>
<td>8</td>
</tr>
<tr>
<td>Sexual Exploitation</td>
<td>6</td>
<td>636 (1st)</td>
</tr>
<tr>
<td>Slavery</td>
<td>0</td>
<td>12</td>
</tr>
<tr>
<td>Others</td>
<td>19</td>
<td>62</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td><strong>453</strong></td>
<td><strong>1165</strong></td>
</tr>
</tbody>
</table>

Source: IACAT 2013 GTIP Report

E. Partnership and Collaboration Aspects

Due to the emergence of the rapid development and modernization of the world, the trends in the organization and involvement in crimes becomes macro-level in nature. Nowadays, some of the crimes organized by groups are becoming transnational. Transnational crimes are crimes that are done in a diversified, global and inter-state manner. The surfacing of transnational crimes is a manifestation of a flexible and sophisticated relationships and networks of criminal groups across borders (UNODC, 2000). The United Nations Convention against Transnational Organized Crime (UNTOC) classified transnational crime as criminal activities that are committed in more than one State. Transnational crimes can also occur in one State that are planned, controlled or strategized in another State. Also, transnational crimes can also be classified as crimes occurred in one State that has significant effects in another State (UNODC, 2000).

TIP is one of the transnational crimes that posts major apprehension in the international community that calls for its speedy solution. The immediate pressure from the international community calling for dialogue, collaboration and support is becoming evident. The Philippines, through the IACAT and its individual agencies has strengthened its ties in making international collaboration since the enactment of the Trafficking in Persons Act of 2003. The Philippines is active in making bilateral exchanges and parallel discussion with its international counterparts. In an instance, the Philippines recognized the urgency for the ASEAN member states to have a united front and regional cooperation in combating trafficking in persons (DOJ, 2014).

The Philippines took a lead in the active discussion on the proposed ASEAN Convention on Trafficking in Persons (ACTIP) and the Regional Plan of Action (RPA) on TIP in the recent Senior Officials Meeting on Transnational Crime (SOMTC). The major working outputs of the ACTIP and RPA were officially discussed at the ASEAN Ministers on Transnational Crimes (AMMTC) (DOJ, 2014). The Philippines uphold the essential efforts in establishing strong regional cooperation and maintaining specific measures among ASEAN States in order to provide counter-solution to this transnational crime.

Moreover, the Philippines is also active in maintaining its strong commitment in the Bali Process in effectively raising concerns with regard to the societal implications of TIP. The Philippine, through its trafficking law, is consistent in developing effective information system, sharing reliable intelligence mechanism, and building strong regional linkages among law enforcement agencies in order to strengthen regional partnership within the ASEAN member states. And finally, the Philippines is
consistent in following the legal instruments and operational measures it signed as a member state under the United Nations Trafficking in Persons Protocol. The Philippines is continuously improving its counter-measures on TIP in accordance to the UN international framework in order to adapt on the existing global trends against the said crime. In 2013, the Philippines was listed in “Tier 2” from its previous “Tier 2-Watchlist” status by the United States’ Global Trafficking in Persons (USGTIP). This status showcased the consistent improvement of the Philippines’ performance in solving trafficking in persons in a global scale.

F. Expanded Anti-Trafficking in Persons Act of 2012

Due to the increasing complexities in the trends on trafficking in persons, the Philippines has just recently developed major changes on its Anti-Trafficking In Persons Law. On February 6, 2013, the signing of Republic Act No. 10364, also known as the “Expanded Anti-Trafficking in Persons Act of 2012 gave the Philippine government a stronger mechanism in fighting trafficking syndicates. The new law amended certain vital provisions that are seen to be improved from the previous Anti-Trafficking in Persons Act of 2003. Amendments are made in order for the Philippine Anti-Trafficking Law adapt to the underlying new situations and discoveries, jurisdictional challenges, and extraterritorial application problems in addressing key issues on trafficking cases (DOJ, 2014).

Some of the legal amendments made are geared towards the imposition of stronger penalties among trafficking offenders such as: Section 4-B: Criminal liability for accomplices, Section 5: Additional punishable acts for Acts that promotes trafficking in persons, and Section 11: A higher penalty of 15- years for any person who buys or engages the services of a trafficked person for prostitution. Second, the amendments also catered to the modification of the rights of the accused of trafficking namely: Section 4-A: Attempted Trafficking in Persons, Section 17: The right of privacy of the accused was deleted and Section 22: Extraterritorial jurisdiction over the accused for acts of trafficking committed outside the country. And third, the amendments opened opportunity for government authorities in further improving the enforcement of their services on the following provisions: Section 16-A: Establishment of Anti-Trafficking in Persons Database and Section 17-C: Granting service provider’s immunity from harassment suit (DOJ, 2014).

The major amendments made in Republic Act No. 10364 showcased the commitment of the Philippines in addressing the key synergy areas on the prevention, prosecution, protection and reintegration and partnership which are pertinent elements in trafficking cases. At this moment, the Republic Act No. 10364 is for signature among the members of the IACAT council. The Philippines draws expectations that the Act will fill the gaps which were not addressed from the previous Anti-Trafficking Law. The expanded version is seen as a more updated and innovative legal instrument in responding to trafficking cases. At the latter phase, this Act can possibly elucidate best practices.

VI. Discussion

TIP is seriously taken into consideration by the Philippine government primarily because significant number of Filipinos is displaced all over the world. The Filipino diaspora, through the changing demand in global labor migration trends became a significant factor in this situation. Second, the women sector comprises a significant number of Filipinos working overseas. The women sector, as the most vulnerable stakeholder in this transnational crime presents additional risks. And finally, because the world is becoming globalized this also contributes to the increasing number of TIP cases both in regional and international arena. With this given situation, the Philippines developed its own innovative legal frameworks and stronger institutional mechanisms, through the creation and implementation of Anti-Trafficking In Persons Act of 2003.
This particular trafficking law institutionalized the creation of the IACAT. The IACAT addressed key issues on trafficking in persons primarily because of its effective institutional mechanism and capacity building. This institutional mechanism and capacity building capabilities of the IACAT has extended a stronger partnership of the national government to the Local Government Units (LGUs). Through the implementation of the Act, the level of enforcement of law and execution of operation is not only limited to the national government. Nonetheless, the LGUs are becoming pro-active with its street-level bureaucrats, regional council against trafficking and local community officers in solving pertinent problems on TIP. Due to the fact that power and legitimacy is decentralized in a bureaucratic level, every relevant government agencies and offices are entitled to certain level of political mandate.

This framework also allowed the national government to practice a top-down approach wherein certain order are coming from the national government that will be disseminated latter in the local level. An example of this is present with the creation and implementation of the Reintegration and Recovery Program for Trafficked Persons (RRPTP). The Department of Social Welfare and Development (DSWD), as the implementing agency handling this comprehensive protection and reintegration program is tasked to educate and delegate this particular social program developed in its more than 13 DSWD regional satellite stations located across the country. These regional stations are responsible in disseminating, coordinating and monitoring the proper implementation of the said programs among its covered LGU areas.

On the other hand, the bottom-up approach allowed the LGUs to raise specific issues and problems that it can convey to the higher level of authorities in the national government. Under this approach, the street level bureaucrats are entitled to negotiate and bargain their respective concerns in the higher sphere of national governance. This approach is seen in the preventive aspects of trafficking law in the Philippines. Taking into account that TIP emanated initially from the local areas, the street level bureaucrats such as the governors, mayors, local councillors and village chiefs possessed usually the first hand information of this problem. The LGUs has the capacity to generate the baseline problems of this crime because TIP generally occurs first in the local level. Local authorities will now relay to the national government (through IACAT) that TIP is more likely to occur in areas with high level of illegal recruitment operations, incidences of poverty and lack of economic opportunities, prone to natural disasters and calamities and high presence of military-conflict. The IACAT will now then be informed about the major trends in the local communities and will formulate more updated preventive measures on its policy and operational practices.

The institutional mechanism and capacity building framework also open opportunities for the national government to collaborate with concerned civil society organization or NGOs. With the active involvement of NGOs promoting the concerns and interest of migrant workers, women and children and social justice, the Republic Act No. 9208 provided membership of three NGOs to be part of the IACAT for a term of 3 years. The Anti-Trafficking in Persons Act recognized the expertise and capability of NGOs in providing viable solutions in addressing the four key synergies areas on TIP.

Also, through the creation of IACAT, the Philippine government became active in establishing bilateral exchanges and multilateral agreements among foreign governments in order to elucidate and enhance the Philippines commitment in international cooperation. This commitment is showcased with the Philippines active role in the United Nations Convention Against Transnational Organized Crime, Bali Process, ASEAN Convention on Trafficking in Persons and ASEAN Senior Officers Meeting on Transnational Crime. The implementation of the Anti-Trafficking in Persons Act established stronger linkages and effective partnership among the Philippine National and LGUs, civil society and international states in providing fast enforcement and delivery of services in addressing the four key aspects on TIP both from the national and global level.
But with the implementation of this Act and institutional operations of IACAT, there are also pertinent challenges on it. In an instance, the offloading policy, draw criticism among Filipino and foreign travellers, civil society groups and even some members of the government. The offloading policy is perceived discriminatory and can be abusive in terms of exercise of power primarily because it gives immigration officers to offload passengers on the basis of his/her discretionary powers. This process draws numerous debates among stakeholders stating that the passenger’s right to travel and employment opportunities overseas might be affected by means of the passenger’s physical and socio-economic status. In contrast, the Bureau of Immigration (BI) emphasized that this initiative is integral to the government’s initiative in improving the State’s preventive measures on TIP. The BI emphasized that it is essential to properly evaluate and monitor both Filipino and foreign nationals entering and exiting the Philippine territory in order to lessen the occurrence of trafficking in persons. Prevention of the crime is the initial step in further heightening the Philippines global effort in fighting TIP.

The further amendments made on the Expanded Anti-Trafficking in Persons Act of 2012 can also be viewed in two opposing perspectives. The amendments can be viewed that some cases of trafficking were not adaptive or applicable in the current changes and dynamics on TIP. In the previous Anti-Trafficking in Persons Act of 2003, punishment and penalties to offenders are lighter, uncertainties in covering extra territorial jurisdiction, absence of database, and difficulties in stating clearer definitions on the basic elements and terminologies on trafficking related situations are amongst the major contestations from the previous Act. The existence of the Expanded Version of the said Act can be viewed as the solution in addressing the gaps wherein the previous Act failed to accomplish. In contrast, the Expanded Act can also be viewed as the Philippines effort in raising its standards and measures in handling trafficking cases. The new Act itself can be seen as an additional commitment of the country in further improving its Tier Status. Hence, it can be seen as the country’s action in upholding its basic obligation in both national and international arena towards its vision of totally eliminating TIP.

Vii. Conclusion

The legislation of the Anti-Trafficking in Persons Act of 2003 became beneficial to the Philippines effort in curbing the proliferation of trafficking in persons. Solving trafficking in persons always posts greater challenges to the national government and international community primarily because human lives are at stake in this particular crime. Since the enactment of this Act, the IACAT, with its member agencies are pro-active and vigilant in implementing the Act. Proper deliverance of services and right execution of major operations are seriously observed by the council-members. Government agencies, including the LGUs and NGOs are becoming functional in exercising their commitments especially on responding to the four key aspects on TIP.

Second, the Act itself may not be absolutely perfect in terms of its engagement in the various strands of trafficking in persons and its four key aspects. But the Philippine State had found the right avenue to further develop the previous Act through the creation of the Expanded Anti-Trafficking in Persons Act of 2012. The Expanded version is a manifestation that the Philippines is stretching its power to be more critical and strict in practicing its legal, institutional and operational mechanisms against TIP. The Philippine State recognizes that criminal offenders are becoming more rampant and creative in organizing their criminal activities and operations. That is why, the Philippine State as duly responsible in protecting their own Filipino citizens has crafted the Expanded version of its Anti-Human Trafficking law in order to warn trafficking offenders about the stricter punishments and wider coverage of its violation.
And finally, the Philippines cannot solve trafficking in persons alone. Due to its transnational crime in nature, finding effective and sustainable solutions would require mutual cooperation and partnership among international stakeholders. The Philippines, through its compliance to the UN Palermo Protocol has since then open its initiative in collaborating with international State actors. The Philippines is directed to its international effort especially on pertinent issues dealing with cross border international security system, extending mutual exchange in immediate assistance on trafficked victims regardless of nationalities, development of regional database for information sharing and support services, and most importantly, ratifying stronger policies on TIP especially within the ASEAN region. The Philippines uphold that creating larger diplomatic ties among foreign States would further legitimize global efforts against this crime. Furthermore, the existence of strong global cooperation and initiative synergies are great manifestations that TIP are critically resolved by the international community.

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