

Symposium



International Trafficking in Women

-Hearing the voices of victims/survivors
from the Philippines, Thailand, and
Cambodia

Proceedings

Asian Women's Fund

Forward

With regard to Violence against Women, it is noted that trafficking in persons is one of the most widespread, serious and global common issues. Since 1980s, Japan has been known as a recipient of women trafficked for the purpose of sexual exploitation from Asia, South America as well as East European Countries.

Recognizing these facts, the Asian Women's Fund (AWF) convened international expert meeting 3 times and in September 2004, we held a symposium in which the survivors of the sex trafficking testified.

This is a proceeding of their testimonies and reports by their supporters.

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Trafficking Case in Cambodia

Ms. Ng Ph
Survivor, Cambodia

I am 19 years old and belong to a parentless family. I lived with my step- father in Pailin town, Battambang province, Cambodia. I decided, in 2003, to go to Thailand since there was a lady luring me to work as a servant in a shop. While I was in Hatyai, Thailand, I was taken to a hotel. I then was forced to take drug after my body was checked by an unknown man who looks like a Chinese man.

With other three girls, I was taken to Malaysia in a boot of a small car. I was locked and confined to a room for one day. I then was sold to a Chinese-Malaysian brothel owner at 6000 Ringits. I was informed that I owed much money to the brothel owner so I had to earn money to pay for my debt. I was also beaten when I refused to serve clients.

I was further sold to the second discotheque (Alibaba) at 4000 Ringits. In a new locked apartment, I tried to break the window in order that I could escape from the apartment; however, I could not escape because there was another girl seeing me. I was immediately moved to another apartment which doors were automatically locked.

Five days later, I was sold to a Kuala Lumpur hotel. I worked for several days in the hotel and did my best to escape from the hotel. I then walked out of and called a taxi car to take me to the police station. Police soon arrested me to put in a jail for four months. I called my brother in Cambodia to ask for invention and file a complaint on my behalf at the Cambodian Women's Crisis Center in Phnom Penh.

CWCC in cooperation with International Organization for Migration (IOM) and the Embassy of Cambodia for Malaysia repatriated me back home on 24th March 2004. I am now attending the literacy and sewing skill training in the shelter in Phnom Penh. I will be assisted by the reintegration program staff to find employment at the garment factory. I am now living with the other survivors of gender based abuse happily in the shelter.

Ms. M. Ly
Survivor, Cambodia

I am 20 years old. I live with my mother with another younger brother. I usually helped my mother selling porridge. There was a lady, in 2001, luring my mother to let me go to work in Malaysia so that I could help the family. She promised to return me to Cambodia after having worked in Malaysia for six months.

In November 2001, I was taken to temporarily stay in a secret apartment in Phnom Penh to wait for another Vietnamese girl. At four o'clock in the very early morning, I and another Vietnamese girl were taken in a car to Poipet where was a notorious place for gambling and trafficking women and children for sexual exploitation purposes. I and another Vietnamese girl were transferred to another car to further travel to Malaysia.

In Malaysia, I was taken to work in a twenty- seven- floor condominium. On the first day of working in Karaoke Parlor, I realized that I was sold into prostitution and I made a phone call to inform my mother in Cambodia that I was cheated and sold into prostitution. I was forced to serve clients; the brothel owner usually took all the tips that clients gave it to me. I usually served three clients a day and I was paid only 150 Ringits per day. I was also to take drug in order that I could serve clients at night. I tried many times to escape from the brothel; however, I could not due to the fact that the doors were automatically locked.

One Indonesian girl and another Vietnamese girl were beaten severely in front of me. I was also forced to serve clients though I was sick. Whenever police came to raid the brothel, all girls were taken to detain in a second floor condominium. Other girls initiated to escape from the brothel. I then stayed temporarily in a rented house and made a phone call to Cambodia to ask my mother for intervention at Cambodian Women's Crisis Center.

Ms. M Ly's Mother

My name is C. T., 46 years old. I am presently residing in Phnom Penh. I have two children. One is a year-old male and the second, M Ly, aged 20. I am a porridge seller at a market.

One day a woman, more than 30 years old, came to buy porridge and met my daughter. She asked my daughter to work in Malaysia, and said that my daughter can earn lots of money. So my daughter agreed to go.

Two weeks later, I met with one guide at a market in Phnom Penh. The guide was a Vietnamese woman called Grandmother Cafe. She lives in a rented house and has one son aged about 45 years old. After I met him, he left the house so I was alone with his mother. She told me to not worry. She guaranteed that my daughter would only go to work for 6 months, and that many people go to work in Malaysia. After one more week, I brought my daughter to leave for Malaysia, and they left on 12 November 2002 at 6 pm. They did not allow me to go with them.

Eight days later the guide's mother called me and let me speak with my daughter. My daughter told me "Mum, we were tricked by the guide. They will never allow me to go back." At that time I felt very shocked that his mother (coffee seller) said don't worry, she will be back after 6 months. Then the coffee seller (Grandmother Cafe) gave me \$400 and she talked to my daughter. I could not communicate with her. The people yelled at me "Why are you afraid, why do you interrupt us?" Sometimes they tried to make a phone call but there was no connection or they said they had lost the phone number; they could not communicate. I was very patient until 6 months was over. I want my daughter to come back. They told me that my daughter is doing very well and has a lot of money.

In January 2003, my daughter called my by phone (to the neighbor) and asked me to pay for the phone call. She said that we were tricked, and she asked the owner of the phone that she was living very difficult conditions. She asked me to inform the police to arrest the guide at a market. At first I did not believe her, but the second time my daughter called again and told me not to believe the guide because they would not allow her go to back. My daughter told me about one victim whose name was Oung Pharan who was seriously injured by violence. The owner beat her and now her two legs are swollen. She could not walk and they would send her to hospital the next day.

Since that time, my daughter said she never met her. She does not know where she is because most of them always change places. After they work for 10 days the owner moves them to another place. In her place, there are 10 Cambodian women. Every time the

police crack down at the brothel, the owner knows first and hides the group of sex workers to the basement. After the police leave, the owner takes them back to work upstairs.

After I know this information, I have informed the human rights organization for help. Then, they sent me to the Cambodian Women's Crisis Center. My request is that you help me to take my daughter back, and bring the traffickers to the jails according to the law.

Ms. C. C. (20 years old)

Ms. C.C. belongs to a very poor family in Malay district, Banteay Meanchey province. She earns a living from hand to mouth. Later, she moved from her village to work at Svay Sisophon, Banteay Meanchey province as a woman servant in a restaurant. She was lured to work in Bangkok after having worked in the restaurant for about one month. She was promised to be paid 6000 Baht per month. On 14th March 2003, she decided to go with Mr. Rith who lured and promised to pay her.

At 7:00 pm on the same day, Mr. Rith and Ms. C arrived in Krong Theb (Bangkok). Mr. Rith took her to a guest house to temporarily stay overnight. She was taken to Ms. Porn on the next day. Then, she was taken to another Thai woman; the Thai woman took her to another Malaysian woman. She saw the Malaysian woman paid for the Thai woman 40,000 Malaysian Ringits; then she realized that she was sold.

The Malaysian woman asked her to stay in a second storey locked room which she was having a bath then. She decided to escape from building after having stayed there for five days because she saw many prostitutes served clients during the night. At 9:00 pm, she jumped from the second floor of the building with another Khmer girl who was also sold. She ran to the Cambodian Embassy in Malaysia and stayed there for five days. An Embassy staff took her to Chanthorn's house. Then she was moved to stay in another confidential house to wait for repatriation. On 12th May 2004, she was repatriated to stay in a confidential shelter of the Cambodian Women's Crisis Center.

Ms. S. C. (16 years old)

Ms. S. Ch lives in Palelay, Poipet town. She worked as sugarcane farmer. Her mother asked her to work in Krong Theb, Bangkok due to the fact that her family was poor starving and in debt. Mr. Rith was a pimp whom she paid for 3,000 Baht to take her to Bangkok to work as domestic helper.

In March 2004, Mr. Rith and she left for Thailand; however, there was another pimp named Ratt actually took her to Bangkok. She worked as a domestic helper in Bangkok for twelve days; then Ratt came back and paid for the house owner 3,000 Baht. Ratt told her to work in Malaysia because she would be able to earn 6,000 Baht per month. Ratt passed her to Ms. Porn; she offered Ratt 10,000 Baht. Ms. Porn took Ms. S. Ch to another man along the border of Thailand and Malaysia. This man passed her to another man; however, Ms. S.Ch did not know how much he got from that man. The man confined her in a locked room with other ten girls. She stayed in the brothel for two nights and she realized that she was cheated and sold into prostitution. Another Khmer girl and Ms. S. Ch escaped from the room and ran to police station in Malaysia for help. Malaysian police took them to the Cambodian Embassy in Kuala Lumpur. She was interviewed by staff at the Embassy and she was allowed to stay in the embassy for fifty days to wait for repatriation.

On 12th May 2004, she arrived in Phnom Penh and was sent to stay in safe shelter of Cambodian Women's Crisis Center. She requested that CWCC file complaint against pimp.

Ms. P. M. (26 Years old)

Ms. P.M was luring to work in Malaysia in May 2003. She was detained in a house for one month; she wondered why the Malaysian pimp did not pay her though she worked in the house. Sometimes she was not allowed to have food and the pimp told her that if she did not satisfy, she could go back to her country.

Then, Ms. P.M. was taken to serve in a Karaoke parlor after having worked in the house for over one month. On 28th February 2004, the Karaoke parlor was raided by police at 11:00 am. She was arrested and put in jail for twenty days. On 26th May 2004, a staff from the Cambodian Embassy came to interview her. On 12th August 2004, Ms. P.M. was repatriated to Cambodia and was sent to temporarily stay at the Cambodian Women's Crisis Center in Phnom Penh.

Ms. T. T. (21 years old)

Ms. T. T. was lured to work in Malaysia in January 2004. She was taken to Malaysia through Thailand. The driver talked to the police along the border of Cambodia-Thailand; however, she did not know what they were talking about. The driver then told her to pay him back when I would be in Malaysia.

After arriving in Malaysia, she was taken to work at a karaoke parlor which she probably earned 300 Ringits per day. She was forced to serve clients from 7:00 pm till 4:00 am. In August 2004, she found a good chance because there was no security guard at the brothel where she was detained. She then went down the brothel with a string tied up with the window. She met two Chinese men along the way and she told them that she was escaping from a brothel; then the two Chinese men took her to the Cambodian Embassy. She was accommodated at the Embassy for two weeks; then she was repatriated to Cambodia. She requests that Cambodian Women's Crisis Center assist investigating pimp and reintegrate her back home.

Mr. Sean Sok Phay
Cambodian Women's Crisis Center(CWCC), Cambodia

I. Human Rights Principles, Government Obligations and Trafficking in Persons

There are a multitude of international instruments that address the prohibition of sex trafficking, exploitation, abuse, inhumane treatment and slavery of women and children. The Government of Cambodia is a signatory country on a majority of the instruments listed below.

1. United Nations Charter
2. The Universal Declaration of Human Rights (UDHR), 1948. [Establishes the principle that fundamental human rights and basic freedoms are guaranteed to all persons.]
3. The International Covenant on Civil and Political Rights, 1966. [Encompasses the prohibition of slavery and servitude, right to liberty and security, freedom of movement.]
4. The International Covenant on Economic, Social and Cultural Rights, 1968. [Protects the right to do work that one freely chooses under conditions protecting fundamental freedoms of the individual; fights for just and favorable working conditions; demands that both parties consent to marriage; protects the right to adequate living standards and to physical and mental health.]
5. Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), 1979. [Requires states to eliminate all forms of discrimination, to take appropriate measures to suppress all forms of trafficking, exploitation and prostitution of women, to uphold the rights to free choice of employment and spouse, and to establish the minimum age for marriage.]
6. Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment, 1984.
7. Convention on the Elimination of All Forms of Racial Discrimination, 1965.
8. Convention on the Rights of the Child, 1989. [Regards the protection against sexual exploitation or abuse, protection from abduction, the sale or traffic of children for any purpose or form.]

9. Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, 2000. [Adopted by the Cambodian General Assembly but not enforced yet.]

10. Slavery Convention, 1926. [Prohibits of all forms slavery.]

11. Convention on the Protection of the Rights of All Migrant Workers and Their Families, 1990. [Adopted by the Cambodian General Assembly but not yet in force. Prohibits torture, cruel or inhumane treatment or punishment, slavery, servitude, forced or compulsory labor.]

12. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention Against Transnational Organized Crime. [Adopted October 2000, open for signature in December 2000. Defines trafficking; provides assistance and protection for trafficked victims; grants possible temporary or permanent resident status in destination countries in appropriate cases; takes measures to combat and prevent trafficking. Signed by Cambodia but not yet ratified.]

13. Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others, 1949. [Entry into force 25 July 1951, referred to hereinafter as the Convention to Suppress Trafficking.]

14. ILO Convention No.29 on Forced Labor, 1930.

15. ILO Convention No. 105 on Abolition of Forced Labor, 1959.

16. ILO Convention No. 182 on the Worst Forms of Child Labor, 1999.

17. UN General Assembly Declaration on Violence Against Women, 1993. [Defines violence against women, including trafficking in women and forced prostitution]

Despite the fact that Cambodia is a member state on almost all of the above-mentioned international instruments, the situation in this country regarding trafficking is still a serious problem. Of particular concern is the number of underage/child prostitutes in Cambodia, most of whom were forced, tricked or sold into prostitution. We must also be concerned about the international reputation Cambodia is acquiring as a haven for people who want to exploit children for sex and who know that they can do so without fear of punishment.

Passage of a more comprehensive domestic law on trafficking should help remedy this situation. In the interim, the Government of Cambodia, as a member state to most international instruments related to trafficking and exploitation of women and children, must do everything in its power to abide by the spirit and the letter of these international agreements. More resources, both human and financial, must be allocated by the

Government to track down traffickers, rescue victims, provide victims with a safe and secure shelter and to repatriate them as quickly as possible.

II. Comprehensive Definition of Trafficking.

The most comprehensive definition of trafficking includes: "All acts and attempted acts involved in the recruitment, transportation, within or across borders, purchase, sale, transfer, receipt or harboring of a person

(a) involving the use of deception, coercion (including the use or threat of force or the abuse of authority) or debt bondage

(b) for the purpose of placing or holding such person, whether for pay or not, in involuntary servitude (domestic, sexual or reproductive), in forced or bonded labor, or in slavery-like conditions, in a community other than the one in which such person lived at the time of the original deception, coercion or debt bondage."¹

Trafficking can involve an individual or a chain of individuals starting with the recruiter and ending with the last person who buys or receives the victim (such as the owner of the sweatshop) or the person who holds a person in conditions of slavery or subjects such person to slavery-like practices, forced or bonded labor or other servitude. Persons are trafficked into a multitude of exploitative or abusive situations, such as in the garment, agricultural, fisheries, begging, sex and other industries, and in domestic labor as servants or through forced marriages where they are held as virtual prisoners, raped continually by their "husbands" and often forced to become pregnant for the purpose of providing their "husbands" with children.

Trafficking does not require the crossing of borders. A large portion of modern trafficking consists of moving persons from one region to another within one country. The violations and harms suffered by in-country victims are no less than for cross border victims.

The core elements of trafficking are the presence of deception, coercion or debt bondage and exploitation for abusive purpose for which the deception, coercion or debt bondage is employed. Typically the deception involves the working conditions or the nature of the work to be done. For example, the victim may have agreed to work in the sex industry but not to be held in slavery-like conditions, or to work in a factory but not a brothel.

The nature of the labor or services provided as such, including those in the sex industry, are irrelevant to the question of whether or not the victim's human rights are violated. The trafficker's use of deceit, coercion, or debt bondage to force the victim to work in slavery-

¹ Human Rights Standards for the Treatment of Trafficked Persons, 1999, Foundation Against Trafficking in Women International Human Rights Law Group, Global Alliance Against Traffic in Women.

like or exploitative or abusive conditions deprive the victim of her or his free will and ability to control her or his body, which constitutes serious violation of the fundamental rights of all human beings.²

III. Cambodian Domestic Law

At present, the Cambodia domestic law addressing trafficking is the Law on the Suppression of Kidnapping, Trafficking and Exploitation of Humans (the Trafficking Law.) This law was passed in 1996 by the Cambodian National Assembly and provides for imprisonment of 15 to 20 years for any person convicted of trafficking persons under 15 years of age.

The objective of this Act is to "suppress acts of kidnapping for trafficking/sale and the exploitation of human persons." However, "trafficking" is not defined in its own terms. Its definition can only be conferred from the definition of the offender, which is:

"A person who lures another person, either male or female, minor or adult, of whatever nationality, by way of enticing or by other means, by promising or offering money or jewelry, with or without consent, by forcing, threatening, or using hypnotic drugs, in order to kidnap him/her for trafficking/sale or for commercial or sexual exploitation."

The law thus complies with the international standard in that it identifies males and females, minors and adults of any nationality, as potential victims. Cambodia's law is further consistent with international standards as it encompasses "other means" of enticement which corresponds to the Protocol's phrase, "other forms of coercion." However, there seems to be some inconsistency between the Protocol and the Cambodian law in that the Cambodian law only covers exploitation for purposes of trafficking/sale or for prostitution and the offender is only liable under the Cambodian law if he/she is kidnapping for the purpose of trafficking/sale or for prostitution. Thus the Cambodian law is extremely narrow in its scope regarding other forms of trafficking other than sexual exploitation/abuse.³

The current law's lack of clarity and failure to identify other forms of trafficking results in significant barriers to law enforcement, as police often are reluctant to file charges when the underlying offense is ambiguous. Steps must be taken to include a more comprehensive definition of trafficking which will provide direction to investigators, the prosecution and the court.⁴

² Human Rights Standards for the Treatment of Trafficked Persons, 1999, Foundation Against Trafficking in Women, International Human Rights Law Group, Global Alliance Against Traffic in Women.

³ The Kingdom of Cambodia Law on Suppression of Kidnapping, Trafficking and Exploitation of Human Persons(1996)

⁴ Cambodia National Project Against Trafficking in Women and Children in the Mekong Sub-Region, 2003

The current trafficking law also fails to contain provisions that would protect victims from charges under the country's immigration laws. Enforcing the Trafficking Law has, in general, been a problem.

To illustrate the problems in the current law, one only has to look to an incident that occurred in 2002. In May of that year, Vietnamese trafficking victims were rescued by the Cambodian Ministry of Interior's special anti-trafficking police unit from three brothels in Phnom Penh's Svay Pak community, an area notorious for underage prostitution. The victims were taken to a shelter operated by a local NGO. Police briefly detained one brothel manager and an alleged foreign pedophile during the May raids, but both escaped.

On June 20, 2002, the same police unit that conducted the raids was ordered to arrest all 14 Vietnamese victims on charges of illegal immigration. On June 24, a judge released the three youngest girls who were between the ages of 12 and 13, as well as one other girl who demonstrated her Cambodian citizenship. At the time of the arrests, government officials said that the individuals being held were voluntary prostitutes and the arrests were a legal immigration issue.

In August 2002, six of the girls were sentenced to two months in prison and four others were sentenced to three months in prison. After serving their sentences, the 10 girls were held at the country's immigration detention center. Credible sources report that the 10 girls never were deported, but that they were released back into society in exchange for payments to the immigration authorities. However, there was no confirmation that the traffickers paid off immigration officials. Credible reports suggested that in some cases, the girls paid US\$20 themselves and, in other cases, family members paid the fee.

The implications of treating trafficking victims as violators of immigration laws are obvious in terms of human rights violations. The sex industry is estimated to employ 50,000 prostitutes, a sizable proportion of which are victims of trafficking. The International Organization of Migration (IOM) estimates that at least 3,000 women and girls from southern Vietnam are trafficked into Cambodia each year to work as prostitutes, more than 15 percent of which are younger than 15 years old. The ILO-IPEC reported in 1999 that more than 15 percent of female prostitutes in the country were between the ages of nine and 15 years, and that 78 percent of these girls were Vietnamese and 22 percent were Cambodians. A UNICEF study reported that one-third of the country's prostitutes are under the age of 18 years.

Women have been trafficked into Cambodia from countries such as Moldova and Romania for purposes of prostitution. Some Vietnamese girls and women were trafficked through the country for exploitation in the commercial sex trade in other Asian countries. One NGO estimated that 30,000 women and girls were trafficked to neighboring countries, especially Thailand. Women and children, especially those in rural areas, are likely to become victims of trafficking. One study estimated that 88,000 Cambodians worked in Thailand as bonded

laborers at any given time, many were exploited in the sex industry, or particularly young boys and girls were employed as beggars. There has also been a great deal of trafficking of Cambodian boys and girls into Vietnam for begging.

Surveys conducted by domestic NGOs in 1995 indicated that between 40 percent and 50 percent of young trafficked women were victimized by a relative or friend of the family, and were offered money or promises of a better life. Poverty and ignorance in villages was a major factor in contributing to the trafficking problem. Young children, the majority of them girls, often were pledged as collateral for loans by desperately poor parents to brokers or middlemen; the child then was held responsible for repaying the loan and accumulated interest. In other cases, parents were tricked into believing the child would be given legitimate work in the city. There was also a problem with the illegal purchase and sale of infants and children. Sometimes this was for the purpose of adoption, including by foreign couples, but some of these children ended up abused and exploited.

One of the major concerns about Cambodia's existing trafficking law is that it is not sufficiently comprehensive to cover all forms of trafficking, such as bonded laborers, beggars, forced brides, domestic workers, etc. This problem has been introduced in the draft law pending legislative approval.

IV. Draft Law: Pending

There is a draft law entitled the "Law on Suppression of Human Trafficking and Sexual Exploitation" that is pending before the National Assembly in Cambodia. This draft law will remedy many of the problems in the 1996 law.

Chapter One, General Provisions: The new draft provides as its objective the suppression of the acts of trafficking in human beings and sexual exploitation in order to preserve and enhance the good national tradition, to protect rights and dignity of human beings and to improve the health and welfare of the people (Article One).

Article Two defines the applicability of the law within the Kingdom of Cambodia. Article Three defines the applicability of the law outside of the territory of the Kingdom of Cambodia and states that this law shall apply to any felonies and misdemeanors committed outside the Kingdom of Cambodia by a Khmer citizen. Further, this law shall apply to any felonies and misdemeanors committed outside the territory of Cambodia by a foreigner when the victim is a Khmer citizen at the time of the commission of the offense.

Article Four states that an attempt of the felonies or misdemeanors defined in this law shall be punished, that an aide or abettor of such felonies/misdemeanors shall be punished, and that any person committing any offense as defined by this law in the scope of its business, or in the interest of a legal entity or principal, the legal entity or principal shall be punished

under this law.

Article Five provides a definition of a minor and states that a minor is any person under the age of eighteen years; and that a person who keeps a minor under his/her supervision or control is presumed to know the minor's age unless the person proves that he/she reasonably believes the minor's age to be 18 or more.

Chapter Two, Kidnapping and Human Trafficking

Article Six defines abduction to mean the removal of a person from his/her living environment to a place under the actor's or a third person's control by the means of force, threat, deception or enticement. Abduction may also be committed by taking advantage of the victim's loss of reason or incapacity of resistance or of impairing the victim's reason or capacity of resistance.

Article Seven addresses child kidnapping and states that the penalty for this offense will be from two to five years.

Article Eight addresses interference with custody and states that a person who unlawfully takes a minor or another under legal custody away from the custody of the parent, guardian, or other lawful custodian shall be punished by two to five years, that the punishment may be less if the person taken under custody is not less than fifteen and gives "genuine consent" to the act and the "actor does not have any purpose to commit any other offense."

Article Nine provides that any person who abducts another for the purpose of commercial exploitation, sexual conduct, pornography or marriage against will or adoption shall be punished by five to ten years imprisonment and the punishment may be increased to seven to fifteen years imprisonment if the victim is a minor.

Article Ten provides that when a person abducts another for the purpose of transferring the abducted person outside of Cambodia this offense shall be punished by seven to fifteen years imprisonment.

Article Eleven provides a definition of human trafficking which means to unlawfully deliver the possession of a person to another, or to receive the possession of a person from another, in exchange for anything of value including any services and human beings. An intermediary involved in the act of trafficking shall be punished in the same manner as the primary trafficker.

Article Twelve provides that a person who traffic another shall be punished by two to five years imprisonment and/or a fine of 4,000,000 to 10,000,000 Riels (1,000 USD to 25,000 USD).

Article Thirteen addresses person who traffic others for commercial exploitation outside of

Cambodia shall be punished by imprisonment of seven to fifteen years.

Article Fourteen and Fifteen addresses cross border transportation for purposes of trafficking and provides for penalties.

Article Sixteen provides for penalties for persons receiving trafficked people for commercial benefit, sexual purposes, pornography, forced marriage or adoption.

Article Seventeen addresses persons who harbor or receive or conceals abducted or trafficked persons for the purpose of assisting the principal and provides penalties.

Chapter Three: Prostitution

Article Eighteen defines prostitution as having sexual intercourse with an unspecified person in exchange for anything of value and Article Nineteen provides criminal penalty for soliciting which is defined as a person who solicits another in public for the purpose of prostituting him/herself shall be punished with detention for one to five days and/or fine of 1,000 to 10,000 riel.

Article Twenty provides for penalties for persons who procure prostitutes for others and Article Twenty-One provides for penalties for persons who for the purpose of making a profit induces another to practice prostitution.

Article Twenty-Two defines "Coercive prostitution" as a person who forces another to practice prostitution through use of force, threat, or any other coercive means and shall be punished with five to ten years imprisonment.

Article Twenty-Three defines Persons who receive profits from prostitutes and provides penalties.

Article Twenty-Four addresses persons who provide another with money loans or anything of value on the condition that the latter to a third person practice prostitution shall be punished by imprisonment for two to five years and/or fine.

Article Twenty-Five addresses a person who contracts with another for purposes of prostitution and provides penalties; Article Twenty-Six addresses persons who provide provisions/places/accommodations for the purposes of prostitution and provides penalty; Article Twenty-Seven provides that persons who manages or organizes prostitution by restraining another in a designated place shall be punished with imprisonment for five to ten years.

Article Twenty-Eight states that a person who provides funds, land, or houses with the knowledge that such property will be used to commit any offenses as provided in Article 25 or 26 shall be punished by imprisonment of two to five years and fines.

Chapter Four, Articles 29 through 38 address child prostitution, provides definitions, penalties for procurement and inducement, penalties for receipt of profits from child prostitutes, penalties for loaning money in connection with child prostitution, penalties regarding contracts for child prostitution, penalties for providing houses/accommodations for the act of child prostitution; etc.

Chapter Five, Obscenity, Articles 39-42, provides definitions of obscene material and child pornography and provides penalties for same.

Chapter Six, Indecency against Minor under Fifteen, Articles 43-45, provides for penalties for sexual intercourse with minors under fifteen and indecent acts against minors under fifteen.

Chapter Seven, Civil Remedy, Articles 46-48 provide that a contract shall be null and void if it is made with the intention of committing human trafficking or sexual exploitation, and provides that a person who in bad faith obtains enrichment without a legal cause from human trafficking or sexual exploitation shall be liable for restitution of the whole unjust enrichment along with accrued interests, and that an aggrieved person may claim for damages in addition to restitution of unjust enrichment.

Chapter Eight, Supplement Provisions, Articles 49-52, provides for additional penalties, concealment of identity of minor victims in newspapers and the repeal of inconsistent provisions.

V. General Information about Trafficking in Cambodia

As you may know, on June 11, 2003, the United States Department of State announced the results of its annual report on human trafficking. This year (2004) Cambodia has been designated a 2nd tier country and the implications of this upgrade from 3rd to 2nd tier are significant. This new classification means that that US State Department finds that although Cambodia does not fully comply with the minimum standards for the elimination of trafficking, it is making significant efforts to do so. The graduation to 2nd tier also means that Cambodia will not be subject to sanctions imposed by the United States. This year Tier 3 countries are subject to certain sanctions, primarily the termination of non-humanitarian, non-trade related assistance.

This annual trafficking report ranks countries in three categories depending on their trafficking record and on the measures undertaken by its government to combat trafficking. Tier 3 are those that do not comply with the minimum international standards and fail to make adequate efforts to combat the issue.⁵ Tier 2 countries are also not in compliance but

⁵ 3rd tier countries in 2003 include Belize, Bosnia and Herzegovina, Burma, Cuba, the Dominican

are making significant efforts. Tier 1 countries are those that are considered in compliance

What is the precise assessment made by the United States regarding Cambodia's involvement in sex trafficking? The report states that Cambodia is a source and destination country for person trafficked for sexual exploitation and forced labor.

Cambodian men, women and children who cross into Thailand, often as illegal migrants, are forced into labor or prostitution by traffickers. Cambodian children are trafficked into Vietnam and forced to work as street beggars. Vietnamese women and girls are trafficked into Cambodia for prostitution. Cambodian women and children are trafficked internally for sexual exploitation.

As mentioned above, the report finds that although the Government of Cambodia does not fully comply with the minimum standards for the elimination of trafficking, it is making significant efforts in this regard. The report finds that faced with limited resources, government officials have recognized that trafficking is a major problem confronting the country and have put in place new measures, particularly in prosecution and law enforcement, to address the challenge. Much remains to be done to build upon this modest start. Government action should concentrate on removing corrupt officials linked to trafficking, ensuring that procedures to protect victims function uniformly, and expanding bilateral cooperation, particularly with Vietnam. Future government action should also include enacting an anti-trafficking law, as well as increasing the number of prosecutions and convictions of traffickers.

How is Cambodia presently addressing prevention? The government works with a wide-reaching array of NGOs and international organizations on prevention. Both the Ministry of Women's and Veteran's Affairs (MOWVA) and the Ministry of Social Affairs, Labor, Vocational Training and Youth Rehabilitation (MOSALVY) have worked with NGOs such as CWCC and international organizations to build community-based networks in high-risk provinces to inform potential victims of the risks of trafficking. The MOWVA carried out information campaigns, including grassroots meetings in key provinces. The Ministry of Tourism works with NGOs to produce workshops and pamphlets to combat trafficking dangers associated with sex tourism.

What are the specific steps involved in the interactions between governmental ministries and NGOs? In the case of CWCC, the following scenario occurs. Either CWCC or another referral agency, including law enforcement, receives information about a sex trafficking operation in a particular brothel. In cooperation with law enforcement, CWCC monitoring staff assist in the rescue of women and girls who are being held against their will in brothels. The women and girls are brought to the CWCC office where they receive immediate

Republic, Georgia, Haiti, Korea, Sudan" Suriname, Turkey, Greece and Uzbekistan.

medical attention, if necessary, and counseling. Case files are opened on each victim, families are contacted with the permission of the victims, and plans are made for future reintegration/return to homes and communities of the victims.

In the situation where a victim is Vietnamese, a CWCC staff who is fluent in Vietnamese is called in to conduct interview and to initiate counseling. Then this staff person serves as the liaison person between the Vietnamese victim and IOM and the Embassy of Vietnam, all in an effort to coordinate and expedite the repatriation process.

What is the status of prosecutions in Cambodia? Unfortunately, Cambodia has no comprehensive anti-trafficking law, which addresses all forms of trafficking. Law enforcement against traffickers is possible under existing statutes. The Ministry of Interior also runs a hotline to gain tips on cases of child sexual exploitation. The hotline has helped officials to identify and rescue victims at risk. According to available data, there were at least seventy-five convictions of sexual exploiters under the Law on the Suppression of the Kidnapping, Trafficking and Exploitation of Human Beings. The number of convictions under the law specifically related to trafficking in persons is not available, but NGOs reported at least nine criminal convictions with six defendants receiving sentences ranging from ten to twenty years imprisonment. Victims are also awarded financial compensation. Prosecution of traffickers was hampered however because the judicial system is backlogged and burdened by corrupt practices, a subject of continuing concern. While authorities have arrested public officials on charges of corruption related to trafficking, no complete information was available on these efforts. The government needs to take aggressive steps to address the involvement of public officials and their families in trafficking.

What efforts are being made to protect the victims of trafficking? Although the government has procedures to assist victims they are limited and not uniformly implemented. MOSALVY runs two emergency shelters for victims and attempts to place victims with NGOs for long term sheltering and services. However victims are at risk of being taken out of these shelters and re-trafficked. Further, an unfortunate practice of police expecting to be paid for the delivery of a victim to a particular NGO is starting to emerge. This makes the police culpable of trafficking for this expected commission or kick back on the delivery of victims to NGOs and this practice must be stopped.⁶

Furthermore, MOSALVY's efforts are hampered by a lack of resources. Officials have pushed a much-needed memorandum of understanding (MOU) with Thailand, which when implemented will regularize Cambodian repatriations. Government officials recognize the need for regularized repatriation of Vietnamese and the MOWVA has begun discussions with Hanoi regarding the development of a MOU.

⁶ Anecdotal information from CWCC staff in Poipet and Phnom Penh

VI. Recommendations

Many approaches could be taken to improve the protection of the rights of trafficked victims such as:

- to develop, review, strengthen and monitor the implementation of laws, policies and programs, keeping in mind the needs of the victims;
- to ensure that the trafficked have the right to either directly or through social workers working for them to initiate the relevant administrative and legal proceedings against the culprits and thereby obtain punishment of guilty and compensation;
- to assist their access to women-friendly/children friendly personnel and support services;
- to guarantee safety of the complainant before, during and after the legal proceedings.

Repatriation and reintegration of trafficked victims can be improved by:

- taking effective action to ensure safe return to the minor children and women trafficked to their homes/communities;
- suggesting measures/programs to facilitate voluntary repatriation of women/children trafficked into their chosen communities;
- providing for legal stay in the country to which trafficked, with framing of suitable laws providing for such legal stay for the victims of trafficking;
- coordinating and providing support to the NGOs that have developed programs in the repatriation and/or reintegration of the trafficked;
- suggesting the provision of education and/or training and/or employment/assistance to trafficked women/children so as to prevent re-trafficking.

Preventive measures to combat trafficking should include:

- strengthening economic empowerment of women and children in vulnerable and disadvantaged areas;
- reviewing relevant laws and strengthening policies and programs as well as to strengthen the legal framework for the traffickers;
- monitoring national, social, economic and political programs to safeguard the vulnerable;
- developing modules to sensitize the personnel at special homes/shelters for women and children, the functionaries of the criminal justice system, health personnel and NGOs;
- initiating public awareness campaigns regarding the magnitude of the human rights violation of those trafficked;
- mobilizing the corporate sector, including the tourism industry, against the use of its networks/establishments for those trafficked;
- sponsoring studies to create a reliable and relevant data base on women and children at risk.⁷

⁷ National Human Rights Commission of India, 2003

The lessons and pains of my Japan experience

Gina ANDRADE
Survivor, DAWN, Philippines

I am Gina Andrade, 34 years old, a single parent to three girls; two of them are Japanese-Filipino children.

Looking back, I was a young woman then who was hoping for a better life for me and my family. I married at a young age of 18 only to experience verbal and physical abuse from my irresponsible husband. Brought by the need to raise our child, I was lured to work as entertainer in Japan.

I had dance training with my seven other group mates in preparation for our work in Japan. I was only 20 years old when I finally had my yellow card or what they call now as the Artist Record Book or ARB. I passed the audition by a Japanese promoter. My other group mates were also chosen but by other Japanese promoters. It was then that I began to wonder why we had to practice as a group when we won't be performing together in just one venue in Japan. I was made to believe that it was part of the system. Whoever gets chosen may leave though the rest of the group will be left behind or will be hired by somebody else.

A liaison officer arranged all my travel documents. I had no idea if my agency tried to falsify any of my documents just so I can leave for Japan. What I had in mind was to be able to go no matter what.

A first timer's experience

I left for Japan with mixed emotions. As a first timer, I was happy but nervous at the same time, more so because I won't be leaving with my group mates. When I got there, my passports and other travel documents were immediately confiscated. I did not know it was prohibited.

I was overwhelmed by the classy atmosphere of the club in Kyoto City in Fuckuchiya where I worked. Never did I expect it to be a place where I would see women entertainers getting intimate with their Japanese customers --- kissing, being fondled, and embraced. Every night, the scenario was the same.

We were asked to wear sexy outfits. I never had the chance to dance and show the performances I rehearsed in the Philippines. Also part of the club policy was to sit beside our customers, serve and drink with them. More bottles consumed each night meant more

income for the club. We were even transferred from one customer to another. It was through this that I've learned to drink alcohol.

When we got drunk, our customers would make fun of us and would ask us to do things against our will. One time, I drunk too much and was asked to dance at the center stage half-naked.

A fellow entertainer advised me to take "bron," a cough syrup which, she said, can delay your toxicity to alcoholic drinks. Later on, I found myself getting addicted to the drug. There were times that I felt I cannot work well without it. It did not take too long before I realized what I was doing with myself and decided to fight my addiction to it.

Going out with customers or what they call "dohan" turned out to be risky for entertainers like me. I was still a first timer then when our club manager asked one of his staff to bring me to a certain place where I would meet my Japanese customer. I was not even aware that I was going out with him for "dohan". He told me that he already paid our club manager for our date. After persistently convincing him to let me go, he finally agreed and even brought me home without doing me any harm.

There was also an instance during "dohan" when I was brought to a motel by my Japanese customer and had to run away from him before he made more sexual advances.

I also experienced being transferred from one club to another or what is known as "flying booking." Club owners there had a sort of networking which made them get different women every night for their respective establishments.

I almost did not have time to rest aside from being forced to do such demeaning jobs.

My first experience as an entertainer in Japan was physically and emotionally draining. I decided not to finish my six-month contract and went home after three months. My promoter only gave a few amount of money, in pesos, as a consolation. It was not the exact amount I was supposed to get for working for three months. That was not even enough to compensate for the hard work and humiliation I went through. Entertainers like me only got our salaries at the end of our contracts, at the airport, prior to our flight back to Manila.

Going back to Japan

Despite my traumatic experience, I was not discouraged to return to Japan. I went there six more times. For a woman like me who had to make both ends meet for my family, I felt that I had no other choice but to go back to that kind of job.

I transferred to another promotions agency to make sure that I won't have the same experience during my first contract. But the situation was equally demeaning. I experienced being harassed by my Japanese employer on our boat trip going to his club located in a far away province. In the club, apart from entertaining my customers, I had to work seven days

a week and did janitorial tasks. I was physically confined in that place. They got all my documents and the room provided for me was just at the upper floor of the club. I stayed there together with my fellow entertainers. Our movements and whereabouts were strictly monitored.

Falling in love with Japanese customers

My work in Japan as entertainer led to my unexpected love affair with one of my customers. But just like the common stories of Filipino women falling in love with Japanese men, our relationship suddenly turned sour and I lost touch with him since then. I was left with another child to take care of.

I had another child from one of my Japanese customers. I was so drunk then, I was too weak to resist his sexual advances. That incident led to my third pregnancy. Making the matters worse was the man's refusal to acknowledge his daughter. He even suggested abortion.

Recovering from the experience

It took time for me to get over all these experiences. Now, I am working in Sikhay, DAWN's alternative livelihood program for women returnees like me. I particularly take charge of quality control and finishing of the various items of Sikhay's sewing project.

Through my active involvement in the different activities of DAWN, I have slowly redirected my life for my sake and more importantly, for the sake of my children. Though there are still difficulties and odds that arise, I have learned to apply the lessons of my past to my daily struggles. I draw strength from my Japan experience. I believe I am ready for almost anything.

Most important lessons in life

When I was still a young woman hoping to become an entertainer to support my family, I never thought that I would go through a 3d job: dirty, demeaning and dangerous. Never did I expect to have two more children from two Japanese men who would only abandon and neglect us in the end. But they happened and I went through them all.

To solve the problem is not easy but we have to start somewhere. I just hope that both the Philippine and Japanese governments take genuine efforts and effectively work together to ensure that the rights of entertainers are protected during the migration process. Close monitoring on-site, particularly, in the clubs and night spots in Japan, should be the responsibility of both governments as the sending and receiving countries. The networking of Japanese promoters and club owners are so powerful that they would know ahead when Immigration authorities will check their establishments. And the helpless victims, the entertainers themselves, would not dare complain so as not to be punished or lose their jobs. But at least there are still women like me who can bravely share their stories that other people can learn from.

May the information I have given you today based on my personal experiences will contribute to a good start. I hope there will truly be more effective remedies to emerge from this gathering for the protection of the rights of our Filipino women entertainers, and other potential trafficked victims in Japan.

Thank you very much.

LEARNING THE HARD WAY -Testimony of a former entertainer in Japan

Mary Joy E. BARCELONA
Survivor, DAWN, Philippines

A pleasant good afternoon to all of you. I am Mary Joy E. Barcelona, 30 years old, presently the coordinator of Sikhay, DAWN's alternative livelihood program for returning Filipino women entertainers from Japan.

As one of the active advocates of our organization, I've been to numerous conferences and for to share my experiences as a former entertainer. But this day is specially significant for me as I am tasked to represent and speak on behalf of my fellow Filipino women who, in one way or another, have become victims of trafficking, particularly, in Japan.

The push for migration

Just like many other Filipino women, poverty drove me to try my luck as entertainer in Japan. My parents can no longer send me to school. I had nothing except my courage and determination to do whatever it takes to be able to finish my studies. Then came an invitation from my cousin, a timer from Japan, to also try my luck and to work there as an entertainer.

I was still young and vulnerable then. So without much prodding, I did what was told by my agency. I underwent intensive skills training in the hope that I will be prepared and ready to do my dance performance on stage when I get to Japan. That time, I was only 21 years old and had to use my elder sister's documents so I would pass the 23 years old minimum age requirement. What I only had in mind was to accomplish everything I needed to make it to Japan. I was completely unaware of the risks I was about to take. I was not even aware of my rights. Unarmed yet brave, I left for Japan in June 1995.

The entertainment industry in Japan: the club practices

The experience I had in Japan was traumatic enough to discourage me from going back. I was put in a demeaning situation similar to what my fellow women entertainers had to go through.

Upon arrival at the Narita Airport, the representative of the promotion agency in Japan and of the club came to meet me and took me to a club, not a hotel as stipulated in the contract that I had signed in Manila. This is what they call the flying booking practice.

My passport was confiscated by my Japanese promoter. We were warned against roaming around or we would face arrest by immigration authorities. I was asked to wear skimpy clothes and was harassed by my customers whom I had to sit with and entertain. I have

experienced being touched on private parts. One time I was even penalized for not being able to get a customer. I was asked to stand outside the club despite the winter weather. I never danced or performed on stage as what I have prepared for in Manila.

I also had to engage in “dohan” or the afternoon dates with Japanese customers. “Dohan” ensures that customers become regulars in a club, because the women are expected to invite them back. This of course increases the income of the club. Every entertainer has a quota— from a minimum of one date a week to as many as one per day. Since most of the dohan dates are initiated by the women, it also gives the customers the notion that it is alright to have sex with the entertainers. It is a system that puts the women in a risky situation and eventually, into forced prostitution. The customers would always, at first, shower the women with material gifts and sometimes money in the form of tips.

I once had a customer who brought me home. He was showing some video footages of other Filipino women, some of them colleagues of mine, he had gone out with. When I was feeling relaxed and at ease, he started showing pornographic videos which startled me. It was then that I asked him to take me back to the club or I would make a scene. Luckily, he didn't pursue his intentions.

Since the club opens at 6:00 p.m. and we had to travel from the talents' apartment to the club, we would have an early dinner at 3:00 p.m. We had to be at the club early as we were made to do some cleaning or janitorial chores. This was not part of our contract but we had no choice nor the right to complain, according to the management. At the club, we could not bring in food or eat unless we have a customer. In my experience, it has been a practice among us entertainers to eat secretly inside the toilets or comfort rooms, out of sight of management, just to be able to survive and continue with our work until the wee hours of the morning.

Under Philippine laws and through the obligatory Artist Record Book, we as entertainers or overseas performing artists should not be subjected to demeaning jobs and should do only the work stipulated in the contract. But as I found out, we don't have the right to complain against customers' abuses and physical advances. We as entertainers are at the mercy of customers.

Recommendations of a former entertainer

The reality in Japan's entertainment industry is alarming and becomes even more risky for our young women unless we act on the prevailing issues and problems. Women entertainers need to be empowered. However, merely empowering them with skills is not enough and even useless with the demand for hostesses and not real artists that is prevailing in Japan's entertainment market today. I believe it is more important to empower us women with the right and sufficient information on what kind of work awaits us in Japan as entertainers.

Transparency and openness leads to empowerment of knowledge that women should know before being lured to the glamour of being called an “overseas performing artist.” I myself have realized that if only I was given the right and sufficient information, I would not have gone to Japan and faced the risks it entails. I may not have been lured to my agency’s sweet talk. If I was only well informed about my rights as a woman and as a migrant in Japan, I would have handled the situation better. I would not have let my fears overcome my strength though I was in a foreign land. I would have formally filed my complaint. I would have the voice to speak out and object when I feel violated.

Through my active participation in DAWN, I have regained my self-confidence after my Japan experience. As an active member of DAWN’s advocacy work, I wish to see more women returnees who will be empowered as I am, not only with new skills but also with information.

My testimony here is part of my personal advocacy as well as that of the organization’s effort in promoting the rights and welfare of Filipino women and their Japanese-Filipino children who are abandoned by their Japanese fathers. We urge the Philippine government to seriously look into the social costs of migration and create more gainful job opportunities in the Philippines so that Filipinos, especially the women, don’t have to work overseas and leave their children and family behind. In many cases, this results in family disintegration. We also call on all the receiving countries, Japan in particular, to pass an anti-trafficking law and to ratify and respect the implementation of legislations aimed at uplifting and protecting the rights and welfare of overseas workers and their families.

Though I have missed the chance to fight for my rights when I was still an entertainer in Japan, the opportunity to speak in important functions such as this is a significant moment for me to help and fight for the rights of my fellow women.

Thank you very much.

The case of Filipino entertainers in Japan and the intervention of the Development Action for Women Network (DAWN)

Carmelita G. NUQUI
Executive Director, Development Action for Women Network (DAWN)
President, Philippine Migrants' Rights Watch (PMRW)
Philippines

Good afternoon! I am Carmelita Nuqui, executive director of the Development Action for Women Network, an NGO based in Manila, Philippines. We also have our DAWN-Japan with very dedicated volunteers who help implement our programs and services for our women and children members. We particularly assist women migrants from Japan, those who worked as entertainers and those who were later on abandoned by their Japanese partners/husbands together with their Japanese-Filipino children. DAWN is also a member of the Coalition Against Trafficking in Women-Asia Pacific (CATW-AP) and of the Philippine Migrants' Rights Watch (PMRW).

As an advocate of migrants' rights, we in DAWN are very much concern with the rampant trafficking on many of our Filipino women and children in different countries around the world. That is why we were one of those who lobbied for the passage of the Anti-Trafficking in Persons Act which was finally signed into law by President Gloria Macapagal-Arroyo on May 26, 2003.

The law defines "trafficking in persons" as the recruitment, transportation, transfer or harboring or receipt of persons with or without the victim's consent or knowledge, within or across national borders by means of threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation which includes at minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery servitude or the removal or sale of organs. [Sec.3 (a), Republic Act 9208]

Migrant workers as potential victims

To date, there are 7.58 million Filipinos who are living and working in almost 200 countries. About 1.62 million of them are irregular migrants and are suspected to be victims of trafficking or smuggling.¹

¹ Commission on Filipinos Overseas and TUCP / Solidarity Center / USAID Anti-Trafficking Project. (2003). **Primer on the Anti-Trafficking in Persons Act**. Manila.

From the year 2002 to March 2004, the Philippines' Department of Foreign Affairs – Office of the Undersecretary for Migrant Workers' Affairs (DFA-OUMWA) recorded 195 cases of Filipino women trafficked in South Korea, Abidjan (Ivory Coast), Malaysia, Dubai (United Arab Emirates), Bahrain, and Lagos (Nigeria). The data were derived from the reports of at most five foreign service posts out of the Department's 82 posts all over the world. Thus, it may be assumed that there are a number of cases of human trafficking and smuggling that remain undocumented.

Table 1. Trafficking cases (2002)

Country	No. of victims	No. of women	No. of minors
1. South Korea	29	29	None
2. Abidjan, Ivory Coast	26	26	Not available
3. Malaysia	12	12	3
4. Dubai, UAE	3	3	*
5. Bahrain	9	8	None
TOTAL	79	79	

*Only one is confirmed to be of age. The age of the other two are not available.

Table 2. Trafficking cases (2003)

Country	No. of victims	No. of women	No. of minors
1. Malaysia	73	72	4
2. Bahrain	2	2	None
3. Lagos, Nigeria	2	2	Not available
4. Abu Dhabi, UAE	4	4	None
TOTAL	81	80	

Source: DFA-OUMWA

Table 3. Trafficking cases (As of March 2004)

Country	No. of victims	No. of women	No. of minors
1. Malaysia	36	36	Not available
TOTAL	36	36	

Source: DFA-OUMWA

It was difficult for the DFA to determine the ages of these victims as most of them falsified their documents to be able to leave. Seven of them are confirmed minors and they were all trafficked to Malaysia, supposedly, to work as entertainers.²

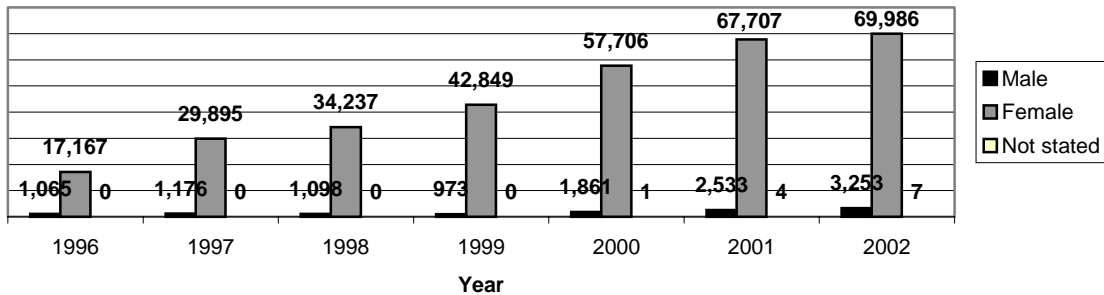
² Department of Foreign Affairs - Office of the Undersecretary for Migrant Workers' Affairs (DFA-OUMWA).

Entertainers

In the Philippines, entertainers are called “overseas performing artists” or OPAs and are officially classified by the Philippine government as choreographers and dancers, circus performers, composers, musicians, singers or performing artists.

Japan has been one of the top five destination countries of overseas Filipino workers (OFWs). From 1996 to 2002, there has been an increasing trend in the deployment of OFWs to Japan reaching 77,870 in 2002. A large percentage of these workers are women entertainers. In 2002 alone, POEA recorded that out of the 73,246 entertainers deployed to Japan, 69,986 of them were women. While in the first half of this year, there are already 30,759 entertainers deployed to Japan and 29,489 of them are women.

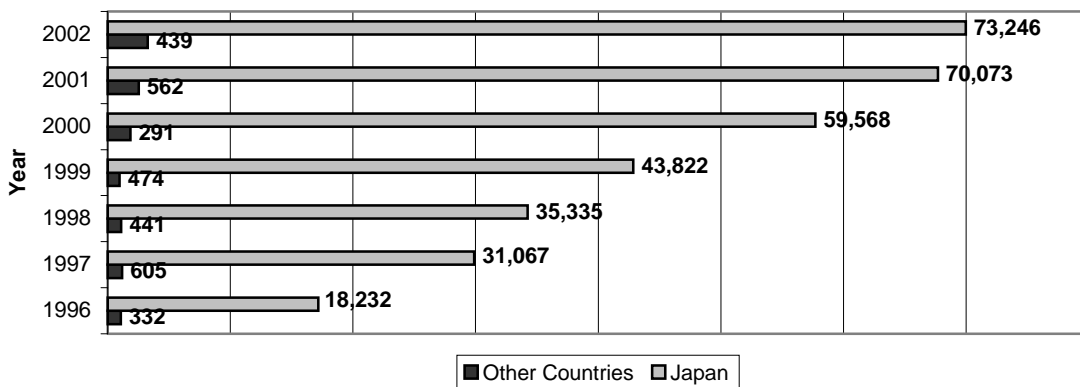
Chart 1. No. of entertainers in Japan (by gender)



*Source: Philippine Overseas Employment Administration

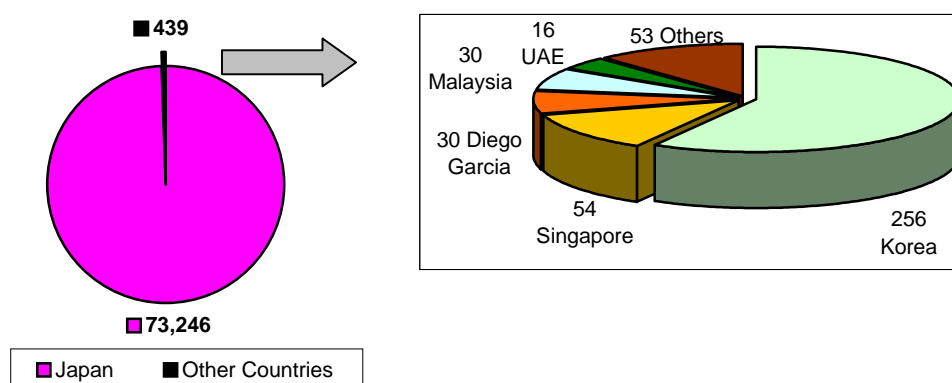
Although entertainers have been sent to other countries, the numbers are not as large as those sent to Japan. Out of 73,685 Filipino entertainers deployed in 2002, only 439 went to work in other countries; the rest went to work in Japan.

Chart 2. No. of entertainers by destination



*Source: Philippine Overseas Employment Administration

Chart 3. Filipino entertainers by destination (2002)



*Source: Philippine Overseas Employment Administration

In her report to the United Nations, Special Rapporteur Gabriela Rodriguez-Pizarro noted that “the high demand for ‘entertainers’ favours illegal practices” based on her meetings and interviews during her official visit to the Philippines in May 20 – June 1, 2002.

The migration of Filipino women entertainers to Japan brings out the age-old problem of a poor economy, which is also the reason why other Filipino workers decide to go abroad. While entertainers go through skills training that sets them apart from other land-based workers, the most common and major reason for their migration is not to “break” into the international entertainment industry as singers or dancers, but to be able to support their economic needs and those of their families.

Notably, both the studies conducted by DAWN and CATW-AP had common findings on the situation of our Filipino women entertainers, particularly, in terms of the numerous violations committed against women and even minors who were supposed to work in Japan. They never thought of working as entertainers as a 3D job: dirty, demeaning and dangerous. They had to wear “sexy” and provocative short dresses and make-up to attract men. Apart from “entertaining” they also had to clean the establishments before they could go back to their sleeping quarters. They were compelled to do whatever the managers / owners told them.

Generally, women’s mobility is highly controlled in their work places. They are tightly guarded. Their travel documents are confiscated as soon as they arrived at the airport in Japan and kept by their employers to keep them from escaping since the women will not take the risk of being caught by immigration authorities without proper documents.

In the same study conducted by DAWN and which was incidentally, published into a book, it was also learned that despite their intensive training prior to their deployment, women entertainers do not actually perform on stage. Their performance is based not on their

singing or dancing prowess, but on how many customers they manage to lure into the club every night. This was reaffirmed by both Mary Joy and Gina who have actually experienced such kind of work in Japan.

More so, most of the customers mistake women's consent to *dohan* or afternoon dates as a tacit agreement to have sex. Thus, many of them become more exposed to possible sex trade, prostitution, and even rape. It is because aside from shopping and dining in with their customers, some women are also brought to private places where customers expect sexual services. Those who fail to meet the quota for dohan are fined or punished while some are even deported back to the Philippines.³ And for us in DAWN, this is a clear case of trafficking.

Thus, we are very much against the use of "Overseas Performing Artists" or "OPAs" because it deceives more women into the notion that they will really perform in Japan as professional artists which is not what it is in reality.

It is worth noting as well that in a recent report by the US State Department, both the Philippines and Japan were classified under the Tier 2 watch list because of the governments' failure to effectively address the trafficking problem in their countries.

At round table discussions with industry leaders and NGOs organized by the Philippine Overseas Employment Administration (POEA) in May and July 2002, it was pointed out that the tradition of the geisha culture in Japan has evolved into a more commercial form, where young, sexy women performers have become the most desirable feature of entertainment venues, giving rise to a great demand for guest relations officers, hostesses, escorts and prostituted women. This commercialization of Japanese culture is said to be another contributing factor to the vulnerability of women entertainers to various forms of trafficking in Japan.

Apprehending the traffickers

Respondents of the CATW-AP study noted that they only saw the "employees" or the bar / club / brothel managers, the mama-sans or papa-sans, supervisors, and / or guards, but rarely the real bosses in their places of work. One DFA official stressed that the victims would often remember their frontline recruiters only by their first names which makes it more difficult for them to apprehend or file charges against the perpetrators and pimps. In the case of irregular workers who are trafficked to a certain country, they are the ones being apprehended by the authorities for violating their immigration laws.

³ Development Action for Women Network. (2003). **Pains and Gains: A Study of Overseas Performing Artists in Japan – From Pre-departure to Reintegration**. Manila.

Women also fear of physical harm by their managers or pimps in their struggle abroad. They wait for their contracts to finish and learn to accept the routine of their daily life --- sleeping, eating, putting on make-up, going to a sex establishment or brothel where they have to provide sexual services to a number of customers. They are at the mercy of their managers and pimps.

Apart from this, these women are forced to stay in their jobs and endure their demeaning situation because their salaries are only given at the end of their six-month contract, at the airport prior to their departure for Manila. What they send to their families to the Philippines every month are the commissions they get from dohan which may also explain why many of them are forced to engage in this club practice. Being intimate with customers is also another way for them to earn more from the tips given by these Japanese men.

Respondents of the CATW-AP study also suspect that the recruiters / establishment owners know each other and are connected in a kind of network that is why it was even more difficult for them to escape as there was a system of information sharing within particular areas of operations such as in Tokyo.

The women we have interviewed for our study also have the same observation. Their club owners and managers seemed to have a strong connection or networks that's why they will know ahead when Immigration authorities would be coming to their establishments. They will prepare for the inspection and will ask the women to do decent shows or presentations on stage instead of obliging them to sit down and get intimate with customers. Thus, the owners and managers cannot be arrested or caught by the authorities for illegal practice.

Poverty and unemployment remain to be the main reasons why women still go back to Japan to work as entertainers despite the numerous human rights violations they experienced. They do not usually file their complaints either because of fear of losing their jobs or they are not simply aware of their rights. This may explain why Japan does not even emerge as one of the common destination countries of trafficked victims in the DFA record of reported cases which I earlier presented. A government official also noted that victims also fear of reprisal from their trafficker and the social stigma associated with being a victim of trafficking, particularly for those who were lured or forced into prostitution that's why many of them do not usually complain.

DAWN's study also found out that these women are not even aware of the provisions of the contracts they signed and relied more on what their agencies told them to do.

Another reason seen why these problems prevail among our entertainers is because of their classification as guest workers in Japan. In his letter to DAWN, dated January 30, 2004, Foreign Affairs Undersecretary for Migrant Workers' Affairs Jose Brillantes cited an

excerpt from a December 2002 report by the Philippine Embassy in Tokyo explaining entertainers' status in Japan and I quote, ...they are considered "guest" workers with visas for a limited contract period of three months with allowable extension of three months. Japan has no specific laws for the "Guest Worker" and this is an inherent limitation in affording protection and welfare assistance to these workers who many times experience violation of their contracts by employer, e.g., delayed or non-payment of salaries, flying booking, extended working hours, rest-days reduction, performance of non-contract jobs like waitressing/hostessing or even prostitution."

Regular and irregular migrants

Both the studies made by DAWN and CATW showed that legal migration does not automatically render the women safe. In the case of entertainers in Japan, for example, they went through the legal process: skills training and testing, got their Artist Record Book and entertainer's visa and most of them were of legal age, yet, they did not sing or dance to entertain their customers but by sitting beside them or on their laps, serving them drinks, going out on dohan, wearing sexy outfits, subjecting themselves to sexual harassment and worse, even rape.

The Philippines' *Anti-Trafficking in Persons Act* intends to protect victims who may or may not have knowledge about the trafficking act committed. As noted in various studies, victims are "forced" to do or engage in certain situations out of desperation and hopelessness, foremost of which is for economic survival. Thus, we in DAWN believe in providing equal treatment for trafficked persons, both regular and irregular migrants. Victims should not be penalized for consenting to the intended exploitation.

Recommendations

Apart from what were already cited, DAWN also puts emphasis on the following important points as recommendations:

- a. Addressing the trafficking problem is also a matter of policy issue. With different perspectives and views on trafficking, governments of the sending, transit and receiving countries should cooperate and make the necessary policy reforms to further protect the trafficked persons and potential victims and to apprehend the groups or syndicates behind such criminal act.
- b. Lack of job opportunities and low-income jobs have been the common reasons for many Filipino women to leave the country no matter what the risk. This has been proven in so many studies already conducted by different groups including DAWN. Thus, we also advocate for more gainful local jobs and livelihood activities that will provide our people, especially the women with decent source of income and humane work conditions.
- c. Women need more than just skills training before they leave for Japan. They have to be well-informed about the risks entailed by the job awaiting them in the clubs and

- night spots in Japan as the so-called “entertainers.” They have to know their rights as women and as migrants, and know when, where and how to fight for these rights.
- d. Filipino women entertainers suffer the stigma attached to being a “Japayuki.” Both in the Philippines and Japan, people look down on them as women with poor moral standards, low level of intellectual capacity, and are only after the money. Instead of being ridiculed and discriminated, these women should be understood, supported and accepted by the society so they may learn to redirect their lives and regain their self-worth, esteem and confidence.

In line with these recommendations, DAWN has already been implementing programs and services to provide assistance and support to Filipino women who have survived the trafficking experience in Japan and are now willing to redirect their lives for themselves and their Japanese-Filipino children. We have three major programs: the *Social Services*, *Alternative Livelihood*, and the *Research and Advocacy* to address their various needs and those of our other Filipino women who are still working in Japan as entertainers.

Let me cite the cases of Mary Joy and Gina. They first came to DAWN distressed and burdened with difficulties upon their return to the Philippines. DAWN provided them with workshops and counseling sessions under our *Social Services* to help them recover from the experience and to learn how to move on.

They were also provided with skills training and eventually joined DAWN's *Alternative Livelihood* program, *Sikhay*. At present, we have three project components under this program: sewing, hand-weaving, and tie-dye. Apart from providing them with their source of income, the project also serves as therapy for them. The women are given something worthwhile to do that will help them forget their traumatic past. They are also trained to be independent and dependable in handling responsibilities. Gina, for example, is tasked to handle the quality control and finishing of *Sikhay*'s sewing project while Mary Joy is the coordinator of *Sikhay*. An added support to these women is the fulfillment they gain whenever the products they make are lauded and patronized by DAWN networks and guests. They become even more proud of and happy for their new skills.

Under our *Research and Advocacy* program, we advocate the rights of women migrants and their children through our participation in various activities such as this. In the process, we also mold our women to become advocates themselves by giving them the chance to share their personal experiences through traditional and non-traditional media and through our theater group, *Teatro Akebono*. Through their own musical play titled, *“Iba't-Ibang Mukha ni Misty”* (The Different Faces of Misty), women survivors are able to share their feelings and experiences as former entertainers in Japan and as single parents to their Japanese-Filipino children. They themselves conceptualized and wrote the script and lyrics of the musical play to best fit the message they wish to convey as survivors. Notably, Gina

is one of the members of the cast of this musical play while Mary Joy is the director of the group.

Mary Joy was also encouraged to continue her studies which has been her long time dream. She is now in 3rd year at the Polytechnic University of the Philippines (PUP), taking up Bachelor of Science in Entrepreneurial Management

In the coming years, DAWN will continuously support women returnees like Gina and Mary Joy who intend to redirect their lives after the Japan experience as we also pursue for reforms through effective advocacy campaign for the protection of the rights of our Filipino women who suffer in silence in a foreign land.

We in DAWN hope for a fruitful end to these efforts we all have been doing for the benefit of our women and children.

Thank you very much and good day!

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Asian Women's Fund

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Manulife Place Kudan-minami Bld., 2-7-6 Kudan-minami Chiyoda-ku Tokyo Japan 102-0074

Phone 81-3-3514-4071 FAX 81-3-3514-4072

URL <http://www.awf.or.jp>