

Corruption as a Facilitator of Smuggling of Migrants and Trafficking in Persons in the Bali Process Region with a focus on Southeast Asia



REGIONAL SUPPORT OFFICE
THE BALI PROCESS



UNODC

United Nations Office on Drugs and Crime

Acknowledgements

This research was overseen by the United Nations Office on Drugs and Crime (UNODC) Regional Office for Southeast Asia and the Pacific (ROSEAP) and the Regional Support Office of the Bali Process (RSO) under the supervision of Dr Rebecca Miller, Regional Coordinator – Human Trafficking and Migrant Smuggling and Dr Marika McAdam, International Law and Policy Advisor respectively.

The research was conducted by Dr Joseph Lelliott, Lecturer, School of Law, University of Queensland and Dr Andreas Schloenhardt, Professor of Criminal Law, University of Queensland and Honorary Professor of Foreign and International Criminal Law, Faculty of Law, University of Vienna, Austria.

UNODC ROSEAP gratefully acknowledges the generous funding from the Australian Government, Department of Home Affairs.

This report also benefited from the valuable input of UNODC colleagues in Bangkok, including Francesco Checchi, UNODC Regional Advisor and Cornelia Koertl, Associate Crime Prevention and Criminal Justice Officer, Anti-Corruption Programme as well as Morgane Nicot, UNODC Knowledge Development and Innovation Team Leader, Human Trafficking and Migrant Smuggling Section in Vienna.

Disclaimers: This report has not been formally edited.

The contents of this publication do not necessarily reflect the views or policies of UNODC, Member States, or contributory organizations, and neither do they imply any endorsement.

The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of UNODC or the Secretariat of the United Nations concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries.

Cover Photo ©Lewis J Goetz

Table of

Contents

iii	ABBREVIATIONS
iv	EXECUTIVE SUMMARY
1	I. INTRODUCTION
3	I.1 Context and Background
4	I.2 Purpose and Scope of this study
5	I.3 Structure
6	I.4 Methodology
7	II. CONCEPTS AND DEFINITIONS
8	II.1 Corruption
8	II.1.1 Terminology and Frameworks
10	II.1.2 Types of Conduct
12	II.2 Smuggling of Migrants
12	II.3 Trafficking in Persons
14	II.4 Corrupt Actors in the Context of Smuggling and Trafficking
16	III. CONTEXTS OF CORRUPTION
19	III.1 Recruitment
22	III.2 Fraudulent Documents
26	III.3 Border Crossings
28	III.4 Transportation
29	III.5 Airports
32	III.6 Accommodation and Harbours
33	III.7 Law Enforcement and Investigation
37	III.8 Prosecution and Conviction
38	III.9 Service Providers
39	IV. CONCLUSION
42	V. FINDINGS AND RECOMMENDATIONS
43	V.I Findings
44	V.II Recommendations
51	REFERENCE LIST
57	ANNEX ONE
59	ANNEX TWO

Abbreviations

ASEAN	Association of Southeast Asian Nations
Bali Process	Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Organized Crime
CSO	Civil Society Organisation
EU	European Union
IDM	Immigration Department of Malaysia
ILO	International Labour Organization
IOM	International Organization for Migration
Lao PDR	Lao People's Democratic Republic
NGO	non-governmental organisation
Myanmar	Republic of the Union of Myanmar
POEA	Philippine Overseas Employment Administration
RMP	Royal Malaysian Police
s.n.	sine nomine [published without name of the author(s)]
SAR	Special Administrative Region of China
UN	United Nations
UNCAC	United Nations Convention against Corruption
UNODC	United Nations Office on Drugs and Crime
UNTOC	United Nations Convention against Transnational Organized Crime

Executive Summary

Smuggling of migrants and trafficking in persons are major concerns throughout the Bali Process region. Yet, despite the extent of these crimes, both remain under-researched. The role of corruption as a facilitator of both crimes is particularly overlooked and undocumented.

Previous research by the United Nations Office on Drugs and Crime (UNODC) and others indicates that smuggling of migrants and trafficking in persons could not occur on a large scale without the aid of corruption. This report builds on this existing research and sheds light on the ways in which corruption facilitates smuggling of migrants and trafficking in persons, the actors involved, and the contexts in which such corruption occurs. It draws on open-source material, survey responses, and interviews with experts. The main focus of this report is on Bali Process Member States in Southeast Asia, particularly the ten ASEAN (Association of Southeast Asian Nations) Member States, including Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic (PDR), Malaysia, the Union of Myanmar, the Philippines, Singapore, Thailand, and Viet Nam.

This report identifies nine 'contexts' where corruption is most likely to occur, with a focus on the public sector. These are:

- (1) the recruitment of smuggled migrants and victims of trafficking;
- (2) the production, procurement, and use of fraudulent documents;
- (3) border crossings;
- (4) transportation;
- (5) the movement of smuggling migrants and victims of trafficking through airports;
- (6) accommodation;
- (7) law enforcement and investigation of smuggling and trafficking;
- (8) prosecution and trial of smugglers and traffickers; and
- (9) interactions between service providers and smuggled migrants and victims of trafficking.

The information collected for this report shows that corruption is particularly prevalent in the contexts of recruitment, the procurement of fraudulent documents, and during border crossings by land, sea, and air. There are numerous cases of bribery of immigration officials by migration recruitment agents in order to facilitate irregular migration and, in some cases, exploitation, as well as allegations of improper relationships between some agents and government officials. Successful investigations in several ASEAN countries have shed light on the use of corruption to acquire genuine travel and other documents with false information, certify false documents, undermine technological protection measures used to secure documents, and bypass document checks at airports. The susceptibility of public officials stationed at borders to bribery was widely observed by interviewees, in survey responses, and in the existing literature.

Bribery of law enforcement officials appears to be a common part of the *modus operandi* of many smuggling and trafficking ventures. While such officials rarely seem to be directly involved in smuggling or trafficking, the taking of bribes from offenders in return for ‘turning a blind eye’ to illicit activities is widely reported. In some cases, law enforcement officials may also be bribed to provide information on police raids, drop ongoing investigations, or ensure that victims of trafficking cannot escape places of exploitation. Some evidence suggests that corruption can also reach into prosecution and judicial processes.

This report uncovered very little, and in some cases no, evidence concerning the role and extent of corruption in transportation, accommodation, and service provision. This may mean that corruption is rare in these contexts, or that it exists, but is rarely reported or investigated.

Several further findings emerge from the information collected for this report. In particular, conflicts of interest and secondary employment of public officials increases the risk of corrupt activities. Complex bureaucratic hurdles and costly procedures for regular migration also drive smuggling of migrants and trafficking in persons and associated corruption. Law enforcement responses to alleged and proved corrupt activities may also compromise efforts to prevent and combat corruption, smuggling, and trafficking. It appears common for administrative penalties, such as suspension or transfer, to be used against corrupt officials as opposed to criminal prosecution, and high-level officials are rarely punished.

In sum, this report indicates that corruption can weaken border protection and immigration controls, hinder efforts to enforce the law and protect migrants, and allows smugglers and traffickers to operate with impunity. It makes recommendations to prevent and address corruption in this context, including:

Investigate, Prosecute and Punish Corruption. Any allegations of corruption must be thoroughly investigated and punishments should reflect the gravity of the crime.

Harmonising Offences and Penalties. Legislation on smuggling of migrants and trafficking in persons should incorporate clear provisions addressing corruption and the involvement of public officials. This includes specific offences and penalties for corrupt officials who facilitate, or are otherwise involved in, these crimes.

Align and incorporate Anti-Corruption Measures with Anti-Trafficking and Anti-Smuggling Policies. Corruption issues should be incorporated, as appropriate, into anti-smuggling of migrants and anti-trafficking in persons strategies and mechanisms (and vice versa), including policies, procedures, and training.

Target High-Risk Sectors. Resources should be dedicated to public agencies or departments, specific locations, or activities that are particularly vulnerable to corruption.

Promote Good Governance and Integrity. Organisational structures and processes, such as recruitment and staff rotations, should promote transparency, fairness, and accountability.

Create and Strengthen Reporting and Whistle-Blower Mechanisms. Anonymous reporting mechanisms should be in place for officials to raise concerns or report offers

of bribes or use of undue influence by other officials. Whistle-blowers and witnesses must be given appropriate protection.

Protect and Work with Smuggled Migrants and Victims of Trafficking. Where appropriate, authorities should work with smuggled migrants and victims of trafficking to gain insight into the prevalence of corruption and identify corrupt officials and practices.

Foster International Cooperation. Governments should share intelligence on corrupt activities and collaborate to address 'at risk' points for trafficking and smuggling (such as border crossings). Formal and informal cooperation mechanisms in the context of criminal investigations can facilitate prosecution of offenders, while information sharing between government agencies can help ensure the integrity of travel and other documents.

Tackle Corruption in the Business Sector. Governments should pay special attention to sectors where smuggling of migrants and trafficking in persons are known to occur. Companies involved in corruption, smuggling of migrants, or trafficking in persons should be held to account and offences creating liability for legal persons used where available and when appropriate.

Improve the Evidence Base. Further research as well as systematic data collection and analysis into this issue is urgently required to reconcile this report's general findings with practical realities on the ground and support evidence-based policy and practice in combating corruption, smuggling, and trafficking.

Raise Awareness. Greater efforts are needed to raise awareness, in government agencies and the community more broadly, of the links between corruption, smuggling of migrants, and trafficking in persons.

I. Introduction



I. Introduction

As the guardian of the *Protocol against the Smuggling of Migrants by Land, Sea, and Air*¹ and the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*,² which supplement the *Convention against Transnational Organized Crime*,³ the United Nations Office on Drugs and Crime (UNODC) promotes global adherence to these instruments and assists States in their efforts to effectively implement them and combat the conduct that they criminalise. UNODC contributes to the creation of evidence-based knowledge and helps raise awareness of trafficking, smuggling, and other forms of transnational organised crime.

UNODC is a member of the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Organized Crime (the Bali Process). Within the Bali Process, the Trafficking in Persons Working Group has identified tackling corruption as a facilitator of human trafficking as a main priority of focus. The Working Group aims to ‘strengthen Bali Process member countries’ awareness of corruption as a key facilitator of human trafficking and explore opportunities to strengthen engagement between anti-corruption and trafficking practitioners’.⁴ The Bali Process has recognised the need to promote an integrated approach to combating human trafficking and smuggling of migrants, given the close relationship between these crime-types.

Against this background, members at the fifth annual meeting of the Trafficking in Persons Working Group and the Bali Process more broadly, welcomed a proposal by UNODC to deliver a series of activities, including this research report, to assist Bali Process Member States to understand the role of corruption as a facilitator of smuggling of migrants and trafficking in persons.



¹ Opened for signature 12 December 2000, 2241 UNTS 507 (entered into force 28 January 2004).
² Opened for signature 12 December 2000, 2237 UNTS 319 (entered into force 25 December 2003).
³ Opened for signature 15 Dec 2000, 2225 UNTS 209 (entered into force 29 September 2003).
⁴ Bali Process, Trafficking in Persons Working Group, *Forward Work Plan 2017-2019*.



I.1 Context and background

Smuggling of migrants and trafficking in persons are major concerns throughout the Southeast Asian region. The countries in Southeast Asia (including Brunei Darussalam, Cambodia, East Timor, Indonesia, Laos PDR, Malaysia, Myanmar, The Philippines, Singapore, Thailand, and Viet Nam) variously play roles as source, transit, and destination countries for smuggling of migrants. Levels of trafficking in persons are high in the region and sexual and labour exploitation both appear to be widespread.⁵ Although most smuggling and trafficking occurs within the region, some persons are smuggled and trafficked to destinations in other parts of Asia, the Pacific, the Middle East, Europe, and North America.

Research previously carried out or commissioned by UNODC provides some insight into the scale and patterns of smuggling of migrants and trafficking in persons. In 2019, UNODC's Regional Office for Southeast Asia and the Pacific published a report titled *Transnational Organized Crime in Southeast Asia: Evolution, Growth and Impact*, which included dedicated chapters on smuggling of migrants and trafficking in persons. This report was part of a series of 'knowledge products' published by UNODC concerning issues confronting governments and communities in Southeast Asia. Other recent UNODC publications concerning smuggling of migrants and trafficking in persons include reports on *Facilitators of Smuggling of Migrants in Southeast Asia* (2019), *Migrant Smuggling in Asia and the Pacific* (2018), and *Trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand* (2017) (co-produced with the Thailand Institute of Justice).

The 2019 report on *Transnational Organized Crime in Southeast Asia*, like others before it, recognizes the integral role corruption plays in facilitating both smuggling of migrants and trafficking in persons. It notes that 'trafficking also includes the complicity of state officials, and high levels of corruption are believed to drive human trafficking in Southeast Asia' and, with respect to smuggling, '[c]orruption among government officials and private employers in Southeast Asia is a major contributor to the smuggling of migrants across international

⁵ See, e.g., UNODC, *Global Report on Trafficking in Persons* (2020).

borders'.⁶ Nonetheless, concrete examples of the role of corruption in facilitating smuggling and trafficking remain elusive and actual prosecutions and reported cases are few and far between. Corruption is a facet of smuggling and trafficking that urgently needs further investigation, followed by decisive countermeasures.

I.2. Purpose and scope of this study

Despite the scale of smuggling of migrants and trafficking in persons throughout the Bali Process region, many gaps remain in the documentation, research, and analysis of these phenomena. Many facets of smuggling and trafficking remain shrouded in mystery and reliable data on their scale and characteristics are almost non-existent. This is especially true for corruption as a facilitator of smuggling and trafficking, the role of which is often overlooked and undocumented.

The purpose of this study is to provide in-depth, exploratory research on the role of corruption as a facilitator of smuggling of migrants and trafficking in persons. This report serves to shed light on the nature and forms of corruption involved in this context and highlight the different ways in which smuggled migrants and victims of trafficking in persons are vulnerable to, and experience, corruption. The main focus of this report is on Bali Process Member States in Southeast Asia, particularly the ten ASEAN (Association of Southeast Asian Nations) Member States, including Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic (PDR), Malaysia, the Republic of the Union of Myanmar, the Philippines, Singapore, Thailand, and Viet Nam. Each of these States are members of the Bali Process.

The overall goal of this study is to enhance the understanding of the ways in which corruption facilitates smuggling of migrants and trafficking in persons, the actors involved, and the contexts in which such corruption occurs. This research seeks to inform cooperation between agencies and practitioners involved in anti-corruption, smuggling, and trafficking efforts, leading to better detection, evidence gathering, and reporting of cases. The information set out in this report serves to inform the development of evidence-based strategies to prevent and combat the interlinked phenomena of corruption, trafficking in persons, and smuggling of migrants.

⁶ UNODC, *Transnational Organized Crime in Southeast Asia: Evolution, Growth and Impact* (2019) 81, 87.



I.3 Structure

This report is divided into five parts (I–V). Following this introduction (Part I), Part II sets out the concepts and definitions of corruption, trafficking in persons, and smuggling of migrants. This includes the relevant international frameworks. Part II also identifies the general roles corruption plays in trafficking and smuggling.

Against this background, Part III documents the available and open-source information on corruption as a facilitator of trafficking and smuggling in the ASEAN Member States. This information is supported by data collected through surveys and interviews.

Part III is divided into nine sections that each examine a particular context of corruption:

- (1) recruitment of smuggled migrants and victims of trafficking;
- (2) production, procurement, and use of fraudulent documents;
- (3) border crossings;
- (4) transportation;
- (5) movement of smuggling migrants and victims of trafficking through airports;
- (6) accommodation;
- (7) impeding law enforcement and investigation of smuggling and trafficking;
- (8) obstructing the prosecution and conviction of smugglers and traffickers; and
- (9) interactions between service providers and smuggled migrants and victims of trafficking.

Based on these findings, Part IV and V offers conclusions and outline a set of legal, policy, and practice recommendations.

I.4 Methodology

The research for this report was carried out between July and December 2020. It involved the systematic collection and analysis of open-source material, including primary sources such as reported cases and official data collections and reports, as well as secondary sources prepared by international organisations, academic scholars and other experts, non-governmental organisations (NGOs), and media reports from major international and Southeast Asian English language news outlets. The information collected from these materials was collated into a separate desk review document.

The information in the desk review was supplemented by responses to a survey and interviews with a number of stakeholders and experts. A survey instrument containing six questions was distributed by UNODC to governments, international organisations, and civil society organisations (CSOs) throughout Bali Process Member States. Fifty survey responses were collected. The interviews were conducted using a questionnaire containing 13 questions. Interviews were carried out remotely in November and December 2020. Thirteen interviews were conducted with individuals across a range of countries within and outside Southeast Asia. Due to travel restrictions resulting from the COVID-19 pandemic it was not possible to conduct country visits, personal interviews, or engage face-to-face with local stakeholders.

The focus of this report is public sector corruption as a facilitator of smuggling of migrants and trafficking in persons. While some limited information on private sector corruption was collected and is included as relevant, this is an area where further research and work is needed.



©UNODC ROSEAP

II. Concepts and Definitions



II. Concepts and Definitions

II.1 Corruption

II.1.1 Terminology and Frameworks

Corruption is a serious problem that threatens the stability and security of civil society, undermines institutions, compromises ethical conduct, and jeopardises the rule of law. Corruption encompasses a range of illicit activities.⁷ The *United Nations Convention against Corruption (UNCAC)*, which is the only legally binding universal anti-corruption instrument, requires the establishment of a range of offences associated with corruption, including, inter alia, bribery, embezzlement, trading in influence, abuse of functions, illicit enrichment, and money laundering.⁸ Corruption can occur in the public and private sectors. States Parties to UNCAC are required to prevent and control corruption and implement laws, policies and programmes to this end.

Corruption may occur on a small scale, involving a single individual or several persons in a larger organisation taking advantage of opportunities to exploit their professional position and/or power for personal gain.⁹ Discrete abuses of power by public officials during their interactions with ordinary persons are commonly referred to as 'petty corruption'.¹⁰ Corruption can also occur on a larger scale and affect entire organisations or public bodies, such as police, judicial, or immigration systems. Corruption in these circumstances is often systemic and caused by structural weaknesses and inadequate governance. Practices within a particular institution may be perverted by corruption and a culture of tolerance of corruption may have taken hold. At the highest levels, corruption involves actions of high-level public officials and causes significant loss to a state or its people, or otherwise deprives them of fundamental rights. This is usually referred to as 'grand corruption'.¹¹

A comprehensive and multidisciplinary approach is needed to effectively prevent and combat corruption. UNCAC specifies measures concerning both the public and private sectors that aim to enhance the rule of law, transparency, and accountability. This includes, among other things, the establishment of anti-corruption bodies, codes of conduct for public officials and rules on conflicts of interest, appropriate systems for public procurement, and measures to promote transparency and ethical conduct in the

⁷ See, eg, World Bank, *Helping Countries Combat Corruption* (1997) 8.

⁸ UNCAC, Articles 15-23.

⁹ See, for example, Susan Rose-Ackerman and Bonnie J Palifka, *Corruption and Government: Causes, Consequences, and Reform* (Cambridge University Press, 2016) 7-9.

¹⁰ 'Public officials' include any person holding a legislative, executive, administrative or judicial office of a State Party, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person's seniority; (ii) 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 and as applied in the pertinent area of law of that State Party; (iii) any other person defined as a 'public official' in the domestic law of a State Party'. See UNCAC, Article 2(a).

¹¹ See Transparency International, 'Definition of Grand Corruption' (19 August 2016). Available from <https://www.transparency.org/en/news/what-is-grand-corruption-and-how-can-we-stop-it>.

private sector.¹² UNCAC encourages States to promote the participation of society in fighting corruption, raise awareness, and ensure that there are anonymous avenues to report corrupt activities.¹³

The Convention further provides a framework for international cooperation in fighting corruption, particularly with respect to tracing, freezing and seizure of assets, as well as asset recovery and anti-money laundering measures.¹⁴ UNCAC promotes cooperation between national anti-corruption agencies and other law enforcement agencies involved in the fight against corruption and related criminal activities, including organized crime, smuggling of migrants, and trafficking in persons.¹⁵

Criminalisation of corrupt activities is an important part of preventing and suppressing corruption. UNCAC calls for the criminalisation of active and passive bribery of national public officials, foreign public officials, and officials of public international organisations; embezzlement and misappropriation and other diversion of public property; trading in influence; and abuse of functions.¹⁶ It also requires the criminalisation of other activities in support of corruption, such as obstruction of justice and the concealment or laundering of the proceeds of corruption.¹⁷



¹² UNCAC, Articles 5-14.
¹³ UNCAC, Articles 8(4), 10, and 13.
¹⁴ UNCAC, Articles 43-59.
¹⁵ UNCAC, Article 48.
¹⁶ UNCAC, Articles 15-21.
¹⁷ UNCAC, Articles 22-25.

II.1.2 Types of Conduct



Bribery

Put simply, bribery is the act of conferring a benefit in order to improperly influence an action or decision.¹⁸ The offence of bribery is described in Article 15 of UNCAC. Bribery may be initiated either by a person offering a bribe, or by an official who requests or demands one. A bribe can also take the form of a payment extracted by a public official from an unwilling member of the public, before the citizen can receive the service to which he or she is entitled.¹⁹ This type of conduct can also amount to extortion.

‘Active bribery’ refers to the act of offering or giving a bribe, while ‘passive bribery’ refers to the requesting or receiving of a bribe.²⁰

Bribes can be cash and other valuables, favours (including sexual favours), insider information, property, and employment or promises of employment. Bribes can be given, offered, or promised directly or indirectly (to third parties or intermediaries) and on a case-by-case basis or as part of a continuing relationship. Some officials who accept bribes may not know what crimes they are potentially facilitating, while others may receive part of the bribes collected by other officials who are in collusion with criminals. In this latter example, these officials would be traffickers / smugglers.

A bribe can be ‘according to the rules’ (to obtain something the official is withholding but is under a public duty to provide), or it can be ‘against the rules’ (a payment to encourage an official to ignore the rules in favour of, or at the request of, the person offering the bribe).

By accepting a bribe, officials are effectively compromised and thereafter vulnerable to blackmailing and psychological pressure. Because they have already engaged in corrupt activities, they can easily be coerced into further and often more serious derelictions of their duties.²¹ Once bribery has occurred, it can lead to other types of corruption, such as abuse of functions.

¹⁸ See *UNCAC*, Articles 15 and 16.

¹⁹ UNODC, *Facilitators of Smuggling of Migrants in Southeast Asia: Fraudulent Documents, Money Laundering, and Corruption* (2019) 20.

²⁰ See, eg, *UNCAC*, Articles 15(a) and (b), which concern active and passive bribery respectively.

²¹ UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 8.



Embezzlement, Misappropriation or other Diversion of Property

The embezzlement and misappropriation or other diversion of property by a public official involves dealing with any property for the official's benefit or for the benefit of another person or entity, where that property has been entrusted to the public official due to his or her position. The property may be public or private funds or securities or any other thing of value.²² Embezzlement may also occur in the private sector in the course of economic, financial, or commercial activities.²³



Trading in Influence

Trading in influence involves the promise, offering or giving of an undue advantage to a public official or any other person to get that person to abuse his or her influence (real or supposed) in return for some undue advantage. It may also involve the solicitation or acceptance of such an undue advantage by a public official or any other person.²⁴



Abuse of Functions

Abuse of functions (sometimes referred to as abuse of office or position) involves a public official's performance of or failure to perform an act during discharge of their functions and in violation of the law. This is done for the purpose of obtaining an undue advantage for the official or for another person or entity.²⁵



²² UNCAC, Article 17.

²³ UNCAC, Article 22.

²⁴ UNCAC, Article 18.

²⁵ UNCAC, Article 19.

II.2 Smuggling of Migrants

The *Smuggling of Migrants Protocol* requires States Parties to prevent and combat the smuggling of migrants, protect the rights of smuggled migrants, and promote cooperation between States.²⁶ Article 3(a) of the 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.

In other words, the smuggling of migrants involves the facilitation of another person's illegal entry or stay into a country for profit. Migrant smugglers facilitate the movement of people who wish to cross borders, but do not have the legal means to do so. They may assist people in a variety of ways, such as by arranging transportation or procuring, producing, or supplying fraudulent travel documents. While some migrant smuggling ventures are sophisticated, employing corruption, fraudulent documents, and other methods to lower the risk of detection, others are more amateur. Some methods of smuggling, particularly smuggling by sea, may endanger the lives and safety of those smuggled. The costs of smuggling tend to rise or fall based on the chances of success and level of danger involved.

A core requirement of the *Smuggling of Migrants Protocol* is that States criminalise smuggling of migrants and certain other related conduct.²⁷

II.3 Trafficking in Persons

The *Trafficking in Persons Protocol* obliges States Parties to criminalise trafficking, protect victims, prevent the trafficking, and cooperate in combating it.²⁸ Article 3 of the Protocol defines trafficking in persons as

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 definition has three elements including an act, means, and purpose. A combination of these elements is required to constitute trafficking in persons, except in cases where the trafficked person is a child, in which case the means element is obviated. Where any of the stipulated means are present (or where the trafficked person is a child) any consent of a victim

²⁶ *Smuggling of Migrants Protocol*, Article 2.

²⁷ *Smuggling of Migrants Protocol*, Article 6.

²⁸ *Trafficking in Persons Protocol*, Article 2.

of trafficking to his or her exploitation is irrelevant. In particular, Article 5 of the Protocol requires States Parties to make trafficking an offence, consistent with the definition in Article 3.

The definition of trafficking in persons distinguishes this crime from smuggling of migrants, as defined in the Smuggling of Migrants Protocol. For clarity, the two crimes can be distinguished in two key ways:

- 1) The purpose of smugglers and traffickers is different. The purpose of trafficking in persons is to exploit the trafficked person. The purpose of smuggling is to obtain a 'financial or other material benefit'. Typically, smugglers have 'no intention to exploit the smuggled migrant after having enabled him or her to irregularly enter or stay in a country'.²⁹
- 2) Smuggling of migrants involves the 'illegal entry of a person into a State Party of which the person is not a national or a permanent resident' or enabling the illegal stay of a person in such a state party.³⁰ Trafficking in persons, in contrast, does not require the crossing of an international border and does not require either illegal entry or stay in a state. Thus, trafficking (unlike smuggling of migrants) may occur completely within one country, and may involve legal border crossings.

The distinction between smuggling of migrants and trafficking in persons can be difficult to draw and smuggling ventures may morph into situations of trafficking.³¹ In practice, traffickers often derive some financial or material benefit concurrent with the purpose of exploitation and often move victims transnationally. Smuggled migrants may experience exploitation during smuggling ventures, or find themselves placed into situations of trafficking during or following their journeys. Where an offender intends to gain a financial or material benefit from transporting a migrant from one country to another, and also intends to exploit them, they may be guilty of both smuggling and trafficking offences. Similarly, a person may be both a smuggled migrant and a victim of trafficking.

²⁹ UNODC, *A Short Introduction to Smuggling of Migrants* (UNODC, 2010) 10.

³⁰ *Smuggling of Migrants Protocol*, Article 3(a).

³¹ See, for example, Conference of States Parties to the United Nations Convention against Transnational Organized Crime, Working Group on the Smuggling of Migrants, *Challenges and Good Practices in the Criminalization, Investigation and Prosecution of the Smuggling of Migrants*, UN doc CTOC/COP/WG.7/2012/2 (21 March 2012) para 6.

II.4 Corrupt Actors in the Context of Smuggling and Trafficking

A range of actors in the public and private sectors may corruptly facilitate smuggling of migrants and trafficking in persons. Public officials including law enforcement officers, immigration officials, labour inspectors, border guards, and prosecutors, among others, can all be involved as facilitators of these crime types. Private sector workers such as labour recruiters, airport employees, and accommodation providers may also use their positions to advance the smuggling and trafficking of persons. Corrupt actors can carry out a range of actions at all stages of the smuggling and trafficking processes. They may collude with smugglers and traffickers to recruit persons into trafficking and smuggling ventures, accept bribes to permit migrants to cross borders without the necessary documents, or abuse their positions to prevent investigation and prosecution of offenders. (see Table 1)

Sometimes corrupt actors act as smugglers and traffickers themselves:

In some circumstances, the distinction between “corrupt officials” and “criminals” may in fact mask more dire and entrenched behaviour in which smugglers/traffickers can themselves be corrupt officials holding positions within law enforcement, justice, immigration, customs, passport offices, border police and other related government agencies.³²

In this context, a distinction can be drawn between officials who themselves are smugglers or traffickers and do not use corruption to further their illicit activities, and situations where a corrupt official’s position is used to advance their role within smuggling/trafficking enterprises. This report only addresses corruption as a facilitator of smuggling and trafficking.

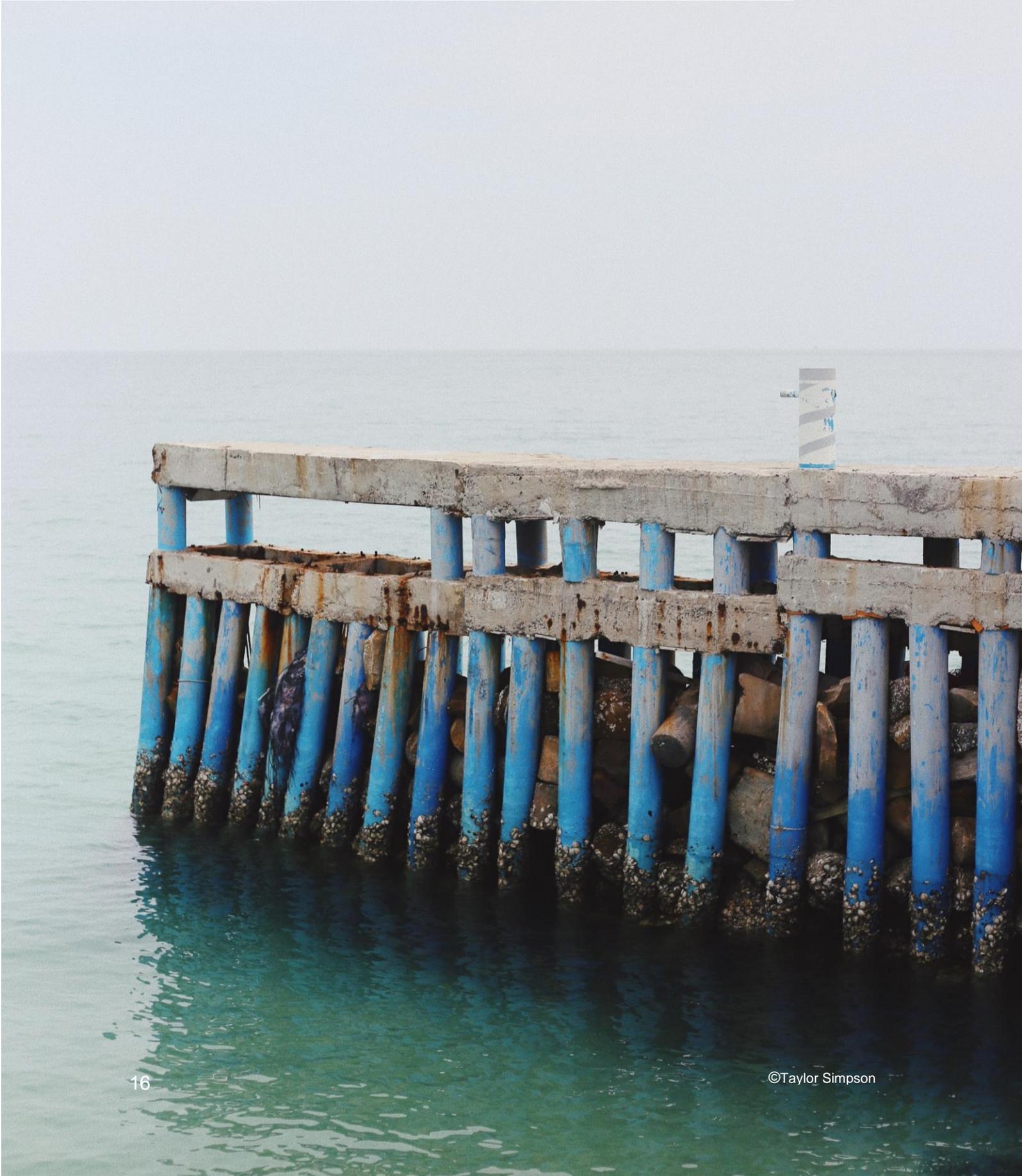
Furthermore, this report is only concerned with conduct falling within the definitions of smuggling of migrants and trafficking in persons in the Protocols and the corruption that facilitates it. In this context, the requirement that smuggling of migrants involves a financial or material benefit to the smuggler must be emphasised. A person who assists another to enter or remain in a country illegally without this purpose is, pursuant to the Smuggling of Migrants Protocol, not a migrant smuggler and not liable for the offence of smuggling of migrants. For this reason, persons who facilitate the illegal migration of others for humanitarian, altruistic, or family reasons are not migrant smugglers.

³² IOM, *Migrant Smuggling Data and Research: A Global Review of the Emerging Evidence Base* (2016) 9.

Table 1 below summarizes the different actors that may be involved in corruption as well as the contexts in which such corruption occurs.

	Recruitment	Documents	Border Crossing	Transportation	Airports	Accomm.	Investigation	Prosecution/Trial	Services
Public Sector									
Immigration	x	x	x		x				
Police	x	x	x	x			x	x	
Customs		x	x		x				
Military	x		x	x					
Prosecutors								x	
Judicial officers								x	
Border officials		x	x		x		x		
Healthcare	x	x							x
Political officials		x							
Labour inspectors							x		
Private Sector									
Interpreters		x							
Education	x	x							x
NGOs									x
Recruiters	x	x							
Employers	x	x				x			
Transport providers				x					
Accomm. providers						x			
Airport workers					x				

III. Contexts of Corruption



III. Contexts of Corruption

Smuggling of migrants and trafficking in persons cannot occur on a large scale without the corruption and collusion of corrupt officials. Government agencies, international and non-government organisations, and experts alike observe that corruption seriously undermines national and international efforts to combat both smuggling of migrants and trafficking in persons.³³

The available evidence of corruption as a facilitator of smuggling and trafficking, though predominantly anecdotal, indicates that it occurs at both the individual level (as petty corruption) and systemically within organisations.³⁴ Bribery of public sector officials, especially members of law enforcement agencies and immigration departments, is the subject of the majority of the available information on corruption in the context of smuggling and trafficking.³⁵

Multiple instances of corruption may occur in a range of contexts.³⁶ It may be present at the early stages of such crimes during the recruitment and initial interactions with smuggled migrants and victims of trafficking. Corruption can facilitate their transport by aiding in the procuring and use of fraudulent documents and allowing unimpeded movement through immigration controls at land and sea borders and through checkpoints at airports. Corruption can also assist the unlawful stay of persons in a country and secure the complicity of law enforcement officials. It can prevent investigation of exploitative situations in the 'end' stages of trafficking. Moreover, corruption can ensure the continuation of smuggling and trafficking ventures by preventing successful prosecution and conviction of offenders and providing avenues to launder and conceal the proceeds of these crimes.³⁷ As observed by one survey respondent to this study:

³³ See, for example, OECD, 'Corruption and the Smuggling of Refugees' (Report, 2015) 3; Europol and Interpol, 'Migrant Smuggling Networks: Executive Summary' (May 2016) 7-8; Transparency International, 'Breaking the Chain: Corruption and Human Trafficking' (News Room: In Focus, 1 September 2011); 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 Thailand, July 2010) 55; Council of Europe, Programme against Corruption and Organised Crime in South-eastern Europe, 'Trafficking in Human Beings and Corruption' (2002); 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 International Law Journal* 33, 35; Andrew P Guth, 'Human trafficking in the Philippines: the need for an effective anti-corruption program' (2010) 13 *Trends in Organized Crime* 147, 147.

³⁴ See UNODC, *Global Study on Smuggling of Migrants* (2018) 8. Many examples are provided below in Part III.

³⁵ See, for example, information in International Bar Association's Presidential Task Force against Human Trafficking, *Human Trafficking and Public Corruption* (2016); IOM, *Migrant Smuggling Data and Research: A Global Review of the Emerging Evidence Base* (2016).

³⁶ UNODC, *Corruption and the Smuggling of Migrants* (2013) 9; UNODC, *The Role of Corruption in Trafficking in Persons* (2011) 10.

³⁷ See, eg, 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 Thailand, July 2010) 64; Keo et al, 'Human Trafficking and Moral Panic in Cambodia' (2014) 653(1) *The Annals of the American Academy of Political and Social Science* 202, 208, 216; Hannah Andrevski, Jacqueline Joudo Larsen & Samantha Lyneham, 'Barriers to trafficked persons' involvement in criminal justice proceedings: An Indonesian case study' (Trends and Issues in Criminal Justice No 451, Australian Institute of Criminology, 2013) 6.

human trafficking and smuggling of migrants [...] would not be possible without the involvement of government officials [...] Corruption is reported to be at the centre of each stage of human trafficking and migrant smuggling, including producing, issuing and using forged or fraudulent documents and facilitating legal or illegal border crossings.

This section explains the role of corruption as a facilitator of smuggling and trafficking in nine contexts. These include

- (1) recruitment of smuggled migrants and victims of trafficking in persons;
- (2) production, procurement, and use of fraudulent documents;
- (3) border crossings;
- (4) transportation;
- (5) movement of smuggling migrants and victims of trafficking in persons through airports;
- (6) accommodation;
- (7) impeding law enforcement and investigation of smuggling and trafficking;
- (8) obstructing the prosecution and trial of smugglers and traffickers; and
- (9) interactions between service providers and smuggled migrants and victims of trafficking in persons.

While further contexts may be conceivable, these nine have been identified as the predominant ones in which corruption may occur.



III.1 Recruitment

The first stage of smuggling and trafficking ventures is the initial contact between offenders and smuggled migrants and victims of trafficking in persons. In the smuggling context, migrants often actively seek out smugglers who can provide them with the means to evade border controls and migrate illegally to other countries. Smugglers frequently advertise their services to potential clients and may seek to recruit persons for smuggling ventures. The methods of recruitment used by traffickers vary. In some cases, victims of trafficking in persons may be deceived into voluntarily engaging with traffickers, believing they will be given legitimate and non-exploitative work. In other cases, traffickers may forcibly recruit persons into trafficking, such as by purchasing them off brokers or abducting them.

Much of the available information on corruption as a facilitator of the recruitment of smuggled migrants and victims of trafficking concerns labour and migration recruitment agencies. Many interviewees and survey respondents highlighted corruption in this context. Recruitment agents approach persons offering them employment in their home country or abroad and help transport them to places of work. These agents commonly assist migrants with many different aspects of migration, such as acquiring travel and identification documents and accommodation. Migrants choose recruitment agencies to avoid navigating often complex, slow, ineffective and expensive administrative processes themselves, due to the agencies' connections with employers abroad, and because the involvement of agents is perceived to be faster and more efficient.³⁸ While many recruitment agencies offer legitimate services, a significant number are involved in arranging the unlawful movement of migrants across borders. Some engage in trafficking of persons and place migrants into exploitative work conditions.

Where recruitment agencies facilitate the unlawful movement of persons, they frequently do so with the assistance of corruption. Migrants often go into debt to recruiters in order to pay their fees, some of which is used for bribes. As noted by one source, payments are made to 'a range of government officials in both origin and destination countries to fraudulently approve a host of applications or facilitate discretionary decisions including, but not limited to, foreign worker quotas [...] visas, medical certificates, and work permits'.³⁹ Another interviewee noted that some recruitment agencies may pay bribes in order to obtain government licenses to engage in labour recruitment.

Several interviewees noted that recruitment agencies often have ties with government officials and sometimes recruiters also work second jobs as public officials, raising potential conflicts of interests and breaches of obligations to declare secondary employment. As one source notes: 'many individuals who worked during part of the day as formal government officials would also "moonlight" on the side to earn money recruiting, processing, and servicing the visa needs of

³⁸ Verite, *An Exploratory Study on the Role of Corruption in International Labor Migration* (2016) 2.

³⁹ Ray Jureidini, 'Transnational Culture of Corruption in Migrant Labour Recruitment' in McAuliffe and Klein Solomon (eds), *Ideas to Inform International Cooperation on Safe, Orderly and Regular Migration* (IOM Geneva, 2017) 4-5.

migrants'.⁴⁰ Bribes may be paid to overcome bureaucratic hurdles and speed up the acquisition of documents. In some cases, relationships between recruiters and public officials may be used to circumvent immigration laws. For example, immigration officials and recruitment agents may collaborate to facilitate the recruitment of young children for work abroad and produce fraudulent travel and identity fraudulent documents to facilitate their migration. Several interviewees for this study observed that ongoing relationships between recruiters (either agencies themselves or individual field recruiters) and public officials may lead to systemic corruption within certain government departments.

Opportunities for corruption are also present where recruitment agencies offer loans to migrants to pay for their travel and placement with employers. In particular, some sources report that corrupt law enforcement officials may be paid by these agencies to intimidate migrants and recover loaned amounts.⁴¹



⁴⁰ Rachel Silvey, 'Unequal Borders: Indonesian Transnational Migrants at Immigration Control' (2007) 12(2) *Geopolitics* 265, 274.

⁴¹ Human Rights Watch, *"They Deceived Us at Every Step" Abuse of Cambodian Domestic Workers Migrating to Malaysia* (2011) 52.

In a 2011 case reported by a number of media outlets, several officials within the Philippine Overseas Employment Administration (POEA) were accused of colluding with illegal recruitment agencies to send Philippines nationals abroad. These nationals were placed into situations of exploitation in the destination countries. An investigation was instigated by the Philippines Senate, citing violations of the Anti-Graft and Corrupt Practices Act.⁴² The Act criminalises corrupt acts by public officials and private persons, including bribery and abuse of position.⁴³ Following a successful investigation, five officials of the POEA were charged with offences relating to their alleged involvement in trafficking in persons. The recruitment agencies involved had been operating with expired licences.⁴⁴

The risks of conflicts of interest and corruption may increase where recruitment agencies are owned or controlled by public officials. Several sources and interviewees consulted for this study noted that officials who are also owners of recruitment agencies may abuse their public positions to avoid certain rules and requirements. They may also obstruct law enforcement or other officials from conducting investigations into their practices or holding them accountable for any illegal recruitment or involvement in the exploitation of workers.⁴⁵

There are cases where recruitment agencies have been caught engaging in illegal practices and assisting in the smuggling of migrants and/or trafficking of persons, with the consequence that their government licenses to operate are revoked. One source observes that these licenses may be unlawfully re-obtained through corruption: 'there is evidence of government officials illegally changing the status of employment agencies' recruitment status to allow agencies who have been found guilty of illegally recruiting to recruit once again'.⁴⁶

In some cases, public officials may collude with traffickers and recruit persons into situations of trafficking in return for payment. In these cases, officials may accept bribes from traffickers to abuse their positions and authority to hand over persons in their custody. One interviewee was aware of some (albeit uncommon) cases where persons detained in police stations had been sold onwards to traffickers. In such instances, traffickers may pay fines owed by migrants apprehended by police in order to recruit them.

⁴² Republic Act No 3019.

⁴³ Anti-Graft and Corrupt Practices Act, ss 3 and 9.

⁴⁴ [s.n.] 'Trillanes; Probe 'collusion' between POEA, illegal recruiters', *The Philippine Star* (online), 23 January 2011; Tetch Torres, '5 POEA execs face human trafficking charges', *Inquirer* (online), 16 February 2011.

⁴⁵ *Ibid* 36.

⁴⁶ Andrew P Guth, 'Human trafficking in the Philippines: the need for an effective anti-corruption program' (2010) 13 *Trends in Organized Crime* 147, 158.

In a 2016 case, law enforcement and military officials had allegedly intercepted boats containing smuggled Rohingya who were then given to traffickers. Many of these victims ended up in the Thai fishing industry, where they were subject to forced labour on board fishing vessels. Reportedly, money was transferred to officials from traffickers in return for intercepting the smuggling boats and handing them into the custody of traffickers.⁴⁷ Some were also removed from immigration detention facilities and transferred to traffickers.⁴⁸

There is some isolated information suggesting that law enforcement officials may sometimes be involved in facilitating the recruitment of children for trafficking and into situations of sexual exploitation.⁴⁹

III.2 Fraudulent Documents

Fraudulent travel or identity documents play an important role in facilitating smuggling of migrants and trafficking in persons. Most cases of smuggling by air involve the use of fraudulent documents.⁵⁰ Fraudulent documents may take the form of forged documents (where they have been produced illegally or fraudulently altered), fraudulently obtained documents (such as where passports are issued on the basis of false identification documents), or the misuse of valid documents (for example, use of documents by a person who is not their rightful owner). A wide variety of documents may be fraudulent, including, but not limited to, travel (for example, passports and visas), identification (for example, birth certificates and ID cards), and employment-related documents (for example, letters from potential employers). Several interviewees and survey respondents observed that fraudulent documents are easier to obtain and use where manual processes to issue, handle, and verify documents are used.

Corrupt public officials often play a role in the issuing and use of such documents, while private sector businesses and organisations may support fraudulent applications for travel or other documents (such as through fraudulent marriage or employment papers). As one report observes:

[a]n immigration official willing to falsify information or forge immigration documents provides traffickers with significant opportunities. 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 ... They also facilitate the stay of trafficking victims in a country.⁵¹

⁴⁷ Jonah Fisher, 'Burmese refugees sold on by Thai officials', *BBC News* (online), 21 January 2013.

⁴⁸ International Bar Association's Presidential Task Force against Human Trafficking, *Human Trafficking and Public Corruption* (2016) 24-25. See also Robin McDowell, Margie Mason and Martha Mendoza, 'Slaves May Have Caught the Fish You Bought', *Associated Press* (online), 25 March 2015.

⁴⁹ Julius Cesar Trajano, 'Combating Human Trafficking In East Asia: Mind The Gaps' (NTS Insight No IN18-05, Nanyang Technological University, July 2018) 9.

⁵⁰ UNODC, *Transnational Organized Crime in Southeast Asia: Evolution, Growth and Impact* (2019) 101.

⁵¹ International Bar Association's Presidential Task Force against Human Trafficking, *Human Trafficking and Public Corruption* (2016) 28.

Much of the information examined for this study indicated that corruption in government agencies facilitates the acquisition of genuine documents with false information through bribery. Almost all interviewees and survey respondents cited document fraud as a key context of corruption. One interviewee commented that, due to increasingly rigorous systems at airports, fraudulent documents are more easily used at land and sea borders.

Corruption can defeat document security technology, such as passport bio-data pages, and facilitate the forging of fake documents. For instance, immigration officials may aid smugglers and traffickers in forging documents by providing them with in-depth knowledge of government systems and document construction.⁵² Nonetheless, given that forging passports is increasingly difficult due to their increased technological sophistication, seeking out officials willing to corruptly issue passports, or certify documents they know to be fraudulent, is generally a simpler strategy for smugglers and traffickers.⁵³

One survey respondent observed that: '[c]orruption increases ease of access to fraudulently obtained genuine documents including [...] marriage certificates, national identity cards and birth certificates which form the basis of immigration processes. Supporting documents for these identity documents are easily forged as a result of corruption and low security measures. Non-genuine documents are a vulnerability in processing visas and makes detection of these crimes at destination borders more difficult'.

There have been investigations and prosecutions in ASEAN Member States of corrupt issuance of documents by immigration. For example, in one 2019 case from Thailand, law enforcement officials successfully investigated a scheme involving immigration and police officials and 37 migration 'brokers'. The immigration officials were caught forging visa stamps for foreigners entering the country illegally, in return for payment. The visas of 200 persons were also revoked following the investigation.⁵⁴ In a 2015 case, a local political leader in Thailand was investigated for issuing documents to migrant workers unlawfully in the country, in return for fees. In a 2019 case from the Philippines, described in a survey response to this study, a child was recruited by a trafficker through online chatrooms to leave the Philippines and travel to Dubai. The trafficker arranged fake documents for the child with the assistance of immigration officials. When the child arrived in Dubai, she was subjected to sexual exploitation. Several interviewees commented that fraudulent documentation may be obtained by traffickers using bribery to enable children, who would otherwise be too young, to travel unaccompanied by their parents or legal guardians.

⁵² See, for example, [s.n.], 'Johor Immigration on Hunt for 'Insider' Aid after Cracking Forgery Ring Focusing on Fake Indonesian Passports', *Malay Mail* (online) 20 July 2020.

⁵³ Veronika Bilger, 'Modeling migrant smuggling: Testing descriptive types against recent findings' (2018) 59 *New Perspectives on Turkey* 33, 55.

⁵⁴ [s.n.], 'Immigration officers dismissed for visa skullduggery', *Bangkok Post*, (online), 5 March 2019.

Malaysia and Indonesia have carried out a number of successful investigations of smuggling and trafficking operations facilitated by corruption and fraudulent documents. Two examples are described.

The first example is an investigation into smuggling of migrants by Malaysian police in 2020, which resulted in the arrest of various public officials. One official arrested was a senior immigration officer. Johor police noted that '[i]nitial investigations revealed that the suspect's modus operandi involved charging RM 1,500 to RM 2,500 per Indonesian migrant for a fake Malaysian Immigration Department rubber stamp to arrange for their exit as the migrants had expired social visit passes [...] [u]pon their arrival at the ferry terminal, the suspects who are believed to be linked to a syndicate, will arrange for their exit to their country of origin'. The smuggling operation is believed to have taken place along the east coast of Johor. The investigation followed the arrest and questioning of illegal immigrants. Twenty-three persons were arrested in total, including 14 police officers, five members of the armed forces, and four immigration officials. According to media reporting, the immigration officials were initially investigated under s 26A of Malaysia's Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act for the offence of 'smuggling of migrants', while a marine police officer was investigated for organised crime offences in the Penal Code.⁵⁵

The second example concerns investigations in 2016 and 2017 that uncovered large-scale trafficking operations carried out between Indonesia and Malaysia. Recruiters operating unlawfully for the trafficking networks allegedly colluded with immigration officials and at least one airport worker to bring migrant workers from Indonesia to Malaysia. Many of these migrants were underage. Financial records obtained during the investigation showed that large sums of money were sent by trafficking operations to recruiters in Indonesia. Passports were obtained for the victims of trafficking using a combination of document forgery and corruption. One offender, who was later arrested by police, would forge identity cards for victims, adjusting their names, gender, addresses, and date of birth. These forged documents were then used to obtain genuine passports, with corruption ensuring that the forgeries passed inspection.⁵⁶ Following the investigation, authorities in Malaysia arrested a number of persons for the exploitation of workers, including a company that had forced 'employees' to work up to 17 hours a day, without holidays.⁵⁷

⁵⁵ Remar Nordin, 'More Enforcement Officers Nabbed', *The Star* (online), 25 June 2020; [s.n.], 'Johor cops nab immigration, marine officers over migrant smugglings', *Malay Mail* (online), 24 June 2020; [s.n.], 'Two senior immigration officers among five people charged with human trafficking', *Malay Mail* (online), 16 July 2020; [s.n.], 'Johor police nab senior immigration officer in ops against migrant smuggling', *Malay Mail* (online), 3 July 2020.

⁵⁶ [s.n.], 'Trafficking Humans to Malaysia', *Tempo Magazine* (online) 21 March 2017.

⁵⁷ Fadzillah Aishah Ismail, 'Bird's Nest Supplier Faces 105 Charges in Magistrate's Court', *Bernama Daily Malaysian News* (online) 15 June 2017.

Fraudulent documents are a common result of collusion between recruitment agents and immigration officials. Information collected for this study shows that large numbers of migrant workers, some of whom are victims of trafficking in persons, are transported illegally through the ASEAN region. Their travel is frequently arranged by illegal recruiters and facilitated by fraudulent documents, which are acquired through the relationships between recruiters and corrupt immigration officials.

Corruption in destination countries can help traffickers keep victims illegally in places of exploitation. For example, in a case from Australia, traffickers 'collaborated with a corrupt immigration official to fraudulently obtain bridging refugee visas for Thai trafficking victims'.⁵⁸ Extortion of migrants caught with fraudulent documents by law enforcement officials was also noted by interviewees for this study.



⁵⁸ International Bar Association's Presidential Task Force against Human Trafficking, *Human Trafficking and Public Corruption* (2016) 27, citing *Sieders v R*; *Somsri v R* [2008] NSWCCA 187.

III.3 Border Crossings

The information collected for this study, including interviews and survey responses, repeatedly highlights the significant role corruption plays in facilitating border crossings by smuggled migrants and victims of trafficking. Elsewhere, in the literature, it has been noted that '[t]he opportunity for corruption during the transportation phase will be greater where international borders are crossed'.⁵⁹ Public officials at border crossing points, whether immigration officers, customs, military, or other officials, may be involved in facilitating both the entry or exit of smuggled migrants and victims of trafficking. A number of interviewees observed that smuggling and trafficking in the region would be almost impossible without the complicity of public officials at border checkpoints and the payment of bribes. In some cases, corruption can be systemic at border posts or stations, with bribes received by low-level officers passed on to superiors. A survey response further observed that it is common for smugglers to pay bribes to border officials. Some checkpoints may be used more by smugglers and traffickers due to the presence of corrupt officials.

Sometimes, migrants hand money directly to officials at border crossing points; in other instances, smugglers and traffickers pay the bribes themselves. In either case, bribes are paid to ensure border officials 'turn a blind eye' to migrants who enter countries without the proper documentation or who appear to be smugglers or traffickers themselves. Interviews conducted for this study confirmed that migrants may be asked for 'ad-hoc' bribes from officials at border control points and that, in some cases, officials have long-standing arrangements with smugglers and traffickers to allow cross-border movement. The exposure of border officials to corruption risks was widely observed by interviewees and in survey responses, which noted the need to vigorously combat corruption in this context in all the countries examined in this study.⁶⁰



⁵⁹ Rose Broad and Nicholas Lord, 'Corruption as a Facilitator of Human Trafficking' in Liz Campbell and Nicholas Lord (eds), *Corruption in Commercial Enterprise* (Routledge, 2018) 73.

⁶⁰ See also UNODC, *Trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand* (2017) 43-44, 88-89, 132, 144-145.

A 2019 report by the Human Rights Commission of Malaysia commented on corruption in the context of border crossings:

'[A] Malaysian representative from the Legislative Assembly of Bukit Kayu Hitam, Kedah State in July 2017 testified to the Commission that potential corruption among Malaysian border-control authority members encourages human-trafficking activities. He said some border agents demand money from vehicles moving back and forth over the border without conducting proper inspections according to their respective agencies. The representative believes human traffickers might rely on this corruption to traffic people to Malaysia in vehicles crossing the border. An officer-in-charge of the Padang Besar District Police Headquarters in Malaysia's Perlis State also told the Commission in 2017 that there was an issue for Malaysian law enforcement agencies with respect to bribery'.⁶¹

A common way of addressing corruption at border posts is to transfer culpable officials away from the posts where they are stationed once wrongdoing is suspected. As one example, the chief of immigration police and a number of more junior officers were transferred from their station after reports that they had taken bribes to allow a man to cross a border with a fake passport.⁶² During interviews for this study, it was noted that border officials are often transferred following allegations of corruption. They may be transferred to lower-level positions as a form of punishment.

In some cases, border officials may take a more direct role in the smuggling or trafficking networks of persons. A 2010 study explains that police may be bribed to transport persons across border points themselves in order to avoid detection.⁶³

In a 2014 case, which was the subject of several media reports, a Myanmar man referred to as 'Mr Win' allegedly smuggled between 40 and 50 migrant workers from Myanmar to Thailand each day. A media article describing the payments made noted that THB 200 was paid per migrant to a former assistant village chief, THB 400 to police officials staffing the border checkpoint, and additional bribes to officials at other checkpoints he would pass through while transporting the migrants. Mr Win also stated that he made payments to authorities to allow him to use improperly licensed vehicles, as well as to procure fraudulent stamps on the migrant workers' border passes.⁶⁴

⁶¹ Human Rights Commission of Malaysia, *Crimes Against Humanity, Mass Graves and Human Trafficking from Myanmar and Bangladesh to Malaysia from 2012 to 2015* (Report, March 2019) 85.

⁶² [s.n.], 'Sa Kaeo Immigration Chief Transferred in Bomb Case', *Bangkok Post* (online), 1 September 2015.

⁶³ 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 Thailand, July 2010) 63.

⁶⁴ Piyarat Chongcharoen, 'Bribery "Greases Trafficking Wheels"', *Bangkok Post* (online, 11 December 2014); Piyarach Chongcharoen, 'Trafficking Suspect Details Litany of Police Bribes', *Bangkok Post* (online), 9 June 2015.

III.4 Transportation

Smugglers and traffickers transport persons both within and between countries. They may do so by land, sea, or air, and by using various modes of transportation such as cars, trucks, trains, commercial flights, boats, or on foot. Several interviewees noted that private transportation providers may corruptly assist in the movement of smuggled migrants and victims of trafficking. In such cases, employees of these businesses may take bribes to hide persons in their vehicles (i.e. in the back of trucks or in the holds of vessels). One survey response stated that '[c]orruption is central to traffickers being able to exploit transportation networks and bypass security checks'.

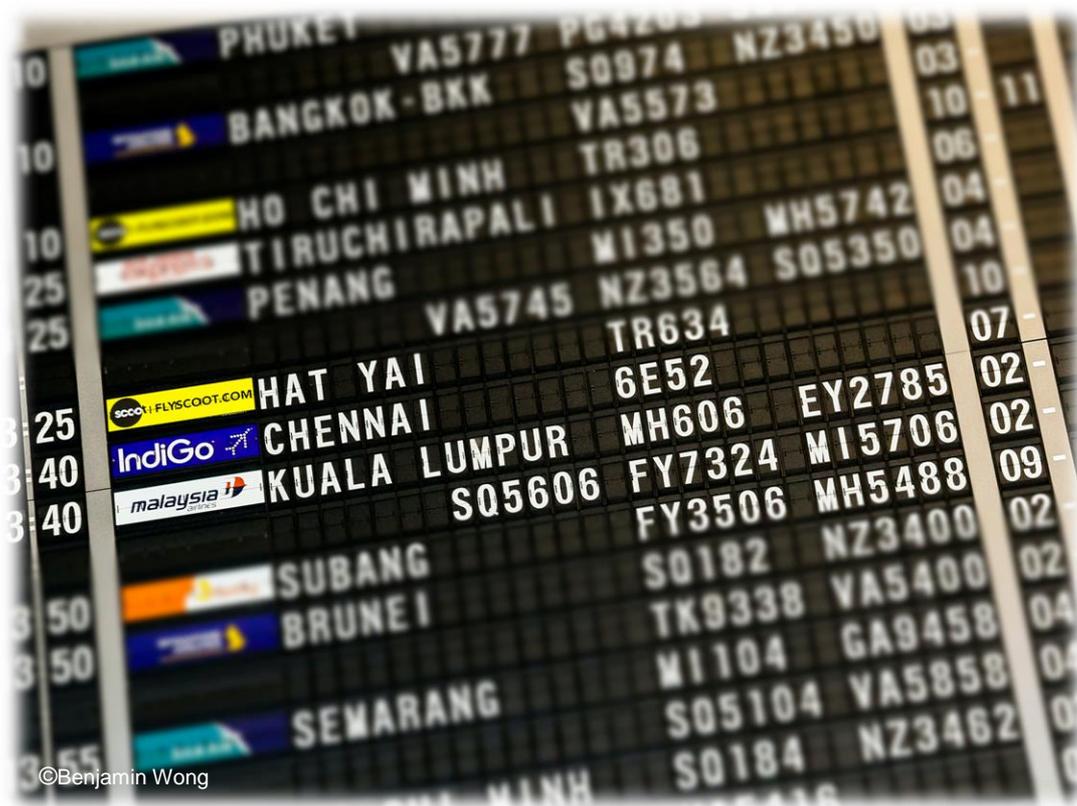
Actual cases providing detailed information about corruption associated with the transportation of smuggled migrants and victims of trafficking do not feature prominently in national or international news media and the research carried out for this study located few examples of corruption during transportation. Two reports from Thailand note that law enforcement officials may take bribes to transport migrants through police checkpoints, while one interviewee was aware of cases where members of the police and military provided vehicles to smugglers/traffickers to help them evade detection.⁶⁵ An interviewee further noted that police and military officials may provide escorts to smugglers and traffickers.

A case from 2012, concerns the successful prosecution of military officials in Indonesia for involvement in the transportation of smuggled migrants:

'In a separate incident in July 2012, five soldiers were arrested for escorting asylum seekers to a boat set to leave from West Java. All the accused were low-ranking officers and there is no evidence that their superiors were implicated in any way. The five soldiers were tried in two separate cases in the Military Court in Bandung, where the public prosecutor brought charges under art 120(1) of the Law on Immigration (No 6/2011) and sought prison sentences of between 11 to 16 months — again well below the five-year minimum sentence. Unlike the military officers in East Java who received long prison sentences, the military officers tried in Bandung received prison sentences of between only 14 months and 16 months'.⁶⁶

⁶⁵ 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 Thailand, July 2010) 63; Wassayos Ngamkham, Wassana Nanuam, and Anucha Charoenpo, 'Army Officers Linked to Rohingya Smuggling', *The Bangkok Post* (online), 20 January 2013.

⁶⁶ Antje Missbach and Melissa Crouch, 'The Criminalisation of People Smuggling: The Dynamics of Judicial Discretion in Indonesia' (2013) 14(2) *Australian Journal of Asian Law* 1, 15.



III.5 Airports

Air travel is much faster than other methods of transportation and generally presents less risk to the health and safety of passengers than movement by land or sea. This, combined with its higher overheads, makes it one of the more expensive forms of irregular travel. Nonetheless, the growing availability and decreasing costs of air travel have made it an increasingly popular form of smuggling. UNODC explains that ‘[t]he misuse of transit facilities of airports in common transit hubs is an increasingly used modus operandi by migrant smugglers throughout the world’.⁶⁷

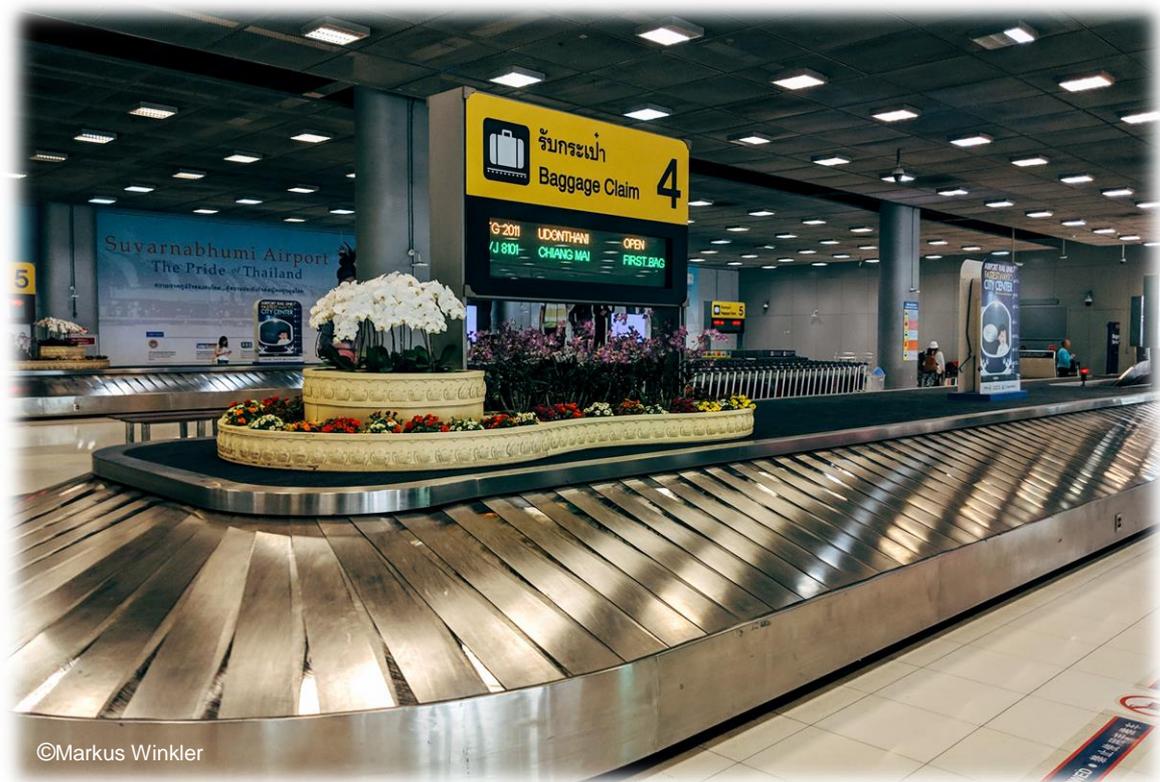
At airports, corruption as a facilitator of smuggling and trafficking often occurs in combination with the use of fraudulent documents. Alternatively, airport workers and immigration officials may escort undocumented passengers through airport security checks, or take them through back doors. In one case reported in 2017, an airline security guard was paid to escort hundreds of travellers through an airport, bypassing immigration checks, over a period several years.⁶⁸ Migrants in possession of fraudulent documents may be directed to designated immigration desks by their smugglers/traffickers, where the officials have been bribed to overlook document irregularities or stamp documents without close inspection. A survey response noted that both smuggled migrants and victims of trafficking have been asked to use desks staffed by officials who have been bribed.

⁶⁷ UNODC, *Migrant Smuggling by Air* (Issue Paper, 2013) 5.

⁶⁸ [s.n.], ‘Trafficking Humans to Malaysia’, *Tempo Magazine* (online) 21 March 2017.

Corruption in airports may be ad-hoc, such as when officials are given small bribes once to stamp travel documents, or it may occur in the context of on-going collusion between officials or airport staff and smugglers and traffickers. Some instances of corruption indicate that collusion with smugglers and traffickers may persist for years before being discovered and may involve large numbers of officials.⁶⁹ The information collected for this study features several examples of immigration officials working with smugglers and traffickers to allow people with fraudulent (or no) documents through immigration and security checks.⁷⁰ Media reports of investigations and arrests of public officials within airports show that they may be involved in the fraudulent issuing of travel documents (such as visas), tampering with information in airport security and immigration systems, and failing to properly inspect passports. For example, a 2019 article reported that immigration officers had been dismissed from their roles at an airport for colluding with smugglers to provide forged visa stamps to foreigners entering the country illegally.⁷¹

Several interviewees made general observations that corruption may facilitate the movement of smuggled migrants and victims of trafficking through airports. Aside from some general information, no information could be found suggesting corruption is present among airline employees in the region and none of the interviewees for this project were aware of corruption in this context.



⁶⁹ Libo-on, 'Philippine VP vows action against airport corruption', *Khaleej Times* (online), 6 March 2011.
⁷⁰ Ravi Mahalingam and Jatswan S Sidhu, 'Inside the Crime of Sex Trafficking in Sabah, Malaysia' (2020) *Journal of Human Trafficking*, doi: 10.1080/23322705.2019.1710069; Andrew P Guth, 'Human trafficking in the Philippines: the need for an effective anti-corruption program' (2010) 13 *Trends in Organized Crime* 147, 157.
⁷¹ [s.n.], 'Immigration officers dismissed for visa skulduggery', *Bangkok Post*, (online), 5 March 2019.

Malaysia has taken a number of positive measures in response to corruption at Kuala Lumpur International Airport. This has included law enforcement investigations, arrests, and dismissal and rotation of staff.

In 2011, an investigation by Malaysia's Special Branch (*Cawangan Khas*), an intelligence division of the Royal Malaysia Police, led to the arrest of eight Immigration Department officials at Kuala Lumpur International Airport for alleged involvement in a large-scale human trafficking enterprise. The officials were later dismissed from their posts.

A later investigation in 2016 by the Immigration Department, relying on intelligence gathered by the Department's enforcement division and following random checks on traveller's documents, led to further arrests at the airport. This included several immigration officers who were allegedly directly involved in the sale of Malaysian passports, in collusion with a human trafficking syndicate based in China. They reportedly sold the passports for RM 44,000 each.⁷²

In a separate case in 2016, Malaysia's Deputy Prime Minister revealed that 15 immigration officers were involved in sabotaging and disabling immigration systems (which verify the veracity of passports) at the airport. According to a Reuters report, 'the airport's passport-verification system was deliberately disrupted at certain times of the day, possibly since 2010, raising suspicion people were being smuggled through immigration when it was down'.⁷³ Commenting on the removal of staff following this incident, the Immigration Director-General noted that 'dismissed and suspended officers may have links to human-trafficking syndicates'.⁷⁴ In addition to the 15 officers directly implicated (and fired), 14 other officers were suspended from their duties and others were subject to ongoing monitoring by the Immigration Department's intelligence division.⁷⁵

Malaysian authorities took further, proactive action in 2017 and transferred some 600 immigration officers from Kuala Lumpur International Airport (comprising around 40 per cent of immigration staff working there). Some of the officers were 'suspected of working with criminal syndicates to smuggle in workers from Bangladesh'. This was seen as a preventative action, given that only some of these officers were allegedly involved in corrupt activities.⁷⁶

⁷² Emmanuel Santa Maria Chin, 'Immigration Dept Foils KLIA Passport Forgery Ring', *Malay Mail* (online), 9 March 2016.

⁷³ Rozanna Latiff and Emily Chow, 'Malaysia uncovers immigration racket raising trafficking, security fears', *Reuters* (online), 1 June 2016.

⁷⁴ [s.n.], 'Malaysian immigration officers sacked for deliberately disabling passport controls at airport', *ABC News* (online), 1 June 2016.

⁷⁵ Ibid.

⁷⁶ [s.n.], '600 officers transferred after KLIA smuggling ring bust', *The Straits Times* (online), 17 December 2017; [s.n.], 'Malaysia Nabs Five Including Two Immigration Staff in Human Smuggling Case', *Channel NewsAsia* (online), 15 December 2017.

One source, commenting on the case, observed that '[t]hese findings suggest that public officials like those in the RMP [Royal Malaysian Police] and IDM [Immigration Department of Malaysia] may not be directly part of the trafficking syndicate, but their services play a significant role in facilitating the process of sex trafficking'.⁷⁷

III.6 Accommodation and Harbours

Migrant smugglers and traffickers often need to arrange accommodation for smuggled migrants and victims of trafficking, both during transit and at the destination/place of exploitation. Accommodation may be arranged with or without the need for corruption. Houses, apartments, or hotels may be rented from providers who do not know that the guests are irregular migrants or victims of trafficking. In other cases, smugglers or traffickers may bribe accommodation providers to facilitate lodging for migrants and victims.

There is little information concerning corruption and the provision of accommodation to smuggled migrants and victims of trafficking. Several interviewees noted that accommodation providers may in some cases be aware of the illegal activity and accept bribes in return for not reporting it to authorities, but this appears to be rare. In some cases, owners of accommodation may also pay bribes to law enforcement officials to deter arrest of irregular migrants they are housing. A survey respondent noted that private sector accommodation providers (such as hotels) may facilitate trafficking by turning a blind eye.

One interviewee explained that, generally speaking, opportunities for corruption may arise if accommodation providers are required to report information about their guests to local authorities, which is a common requirement in many jurisdictions. This could involve, for instance, recording passport numbers, names, contact details, or checking entry stamps. In such cases, accommodation providers may be more open to accept bribes from smugglers or traffickers to conceal or misreport this information.



©UNODC ROSEAP

⁷⁷ Ravi Mahalingam and Jatswan S Sidhu, 'Inside the Crime of Sex Trafficking in Sabah, Malaysia' (2020) *Journal of Human Trafficking*, doi: 10.1080/23322705.2019.1710069.



III.7 Law Enforcement and Investigation

Much of the available information concerning corruption as a facilitator of smuggling of migrants and trafficking in persons focuses on the bribery of law enforcement officials. Many interviewees commented that this is because such officials are more likely to come into contact with smuggling and trafficking activities.

Collusion with law enforcement ensures that the illicit activities of smugglers and traffickers are not properly investigated and allows them to operate with impunity. Sometimes, law enforcement officials accept bribes from smugglers and traffickers in return for ‘turning a blind eye’ to their offending. In other cases, law enforcement officials may more actively facilitate smuggling or trafficking, such as by helping to transport migrants or even returning escaped victims of trafficking to their exploiters. A survey response noted that law enforcement officials may be bribed to disclose confidential information about raids or other police interventions to traffickers. As one article observes, ‘[e]ssentially, police corruption lowers several of the costs faced by traffickers’.⁷⁸ Some sources and interviewees consulted for this study suggested that officials may accept bribes as a way to supplement otherwise low wages or because of a general culture of corruption in some police divisions.⁷⁹ Several interviewees noted that law enforcement officials see certain locations (such as border posts or police stations near brothels) as more ‘lucrative’, because they provide more opportunities to receive and solicit bribes.

Literature reviewed for this report, as well as a number of survey and interviewee responses, stated that smugglers and traffickers may bribe local law enforcement officials to ignore

⁷⁸ Sofia Jonsson, ‘The Complex Relationship between Police Corruption and Sex Trafficking in Origin Countries’ (2019) 5(2) *Journal of Human Trafficking* 109, 110.

⁷⁹ See, for example, Antje Missbach, ‘Making a “Career” in People-Smuggling in Indonesia: Protracted Transit, Restricted Mobility and the Lack of Legal Work Rights’ (2015) 30(2) *Sojourn: Journal of Social Issues in Southeast Asia* 423, 436.

exploitation of victims of trafficking and/or the presence of undocumented migrants.⁸⁰ Owners or managers of factories housing workers who are trapped in situations of debt-bondage may pay bribes to police and other officials to prevent investigation, including when workers are injured. For example, in a case reported in 2017, police officers were detained by anti-corruption authorities for taking bribes from companies to prevent the arrest of foreign workers without valid travel documents or work permits.⁸¹ Failures to enforce trafficking-related laws have also been observed in cases of bride trafficking, with one report noting that ‘brokers are never arrested because they can pay a bribe and always escape’.⁸² Officials may also be bribed to help ensure that victims do not escape places of exploitation.⁸³

A successful investigation by RMP in 2020 led to the arrest of a number of officers from the Malaysian police and armed forces. The Johor police department noted that the officers had given information to migrant and drug smuggling syndicates in return for RM 500 to 1,000 a month. Those involved has also concealed information from other officials in order to facilitate smuggling.⁸⁴

Corruption of law enforcement officials may hinder proper immigration processes. For instance, bribery may mean that migrants apprehended by police are not transferred to immigration authorities for screening and referral.⁸⁵ Several interview respondents noted cases where police have held migrants in police cells until they have received sufficient bribes or, if bribes cannot be paid, have sold them to traffickers.

⁸⁰ See, eg, Erick Gjerdingen, ‘Suffocation Inside a Cold Storage Truck and Other Problems With Trafficking as “Exploitation” and Smuggling as “Choice” along the Thai-Burmese Border’ (2015) 26(3) *Arizona Journal of International and Comparative Law* 699, 725.

⁸¹ [s.n.], ‘Three cops nabbed for allegedly taking bribes to protect illegal immigrants’, *New Straits Times* (online), 7 March 2017.

⁸² Human Rights Watch, ‘Give Us a Baby and We’ll Let You Go’ *Trafficking of Kachin “Brides” from Myanmar to China* (2019) 73.

⁸³ 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 Thailand, July 2010) 63-64.

⁸⁴ [s.n.], ‘18 nabbed for collaborating with migrant syndicates and smugglers’, *New Straits Times* (online), 18 June 2020.

⁸⁵ [s.n.], ‘Corruption Inquiry Launched in Phuket after Detained Illegal Immigrants Spared Deportation’, *The Nation* (online), 14 November 2017.

In a case in 2018, a massage parlour was raided by Royal Thai Police. Over 100 people from Thailand, Myanmar, Lao PDR, and China were found inside the building, including some under the age of 18. Reporting of the raid alleged that the parlour was linked to the trafficking of women and children for sexual exploitation. Assets of the owners of the parlour were confiscated in 2019 on the basis that they had been acquired through trafficking.

Documents found inside the parlour during the raid indicated that over 20 public officials had received free services from the parlour, including food, alcohol, and massages. This included police and tax officers, as well as an anti-human trafficking official. These documents were confirmed as real by a government official. As a result of the raid and following investigation, a number of police officers were suspended from duty and transferred to inactive posts.⁸⁶

Corruption of law enforcement officials may cause selective investigation and arrest. The result is that organisers and other persons with senior roles avoid detection.⁸⁷ Lower-level offenders may be more likely to be arrested due to an inability to pay bribes. Collusion between smugglers, traffickers and police means that, when arrests have to be made due to public pressure or reporting, lower level individuals in smuggling and trafficking enterprises may be selected for arrest.

Several interviewees noted that bribes received by police officials may not always be monetary. Bank transfers may be avoided as they could raise suspicions of illicit activity. Smugglers or traffickers may instead purchase items, such as a new car, for the corrupted officials.⁸⁸ Alternatively or additionally, officials may be provided with free services (such as massages or sexual services) or may be given gifts of alcohol or food.

On some occasions, corruption has been detected within anti-trafficking police units. In one reported case, an anti-trafficking official collected bribes from sex-trafficking networks in return for information concerning police raids. This official reportedly collected this information from a network of paid police informants, as well as from certain non-government organisations. In a separate case, a 'former Deputy Director of the Police Anti-Human Trafficking and Juvenile Protection Department in Cambodia was convicted for involvement in trafficking and received a five-year prison sentence; two of his subordinates were also convicted, and were sentenced to seven years' imprisonment'.⁸⁹

⁸⁶ [s.n.], 'Bangkok brothel raid sparks bribery, trafficking probe', *Agence France Presse* (online), 15 January 2018. See also [s.n.], 'Victoria's Secret Raid Shows Human Trafficking Still Rife', *Bangkok Post* (online), 17 January 2018.

⁸⁷ Ferdinand Lolo, 'Bayar Mahal Untuk Jadi Imigran Gelap' (2012) 18 *REQuisitoire, Law Enforcement and Justice Magazine* 27, 31

⁸⁸ Antje Missbach, 'Making a "Career" in People-Smuggling in Indonesia: Protracted Transit, Restricted Mobility and the Lack of Legal Work Rights' (2015) 30(2) *Sojourn: Journal of Social Issues in Southeast Asia* 423, 443.

⁸⁹ Leslie Holmes, 'Human Trafficking & Corruption: Triple Victimisation?' in Cornelius Friesendorf (ed), *Strategies Against Human Trafficking: The Role of the Security Sector* (2009) 88.

Between 2013 and 2017, the successful investigation and prosecution of corrupt law enforcement and military officials in Thailand helped dismantle a large smuggling and trafficking enterprise.

The investigation began following suspicions that some members of the army were involved in the smuggling of mainly Rohingya migrants from Rakhine state in Myanmar into and through Thailand. Many of these migrants were reportedly trafficked into conditions of forced labour in fishing fleets. Trafficking camps were also discovered near Thailand's border with Malaysia, in Songkhla province, including 36 bodies in mass graves. Migrants reported imprisonment in the camps, as well as extortion and physical and sexual abuse. On discovering the camps in 2015, Thai police described finding bamboo cages, watchtowers, and a 'torture room'.

In 2015, over 50 police officers were moved from their posts for suspected involvement in the trafficking and smuggling venture. Later, 103 persons were tried in Thai courts in connection with the case. Of these, 63 persons were found guilty, including a General in the Thai army and a number of police officers and other government officials.⁹⁰

Interviews and survey responses further noted that labour inspectors charged with assessing the working conditions in places of employment may be bribed by traffickers to 'turn a blind eye' to exploitation. Similarly, private companies employing undocumented migrants may pay bribes to labour inspectors. One survey response, for instance, observed that it is common for businesses to pay bribes to government officials when employing undocumented migrants or exploiting their workers.



⁹⁰ Jonah Fisher, 'Thai Court Charges Army Officer over Rohingya Trafficking', *BBC News* (online), 2 June 2015; Wassayos Ngamkham, Wassana Nanuam, and Anucha Charoenpo, 'Army Officers Linked to Rohingya Smuggling', *The Bangkok Post* (online), 20 January 2015; Ryn Jirenuwat and Russell Goldman, 'Dozens Found Guilty in Thailand in Human-Trafficking Case', *New York Times* (online), 19 July 2017.

III.8 Prosecution and Trial

Corruption can undermine every aspect of the criminal justice process and may extend to the prosecution and judicial stages of criminal proceedings. Corrupt officials may actively or passively influence efforts to punish alleged traffickers and smugglers.⁹¹ Allegations of corruption against officials themselves may be left unpursued by prosecutors and efforts to prosecute may be deliberately impeded by inadequate evidence gathering. The literature and responses of interview respondents identify failures to properly charge and convict corrupt offenders as a significant roadblock to successfully addressing corruption as a facilitator of trafficking and smuggling. For instance, one article notes that 'only in exceptional cases have [police and military officials accused of involvement in smuggling] faced legal consequences'.⁹² In interviews carried out for this study, it was further noted that the low rates of prosecution for trafficking and smuggling contributes to the belief of offenders that they can operate with impunity.

'Corruption is one of the major reasons behind the high degree of impunity enjoyed by human traffickers and smugglers: the success rate of prosecution for those accused of trafficking and smuggling is negligible because of corruption' – survey respondent.

Specific examples of corruption involving prosecutors and judicial officers are rare in the available literature, including in media reporting. While there are reports of charges against corrupt officials being dropped or overturned on appeal, and prosecutions of smugglers and traffickers being discontinued, many of these cannot be linked definitively to the influence of corruption. A substantial number of interviewees did state, however, that bribery of prosecutors and judges occurs and explained that money may change hands in return for dropped charges, findings of 'not guilty', or the imposition of minimal or no punishment during sentencing. It was further observed that, where possible, many government departments may prefer to 'suspend' or 'transfer' officials accused of corruption, rather than prosecute them for criminal offences. Several survey responses to this study also observed that members of the judiciary may be bribed.

A 2014 publication includes information drawn from interviews with convicted traffickers. Some of these respondents alleged that if they had been able to pay the bribe requested by the police or the judiciary, they would not have been convicted or would have received a more lenient sentence: '[a]ccusations of extortion attempts by judicial officials [...] were numerous.'⁹³

⁹¹ 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 International Law Journal* 33, 36.

⁹² Antje Missbach, 'Doors and fences: Controlling Indonesia's porous borders and policing asylum seekers' (2014) 35 *Singapore Journal of Topical Geography* 228, 229.

⁹³ Keo, Bouhours, Broadhurst and Bouhours, 'Human Trafficking and Moral Panic in Cambodia' (2014) 653(1) *The ANNALS of the American Academy of Political and Social Science* 202, 217-218.



III.9 Service Providers

Several sources indicate that service providers may be involved in the facilitation of smuggling of migrants and trafficking in persons. Such providers may be part of the public or the private sector and deliver services such as, for instance, healthcare, education, social work, immigration assistance, or legal advice. They may, for example, arrange fraudulent documentation (such as health certificates or work permits) or refrain from reporting illegal activities in return for bribes. Agencies or organisations giving support to migrants and/or victims of trafficking may also take bribes to release people from shelters or hand them over to traffickers.⁹⁴

Interviewees and survey respondents did not provide specific examples of corruption facilitating smuggling and trafficking service providers. It was noted that, while corruption may be present in this context, it is rarely directed specifically to facilitating smuggling or trafficking. Nonetheless, interviewees commented that such corruption may occur, particularly where it involves provision of fraudulent healthcare or education-related documentation, but that it appears to be rare. Several interviewees observed that if particular medical or education test results are required to access certain documents, then bribes may be paid to ensure the person passes. One news report suggested that NGO workers in Cambodia may have been involved as informants for networks of traffickers. They were reportedly paid bribes in exchange for information on impending raids.⁹⁵

⁹⁴ UNODC, *The Role of Corruption in Trafficking in Persons* (2011) 15.

⁹⁵ Daniel Pye, Taing Vida, Alice Cuddy, 'Cable Shows Cartel's Reach', *Phnom Penh Post* (online), 12 June 2015.

IV. Conclusion



IV. Conclusion

Smuggling of migrants and trafficking in persons occur on a large scale and in many diverse ways across Southeast Asia. This report shows that corruption plays a significant role in facilitating smuggling of migrants and trafficking persons within, between, into, and out of the region. Bribery of public officials to turn a blind eye to, assist, or become actively involved in smuggling and trafficking operations appears to be pervasive. While corruption can play a part in all facets of smuggling and trafficking, the information presented in this report indicates that it is particularly common in the contexts of recruitment, fraudulent documents, border crossing and airports, and law enforcement and investigation.

Other reports, including prior research conducted by UNODC, have found corruption to be a significant factor in the costs of running trafficking and smuggling operations.⁹⁶ The many examples of bribery in this report support this finding and indicate that a substantial part of the income from many smuggling and trafficking ventures are apportioned to securing the complicity of officials.⁹⁷ In the context of smuggling of migrants, the prices charged to migrants by smugglers likely increase concomitant with the number and amounts of bribes paid to ensure their successful entry and stay in the destination country.⁹⁸ In the context of trafficking in persons, bribes that must be paid to officials may increase the debts of victims to their traffickers and, in turn, prolong periods of debt-bondage and exploitation.

The available information further suggests that corruption influences the *modi operandi* of smugglers and traffickers. For instance, if a unit or location within an immigration or law enforcement institution is compromised, such as a particular police outpost along a land border or immigration desk in an airport, then the route of smuggling or trafficking may be directed accordingly. Vice versa, the strengthening of immigration controls and police patrols, or the removal or corrupt officials from a particular location, may necessitate changes to the routes and methods used by smugglers and traffickers. They may need to invest more in corruption to open up new avenues of smuggling and trafficking.⁹⁹

It should be noted that, as well as being a facilitator of smuggling of migrants and trafficking in persons, corruption is a significant driver of both crime types.¹⁰⁰ Corruption may be a push

⁹⁶ See UN.GIFT, 'Corruption and Human Trafficking: The Grease that Facilitates the Crime' (The Vienna Forum to fight Human Trafficking 13-15 February 2008, Austria Center Vienna Background Paper) 5; International Bar Association's Presidential Task Force against Human Trafficking, *Human Trafficking and Public Corruption* (2016) 17; OECD, *Developing a Framework for Combatting Corruption Related to Trafficking in Persons* (Background Paper, 2015) 10.

⁹⁷ Rose Broad and Nicholas Lord, 'Corruption as a Facilitator of Human Trafficking' in Liz Campbell and Nicholas Lord (eds), *Corruption in Commercial Enterprise* (Routledge, 2018) 67

⁹⁸ See, eg, Veronika Bilger, 'Modeling migrant smuggling: Testing descriptive types against recent findings' (2018) 59 *New Perspectives on Turkey* 33, 42; see also UNODC, *Global Study on Smuggling of Migrants* (2018) 51.

⁹⁹ UNODC, *Corruption and the Smuggling of Migrants* (2013) 13–14.

¹⁰⁰ See especially Sheldon X Zhang, Samuel L Pineda, 'Corruption as a Causal Factor in Human Trafficking' in *Organized Crime: Culture, Markets and Policies* (Springer, 2008). See also Europol and Interpol, 'Migrant Smuggling Networks: Executive Summary' (May 2016) 7-8.

factor for migration and fuel the demand for smuggling and trafficking alike.¹⁰¹ Traffickers use corruption in a country to their advantage in other ways. Traffickers may, for example, use it to control victims by telling them that escape attempts will be useless due to the complicity of police, thus perpetuating situations of exploitation.¹⁰²

A further observation emerging from this report is that, despite the many and varied examples of corruption outlined here, information on the issue remains scattered. Evidence is too often only available through media reporting and investigations by non-government organisations and academic experts. There is a paucity of official data and systematic reporting on the role of corruption as a facilitator of smuggling of migrants and trafficking in persons. Information concerning investigation and prosecution of corrupt officials frequently remains uncollected or unavailable. This report strongly points to the urgent need for more and better research on this issue.

In sum, corruption has a pervasive negative impact on the ability of states and institutions to combat smuggling of migrants and trafficking in persons. Insofar as it weakens existing systems and measures to control borders, manage migration, protect migrants, and enforce the law, corruption allows smugglers and traffickers to operate with impunity. Bribery and other forms of corruption are used to circumvent controls in place to prevent irregular migration and the exploitation of persons. The considerable profits generated by smuggling of migrants and trafficking in persons make corruption possible on a large scale.¹⁰³



¹⁰¹ See, eg, Seo-Young Cho, 'Modelling for Determinants of Human Trafficking: An Empirical Analysis' (2015) 3(1) *Social Inclusion* 2.

¹⁰² OECD, *Trafficking in Persons and Corruption: Breaking the Chain* (2016) 35.

¹⁰³ UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 9-10.

V. Findings and Recommendations



V. Findings and Recommendations

V.I Findings

1. Corruption is a common facilitator of smuggling of migrants and trafficking in persons. The majority of the available evidence concerns its role in:
 - recruitment of smuggled migrants and victims of trafficking;
 - production and procurement of fraudulent documents;
 - border crossings (at land and maritime borders and in airports); and
 - preventing investigation.
2. Certain positions are particularly vulnerable to be targeted by traffickers and smugglers and offered bribes, including:
 - local law enforcement officials, especially those in border areas;
 - officials responsible for travel documentation;
 - immigration officials stationed in airports and at land borders; and
 - officials and authorities interacting with labour recruitment agencies.
3. Conflicts of interest and secondary employment of public officials can create and increase the risk of corruption.
4. Bureaucratic hurdles and high-costs associated with regular migration channels encourage smuggling of migrants and trafficking in persons and associated corruption.
5. Officials found to accept bribes or abuse their position are often only transferred to other posts or temporarily suspended from their duties rather than being prosecuted.
6. Low-level officials are more likely to face consequences than superiors.
7. Corruption in private organisations may play a role in facilitating smuggling of migrants and trafficking in persons.
8. Corruption compromises the protection of smuggling migrants and victims of trafficking. It facilitates the recruitment and transport of vulnerable persons, prevents the investigation of exploitative situations, and creates impunity for offenders.
9. While there is significant evidence of corruption as a facilitator of smuggling of migrants and trafficking in persons, its true extent and impact remains under-researched. There is a lack of official reporting and systematic data-collection.

V.II Recommendations

States Parties to *UNCAC*, *UNTOC*, the *Smuggling of Migrants Protocol*, and the *Trafficking in Persons Protocol* have a range of obligations under these instruments to prevent and combat corruption, trafficking, and smuggling.¹⁰⁴ The following 11 recommendations reflect these obligations and the findings set out above.

Investigate, Prosecute and Punish Corruption

A key element of any anti-corruption strategy is the prosecution and punishment of corruption. Authorities should direct efforts to prosecute facilitators of trafficking and smuggling, as well as smugglers and traffickers themselves. Minor or symbolic punishments, such as transferring or suspending officials caught or suspected of corrupt activities, should be avoided as they ‘send a message that enforcement is only for show’.¹⁰⁵



Example of good practice

Following the discovery that Thai law enforcement and military officials were involved in the trafficking of predominantly Rohingya migrants, Thai authorities successfully prosecuted over 100 persons, including several top officials. The sentences handed down to the offenders included significant periods of imprisonment.¹⁰⁶

An effective criminal justice response to corruption, smuggling of migrants, and trafficking in persons requires robust law enforcement, prosecution, and judicial systems. Any such allegations of corruption must be thoroughly investigated and addressed. Cooperation between law enforcement agencies, including general police units, specialised bodies (such as anti-smuggling and anti-trafficking units), and anti-corruption agencies should be promoted and, where appropriate, required. This may involve information sharing and joint operations.

Allegations of corruption during investigation, prosecution, or trial processes must also be addressed. Both *UNCAC* and *UNTOC* require States Parties to criminalise obstruction of justice.¹⁰⁷ To increase transparency and mitigate against actual or suspected corruption, decisions to discontinue investigations or prosecutions of corrupt activities should be reviewed. Article 10 of *UNCAC* requires public authorities, including police and prosecution services, to report on their decision-making processes with regard to cases of corruption.

¹⁰⁴ See Annex One for a list of ASEAN Member States that are party to these four instruments.

¹⁰⁵ International Bar Association’s Presidential Task Force against Human Trafficking, *Human Trafficking and Public Corruption* (2016) 43-44.

¹⁰⁶ Ryn Jirenuwat and Russell Goldman, ‘Dozens Found Guilty in Thailand in Human-Trafficking Case’, *New York Times* (online), 19 July 2017; Tan Hui Yee, ‘Thai Army General Gets 27 Years Jail for Human Trafficking’, *The Straits Times* (online), 19 July 2017.

¹⁰⁷ *UNTOC*, Article 23; *UNCAC*, Article 25.

Harmonising Offences and Penalties

Legislation on smuggling of migrants and trafficking in persons should incorporate clear provisions addressing corruption and the involvement of public officials. This includes specific offences and penalties for corrupt officials who facilitate or are otherwise involved in these crimes. These provisions should be in addition to general corruption offences, which may also be used to prosecute corruption in the context of smuggling and trafficking.



Examples of good practice

The Philippines' *Expanded Anti-Trafficking in Persons Act* addresses the potential impact of corruption in Section 5 ('Acts that Promote Trafficking in Persons'), which criminalises persons who 'utilize his or her office to impede the investigation, prosecution or execution of lawful orders in a case' or otherwise influence or tamper with investigations or prosecutions under the Act.

Article 8 of Indonesia's Law on *The Eradication of the Criminal Act of Trafficking in Persons* includes higher penalties for '[a] state official who commits an abuse of authority resulting in the criminal act of trafficking in persons', including dishonourable discharge from their position.

Several offences in Cambodia's *Law on Suppression of Human Trafficking and Sexual Exploitation* have increased penalties where they are 'committed by a public official who abuses his/her authority over the victim'.

Align and incorporate Anti-Corruption Measures with Anti-Trafficking and Anti-Smuggling Policies

The issue of corruption should be incorporated as appropriate into anti-trafficking in persons and anti-smuggling of migrants strategies and mechanisms (and vice versa), including policies, procedures, and training.



Example of good practice

Article 58 of Indonesia's Law on *The Eradication of the Criminal Act of Trafficking in Persons* states that: '[f]or the purpose of the eradication of the criminal act of trafficking in persons, the Government and Regional Governments have the obligation to take measures to prevent and address the criminal act of trafficking in persons'. Mandated prevention provisions should be legislated for both trafficking and smuggling and should include anti-corruption measures.

Target High-Risk Sectors

Greater attention and resources should be dedicated to public agencies or departments, specific locations, or activities that are particularly vulnerable to corruption. Government authorities should carry out periodic risk-assessments to identify the sectors most at risk of corruption (especially of accepting bribes) and places where opportunities exist for public officials to seek out illicit profits. Anti-corruption strategies and practical measures can then be targeted to high-risk circumstances.



Example of good practice

An investigation carried by the Malaysian Special Branch identified that officials posted in border locations were at greater risk of corruption. Surveillance carried out by the Branch found that many such officials had received bribes from persons engaged in illicit activities, including trafficking in persons. The Malaysian Special Branch is an intelligence agency connected to the Royal Malaysia Police.¹⁰⁸

Promote Good Governance and Integrity

Systems and procedures within at-risk sectors for corruption should be tailored to increase transparency, fairness, and accountability. The overriding goals should be to prevent workplaces where misconduct is normalised and to reduce the incentives and opportunities for corruption. Positive steps include, inter alia:

- Transparent and fair systems for recruitment and promotion of officials.
- Regular rotations of staff within departments and between different positions and locations.
- Randomised reviews and checks of staff activities.
- Clear rules on conflicts of interest and secondary employment.
- Fair remuneration.

Government agencies should foster organisational cultures based on professionalism and underpinned by ethical conduct. Standard operating procedures and codes of conduct must adopt a zero-tolerance approach to corruption and any involvement in other unlawful activities, including smuggling of migrants and trafficking in persons. There should be clear systems to deal with conflicts of interest, report secondary employment and gifts, and manage disciplinary measures.

To increase resilience to corruption, governments should eliminate unnecessary bureaucracy to the extent possible. Bottlenecks in agencies and departments lead to more potential

¹⁰⁸ Farrah Naz Karim, '80pc of enforcers manning borders on the take', *New Straits Times* (online), 3 June 2015.

opportunities for corrupt officials to be offered and seek bribes. Decision-making powers (such as those regarding the issuing of travel or identification documents or the licensing of recruitment agencies) should be subject to oversight mechanisms, and, where possible, should be spread out among multiple officials. Where possible, the subject of the decision should not have individual contact with the decision-maker.

Create and Strengthen Reporting and Whistle-Blower Mechanisms

Anonymous reporting mechanisms should be in place for officials to raise concerns or report offers of bribes or use of undue influence by other officials. Avenues for reporting misconduct contribute to broader good governance and integrity and deter officials who may be tempted to engage in corruption.

Article 13 of UNCAC requires States parties to promote the participation of society in the prevention and combating of corruption. To this end, anonymous public reporting mechanisms should be available to allow whistle-blowers to alert agencies to potential corrupt acts. Steps should be taken to raise public awareness of these reporting mechanisms. This needs to go hand-in-hand with appropriate protections for whistle-blowers and witnesses to corruption offences, to prevent potential retaliation or intimidation against them, their relatives, or persons close to them.¹⁰⁹



Example of good practice

Malaysia's Anti-Corruption Commission has a public corruption complaint portal, available online, that allows any member of the public to report corrupt acts.

Protect and Work with Smuggled Migrants and Victims of Trafficking

The *Smuggling of Migrants and Trafficking in Persons Protocols* place obligations on States Parties to protect smuggled migrants and victims of trafficking.¹¹⁰ *UNTOC* mandates protection to victim-witnesses, requiring that States allow them to testify in criminal proceedings in a way that ensures their safety.¹¹¹ Where appropriate, authorities can work with smuggled migrants and victims of trafficking to learn about their experiences, collect information as to how trafficking and smuggling are facilitated, and gain insight into the prevalence of corruption. In some cases, they may be able identify corrupt officials and give evidence during investigations

¹⁰⁹ *UNTOC*, Article 24.

¹¹⁰ *Smuggling of Migrants Protocol*, Articles 2, 16; *Trafficking in Persons Protocol*, Articles 2, 6-8. See also *UNTOC*, Article 25.

¹¹¹ *UNTOC*, Article 24.

and prosecutions. Where this occurs, witness protection measures should be applied to protect smuggled migrants and victims of trafficking from potential retaliatory acts or intimidation.¹¹²

Foster International Cooperation

UNTOC, UNCAC, and the Smuggling of Migrants and Trafficking in Persons Protocols call for international cooperation between States parties to combat corruption, trafficking, and smuggling.¹¹³ States need to collaborate to thwart such criminal activity in various ways. This can include sharing of intelligence regarding corrupt activities and cooperation at specific 'at risk' points for trafficking and smuggling (such as border crossings). States should also work together to ensure the integrity of travel and other documents. Cooperation in the context of criminal investigations and prosecution is also important, including mutual legal assistance, seizure of assets, and extradition of offenders.

The ASEAN *Plan of Action Against Trafficking in Persons, especially Women and Children* calls on Member States to, inter alia:

- Strengthen the coordination and cooperation among ASEAN Member States in combatting crimes that might be connected with trafficking in persons, including money laundering, corruption, smuggling of migrants and all forms of organised crime.
- Investigate, prosecute and punish corrupt public officials who engage in or facilitate trafficking in persons.

Tackle Corruption in the Business Sector

The information collected for this report highlights a number of examples of private sector corruption, particularly in the context of migrant workers. Countries should pay special attention to sectors in Southeast Asia where trafficking in persons is known to occur, such as the seafood industry, domestic workers, and agribusiness. Companies involved in corruption, smuggling of migrants, or trafficking in persons should be held to account. UNCAC has provisions that address corruption in the private sector and cover businesses that employ bribery, embezzlement, and fraud to facilitate smuggling and trafficking.¹¹⁴

¹¹² UNTOC, Articles 24 and 25.

¹¹³ UNCAC, Part IV; UNTOC, Articles 27; *Smuggling of Migrants Protocol*, Part III; *Trafficking in Persons Protocol*, Part III.

¹¹⁴ UNCAC, Articles 12, 21, and 22.



Example of good practice

On 1 June 2020, the *Malaysian Anti-Corruption Commission Act 2009* was amended to create corporate liability for corruption. The revised s 17A of the Act provides that commercial organisations can be criminally liable for bribery. Section 17A(3) further deems that a director, controller, officer, partner, or manager of such an organisation can be personally liable for the same offence, unless they can prove that the offence was committed without their consent and that they had exercised reasonable diligence to prevent its commission.

Offences that hold legal persons accountable for corruption offences should be applied, where appropriate, to situations where companies are corruptly involved in smuggling of migrants or trafficking in persons.

Countries should pay close attention to corruption in the private sector that may facilitate the concealment and transfer of the profits of smuggling and trafficking.¹¹⁵

While this report focuses on corruption in the public sector and only contains limited information on private sector corruption, this is an area where further research and work is needed.

Improve the Evidence Base

More needs to be done to collect evidence of corruption as a facilitator of smuggling of migrants and trafficking in persons. While general information is available and a number of case examples are reported (albeit mostly only in news media), better and more systematic evidence gathering is required.

The *Smuggling of Migrants and Trafficking in Persons Protocols* both call for research and information exchange to better prevent these crime types.¹¹⁶ Better understanding of the relationship between corruption and smuggling and trafficking can help build an evidence base and develop appropriate prevention strategies. In particular, more and better information will assist law enforcement efforts to deploy resources strategically and improve investigative methods.

¹¹⁵ UNODC, *Corruption and the Smuggling of Migrants* (2013) 14.

¹¹⁶ *Smuggling of Migrants Protocol*, Article 10; *Trafficking in Persons Protocol*, Articles 9 and 10.

Raise Awareness

General efforts to raise awareness, in government agencies and the community more broadly, of the links between corruption, smuggling of migrants, and trafficking in persons need to be stepped up. This includes initiatives to improve the understanding of these crime types (including the distinction between smuggling and trafficking).

One facet of awareness raising is helping journalists to accurately report on smuggling, trafficking, and corruption. News media should use exact terminology, distinguish correctly between smuggling and trafficking, and, where appropriate, aim to inform readers on the links between these crime-types. Another facet of awareness raising is educating members of the public as to how smuggling, trafficking, and corruption can be prevented and combatted. These crimes should not be normalised; all persons must be empowered to report offences and contribute to the fight against corruption.

'Given the recognized lack of understanding by all state and non-state actors in the role of corruption as facilitator of human trafficking, [...] more work needs to be done in this aspect. Awareness raising and information dissemination is key as well crafting and implementing policies that will better address this issue is key' — survey respondent.



©Mutia Rahmah

Reference List



Reference List

Articles/Books/Reports

- Andrevski, Hannah, Jacqueline Joudo Larsen & Samantha Lyneham, 'Barriers to trafficked persons' involvement in criminal justice proceedings: An Indonesian case study' (Trends and Issues in Criminal Justice No 451, Australian Institute of Criminology, 2013)
- Bali Process, Trafficking in Persons Working Group, *Forward Work Plan 2017-2019*.
- Bilger, Veronika, 'Modeling migrant smuggling: Testing descriptive types against recent findings' (2018) 59 *New Perspectives on Turkey* 33
- Bouhours, Broadhurst and Bouhours, Human Trafficking and Moral Panic in Cambodia (2014) 653(1) *The ANNALS of the American Academy of Political and Social Science* 202
- Broad, Rose and Nicholas Lord, 'Corruption as a Facilitator of Human Trafficking' in Liz Campbell and Nicholas Lord (eds), *Corruption in Commercial Enterprise* (Routledge, 2018)
- Cho, Seo-Young, 'Modelling for Determinants of Human Trafficking: An Empirical Analysis' (2015) 3(1) *Social Inclusion* 2
- Conference of States Parties to the United Nations Convention against Transnational Organized Crime, Working Group on the Smuggling of Migrants, 'Challenges and Good Practices in the Criminalization, Investigation and Prosecution of the Smuggling of Migrants', UN doc CTOC/COP/WG.7/2012/2 (21 March 2012)
- Council of Europe, Programme against Corruption and Organised Crime in South-eastern Europe, 'Trafficking in Human Beings and Corruption' (2002)
- Europol and Interpol, 'Migrant Smuggling Networks: Executive Summary' (May 2016)
- Gjerdingen, Erick, 'Suffocation Inside a Cold Storage Truck and Other Problems with Trafficking as "Exploitation" and Smuggling as "Choice" along the Thai-Burmese Border' (2015) 26(3) *Arizona Journal of International and Comparative Law* 699
- Guth, Andrew P. 'Human trafficking in the Philippines: the need for an effective anti-corruption program' (2010) 13 *Trends in Organized Crime* 147
- Holmes, Leslie, 'Human Trafficking & Corruption: Triple Victimization?' in Cornelius Friesendorf (ed), *Strategies Against Human Trafficking: The Role of the Security Sector* (2009)
- Human Rights Commission of Malaysia, *Crimes Against Humanity, Mass Graves and Human Trafficking from Myanmar and Bangladesh to Malaysia from 2012 to 2015* (Report, March 2019)
- Human Rights Watch, *"Give Us a Baby and We'll Let You Go" Trafficking of Kachin "Brides" from Myanmar to China* (2019)
- Human Rights Watch, *"They Deceived Us at Every Step" Abuse of Cambodian Domestic Workers Migrating to Malaysia* (2011)
- International Bar Association's Presidential Task Force against Human Trafficking, *Human Trafficking and Public Corruption* (2016)

- IOM, *Migrant Smuggling Data and Research: A Global Review of the Emerging Evidence Base* (2016)
- Jonsson, Sofia, 'The Complex Relationship between Police Corruption and Sex Trafficking in Origin Countries' (2019) 5(2) *Journal of Human Trafficking* 109, 110.
- Jureidini, Ray, 'Transnational Culture of Corruption in Migrant Labour Recruitment' in McAuliffe and Klein Solomon (eds), *Ideas to Inform International Cooperation on Safe, Orderly and Regular Migration* (IOM Geneva, 2017)
- Kendall, Virginia M, 'Greasing the Palm: An Argument for an Increased Focus on Public Corruption in the Fight Against International Human Trafficking' (2011) 44 *Cornell International Law Journal* 33
- Keo et al, 'Human Trafficking and Moral Panic in Cambodia' (2014) 653(1) *The Annals of the American Academy of Political and Social Science* 202
- Lolo, Ferdinand, 'Bayar Mahal Untuk Jadi Imigran Gelap' (2012) 18 *REQuisitoire, Law Enforcement and Justice Magazine* 27
- Mahalingam, Ravi and Jatswan S Sidhu, 'Inside the Crime of Sex Trafficking in Sabah, Malaysia' (2020) *Journal of Human Trafficking*, doi: 10.1080/23322705.2019.1710069
- Missbach, Antje, 'Making a "Career" in People-Smuggling in Indonesia: Protracted Transit, Restricted Mobility and the Lack of Legal Work Rights' (2015) 30(2) *Sojourn: Journal of Social Issues in Southeast Asia* 423
- Missbach, Antje, 'Doors and fences: Controlling Indonesia's porous borders and policing asylum seekers' (2014) 35 *Singapore Journal of Topical Geography* 228
- Missbach, Antje and Melissa Crouch, 'The Criminalisation of People Smuggling: The Dynamics of Judicial Discretion in Indonesia' (2013) 14(2) *Australian Journal of Asian Law* 1
- OECD, 'Corruption and the Smuggling of Refugees' (Report, 2015)
- Rose-Ackerman, Susan and Bonnie J Palifka, *Corruption and Government: Causes, Consequences, and Reform* (Cambridge University Press, 2016)
- Sakdiyakorn, Malinvisa and Sutthana Vichitrananda, 'Corruption, Human Trafficking and Human Rights: The Case of Forced Labor and Sexual Exploitation in Thailand' (National Anti-Corruption Commission Thailand, July 2010)
- Silvey, Rachel, 'Unequal Borders: Indonesian Transnational Migrants at Immigration Control' (2007) 12(2) *Geopolitics* 265
- Trajano, Julius Cesar, 'Combatting Human Trafficking In East Asia: Mind The Gaps' (NTS Insight No IN18-05, Nanyang Technological University, July 2018)
- Transparency International, 'Definition of Grand Corruption' (19 August 2016)
- Transparency International, 'Breaking the Chain: Corruption and Human Trafficking' (News Room: In Focus, 1 September 2011)

UN.GIFT, 'Corruption and Human Trafficking: The Grease that Facilitates the Crime' (The Vienna Forum to fight Human Trafficking 13-15 February 2008, Austria Center Vienna Background Paper)

UNODC, *A Short Introduction to Smuggling of Migrants* (UNODC, 2010)

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

UNODC, *Corruption and the Smuggling of Migrants* (2013)

UNODC, *Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto* (2nd ed, 2016)

UNODC, *Global Report on Trafficking in Persons* (2018)

UNODC, *Facilitators of Smuggling of Migrants in Southeast Asia: Fraudulent Documents, Money Laundering, and Corruption* (2019)

UNODC, *Transnational Organized Crime in Southeast Asia: Evolution, Growth and Impact* (2019)

Verite, *An Exploratory Study on the Role of Corruption in International Labor Migration* (2016)

Zhang, Sheldon X and Samuel L Pineda, 'Corruption as a Causal Factor in Human Trafficking' in *Organized Crime: Culture, Markets and Policies* (Springer, 2008)

World Bank, *Helping Countries Combat Corruption* (1997)

Media Articles

Chin, Emmanuel Santa Maria, 'Immigration Dept Foils KLIA Passport Forgery Ring', *Malay Mail* (online), 9 March 2016.

Chongcharoen, Piyarach, 'Trafficking Suspect Details Litany of Police Bribes', *Bangkok Post* (online), 9 June 2015.

Chongcharoen, Piyarach, 'Bribery "Greases Trafficking Wheels"', *Bangkok Post* (online) 11 December 2014)

Fisher, Jonah, 'Burmese refugees sold on by Thai officials', *BBC News* (online), 21 January 2013

Jirenuwat, Ryn and Russell Goldman, 'Dozens Found Guilty in Thailand in Human-Trafficking Case', *New York Times* (online), 19 July 2017

Karim, Farrah Naz, '80pc of enforcers manning borders on the take', *New Straits Times* (online), 3 June 2015

Ismail, Fadzillah Aishah, 'Bird's Nest Supplier Faces 105 Charges in Magistrate's Court', *Bernama Daily Malaysian News* (online) 15 June 2017.

Latiff, Rozanna and Emily Chow, 'Malaysia uncovers immigration racket raising trafficking, security fears', *Reuters* (online), 1 June 2016.

Libo-on, 'Philippine VP vows action against airport corruption', *Khaleej Times* (online), 6 March 2011

McDowell, Robin, Margie Mason and Martha Mendoza, 'Slaves May Have Caught the Fish You Bought', *Associated Press* (online), 25 March 2015

Ngamkham, Wassayos, Wassana Nanuam, and Anucha Charoenpo, 'Army Officers Linked to Rohingya Smuggling', *The Bangkok Post* (online), 20 January 2013.

Nordin, Remar, 'More Enforcement Officers Nabbed', *The Star* (online), 25 June 2020

Pye, Daniel, Taing Vida, Alice Cuddy, 'Cable Shows Cartel's Reach', *Phnom Penh Post* (online), 12 June 2015

Torres, Tetch, '5 POEA execs face human trafficking charges', *Inquirer* (online), 16 February 2011

Yee, Tan Hui, 'Thai Army General Gets 27 Years Jail for Human Trafficking', *The Straits Times* (online), 19 July 2017

[s.n.], 'Johor Immigration on Hunt for 'Insider' Aid after Cracking Forgery Ring Focusing on Fake Indonesian Passports', *Malay Mail* (online) 20 July 2020

[s.n.], 'Two senior immigration officers among five people charged with human trafficking', *Malay Mail* (online), 16 July 2020

[s.n.], 'Johor police nab senior immigration officer in ops against migrant smuggling', *Malay Mail* (online), 3 July 2020.

[s.n.], 'Johor cops nab immigration, marine officers over migrant smugglings', *Malay Mail* (online), 24 June 2020

[s.n.], '18 nabbed for collaborating with migrant syndicates and smugglers', *New Straits Times* (online), 18 June 2020.

[s.n.], 'Immigration officers dismissed for visa skullduggery', *Bangkok Post*, (online), 5 March 2019

[s.n.], 'Victoria's Secret Raid Shows Human Trafficking Still Rife', *Bangkok Post* (online), 17 January 2018.

[s.n.], 'Bangkok brothel raid sparks bribery, trafficking probe', *Agence France Presse* (online), 15 January 2018

[s.n.], '600 officers transferred after KLIA smuggling ring bust', *The Straits Times* (online), 17 December 2017;

[s.n.], 'Malaysia Nabs Five Including Two Immigration Staff in Human Smuggling Case', *Channel NewsAsia* (online), 15 December 2017.

[s.n.], 'Corruption Inquiry Launched in Phuket after Detained Illegal Immigrants Spared Deportation', *The Nation* (online), 14 November 2017.

[s.n.], 'Trafficking Humans to Malaysia', *Tempo Magazine* (online) 21 March 2017

[s.n.], 'Three cops nabbed for allegedly taking bribes to protect illegal immigrants', *New Straits Times* (online), 7 March 2017

[s.n.], 'Malaysian immigration officers sacked for deliberately disabling passport controls at airport', *ABC News* (online), 1 June 2016.

[s.n.], 'Sa Kaeo Immigration Chief Transferred in Bomb Case', *Bangkok Post* (online), 1 September 2015

[s.n.] 'Trillanes; Probe 'collusion' between POEA, illegal recruiters', *The Philippine Star* (online), 23 January 2011;

Annex One

Table of Bali Process Member States party to UNCAC, UNTOC, the Trafficking in Persons Protocol, and the Smuggling of Migrants Protocol (as of February 2021).

Bali Process Member Countries	UNCAC	UNTOC	Trafficking Protocol	Smuggling Protocol
Afghanistan	✓	✓	a	a
Australia	✓	✓	✓	✓
Bangladesh	a	a	a	x
Bhutan	✓	x	x	x
Brunei Darussalam	✓	a	a	x
Cambodia	a	✓	✓	✓
China	✓	✓	✓	x
Democratic People's Republic of Korea	x	a	x	x
Fiji	a	a	a	a
France	✓	✓	✓	✓
Hong Kong SAR*	✓	✓	✓	x
India	✓	✓	✓	✓
Indonesia	✓	✓	✓	✓
Iran (Islamic Republic of)	✓	s	x	x
Iraq	a	a	a	a
Japan	A	A	A	A
Jordan	✓	✓	a	X
Kiribati	a	a	a	a
Lao People's Democratic Republic	✓	a	a	a
Macau SAR*	✓	✓	✓	x
Malaysia	✓	✓	a	x
Maldives	a	a	a	x
Mongolia	✓	a	a	a
Myanmar	✓	a	a	a
Nauru	a	✓	✓	✓
Nepal	✓	✓	x	x
New Zealand	✓	✓	✓	✓
Pakistan	✓	✓	x	x
Palau	a	a	a	a
Papua New Guinea	✓	x	x	x
Philippines	✓	✓	✓	✓
Republic of Korea	✓	✓	✓	✓
Samoa	a	a	x	x

Bali Process Member Countries	UNCAC	UNTOC	Trafficking Protocol	Smuggling Protocol
Singapore	✓	✓	a	x
Solomon Islands	a	x	x	x
Sri Lanka	✓	✓	✓	s
Syrian Arab Republic	s	✓	✓	✓
Thailand	✓	✓	✓	s
Timor-Leste	✓	a	a	a
Tonga	a	a	x	x
Turkey	✓	✓	✓	✓
United Arab Emirates	✓	✓	a	x
USA	✓	✓	✓	✓
Vanuatu	a	a	x	x
Viet Nam	✓	✓	a	x

** Special Administrative Region of China

✓	= Ratification
A	= Acceptance
AA	= Approval
a	= Accession
d	= Succession
s	= Signatories
X	= Non-Ratification/Signatory

Annex Two



Case Study One

An Investigation of Smuggling and Corruption in Malaysia

This case study concerns a long-running investigation into a migrant smuggling syndicate in the state of Johor, Malaysia in 2020. Law enforcement officials estimated that the syndicate had brought some 43,000 migrants in and out of Malaysia between 2014 and 2020, with illicit gains of around USD 14.1 million. The investigation included the arrest of several public officials, including members of the police, immigration department, and military. Bribes were reportedly paid to facilitate the procurement of fraudulent documents and to tip off smugglers to security operations.¹ The attempted corruption of other officials was also reported. This case study shows, first, the potential role of corruption in facilitating smuggling of migrants and, second, how such illicit conduct, can be successfully targeted.

In April 2020, Johor police reported information indicating that certain public officials had colluded with migrant smugglers. In response, the police chief stated that '[w]e will not compromise on this matter and stern action will be taken against them, regardless of which agencies they come from'. The police announced that they would coordinate with other agencies in Johor as part of their investigation, including the Malaysian Maritime Enforcement Agency, the Marine police, the Armed Forces and the General Operations Force, with the aim of combatting illicit activity and corruption.²

Soon after this announcement, on 13 April 2020, the Johor police arrested two Indonesian nationals for smuggling 23 irregular migrants into Malaysia. The police stated that those arrested were likely part of a much larger smuggling syndicate, and that members of law enforcement agencies were now suspected of complicity. Charges were laid under s 26A of the *Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007*.³ Later that month, the police chief stated that 10 organisers of the smuggling syndicate were now under surveillance, including public officials. He also warned that those harbouring or transporting smuggled migrants, including hotels and taxi drivers, were potentially complicit.⁴

¹ Amy Chew, 'Malaysia smashes US\$14 million people-smuggling syndicate, arrests police, soldiers', *South China Morning Post* (online), 10 July 2020.

² [s.n.], 'Johor cops warn 'traitors' over migrant smuggling', *New Straits Times* (online), 12 April 2020.

³ [s.n.], 'Two foreigners caught trying to smuggle 23 illegals out of Johor', *Malay Mail* (online), 13 April 2020.

⁴ Suhainie Mohd Khalid, 'Johor Police Identify Migrant Smuggling Syndicate Masterminds', *Bernama* (online), 30 April 2020.

In the following months, Johor police continued to investigate and made a large number of arrests. In June, as part of an operation named Op-Benteng, the police arrested 40 members of a smuggling syndicate which had been active since 2014 and had smuggled some 500 to 600 migrants a month for RM 1,200 to 1,400 each.⁵ These arrests formed part of a larger, Malaysia wide operation that led to the arrest of 547 members of smuggling syndicates between January and June 2020.

Following the arrest of the 40 smugglers, on 18 June 2020 Johor police announced that they had arrested 18 members of the Royal Malaysian Police and Malaysian Armed Forces for collaborating with the smuggling syndicate. 'Investigations revealed that all the suspects were involved in distributing information on operations and colluding and concealing information to facilitate smuggling'. The officials had received bribes of some RM 500 to 1,000 a month.⁶ The Chief of the Malaysian Defence Force expressed support for the arrests.⁷

On 24 June 2020, the Johor police announced four further arrests of officials, including a senior immigration officer, two more junior immigration officers, and a marine police officer. The immigration officers were allegedly involved in document fraud to facilitate smuggling:

the syndicate was believed to be providing fake [immigration] inbound and outbound stamp services for use by migrants using social visit pass that had expired [...] As they arrived at the Pasir Gudang Ferry Terminal, the movement of migrants using counterfeit stamps would be handled by an immigration officer who was cooperating with the syndicate to administer their return home (Indonesia).⁸

The immigration officers reportedly received bribes of between RM 1,500 and RM 2,500 for each fake stamp.⁹ In response to the arrests, the Malaysian Immigration Department Director-General stated that any officials found to be colluding with smugglers would be punished.¹⁰

Following the June 2020 operations, the Johor police reported that they had received a number of threats from migrant smuggling syndicates and pressure to drop the investigations.¹¹

⁵ Nur Fadhliana Shaari, '40 Members of Human Trafficking Syndicate Nabbed in Johor', *Bernama* (online), 8 June 2020.

⁶ Nur Fatin Mohmad Kadenen, 'Collaborating with Migrant, Drug Smugglers: Police Nab 18', *Bernama* (online), 18 June 2020.

⁷ Muhammad Afiff, 'No Compromise on Armed Forces Personnel Involved in Migrant Smuggling – Affendi', *Bernama* (online), 18 June 2020.

⁸ Suhainie Mohd Khalid, 'Immigration Officers Nabbed Over Suspected Involvement in Migrant Smuggling Syndicate', *Bernama* (online), 24 June 2020.

⁹ [s.n.], 'Johor cops nab immigration, marine officers over migrant smugglings', *Malay Mail* (online), 24 June 2020.

¹⁰ Mohd Ashraf Syafiq Mazlan, 'Stern Action for Officers Involved in Migrant Smuggling Activity - Immigration DG', *Bernama* (online), 25 June 2020.

¹¹ [s.n.], 'Despite threats, Johor police chief says won't waver from crackdown on migrant smuggling', *Malay Mail* (online), 29 June 2020.

Meanwhile, a commander of the marine police force in Johor reported that smugglers had offered him bribes to collude in the smuggling of migrants.¹²

Interviews with the three immigration officers arrested in June 2020 led to the arrest of an assistant director in the Immigration Department; the most senior official arrested in the probe. She allegedly assisted the smuggling syndicate by providing the fraudulent immigration stamps.¹³

The police investigation proceeded to criminal charges. For example, the Immigration Department assistant director that was arrested was charged with eight counts of migrant smuggling under s 26A of the *Anti-Trafficking of Persons and Anti-Smuggling of Migrants Act 2007*.

Section 26A of the *Anti-Trafficking of Persons and Anti-Smuggling of Migrants Act 2007*:

Any person who carries out smuggling of migrants commits an offence and shall, on conviction, be punished with imprisonment for a term not exceeding fifteen years, and shall also be liable to fine, or to both.

¹² [s.n.], 'Malaysia's top marine police chief says smugglers once tried to enlist his aid', *Malay Mail* (online), 15 July 2020.

¹³ Rizalman Hammim, 'Senior Immigration Officer Detained', *New Straits Times* (online), 4 July 2020.



Case Study Two

The 'Pastillas' Case in the Philippines

This case study concerns the successful investigation and prosecution of public officials involved in a large-scale corruption scheme that facilitated the smuggling of migrants into the Philippines. The corruption, which took the form of bribes paid to immigration and airport officials, permitted migrants to pass through Philippine border controls without the required documentation. It is estimated that many hundreds of thousands of migrants were smuggled using this modus operandi, with profits amounting to billions of Philippine pesos (PHP).

In February 2020, a large-scale scheme was uncovered by Philippines authorities, with the help of whistle-blowers, that centred on the smuggling of mostly undocumented Chinese migrants into the country. Referred to as the 'pastillas scandal', the scheme involved the payment of bribes to Philippine officials in airports, in return for allowing migrants to enter the country without the required travel documents. Use of the term 'pastillas' in the case derives from the way the bribes were paid: they were wrapped in paper in a way resembling a pastillas (a Filipino pastry). Many of the migrants were smuggled into the country to work for Philippine offshore gambling operators (often referred to using the acronym 'POGOs'). A number of Chinese and Taiwanese women were also trafficked into the country under the scheme.¹ Links between POGOs and trafficking in persons have been widely reported.² Migrants smuggled into the Philippines in this context may also be, or later become, victims of trafficking.

The amount paid by each migrant totalled PHP 10,000, with PHP 2,000 allocated to bribes of airport and immigration officials and the remaining PHP 8,000 given to smuggling syndicates involved in arranging the scheme. Documents obtained from informants during a senate investigation of the case detailed how the PHP 2,000 in bribes was split:

- Immigration officers (IO) received the highest amount, at PHP 650.
- Duty immigration supervisors (DIS) received PHP 470.
- Travel central enforcement unit (TCEU) received PHP 280.
- Border control and intelligence unit (BCIU) received PHP 240.
- Operations (OPS), or administrative/clerical officers received PHP 260.
- The Terminal head (TH) received PHP 100.³

¹ Alan Robles, 'Philippine airport syndicate has sweet deal for Chinese nationals looking to work illegally', *South China Morning Post* (online), 17 February 2020.

² See, eg, [s.n.], 'Travel firms tied to trafficking of Chinese women in the Philippines', *The Star* (online), 3 February 2020.

³ Michelle Abad, 'How syndicates, airport officials split P10,000 bribe from POGO workers', *Rappler* (online), 17 February 2020.

Government officials investigating the scheme have alleged that it relied on systematic and organised corruption, rather than ad-hoc instances of bribery. In total, the amount of illicit bribes received may have totalled some PHP 40 billion, with officials involved in the scheme earning between PHP 5,000 and 20,000 every week. Some officials also allegedly received sexual favours from victims of trafficking brought into country under the 'pastillas' scheme.

In September 2020, the Philippines National Bureau of Investigation charged 19 immigration officials for corruption and 45 officials were suspended without pay by the ombudsman. Later, in November 2020, some additional 86 immigration officials were charged with corruption offences under the *Anti-Graft and Corrupt Practices Act*.⁴ Eight of those charged were high-ranking officials, including the heads of all terminals at Ninoy Aquino International Airport and the chief of the Immigration Bureau's Border Control and Intelligence Unit.⁵

Later in 2020, the chief of the National Bureau of Investigation's legal assistance bureau was arrested for accepting bribes from immigration officials involved in the 'pastillas' scheme, in return for excluding criminal charges against them. He had allegedly extorted at least PHP 100,000 in bribes from accused officials. Together with this brother (an immigration official), the Bureau chief was charged with robbery, extortion, and corruption offences.⁶

Commenting on the 'pastillas' scheme, government officials stated that the low salaries of immigration officials made them vulnerable to bribery. In a September 2020 press release, the Immigration Bureau stated that it was implementing a system-wide reorganisation, including 'a total revamp of our airport personnel, all terminal heads, and all Travel Control and Enforcement heads'.⁷

⁴ Marc Jayson Cayabyab, '86 BI personnel charged over 'pastillas' scam', *The Philippine Star* (online), 6 November 2020.

⁵ [s.n.], 'Pastillas cases unwrapped: 86 in corrupt raps', *Manilla Standard* (online), 6 November 2020.

⁶ [s.n.], 'Beyond 'pastillas' scam, reform at Bureau of Immigration?', *Business Mirror* (online), 14 November 2020.

⁷ Immigration Bureau, 'BI Welcomes Arrest of NBI Legal Assistance Section Chief Allegedly 'Fixing' Pastillas Case' (Press release, 22 September 2020) <https://immigration.gov.ph/images/News/2020_Yr/09_Sep/2020Sep22_Press.pdf>.



Case Study Three

The Smuggling and Trafficking of Rohingya and migrants from Bangladesh

This case study concerns the role of public corruption in facilitating the smuggling and trafficking of persons into and through Thailand. From 2012 to 2015, large numbers of Rohingya and migrants from Bangladesh were lured onto the ships of smugglers and traffickers with promises that they would be transported directly to Malaysia and the prospect of security and employment. Instead, thousands were held in overcrowded and poor conditions on repurposed fishing vessels, before being brought to camps in Thailand where they were detained and extorted in order to secure their release. Law enforcement investigations in the case led to the suppression of smuggling and trafficking syndicates operating in Thailand, as well as the prosecution of numerous corrupt officials.

In 2015, the discovery of one of these camps, and a mass-grave containing the bodies of numerous Rohingya and Bangladeshi victims, prompted a wide-ranging criminal investigation and efforts to dismantle an organised and large-scale smuggling and trafficking enterprise. This led, in 2017, to the trial of 103 defendants in Thailand, including numerous low and high-level public officials. The defendants variously faced charges under the *Anti-Trafficking in Persons Act 2008*, *Anti-Participation in Organized Crime Act 2013*, the *Immigration Act 1979*, and laws relating to firearms and other offences. 62 persons were convicted, including nine public officials. A General in Thailand's military was convicted, as well as local politicians and businesspeople.¹ There were reports of broad complicity by Thai and Malaysian authorities in these ventures. Following the discovery of the first mass-grave, many more camps were uncovered along the Thai-Malaysia border by the Royal Malaysian Police².

A multitude of news media reports and other sources allege that the practice of officials selling Rohingya and Bangladeshi persons to traffickers took place at a significant scale for several years. They would be apprehended and detained by officials in immigration detention centres or government shelters and, from there, transferred into the custody of traffickers. Testimonies from victims and traffickers described the receipt of bribes by officials in return for 'turning a blind eye' to the camps where they were detained. In some cases, officials would also assist in transporting Rohingya and Bangladeshi persons, extort them, and would alert traffickers to

¹ Jonah Fisher, 'Thai Court Charges Army Officer over Rohingya Trafficking', *BBC News* (online), 2 June 2015; Ryn Jirenuwat and Russell Goldman, 'Dozens Found Guilty in Thailand in Human-Trafficking Case', *New York Times* (online), 19 July 2017. See also Tan Hui Yee, 'Thai Army General Gets 27 Years Jail for Human Trafficking', *The Straits Times* (online), 19 July 2017.

² Beh Yi Li, 'Malaysia mass graves: villagers tell of migrants emerging from secret jungle camps', *The Guardian* (online), 26 May 2015.

raids by law enforcement.³ One victim described corrupt interactions between officials and traffickers:

When we were arrested, the [state agency redacted] tied our hands together in groups of seven to ten people. They tore longyis [clothing traditionally worn by men in Myanmar and parts of Thailand] and made a rope and tied us together. Then, we had to walk for a while to a rubber plantation. Then, the [authorities] ordered a car to take us to the [authorities'] station. When the car arrived, the [traffickers] negotiated with the [authorities]. The [authorities] said they would take us away unless [the traffickers] paid. After [the traffickers] gave [authorities] money, the [authorities] left. The [authorities'] car was an open-air pickup truck with lights. [The traffickers] handed [authorities] money in front of us. Later the [traffickers] told us, "We had to give them 35,000 Thai Baht (US\$1,090; 3,800 Malaysian Ringgit) for your release." Later, when they beat us, they said they had to pay 35,000 Thai Baht (US\$1,090; 3,800 Malaysian Ringgit) for our release. They took us back to the same campsite. We had to walk for half an hour. This happened three times. I was in the camps for five months.⁴

Reports related to the discovery of the camps alleged that some Rohingya and Bangladeshi persons were sold into situations of forced labour on fishing vessels. As noted by one media report: '[i]n these jungle base camps, until as recently as [2015], Thai fishing boats provided a lucrative secondary revenue stream for the highly organised and ruthless criminal gangs profiting from the plight of the stateless Rohingya people'.⁵ Corruption also played a role in these transactions, with public officials sometimes brokering deals with boat captains, while law enforcement officials were allegedly bribed to 'turn a blind eye' to exploitation on vessels. It should be noted that, while problems persist, Thailand has taken numerous steps to improve conditions in its fishing industry and combat trafficking in persons. As noted by a 2020 report by the International Labour Organization, '[b]eginning in 2014, the [Thai] Government made a number of changes to strengthen the laws and regulatory [frameworks]'.⁶

³ Human Rights Commission of Malaysia and Fortify Rights, *Sold Like Fish: Crimes Against Humanity, Mass Graves, and Human Trafficking from Myanmar and Bangladesh to Malaysia from 2012 to 2015* (2019) 77-87.

⁴ Human Rights Commission of Malaysia and Fortify Rights, *Sold Like Fish: Crimes Against Humanity, Mass Graves, and Human Trafficking from Myanmar and Bangladesh to Malaysia from 2012 to 2015* (2019) 82-83.

⁵ Emanuel Stoakes, Chris Kelly, and Annie Kelly, 'Sold from a jungle camp to Thailand's fishing industry: "I saw 13 people die"', *The Guardian* (online), 20 July 2015.

⁶ ILO, *Endline research findings on fishers and seafood workers in Thailand* (2020) 1.



REGIONAL SUPPORT OFFICE
THE BALI PROCESS

Regional Support Office of the The Bali Process (RSO)
27th Floor Rajanakarn Building
3 South Sathorn Road, Sathorn Bangkok 10120, THAILAND
Tel. +66 2 343 9477 Fax. +66 2 676 7337
info@rso.baliprocess.net

For further information on the Bali Process and the RSO please visit www.baliprocess.net