

## **The Effectiveness Of The Palermo Protocol In The Case Of Women And Children: Countering Human Trafficking In The Philippines**

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### **Abstract**

*Human trafficking, particularly involving women and children, is a serious challenge for the Philippines. As a country with a high rate of child sexual exploitation in East Asia, the Philippines has sought to eradicate this crime through the ratification of the Palermo Protocol, the passage of Republic Act No. 9208 and Republic Act No. 10364, as well as the establishment of the Inter-Agency Council Against Trafficking (IACAT). This study analyzes the effectiveness of the implementation of the Palermo Protocol in the Philippines using the Domestic Salience theory to measure the extent to which international norms have been adopted in domestic policies. The results show that the Philippines successfully improved its law enforcement capacity and obtained Tier 1 status in the Trafficking Victims Protection Act (TVPA) in 2016. However, challenges such as limited resources, corruption, and inter-agency coordination still hinder the effectiveness of anti-trafficking policies. With a national strategy that includes prevention, victim protection, law enforcement, and international partnerships, the Philippines continues to reduce human trafficking. Despite significant progress, the study concludes that policy strengthening through cross-sector coordination, capacity building of law enforcement officials, and expansion of victim rehabilitation services are needed to ensure long-term effectiveness in combating human trafficking.*

**Keywords:** Human trafficking, Palermo Protocol, Philippines, Domestic Salience, IACAT.

### Abstrak

Perdagangan manusia, khususnya yang melibatkan perempuan dan anak-anak, merupakan tantangan serius bagi Filipina. Sebagai negara dengan tingkat eksploitasi seksual anak yang tinggi di Asia Timur, Filipina telah berupaya memberantas kejahatan ini melalui ratifikasi Protokol Palermo, pengesahan Undang-Undang Republik No. 9208 dan Undang-Undang Republik No. 10364, serta pembentukan Dewan Antar-Lembaga Melawan Perdagangan Manusia (IACAT). Studi ini menganalisis efektivitas penerapan Protokol Palermo di Filipina dengan menggunakan teori Domestic Salience untuk mengukur sejauh mana norma-norma internasional telah diadopsi dalam kebijakan domestik. Hasilnya menunjukkan bahwa Filipina berhasil meningkatkan kapasitas penegakan hukumnya dan memperoleh status Tier 1 dalam Undang-Undang Perlindungan Korban Perdagangan Manusia (TVPA) pada tahun 2016. Namun, tantangan seperti keterbatasan sumber daya, korupsi, dan koordinasi antar-lembaga masih menghambat efektivitas kebijakan anti-perdagangan manusia. Dengan strategi nasional yang mencakup pencegahan, perlindungan korban, penegakan hukum, dan kemitraan internasional, Filipina terus mengurangi perdagangan manusia. Meskipun ada kemajuan yang signifikan, studi ini menyimpulkan bahwa penguatan kebijakan melalui koordinasi lintas sektor, peningkatan kapasitas aparat penegak hukum, dan perluasan layanan rehabilitasi korban diperlukan untuk memastikan efektivitas jangka panjang dalam memerangi perdagangan manusia.

**Kata kunci:** Perdagangan manusia, Protokol Palermo, Filipina, Kepentingan Domestik, IACAT.

## INTRODUCTION

Human trafficking is a serious issue that every country must address. The end of the cold war in the 1990s led to massive immigration, which became a major concern due to the emergence of criminal organizations operating globally. More than seven out of ten victims are exploited in Asia and the Pacific, which are the main locations of human trafficking crimes. Victims of exploitation are estimated at 3.8 million adults, with 1 million children. Most victims are women and children as they are often considered physically weak and more vulnerable to exploitation. In addition, children aged 5-17 years old accounted for 15.5% of forced labor victims in 2012 (International Labor Organization & Walk Free Foundation, 2017).

Research shows that there are various barriers women face to escape human trafficking, which can be both external and internal. External barriers relate to traffickers and destination countries. According to the findings of Hughes and Denisova (2001), trafficked women often see only three options to exit the cycle of trafficking, namely: first, experiencing loss due to trauma, emotional distress, or pregnancy; second, getting help from clients; or third, experiencing death. Women trapped in human trafficking commonly face various forms of psychological abuse, intimidation, manipulation, and ostracization (Gajic-Veljanoski & Stewart, 2007).

They live in physical isolation, move frequently, and may be dependent on drugs. Living in a corrupt society instills the belief that criminals are protected, while crimes against them are difficult to prove. This makes it easier for traffickers to coerce and intimidate. Threats to harm their children or family are also an effective tool to control and prevent women from escaping. In addition, they may be photographed or recorded in dangerous or illegal situations and threatened with exposure to friends, family or authorities. As a result, fear of exposure of involvement in illegal activities (such as prostitution), possible prosecution, deportation or retaliation discourages them from escaping. Other factors, such as limited language and cultural knowledge and lack of identity documents, make it even more difficult for women to escape trafficking and prostitution (Gajic-Veljanoski & Stewart, 2007).

In 2003, the United Nations Office on Drugs and Crime (UNODC) began collecting data. Between 2012 and 2014, there were 63,251 victims of human trafficking in 106 countries, with 17,752 victims in 85 countries. To combat human trafficking, UNODC has created the Global Program Against Trafficking in Persons (GPAT) strategy, which is responsible for the cooperation component. As part of this effort, UNODC and the Philippines collaborated to create the Phase I program of the Coalition Against Human Trafficking (UNODC, 2003).

The Philippines is known as one of the main sources of child sexual exploitation content. Several tourist cities in the Philippines, such as Angeles City, Boracay, Puerto Galera, Olongapo, and Suriao, have become locations where child pornography is broadcast. Children are often forced to perform sexual activities on camera to fulfill the economic needs of their families. Ironically, the victim's parents or family members are sometimes complicit and even condone this exploitative practice. In the Philippines, the legal minimum age for sexual intercourse is 12 years old. However, the existence of this law makes minors more vulnerable to forced exploitation (Umar & Kusumadewi, 2021) .

More than 2000 victims of human trafficking occurred in 2015. Among them were 1,037 women and 74 children aged 0-12 years. Human trafficking cases have decreased by 38% in 2016, with 425 female victims in the categories of sex trafficking for prostitution, sexual abuse, and pornography, and 11 victims were minors (IACAT Secretariat, 2016) .

The UN established the United Nations Office on Drugs and Crime (UNODC) after human trafficking crimes increased worldwide, especially in the Philippines. They also published the Palermo Protocol, which serves as a standard that member states can use in combating human trafficking cases. The Palermo Protocol, or this treaty, affirms that all people have the same right to life without fear of oppression or threat of violence, and that all countries must work together to address crimes that cross national borders. More than 147 countries have signed the Palermo Protocol, including the Philippines. On December 14, the Philippines signed the Palermo Protocol, which was ratified on May 28, 2002 (Committee, 2002) .

On June 30, 2016, the Philippines successfully moved up to Tier 1. The data shows the strong determination of the Philippine government and society to combat human trafficking cases. This is measured by the Trafficking Victims Protection Act (TVPA), a law set by the United States as the standard to which all countries seeking to eradicate human trafficking must adhere (USA, 2016) . Despite reaching Tier 1, the Philippine government still has a lot of human trafficking to solve. As the country with the highest rate of child sexual exploitation in East Asia, the Philippines has become a global hub for online child sexual exploitation cases (International, 2021) .

## **LITERATURE REVIEW**

This research refers to several previous studies, where these references are expected to contribute to the author's research, both to complement unfinished research and as a source of reference. One of the studies referred to is entitled "The Philippine Government's Strategy in Suppressing the Increase in Online Sexual Abuse Exploitation of Children (OSAEC) Cases in 2020-2023" (Hapsari, Dina Laksita, 2024) . This research discusses the Philippine government's strategies and efforts in reducing or eradicating OSAEC cases, where children are targeted for online sexual abuse. This research uses the theory of neoliberalism, which assumes that states have an optimistic attitude in facing challenges by building cooperation between states and actors to achieve common interests. This study provides the researcher with an overview of how human trafficking, particularly involving children, occurs in the Philippines.

The second journal referenced is entitled "Implementation of the Palermo Protocol on Human Trafficking Cases in Malaysia 2015-2018" (Yudhatama, 2022) . The results of this study show how Malaysia implements the Palermo Protocol by using the Domestic Salience theory as a reference. This research examines how Malaysia has successfully reduced and prevented human trafficking by ratifying the Palermo Protocol into national law. The findings provide insights into the ratification process and implementation of international protocols at the national level.

The last journal referenced is "An Analysis of the Philippines' Efforts to Address Human Trafficking Through a Human Security Approach (2016-2019)" (Koeswindrya, 2020) . This journal discusses the Philippines' efforts in maintaining Tier 1 status (the highest level of compliance in human trafficking reports by the US State Department) for six consecutive years. The research also highlights the importance of educating the public and the Philippine government to raise awareness in the fight against human trafficking. The Human Security approach is used as a frame of reference to implement effective policies in the Philippines.

With reference to these three studies, this research aims to enrich the understanding of counter-trafficking efforts, particularly in the Philippines, and provide a theoretical and practical basis for more in-depth analysis.

## **Human Trafficking**

The concept of human trafficking is very suitable for use in this study. In General Assembly Resolution No. 49/166, the UN established that human trafficking, which involves the clandestine trafficking of human beings, is an unlawful act. Human trafficking also aims to force women and children to be

sexually and economically exploited for profit by crime syndicates. In addition, the United Nations states that human trafficking should include acts such as the taking, sending, concealing, transporting, or receiving of individuals, followed by the threat or use of force, coercion, or abuse of power. kidnapping, deception, and finally, the purpose of exploitation such as prostitution, slavery, forced labor, and organ harvesting (Syaufi Ahmad, 2011) .

While there are many factors that influence this human trafficking, economic factors are the most important. In the case of human trafficking, the vulnerable group is the poor. Due to the lack of jobs, many people are unemployed. This increases crime. Physical and mental victims will be severely harmed and disturbed as a result of this human trafficking. Perpetrators often use violence to fully control the victim and often move the victim to various places to make it difficult to establish relationships with others, or eliminate contact with relatives and family (Shelley, 2012) .

Human criminals can come from the victim's family or from criminal groups. Human exploitation includes forced labor, slavery, use of threats of violence up to murder, fraud, abuse of power, and rape. Human smuggling is similar to the "iceberg phenomenon in a vast ocean", meaning that the number of detected victims of human smuggling is limited to the tip of the iceberg visible only on the surface of the vast ocean (Shahrullah & Tjhang, 2014) . This is due to perpetrators' threats to victims to refrain from reporting because victims face serious threats.

Victims often refrain from reporting because of the shame of being a victim of human oppression, and they usually refrain from others. The victim's physical and mental well-being will be severely harmed and impaired as a result of human crimes. Perpetrators often use extreme violence to control victims and often move victims to different places to make it difficult for them to establish human relationships with others. In other words, the perpetrator removes contact with the victim's relatives or family (USA, 2016)

### **Domestic Salience Theory**

Domestic Salience Theory explains how international norms are accepted domestically, noting that each country has its own inviolable principles and norms, including international norms. This theory is also used to measure the success rate of domestically accepted international norms. The Domestic Salience Theory was created by Cortell and Davis (2000) and has three indicators of success to use. The first indicator is Political Discourse, the second is Institutional Change and the last is State Policy (Cortell & Davis, 2000) .

In the first indicator, Political Discourse looks at and assesses the application of international standards in domestic politics. This will happen if states and societies start working together to drive change by incorporating international standards into their own politics. In the second indicator, Institutional Change shows that domestic norms have evolved from international standards. International norms will be incorporated into domestic law. With the inclusion of these norms into domestic law, legal procedures will become stronger and the credibility of the law will increase. The last indicator, State Policy, shows that the state is fully committed to the international norms by changing its policies or legislation. For the last indicator, State Policy, shows that the state is fully committed to international norms by changing its policies or legislation (Cortell & Davis, 2000) .

Cortell and Davis identify four levels to measure the extent to which international norms are accepted in the domestic context. The first level is *High Domestic Salience*, which indicates that the international norm has been successfully incorporated into domestic political discourse, characterized by changes to institutions and policies. The second level, *Moderate Domestic*

*Salience*, means that while the international norm has entered the political discourse and led to changes in institutions, its impact on state policy is not significant. The third level, *Low Domestic Salience*, reflects a situation where the international norm has only reached the political discourse without being successfully implemented in appropriate policies. The last level is *Not Salience*, which means that the international norm does not influence the political discourse at all, resulting in no changes to state policies or institutions (Cortell & Davis, 2000) .

Of these levels, Cortell and Davis see that international norms vary, hence the need for the 4 levels and 3 indicators that have been created and to what extent international norms are applied and have what kind of impact on each domestic country.

## RESEARCH METHODS

The type of research that will be used is to use descriptive research methods. Muhammad Ramdhan (2021) states that descriptive research method is a type of research that aims to provide explanations and descriptions of the phenomena under study using data that is not made up and not personal opinions (Ramdhan, 2021). The author uses secondary data collection techniques using secondary sources. In other words, data sources are provided to data collectors through documents such as IACAT Reports, NAP Reports, and United States TIP Reports as supporting research. Literature sources such as journal articles, books, and trusted and credible international news media such as BBC, VOA, CNN, and Asean Post can be used to collect this data. This data collection is done through observation, interviews, and questionnaires, not directly. To support the data collection, the author used the official websites of Philippine government aid agencies such as state.gov.ph, aseanact.org, and iacat.gov.ph.

## RESULTS AND DISCUSSION

### Public Discourse

In preventing and combating human trafficking especially of women and children, the Philippine government has developed a series of national strategies with reference to the Palermo Protocol and the *Trafficking Victims Protection Act* (TVPA) established by the United States Department of State as described in the *Trafficking Victims Protection Act of 2000, Div. A of Pub. L. No. 106-386* (106th Congress, 2000) . The Philippines releases a national strategy every 6 years. *The Philippines National Strategic Action Plan against Trafficking in Persons* was first released from 2004 to 2010. In the first national strategy, the government focused on establishing institutional mechanisms to protect victims of human trafficking who have been discriminated against. Then for the second national strategy released in 2012 to 2016 with 4 focus areas or *Key Result Areas* (KRA) namely there are advocacy & prevention, protection, recovery, rehabilitation & reintegration, protection & law enforcement, and cooperation and network expansion. The national strategy made by the Philippine government refers to the problems that exist in the Philippines and always evaluates and makes updates to every policy it makes (Inter-agency Council Against Trafficking, 2011) .

In his 2011 State of the Nation Address (SONA), President Benigno Aquino III recognized IACAT's efforts and stated that "if the country is not removed from Tier 2 of the TVPA watch list, assistance from the *Millennium Challenge Corporation*, among others, will be jeopardized." (Mindanaoan Irene, 2011) . *The Second National Plan of Action for Children* (NPAC), *the National*



*Framework of Action Against Commercial Sexual Exploitation, the Philippine Program Against Child Labour and the programs of the Commission of Filipinos Overseas (CFO), the Overseas Workers' Welfare Administration (OWWA) and the Philippine Overseas Employment Administration (POEA)* are agency programs that are aligned with the goals, strategies and targets of this national strategy. These aid agencies were deliberately included in the national strategy because they serve as national efforts to harness the actions of individuals and organizations to eliminate human trafficking as well as the realization of human rights (Inter-agency Council Against Trafficking, 2011) .

President Benigno Aquino III has taken a significant step by convening a cabinet review meeting of the programs the government has created to combat human trafficking cases. The President directed all government agencies, whether involved in law enforcement, service delivery, or prosecution, to remain vigilant, incorruptible, and responsive in the performance of their duties. It is hoped that the President's commitment will motivate governments and non-governmental organizations to continue to strengthen their efforts in combating human trafficking. *The Inter-Agency Council Against Trafficking (IACAT)* has the authority to monitor, cooperate, and fully coordinate with other agencies and provide direction for the protection, rehabilitation, and recovery of victims of human trafficking, formulation of annual work plans, prosecution and conviction of perpetrators, preparing for the annual Global TIP Report, and approving the adoption of resolutions from relevant parties and other stakeholders (IACAT Secretariat, 2016). The Government of the Philippines, which directly appointed IACAT, together with NGOs, developed a mission statement for the period 2012 to 2016 that included:

**Table 1: IACAT Vision and Mission 2012-2016**

<p>Vision:</p> <p>A just, humane, gender-fair and empowered society that protects its people from all forms of trafficking in person thus enables them to fully exercise their rights, realize their potentials in the development of the country, and experience a happy and peaceful family Life.</p>	<p>Mission:</p> <p>We, the IACAT, are committed to sustainable transparent, accountable and responsive anti-trafficking initiatives in the Philippines.</p>
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Source: Author

The National Strategy's objectives are aligned with the Philippine Development Plan's 2011 to 2016 policy focus on a "Social Contract with the

Filipino People" to achieve growth and reduce poverty. The national strategy focuses on the prosecution and conviction of criminals as part of the government's serious commitment to fighting crime in the country and abroad. The objectives of this national strategy are in Key Result Areas (KRA) 1 to 4. KRA 1 is Advocacy and Prevention. KRA 1 focuses on preventing human trafficking by campaigning to the general public. KRA 2 is Protection, Recovery, Rehabilitation, and Reintegration. This is intended as a comprehensive protection effort for victims of human trafficking. KRA 3, Prosecution and Law Enforcement by means of investigative measures must be pro-active and intelligence-based. The final KRA 4 is Partnerships and Networks. Partnerships here involve full coordination with actors and working together within the scope of their respective work included in cooperation agreements at the international level (Inter-agency Council Against Trafficking, 2011) .

### **Institutional Change**

As an institutional change, the government created an agency directly under the *Inter-Agency Council Against Trafficking* (IACAT). IACAT was appointed to coordinate and monitor the implementation of Republic Act No. 9208. Known as the Anti-Trafficking in Persons, Especially Women and Children Act of 2003. IACAT was established under the provisions of Section 20 of Republic Act No.9208 (Department of Justice, 2003) . IACAT is composed of government agencies and representatives from the non-government sector. The Department of Justice, as the lead agency, has the role of formulating policies to combat human trafficking, fully supporting the implementation of projects aimed at protecting victims of human trafficking, and finally enforcing the law for suspected human trafficking cases. IACAT currently has a total of 24 task forces, consisting of 16 regional task forces, 2 national task forces, and 6 port-based task forces (IACAT, 2003b)

IACAT's main role is as a center for collecting information including data on human trafficking in the Philippines. The data collected will serve as a reference for policymakers as well as an evaluation for future policies and programs. IACAT also specifically monitors Trafficking in Person (TIP) cases that have been filed with the Department of Justice and the existing and accurate data must always be updated before being disseminated to the public. In 2011, IACAT established a task force operational unit that will be stationed at identified sources of human trafficking . These task forces are directly supervised by the National Inter-Agency Task Force Against Trafficking (NIATFAT), some of which are DOJ Task Force Against Trafficking Manila (Main office), Sea Base (SBATTH)/ Region 9 (IACAT Secretariat, 2016) .

### Country Policy

The Philippine government has established a law as a result of the ratification of the Palermo Protocol which has become a reference to address the problem of human trafficking from the way it is handled to the penalties for traffickers to date. Republic Act No. 9208 was created on May 26, 2003, a year after the signing of the Palermo Protocol known as the "Anti-Trafficking in Persons Act of 2003 (IACAT, 2003) . The definition of human trafficking contained in RA. No. 9208 is:

*(a) Trafficking in Persons - refers to the recruitment, transportation, transfer or harboring, 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 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 or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs."*

In the countermeasures of human trafficking, the strategy of countermeasures and prosecution is in RA 9208 regulated in section 4 to section 14. For the strategy of protection of victims of human trafficking, it is regulated in section 15 to 19 on the protection of victims and witnesses. For the last countermeasure strategy, namely in terms of prevention is regulated in section 20 onwards. The prevention referred to in RA 2098 is expected so that the crime of human trafficking will not recur (Shahrullah & Tjhang, 2014) .

After Republic Act No. 9208, the government then made another amendment, Republic Act No. 10364 in 2012. The amendments made by the Philippine government as an effort in strengthening the law are done by changing or adding to the scope of the law. In addition, the definition of human trafficking in Republic Act No. 10364 emphasizes and focuses on:

*"The recruitment, transportation, transfer, harboring, adoption or receipt of a child for exploitation or when the adoption is induced by any form of consideration for exploitative purposes shall also be considered as 'trafficking in persons' even if it does not involve any of the means in the preceding paragraph."*

From the description of one of the definitions of human trafficking, RA No.10364 has a clearer definition and does not expand the definition. Like exploitation, it is more clear what forms of exploitation are, for example, sexual exploitation, forced

service, labor, slavery, and organ harvesting. Republic Act No. 10364 also explains the process of obtaining, employing, providing, offering, and harboring victims is also included in the definition of human trafficking (Wilujeng, 2016) . In its implementation IACAT and the Supreme Court of the Philippines have signed a memorandum of understanding in which the Supreme Court will pledge to provide accurate information related to human trafficking in the court system and ensure that human trafficking cases will be reported and decided in a timely manner (Romero, 2022) .



From the three sub-chapters that have been explained, the Philippines is at the High Domestic Salience category level which means that international norms have been successfully incorporated into domestic political discourse, characterized by changes in institutions and policies. The Philippines has been successful in addressing the issue of human trafficking as a result of the Philippines' rise to Tier 1 according to data from the US TVPA (UNODC, 2016) .

**Figure 1. Philippines Ranking by Year**

The graph that has been presented has increased from 2010, which rose sharply in 2011 and stabilized. Then in 2015 to 2016 to 2017, the Philippine Government together with the Filipino people continued to show strong determination to eradicate human trafficking. The Philippines successfully upgraded from Tier 2 to Tier 1 on June 30, 2016 (U.S. State Department., 2016) .

## **CONCLUSIONS AND SUGGESTIONS**

This paper highlights the problem of human trafficking in the Philippines, particularly involving women and children, and the effectiveness of the implementation of the Palermo Protocol in tackling it. The research identifies that the Philippines faces serious challenges in curbing human trafficking, with key factors such as high poverty and sexual exploitation. The Philippines has taken various steps to address the issue by ratifying the Palermo Protocol, passing Republic Act No. 9208 which was later strengthened or amended into Republic Act No. 10364, and the establishment of the Inter-Agency Council Against Trafficking (IACAT) to ensure a more structured policy. In the Philippines National Strategic Action Plan against Trafficking in Persons 2012-2016, the government established strategies based on prevention, victim protection, law enforcement, and international partnerships.

Based on the Domestic Salience theory, this study found that the international norms adopted by the Philippines were successfully integrated into domestic policies, which is reflected by the Philippines' ascension to Tier 1 according to the Trafficking Victims Protection Act (TVPA) report which is a standard that every country must comply with. Although the Philippines has shown significant progress in combating human trafficking, there are still many challenges such as limited resources, corruption, lack of inter-agency coordination. More needs to be done such as strengthening inter-agency coordination, expanding victim rehabilitation services to make policies more effective in the long run, and lastly, increasing the capacity of law enforcement officers.

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