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Human Trafficking and Public Corruption

A report by the IBA's Presidential Task Force
Against Human Trafficking



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Preface

The International Bar Association (IBA) is committed to enhancing the rule of law. Since assuming the IBA presidency in 2015, I have sought to integrate that commitment into all of our work. To this end, among other projects, I launched the Judicial Integrity Initiative and continued the Presidential Task Force on Human Trafficking. In May 2016, the IBA published *Judicial Systems and Corruption* in partnership with the Basel Institution on Governance, and the Judicial Integrity Initiative has since pursued various projects designed to have a practical impact on judicial corruption. With this new report, the IBA's Presidential Task Force on Human Trafficking has tackled two significant threats to the rule of law: human trafficking and public corruption.

Experts agree that human trafficking could not exist without corruption, but much of what we know about the intersection of corruption and trafficking is anecdotal. The Task Force therefore launched an extensive research project, identifying multiple corruption cases through press reports, case databases and court records. The Task Force analysed these case studies on trafficking and corruption, identifying patterns across the globe.

The Task Force's methodology restricted the report only to those cases confirmed through criminal investigation or prosecution. However, the case study methodology had one unanticipated consequence: by focusing on cases in which the state prosecuted corrupt public officials, the data skewed towards those countries usually associated with a robust rule of law. In countries without the rule of law, corrupt officials enjoy complete impunity.

Two lessons may be drawn: first, *all* countries face the corruption–human trafficking nexus. No country is immune. Secondly, if we are to combat human trafficking, we must eliminate the corruption that makes these abuses both possible and profitable.

The case studies in this report make it clear that there is a great deal of work to be done. Corruption only exacerbates human trafficking's tragic consequences. It is my hope that the recommendations in the report can be adopted to combat these twin scourges.

I would like to thank all of the officers of the Task Force, as well as The Human Trafficking Pro Bono Legal Center and its staff, for their leadership in bringing this report to fruition.

David W Rivkin

President, International Bar Association

Chapter 1. Introduction

‘Corruption is an insidious plague that has a wide range of corrosive effects on societies. It undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of life and allows organised crime, terrorism and other threats to human security to flourish.’¹

‘Corruption is the lubricant that allows the wheel of human trafficking to adequately operate, imbedding itself at all levels, from the planning to the aftermath of the actual trade.’²

‘Corruption among foreign law enforcement authorities continues to undermine the efforts by governments to investigate, prosecute, and convict traffickers.’³

Corruption is an endemic feature of human trafficking. It is common to both sex and labour trafficking. Corruption enables traffickers’ often-successful efforts to evade justice. Examples abound: a police officer demands a bribe to ignore the presence of a child in a brothel; an immigration official receives payment to provide a forged passport; a judge dismisses a trafficking case in exchange for a share of the traffickers’ profits; a law enforcement official deports a trafficking victim to prevent her testimony against a criminal defendant; a government official accepts a bribe to fraudulently provide residency permits for foreign workers.

Such scenarios occur on a daily basis across the globe. But these are merely anecdotes, devoid of identifying details and stripped of evidentiary support. It is at this vague and uncorroborated level that much discussion of the intersection between corruption and human trafficking remains. This must change. Human trafficking involves corrupt public actors at all levels of government. Some are complicit in the trafficking offences of others; others actively engage in trafficking, profiting directly from the trade in human beings. The nexus between public corruption and human trafficking is ‘a systemic predicament that needs to be stopped.’⁴

Corruption presents significant challenges to efforts to prevent, investigate and prosecute trafficking crimes.⁵ Combating corruption is essential to any comprehensive strategy to end human trafficking.⁶

Unfortunately, while the link between trafficking and corruption is widely acknowledged, there is little data available to help explain what is happening, how, and to whom. Only a small handful of

1 UN Secretary-General Kofi Annan, ‘Foreword’, UN Convention against Corruption (adopted 31 October 2003, entered into force 14 December 2005) available at www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf. This and all other URLs herein last accessed 4 September 2016 unless otherwise specified.

2 IACC Workshop Summary, ‘14th International Anti-Corruption Conference 2010, Corruption and Human Trafficking: Unraveling the Undistinguishable for a Better Fight’ 1, hereinafter the ‘IACC Workshop Summary’ available at http://14iacc.org/wp-content/uploads/ws1.2CamilleKarbassi_LR.pdf.

3 2003 Trafficking Victims Protection Reauthorization Act, Section 2, Congressional Findings, HR 2620, para 5.

4 See note 2, IACC Workshop Summary.

5 UNODC, *The Role of Corruption in Trafficking in Persons* (2011) 12

6 Ibid at 1.

reliable studies provide confirmed examples linking corruption and trafficking and few case studies are available.⁷

Information on how governments are responding is similarly scarce.⁸ A 2004 article in *International Migration* noted, ‘There have been few reports on investigations into corruption offences relating to labour trafficking, with virtually no cases leading to convictions.’⁹ Little has changed since 2004: prosecutions for trafficking are still rare,¹⁰ and prosecutions for trafficking-related corruption are even rarer. Even when such prosecutions do take place, researchers struggle to secure case reports and judgments. Governments’ reticence to admit to corruption in the ranks renders these cases difficult to find and even more difficult to confirm.¹¹ For their own safety, many non-governmental organisations (NGOs) do not publicly expose corruption allegations. This perfect storm of deception and denial leaves advocates ill-prepared to confront the corruption aspects of trafficking. The lack of corruption data makes it difficult to develop strategies to combat human trafficking.

In recent years, the intersection of trafficking and corruption has garnered attention, albeit piecemeal and of uneven quality. In 2008, the United Nations Office on Drugs and Crime (UNODC) issued a report on the subject.¹² NGOs including Transparency International,¹³ Anti-Slavery International, Verité,¹⁴ and Liberty Asia¹⁵ (among others) have sought to shine a spotlight on this phenomenon. The United States Congress mandated in 2000 that the Department of State report on official complicity and corruption in its annual *Trafficking in Persons* country reports (TIP Reports).¹⁶

This report from the IBA’s Presidential Task Force on Human Trafficking strives to pull these disparate strands together to address three questions. First, what is the relationship between corruption and trafficking? How and to what extent does corruption facilitate the exploitation of

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- 7 Ibid at 3. Beyond the UNODC’s publication, literature identifying concrete linkages between the two phenomena is sparse. Authors often mention corruption in human trafficking reports, but few analyse case studies to identify trends. Still fewer ‘have explored factors and mechanisms behind this [trafficking and corruption] nexus’. See Atanas Rusev, *Human Trafficking, Border Security and Related Corruption in the EU*, Migration and the Security Sector Paper Series (DCAF Brussels, 2013) 1. See also Philip Gounev and Tihomir Bezlov, Examining the Links between Organized Crime and Corruption (European Commission, 2010) 131–136; Malinvisa Sakdiyakorn and Sutthana Vichitrananda, ‘Corruption, Human Trafficking and Human Rights: The Case of Forced Labor and Sexual Exploitation in Thailand’, National Anti-Corruption Commission J, (Office of the National Anti-Corruption Commission, 2010) available at www.nacc.go.th/images/journal/malinvisa.pdf; Corbin B Lyday, *The Shadow Market in Human Beings: An Anti-Corruption Perspective presented at ‘Mobilising Society Against Corruption: The Role of Women’s Organisations’*, 10th International Anti-Corruption Conference, 7–11 October 2001, Prague.
- 8 Virginia M Kendall, ‘Greasing the Palm: An Argument for an Increased Focus on Public Corruption in the Fight Against International Human Trafficking’ (2011) 44 *Cornell Int’l L.J.* 33, 40.
- 9 Kathy Richards, ‘The Trafficking of Migrant Workers: What are the Links Between Labour Trafficking and Corruption?’ (2004) 42(5) *Int’l Migration* 147.
- 10 UNODC reports that ‘[o]nly 4 in 10 countries reported having 10 or more yearly convictions, with nearly 15 per cent having no convictions at all’ UNODC, *Global Report on Human Trafficking* (2015) 12.
- 11 Jan Van Dijk and Fanny Klerx-Van Mierlo, *Indicators of Corruption: Further Explorations of the Link between Corruption and Implementation Failure in Anti-Human Trafficking Policies* (University of Tilburg, 2010) 17 available at www.tilburguniversity.edu/upload/501d3825-24c6-4e36-8a37-bb90b5d6ec3e_apartikelTrafficking.pdf.
- 12 UN Global Initiative to Fight Human Trafficking, ‘020 Workshop: Corruption: The Grease that Turns the Wheel of Human Trafficking’, *Austria Center Vienna Background Paper* (2008) UN.GIFT BP: 020 available at www.unodc.org/documents/human-trafficking/2008/BP020CorruptionandHumanTrafficking.pdf. This report served as a background paper for an expert panel on the topic at the Vienna Forum to Fight Human Trafficking, 13–15 February 2008.
- 13 Transparency International, ‘Corruption and Human Trafficking’ (2011) Working Paper No 3/2011 available at www.ungift.org/doc/knowledgehub/resource-centre/CSOs/TI-Working_Paper_Human_Trafficking_28_Jun_2011.pdf.
- 14 Verité, ‘Corruption & Labor Trafficking in Global Supply Chains’ (2013) White Paper available at <https://www.verite.org/sites/default/files/images/WhitePaperCorruptionLaborTrafficking.pdf>.
- 15 Liberty Asia, ‘Modern Slavery and Corruption’, Briefing Paper (2016a); Liberty Asia, *Modern Slavery and Corruption – Legal Analysis of Relevant Laws and Their Application* (2016b).
- 16 The Victims of Trafficking and Violence Protection Act 2000 (US, Public Law 106–386) s 104(a) required the State Department to include official corruption and efforts to combat state officials’ participation in human trafficking in all human rights reporting. According to the State Department’s criteria, an indicia of ‘serious and sustained efforts’ to eliminate human trafficking is the extent to which a government ‘investigates, prosecutes, convicts, and sentences public officials... who participate in or facilitate severe forms of trafficking in persons...’ US Department of State, *Trafficking in Persons Report* (2015) 50.

human beings for private profit? Secondly, how can trafficking-related corruption be effectively addressed? And thirdly, how should advocates measure success?

Public corruption and its nexus with human trafficking remain under-reported.¹⁷ ‘Corruption is an endemic feature of human trafficking... it may even be fair to say human trafficking could not exist without corruption.’¹⁸

The IBA is committed to the rule of law, and its Presidential Task Force on Human Trafficking has elected to tackle corruption’s role in human trafficking to understand precisely how this phenomenon thwarts the rule of law. As Task Force member Judge Virginia Kendall has written, understanding corruption is essential to the investigation and prosecution of trafficking.¹⁹ Analysis of corruption’s role can also inform effective prevention strategies. Ultimately, investigation and prosecution, combined with prevention, will move us toward the end game: eradication of human trafficking worldwide.

17 This under-reporting is in contrast to increased reporting on broader human rights issues. See Ann Marie Clark and Kathryn Sikkink, ‘Information Effects and Human Rights Data: Is the Good News about Increased Human Rights Information Bad News for Human Rights Measures?’ (2013) 35 *Human Rights Quarterly* 539, 540.

18 Statement of IBA President David W Rivkin, Summit on Human Trafficking and Organized Crime Pontifical Academy of Social Sciences, 4 June 2016, The Vatican available at www.ibanet.org/Article/Detail.aspx?ArticleUid=d82cc7d8-b532-4f85-9e31-4cc648d8edc3.

19 See note 8, at 33, 40.

Chapter 2. Methodology

The links between trafficking and corruption have not been extensively documented or analysed, and as such are poorly understood. Research in this area presents significant challenges. To the extent possible, the authors of this report have relied on primary sources, such as court documents and decisions, to identify examples and trends.²⁰ They have also drawn on a wide range of secondary sources including: (1) scholarly articles; (2) reports and studies from governments, intergovernmental organisations and civil society groups; and (3) media reports. Primary sources have also been used, where possible, to verify information contained in secondary sources such as the annual US TIP Reports.

²⁰ To identify cases, the authors drew from case databases such as the UNODC Trafficking Database, the University of Michigan Trafficking Case Database, and The Human Trafficking Pro Bono Legal Center's Civil and Criminal Trafficking Case Databases.

Chapter 3. What is human trafficking?

In December 2000, the international community adopted the United Nations Protocol to Suppress, Prevent and Punish Trafficking in Persons, Especially Women and Children (the ‘Trafficking Protocol’) as part of a group of treaties dealing with transnational organised crime and its various manifestations. The Trafficking Protocol set out the first-ever international legal definition of trafficking in persons:

“Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of 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. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.’

The Trafficking Protocol classifies trafficking in children (defined as persons under the age of 18 years) differently. In such cases, it is not necessary to show that force, deception or any other means were used. All that is required is to show (a) an ‘action’ such as recruitment, buying and selling; and (b) that this action was for the specific purpose of exploitation. In other words, trafficking in children will exist as a matter of international law in situations where a child is subject to some act such as recruitment or transportation, for the purpose of his or her exploitation. This simplified definition, which removes the requirement to also show means such as force, fraud or coercion, is intended to make the identification of child victims of trafficking *and* the identification of their traffickers easier.

Table 1. Elements of the crime of trafficking in persons

	UN Trafficking Protocol	
Key element	Adults: Three elements must be present for a situation of trafficking in adults	Children: Two elements must be present for a situation of trafficking in children (persons under 18 years old)
1. An action: <i>What traffickers do</i>	Recruitment, transportation, transfer, harbouring or receipt of persons	
2. By means of: <i>How they do it</i>	Threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or position of vulnerability, giving or receiving payments or benefits to achieve consent of a person having control over another	(Not required)
3. For the purpose of: <i>Why they do it</i>	Exploitation (including, at a minimum, the exploitation of the prostitution of others, or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs)	

The key features of the international legal definition can be summarised as follows:

- **Internal and cross-border:** Trafficking can take place within a country (internal trafficking). Trafficking may also involve the movement of a victim across national borders. Migrants who move safely from one country to another are sometimes subsequently trafficked within their country of destination.

- **Purposes and profile of victims:** Trafficking can take place for a range of purposes, most often for labour exploitation and sexual exploitation. Women and girls, men and boys can all be victims of trafficking.
- **Not only about movement:** The concept of trafficking in international law does not only refer to the *process* by which an individual is moved into a situation of exploitation; it extends to include the maintenance of that person in a situation of exploitation. Accordingly, it is not just the recruiter, broker or transporter who can be identified as a trafficker, but also the individual or entity involved in initiating or sustaining the exploitation.
- **The role of ‘consent’:** It is sometimes claimed that victims of trafficking consented to their exploitation. However, ‘consent’ in such cases is invariably compromised through force, deception or other means. That is reflected in the legal definition of trafficking, which affirms that the ‘means’ of trafficking in adults, such as fraud or coercion, operate to nullify consent.

The international community has affirmed a distinction between trafficking in persons and the smuggling of migrants. The Smuggling Protocol, a counterpart to the Trafficking Protocol, defines smuggling of migrants as ‘the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.’²¹ In practice, however, smuggling and trafficking sometimes overlap, as does the broader phenomenon of irregular migration. Figure 1 below illustrates these distinctions and overlaps.²²

Figure 1. Distinguishing trafficking from other crimes



21 Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (2000), UNGA Res 55/25 A(II) UN Doc A/45/49 (2001) GAOR (adopted 15 November 2000, entered into force 28 January 2004), Art 3(a).

22 States often erroneously characterise smuggling as trafficking to portray their efforts to block migrants' entry into their territory as significant efforts to combat trafficking. This cynical misuse of vocabulary has implications for asylum policy. With few exceptions, the human smugglers who transported hundreds of thousands of migrants to Europe in 2015 and 2016 likely do not qualify as ‘traffickers’: simply delivering a migrant to a foreign country illegally is not trafficking; it is smuggling. To qualify as trafficking, the perpetrator must have the intent to exploit the individual at the point of destination.

As required by the Trafficking Protocol, the vast majority of countries criminalise most or all forms of human trafficking.²³ But criminalisation has not led to eradication.²⁴ Nor has it contributed to the availability of reliable data. Our understanding of trafficking prevalence, patterns and trends remains imperfect and incomplete. Trafficking is a covert activity involving marginalised individuals and ‘hidden populations’. Many of those who have been or are being exploited will never be identified or counted. It is therefore necessary to extrapolate from the very little reliable information and data that are available.

Yet even using available data, the obstacles are considerable. Most particularly, there are still questions around *what is being counted* when trafficking statistics are produced. For example, while the UNODC relies on the definition of trafficking set out in the Trafficking Protocol when compiling its *Global Report on Trafficking in Persons*, the information in that report comes directly from Member States.²⁵ However, not all States provide data in strict adherence to that definition.²⁶

The International Labour Organization has undertaken important and ground-breaking work to measure the extent of forced labour, using the international legal definition first set out in the 1930 *Forced Labour Convention*. Although forced labour and trafficking will often overlap, the two concepts are not identical in law or in practice. The annual US Department of State TIP Report, discussed in the following sections, uses a definition established under US federal law. That definition differs in several important respects from the definition in the Trafficking Protocol. After earlier attempts were criticised, the TIP Report no longer provides global or even country estimates of prevalence.²⁷

23 UNODC, *Global Report on Human Trafficking* (2014) 12 available at www.unodc.org/documents/data-and-analysis/glotip/GLOTIP_2014_full_report.pdf. The report points out, however, that more than two billion people live without the protections outlined in the Trafficking Protocol, largely because their countries’ legislation fails to criminalise trafficking, or only covers a subset of all trafficking victims.

24 Despite growing criminalisation, the number of prosecutions and convictions of traffickers remains low. Ibid at 13. Criminal laws require implementation – investigation and enforcement – before there can be impact or eradication.

25 The UNODC asks Member States to identify trafficking victims based on court sentences, police records, and Identification and Referral mechanisms. UNODC, *Multiple System Estimates for Estimating the Number of Victims of Human Trafficking Across the World* (2016) 7 available at www.unodc.org/documents/data-and-analysis/tip/TiPMSE.pdf.

26 Ibid at 27–30.

27 The annual State Department TIP Report now restricts its hard data to numbers of victims identified and number of traffickers prosecuted and convicted. Other efforts from outside government are even more problematic in terms of being able to extrapolate across data sets. For example, the Global Slavery Index, which has been produced three times to date (2013, 2014 and 2016), measures what it calls ‘modern slavery’, a term that does not exist in national law; is defined by the authors of the report; and has been defined differently between one report and the next. The methodology used by the Index to measure the prevalence of modern slavery and the number of slaves as a percentage of the total (national) population has also been questioned. See, eg, Anne Gallagher, ‘The Global Slavery Index is Based on Flawed Data – Why Does No One Say So?’ (*The Guardian* (UK), 28 November 2014) available at www.theguardian.com/global-development/poverty-matters/2014/nov/28/global-slavery-index-walk-free-human-trafficking-anne-gallagher.

Chapter 4. What is corruption?

4.1 Corruption under UNCAC and UNTOC

Corruption is often the ‘elephant in the room’ when discussing human trafficking.²⁸ The United Nations Convention against Corruption (UNCAC), adopted by the General Assembly in 2003,²⁹ describes corruption as a force ‘undermining the institutions and values of democracy, ethical values and justice and jeopardizing sustainable development and the rule of law.’³⁰ Transparency International has defined corruption simply as the ‘abuse of entrusted power for private gain.’³¹

Corruption’s corrosive effects include decreased access to public services, a lack of public trust in government, thwarted investment and market uncertainty.³² And although corruption appears in societies throughout the world, it is within contexts of instability, weak institutions and extreme poverty that corruption is particularly pervasive.³³

The UNCAC does not explicitly define corruption, rather requiring States Parties to criminalise a range of conduct that would clearly fall within what is widely understood to constitute corruption. Chapter III of the treaty requires criminalisation of the following acts: national and foreign bribery (Articles 15–16); embezzlement, misappropriation or other diversion of property by a public official (Article 17); trading in influence (Article 18); abuse of functions (Article 19); illicit enrichment (Article 20); laundering of proceeds of crime (Article 23); concealment (Article 24); and obstruction of justice (Article 25).

States Parties to UNCAC are required to establish the acts listed in Chapter III of the UNCAC as criminal, civil or administrative offences within their domestic law. States Parties are further required to take a number of preventive measures against corruption including adoption of policies and legislation: to promote public integrity; to prevent, detect and punish corruption of public officials; to ensure that anti-corruption authorities are provided the independence necessary to deter undue influence; and to establish appropriate systems of public procurement.

28 M Bashir Uddin, ‘Human Trafficking in South Asia: Issues of Corruption and Human Security’ (2014) 2 Int’l J of Soc Work and Human Services Pract 18, 23 available at www.hrpub.org/download/20140305/IJRH3-19201859.pdf (noting that most people involved in combating human trafficking know about corruption but prefer not to discuss it).

29 United Nations Convention Against Corruption (2005) 3249 UNTS 41. The UNCAC was signed by 111 states. On 15 September 2005, it reached the 30 ratifications required for entry into force of the Convention, making the actual entry into force date 14 December 2005.

30 UNGA Res 58/4 (31 October 2003).

31 Transparency International, ‘Anti-Corruption Glossary’ (transparency.org, no date) available at www.transparency.org/glossary/term/corruption.

32 See UNDP, *Corruption and Development: Anti-Corruption Interventions for Poverty Reduction, Realization of the MDGs and Promoting Sustainable Development* (2008) 25.

33 See, World Bank, *Helping Countries Combat Corruption: The Role of the World Bank* (1997) s 2 available at www1.worldbank.org/publicsector/anticorrupt/corrupt/cor02.htm:
‘The causes of corruption are always contextual, rooted in a country’s policies, bureaucratic traditions, political development, and social history. Still, corruption tends to flourish when institutions are weak and government policies generate economic rents. Some characteristics of developing and transition settings make corruption particularly difficult to control.’
Also, *ibid* at 10, 16, which identifies:
‘(1) the absence of rules, regulations, policies and legislation; (2) weak systems of enforcement; (3) weak systems of oversight...; (4) lack of accountability; (5) lack of transparency; (6) lack of checks and balances in the system (eg, institutional weaknesses in the legislative and judicial systems); (7) lack of integrity; (8) monopoly of power; (9) high degree of discretion; (10) low salaries; (11) high rewards compared to risks; and (12) low detection rate[s]’ as commonly cited causes of corruption.
The United Nations Development Programme has also observed that ‘[c]ountries afflicted by structural poverty are likely to be suffering from systemic corruption because corruption is among the exacerbating conditions of poverty in countries already struggling with the strains of economic growth and democratic transition’ (*ibid* at 16).

Fundamental to many of these provisions is the concept of a ‘public official’, defined in UNCAC Article 2 as ‘any person holding a legislative, executive, administrative, or judicial office of a State Party... any other person who performs a public function, including for a public agency or public enterprise, or provides a public service, as defined in the domestic law of the State Party.’³⁴

The United Nations Convention Against Transnational Organized Crime (UNTOC) also addresses public sector corruption. UNTOC is particularly relevant to the subject of this paper because, as the parent instrument to the Trafficking Protocol, its provisions are directly relevant to trafficking-related corruption and State Party responses to such corruption. UNTOC recognises corruption as an integral component of transnational organised crime.³⁵ Article 8 of UNTOC requires States Parties to ‘consider’ establishing criminal offences for forms of corruption beyond active and passive bribery.³⁶

Like UNCAC, UNTOC does not define corruption, rather requiring States Parties to criminalise (1) active bribery (the giving of bribes); (2) passive bribery (the acceptance of bribes); and (3) participation as an accomplice to bribery.³⁷ UNTOC does not cover issues relating to corruption in the private sector, unlike UNCAC, which specifically addresses private sector corruption in Article 12. UNTOC also includes mandatory preventive measures against corruption similar to those set out in the UNCAC.³⁸

UNCAC and UNTOC are inter-related. The UNODC, which implements both conventions, has instructed that the obligations under UNCAC are to be taken into account when implementing UNTOC. In guidance to States for implementation of the Transnational Organized Crime Convention, UNODC notes:

‘It is important to take the obligations under the United Nations Convention against Corruption into account as work to implement the Organized Crime Convention is carried out, as more comprehensive requirements are likely to be included in the former, which States parties will be obligated to implement.’³⁹

34 UNCAC Art 2(a). It should be noted that the ‘domestic law of the State party’ may adopt a broader definition of ‘public official’. Some states have expanded the definition of ‘public official’ to capture those who purport to or otherwise act through agencies or instrumentalities of a state. Such laws ensure that a corrupt public official cannot hide behind opaque structures and positions. See UNODC, State of Implementation of the United Nations Convention Against Corruption, UN Doc CAC/COSP/2015/5 (2015) 17.

35 UN Convention Against Transnational Organized Crime, opened for signature 15 November 2000, 2225 UNTS 209. The Convention, along with its supplementary protocols, are available on the UN treaties webpage at www.unodc.org/unodc/en/treaties/CTOC/. ‘If the enemies of progress and human rights seek to exploit the openness and opportunities of globalization for their purposes, then we must exploit those very same factors to defend human rights and defeat the forces of crime, corruption and trafficking in human beings.’ See UNTOC, ‘Foreword’ at iii.

36 Note that UNTOC uses the term ‘corruption’ interchangeably with ‘bribery’. Other anti-corruption conventions that follow a similar structure and approach to both UNTOC and UNCAC include: Art 2 of the Council of Europe Civil Law Convention on Corruption (adopted 4 November 1999, entered into force 1 November 2003) European Treaty Series, No 174; Convention on the Fight against Corruption Involving Officials of the European Communities or Officials of Member States of the European Union (EU), drawn up on the basis of Article K 3(2c) of the Treaty on European Union, on the Fight Against Corruption Involving Officials of the European Communities or Officials of Member States of the European Union (adopted 26 May 1997) Official Journal C 195, 1–11; Council of the European Union’s Framework Decision on Combating Corruption in the Private Sector (EU Decision on Corruption in the Private Sector), Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector (entered into force 31 July 2003) (2003) Official Journal L 192, 54–56; OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, which follows the same line, although it is reflected in the title, ‘Convention on Combating Bribery of Foreign Public Officials in International Business Transactions’ (adopted 21 November 1997, entered into force 15 February 1999), DAF/IME/BR (97) 20.

37 UNODC, *Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto* (United Nations, 2004) 81–82, 84 available at www.unodc.org/pdf/crime/legislative_guides/Legislative%20guides_Full%20version.pdf.

38 UNTOC, Art 9.

39 See note 37 at 85.

4.2 OECD Anti-Bribery Convention

The Organisation for Economic Co-operation and Development (OECD) Anti-Bribery Convention creates legally binding standards under which States Parties must criminalise the paying of bribes to foreign public officials:

‘Each Party shall take such measures as may be necessary to establish that it is a criminal offence under its law for any person intentionally to offer, promise or give any undue pecuniary or other advantage, whether directly or through intermediaries, to a foreign public official, for that official or for a third party, in order that the official act or refrain from acting in relation to the performance of official duties, in order to obtain or retain business or other improper advantage in the conduct of international business.’⁴⁰

The Convention defines a ‘foreign public official’ as:

‘Any person holding a legislative, administrative or judicial office of a foreign country, whether appointed or elected; any person exercising a public function for a foreign country, including for a public agency or public enterprise; and any official or agent of a public international organization.’⁴¹

The 41 signatories to the Anti-Bribery Convention account for approximately 80 per cent of the world’s exports and 90 per cent of total foreign direct investment outflows.⁴² This makes it a powerful tool in combating global corruption. Signatories also have an obligation to investigate and prosecute instances of suspected bribery of foreign public officials.⁴³

Multiple regional instruments also prohibit public corruption, requiring criminalisation and extensive state action.⁴⁴ Corruption is universally condemned, but unfortunately, despite international treaty instruments and regional efforts to curb corruption, it remains ubiquitous.

40 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, Art 1 (entered into force 17 December 1997), S Treaty Doc No 105–143 (hereinafter the ‘OECD Anti-Bribery Convention’).

41 Ibid Art 1(4)(a).

42 OECD Working Group on Bribery, *Annual Report* (2014) 9.

43 OECD Anti-Bribery Convention, Art 5.

44 Other regional anti-corruption instruments include: Inter-American Convention Against Corruption (29 March 1996) S Treaty Doc No 105–139, 35 ILM 724; African Union Convention on Preventing and Combating Corruption (11 July 2003) 43 ILM 5; Council of Europe Civil Law Convention on Corruption (4 November 1999) Eur TS No 174; Council of Europe Criminal Law Convention on Corruption (27 January 1999) Eur TS No 173.

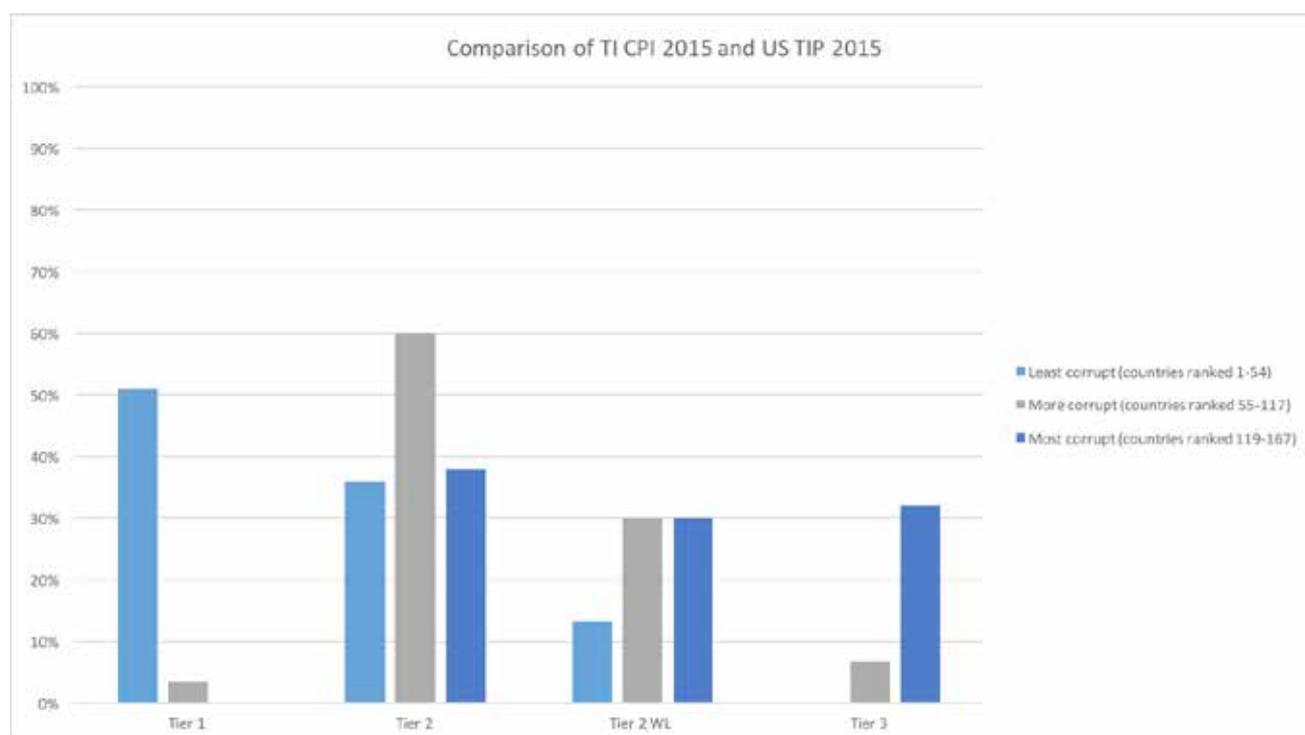
Chapter 5. An analysis of the role of corruption in human trafficking

5.1 The links between corruption and human trafficking

Corruption and human trafficking are indisputably linked. One study suggests a strong correlation between the two, concluding that countries with high levels of institutional corruption are more likely to have high levels of human trafficking within their territory.⁴⁵ Another study notes that trafficking ‘hot spots’ correlate with regions where there is a perception of impunity for public corruption.⁴⁶

This is further supported by the OECD’s comparison of the US TIP Report 2014 with Transparency International’s 2014 Corruption Perception Index. This comparison showed a marked overlap between countries identified as having a serious human trafficking problem and countries perceived as experiencing serious corruption.⁴⁷ A comparison of the 2015 reports shows similar results (see Figure 2). These findings are supported by victims’ accounts, which corroborate the thesis that corruption among public officials facilitates the trafficking of persons.⁴⁸

Figure 2. Comparison of TI CPI 2015 and US TIP 2015



Note: The countries perceived to be least corrupt on the Transparency International Corruption Perception Index tend to fall within the Tier 1 category on the State Department rankings. The countries ranked as most corrupt tend to fall on the Tier 2 Watch List and Tier 3 of the State Department rankings. Source: Transparency International Corruption Perception Index 2015 and US TIP 2015.

45 Sheldon X Zhang and Samuel L Pineda, ‘Corruption as a Causal Factor in Human Trafficking’ in Diana Siegel and Hans Nelen, eds, *Organized Crime: Culture, Markets and Policies* (2008).

46 World Justice Project, *WJP Rule of Law Index* (2014) 38 available at <http://worldjusticeproject.org/rule-of-law-index>.

47 OECD, ‘Developing a Framework for Combatting Corruption Related to Trafficking in Persons’ Background Paper (2014) 10-11 (hereinafter the ‘OECD Background Paper’).

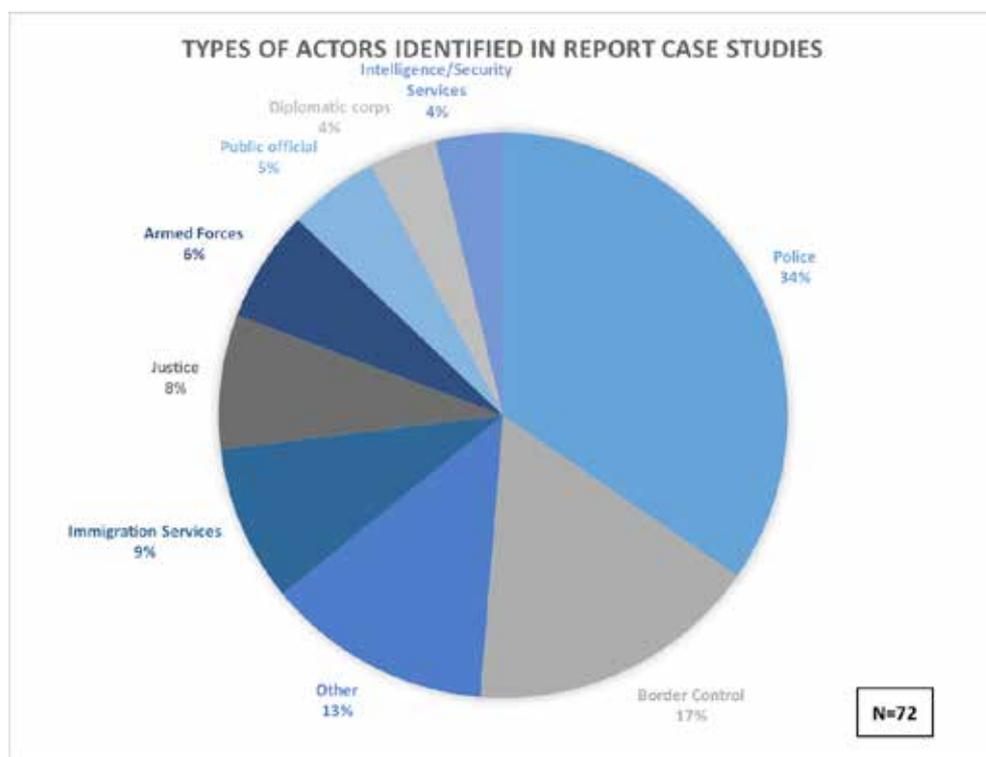
48 See note 5, UNODC (2011), at 4.

Corruption enables human trafficking to flourish.⁴⁹ As shown in the following case studies, corruption bolsters trafficking in four ways: corruption (1) allows the crime of human trafficking to remain invisible; (2) facilitates impunity even if trafficking is detected; (3) facilitates trafficking circuits in the country; and (4) increases the danger of re-victimisation for trafficking victims.⁵⁰ Corruption undermines efforts to combat human trafficking, and leaves victims terrified, unable to seek assistance from law enforcement or other state institutions.

Who? – Actors engaged in trafficking-related corruption

Opportunities for corruption stretch across a wide range of official positions and branches of government. The results of a 2009 UNODC survey revealed that law enforcement officials (including police, border control, immigration, and customs officials) are considered to be those most likely to participate in trafficking-related corruption.⁵¹ While corruption is more prevalent within this group, a review of available evidence confirms that the reach of corruption is indeed much broader (see Figure 3). The Council of Europe, for example, also adds intelligence/security forces and armed forces to the list.⁵²

Figure 3. Types of actors identified in report case studies



Note: The 72 case studies here represent a unique data set drawn from public reports and criminal cases across the globe. The data set is not comprehensive and represents a bias for cases in which the perpetrators faced criminal investigation and/or prosecution.

49 See note 12.

50 See note 2, IACC Workshop Summary, at 2.

51 UNODC sent questionnaires to 54 practitioners ranging from the criminal justice sector, law enforcement, government bodies, non-governmental organisations, and academia; eight practitioners completed the survey. See note 5, UNODC (2011), at 9, FN 13.

52 Council of Europe, *Trafficking in Human Beings and Corruption* (2002) 10.

How? – Ways in which actors engage in trafficking-related corruption

According to Transparency International:

‘[w]eak institutions offer weak protection. Pay-offs to police, courts and other public sector officials result in state institutions turning a blind eye to trafficking gangs or even participating in them.’⁵³

Public officials may use the power granted to them to engage directly in human trafficking. Their official positions cloak them with de facto impunity: a police officer operating a brothel filled with trafficking victims may appear untouchable to victims and co-conspirators alike. In such a circumstance, justice is often out of reach: the police have become the criminals.

Bribery is another key means by which public officials use their position to facilitate – and to profit from – human trafficking.⁵⁴ UNCAC defines bribery as:

‘[T]he promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties’

or,

‘The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.’⁵⁵

In the context of trafficking, the ‘undue advantage’ that officials receive or solicit usually comes in the form of money or sexual services.⁵⁶

For traffickers, bribery is ‘high reward/low risk.’⁵⁷ In an industry that trades in human beings as commodities, bribes likely constitute the largest overhead cost.⁵⁸ In 2003, Moscow’s organised crime groups reportedly spent approximately US\$4.5m *per month* in bribes to public officials and law enforcement.⁵⁹ A 2010 World Bank study estimated that the total cost of corruption in the foreign employment industry in Nepal exceeded NPR 17.2bn per year (US\$194.7m).⁶⁰ Traffickers establish ties to political elites and state actors, paying them bribes to facilitate trafficking. Such corrupt officials may have no other direct involvement in trafficking, but benefit from the illicit income.

53 Transparency International, ‘Breaking the Chain: Corruption and Human Trafficking’ News Room: In Focus (transparency.org, 1 September 2011) available at http://archive.transparency.org/news_room/in_focus/2011/breaking_the_chain_corruption_and_human_trafficking.

54 See note 5, UNODC (2011), at 10.

55 UNCAC, arts 16–17.

56 See footnotes 125, 129, 130, 133–34, 139, 152–54, 171–81, 188–91, 206–07, 226–28, 230–33, 242 and accompanying text.

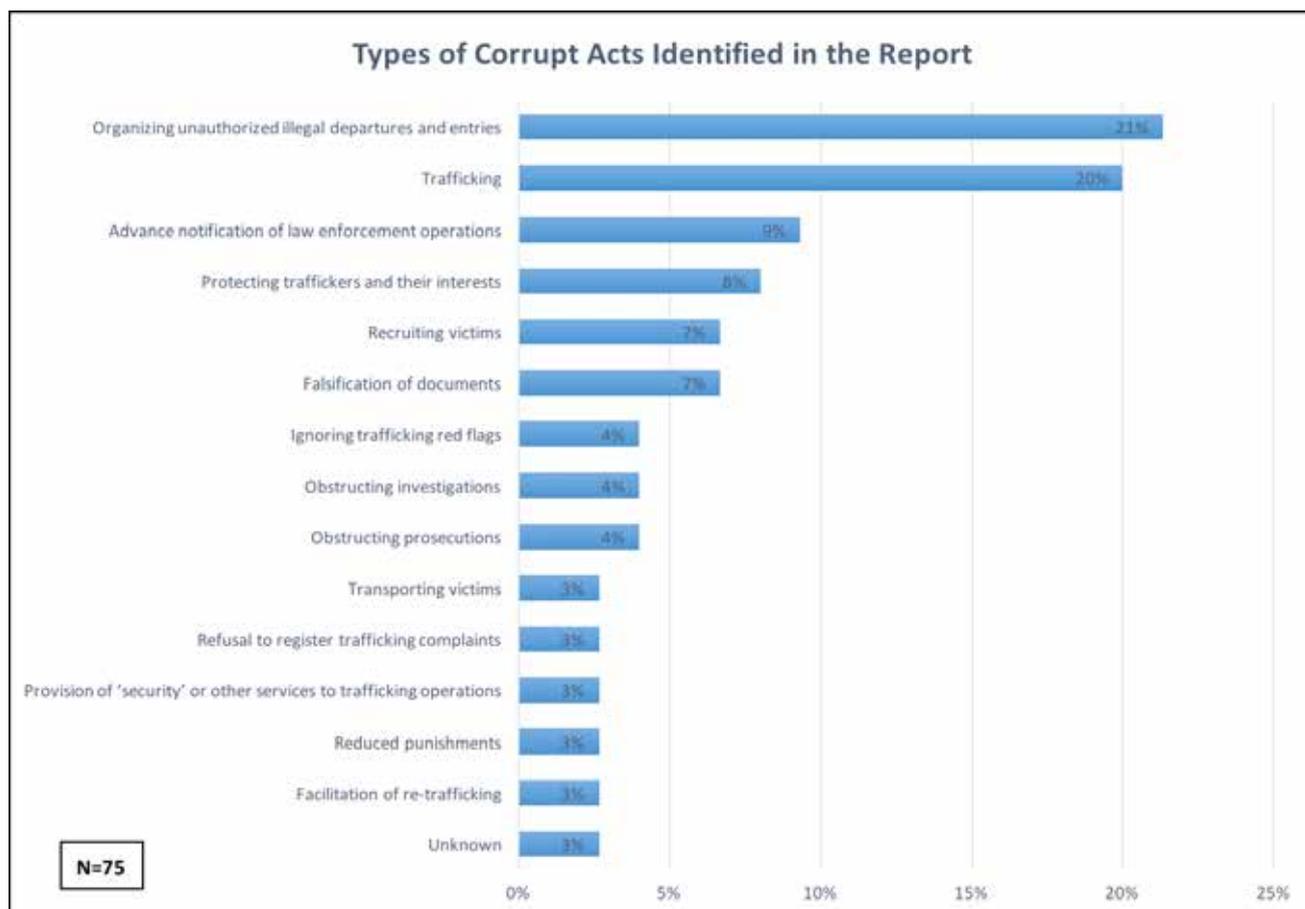
57 ‘The mix of profit and impunity through easily “bought” protection from law enforcers and politicians has created a “high reward/low risk” scenario for human traffickers and their accomplices.’ See note 53, Transparency International (2011).

58 See note 5, UNODC (2011), at 8.

59 ECPAT International Project, *Review of the Situation Concerning the Commercial Sexual Exploitation of Children (CSEC) in Russia and Institutions Involved in CSEC Prevention* (2003).

60 Verité & Freedom Fund, *An Exploratory Study on the Role of Corruption in International Labor Migration* (2016) 6.

Figure 4. Types of corrupt acts identified in the report



Note: A total of 75 corrupt acts were identified. The report identified 72 case studies, but some cases included multiple corrupt acts. Two cases were coded as 'unknown', as there was credible evidence of corruption but reports lacked concrete descriptions of the type of corrupt act.

Outcomes – How corruption facilitates human trafficking

Corruption can help cement close ties between traffickers and those who are charged with bringing criminals to justice.⁶¹ But even the appearance of corruption can give traffickers the power to manipulate their victims. Traffickers frequently maintain control by convincing victims that law enforcement is complicit in their exploitation.⁶² In one case in Austria, for example, a trafficker dressed up as a member of the Austrian police and raped trafficking victims to discourage them from contacting the police.⁶³

Once victims believe that an appeal to public authorities is futile, they may conclude that their only option is to keep quiet and submit.⁶⁴ Victims trafficked from Eastern Europe to Belgium, for example, reported a significant distrust of police.⁶⁵ The victims told investigators that their traffickers had

61 See note 12 at 3.

62 Because traffickers frequently exaggerate their connections and influence over law enforcement to instil fear in their victims, allegations of corruption must be carefully evaluated. In one case, for example, a female trafficker kept four Chinese trafficking victims in servitude by telling them that her boyfriend was a police official. *Queen v Rong Chen, Simon Dempsey and Jason Owen Hinton*, Belfast Crown Court, Case No [2012] NICC 26, 7 June 2012, UNODC, *Human Trafficking Case Database* available at www.unodc.org/res/cld/case-law/gbr/2012/queen_v_rong_chen_simon_dempsey_and_jason_owen_hinton_html/Queen_v_Rong_Chen_Simon_Dempsey_and_Jason_Owen_Hinton.pdf.

63 OSCE, *Analysing the Business Model of Trafficking in Human Beings to Better Prevent the Crime* (2010) 54.

64 See note 5, UNODC (2011), at 12.

65 See note 63, OSCE (2010), at 56. See also Jane Arsovska and Stef Janssens, 'Human Trafficking and Policing: Good & Bad Strategies' in Cornelius Friesendorf, ed, *Strategies Against Human Trafficking: The Role of the Security Sector* (2009) 182.

strong ties with state officials and policemen, citing as evidence that their traffickers had arranged sex parties for ‘policemen, magistrates, judges and politicians’.⁶⁶ A victim from South America reported a similar story, stating that the police were friends of her boyfriend, who had forced her into prostitution. The boyfriend: ‘threatened to kill me if I left him and he reminded me of his contacts within the police...’⁶⁷

Corruption may be a key factor in explaining the extremely low number of trafficking prosecutions – and the even smaller number of convictions – around the world. With the right connections, traffickers can influence the outcomes of investigations and judicial actions. Corrupt practices may also disrupt enforcement after the identification and ‘rescue’ of a trafficking victim. Traffickers may bribe law enforcement officials to evade arrest or to avoid criminal conviction. Traffickers may be willing to pay multiple officials to obstruct investigations.

5.2 Types of human trafficking-related corruption

The sections below provide concrete examples of three modalities of trafficking-related corruption. These examples illustrate cases in which public officials participated in these crimes as:

- traffickers;
- facilitators of human trafficking; and
- facilitators of impunity.

Each modality is illustrated with case studies drawn from a wide range of sources. This analysis is not comprehensive; the creative opportunities for corruption abound. But the evidence does provide additional data to answer the question of how corruption operates within the human trafficking criminal sphere.

5.2.1 Public officials as human traffickers

Public officials can directly participate in human trafficking – playing an active role in the recruitment, transportation, and exploitation of their victims. Direct involvement of officials in trafficking encompasses both sex and labour trafficking. These officials actively participate in trafficking by owning or operating brothels holding trafficked adults and children; forcing victims into domestic servitude; or owning or operating factories that hold workers in forced labour.

DIRECT INVOLVEMENT IN TRAFFICKING FOR FORCED PROSTITUTION AND CHILD COMMERCIAL SEXUAL EXPLOITATION

Across the globe, public officials have been found to participate directly in sex trafficking, recruiting victims and profiting from their exploitation. The officials’ positions often give them a measure of protection from prosecution. In addition, their proximity to vulnerable populations allows them to target victims. Public officials may act alone or in concert with trafficking rings. Corruption may take the form of a police officer trafficking a single victim or owning and operating a commercial sex establishment that uses the services of trafficked persons. For example, a victim of child sex

66 See note 63 at 56.

67 OSCE, *Trafficking in Human Beings Amounting to Torture and Other Forms of Ill-Treatment* (2013) 68.

trafficking in Burundi alleged that a senior intelligence officer held her in captivity as a sex slave for several months, threatening both her and her parents. Despite receiving summons, the officer failed to appear, and the case stalled.⁶⁸

Box 1. Sex trafficking in the United States

In the US, prosecutors have brought trafficking-related charges against law enforcement officials and military personnel. The following five cases illustrate how public officials in a broad range of positions have been directly involved in sex trafficking:

- In March 2016, a jury found a former volunteer California fire captain guilty of trafficking a teenage girl into sexual servitude. The defendant originally paid to have sex with the victim after responding to an advertisement on the classified advertisements website, Craigslist. The victim later moved in with the defendant for approximately one month. During that time, the defendant forced the victim to provide sexual services. The defendant also forced the victim to clean his house and package and sell marijuana.⁶⁹
- In August 2016, a former judicial marshal in Connecticut reached a plea deal with prosecutors on charges that included sex trafficking. Prosecutors alleged that the state officer picked up a woman in his car, 'showed her a star-shaped badge, and told her that if she didn't have sex with him he would arrest her.'⁷⁰ The defendant also faced allegations that he had advertised additional women on escort websites, coerced three women to commit sex acts by threatening them with arrest, and in one instance, allegedly arranged for a client to pay him, rather than the woman, for commercial sexual services arranged through the escort website.⁷¹
- In 2014, the US District Court for the District of Columbia convicted a Washington, DC police officer of two counts of pandering minors out of his apartment.⁷² The officer admitted to recruiting underage girls from a shopping mall and bus stops with promises of modelling jobs.⁷³ He photographed the girls in the nude, provided them with clothing, shoes and haircuts, and allegedly advertised them on the classified advertisements website, Backpage.com.⁷⁴

68 Esdras Ndikumana, 'No Justice For Child Victims of Burundi's Sex Traffic Rings' (*Agence France-Presse*, 17 February 2014) available at <http://reliefweb.int/report/burundi/no-justice-child-victims-burundis-sex-traffic-rings>. In some cases where officials have engaged in trafficking, it is not clear whether the victim knew that the perpetrator held an official position. In this case in Burundi, however, the victim knew the perpetrator's official position. Other girls reported that they were guarded by men in police uniforms.

69 Anon, 'Former Cayucos Firefighter Convicted of Rape, Human Trafficking' (*Paso Robles Daily News*, 7 March 2016) available at <http://pasoroblesdailynews.com/former-cayucos-firefighter-convicted-of-rape-human-trafficking/50211>; Patrick S Pemberton, 'Ex-Cayucos Firefighter Made Teen Girl His Sex Slave, Prosecutor Says' (*The Tribune* (US), 28 January 2016) available at www.sanluisobispo.com/news/local/crime/article39510771.html; Anon, 'Firefighter Said He Killed His Father, Sex Victim Testifies' (*CalCoast News* (US), 28 January 2016) available at <http://calcoastnews.com/2016/01/firefighter-said-he-killed-his-father-sex-victim-testifies>; Matt Fountain, 'Former Cayucos Firefighter Sentenced to 167 Years in Prison' (*The Tribune* (US), 3 August 2016) available at www.sanluisobispo.com/news/local/crime/article93609642.html. It is unclear whether the firefighter used his official position to further his abuse of this victim.

70 David Owens, 'Ex-Judicial Marshal Connelly Sentenced To Year In Sex Trafficking Case' (*The Hartford Current* (US), 6 August 2016) available at www.courant.com/news/connecticut/hc-michael-connelly-sentencing-20160809-story.html.

71 Ibid.

72 Peter Hermann, 'D.C. Police Officer Admits Prostituting Girls' (*Washington Post*, 20 June 2014) available at www.washingtonpost.com/local/crime/plea-hearing-set-for-dc-police-officer-accused-of-running-underage-prostitution-ring/2014/06/19/d7dae1ea-f79e-11e3-8aa9-dad2ec039789_story.html. As a result, Barnhill was forced to register as a sex offender, forfeit his property to the government, including eight cell phones, a laptop and a Lincoln Navigator. He also waived his Freedom of Information Act rights so that he could not request information about the victims and witnesses who testified against him.

73 Ibid.

74 Ibid. It was not clear from the record whether the defendant police officer used his position to further the abuse in this case.

- In 2014, the US District Court of the Eastern District of Virginia sentenced a US Navy sailor to five years' imprisonment after he pled guilty to crossing state lines for the sex trafficking of a 17-year-old girl.⁷⁵ The sailor recruited the victim after he helped her run away from her foster home. He quickly posted online advertisements for escort services. The sailor held the victim in prostitution for almost two months, operating in three separate states before his arrest.⁷⁶
- In 2013, a US firefighter pled guilty to sex trafficking of a minor. The firefighter and a co-defendant operated a brothel in Baltimore City. The defendants recruited victims through false advertisements for exotic dancing and escort service positions. Many victims were in financial distress; others were homeless.⁷⁷ The defendants coerced their victims into prostitution by exploiting these vulnerabilities.

In other cases, public officials have been linked to larger trafficking operations. In one such case, a lieutenant colonel in the Russian Foreign Military Intelligence Directorate was convicted and sentenced to 12 years' imprisonment for involvement in a trafficking scheme.⁷⁸ The officer was part of a criminal group that allegedly trafficked approximately 130 women from Eastern and Central Europe to Western Europe and the Middle East over a period of ten years. According to press accounts, the lieutenant colonel not only covered up the criminal activity, but also colluded with a border control officer who controlled a 'window' at the border to facilitate the trafficking.⁷⁹

Box 2. Case study: sex trafficking rings in India

The following examples from India illustrate how public corruption enables the sex trafficking industry:

- In 2016, the Central Bureau of Investigation filed charges against two police officials stationed at the Nedumabassery Airport. The officers stood accused of facilitating the trafficking of women to brothels in the Gulf. One officer allegedly took bribes to allow victims to travel without valid travel documents.⁸⁰
- In 2014, the rescue of four children from a child sex trafficking racket in Puducherry revealed the involvement of a number of police officers. As a result, nine police officers faced rape charges.⁸¹ Six of the police officers absconded.⁸²
- In 2009, the Indian National Commission for Women exposed a trafficking ring in Uttar Pradesh that kidnapped women from the India-Nepal border and trafficked them to the Middle East for forced prostitution. Corrupt police officials colluded with traffickers to facilitate the trafficking ring.⁸³

- 75 Anon, 'Ex-Sailor Gets 5 Years for Sex Trafficking Child' (*Navy Times* (US), 10 December 2014) available at www.navytimes.com/story/military/crime/2014/12/10/ex-sailor-gets-5-years-for-sex-trafficking-child/20221217.
- 76 'North Carolina Man Pleads Guilty to Travel in Furtherance of Underage Prostitution' (US Department of Justice Press Release, 31 July 2014) available at www.justice.gov/usao-edva/pr/north-carolina-man-pleads-guilty-travel-furtherance-underage-prostitution; see note 75, 'Ex-Sailor Gets 5 Years for Sex Trafficking Child'; Scott Daugherty, 'Ex-Sailor Gets 5 Years for Pimping HIV-positive Teen' (*The Virginian Pilot* (US), 20 December 2014) available at www.pilotonline.com/news/local/crime/ex-sailor-gets-years-for-pimping-hiv-positive-teen/article_9438664c-d3ad-583d-ab82-f663172720f8.html. The sailor held the victim in base housing on a Navy base, Naval Station Norfolk.
- 77 'Former Baltimore City Firefighter Pleads Guilty to Sex Trafficking of a Minor' (US Department of Justice Press Release, 20 September 2013) available at www.justice.gov/usao-md/pr/former-baltimore-city-firefighter-pleads-guilty-sex-trafficking-minor; 'Former Baltimore City Firefighter Sentenced to 15 Years In Prison for Sex Trafficking of a Minor' (US Department of Justice Press Release, 13 December 2013) available at www.justice.gov/usao-md/pr/former-baltimore-city-firefighter-sentenced-15-years-prison-sex-trafficking-minor. It is unclear from the record whether the defendant used his official position to further the abuse. Press reports indicate that he did train his victims how to avoid detection by law enforcement.
- 78 Anon, 'Eleven Jailed for Trafficking Women Abroad' (*Kyiv Post* (Ukraine), 26 April 2011) available at www.kyivpost.com/content/russia-and-former-soviet-union/eleven-jailed-for-trafficking-women-abroad-102899.html.
- 79 Natalya Krainova, 'Military Spy Charged in Sex Slave Ring' (*Moscow Times* (Russia), 30 March 2009); see note 63, OSCE (2010), at 57, 92.
- 80 Anon, 'Cops Hand in Glove with Human Trafficking Rackets' (*New Indian Express* (India), 8 February 2016). There have been multiple reports of official complicity with trafficking rings at Nedumabassery Airport. See also, Anon, 'CBI Arrests Four More In Human Trafficking Case' (*New Indian Express*, 19 September 2014); Anon, 'CBI Takes Up Investigation of Four Cases Relating to Alleged Human Trafficking Through Two International Airports in Kerala' (*New Indian Express*, 5 September 2013); Anon, 'CIAL Trafficking Case: Nine Policemen to be Arraigned' (*New Indian Express*, 29 May 2013); Anon, 'Role of Senior Police Officials Omitted' (*Times of India*, 27 April 2013).
- 81 Bosco Dominique, 'Puducherry child prostitution racket: Photos of six absconding former cops released' (*The Times of India*, 3 March 2015) available at <http://timesofindia.indiatimes.com/india/Puducherry-child-prostitution-racket-Photos-of-six-absconding-former-cops-released/articleshow/46441828.cms>. It was unclear from the public record whether the officers used their official positions to participate in the alleged scheme.
- 82 Ibid.
- 83 Shweta Srinivasan, 'Trafficking Channels Poor Women to Gulf via Nepal' (*Indo-Asian News Service* (India), 1 December 2009) available at www.daijiworld.com/news/printer.asp?nid=69031; US Department of State, *Trafficking in Persons Report* (2010) 175.

Some public officials use their official position to recruit victims from vulnerable populations, particularly minors. In the US, a Texas jury convicted a juvenile probation officer for the sex trafficking of a child. In his job, the defendant worked with high-risk juvenile offenders. Off-duty, he was a member of the 'Folk Nation/Gangster Disciples', a street gang involved in a sex-trafficking ring that operated in at least four states. Gang members used force, fraud and coercion to hold minor and adult victims in prostitution.⁸⁴ Federal investigators claimed that the defendant recruited underage girls through his position working with high-risk juvenile offenders. A federal judge sentenced him to 18 years in prison.⁸⁵

In some cases, staff members at state-run institutions are accused of involvement in human trafficking. In 2015, Disability Rights International, a human rights NGO, reported trafficking of children for forced labour and commercial sexual exploitation in state-run orphanages in Ukraine.⁸⁶ According to testimony collected by the organisation, one orphanage in Odessa included a brothel in the basement.⁸⁷ The organisation also alleged that the institutions coerced residents to engage in forced labour, including the care of other residents with more complex disabilities, agricultural work and heavy cleaning.⁸⁸ According to the report, some staff profited individually by selling agricultural items harvested by the residents; still other staff officials allegedly took children home with them to perform physical labour for the benefit of the staff member.⁸⁹

In another example, a member of a Moldovan criminal gang served as the interim director of the municipal enterprise for utilities. Along with his co-conspirators, he recruited at least 15 women for sex trafficking to Cyprus, Dubai and Turkey.⁹⁰ A Moldovan court convicted and sentenced the defendant to 13 years' imprisonment.⁹¹

DIRECT INVOLVEMENT IN TRAFFICKING FOR FORCED LABOUR

Public officials have also been found guilty of labour trafficking. A corrupt official may traffic just one individual into forced labour, or may abuse many victims. In one case, a Russian army officer was sentenced to three years' imprisonment after a military court found him guilty of selling a soldier under his command to a local businessman for forced labour.⁹² In other instances, alleged victims are trafficked in far greater numbers. Human Rights Watch investigated the trafficking of Eritrean victims from refugee camps to torture camps in the Sinai. The researchers concluded that, in some cases, the trafficking was:

84 'Jury Convicts Three Gang Members and a Former El Paso County Juvenile Probation Officer of Federal Sex Trafficking Charges' (US Department of Justice Press Release, 20 January 2015) available at www.justice.gov/usao-wdtx/pr/jury-convicts-three-gang-members-and-former-el-paso-county-juvenile-probation-officer. According to the indictment, the juvenile probation officer conspired to hold a 15-year-old girl in forced prostitution and benefited financially from the criminal activity.

85 Jesse Martinez, 'Timothy McCullouch Given 20-Year Sentence in Sex Trafficking Case' (*KFOX14* (US), 30 June 2015) available at <http://kfoxtv.com/news/crime-news/timothy-mccullouch-given-20-year-sentence-in-sex-trafficking-case>.

86 Disability Rights International, *No Way Home: The Exploitation and Abuse of Children in Ukraine's Orphanages* (2015) available at www.driadvocacy.org/wp-content/uploads/No-Way-Home-final2.pdf.

87 Ibid at 31.

88 Ibid at 34.

89 Ibid at viii.

90 Anon, 'Six human traffickers sentenced to 68 years in prison' (*TelaRadio Moldova*, 5 March 2014) available at www.trm.md/en/social/sase-membri-ai-unei-retele-de-trafficanti-de-persoane-vor-face-68-de-ani-de-inchisoare. It is unclear from the public record whether the defendant official used his position to perpetrate these crimes.

91 Ibid.

92 Anon, '3 Years for Army Slave Labor' (*Moscow Times*, 25 June 2007) available at www.themoscowtimes.com/news/article/news-in-brief/196130.html.

‘[F]acilitated by collusion between traffickers and Sudanese and Egyptian police and the military who hand victims over to traffickers in police stations, turn a blind eye at checkpoints, and return escaped trafficking victims to traffickers.’⁹³

Public officials may also misuse their positions to operate labour recruiting schemes. In Uganda, a labour recruitment company allegedly trafficked Ugandan women into domestic servitude in Iraq. The Ugandan government revoked the recruiting company’s licence, only to later renew it.⁹⁴ The company’s managing director at the time, retired Colonel Chris Mudola, was a member of the ruling party’s executive committee.⁹⁵

Increasingly, diplomats and officials of international organisations face allegations of direct involvement in trafficking for forced labour and domestic servitude.⁹⁶ Under existing rules of international law, diplomats are generally permitted to bring domestic workers to their country of posting.⁹⁷ In some cases, diplomatic officials use the privileges and immunities of their position to engage in corrupt practices that facilitate the trafficking of domestic workers for purposes of forced and exploitative labour. Across the globe, diplomats have trafficked domestic workers, committing visa fraud, confiscating passports, threatening abuse of legal process and, in some instances, engaging in physical and sexual violence against the women trapped in the diplomatic households.⁹⁸

Diplomatic traffickers use a variety of tactics to force their victims into domestic servitude. These schemes allow traffickers to isolate their victims and inculcate a climate of fear. This renders many victims too terrified to flee their traffickers and seek help. In the US alone, there have been more than 25⁹⁹ civil trafficking cases filed against diplomats and foreign officials since 2003.¹⁰⁰ It is very likely that the actual number of diplomatic human trafficking cases in the US is much higher.¹⁰¹

Box 3. Diplomatic human trafficking by Indonesian Embassy official in the US

An Indonesian woman alleged in a federal complaint that she was the victim of two separate instances of diplomatic human trafficking in the US. Her complaint, filed in Maryland, alleged that she had been held in involuntary servitude for seven years.¹⁰² The complaint alleged that a Saudi Arabian businessman brought the woman to the US on a B-1 (temporary business) visa. She was then ‘sold’ to a Saudi Arabian diplomat living in Virginia, who allegedly subjected her to forced

- 93 Human Rights Watch, *I Wanted to Lie Down and Die: Trafficking and Torture of Eritreans in Sudan and Egypt* (2014) available at www.hrw.org/report/2014/02/11/i-wanted-lie-down-and-die/trafficking-and-torture-eritreans-sudan-and-egypt.
- 94 Anna Cavell, ‘Ugandan Women Tricked Into Domestic Slavery in Iraq’ (*BBC World*, 31 March 2011) available at www.bbc.com/news/world-12887018.
- 95 Anon, ‘Ugandan Girls Narrate Iraq Ordeal’ (*New Vision* (Uganda), 5 September 2012) available at www.newvision.co.ug/new_vision/news/1306256/ugandan-girls-narrate-iraq-ordeal; Douglas Mpuga, ‘Uganda Parliament Investigates Human Trafficking’ (*Voice of America*, 28 February 2012) available at www.voanews.com/content/uganda-parliament-investigates-human-trafficking-140897493/159685.html.
- 96 For more extensive reporting on the historical issue of domestic servitude in diplomatic homes see also, Human Rights Watch, *Hidden in the Home: Abuse of Domestic Workers with Special Visas in the United States* (2001) available at www.hrw.org/report/2001/06/01/hidden-home/abuse-domestic-workers-special-visas-united-states.
- 97 Vienna Convention on Diplomatic Relations 1961. Arts 1, 10 and 37 of this Convention consider the employment of private servants in the homes of diplomats stationed abroad.
- 98 OSCE Office for the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *How to Prevent Human Trafficking for Domestic Servitude in Diplomatic Households and Protect Private Domestic Workers* (2014) available at www.osce.org/handbook/domesticservitude?download=true.
- 99 For additional detail on diplomats and trafficking of domestic workers see, Martina E Vandenberg and Sarah Bessell, ‘Diplomatic Immunity and the Abuse of Domestic Workers: Criminal and Civil Remedies in the United States’ (2016) 26 *Duke Journal of Comparative & International Law* 595-633 available at: <http://scholarship.law.duke.edu/djcil/vol26/iss3/6>
- 100 Stacy Teicher Khadaroo, ‘On Embassy Row, a Fraying Veil of Immunity for Traffickers: Foreign Missions in the US that Abuse their Domestic Staff are Being Held to Account’ (*The Christian Science Monitor*, 21 December 2015) available at www.csmonitor.com/USA/Justice/2015/1221/On-embassy-row-a-fraying-veil-of-immunity-for-traffickers.
- 101 US Government Accountability Office, ‘U.S. Government’s Efforts to Address Alleged Abuse of Household Workers by Foreign Diplomats With Immunity Could be Strengthened’ (2008) GAO-08-892, 11.
- 102 *Arma v Prakoso*, No 8:14-cv-03113 (SD Md, filed 2 October 2014).

domestic servitude and 'severe sexual harassment'.¹⁰³ She escaped from the Saudi diplomat's residence and sought help from the Indonesian Embassy in Washington, DC. There she met her second trafficker, an employee in the Indonesian Embassy's Consular, Visa and Passport Division. The Embassy official allegedly offered to take the victim under the care of his family, offering her employment as a domestic servant in his home. The official also promised that if she worked for two years, he would purchase her return ticket to Indonesia. With little working knowledge of English, lacking sufficient funds to purchase a plane ticket and isolated and vulnerable, the domestic worker accepted the offer. She alleged in her complaint that the defendants forced her into involuntary servitude for seven years. During this time, she alleged that she worked approximately 11 hours per day, seven days a week, and earned wages far below the applicable federal minimum wage.¹⁰⁴

5.2.2 Public officials as facilitators of human trafficking

Public officials may also facilitate trafficking. While these public officials do not rise to the level of traffickers, their acts or omissions play a considerable role in the facilitation of trafficking. Although they may only engage in one portion of a trafficking scheme, their participation is a critical enabler of trafficking. The cases illustrate that public officials facilitate trafficking in a variety of ways, including:

- recruiting victims;
- transporting victims;
- organising unauthorised illegal departures and entries; and
- falsification of documents.

RECRUITING VICTIMS

Public officials may collude with traffickers to recruit victims. In one case, a Polish police sergeant recruited teenage girls from a children's shelter and supplied them to a local gang. In return he was given access to the victims for sexual purposes.¹⁰⁵

Box 4. Case study: slavery on the high seas

Forced labour and slavery are widespread in the Thai fishing industry.¹⁰⁶ Thai officials across a range of agencies facilitate these crimes.¹⁰⁷ Every year, scores of Southeast Asian boys and men are trafficked into modern-day slavery on Thai fishing boats. Media reports allege that law enforcement and military officials play a significant role in this exploitation. Investigative journalists have reported that Thai police remove Rohingya men from detention facilities to provide them to traffickers. Thai naval and other military officials divert boats carrying Rohingya asylum seekers seeking refuge in Malaysia. Corrupt Thai officials allegedly redirect the workers to labour brokers in Thailand.¹⁰⁸ Officials allegedly received private payments for this facilitation.

Once captured by traffickers, victims work year-round, in 18 to 20-hour shifts. According to press reports, the trafficked fishermen work through the night in total darkness and slave through the day under the blistering sun. Their 'room' is a hammock crammed under a crawl space. Those who work too slowly face a stiff penalty: a beating. The *New York Times* reported that those workers who disobeyed orders faced execution in front of the crew.¹⁰⁹

103 Ibid.

104 The lawsuit was subsequently settled between the parties and dismissed voluntarily. Notice of Voluntary Dismissal, *Arma v Prakoso*, No 8:14-cv-03113 (SD Md, 8 April 2015).

105 Leslie Holmes, 'Human Trafficking & Corruption: Triple Victimization?' in Cornelius Friesendorf ed, *Strategies Against Human Trafficking: The Role of the Security Sector* (2009), 90.

106 Robin McDowell, Margie Mason and Martha Mendoza, *Slaves May Have Caught the Fish You Bought*, Associated Press (25 March 2015) available at www.ap.org/explore/seafood-from-slaves/ap-investigation-slaves-may-have-caught-the-fish-you-bought.html.

107 Ian Urbina, "'Sea Slaves': The Human Misery That Feeds Pets and Livestock' (*The New York Times*, 27 July 2015) available at www.nytimes.com/2015/07/27/world/outlaw-ocean-thailand-fishing-sea-slaves-pets.html.

108 Padang Besar, 'Special Report: Thai Authorities Implicated in Rohingya Muslim Smuggling Network' (*Reuters*, 17 July 2013) available at www.reuters.com/article/us-myanmar-exodus-specialreport-idUSBRE96G02520130717.

109 See note 107, "'Sea Slaves'".

In response to mounting reports of public corruption, Thailand's Prime Minister announced the transfer of 23 officials located in the country's seafood industry hub. These officials include the provincial governor, provincial prosecutor, ministry officials, and police officers. Although the allegations against the officials were not released, many are under investigation for tolerating both corruption and criminal activity in cases related to human trafficking and forced labour.¹¹⁰

TRANSPORTING VICTIMS

Some public officials play an active role in transporting victims. In one case, victims trafficked into Ecuador from Colombia identified an immigration officer as the person who actually drove the car that allowed the victims to cross the border.¹¹¹ In Burundi, authorities arrested a police officer on suspicion of kidnapping and transporting two minor girls to a house used for prostitution.¹¹²

ORGANISING UNAUTHORISED AND ILLEGAL ENTRIES

Corruption also facilitates the movement of trafficking victims across borders. Border, immigration and customs officials play a key role in facilitating the movement of trafficked persons across borders. As gatekeepers, these positions carry opportunities for engaging in corruption. Public officials in a country of origin can assist traffickers in moving victims out of the country. They also facilitate the entry of victims into destination countries. Note that traffickers may bribe public officials to falsify documents in order to arrange an illegal entry or exit. The following discussion provides specific case studies of the falsification of such documents.

ORGANISING ILLEGAL EXIT

Organisations such as Verité, Liberty Asia and The Freedom Fund have done considerable work documenting the ways in which public corruption facilitates the exit of victims from their country of origin.¹¹³ Corrupt actors range from immigration officers on the ground to state employees of federal agencies that approve departures. 'Setting' is a practice whereby labour recruiters bribe immigration officials to allow labour trafficking victims to leave the country. The labour recruiter pays a bribe to an immigration official and then marks the victims' passports in a pre-arranged manner. The recruiter then instructs the workers to line up at a specific window.¹¹⁴

Pre-arranged tokens have been reported at airports and land borders. In the Philippines, officials charged an immigration official at the Diosdado Macapagal International Airport as a trafficking co-conspirator.¹¹⁵ The traffickers gave domestic workers travelling to Malaysia a piece of paper with the letter 'A' embossed on the back. The trafficked workers were told that this would allow them to pass through immigration in Manila.¹¹⁶ In a separate incident, two immigration officials in Zamboanga City were arrested and charged with aiding a syndicate trafficking domestic workers to Malaysia and

110 Anon, 'Top Samut Sakhon Officials Moved in Corruption Sweep' (*The Bangkok Post*, 25 June 2016) available at www.bangkokpost.com/news/general/1019749/heads-roll-in-corruption-sweep.

111 Causa Penal No 604-09, del Juzgado Cuarto de lo Penal de Imbabura.

112 The officer was later charged with rape. US Department of State, *Trafficking in Persons Report* (2015) 108.

113 Verité & Freedom Fund, *An Exploratory Study on the Role of Corruption in International Labor Migration* (2016); see note 15, Liberty Asia (2016a) and Liberty Asia (2016b).

114 See note 60, Verité & Freedom Fund (2016), at 9.

115 Immigration officer Racel Ong was dismissed as a co-conspirator after agreeing to testify against the defendant. Criminal Case No 0310-2009, UNODC No PHL055, UNODC Human Trafficking Case Law Database available at www.unodc.org/cld/case-law-doc/traffickingpersonscrimetype/phl/2012/crim._case_no._0310-2009.html?tmpl=old.

116 Ibid.

Lebanon. Victims were instructed to wear a pink hair tie on their wrist to signal to the immigration officer to stamp their passport.¹¹⁷

According to Verité, Nepali manpower agents pay ‘setting’ bribes to immigration officials at the Tribhuvan International Airport to ensure that workers en route to Qatar are able to depart.¹¹⁸ Immigration officials at the Kathmandu International Airport reportedly receive up to NPR 2m (US\$20,000) in bribes *per day* to approve workers’ travel documents.¹¹⁹

At porous land borders, token systems are used. For example, on both sides of the Indo-Bangladesh border, traffickers procure tokens from law enforcement agencies that allow them to go back and forth across the border unhindered.¹²⁰ In another case, victims testified that they crossed immigration checkpoints between Ecuador and Colombia without being required to produce identification documents to immigration officers.¹²¹

Public officials at the agency-level also collude with traffickers to fraudulently approve the deployment of labour trafficking victims. This practice is particularly prevalent in countries where a large percentage of the population consists of foreign migrant workers. According to the Nepalese media, Department of Foreign Employment (DoFE) employees receive bribes of approximately NPR 50,000 (US\$500) per worker deployed to the Gulf region.¹²² In March 2014, six DoFE staff, including the director, were arrested and charged with accepting a total of NPR 3.27m (US\$32,700) in bribes to fraudulently approve the deployment of 109 Nepali workers to Qatar.¹²³ In a separate incident, a total of 42 officials from the DoFE, Nepal’s Department of Immigration, and the Tribhuvan International Airport desk were arrested on suspicion of fraudulently approving the deployment of 77 Nepali migrant workers to Qatar.¹²⁴

In a similar case in the Philippines, prosecutors charged five officials of the Philippine Overseas Employment Administration (POEA) for human trafficking and violation of the Anti-Graft and Corrupt Practices Act.¹²⁵ The complaint alleged that officials within POEA conspired to delay enforcing punitive orders to shut down agencies no longer licensed to do business due to recruitment violations.¹²⁶ According to the allegations, 100 overseas Filipino workers were sent abroad by recruitment agencies whose licences POEA directors and staff knew had been cancelled. The workers ‘...were subjected to exploitation, forced labour, some of them to prostitution, they were not paid, not fed.’¹²⁷

117 Rene Acosta, ‘Lebanese-led Human-Trafficking Syndicate Busted’ (*Business Mirror* (Phillipines), 16 September 2015); Anon, ‘NBI Files Criminal Raps Against Lebanese National, 7 Filipinos’ (*Zamboanga Times* (Phillipines), 26 September 2015) available at www.zamboangatimes.ph/opinions/16283-nbi-files-criminal-raps-against-lebanese-national-7-filipinos.html.

118 See note 60, Verité & Freedom Fund (2016), at 8.

119 Ibid.

120 Ravik Bhattacharya, ‘Visa? Rs 1000 Lets You Enter Bangladesh’ (*Hindustan Times* (India), 22 December 2012) available at www.hindustantimes.com/india/visa-rs-1000-lets-you-enter-bangladesh/story-AjL8QQZu5H17DfjsaknCQN.html. For a detailed analysis of conditions along the Indo-Bangladesh frontier, see Groupe Développement, *Lives in Motion: Mobility, Smuggling, and Trafficking Along the Indo-Bangladesh Border* (2006) 193, 201, 203 available at www.childtrafficking.com/Docs/lives_in_motion_bangladesh.pdf.

121 Causa Penal No 1166-08 del Juzgado Décimo Segundo de lo Penal de Pichincha.

122 See note 60, Verité & Freedom Fund (2016), at 8.

123 Ibid.

124 Ibid.

125 These officials accused of involvement in the scheme included the Director IV for Adjudication; the Director II for Legal Research, Docket, and Enforcement Branch; Attorney V, of the Docket and Enforcement Division; and Administrative Aide VI (Sheriff); and a Philippine Overseas Employment Administration Web Administrator.

126 Anon, ‘POEA Officials Charged with Human Trafficking, Corruption’ (trafficking.org (US Department of State, G/TIP and Solidarity Center STEER Project.), 11 January 2001) available at http://trafficking.org.ph/v5/index.php?option=com_content&task=view&id=3605&Itemid=56

127 Ibid.

Traffickers also work with public officials within destination countries to facilitate the entry of victims. The tactics are similar to those used to facilitate the illegal departure of trafficking victims. On the ground, corrupt border and immigration officials may allow victims into a country without proper documentation. Ukrainian labour trafficking victims, for example, were instructed to bribe Mexican immigration officials upon their arrival in Mexico City.¹²⁸ In 2010, a court in Nicaragua convicted a trafficker for bringing a 17-year-old girl from El Salvador to Nicaragua for domestic servitude. In addition to holding the child in forced labour as a domestic worker, the trafficker also forced the girl to have commercial sex with men. The trafficker took the child across the border to Nicaragua, bribing a border guard to permit the child to cross without the proper documents.¹²⁹ A similar case occurred in Kenya, where immigration and revenue authority officials allegedly allowed Tanzanian children to enter the country without proper identification.¹³⁰ These children were trafficked into forced begging schemes, forced prostitution and domestic servitude.

In another case, traffickers in Australia collaborated with a corrupt immigration official to fraudulently obtain bridging refugee visas for Thai trafficking victims, who were then held in forced prostitution in Sydney.¹³¹ In Russia, law enforcement authorities initiated a criminal investigation of an official of the Federal Migration Service and two Moscow police officers. The defendants allegedly organised the illegal entry of more than 700 foreign nationals, primarily from Vietnam, for labour exploitation in illegal garment factories in the Moscow region.¹³²

In 2011, the Malaysian Special Branch arrested eight Immigration Department officers stationed at the Kuala Lumpur International Airport for their alleged involvement in a human-trafficking syndicate.¹³³

Box 5. Labour recruiting, forced labour and corruption in Nepal

Verité's report on corruption in global supply chains provides an example of corruption in a country of origin. Verité reports:

'Nepal provides an example of how corruption links with trafficking. In that country, to send workers abroad legally, domestic recruitment agencies must provide the Department of Foreign Employment with a "demand letter" from the receiving country employer, a guarantee letter from the recruitment agency, power of attorney, an employment contract, a service contract between the agency and the client, and evidence of life insurance. After verifying these documents, the Labor Department stamps each worker's passport signifying permission to migrate. Nepal's Foreign Employment Act 2007 regulates the operation of recruitment agencies and registered agents who facilitate the migration of foreign workers and assigns responsibility to the Department of Foreign Employment for all matters pertaining to foreign employment...

- 128 Order Denying Motion to Dismiss, *United States v Omelyan Botsvynnyuk*, No 10-159-1 at 2 (ED Pa, 16 July 2012). Defendant Omelyan Botsvynnyuk was convicted of RICO Conspiracy and Hobbs Act Extortion in relation to trafficking Ukrainian citizens to the US for forced labour. Victims flew from Ukraine to Mexico City, where they were instructed to bribe immigration officers, and then entered the US unlawfully. Victims worked long shifts every day, cleaning offices and stores, without compensation. Ibid at 2-4.
- 129 *Prosecutor v Rosa Amada Lovo*, Corte Suprema de Justicia Juzgado Tercero Distrito Penal de Juicio de Managua, 003273-ORM1-2010-PN, UNODC No NIC001, UNODC Human Trafficking Case Database available at www.unodc.org/cld/case-law-doc/traffickingpersonscrimetype/nic/2011/lovo.html?tmpl=old. The defendant, a female citizen of Nicaragua, was sentenced to 12 years in prison.
- 130 Winnie Atieno, 'Child Labor, Prostitution Thriving at the Coast' (*Nation* (Kenya), 17 October 2014).
- 131 *R v Johan Sieders and Somsri Yotchomchin*, New South Wales Court of Criminal Appeal, UNODC No AUS005 available at www.unodc.org/cld/case-law-doc/traffickingpersonscrimetype/aus/2008/_r_v_sieders_yotchomchin.html?tmpl=old.
- 132 Yekaterina Kravtsova, 'Top Cops 'Protected' Traffickers, Interior Ministry Says' (*Moscow Times*, 7 August 2013) available at www.themoscowtimes.com/news/article/top-cops-protected-traffickers-interior-ministry-says/484254.html?TB_iframe=true. The Moscow Police Department initiated a case under Art 127.2 of the Russian Criminal Code, which prohibits slave labour.
- 133 '80pct [percent] of border officers are corrupt, says SB [Special Branch]' (*Malaysia Kini*, 3 June 2015) available at www.malaysiakini.com/news/300537. Media reported that the officers' detention ended just a few months after their arrest.

Each step in the process outlined above represents an opportunity to extract a bribe or corrupt payment. [One] study, undertaken for the World Bank, conservatively estimated that corruption in the foreign employment industry in Nepal amounted to over NPR 17.2 billion per year (USD \$194.7 million).¹³⁴

FALSIFICATION OF DOCUMENTS

An immigration official willing to falsify information or forge immigration documents provides traffickers with significant opportunities.¹³⁵ A falsified document can achieve a variety of aims. It can facilitate the movement of trafficking victims out of their countries of origin and into destination countries – as described above. Falsified documents also enable traffickers to move child trafficking victims across borders as adults or without parental consent.¹³⁶ They also facilitate the stay of trafficking victims in a country.

Officials in Nepal allegedly received bribes to include false information in Nepali passports or provide fraudulent travel documents to labour migrants. Forty-six officials from the Department of Foreign Employment (DoFE) and the Department of Immigration were indicted for issuing fraudulent documents.¹³⁷ In June 2015, authorities filed charges against 12 DoFE officials for receiving bribes from manpower agencies in exchange for approving falsified documents that facilitated the deployment of workers abroad.¹³⁸

In Bolivia, law enforcement officials investigating a criminal defendant for the use of forged documents uncovered evidence of collusion in human trafficking crimes by high-ranking Bolivian officials. A search of the defendant's home yielded documentation showing that an advisor to a government ministry and three sitting politicians had assisted in trafficking Chinese nationals into the country. The officials had written letters soliciting visas, attesting that four Chinese citizens would work on a rice-planting project, that 11 Chinese nationals would make investments in Bolivia and that an additional 116 would visit an indigenous community in Bolivia.¹³⁹ These representations were false.

In some circumstances, border agents facilitate smuggling of migrants and may or may not know that the smugglers intend to traffic their victims.¹⁴⁰ For example, federal authorities have charged US border control agents along the US–Mexico frontier with accepting thousands of dollars in bribes to allow migrants to cross without documentation. In a 2005 case, a Customs and Border Protection agent received US\$300 for each migrant that he permitted to cross the border illegally.¹⁴¹ Of the 494 internal investigations opened by the McAllen, Texas Office of the Inspector General between

134 See note 14, Corruption & Labor Trafficking.

135 Causa Penal No. 012-08 del Tribunal Primero de lo Penal de El Oro.

136 This has been reported in Benin, Ethiopia and Madagascar: US Department of State, *Trafficking in Persons Report* (2015) 92 (describing child trafficking in Benin); US Department of State, *Trafficking in Persons* (2014) 173 (describing child trafficking in Ethiopia); US Department of State, *Trafficking in Persons* (2014) 256 (describing child trafficking in Madagascar).

137 See note 28, Bashir Uddin (2014), at 18, 24 (citing to US Department of State, *Trafficking in Persons Report* (2012) 260–262).

138 See note 60, Verité & Freedom Fund (2016), at 8.

139 *Prosecutor v Bin Xin Zhang*, et al, Auto Supremo 200/2007, Supreme Court of Bolivia, Full Session, 15 August 2007, Database of the Supreme Court of Bolivia available at <http://suprema.poderjudicial.gob.bo>. For a case summary, see UNODC Human Trafficking Case Database, UNODC No BOL003, www.unodc.org/cld/case-law-doc/counterfeitingcrimetype/bol/2007/_auto_supremo_2002007_-_bin_xin_zhang_zhang_et_al.html?tmpl=old.

140 As noted, smuggling and trafficking are very different crimes. In many cases, however, victims smuggled into a country are then subsequently trafficked by individuals who seek to place the victims in forced labour or forced prostitution.

141 James Pinkerton, 'Corruption crosses the border with agent bribes: U.S. officers have been charged with taking money to let [drug] traffickers cross checkpoints' (*Houston Chronicle* (US), 30 May 2005) available at www.chron.com/news/houston-texas/article/Corruption-crosses-the-border-with-agent-bribes-1657406.php.

January 2008 and February 2012, 195 involved allegations of human smuggling.¹⁴² Similarly, in March 2016, authorities in Kenya arrested three police officers for allegedly trafficking Ethiopian refugees in Kenya en route to South Africa.¹⁴³ Authorities also arrested the 23 Ethiopian migrants the officers were accused of transporting.¹⁴⁴

5.2.3 Public officials as facilitators of impunity

Traffickers face little or no risk that they will be held accountable for their crimes. The number of criminal trafficking prosecutions per year is paltry compared to even the most conservative estimates of trafficking's prevalence. While millions of people are held in modern-day slavery worldwide,¹⁴⁵ the US TIP Report states that there were only 10,051 trafficking prosecutions around the world in 2014.¹⁴⁶ According to the UNODC, 41 per cent of States Parties to the Trafficking Protocol reported fewer than ten trafficking convictions per year.¹⁴⁷

This failure to prosecute leads to widespread impunity. There are several factors that drive impunity, with corruption chief among them.¹⁴⁸ Corruption is a significant enabler of continued impunity, rendering national and international cooperation efforts impotent.¹⁴⁹ Corrupt officials facilitate impunity by obstructing the detection, investigation, prosecution and punishment of traffickers. Frequent methods of such facilitation include:

- ignoring trafficking red flags;
- protecting traffickers and their interests;
- refusal to register trafficking complaints;
- advance notification of law enforcement operations;
- provision of 'security' or other services to trafficking operations;
- obstructing investigations;
- obstructing prosecutions;
- reduced punishments; and

142 Melissa del Bosque and Patrick Michels, 'Homeland Insecurity (*Texas Observer*, January 2016) available at www.texasobserver.org/homeland-security-corruption-border-patrol.

143 Press accounts frequently conflate trafficking and smuggling, making it difficult to distinguish whether the purpose of the migration was forced labour or exploitation. William Oeri, 'Police Officers Arrested in Marsabit for Human Trafficking' (*The Daily Nation*, 12 March 2016) available at www.nation.co.ke/counties/Officers-arrested-in-Marsabit-for-human-trafficking/-/1107872/3114286/-/10p3isu/-/index.html.

144 Ibid.

145 The ILO estimates that 20.9 million people across the world are held in all forms of forced labour. ILO, *ILO Global Estimate of Forced Labour: Results and methodology* (2012) 13 available at www.ilo.org/wcmsp5/groups/public/-ed_norm/-declaration/documents/publication/wcms_182004.pdf.

146 US Department of State, *Trafficking in Persons Report* (2015) 48.

147 UNSC, 'Security Council, Briefed by Drugs and Crime Office Chief, Hear Moving "Front Line" Accounts' *Security Council Presidential Statement Says Human Trafficking Might Constitute War Crimes, as Members Consider Issue for First Time* (16 December 2015) Press Release SC/12165 available at www.un.org/press/en/2015/sc12165.doc.htm.

148 Additional factors include: botched investigations; failure to protect victim-witnesses; lack of political will; structural economic barriers; insufficient state resources; States' economics reliance on migrant remittances from abroad. The Human Trafficking Pro Bono Legal Center & The Freedom Fund, Ending Impunity, *Securing Justice: Using Strategic Litigation to Combat Modern-Day Slavery and Human Trafficking* (2015) 4 available at www.htprobono.org/wp-content/uploads/2015/12/FF_SL_AW02_WEB.pdf.

149 Anne T Gallagher, *The International Law of Human Trafficking* (Cambridge University Press, 2010) 444. See also, Albert Moskowitz, 'Challenges and Priorities in Prosecuting and Adjudicating Trafficking in Persons Cases', Paper to Trafficking in Persons Research and Data Forum 3–4 November 2008 available at www.aaptip.org/2006/artip-project/documents/Paper_J&P-Challenges-TIP_22Oct08_fn1.pdf.

- facilitation of re-trafficking.

Case studies confirm that corruption can undermine every point of the criminal justice process: investigation, prosecution and trial. Corrupt police and investigators can thwart prosecutions by derailing investigations. And if trafficking is not properly investigated, it cannot be prosecuted. These underhanded methods only reinforce impunity for traffickers.

IGNORING TRAFFICKING RED FLAGS

Wilful ignorance on the part of public officials, including law enforcement officers, can allow traffickers to act with impunity.¹⁵⁰ In 2012, authorities arrested three prison guards in El Salvador after it was discovered that they allowed an incarcerated gang member to bring a girl into a prison for forced prostitution.¹⁵¹ A recent case decided by the European Court of Human Rights against Greece pointed to ‘police negligence’ and ‘investigation delays’ in the handling of a trafficking case involving a victim from Nigeria.¹⁵² The Court found that Greece had violated Article 4 of the European Convention on Human Rights, which prohibits slavery and forced labour.

Box 6. Case study: trafficking for commercial sexual exploitation of children in Ecuador

State officials in Ecuador have faced allegations that they falsified identification documents of minors in order to allow them to work in the country as adults. Because adult prostitution is not penalised in Ecuador, false papers allow traffickers to exploit their victims with impunity.¹⁵³ Brothel owners obtain some of the false documents through criminal organisations. But other documents are allegedly falsified by public officials working for the Office of Civil Registry, the public institution in charge of issuing national identification papers. These officials rarely face prosecution for their conduct.¹⁵⁴ For example, a 2008 case decided by a judge in the city of El Oro found girls ranging from 12 to 17 years old using false identification papers while forced to work in a brothel. Experts believed that the official papers the girls held could not have been acquired without the help of the civil registry officers. However, authorities did not launch an investigation into the allegations.¹⁵⁵

PROTECTION OF TRAFFICKERS AND THEIR INTERESTS

Public officials may provide protection for trafficking operations in a variety of ways, including using their position to promote traffickers’ interests or protecting them from being prosecuted. In 2003, for example, an immigration official in New York City pled guilty to accepting a bribe from a

150 Philip Gounev and Vincenzo Ruggiero, eds, *Corruption and Organized Crime in Europe: Illegal Partnerships* (Routledge, 2012) 80.

151 US Department of State, *Trafficking in Persons Report* (2015) 150; US Department of State, *Trafficking in Persons Report* (2014) 166; US Department of State, *Trafficking in Persons Report* (2013) 160. See also Alma Guillemprieto, *El Salvador el Violento Paisaje de las Maras, Letras Libras* (April 2012) (describing how teenage girls are brought to imprisoned gang members under the guise of ‘conjugal visits’).

152 Philip Chrysopoulos, ‘EU Court of Human Rights Condemns Greece for Human Trafficking Case’ (*The Greek Reporter*, 22 January 2016) <http://greece.greekreporter.com/2016/01/22/eu-court-of-human-rights-condemns-greece-for-human-trafficking-case/#sthash.QU6ooH8i.dpuf>. In some instances, corruption may appear to be mere incompetence. It is difficult to judge from this record whether the delays stemmed from corrupt actions or from an incompetent failure to conduct official duties.

153 Juan Carlos Corrales Sigcho, ‘Estudio Jurídico de la Normativa Penal Referente A la Trata de Personas en el Ecuador’ (Facultad de las Americas, 2011) 26 available at <http://dspace.udla.edu.ec/bitstream/33000/1387/1/UDLA-EC-TAB-2011-24.pdf>.

154 For a useful analysis of document fraud and the ability to obtain false identification papers in Ecuador, see ‘Ecuador, Zona Franca del Trafico Humano’ (2011) 298 *Revista Vanguardia* 14 available at http://issuu.com/la_hora/docs/vanguardia298/15. See also, UNODC, *Estudio Sobre el Estado De la Trata de Personas en Ecuador*, www.unodc.org/documents/peruandecuador/Informes/ECUADOR/trata_de_personas_en_ecuador_final.pdf.

155 Causa Penal No 012-08 del Tribunal Primero de lo Penal de El Oro.

defendant who sought to avoid prosecution for human trafficking.¹⁵⁶ The official attempted to deport the two victims, who were preparing to testify against the defendant and his wife.¹⁵⁷ In another case prosecuted in New York, investigators determined that two police officers had received bribes in exchange for protecting an extensive network of Korean brothels holding victims of trafficking in the US.¹⁵⁸ Authorities arrested and prosecuted the two police officers.¹⁵⁹

In the end, it is the trafficking victims who bear the financial burden of bribes. Brothel owners commonly add the cost of the bribe to a trafficking victim's debt, thereby ensuring that the victims remain trapped.¹⁶⁰ Similarly, in labour trafficking cases, the costs of bribes compound the already-exorbitant recruitment fees that victims must pay to 'buy' their jobs.

Box 7. Brothels and bribes

Prostitution rings, brothel owners and pimps routinely pay law enforcement officials bribes for protection and to deliberately ignore their activities.¹⁶¹ For example, in Russia, experts estimate that prostitution rings spend about US\$300,000 a month in bribes to local authorities.¹⁶² In India, extorting bribes is so lucrative that police officers are known to pay bribes of their own to be transferred to a red-light district.¹⁶³ In red-light areas in Delhi, police reportedly extorted up to INR 26,000 (US\$866) per day in protection money.¹⁶⁴ In Pune, brothels pay police between INR 2000 and INR 5000 (US\$62-155) in monthly protection fees.¹⁶⁵

In addition to paying monthly fees, pimps also 'register' trafficking victims. 'Registering' is a process by which brothel operators notify the police of a new trafficking victim and pay them a bribe to maintain their silence. In India, these bribes run between INR 5,000 and INR 25,000 (US\$166-\$833), depending on the victim.¹⁶⁶ Police also assist brothel operators in registering minor girls as adults in exchange for bribe money.¹⁶⁷ Police will detain the minor girl in lockup for a night and then bring her to court with a falsified first information report (FIR) that states that the girl has adult status.¹⁶⁸

Corrupt officials also protect trafficking operations by intimidating trafficking victims. In a forced labour case in the US, the victims alleged that their trafficker conspired with two local police officers to have them unlawfully arrested and detained. The victims, two Mexican migrant workers, were forced to work at a crawfish farm and were arrested while attempting to escape. The trafficker was

156 *United States v Yushuvayev*, F Supp 2d 455 (EDNY 2008). While awaiting trial, the accused trafficker approached Yushuvayev, knowing that he was an Inspector for US Customs and Border Protection. The defendant offered to pay the inspector US\$5,000 per person to forcibly place the two witnesses on flights to South Korea to prevent them from testifying. Yushuvayev eventually agreed to conduct the deportation for US\$4,000.

157 Ibid.

158 *United States v Do Hyup Bae*, No 1:06-mj-00862-KAM (EDNY 2006). For a summary of this case, see UNODC Human Trafficking Case Law Database, *Case View: United States v Kim et al* (Do Hyup Bae) available at https://www.unodc.org/cld/case-law-doc/traffickingpersonscrimetype/usa/2007/united_states_v_kim_et_al_do_hyup_bae.html?lng=en&tmpl=sherloc (accessed 13 September 2016).

159 *United States v Jerry Svoronos*, et al, No 06-CR-234 (SLT) (RML) (EDNY 2006). For a summary of this case, see UNODC Human Trafficking Case Law Database, *Case View: United States v Kim et al aka Jerry Svoronos* available at https://www.unodc.org/cld/case-law-doc/traffickingpersonscrimetype/usa/2007/united_states_v_kim_et_al_aka_jerry_svoronos.html?lng=en&tmpl=sherloc (accessed 13 September 2016). See also, William Rashbaum and Michelle O'Donnell, '2 Policemen Accused of Taking Bribes to Protect Queens Brothel' (*The New York Times*, 10 March 2006) available at www.nytimes.com/2006/03/10/nyregion/10cops.html?_r=0. According to court documents, one officer accepted several hundred dollars in bribes, the second received discounted sexual services of the house. The officers pled guilty.

160 Yugank Goyal and Padmanabha Ramanujam, 'Ill-Conceived Laws and Exploitative State: Toward Decriminalizing Prostitution in India' (2015) 47 *Akron L Rev* 1071, 1087.

161 See generally, Human Rights Watch, *Rape for Profit: Trafficking of Nepali Girls and Women to India's Brothels* (1995); 'When Police Act as Pimps: Glimpses into Child Prostitution in India', Manushi Forum for Women's Rights and Democratic Reforms (March/April 1998) 105 available at www.manushi.in/docs/246-police-act-as-pimps.pdf.

162 Alexey Eremenko, 'Sex Slavery Thrives in Russia Out of Public View' (*Moscow Times*, 2 December 2014) available at <https://themoscowtimes.com/articles/sex-slavery-thrives-in-russia-out-of-public-view-41881>.

163 See note 160, Goyal et al (2015), at FN 103.

164 Anuradha Kumar, *Human Rights: Global Perspectives* (Sarup, 2002) 228.

165 See note 160, Goyal et al (2015).

166 See note 160, Kumar (2002).

167 Ibid.

168 Ibid.

present at the plaintiffs' arrest and later came to the police station. In the presence of their trafficker, one policeman allegedly told the trafficking victims that 'they should not again leave [the trafficker's] premises because of the "gringos malos" who kill Mexicans' and that 'they did not have permission to leave [the trafficker's] premises'. The second policeman allegedly threatened the victims with a Taser gun, intimating that they would be sent back to Mexico.¹⁶⁹

In an incident involving forced labour in brick kilns in Henan province in China, 568 individuals held in servitude finally escaped.¹⁷⁰ Press reports indicated that the entire illegal operation occurred under the protection of local officials.¹⁷¹

REFUSAL TO REGISTER TRAFFICKING COMPLAINTS

In some instances, public officials actively discourage trafficking victims from pressing charges or reporting trafficking crimes.¹⁷² When police officers refuse to register a complaint, the allegations never come to light and investigations are never launched. In December 2011, for example, the Asian Human Rights Commission (AHRC) reported the case of a 15-year-old girl trafficked from India to Bangladesh. Although the family of the victim sought help from local police, the police refused to provide any help. Although the police eventually registered the complaint, the police allegedly did nothing to investigate the case or to rescue the girl from Bangladesh.¹⁷³

While this dereliction of duty may not qualify as corrupt activity, the facts do raise questions about the police's motives for failing to act. In some cases, corruption is achieved through feigned incompetence motivated by a bribe.

ADVANCE NOTIFICATION OF LAW ENFORCEMENT OPERATIONS

When public officials (typically police officials) inform traffickers of impending police raids or rescue operations, they significantly hinder efforts to combat trafficking. Although the vast majority of reported instances of such 'tip-offs' occur within the context of sex trafficking, labour inspectors may also receive bribes in exchange for providing early warning of inspections. This may provide traffickers with the opportunity to remove children from worksites before inspectors arrive.

Bribery of police officers is essential for providing protection for brothels and other sex businesses. Some police officers receive bribes from criminal organisations involved in human trafficking to leak information regarding ongoing police operations or to obstruct investigations.¹⁷⁴ In one Mongolian case reported through the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) Optional Protocol, a domestic worker alleged that her employer held her in forced labour and sexual servitude. She escaped and filed a police complaint. The employer told her that he

169 Third Amended Complaint and Demand for Trial Jury, at 22-6, *Huerta v LT West*, No 11-CV-1589 (WD La, 13 February 2012).

170 Christopher Bodeen, 'China Train Station Hub for Forced Labor' (*Washington Post*, 19 June 2007) available at www.washingtonpost.com/wp-dyn/content/article/2007/06/19/AR2007061900951_pf.html.

171 Ibid.

172 In some cases, it is unclear whether the failure to register trafficking complaints is the result of corruption or incompetence. In 2011, it was reported that the Embassy of Kenya in Saudi Arabia was lax in pursuing the grievances of potential trafficking victims. Bozo Jenje, 'Embassy to Blame for Kenyans' Woes in S. Arabia' (*Daily Nation* (Kenya), 9 October 2011) available at www.nation.co.ke/News/regional/Embassy+to+blame+for+Kenyans+woes/-/1070/1252684/-/item/1/-/4hhtg7/-/index.html.

173 See note 28, Bashir Uddin (2014), at 18–27, (citing Asian Human Rights Commission, 'India/Bangladesh: Police refuse to take action to rescue a girl trafficked to Bangladesh' (2011) available at www.humanrights.asia/news/urgent-appeals/AHRC-UAC-243-2011).

174 See note 150, Gounevet et al (2012).

had bribed the police.¹⁷⁵

There are numerous reports of law enforcement officials receiving free services from traffickers in exchange for information:

An Argentinian policeman was sentenced to four years and six months' imprisonment for providing information on upcoming police raids and immigration inspections to nightclubs where women from the Dominican Republic were trafficked into commercial sexual exploitation. The defendant was a regular presence and friendly with the defendant-traffickers and allegedly received monetary compensation for his tips.¹⁷⁶

In the US, a young woman revealed that she had sex with two dozen police officers across five police departments.¹⁷⁷ The victim alleged that she had sex with three of these officers while she was underage.¹⁷⁸ The victim received tips on undercover operations and prostitution stings in exchange for sex.¹⁷⁹

In Ecuador, trafficking victims reported that law enforcement agents routinely tipped off owners of brothels and bars prior to raids in exchange for monetary or free sexual services, referred to in the court record as 'courtesies'.¹⁸⁰

In Switzerland, authorities arrested five vice squad members for allegedly receiving free drinks and sexual services from brothels in exchange for information on upcoming police inspections.¹⁸¹

In Bosnia and Herzegovina, Human Rights Watch documented involvement in trafficking by local and international police.¹⁸² In one 2002 case, a police officer serving as the local United Nations Mission in Bosnia and Herzegovina (UNMIBH) Special Trafficking Operations Program (STOP) team leader was removed after he allegedly received free sexual services in exchange for information on possible raids.¹⁸³

Of particular concern are corruption allegations involving members of anti-trafficking units. In Cambodia, for example, the former head of the Phnom Penh Municipal Police's Anti-Trafficking and Juvenile Protection Department faced allegations of trafficking. In 2011, he was convicted *in absentia* for protecting Vietnamese sex-trafficking rings.¹⁸⁴ This network had brought Vietnamese

175 Committee on the Elimination of Discrimination Against Women, Communication No. 39/2012, para 2.5, U.N. Doc. CEDAW/C/57/D/39/2012 (12 March 2014) available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/57/D/39/2012&Lang=en.

176 The policeman was found guilty of aiding and abetting human trafficking, failure to carry out the duties of public officials, and failure to prosecute crimes. Case No 91017032, Oral Federal Criminal Court of Mar del Plata, Argentina (20 May 2014). For a summary of the case, see Case No 91017032, UNODC Human Trafficking Case Law Database, UNODC No ARG065 available at www.unodc.org/cld/case-law-doc/corruptioncrimetype/arg/2014/case_no_91017032.html?lng=en&tmpl=htms.

177 Matthew Artz and David DeBolt, 'Oakland Police Scandal Spreads: Teen Claims Sex With Dozens of Officers', (*The Mercury News* (US)), 12 June 2016) available at www.mercurynews.com/bay-area-news/ci_30005624/oakland-police-scandal-spreads-other-east-bay-departments.

178 Ibid. Under US federal law, it is not necessary to show that a trafficker used force, fraud or coercion to induce a child to commit a commercial sexual act. 18 USC s 1591.

179 Anon, 'Woman At Center Of Oakland Police Sex Scandal Speaks' (*CBS SFBayArea*, 10 June 2016) available at <http://sanfrancisco.cbslocal.com/2016/06/10/kpix-exclusive-teenage-woman-oakland-police-sex-scandal-speaks>.

180 Causa Penal No 2698-08, del Juzgado Décimo Octavo de lo Penal de Pichincha. Special prosecutors in the case expressed suspicion about 'leakage' of information by police on pending investigations.

181 Arian Gigon, *Ethics Training for Police Called into Question*, Swiss Info (28 November 2013) available at http://www.swissinfo.ch/eng/prostitution-scandal_ethics-training-for-police-called-into-question/37425736.

182 Human Rights Watch, *Hopes Betrayed: Trafficking of Women and Girls to Post-Conflict Bosnia and Herzegovina for Forced Prostitution* (2002) 27–28.

183 Ibid at 27.

184 Buth Reaksmeay Kongkea, 'Paid to Protect Brothels' (*Phnom Penh Post* (Cambodia)), 15 December 2011) available at www.phnompenhpost.com/national/paid-protect-brothels; Daniel Pye, Taing Vida and Alice Cuddy, 'Cable Shows Cartel's Reach' (*Phnom Penh Post* (Cambodia)), 12 June 2015) available at www.phnompenhpost.com/national/cable-shows-cartels-reach.

women and girls into Cambodia to work in brothels operating out of coffee and video shops. The accused collected monthly fees from the brothel owners in return for information on police raids.¹⁸⁵ He acquired this information through a network of paid informants in law enforcement and anti-trafficking NGOs.¹⁸⁶ The official also ordered subordinates to hide child sex-trafficking victims during raids.¹⁸⁷ Despite his conviction, the Supreme Court later acquitted the defendant of all charges in an unannounced, closed-door hearing.¹⁸⁸ As of June 2015, this official served as the deputy chief of staff in the office of Phnom Penh's police commissioner.¹⁸⁹

PROVISION OF 'SECURITY' OR OTHER SERVICES TO TRAFFICKING OPERATIONS

Off-duty police officers have been reported to work as employees or security guards for establishments engaging in human trafficking. Taking a second job, known as 'moonlighting', is not inherently corrupt, nor is it an offence in many countries. But the presence of police officers – even off-duty officers – as guards in establishments holding trafficking victims can terrify victims. The presence of off-duty police officers in illegal work sites also underscores the futility of reporting the crimes to authorities.

As early as 2002, Human Rights Watch reported such cases in Bosnia and Herzegovina. Investigators identified local police working as waiters and security guards in brothels holding trafficking victims.¹⁹⁰ In addition to security, law enforcement officials can also provide training and know-how to traffickers. In Albania, for example, a number of former Albanian security agents recruited into one human trafficking organisation allegedly trained the organisation's members in 'intelligence' techniques, helping the criminal network create and operate internal secret communications.¹⁹¹

OBSTRUCTING INVESTIGATIONS

Multiple opportunities for corruption arise at the investigation stage. In addition to simply obstructing investigations, corrupt officials may target law enforcement agents making headway in anti-trafficking efforts. In early December 2015, the former head of a Thai anti-trafficking task force made headlines when he fled the country and sought asylum in Australia. Major General Paween Pongsirin, a senior police investigator with the Royal Thai Police, claimed that he feared for his life after his trafficking investigation implicated a senior military general, other military officials and local politicians.¹⁹² His efforts earned him a transfer, against his will, to a region of southern Thailand heavily populated with insurgents and linked to traffickers with alleged ties to local senior police.

185 US Department of State, *Trafficking in Persons Report* (2012) 110.

186 See note 184, 'Cable Shows Cartel's Reach'.

187 See note 184, 'Paid to Protect Brothels'.

188 US Department of State, *Trafficking in Persons Report* (2014) 122; US Department of State, *Trafficking in Persons Report* (2013) 117.

189 See note 184, 'Cable Shows Cartel's Reach'.

190 See note 182, *Hopes Betrayed*.

191 Johan Leman and Stef Janssens, 'Albanian Entrepreneurial Practices in Human Smuggling and Trafficking: On the Road to the United Kingdom Via Brussels, 1995-2005', *International Migration* (2011) available at <https://lirias.kuleuven.be/bitstream/123456789/358951/2/j.1468-2435.2010.00654.x.pdf>.

192 In November 2015, these officials appeared in court for a procedural hearing. Gay Alcorn, Keryn Reynolds and Margaret Simons, 'Revealed: Thailand's Most Senior Human Trafficking Investigator to Seek Political Asylum in Australia' (*Guardian* (UK), 9 December 2015) available at www.theguardian.com/world/2015/dec/10/thailands-most-senior-human-trafficking-investigator-to-seek-political-asylum-in-australia; Agence France-Presse, 'Thai General Among Human Trafficking Suspects in Court' (*Australia Broadcasting Company*, 10 November 2015) available at www.abc.net.au/news/2015-11-10/thai-general-among-human-trafficking-suspects-in-court/6928440.

Fearing for his life, Paween resigned from his position and fled the country.¹⁹³

Box 8. Case study: obstruction of justice

In a case in the Philippines, a court found a judge had committed gross ignorance of the law and procedure. The case involved a female victim recruited from Manila to work in a bar in Pinamalayan, Oriental Mindoro. When the victim's father filed a complaint with the authorities, law enforcement mounted a rescue operation and discovered a total of five young girls in the home of a man keeping the girls there for alleged 'safe keeping'. Not long after, the judge assigned to the case issued a warrant of arrest for the law enforcement officers who conducted the rescue mission, charging them with grave coercion and qualified trespass. The law enforcement officers accused the judge of corruption, charges that the judge denied.

Severe and systemic corruption can cripple the capacity of a criminal justice system to address trafficking effectively. The previous military junta in Myanmar has been accused of intervening in investigations and prosecutions of forced labour and the forced recruitment of child soldiers. The US State Department, the International Labour Organization and UNICEF all reported more than 100 instances of forced conscription of men and boys into the Burmese army.¹⁹⁴ Despite a 2012 order issued by Burma's commander-in-chief 'stating that soldiers accused of committing forced labour would be tried under civilian rather than military courts',¹⁹⁵ to date no soldier has ever been prosecuted for trafficking crimes in civilian courts.¹⁹⁶ The lack of prosecutions may or may not stem from corruption, but the allegations of interference raise questions about officials' motives for failing to live up to their commitments to hold individuals accountable.

Box 9. Diplomatic immunity as a tool for impunity

Diplomats frequently hide behind their immunity to escape punishment for trafficking crimes. Although diplomatic immunity does protect these officials from prosecution, it is possible to hold diplomats criminally accountable.¹⁹⁷ Unfortunately, this rarely occurs, allowing officials with full diplomatic immunity to commit these crimes with impunity.

In a high-profile case, India's Deputy Consul General to the US, Devyani Kohbragade, claimed diplomatic immunity to thwart human trafficking-related charges. Federal prosecutors alleged that Khobragade held her domestic worker in forced labour for approximately seven months.¹⁹⁸ As Deputy Consul General, Khobragade enjoyed only consular immunity and not full diplomatic status.¹⁹⁹ In response, the government of India transferred Khobragade to the Indian Mission to the United Nations in an attempt to claim diplomatic immunity retroactively. The US State Department acquiesced to the Indian Government's demand for full diplomatic immunity to cloak Khobragade, who then departed the US.²⁰⁰

In another case, Indian police filed a report against a Saudi diplomat alleging the illegal confinement and sexual assault of

193 See note 192, 'Thai General Among Human Trafficking Suspects in Court'.

194 US Department of State, *Trafficking in Persons Report* (2015) 105–106; US Department of State, *Trafficking in Persons Report* (2013) 112–113.

195 US Department of State, *Trafficking in Persons Report* (2013) 112–113.

196 Correct at the time of writing (September 2016). There were also reports of complicity in human trafficking among national and border police. US Department of State, *Trafficking in Persons Report* (2015) 105–106.

197 See generally, Martina E Vandenberg and Alexandra Levy, 'Human Trafficking and Diplomatic Immunity: Impunity No More?' (2012) 7 *Intercultural Hum Rts L Rev* 77.

198 Sealed Complaint at 10, *United States v Devyani Khobragade*, No. 13-MAG-2870 (SDNY 11 December 2013) available at www.justice.gov/sites/default/files/usao-sdny/legacy/2015/03/25/Khobragade%2C%20Devyani%20Complaint.pdf.

199 Under the Vienna Convention on Diplomatic Relations, full immunity protects diplomats from all criminal and civil actions. Under the Vienna Convention on Consular Relations, consular officials can claim immunity only for their official acts.

200 *United States v Khobragade* at 384 n 6, 387. On 9 January 2014, a grand jury indicted Khobragade on both charges. The indictment, which was initially dismissed, was re-issued after Khobragade's departure. Khobragade now remains an international fugitive.

two Nepali women working as maids in the diplomat's residence.²⁰¹ Despite medical evidence corroborating the victims' allegations, the Indian government apparently did not request a waiver of immunity in order to prosecute the diplomat. Instead, the diplomat and his family left India.²⁰²

While diplomatic immunity provides a considerable shield for perpetrators of trafficking, there has been some progress. In 2015, a Qatari military officer and his wife faced federal criminal charges of human trafficking and forced labour in San Antonio, Texas. The officer and his wife were alleged to have held two domestic workers in servitude near a US military base. In response to the case, the government of Qatar suspended military officials from bringing domestic workers to any foreign country posting.²⁰³

OBSTRUCTING PROSECUTIONS

Even if a trafficking investigation proceeds to prosecution, corrupt officials can exert influence to halt or otherwise interfere with the prosecution process. The 2014 TIP stated that Peruvian prosecutors 'accepted money from traffickers to send child sex trafficking victims home in exchange for dropping the charges or falsifying victim statements to exonerate traffickers.'²⁰⁴ The prosecutors involved were suspended for 30 days after the allegations arose.²⁰⁵

Box 10. IBA study on judicial corruption

The IBA's Judicial Integrity Initiative, along with the Basel Institute on Governance, conducted an extensive survey on the root causes of judicial corruption, the manner in which it occurs and its frequency. With more than 2,000 responses from around the world from IBA members, members of IBA bar association members, the International Association of Jurists and others, the survey found widespread concern about bribery of judicial officers, prosecutors and others involved in the judicial process, as well as political and other undue influence on judicial decision-making. The results of the survey can be found in the IBA's report, *Judicial Systems and Corruption*, available at www.ibanet.org/Legal_Projects_Team/judicialintegrityinitiative.aspx.

Box 11. US: obstruction of justice and attempted elimination of witnesses

In the US, Nisim Yushuvayev, an inspector for the US Customs and Border Protection Agency, pled guilty to the obstruction of a human trafficking prosecution. Yushuvayev conspired to use his official position in an attempt to deport two victims of domestic servitude who were preparing to testify against their traffickers. The defendant offered Yushuvayev US\$5,000 per person to forcibly place the two victims on flights to South Korea to prevent them from testifying. Yushuvayev presented his Immigration and Naturalization Services badge to one of the victims and accused her of working in violation of her visa. He instructed her to accompany him to the airport to be put on a plane to Seoul. The attempt failed and Yushuvayev was arrested. He was sentenced to ten years in federal prison.²⁰⁶

201 According to Maiti Nepal, an anti-trafficking NGO, the two women were trafficked to Delhi to work for Majed Hassan Ashoor, the first secretary in the Saudi Embassy. The women told police that they were held captive, beaten and repeatedly raped by Ashoor. The diplomat allegedly invited friends to rape the women, often several at a time. 'Saudi Diplomat Accused of Rape: External Affairs Ministry Seeks Detailed Report' (*First Post*, 9 September 2015) available at www.firstpost.com/india/saudi-diplomat-accused-of-rape-external-affairs-ministry-seeks-detailed-report-2427120.html; Philip Sherwell, 'Saudi Diplomat Accused of Raping Maids Leaves India Under Cover of Immunity' (*Telegraph* (UK), 17 September 2015) available at www.telegraph.co.uk/news/worldnews/asia/india/11870900/Saudi-diplomat-accused-of-raping-maids-leaves-India-under-cover-of-immunity.html; 'Rape, Torture Finger At Saudi Diplomat, Wife' (*Telegraph* (India), 8 September 2015) available at www.telegraphindia.com/1150909/jsp/nation/story_41574.jsp#.VI0xfmSrS1s; Jason Burke, 'Saudi Diplomat Accused of Raping Two Maids Uses Immunity to Leave India' (*Guardian* (UK), 16 September 2015) available at www.theguardian.com/world/2015/sep/17/saudi-diplomat-accused-of-raping-two-maids-uses-immunity-to-leave-india; Anon, 'Saudi Diplomat in India is Accused of Rape' (*The New York Times*, 9 September 2015) available at www.nytimes.com/2015/09/10/world/saudi-diplomat-is-accused-of-rape.html?_r=0; Harmeet Shah Singh, 'Saudi Diplomat Accused of Sexual Assault Leaves India' (CNN, 17 September 2015) available at www.cnn.com/2015/09/17/asia/saudi-diplomat-sex-allegations-india.

202 Ashoor returned to Saudi Arabia in September 2015. See note 201, 'Saudi Diplomat Accused of Raping Two Maids'.

203 Guillermo Contreras, 'Feds Say U.N. Weapons Inspector Kept Workers in Inhumane Conditions in S.A.' (*San Antonio Express-News*, 14 October 2015) available at www.expressnews.com/news/local/article/Feds-say-U-N-weapons-inspector-kept-workers-in-6571497.php.

204 US Department of State, *Trafficking in Persons Report* (2014) 312.

205 US Department of State, *Trafficking in Persons Report* (2013) 299.

206 *United States v Yushuvayev*, 532 F Supp 2d 455 (EDNY 2008).

Judges and other judicial officers have also been implicated in trafficking-related corruption. In 2009, in Bratislava, Slovakia's Justice Minister dismissed the Chair of the Bratislava I District Court on suspicion of influencing court proceedings in a case of human trafficking.²⁰⁷ Judges allegedly accepted bribes from traffickers to delay cases or make them disappear.²⁰⁸ In some cases, judges reportedly solicited bribes from trafficking victims to make cases move forward.²⁰⁹ In a case in the Philippines, a court found a judicial official guilty of corruption after he issued an arrest warrant against a police team who rescued five underage girls forced to work in karaoke bars.²¹⁰ Victims alleged that they witnessed the judge meeting and drinking with their traffickers.²¹¹

Box 12. Case study: allegations of judicial interference and misconduct

In February 2014, a district magistrate in the Uttar Pradesh state of India believed to be 'under the influence' of the owner of a brick kiln, failed to act after a local village leader filed an application on behalf of several men kept as bonded labourers at the brick kiln. It was only after a local NGO filed a petition with the High Court that the District Magistrate was ordered to investigate and report back. After the district magistrate determined that there were more than 11 bonded labourers at the kiln, the High Court ordered the case to be fast-tracked.²¹²

REDUCED PUNISHMENTS

If a trafficking prosecution survives long enough to result in a successful adjudication and conviction, judges may be bribed to impose lesser penalties on traffickers.²¹³ According to the 2011 TIP, judges in Moldova reportedly reduce the sentences of convicted traffickers in exchange for money.²¹⁴ Judicial corruption can also lead to the release of convicted traffickers. The former president of Cambodia's Court of Appeal is reported to have accepted US\$30,000 to release brothel owners convicted of trafficking related offences.²¹⁵

CORRUPTION LEADING TO RE-TRAFFICKING

Corruption can contribute to, or directly result in, the re-trafficking of victims. For example, in Philippine embassies in the Middle East, officials have:

'mistreated and revictimized Filipina victims of domestic servitude by sexually harassing them, failing to pursue their legal cases, withholding back wages procured for them, re-trafficking them into domestic servitude, and coercing sexual acts in exchange for government protection services.'²¹⁶

207 SITA Slovenska Tlacova Agentura, 'Last Week's Major Political Happenings' (4 October 2009); SITA Slovenska Tlacova Agentura, 'General News Summary' (28 September 2009).

208 See note 28, Bashir Uddin (2014).

209 Ibid.

210 Alejandro Gutierrez, PCI Antonio Ricafort, SPO4 Richardo G. Ong, and SPO1 Arnulfo Medenilla v Judge Godofredo G. Hernandez, UNODC Human Trafficking Case Law Database available at www.unodc.org/cld/case-law-doc/traffickingpersonscrimetype/phl/2007/psupt._alejandrogutierrez_pci_antonio_ricafort_spo4_richardo_g_ong_and_spo1_arnulfo_medenilla_vs_judge_godofredo_g_hernandez.html?tmpl=old.

211 Ibid.

212 Thomson Reuters Foundation and The Freedom Fund, *Putting Justice First: Legal Strategies to Combat Human Trafficking in India* (Thomson Reuters Foundation, 2014) 87. Executive Magistrates, often the District Magistrate or Sub-Divisional Magistrate, are mandated with the authority to identify, rescue and release victims of bonded labour and child labour. These officials also see that a police complaint is lodged. Ibid at 34.

213 See note 28, Bashir Uddin (2014).

214 US Department of State, *Trafficking in Persons Report* (2011) 260–261.

215 US Department of State, *Trafficking in Persons Report* (2010) 103.

216 US Department of State, *Trafficking in Persons Report* (2015) 280; US Department of State, *Trafficking in Persons Report* (2014) 315.

A government task force investigation into such corruption led to the recall of 12 diplomatic officials, including ambassadors, and the temporary suspension of three former labour attachés by the Department of Labor and Employment (DOLE).²¹⁷

Chapter 6. Recommendations

Corruption's corrosive influence thrives in the absence of transparency and accountability. The resulting impunity enjoyed by officials who are involved or complicit in trafficking undermines the rule of law. In some jurisdictions, the legal system is in such turmoil that the chances of being held accountable for corrupt deeds are very slim. Curbing corruption requires vigilance. It requires the trust of victims, who witness many of these corrupt acts, but fear to report. As this report demonstrates, there are too few convictions of public officials for trafficking-related corruption. This must change.

High levels of human trafficking are correlated with high levels of corruption. Corruption facilitates every aspect of trafficking, from recruitment to transportation and exploitation. Corruption aids impunity through the obstruction of justice. Anti-trafficking efforts need to fully incorporate a focus on anti-corruption. Comprehensive, multi-disciplinary approaches are necessary to combat modern day slavery. No-one knows whether human trafficking begets corruption, or corruption begets human trafficking. In fact, both may be true.

Experts have long debated how best to combat these twin scourges. Some have made extensive recommendations. For example, the UN Special Rapporteur on trafficking in persons recommends several steps for businesses to combat human trafficking in their supply chains: assess risks; raise awareness of the risks of human trafficking and anti-trafficking policies; implement an effective monitoring system; establish grievance mechanisms; and co-operate with civil society organisations.²¹⁸

The case studies collected in this report provide a starting point for further discussion. By identifying documented cases of corruption and trafficking, experts may begin to develop strategies to combat this phenomenon. With an evidence-based understanding of *how* trafficking and corruption intersect, NGOs, the business sector and international organisations can strategise more effective steps to prevent, detect, investigate and punish these acts.

Tackling corruption should be a priority alongside tackling human trafficking. Targeting those who enable trafficking would reduce opportunities for traffickers and increase risks. Dedicated anti-corruption efforts can change the established practices. These practices currently normalise trafficking.

As with any reform effort, a key question is how to measure success. Counter-intuitively, the success of anti-trafficking and anti-corruption efforts may result in an *increase* in reported trafficking cases; success in fighting corruption may mean prosecuting *more*, not fewer, public officials. This is a necessary first step in changing the attitudes and practices that allow trafficking to continue

217 Ibid.

218 UNGA, 'Report of the Special Rapporteur on trafficking in persons, especially women and children' (2012) UN Doc A/67/261, para 50. See also, UNODC, Toolkit to Combat Trafficking in Persons (2008); and note 8, Kendall (2011), at 33.

unabated. To evaluate any single recommendation's usefulness, one must know what outcomes can be measured. And one must know what those numbers mean.

The recommendations below seek to meld the work of experts in the trafficking field with the work of experts in the corruption field.

6.1 Raise awareness of the links between corruption and human trafficking

It is widely recognised that education and training are vital to deterring individuals from engaging in corrupt acts. The Trafficking Protocol directs States Parties to:

‘[p]rovide or strengthen training for law enforcement, immigration and other relevant officials and the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.’²¹⁹

Training and professional development of public officials can promote high standards of ethics; build capacity for anti-corruption policing; and train management on effective anti-corruption policies.²²⁰ Corruption-specific joint trainings – replete with regional case studies – should be organised for police, prosecutors, judges and other law enforcement officials.²²¹ Human trafficking units should also be trained on corruption. These trainings serve a dual purpose: (1) educating officials on the identification of trafficking-related corruption; and (2) promoting a culture of integrity.

In the Amsterdam Police Department, for example, official training programmes reflect an understanding of the reality of policing. In Amsterdam, experts concluded that anti-prostitution units ‘carry inherent temptations for corruption’.²²² Members of the anti-trafficking unit are required to pass three examinations over the course of a 256-hour training course on policing the sex industry.²²³

Agencies should train their relevant managers and supervisors on the red flags and indicators of corruption.²²⁴ Law enforcement officials should be trained both by human trafficking experts and corruption experts. Officials engaged in identifying and dealing with public sector corruption can provide training on best practices to monitor, investigate and address corruption. Training on human trafficking for public officials should explicitly address trafficking-related corruption, again, with an emphasis on case studies. Diplomats posted abroad should also be trained to understand the

219 Art 10(2). The Council of Europe Convention on Action Against Trafficking in Human Beings also instructs parties to staff their authorities ‘with persons who are trained and qualified in preventing and combating trafficking in human beings and identifying and helping victims.’ Council of Europe Convention on Action Against Trafficking in Human Beings, Bulletin of Treaties (16 May 2005) Art 10.

220 Transparency International, *Anti-Corruption and Police Reform* (2010) 4–5.

221 These proposals draw in part from recommendations presented in Kendall (2011) – see note 8, at 33, 41–47.

222 US Department of State, *Trafficking in Persons Report* (2013) 278.

223 National Rapporteur on Trafficking in Human Beings and Sexual Violence Against Children, *Ninth Report of the Dutch National Rapporteur* 81 (2014) (describing similar training for police in The Hague).

224 UNODC, *The Role of Corruption in the Smuggling of Migrants* (2013) 34, see also for indicators of corruption and migrant smuggling.

dynamics of human trafficking and the potential for official corruption at all levels.²²⁵

Box 13. IBA training regarding human trafficking

The IBA's Presidential Task Force on Human Trafficking has worked with the Singapore and UK governments to conduct substantial training programmes on identifying human trafficking and in dealing with its consequences. The training has involved:

- understanding the legal definition of trafficking in persons;
- applying the elements of that crime to various fact patterns;
- understanding how the crime of trafficking takes place, including victim psychology;
- appreciating the international, regional and national legal frameworks, recognising issues and applying appropriate legal concepts during the investigation and prosecution process; and
- identifying and understanding the major issues typically involved in trafficking investigations and prosecutions including: the critical importance of victim identification; the significance of obtaining a full and complete account from the victim; difficulties involved in securing a victim's cooperation during the investigation and prosecution process (and in working with traumatised victims throughout the litigation process); need to develop evidence corroborating the victim's account and the types and sources of such evidence; importance of adequately preparing the victim to testify in court; importance of identifying likely defences and being prepared to effectively respond in court.

6.2 Institute joint anti-corruption and anti-human trafficking legal frameworks

National laws must provide a strong framework for holding public officials involved in trafficking-related corruption to account. States can build better frameworks through:

- integrating anti-corruption and human trafficking legislation;
- ensuring that any trafficking-related anti-corruption reforms are part of a broader anti-corruption framework; and
- aligning domestic legislation with international standards.

States should put in place strategies that address both trafficking in persons and corruption. A first step would be to include corruption issues in anti-trafficking policies, procedures and training. This could be accomplished 'by modifying anti-corruption tools or by including corruption issues in existing anti-trafficking measures'.²²⁶ For instance, the US' Trafficking Victim Protection Act (TVPA) acknowledges the link between trafficking and corruption, stating '[t]rafficking in persons is often aided by official corruption in countries of origin, transit, and destination.'²²⁷ Domestic legislation should provide for monitoring, reporting and analysing corrupt acts along the human trafficking chain.²²⁸ Moreover, experts should continuously evaluate and improve the laws to close loopholes.²²⁹

Anti-corruption efforts at the agency level cannot occur in a vacuum. Rather, they need to be part of

225 This includes not only corruption in the issuance of visas or other work documentation, but also involvement in trafficking directly. In the US, for example, federal authorities prosecuted nine foreign officials for trafficking domestic workers into homes for forced labour and other exploitation. See note 99, Vandenberg et al (2016).

226 See note 47, OECD Background Paper, at 26, point 61.

227 Trafficking Victims Protection Act 2000, Div A of Pub L No 106-386, s 102(b)(8), as amended.

228 For example, the US's annual *Trafficking in Persons Report* must assess the extent to which governments investigate, prosecute and punish public officials involved in or facilitating human trafficking. Ibid, s 108(4)(7).

229 Virginia Kendall proposes a two-part process in this regard: (1) develop a comprehensive anti-corruption strategy; (2) establish a national multi-stakeholder anti-corruption council to facilitate the development and implementation of the Anti-Corruption Strategy. See note 8, Kendall (2011), at 33, 41.

a broader anti-corruption framework. Successful anti-corruption strategies should be ‘embedded in a broader framework of democratic institution-building that promotes a human rights-based approach to policing services’.²³⁰ Anti-corruption efforts at the level of law-enforcement will be ineffective if not paired with similar efforts at the higher levels. Anti-corruption measures must be implemented within the context of broader anti-corruption infrastructures in a country.²³¹ For example, anti-corruption efforts within law enforcement will be ineffective if similar measures are not implemented within the political and judicial institutions that oversee law enforcement and other government agents.

Domestic counter-trafficking legislation should conform to international standards regarding trafficking in persons and corruption.²³² National anti-corruption measures should incorporate a state’s regional and international anti-corruption policies and legal commitments.²³³ The legal basis against corruption and trafficking in persons must be fortified. This can be achieved, in part, through national ratification of international conventions and adoption of monitoring mechanisms.²³⁴ In addition to this, enforcement is critical.

6.3 Improve detection, investigative and enforcement capacity to combat corruption in human trafficking

In addition to preventive measures, governments should also ensure that they are working to detect and investigate human trafficking-related corruption. One strategy requires raising awareness and educating public officials on indicators of human trafficking and related corruption. States can increase their ability to detect and investigate corruption and human trafficking by:

- establishing ties between human trafficking units, anti-corruption units and internal investigation teams; and
- broadening the mandates of existing anti-corruption agencies to include a focus on trafficking-related corruption

Human trafficking units should establish ties with anti-corruption units. Information and resources – particularly with regard to best practices – should be promoted and shared among relevant actors. Recently, the Thai Government announced the establishment of a new anti-trafficking interagency task force to include representatives from law enforcement and social services agencies, with support from anti-corruption entities.²³⁵

Internal investigations teams and specialised corruption teams should also establish partnerships.²³⁶ Public corruption may be detected in the course of a human trafficking investigation.²³⁷ If that occurs,

230 See note 220, Transparency International (2010), at 1.

231 Broader anti-corruption infrastructure measures included: civil servant regulations, public procurement laws, penal policies, corruption investigation resources, Ombudsman institutions, criminal asset forfeiture regimes, anti-money laundering legislation and regulations, financial and fiscal controls of public bodies, government transparency legislation, and comprehensive electronic government policies. Center for the Study of Democracy (2012), at 76–77.

232 See note 47, OECD Background Paper, at 26, point 59.

233 See note 231, Center for the Study of Democracy (2012), at 78.

234 See note 47, OECD Background Paper, at 26, point 59.

235 Royal Thai Embassy, ‘Thailand Will Establish Interagency Anti-Trafficking Taskforce’ (13 July 2015) available at www.thaianti-humantraffickingaction.org/Home/?p=1499.

236 See note 224, UNODC (2013), at 38–39.

237 Corruption investigations are usually reactive, initiated as a result of information learned during criminal investigations. See note 235, Center for the Study of Democracy (2012), at 102.

authorities should open a separate corruption investigation. Careful examination of evidence can lead to identification of possible patterns of trafficking-related corruption. These cases may not end in an indictment or prosecution: the corruption may have taken place in another country. Pressure may be placed on the traffickers to plead guilty to bring an end to the corruption investigation.²³⁸ In any event, the evidence in the case provides valuable data.

States should broaden the mandates of existing anti-corruption agencies to include a focus on trafficking-related corruption. Countries should form specialised multi-agency units and establish multi-agency training regimes with anti-corruption and anti-trafficking experts. These institutions should be entrusted with responsibility for detecting, investigating and prosecuting corruption offences related to human trafficking. Independence and autonomy are essential to the effective functioning of such agencies. The investigations should have the capacity to lead to both criminal and administrative penalties. An anti-corruption agency could investigate corruption cases; cooperate with prosecutors to bring criminal cases; raise public awareness of the problem; and facilitate interagency cooperation (including security, law enforcement, and financial/bank institutions). The agency could also be charged to disseminate statistical and comparative findings through a public awareness campaign.

Trafficking investigations and prosecutions should run alongside investigations into corruption and finances of suspects.²³⁹ To tackle trafficking-related corruption effectively:

‘[I]ndicators need to be developed for actors working in the field of corruption to detect [trafficking] when investigating relevant corruption cases and for actors working in the field of [trafficking] to detect corruption when investigating [trafficking] cases.’²⁴⁰

Anti-money laundering systems should also be used to detect and end the financing of these criminal activities. An anti-money laundering strategy can thwart reinvestment of trafficking proceeds into criminal trafficking networks. Financial intelligence systems should be used to map trafficking networks’ interactions with corrupt officials.²⁴¹

6.4 Target resources to high risk areas

Just as corruption varies from region to region, anti-corruption strategies will differ from country to country. States should assess local allegations of corruption relating to trafficking. Periodic risk assessments at the local, regional, and national levels can identify specific ways in which corruption facilitates trafficking.²⁴² Case studies indicate that traffickers moving victims via air often used fraudulent travel documents.²⁴³ Traffickers moving across land borders tend to rely more on bribing border control and immigration officials.²⁴⁴ Identifying high-risk opportunities for illicit profit by public officials can assist states in preventing corruption, as well as trafficking. Systematic assessments

238 See note 224, UNODC (2013), at 43–44.

239 See note 47, OECD Background Paper, at 27, point 66.

240 Ibid at 27, point 65.

241 Ibid at 27, point 64.

242 See note 63, OSCE (2010), at 73.

243 See notes 99–101 and accompanying text.

244 See note 124 and accompanying text.

of a State's vulnerability to corruption are necessary to inform anti-corruption strategies.²⁴⁵

It is important to adapt anti-corruption reform measures to local circumstances.²⁴⁶ Assessing concrete allegations of corruption in local trafficking cases can aid in identifying and closing off opportunities for corrupt profit.²⁴⁷ Risk assessments identify which sectors are most at-risk for corruption, enabling States to prioritise efforts. Slovakia, for example, does not focus its anti-corruption efforts on the border patrol because risk assessments identify higher instances of corruption in other law enforcement sectors, specifically the traffic police.²⁴⁸

An assessment also identifies the locations, functions or activities most vulnerable to corruption. An assessment conducted by the Swiss Government, for example, found a risk of corruption among visa officials in 33 Swiss embassies and consulates.²⁴⁹ This followed a 2005 discovery that Pakistani-organised crime gangs allegedly involved in human trafficking had infiltrated the visa section of the Swiss Embassy in Islamabad. Swiss authorities uncovered at least 100 cases of visa fraud.²⁵⁰ The Swiss Government replaced the entire staff of the Islamabad embassy²⁵¹ and instituted preventive measures, including an increase in visa office inspections.²⁵² In the US, the Customs and Border Patrol discovered that border guards with family members and friendships on both sides of the border were vulnerable to corruption.²⁵³ As a result, the US Government now places new recruits far from their hometowns for their first rotation.²⁵⁴

Risk assessments can also help to determine whether particular locations are more vulnerable than others. A European survey found that land borders and sea borders had more corruption vulnerability than major airports.²⁵⁵ In Malaysia, a Special Branch report found that 80 per cent of enforcement officers manning the border were corrupt.²⁵⁶ Based on ten years of undercover surveillance, the report stated that many border officers were on the payroll of syndicates dealing in arms, drug and human trafficking.²⁵⁷

6.5 Punish corrupt officials

The detection and investigation of corruption must lead to punishment of corrupt officials.

Punishments should have 'teeth': minimal, symbolic penalties send a message that enforcement

245 See note 224, UNODC (2013), at 2. 'A systematic review should include an analysis of existing practices and systems, as well as an assessment of the threats and pressures to which they must respond, and the agency's capacity to mitigate the risk of these materializing.' Ibid at 27.

246 See note 220, Transparency International (2010), at 8.

247 A study on anti-corruption efforts in European Union border control agencies presents design questions such as: 'Is the threat from single corrupt officers, groups of officers or more complex networks of corrupt officers?'; 'What cultural/social factors may prevent the effective application of corruption measures, or distort their effect?' See note 233, Center for the Study of Democracy (2012), at 87. The UNODC suggests design questions such as: 'Where are the opportunities for corruption?'; 'Has the staff been screened and vetted?'; 'Who has access to blank visas and other official documents?'. See note 224, UNODC (2013).

248 See note 233, Center for the Study of Democracy (2012), at 88.

249 See note 105, Holmes (2009), at 96.

250 Ibid. See also, Swissinfo with agencies, 'Islamabad Embassy Target of Organised Crime' (3 May 2006) available at www.swissinfo.ch/eng/islamabad-embassy-target-of-organised-crime/5155786; Swissinfo with agencies, 'Entire Staff at Pakistan Embassy Replaced' (18 May 2006), www.swissinfo.ch/eng/entire-staff-at-pakistan-embassy-replaced/5202636.

251 See note 250, 'Entire Staff at Pakistan Embassy Replaced'.

252 See note 250, 'Islamabad Embassy Target of Organised Crime'.

253 See note 224, UNODC (2013), at 27.

254 US Government Accountability Office, *Additional Actions Needed to Strengthen CBP Efforts to Mitigate Risk of Employee Corruption and Misconduct* (2012) GAO 13-59, 25. See *infra* Section 2 for more on preventing corruption through human resource management systems.

255 See note 250, 'Islamabad Embassy Target of Organised Crime'.

256 See note 133, '80pct of Border Officers in Malaysia Corrupt'.

257 Ibid.

is only for show. Punitive measures increase the risks and costs of engaging in corruption.²⁵⁸ The current ‘low risk–high profit’ environment in many countries virtually guarantees that officials will engage in corrupt behaviour to facilitate trafficking. Instead, corrupt behaviour should be high risk, with little promise of reward. The risk for an actor considering a corrupt payment can be ratcheted up through internal controls, sanctions and prosecution.

Relevant agencies should review and upgrade their internal disciplinary systems. Managers should empower managers to implement disciplinary measures.²⁵⁹ Random integrity testing is another internal mechanism – though this measure is not without controversy.²⁶⁰ Immunity from prosecution of public officials accused of trafficking in persons should be lifted when the allegation of corruption is supported by evidence.²⁶¹ States should publicly report criminal prosecutions of state officials involved in trafficking. Such transparency removes an additional incentive: anonymity. Rather than enjoying anonymity, as has long been the norm, public officials who face allegations that they have engaged in corrupt practices should face public scrutiny.

Any anti-corruption reform within government agencies must be paired with judicial reform.²⁶² Anti-corruption reforms are often stymied by weak judicial systems. As noted in the preceding section, the obstruction of justice is a factor in impunity for corrupt officials and traffickers. States need to ensure the integrity and independence of their judiciaries. Both UNTOC and UNCAC require states to create an offence for the obstruction of justice. States have an obligation to criminalise the use of corrupt or coercive means.²⁶³

Box 14. IBA Judicial Integrity Initiative

The IBA’s Judicial Integrity Initiative is working to combat judicial corruption on several fronts.

1. The IBA has drafted a model Judicial Anti-Corruption Compact, to be signed by judges, lawyers, prosecutors, court clerks and the relevant national association, in which each signatory commits not to engage in any form of corrupt conduct. The Compact and its signatories will be published by the IBA’s member bar association on its website. It is hoped that this Compact and the resulting publicity will change the public’s expectations as to the existence of judicial corruption.
2. The IBA is considering the establishment of a system by which judicial systems can be certified as having appropriate procedures to avoid corrupt conduct.
3. The IBA is developing best practice compilations relating to the manner in which judicial corruption may be investigated and prosecuted and regarding how bar associations investigate and sanction corrupt conduct by their members.
4. The IBA is conducting a study of national laws to determine whether they capture the types of judicial corruption found in its Report, *Judicial Systems and Corruption*.²⁶⁴
5. The IBA is also researching how asset recovery mechanisms may be improved to combat judicial corruption.

258 Ibid.

259 See note 220, Transparency International (2010), at 7.

260 See note 233, Center for the Study of Democracy (2012), at 99–101.

261 See note 47, OECD Background Paper, at 30, point 81.

262 See note 220, Transparency International (2010), at 7.

263 UNTOC Art 23; UNCAC Art 25.

264 International Bar Association/Basel Institute on Governance, ‘Judicial Systems and Corruption’ (International Bar Association’s Legal Projects Team, 2016) available at www.ibanet.org/Document/Default.aspx?DocumentUid=F856E657-A4FC-4783-806E-6AAC6895D37F.

6.6 Monitor and review anti-corruption and anti-trafficking strategies

A corruption risk assessment is a useful starting point for developing a risk mitigation strategy or action plan. Any plan must be continually ‘monitored, tested and refined’.²⁶⁵ Law enforcement and other state actors should be subject to constant review and vetting. Both Bulgaria and Germany, for example, maintain risk mitigation strategies in their border guard services. Situation reports, updated on an annual basis, result in action plans. Action plan implementation is then monitored and evaluated in regular reports.²⁶⁶

Anti-corruption strategies will vary depending on the type of corruption. Promoting professional standards of integrity has been successful in addressing both street-level corruption (bribery, extortion, kickbacks) and bureaucratic corruption within police forces.²⁶⁷ Criminal corruption, such as protection, collusion or direct involvement in criminal activities, has been successfully addressed through the investigation, prosecution and removal of corrupt officials. States must build mechanisms to detect and punish police involvement in any aspect of human trafficking, such as internal disciplinary measures, accountability mechanisms and integrity management systems.²⁶⁸

Given the many manifestations of corruption, an integrated approach is recommended.²⁶⁹ In the US, the Immigration and Customs Enforcement’s Office of Professional Responsibility uses a three-tiered approach: security, inspections and investigations, to prevent and mitigate corruption. This approach combines initial screenings of candidates; regular inspections to identify problematic areas; investigations of alleged misconduct; and continuous integrity-based training.²⁷⁰

Preventive measures aim to decrease the incentives and opportunities for corruption. States can discourage corrupt practices through reform of human resource management systems. Adopting an ethical organisational culture, promoting integrity, strengthening accountability and engaging the community can mitigate corruption.²⁷¹

6.7 Improve employment practices

One avenue for corruption prevention is the presence of a sound human resource management system. Human resources management can identify personnel and positions at risk of corruption. These systems can also remove incentives and opportunities for corruption. Measures include:

- a sound recruitment, screening, and vetting process;²⁷²

265 See note 224, UNODC (2013), at 28. UNODC recommends the following for border control: risk mitigation strategies should include: periodic reviews of the immigration, travel and identity document control systems and related regulations; use technology to protect the integrity of documents; corruption prevention procedures; integrity training programs; clear guidelines; system for declaration and registration; whistleblower protection; and confidential reporting (ibid, 28–29).

266 See note 233, Center for the Study of Democracy (2012), at 88.

267 See note 220, Transparency International (2010), at 3.

268 Ibid at 4.

269 The UNODC recommends reforms in the areas of policy and governance; decision making; human resource management; inspections, audits and oversight; complaint mechanisms; response to corruption; and resources. See note 224, UNODC (2013), at 25–26.

270 See note 224, UNODC (2013), at 30.

271 See note 220, Transparency International (2010), at 4.

272 Past behaviour is a strong predictor of future behaviour, therefore background checks of new recruits are important to prevent corruption and identify those at-risk of misconduct. See note 233, Center for the Study of Democracy (2012), at 98–99; and note 224, UNODC (2013), at 25.

- regular, random rotations of duty rosters, team members and posts;²⁷³
- disclosure protocols for the declaration and registration of assets, interests and gifts;²⁷⁴ and
- fair and transparent systems for recruitment, hiring, promotions, reselection and retirement of public officials.²⁷⁵

Anti-corruption reform efforts among border control agencies provide useful examples of preventive operational measures. Measures that have found success include:

- random changes in shift allocation and duration;
- job rotation in which officers do not know their point of deployment in advance;²⁷⁶
- ‘four-eyes’ policies: mandatory two-person teams;²⁷⁷
- restrictions on the use of mobile phones and carrying cash while on duty;²⁷⁸
- electronic surveillance;²⁷⁹
- random inspections of personal belongings, cars or working space;²⁸⁰ and
- interviews of randomly selected passengers crossing borders.²⁸¹

Promoting fairness and transparency not only increases public trust in law enforcement institutions,²⁸² it prevents the creation of a culture of ‘employee deviance and misconduct’.²⁸³

Sectors at specific risk of trafficking-corruption need to ensure that workforce activities are performed in a transparent manner. Unnecessary bureaucracy should be eliminated. Bureaucratic choke points only increase the opportunities for corrupt officials to seek bribes. Transparency is particularly relevant within law enforcement (eg, border control, customs and immigration authorities) and among criminal justice bodies. Transparency can be achieved with safeguards such as ‘internal approval systems of tasks to be performed and avoiding having one-to-one meetings with individuals such as visa and work permit applicants, presumed trafficking victims and suspects.’²⁸⁴

273 See note 233, Center for the Study of Democracy (2012), at 92.

274 See note 224, UNODC (2013), at 26.

275 See note 224, UNODC (2013), at 29. See also note 220, Transparency International (2010), at 4–5.

276 Job rotation ‘aims to prevent the establishment of durable corruption networks or personal relations with local communities that may influence an officer’s judgment.’ In high-risk border areas, assignments limited to five years. However, rotation policies are limited in that they are expensive, require additional training, and may not be feasible with smaller border guard forces. See note 233, Center for the Study of Democracy (2012), at 101. See also, US Government Accountability Office, *Additional Actions Needed to Strengthen CBP Efforts to Mitigate Risk of Employee Corruption and Misconduct* (2012) GAO 13–59.

277 See note 233, Center for the Study of Democracy (2012), at 93.

278 Ibid at 92.

279 Electronic surveillance raises multiple concerns. Often there are large volumes of data to process; review of video recordings is costly and time consuming; corrupt officers may operate where there is no surveillance; or corrupt officers may purposely damage surveillance equipment. Ibid.

280 Ibid.

281 This has had some success in countries with large-scale petty corruption. Ibid at 94–95.

282 See note 220, Transparency International (2010), at 6.

283 See note 224, UNODC (2013), at 26.

284 See note 47, OECD Background Paper, at 28, point 69 (citing UNODC, *The Role of Corruption in Trafficking in Persons* (2001)).

6.8 Foster a culture of integrity through codes of conduct

States can prevent corruption by fostering an official organisational culture based on high standards of professionalism and ethics. Codes of conduct establish expected standards of behaviour, set clear requirements of conduct, and foster an organisational culture of professionalism.²⁸⁵ A zero-tolerance policy for corruption and trafficking should be backed up by codes of conduct in line with international standards.²⁸⁶ Existing ethics codes and standard operating procedures should be updated to address trafficking in persons issues. For example, the UNODC recommends that when conducting raids in brothels, police should always ‘be accompanied by one or more colleagues, preferably female staff’.²⁸⁷

Codes of conduct should also be specific to each particular agency. A study of EU border control agencies found that few Member States had adopted anti-corruption strategies and policies specific to border guards. General anti-corruption policies found in ‘ethical codes, codes of conduct, penal policies and other legislation’ frequently focus on police rather than border guards.²⁸⁸ Useful codes of conduct should do more than forbid public officials to take bribes; they should also address the potentially ‘tough ethical choices’ officers must make. Effective codes of conduct ‘clarif[y] moral reasoning skills’, using case studies during trainings.²⁸⁹ Codes describe what behaviour is illegal or unethical, and dictate what types of conflict of interest should be avoided or reported.²⁹⁰

In addition to specific rules and standards of behaviour, effective mechanisms for reporting, investigating and sanctioning violations of the codes of conduct are crucial.²⁹¹ Confidential reporting mechanisms promote a ‘wider framework of integrity for public officials’.²⁹² Whistleblower protection is particularly important to provide staff with confidence that disclosure of trafficking in persons or suspected trafficking in persons will not result in workplace retaliation or worse.²⁹³ An intelligence report in Malaysia noted that many witnesses and intelligence officers do not testify against human traffickers out of fear.²⁹⁴

Institutionalised reporting mechanisms encourage officials to report concerns about the conduct of other officials. These channels also permit reporting of any pressure or undue influence applied. Officials who might be tempted to engage in corrupt activities may be deterred by a strong internal monitoring and enforcement mechanism.

In addition to internal reporting, public-facing complaint mechanisms can deter corruption. Public reporting portals allow citizens to alert internal affairs investigators to corrupt acts. The public systems must also include anti-retaliation protections. In areas where corruption is tied to organised crime, strengthening witness protection programmes can also encourage reporting. Finally, the

285 See note 220, Transparency International (2010), at 4–5.

286 See note 224, UNODC (2013), at 25.

287 See note 47, OECD Background Paper, at 28, point 68 (citing UNODC, *The Role of Corruption in Trafficking in Persons* (2001)).

288 See note 233, Center for the Study of Democracy (2012), at 88.

289 Bryane Michael and Nigel Moore, ‘What Do We Know About Corruption (and Anticorruption) In Customs?’ (2010) 4(1) *World Customs J* 55, 57 available at [http://worldcustomsjournal.org/Archives/Volume%204,%20Number%201%20\(Mar%202010\)/08%20Michael-Moore.pdf](http://worldcustomsjournal.org/Archives/Volume%204,%20Number%201%20(Mar%202010)/08%20Michael-Moore.pdf).

290 See note 233, Center for the Study of Democracy (2012), at 91.

291 See note 47, OECD Background Paper, at 27, point 67.

292 Ibid at 28, point 70. Such mechanisms include asset disclosure regimes, conflict of interest legislation, and whistleblower protections. Ibid.

293 Ibid at 28, point 71; see also note 228, UNODC (2013), at 26.

294 See note 133, ‘80pct of Border Officers in Malaysia Corrupt’.

creation of whistleblower rewards to incentive the denunciation of corruption related to organised crime can also be effective.²⁹⁵

6.9 Engage stakeholders

In the area of anti-corruption reform, it is important to build ‘cross-sectoral coalitions of support to create a critical mass of public officials, civil society groups, and private firms’.²⁹⁶ Political leadership and commitment, especially at the highest levels, is necessary to ensure sustained reforms.²⁹⁷ But states may suffer from a lack of political will or lack the capacity to implement reforms.²⁹⁸

In Thailand, for example, the July 2015 indictment of 15 public officials, including military and police officials, was initially hailed as an encouraging development. The case was considered one of the most significant trafficking operations ever exposed. However, the lead investigator of the anti-trafficking taskforce fled the country after receiving threats to his life.²⁹⁹ The future of the criminal prosecution is unclear. High-level political support is required to protect those who seek to dismantle corrupt human trafficking operations.

Public attention and engagement can help demand accountability. External actors, including civil society, NGOs, international organisations and the business sector, play an important role in fostering political will among States to advance anti-corruption reforms.

State–state

Cross-border cooperation between states on trafficking and anti-corruption can also thwart criminal activity. States can collaborate to develop and implement countermeasures targeting ‘at-risk’ points of regional or transnational trafficking in persons. Particular areas for cooperation include border security procedures and mechanisms, issuance of travel documents and distribution of migration and work permits. Mutual legal assistance plays a key role. These cooperative partnerships should facilitate international identification, sequestration and seizure of assets accrued by traffickers. Extradition procedures should also be in place to facilitate prosecutions.

The public

Public education campaigns are critical to restoring public confidence in public institutions. Some communities may differentiate various kinds of corruption, viewing small payoffs as acceptable. Education campaigns can build a broader public consensus that ‘corruption’ should not be tolerated.

To increase accountability, states should ‘build civic response and community awareness’ on the corruption-trafficking link.³⁰⁰ Public education campaigns serve to restore the legitimacy of public

295 See note 289, Michael et al (2010), at 62.

296 Derick W Brinkerhoff, ‘Unpacking the Concept of Political Will to Confront Corruption’, U4 Brief 1 (May 2010) (citing M Johnston and S Kpundeh, ‘Building a Clean Machine: Anti-Corruption Coalitions and Sustainable Reform’, World Bank Institute Working Paper (World Bank Institute, 2002)).

297 Roberto Martínez B Kukutschka, Building Political Will to Fight Corruption, Transparency International Anti-Corruption HelpDesk (Transparency International, 2014) 1 available at www.transparency.org/files/content/corruptionqas/Topic_Guide_Political_Will.pdf.

298 Political will as, ‘the commitment of actors to undertake actions to achieve a set of objectives... and to sustain the costs of those actions over time’ (see note 296, Brinkerhoff (2010), at 1).

299 See notes 170–171 and accompanying text.

300 See note 47, OECD Background Paper, at 30, point 78.

institutions, promote knowledge of anti-corruption and anti-trafficking laws, and encourage the public to report corruption and trafficking crimes.³⁰¹ States can ‘involve and train media and facilitate investigative journalism on TIP [trafficking in persons] and corruption’.³⁰² The media can ‘highlight arrests and prosecutions’ and publish success stories.³⁰³

Public awareness campaigns not only foster citizen accountability, they can educate citizens on the personal risks of human trafficking. This is especially important for states that are countries of origin for trafficking. States can educate their citizens by: (1) alerting communities that early signs of corruption in a legitimate migration journey should be considered as warning indicators that trafficking may be taking place; and (2) giving citizens access to free, confidential counselling about corruption and trafficking before and after they have migrated. Campaigns can make them aware of their rights. Moreover, these campaigns can arm migrants with tools to find assistance if they are held as victims of trafficking.³⁰⁴

NGO community

NGOs involved in trafficking investigations should be encouraged to focus on corruption, as well. Local NGOs often play a reporting role and often collect information on human trafficking-related corruption. Countries should have a system of confidential referral for these cases. With due regard for the safety of NGOs (where local corruption is a threat to NGO staff members and their families), NGOs should be encouraged to build relationships with internal affairs/anti-corruption enforcement bodies. Only then can authorities learn of trafficking in persons cases with indicators of corruption. Similarly, anti-corruption organisations should be trained to identify corruption cases with indicators of trafficking.³⁰⁵ Relevant actors should share information and resources. Task forces or joint operations can build relationships between NGO leaders and law enforcement. Protocols between NGOs and law enforcement bodies should be established to outline parameters for cooperation.³⁰⁶

Corruption information provided by victims and NGOs should be used ‘more systematically’. Governments should ensure that evidence of corruption collected from trafficking victims is passed on to the anti-corruption and anti-trafficking units in government.³⁰⁷

The business sector

When implementing strategies that address trafficking in persons-related corruption, countries are advised to identify and pay particular attention to vulnerable industries. Steps should be undertaken to prevent or combat the exploitation of people in labour sectors known to be sites of forced labour and trafficking of workers. These sectors include agribusiness, the seafood industry, hospitality, textile

301 See note 220, Transparency International (2010), at 6 (describing Hong Kong’s public education campaign to reduce corruption).

302 See note 47, OECD Background Paper, at 29, point 76.

303 Ibid.

304 Ibid at 30, point 78 (citing UNODC, *The Role of Corruption in Trafficking in Persons*, 31-32 (2001)

305 According to UNODC, ‘there is a lack of referral relevant authorities of (a) cases of trafficking in persons where there are indicators for corruption and (b) referral of corruption cases where there are indicators of trafficking in persons. Therefore, cooperation is essential. This can be accomplished by the establishment of task forces or joint operations. It is also crucial to establish protocols between NGOs and law enforcement bodies to coordinate their activities so that both sides understand and acknowledge the efforts and responsibilities of the other.’ Ibid at 27, Point 63.

306 Ibid.

307 Ibid, OECD Background Paper, at 30, point 80.

manufacturing, construction, domestic work and janitorial/housekeeping services. Government officials, nongovernmental actors and representatives from the private sector should all be involved in the identification of at-risk sectors.

The use of extraterritorial regimes, like the US' Foreign Corrupt Practices Act (FCPA) or the UK's Bribery Act (UKBA), would impose accountability on companies that directly or indirectly benefit from the nexus between public corruption and trafficking. Employers that rely on forced labour derive a quantifiable improper benefit as a result of corrupt payments made by their employees or agents. These gains are often realised in the form of labour cost savings. It is crucial to hold companies accountable to anti-bribery and anti-corruption (ABAC) due diligence on the supply side of business as well. In particular, as it applies to the employment of foreign migrant workers.

Many of these employers are either subject to the FCPA or required by their customers or clients to comply with the FCPA. However, few, if any, connect their ABAC compliance efforts to the employment of foreign workers in their operations – even though it is highly regulated in almost every jurisdiction. Successful prevention of trafficking requires all of these groups to be fully invested in monitoring. Applying company ABAC policies and practices to supply chain participants would go a long way to addressing forced labour and trafficking.

6.10 Improve data collection and research on the nexus between human trafficking and corruption

The Trafficking Protocol directs States Parties to ‘endeavor to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.’³⁰⁸ Prosecution can only deal with the aftermath of trafficking and corruption. At the most fundamental level, these crimes must be prevented. And for that, policy-makers need solid research and data. A better understanding of the intersection of corruption and trafficking can aid states in developing prevention strategies and create an evidence base for directed interventions. Monitoring prosecutions for trafficking-related corruption can inform law enforcement officials of the unique methods used by traffickers in a particular country. This, in turn, provides guidance on how to effectively close corrupt loopholes along traffickers' routes:

- increase the collection of data on trafficking-related corruption, including cases;
- create a comprehensive database for the collection of corruption and human trafficking data; and
- disseminate this information to anti-corruption and anti-trafficking units in governments.

There is remarkably little global data on the links between trafficking and corruption. Obtaining better data is necessary for more effective prevention, detection and disruption of corruption in the human trafficking chain. States need to collect and analyse data and information on investigations or prosecutions of public officials relating to trafficking and corruption. Such data ‘needs to be collected and aggregated at the regional level’.³⁰⁹

308 Art 9(2).

309 See note 47, OECD Background Paper, at 30, point 79.

Both states and international organisations should ensure that, in addition to identifying human trafficking data, their surveys and risk assessments also flag for corruption. For example, UNODC now includes questions specific to corruption in their surveys, an addition spurred by the dearth of data on trafficking and corruption.³¹⁰ The US Government and others involved in monitoring state responses to trafficking should take a more systematic approach to identifying trafficking-related corruption and assessing responses.

Once collected, this data should be preserved in a database of public corruption involving human trafficking crimes. The UNODC maintains a general case law database of organised crime prosecutions³¹¹ and a separate database specific to human trafficking case law.³¹² However, these databases contain only case law and rely on the existence of actual prosecutions.

As we have seen, there are few trafficking prosecutions and even fewer prosecutions of corrupt officials. A more comprehensive database of corruption and trafficking would allow researchers and policymakers to identify trends and begin to address this dearth of corrupt official prosecutions. It is hoped that this report can provide the initial collection of cases.

310 Jessie Bruner, *Inaccurate Number, Inadequate Policies: Enhancing Data to Evaluate the Prevalence of Human Trafficking in ASEAN*, East-West Center (2015) 32.

311 UNODC's SHERLOC Portal is an initiative to facilitate the dissemination of information regarding the implementation of the UNCTOC and its three protocols available at www.unodc.org/cld/index-sherloc.aspx.

312 UNODC's Human Trafficking Case Law Database is described as 'a comprehensive case law database that allows you to see how Member States are tackling organized crime cases in their courts,' and is available at www.unodc.org/cld/index.aspx#keyword.

Key recommendations

- ✓ Conduct systematic risk assessments to identify at-risk sectors for corruption and trafficking.
- ✓ Develop risk mitigation strategies and action plans to combat corruption and trafficking, using integrated, multidisciplinary approaches.
- ✓ Reform human resource management systems to discourage corrupt practices and promote ethical organisational cultures, promote integrity and strengthen accountability.
- ✓ Raise awareness of the indicators of human trafficking and corruption through training and professional development.
- ✓ Foster a culture of integrity through codes of conduct based on high standards of professionalism and ethics.
- ✓ Implement confidential reporting mechanisms with strong whistleblower protections.
- ✓ Create public reporting portals with anti-retaliation protections that allow citizens to alert internal affairs investigators to public corruption.
- ✓ Establish ties between human trafficking units, anti-corruption units and internal investigation teams to improve detection and investigation efforts.
- ✓ Broaden the mandates of existing anti-corruption agencies to include a focus on trafficking-related corruption.
- ✓ Punish corrupt officials to foster a ‘high risk–low profit’ environment.
- ✓ Integrate anti-corruption and human trafficking legislation.
- ✓ Ensure that any trafficking-related anti-corruption reforms are part of a broader anti-corruption framework.
- ✓ Align domestic counter-trafficking and anti-corruption legislation with international standards.
- ✓ States should build cooperative partnerships to develop and implement countermeasures, especially in the areas of border security, migration, mutual legal assistance and extradition.
- ✓ States should launch public awareness campaigns to educate citizens on the risks of trafficking and foster citizen accountability.
- ✓ Non-governmental organisations working on anti-trafficking should build relationships with internal affairs units and anti-corruption enforcement bodies.
- ✓ Countries are advised to identify and pay particular attention to at-risk industries and sectors.
- ✓ States and international organisations must increase the collection of data on trafficking-related corruption, including cases.
- ✓ Expand current repositories of corruption and human trafficking data beyond the collection of case law and prosecutions.