



International
Labour Office

Geneva

HUMAN TRAFFICKING FOR SEXUAL EXPLOITATION IN JAPAN

SAP-FL

Special Action Programme
to Combat Forced Labour

Declaration on Fundamental
Principles and Rights at Work

Foreword

Worldwide, more and more attention is now being given to the problem of trafficking in human beings. Indeed, almost no country in the world is exempt from the new and unacceptable forms of forced labour and sexual exploitation associated with human trafficking. Three years ago in 2001, in his Global Report on Stopping Forced Labour, the ILO Director-General observed that the newly burgeoning phenomenon of trafficking in persons was a truly global problem, in which most countries of the world were either sending, transit or receiving countries, or a combination of all of three. The Global Report also called for more research into the labour market conditions that create opportunities for such abuses as human trafficking, and into ways to eliminate them.

In November 2001, the ILO Governing Body established the Special Action Programme to Combat Forced Labour (SAP-FL), as part of activities to promote the 1998 Declaration on Fundamental Principles and Rights at Work and its Follow-up. The Declaration restates the obligation of all ILO member States to respect, promote and realize the principles concerning fundamental rights dealt with in core labour Conventions, including the two Conventions on the elimination of all forms of forced and compulsory labour. The Declaration and its SAP-FL programme have allowed for a positive and promotional approach to the realization of these standards, combining research, technical assistance and advisory services to ILO member States and constituents.

In its research over the past year, SAP-FL has given particular attention to what is called the forced labour outcomes of trafficking and irregular migration in destination countries. Research has been initiated in the so-called “origin” or “sender” countries of trafficked victims, examining the causes of such trafficking, the main geographical areas of origin, the recruitment mechanisms, and the trafficking routes. But there has been equal concern to analyse the demand factors in some key destination countries. Which economic sectors feature coercive conditions of recruitment and employment? What are the main forms of forced or compulsory labour? Who tend to be the main victims of trafficking, for either labour or sexual exploitation? What is being done about this, in either law or practice? What lessons of good practice can be learned from individual country situations, and what more can be done by labour authorities and institutions, including employers’ and workers’ organizations as the ILO’s principal social partners, to eradicate the scourge of modern forced labour and human trafficking?

These studies have been carried out, or are in the process of being carried out, in a number of developed countries and transitional economies including France, Germany, Hungary, Japan, Turkey, the United Kingdom, and also the Russian Federation. By increasing knowledge and awareness of the forced labour outcomes of trafficking and migration, the studies are designed to prepare the ground for integrated programmes against trafficking in origin and destination countries alike, with activities addressing all phases of the trafficking cycle. These integrated anti-trafficking programmes seek to involve labour institutions (including labour ministries, labour inspection services, employment and job placement agencies and others) in prevention, victim identification, awareness-raising and law enforcement measures required for successful action against traffickers and for improved protection of the victims.

At the same time, the ILO Office in Japan has taken important steps to spread awareness of trafficking in Japan as a destination country, aiming wherever possible to assist the important measures now being taken by the Government of Japan, both to enact anti-trafficking legislation and to strengthen law enforcement against trafficking. In recent times there have been several signs of this growing commitment by the Government of Japan. One example is the Justice Minister’s action

to seek the view of the Legislative Council, its advisory body, on the revision of the Penal Code to create a new charge of trafficking in persons. Another example is the establishment by the Prime Minister's Office of a Coordination Mechanism on Trafficking in Persons, in April 2004. The new inter-agency task force sets the stage for essential coordination between the various agencies that have a key role to play in the prosecution or prevention of human trafficking, and also the protection and rehabilitation of victims. These include the Ministry of Health, Labour and Welfare, the Ministry of Foreign Affairs and the Ministry of Justice, as well as the National Police Agency. A National Plan of Action was formulated on 14 December 2004 to prevent and eradicate human trafficking, as well as to protect trafficked victims.

The ILO has been very pleased to contribute to these efforts, through its normative work, through awareness raising programmes, and also through data gathering and research. A number of public forums were organized in Japan by the ILO and publications and information kits in Japanese have been prepared over the past couple of years. For example, an ILO Symposium on Combating Trafficking in Human Beings was held in Tokyo in September 2003, following the January 2003 international symposium on trafficking of women to Japan, organized jointly with the Asia Foundation, focusing in particular on lessons that can be learned from the European experience. Further awareness raising events have been held since that time, including an October 2004 seminar that focused mainly on the labour dimensions of trafficking. In June 2004, a highly publicized and well-attended technical conference on "Strategies for combating human trafficking in Asia" was held, jointly organized by the US Embassy in Japan, the Vital Voices Global Partnership and the ILO Office in Japan.

The present publication focuses, however, on the severe problems of sexual exploitation, given that this appears to be the main issue of concern in Japan today. In future, it may also be important to examine whether, as in other industrialized destination countries, there may also be an incidence of trafficking for labour exploitation between other Asian origin countries, and Japan as a destination country. The ILO would be happy to provide any further support on this matter to Government agencies, employers' and workers' organizations, or other civil society groups engaged in anti-trafficking research and action. The ILO would like to express its gratitude to those who cooperated in the research, in the hope that this report will increase the knowledge base on the problems of trafficking in Japan.

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Introduction

Trafficking in humans is a revived form of slavery affecting virtually all regions of the world, which has grown steadily since the 1980s to become one of the most lucrative businesses of international criminal organizations. A recent estimate indicates that trafficking engulfs between one and two million people each year worldwide,¹ especially women and children, generating billions of dollars in profits to the criminal networks that control it.²

The ILO has long been active in addressing trafficking as a form of forced labour. Principles against forced labour are enshrined in the ILO's 1919 Constitution and in ILO Conventions relating to forced labour: Conventions Nos. 29 (1930), and 105, (1957). The ILO's approach is based on the premise that trafficking is simultaneously a violation of basic human rights at work, a labour migration issue, a gender issue, and one of the worst forms of child labour. The ILO's approaches to address human trafficking are two pronged: normative and operational activities. Following the first World Congress against Commercial Sexual Exploitation of Children in 1996, IPEC (International Programme on the Elimination of Child Labour) launched an anti-trafficking project in 1997 in the Mekong subregion. It is now operating anti-trafficking projects for children in different regions of the world including Africa and South America. In November 2001, the ILO created a special unit to coordinate the ILO's anti-human trafficking work: the Special Action Programme to Combat Forced Labour (SAP-FL). While continuing ILO prevention and protection programmes in countries of origin, SAP-FL has prioritized an emphasis on the demand side of trafficking, and has begun pilot studies in a number of destination countries, with the aim of identifying the labour market failures that create trafficking's pull factors.³ Other efforts include research, awareness raising, technical cooperation, working with governments, employers, workers, researchers, civil society organizations and other organizations to abolish forced labour.⁴

Since the latter half of the 1990s, governments have shown increasing concerns over the issue and have increased their actions to reduce its practice.⁵ The adoption of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime, which became open to all States for signature in Palermo in December 2000,⁶ demonstrated that human trafficking had become significant enough to generate formalized international interest, while providing a context for international cooperation and the development of domestic laws. While ostensibly a law enforcement instrument, to some extent it also contextualized human trafficking as an issue of human rights.⁷ The preamble to the Palermo Protocol states: "Effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights".

JAPAN - THE DESTINATION COUNTRY

Japan is recognized as a destination country for the trafficking of women mainly from Southeast Asia, Latin America, and increasingly from Eastern Europe.⁸ The majority of women trafficked to Japan appear to be adult women, although there is some evidence that some are under 18 years of age, probably travelling on forged passports.

A country known for its cautiousness in migration policies, Japan has, until very recently, taken a prudent approach towards anti-trafficking strategies, which has led to growing criticism. Japan's commitment to rigid migration policies and its strong position against illegal migration may have informed its hesitancy to consider closely trafficking in general. Some difficulties arise in clearly defining human trafficking, people smuggling and illegal immigration when dealing with actual cases, largely because of the clandestine nature of these activities. Similarly, victims of trafficking may be perceived to be voluntary participants in illegal immigration, which thereby removes their right to protection. While there is international consensus that trafficking victims should be treated as such and should receive proper protection and rehabilitation, in practice they still are very often arrested, detained and deported⁹ as illegal immigrants. Victims frequently bear all costs of the deceptions they have undergone, while the traffickers retain their profits and are rarely prosecuted. When they are, it is not necessarily in proportion to their crimes. As described in Chapter 4, the Japanese Government recently began undertaking a number of initiatives to address human trafficking.

AIM OF THE STUDY

Relatively few studies have been undertaken on the trafficking of foreign women into Japan. What is available forms only a fragmented image of the trafficking industry. Much of the available commentary consists of broad comment, often by mainstream media or interest groups. These reports do not clearly identify information sources or disaggregate terms and broad-based statistics.

The study aims to make a contribution to understanding of the trafficking of foreign women into Japan by avoiding generalizations and sourcing data wherever possible. It aims to add to the body of research in Japan by presenting a clearer profile of human trafficking: the victims, the abuses they suffer, and the deceptions used by traffickers. It focuses primarily on the experiences of victims in order to better understand the push and pull factors of trafficking, providing details on both the situation in three main countries of origin (Colombia, the Philippines and Thailand) and the social and legal factors that make Japan a profitable market in particular for organized crime groups.

It does not purport to be a comprehensive analysis of the trafficking of women into Japan for sexual exploitation. Colombia, the Philippines and Thailand, though major, are only three of a number of countries from which trafficked women are drawn. It seems probable that women are currently being trafficked from a number of countries in Southeast and East Asia, Latin America and Eastern Europe. Colombia, the Philippines and Thailand were chosen for a num-

ber of reasons, including the prominence given in the Japanese media to experiences of trafficked women from these countries, and the cooperation of their Embassies. In addition, comparison of these three countries reveals differences in regional operations and the differing situations of these women in Japan. Furthermore, ongoing government initiatives in the three countries are mentioned in this report.

While the study is limited to the issue of sexual exploitation, it is important to note that the activity is only one component of trafficking. Criminal networks traffic people for a whole range of reasons, including work in agriculture, manufacturing and construction. Trafficking victims may be men, women or children. It is, however, generally understood that Japan is a major destination of trafficked women for commercial sexual exploitation.

METHODOLOGY

This study was developed and conducted in late 2003-mid 2004 in Japan. It was, however, initially concluded in March 2004, with additions made mainly to include more recent Government and NGO initiatives. Research drew on recently published literature and relevant government documents, interviews with staff of the national Government and some local governments including the police, the Colombian, Philippine and Thai Embassies, and interviews with representatives of civil society organizations such as HELP Asian Women's Shelter, House of Women SAALAA Shelter, and the Japan Network Against Trafficking in Persons (JNATIP).

Country profiles draw on recently published literature but are largely based on information gathered by the ILO during interviews with officials. It must be noted that information attributed to Embassy staff does not constitute an official statement or position of any Embassy. It represents the ILO's summary and interpretation of matters discussed during those interviews.

Case studies are based on interviews conducted by project staff/experts of the ILO Office, Tokyo, United Nations University, Embassies, SAALAA Shelter and HELP Asian Women's Shelter. The source of each individual case study is marked throughout the study. In all case studies, the names of the victims have been changed. All efforts have been made to source reliable data.

This paper also includes recent Government anti-human trafficking measures and operational improvements to provide trafficking victims with shelter and care. The Japanese Government is hastening to improve related legislation against "modern-day slavery", mainly because it wishes to ratify the UN Convention against transnational organized crime and the supplementing Palermo protocol as soon as possible. In addition, it should be noted that increasing media attention as well as recent activities undertaken by the United Nations and US State Department may impact on the Government undertakings. This paper thus contains the most recent information as of October 2004.

DEFINITION OF TRAFFICKING

There is a distinction made between ‘trafficking’ and ‘smuggling’ in much of the literature generated recently. For the purpose of this study, the definition of ‘trafficking’ is that used in the Palermo Protocol:¹⁰

- (a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring, or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or by 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 or forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
- (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this Article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this Article;
- (d) “Child” shall mean any person under 18 years of age.¹¹

This definition is important as it relates to differences between trafficked adults and children but particularly as it relates to the distinction between ‘trafficking’ and ‘smuggling’, because it makes it clear that the use of coercion or deception is enough to nullify a victim’s consent to be smuggled or to migrate. A process that appears to begin as smuggling (including the victim’s consent to be smuggled) can be an early stage in a trafficking process when the use of coercion or force for labour exploitation is subsequently used. To some, this may seem a sympathetic interpretation of trafficking but it is, in fact, merely stating existing legal standards about ‘informed consent’, i.e. it is logically only possible to consent to something if you know all the facts and are free to consent or not.¹²

There is no ‘typical’ victim of trafficking. The idea that a person may be responsible for some of the decisions that resulted in their finally being trafficked seems unattractive to media and governments alike, the consequence being that only ‘blameless victims’ are treated as victims of trafficking. Other trafficking victims are treated as ‘offenders’. This distinction is universally unproductive as it denies the multiplicity of factors that facilitate the operation of trafficking networks worldwide.

The trafficking process can be difficult to disentangle and analyse because it “is not a discrete act - it is a series of events which take place in the [person’s] home community, at transit points, and at final destinations”.¹³ While each of these events is separate, in cases of trafficking, they are linked. Internationally, the exploitation of migrants is nothing new; however, trafficking is distinctive because trafficking networks control all stages of recruitment, transport and forced labour. Moreover, recruitment is conducted with the intention that the individual’s migration will lead to their forced labour, and the trafficking network will profit from that labour.

In short, consideration about trafficking needs to highlight the issue of labour exploitation. This squarely places primary responsibility on those controlling the labour process and serves as a reminder that the actions of the victim (or person who is arguably not a victim) are only one consideration.

Cases of human trafficking

This chapter depicts present and real situations of human trafficking in Japan based on interviews with Embassy staff of three countries from which many victims of human trafficking originate; namely Colombia, Thailand and the Philippines. Since human trafficking is a complex process that involves recruitment, transport, deceptive enticement, coercion and control, physical abuse, and exploitation, this chapter covers each process accordingly. Country-by-country facts reveal methods employed by traffickers and the fate of trafficking victims in Japan. Responding to human trafficking, the three Embassies make every possible effort to assist and protect their nationals who have fallen victim to trafficking. Thus this chapter also addresses the Embassies' responses to this issue.

COLOMBIA

According to a Colombian Ministry of Justice study, Colombia is a centre of Latin American operations for international trafficking networks.¹⁴ Johns Hopkins University quotes an estimate that 35,000 Colombian women are trafficked annually and that the number of trafficked women is steadily increasing.¹⁵

According to the Colombian Embassy in Tokyo, women are 'pushed' to consider options that result in their trafficking as a result of a range of factors including the negative economic situation, the civil war, and other social problems.

COLOMBIAN NATIONALS TRAFFICKED TO JAPAN ¹⁶

The Colombian Embassy first became aware of cases of trafficking in humans following the establishment of its social assistance post in 1997, when women began asking for assistance, reporting their passports lost or stolen. After the Embassy introduced a trafficking telephone hotline, women would ring and ask questions. Sometimes, friends or relatives would also report cases.

Since 1997, the Embassy has handled many cases of trafficking. A total of 133 victims have made basic statements, and 84 have agreed to write a full signed statement. Figures are as follows:

Sworn statements by trafficking victims collected by the Colombian Embassy	
Year	Number
1997/98	3
1999	7
2000	16
2001	27
2002	16
2003	10
2004 (to 13 Feb)	5
Total	84

The National Police Agency reported the following cases of trafficked Colombian women.

Number of trafficked Colombian women recorded by the Japanese National Police Agency	
1999	4
2000	1
2001	3
2002	6
2003	43
Total	57

HELP Asian Women's Shelter has also assisted Colombian women:

Number of Colombian trafficked women assisted by HELP Asian Women's Shelter	
Year	Number
2000	9
2001	17
2002	7
2003	1
January to September 2004	0
Total	34

Embassy officials believe there has been an increase in the number of Colombian nationals trafficked to Japan in the last six years, although it is impossible to estimate numbers. Unofficially, there may be as many as 2,000-3,000 women trafficked a year.

Immigration figures show that 3,331 Colombians (1,653 women) entered Japan in 2003. In 2001, 437 Colombians were refused entry, 362 were refused entry in 2002, 274 in 2003.¹⁷ These figures do not help estimate the number of women trafficked, however, as they do not differentiate between those travelling independently and legally and those being trafficked, as forged passports of other countries are used. Frequently, trafficked Colombian women do not fly directly from Colombia, and the legs of their journey are booked separately so it is not possible to identify their country of origin.

RECRUITMENT/DECEPTION

Over the past seven years, methods of recruitment have changed. In 1997, a Japanese representative of a club or a yakuza would usually have travelled to Colombia to recruit women. There were no intermediaries. However, the brokers are now frequently Colombian ex-trafficking victims, still based in Japan. They use their networks of friends and relatives to recruit women, which means that women are usually recruited by family, friends or acquaintances, with formerly smuggled/trafficked Colombian women controlling the recruitment from Japan.

This supposition is supported by a study henceforth referred to as the “Molina report”, which states that “the presence of Colombians in Japan has allowed them to provide a constant flow of Colombian women to the yakuza, without the latter organization having to travel to Colombia”. It also states that since the yakuza entered into business with Colombian organizations, these organizations have taken over “recruiting the women and handling reprisals against those who escape, as well as their families”.¹⁸

Colombian managers have a direct relationship with the yakuza. For example, yakuza regularly collect a fee from the manager, and sometimes managers sell the women on to the yakuza if they believe the woman is no longer profitable enough for them. The woman’s debt then starts again.

Carmen

Carmen was 20 when she was recruited by a friend in Colombia for a job in a computer shop in Japan. The Colombian broker, based in Japan, sent her US\$37 to cover the costs of getting a passport. She flew to Japan in September 2000 from Bogota, through Aruba and Amsterdam to Osaka, where she was met at the airport by the Colombian broker and her Japanese husband. At the airport, the husband informed Carmen that she had a debt of 3 million yen to cover the cost of the ticket. She was told that paying it off was not a problem as she would be able to pay it off from her salary.

Carmen stayed with the broker and her husband in a hotel, and the next day they drove to Tokyo, where the broker started making telephone calls looking for a job for Carmen. Carmen was surprised because she had believed the details of her job were completely organized. When Carmen asked what was happening, the broker said she was looking for the best job possible and that they had to be careful because the police were very strict. The broker told Carmen not to worry because the broker’s husband was very powerful. (He was a member of the yakuza.)

The next day, the broker drove Carmen to a particular street in Kinshicho and told her to get out of the car, look at what the other girls were doing and copy them. At first she could not understand what was happening. The broker left her there and she started crying. Another Colombian woman approached her. Carmen explained that she did not want to be a prostitute and wanted to go back to Colombia. The woman was kind to her, and the two became friends. Carmen’s friend had a Japanese yakuza boyfriend with whom she had a child, so her situation was somewhat more secure.

Soon after, Carmen discovered she was pregnant by her boyfriend in Colombia. She decided to escape. The yakuza found out she was pregnant and arranged to take her to hospital to have an abortion. She ran away the house of her friend who agreed to hide her. She soon discovered that the yakuza were searching for her, and she decided to return, explain her situation and ask them to let her go. The yakuza insisted she continue working and said they would take her to the hospital for an abortion. She pretended to be ill and asked if she could get some medicine from the pharmacy before leaving for the hospital. However, she went straight to the Colombian Embassy where she sought refuge. Embassy staff said she was terrified.

The yakuza next took Carmen's friend and two others to another apartment where they assaulted Carmen's friend. The two other women were frightened and ran to the Embassy. Their stories matched Carmen's identically. They said that when they left, Carmen's friend was being held and assaulted.

A few days later, a yakuza member visited the Colombian Embassy and reported that Carmen had stolen 6 million yen from him. Staff saw whom they were dealing with and asked if they could see a copy of the thief's passport and ticket to identify her. Officials seized the passport saying it was Embassy property. They contacted the airline and had the ticket re-issued. Carmen left Japan a few days later, after approximately one month in Japan. Consulate staff accompanied her to the airport.

After two weeks Carmen's friend also managed to escape. Her injuries were documented. As she had left her child with her yakuza boyfriend, Embassy staff went to her home and took the child. Both were repatriated to Colombia.¹⁹

TYPES OF DECEPTION

The Molina report notes six types of recruitment used in 2000:

- Adverts in newspapers, for example:
 - "Young models are sought, who wish to live abroad", La Tarde - El Eje, 25 June 2000
 - "Want to work abroad?", La Tarde, 5 December 2000
 - "Difficult times? Take advantage of this opportunity! Solvent, determined, faithful foreigners wish to marry Colombian women", El Pais, 8 April 2000
- Scholarships offering the opportunity to study in the US (travelling via Japan)
- Contracts with companies, for example, representing Colombian companies at international trade fairs in Japan
- Marriage. The women send their photograph and details for inclusion in catalogues for Japanese men seeking Colombian wives
- Music or dance groups
- Recruitment by local women

Embassy officials say that when they began monitoring the issue of trafficking in 1997, most of the women recruited were completely deceived about the purpose of their recruitment and did not know the work they would be doing. Most recruited currently know they will be prostitutes but have no idea of the conditions they will suffer or the debt they will incur. The Embassy is aware of recent cases in which the following deceptive recruitment practices were used:

- Promise of a different kind of work
- Promise of higher wages
- Promise of fair living accommodation
- Promise of fair working conditions
- Promise of different location of work in Japan
- Not informed about debt prior to arrival

TYPES OF WORK

Most women are forced into three main types of work:

- i) Street prostitution
- ii) Prostitution based in small houses in Yokohama. The women usually stand in the doorway or in the front window of the house. There may only be one or two women working in each house. The women have their own room and can charge different prices.
- iii) 'Theatre' (gekijo) based stripping, prostitution and live sex acts. The women have to dance, wearing almost nothing. The customers can touch them wherever they want. The customers play 'junk en pon' (a game of chance) and the winner can have sex with the woman on stage. There is also prostitution in rooms behind the stage. The women are not paid for the dancing or touching. They are moved from club to club every ten days, all over Japan.

DEBT

Victims usually do not pay a fee up front, but are faced with a large debt of between 5-6 million yen when they arrive, whereas they had believed it would be much smaller. Usually the women receive money directly from the clients, and then pay their broker or manager, possibly Chimpira (lower-level yakuza) or the Colombian manager, every ten days. They are usually expected to pay 200,000-300,000 yen each time. They also frequently have to pay 10,000 yen a day for the 'right' to work in a particular place or area, and they usually have to pay 'rent' for the room they use to provide prostitution services.

Very few women manage to pay their debt. The amount is too high and there are also systems of 'fines' for minor 'offences' such as being late for work. If the employer does not think the woman is any good, he will sell her and the debt starts all over again. She has no control over this process.

Some women return to Japan to finish paying previous debt. They have to return through the same manager or, if they are discovered, they will be threatened or worse. A few women pay off their debt in a year or two. Some make money but they are frequently quite damaged by that time.

Maria

Maria had been working as a housekeeper in Colombia for five years when a friend's friend suggested she try working in Japan. Her salary was not enough to support her family. She knew that if she took up the offer of work, she would be working as a prostitute and that she would have to repay her airfare, although she was not told the exact amount. The recruiter organized her ticket and documents, and gave her US\$500 travel money to show at Immigration.

Maria flew from Bogota through Paris and Seoul and landed at Nagoya airport. She had her own passport and a three-month tourist visa. She was also given a 'letter of invitation' to come and stay with a friend in Japan, from a man she had never met. She was told to memorize names so that if Immigration questioned her she would have a convincing story. She was met at Immigration by the man who had sent the letter, and then outside the airport she met her manager and the manager's husband. She was taken directly to an apartment where four other Colombian women were living and told she would start work the next day. Her ticket, documents and travel money were taken from her and she was told that she owed 6 million yen, an amount far greater than she had expected.

She was taken to a small house in a street in Yokohama known for prostitution. She worked by herself or with one other woman. She had to stand outside or in the window to attract customers and was forced to work from 7pm to 7am, five days a week, and the other two days; she was forced to work 24 hours. She had no day off. She was forced to work even when she was sick. One day she left work at 5am and was fined 100,000 yen.

Maria had to pay her manager approximately 60,000 yen every day; 40,000 towards the debt and 20,000 'rent' for the room in which she worked. She also paid 40,000 yen a month for her apartment and 10,000 yen a month protection money to the yakuza. Sometimes she did not have enough money for food. She was told that if she left, her family would be harmed.

She was not allowed to have Colombian friends or a boyfriend, and she was not allowed to leave the apartment without her manager's permission. After seven months she ran away. The manager had sent a few small payments to Maria's family, but Maria had sent no money home, had saved no money and was told she still owed more than 2 million yen.

Trafficking group members visited her family in Colombia, threatening her mother and six year old child with guns, threatening her that if she did not pay her debt, they would return and harm them.²⁰

TRANSPORT

Trafficked Colombian women frequently have forged documents, such as Spanish, French or Italian passports. They also have passports with the date of birth changed so that a minor appears to be an adult. This is supported by a report in 2000 by the Colombian Foreign Affairs Ministry, which states: "It has been detected that many of the women who have been contacted are minors; they leave the country and enter Japan with forged documents. In this way, they are able to evade problems with the authorities. Similarly, many of them are provided with forged passports. [Some of these passports are later] used for other Colombian women, entrusted with making contacts in Colombia, to return, thus forming a total chaos of false identities."²¹

Routes change frequently and rapidly. The Molina report notes some ten routes using the US, Latin American, European, and Asian countries as transit points.²² Recently, a popular route has been Colombia/Venezuela/Paris/Hong Kong/Singapore/Thailand. The traffickers use Haneda and Nagoya airports to bypass perceived tighter security at Narita. The legs of the victims' tickets are booked separately so that Immigration cannot identify where the victims have really travelled from. Victims also sometimes change passports along the way.

COERCION AND CONTROL

Many trafficked women understand that they will be working as prostitutes but have no idea of the severity of the conditions under which they will be forced to work. Some of them run away immediately but others stay. Victims are limited by their lack of Japanese, lack of understanding of Japanese welfare/labour/legal systems, and lack of support from friends or family. In addition, Embassy officials are aware of recent trafficking cases in which the following coercive and controlling practices have been used to prevent a trafficking victim from leaving their situation:

- Threat or actual violence against family
- Threat of physical violence against victim
- Threat of sexual violence against victim
- Actual physical violence against victim
- Actual sexual violence against victim
- Withholding of passport
- Withholding of air ticket
- Withholding of salary
- Controlling communication
- Controlling movement
- Threat to report to the police
- Threat to report to Immigration

Sometimes the traffickers use the other women to guard a victim and threaten their families. A yakuza pursued one woman after she ran away. She married a Japanese man and became pregnant. The yakuza went to her house and threatened to kill her baby. Her husband fled to the US and the woman went into a refuge. They now live together in Japan in hiding. Yakuza members have visited the Colombian consulate on two occasions.

Anna

There is little background information about the circumstances of Anna's trafficking from Colombia to Japan except that she arrived in May 2002, worked as a prostitute, had a debt of 233,000 yen, and that those controlling her threatened to harm her family if she left. She had contacted her mother once to say she could not send money as all her salary went to repay her debt. By the time she came to the attention of officials she was too traumatized by her experience to speak.

Anna was found sitting in a café by another Colombian woman, who took Anna to her house but realized that her condition was serious. She contacted a Catholic nun who suggested contacting the Embassy. Embassy officials recommended taking her to a hospital but the hospital refused to admit her because she had no health insurance. Anna attempted to commit suicide.

The Embassy managed to identify Anna and contact her family. They also identified her broker, who they contacted and demanded the cost of her return ticket and the ticket of someone to accompany her. The broker agreed and Anna returned to Colombia in March 2003, where she was further hospitalized.²³

EFFECTS ON THE VICTIM

The biggest problem faced by victims is threats to kill their family members. The women are also frequently physically damaged or ill. Sometimes they have gynaecological or psychological problems, in addition to financial problems. Sometimes the damage is manifested in a change in values; the experience is so extreme that they become recruiters themselves and are prepared to traffic their own friends and relatives.

There is concern about the connection between trafficking and other social problems. There are currently a number of Colombian women in jail in Japan, for theft or drug abuse. All were originally victims of trafficking and all have been involved with drugs. Another problem relates to family breakdowns. The effects on children are tragic. If the children are in Colombia, there is a problem of care. If the children come to Japan, their situation is miserable as their mothers work at night and sleep late into the day.

Angelica

Angelica was recruited by her cousin who lives in Japan. She was asked to come to Japan to work for her cousin as a babysitter. She was unaware that her cousin was the girlfriend of a yakuza and was working as a broker to recruit Colombian women into the Japanese sex industry.

After arriving she was told she had a debt of 4 million yen, which for unexplained reasons became 4.5 million within a week. She was told that if she did not agree, her two children would be harmed. She was forced to work in a number of theatres (gekijo), stripping and prostituting herself, in Tokyo, Warabi, Utsunomiya and Omiya.

After a few months she ran away to a police station. The police called the Embassy. Angelica said that her passport, ticket and clothes were at the apartment where she was staying and she wanted the police's assistance to get them back. The police identified the apartment as one known to be controlled by yakuza and were hesitant to go there without further evidence, but finally agreed to go with Angelica and Embassy officials. The police managed to retrieve Angelica's ticket, passport and clothes.

Angelica went into hiding in a refuge while waiting for her flight to Colombia. While at the refuge, she fell and had to be admitted to hospital. The hospital agreed to put her in an isolated ward and to admit only police, Embassy or refuge staff, and not to divulge information about her whereabouts. Yakuza came to the hospital but were unable to locate her. Soon after, she was repatriated to Colombia.²⁴

COLOMBIAN EMBASSY ACTIVITIES

The Colombian Embassy is undertaking a number of activities to address the issue of women trafficked to Japan. These include:

- A telephone hotline
- Stickers advertizing the hotline, and their placement in areas where Colombians/trafficked women are likely to be found
- Close attention to young women visitors to ascertain if they might be trafficking victims
- 24-hour services such as taking women to shelters or to the airport
- Membership of the Japan Network Against Trafficking in Persons (JNATIP)

RELATIONSHIP WITH THE JAPANESE GOVERNMENT

The Ambassador has met with senior Japanese Government officials on a number of occasions, and consular staff frequently meet and liaise with Japanese agency staff.

Embassy officials endeavour to collect evidence from all trafficking victims with whom they come into contact. Whenever the victim agrees, staff take a detailed signed statement, attaching other evidence such as the names and photos of the managers and traffickers. This information is supplied to the police (as well as to relevant Colombian agencies).

Officials are not aware of any instance in which a trafficking victim has been able to use Japanese labour laws to remedy their situation despite the fact that in many cases there were labour-related complaints including low wages, non-payment of wages, long working hours, mandatory night work, unsafe/hazardous work environment, poor accommodation provided by establishments, no access to social security, no access to medical facilities, the actual work was different from that described in the contract and no contract was signed. The non-use of labour laws and systems may result in part from trafficking victims frequently being 'employed' as prostitutes, and prostitution being illegal and consequently it is believed not to be a priori covered by labour law.

The Embassy would urge the Japanese Government to consider:

- Introducing 'appropriate anti-trafficking legislation' making trafficking illegal
- Introducing higher penalties for traffickers, both in terms of sentences and fines
- Indemnifying victims
- Providing increased training for Government authorities
- Providing education for civil society

THAILAND

Thailand is simultaneously a source, transit and destination country for human trafficking, partly as a consequence of its geographic location. Labour migration within the Greater Mekong subregion has a long tradition and results from a complex combination of factors including poverty, uneven patterns of economic and social development, limited work opportunities in some areas, local market demand for cheap labour and perceptions that life is better elsewhere.²⁵ These movements have long-standing antecedents, with some circuits of mobility going back many centuries and bearing little relation to present frontiers.²⁶ Additionally, in some areas, migration flows are influenced by kinship ties, for example, the heavy cross-border movement of ethnic Lao in western Laos and Thais in eastern Thailand.

Trafficking in Thailand is also influenced by Thailand's tourism-driven economy. As in some other countries, the development of the tourism industry has included development of the sex trade. Whether or not the sex industry has been an inadvertent by-product of the tourism industry is debatable. Enloe, for example, suggests that sex tourism is not an anomaly but in many countries "is one strand of the gendered tourism industry".²⁷

Thai and yakuza organizations are said to be prominent in facilitating the “trafficking of women from Thailand to Japan”.²⁸

THAI POLICY GUIDELINES

To complement legislation, an official guideline has been issued to facilitate enforcement. A Memorandum of Understanding between the offices of the Prime Minister, police, Ministry of Public Welfare and NGOs advocates practical measures for cooperation among Government officials “regarding the treatment of trafficking in persons (Thai and non-Thai), and aims to improve chances of successfully prosecuting traffickers”.²⁹

THAI NATIONALS TRAFFICKED TO JAPAN³⁰

The number of Thai nationals entering Japan appears to have significantly declined since it peaked in 1993:

Number of Thai nationals entering Japan			
Year	Male	Female	Total
1990	4,062	7,461	11,523
1991	6,767	12,326	19,093
1992	20,022	24,332	44,354
1993	25,022	29,759	55,383
1994	22,611	27,381	29,992
1995	19,866	24,928	22,794
1996	17,811	23,469	41,280
1997	16,839	22,674	39,513
1998	15,549	21,504	37,046
1999	13,552	16,513	30,065
2000	11,082	12,421	23,503
2001	9,281	10,219	19,500
2002	8,020	8,905	16,925
2003	7,307	8,386	15,693
Total	198,386	250,278	448,662

Source: Ministry of Justice, Immigration Bureau

These figures may underestimate the numbers, as some use passports of other countries (for example, Singapore and Malaysia) to facilitate their entry. Of the total number of entrants (documented and undocumented), only a very small number come to the attention of authorities as victims of trafficking.

The National Police Agency notes a decrease in the number of recorded Thai trafficking victims since 1999:

Number of trafficked Thai women identified by the Japanese National Police Agency	
1999	110
2000	73
2001	39
2002	40
2003	21
Total	262

The Embassy usually becomes aware of cases of trafficking when approached by individual women requesting assistance to secure travel documents so they may return to Thailand. Usually they have run away from their work or Immigration officials bring them to the Embassy. The Embassy also does outreach to Thai communities in Japan.

Below is a list of the number of cases handled by the Embassy since 1986:

Number of trafficking victims who have contacted the Thai Embassy	
Year	Number
1986-98	1, 486
1999	21
2000	19
2001	30
2002	33
2003	30
Total	1,607

HELP Asian Women's Shelter has also assisted Thai women trafficked to Japan:

Number of Thai trafficked women assisted by HELP Asian Women's Shelter	
Year	Number
2000	2
2001	17
2002	16*
January to March 2003	19*
April 2003 to March 2004	24
April 2004 to September 2004	11
Total	89

* including three minors

Source: HELP

While the number of Thai nationals entering Japan each year is decreasing, cases of Thai nationals working in sex-related industries in Japan appear to be increasing.³¹

RECRUITMENT/DECEPTION

It appears that Thai trafficking victims recruited for Japan may be drawn from two sources. First, there is evidence that traffickers target girls and young women in local villages. Some of these young women are completely unaware that they will be pushed into the Japanese sex industry. Others are not, and there have been suggestions that in some instances parents may be complicit in pushing their daughters into prostitution. Secondly, women appear to be recruited from the enormous pool of women already working as prostitutes, particularly in Bangkok. These women may know they will be expected to work in the sex industry, and are tempted with offers of higher income but are unaware of the level of exploitation they will experience (the conditions of the job are very different) or the degree of control that will be exercised over them.

TYPES OF DECEPTION

Most of the women recruited know they will be working in the entertainment industry but do not understand the conditions they will suffer or the debt they will incur. The following deceptive recruitment practices have been used:

- Promise of a different kind of work
- Promise of higher wages
- Promise of fair living accommodation
- Promise of fair working conditions
- Promise of different location of work in Japan
- Real debt amount concealed until after arrival
- Promise of lighter work

TYPES OF WORK

Most Thai trafficking victims come to Japan knowing what kind of work they will be engaged in, i.e. in commercial sex industry. However, they are not aware of the harsh conditions of work, for example, ten customers assigned to them a night in order to be able to pay their debt on time.

Most trafficking victims complain of labour-related violations, which include complaints of the work being different from that in their contract, low wages or non-payment of wages, long working hours, mandatory night work, unsafe or hazardous work environment, and poor accommodation provided by establishments.

DEBT

Victims are faced with a large debt of between 1-3 million yen after arrival, meaning that the women have no earnings in the first year or more. The situation is exacerbated if the victim is 're-sold' and the debt starts all over again.

When released by the brokers, the women can earn their own way, but by that time they have often "passed their prime" and earning potential is greatly reduced. Some women try to find a boyfriend or husband to buy them out from the club where they work.

Sri

Sri was approached by a woman she knew from her province, who was the owner of a bar in Bangkok. The woman told her about a well-paid job opportunity in a Thai restaurant in Japan. Sri decided to take up the offer because her parents needed money for her younger brother's schooling.

Sri applied for a passport herself, but was called to an office to meet a 'boss' who had many passports at hand and chose one for her. She had silicone injections in her face to make her look more like the picture on the passport. However, she barely carried the passport herself, entering Japan with a man posing as her 'Japanese boyfriend', who took her passport after they passed through immigration. Sri believed that the passport may have carried a visa for a Japanese spouse.

At the airport in Japan, the 'boyfriend' rang another man who came to pick her up by car, and took her to a bar, where she was told she had to repay a debt of 4.8 million yen to cover the costs involved in bringing her to Japan, and that she would have to work as a prostitute. The bar was in the countryside, without any sign advertising it as such. There were many other women from Thailand and China, but Sri was too frightened to talk to anyone. She had her hair dyed yellow.

Clients paid 10,000 yen for 20 minutes. Sri had to pay 45,000 yen a day on her debt, 1,000 yen for food and another 1,000 yen for a bodyguard. She needed ten clients a day to repay her debt, but managed only three or four, which made her decide to escape. Sri could speak English, which she used to take a taxi to the Thai Embassy.³²

TRANSPORT AND TRAVEL DOCUMENTS

In the past, Thai trafficking victims travelled directly to Japan, but current arrangements have become more intricate. Some arrive supposedly using Japan as a transit point, but disembark upon arrival. Some come by sea through South Korea as there is no visa requirement for Thai nationals travelling into Korea, and from there it is considered easier to get into Japan. Some fly via Hong Kong, while others travel through Scandinavian countries or through Eastern Europe, taking one to two weeks to reach Japan.

In some cases forged travel documents are used, sold in Bangkok for 200,000-300,000 yen, which, in some cases, will be paid for by the recruiter but will be added to the worker's debt. Tanyapongruch estimates that in 2002, prices of forged passports ranged from THB 15,000 to 35,000, or THB 100,000 to 200,000 if the passport included a visa.³³ Tanyapongruch cites a process where organized crime gangs based in Thailand use travel agencies as a front. They then purchase passports and visas from tourists and replace the photo.

There is a trade involving Thai nationals in Japan selling their passports, which are considered valuable as they show a previous entry into the country.

COERCION AND CONTROL

Many trafficked women understand that they will be working as prostitutes but have no idea of the severity of the conditions under which they will be forced to work. Recent cases have involved the following coercive and controlling practices:

- Threat or actual violence against family
- Threat of physical violence against victim
- Threat of sexual violence against victim
- Physical violence against victim
- Sexual violence against victim
- Withholding of passports
- Withholding of air tickets
- Withholding of salary
- Controlling communication
- Controlling movement
- Threat to report to police
- Threat to report to Immigration

Suoy

Suoy was 16 and at school in Bangkok when she met 28-year old Jun through the Internet. Jun invited her to come see him in Japan. Suoy lied to her boyfriend to get THB 30,000 from him which she sent to Jun to arrange for the visa and ticket.

Suoy met Jun at Don Muang airport, Bangkok, in March 2002 and they travelled together to Japan through Korea. When they left Bangkok, the authorities questioned her on her visa, asking whether it was real. Jun left the room with the authorities, and when he came back her passport was stamped. When they arrived in Japan, Suoy noticed that Jun showed another passport to Immigration.

Suoy was taken to an apartment, which she shared with a woman. Jun came from time to time to take her out. After a while, he told her she had to work. She guessed it would be "night work" (meaning prostitution), like her room-mate. She decided to escape. She asked Jun to take her to Tokyo Disneyland before she started work. While there, she escaped and sought help from another Japanese man, who took her to the Thai Embassy.³⁴

EFFECTS ON VICTIMS

Trafficking victims endure many problems while working in Japan. They are often afraid for their family members, although when they escape, the traffickers and club owners do not come after them.

Sometimes the trafficked women's experiences create long-term problems, especially if they are very young and remain in Japan for many years. They often have problems integrating on return home. There is also an issue of abandoned children of Thai mothers and Japanese fathers who are not given Japanese citizenship. These children may have difficulty integrating either culture, even as adults. There are some 70-80 cases of children being abandoned. In some cases, abandoned children are kept in Japanese institutions until they turn 18, after which they are repatriated to Thailand, where they face great difficulty adjusting.

There is an ongoing problem of children born in Japan to Thai mothers and Japanese fathers who are not issued with birth certificates. Recently, the Thai Embassy decided to intervene in a number of cases in which the Thai mothers were held in detention awaiting deportation but were unable to leave Japan with their children as the children were effectively stateless.

Trafficking is also linked with problems of HIV/AIDS as some victims become HIV positive through their work.

EMBASSY RESPONSE

Activities to address the issue of Thai women trafficked to Japan include:

- Outreach to Thai communities in Japan
- A designated officer who focuses on welfare issues
- Engaging the services of two psychiatrists who provide counselling services once a month
- Providing a return airfare to Thailand. The Thai Government successfully brokered a deal with Thai Airways to reduce the cost of a one-way ticket for trafficking victims returning to Thailand. In theory this is a loan but the Embassy does not recover costs if the victim is unable to pay.
- Consular staff accompany victims on their return to Thailand when necessary. This might include cases where a woman is physically or psychologically ill, or when there is a large group of women and/or children travelling.
- Linking with Japan-based NGOs, mostly Christian or Buddhist organizations, and the Japanese Red Cross
- Membership of the Japan Network Against Trafficking in Persons (JNATIP)

RELATIONSHIP WITH THE JAPANESE GOVERNMENT

Embassy officials have formed links with the Japanese Government through formal meetings and diplomatic exchanges. The Ambassador is active in raising issues pertaining to human security and tries to raise the issue of Thai citizens being trafficked in many of the meetings he attends. The Embassy has sent proposals for cooperation on this issue to the Japanese Government on a number of occasions.

The Consular Affairs Office usually forwards information to the Japanese Police following its investigation of individual cases. Consular staff also visit Thai detainees in the Japanese Immigration detention centre.

Embassy officials believe that the trafficking of women into Japan could be more effectively addressed if the Japanese Government was able to consider:

- Making the issue of trafficking a higher priority
- Introducing 'appropriate anti-trafficking legislation' making trafficking illegal
- Introducing higher penalties for traffickers, both in terms of sentences and fines
- Allowing the Thai Embassy to see copies of visa applications submitted to the Japanese Embassy in Thailand. The Embassy is interested in gaining further details of the information applicants truthfully or falsely record, and in examining how some illiterate Thais are able to complete their visa applications to a standard that allows them entry.
- Introducing a moratorium of 2-3 years for illegal workers, with a goal to encouraging illegal workers to report so that officials might gain a better understanding of the number of Thai nationals illegally in Japan and their situations.

THE PHILIPPINES

The Philippines is well known as a source of migrant workers. The Government encourages its citizens to consider working overseas, and has substantial infrastructure to facilitate the process, including Government agencies additional to the Department of Foreign Affairs, (e.g. Overseas Workers Welfare Administration, Commission on Filipinos Overseas, Philippine Overseas Employment Association). The Government is proactive; Labor Secretary Patricia Santo Tomas said that in 2003 her department was "targeting to deploy a million Filipinos abroad".³⁵ Workers remit billions of dollars to the Philippines each year. Foreign exchange inflow from overseas workers comprises nearly 85 per cent of the country's gross earnings.³⁶ The Philippine Government has a strong economic vested interest in getting its workers overseas and is one of the few to have ratified the UN Convention on the Protection of the Rights of All Migrant Workers.³⁷

As well as the government infrastructure, there are hundreds of independent (government licenced) recruitment agencies that arrange migrant workers' travel and employment. Many recruitment agencies operate outside the law.³⁸ Systems are in place to attempt to remove such abuses. For example, if complaints are received against particular agencies, their accreditation

may be revoked. Similarly, brokers must pay a bond to the Government guaranteeing that labour standards will be met. If labour standards are breached, these bonds will be seized.

In early 2000, the Deputy Executive Director of the Commission on Filipinos Overseas acknowledged that trafficked Filipinos include women who are 'legitimately' recruited, promised high-paying jobs, but end up as prostitutes, women who leave as tourists and end up as domestic helpers, exotic dancers, or bar girls, and women who are willing or coerced victims of the mail-order bride trade.³⁹

The enormous size of the migrant worker 'industry', its highly structured operation and the fact that it is government instigated, provide rationale for why Filipino women might accept job offers for overseas work. Additionally, many Filipino women are faced with a profound lack of job opportunities and little or no opportunity to improve their circumstances. Poverty is widespread and sections of the population are undernourished.⁴⁰ Many trafficking victims fall prey to deception because they seek a better life or enhanced economic opportunities. They are vulnerable to false promises of good jobs and higher wages. Filipino women are trafficked to destinations ranging from neighbouring Southeast Asian countries to as far away as Nordic territories.⁴¹

PHILIPPINE NATIONALS TRAFFICKED TO JAPAN⁴²

Cases of trafficked persons began shortly after the introduction of entertainer visas. Individuals came to the Embassy to report labour disputes or to seek assistance with travel documents to return to the Philippines and Japanese Government officials began reporting cases of women being arrested for labour violations.

Although it is impossible to estimate the number of Philippine nationals who have been trafficked to Japan over the last six years, the numbers appear to have remained fairly steady. There appear to be two primary groups who are trafficked: women who are recruited as entertainers and a smaller group of 'Nikkeijin'(or second generation Japanese-Filipinos born in the Philippines). A number of 'foundations' have been established in the Philippines that claim to assist Japanese-Filipinos to move to Japan to work. In fact, many of these are trafficking fronts. These agencies appear to have links with the yakuza. This report focuses on women who are recruited as entertainers.

Immigration figures show that 209,525 Philippine nationals entered Japan in 2003.⁴³ The National Police Agency reports the following cases of trafficked Filipino women:

Number of trafficked Filipino women identified by the Japanese National Police Agency	
1999	9
2000	4
2001	12
2002	2
2003	0
Total	27

Source: National Police Agency, 2003

RECRUITMENT/DECEPTION

Women from the Philippines are in a unique position regarding their capacity to gain entry to Japan because of the operation of the entertainer visa, a category which aims to satisfy demand in Japan's entertainment industry. There are approximately 60,000 Filipino women holding entertainer visas in Japan at any one time.

The visas are issued for a period of three months with a possible extension to six. The conditions are very specific and based on the premise that 'labour' must be 'skilled'. Entertainer visas are issued to those who have passed Philippine Government controlled auditions, and demonstrated that they have the professional standard performance skills of a singer or dancer. There are many schools in Manila that operate for the sole purpose of training women in singing and dancing to gain this accreditation. The agency responsible for testing and certification of talent is the Technical Education and Skills Development Authority (TESDA). As well as the audition, the applicant must have spent a minimum of two years at a foreign educational institution studying subjects relevant to their type of performance, and have a minimum of two years experience outside Japan.

The entertainer visa workplace regulations are also stringent. While in Japan, entertainers are not allowed to work as hostesses or serve food or drinks, there must be a stage of at least 13 m², and there must be a waiting room for the entertainers of at least 9 m². Minimum salary is 200,000 yen a month.

Since the introduction of the entertainer visa, both the Governments of Japan and the Philippines have taken action to tighten 'skills' requirements. In September 1996, the Japanese Justice Minister's Ordinance was amended to consolidate a clear distinction between 'entertainer' and 'hostess' and the number of Filipino entertainers entering Japan dropped sharply.⁴⁴ The Director-General of TESDA, Dante Liban, claims that reforms to improve the standard of skill required for accreditation in the Philippines reduced the 'pass' rate from 95 per cent to 55 per cent.⁴⁵

Despite this, it appears many Filipino women continue to be brought to Japan on entertainer visas to work in conditions which are blatantly contrary to their visa conditions - sometimes as

hostesses (without sexual services), but often being forced to provide sex and related acts. Trafficked women are among them. The ongoing problematic use of entertainer visas was also identified by the US Department of State in July 2001, when it found that many women who are trafficked into Japan, particularly from the Philippines, enter on such visas.

Not all trafficked women enter on entertainer visas. Some are also moved using tourist visas and possibly spouse visas. There is trickery involved in the recruitment of trafficked women, who believe they will work as entertainers or perhaps as hostesses.

Women may be initially recruited by family members, friends or acquaintances, strangers, job agency staff, travel agency staff or employers. Research by the United Nations University (UNU) which included interviews with 20 trafficked women, found that a high incidence of recruitment in the Philippines was through informal networks, as many of the subjects came into contact with their recruiter through acquaintances or their family.⁴⁶ This predominance of informal networks is consistent with a 1997 International Organization for Migration survey of Filipino women⁴⁷ which found that 73 per cent of their subjects named friends and family as the source of their information about recruitment. Referral by friends and family suggests that at least some sections of Philippine society perceive working in Japan as advantageous and relatively low risk. This, and the very local and personal level at which recruitment occurs, has implications for regulation.

Dolores

Dolores initially came to Japan as an entertainer in 1999 for six months with a genuine passport. She overstayed for two months. In 2000, she was recruited by a job agency and promised work as an entertainer in a restaurant or bar. Her six-month contract stipulated a salary of US\$500 a month. She paid PHP 60,000 (borrowing from relatives) for her documents and was told that travel expenses and the agency's fee of one month's salary would be deducted from her salary, which she would receive on the day she departed Japan. She was not told the exact figure she would receive.

The second time she came to Japan, Dolores entered Japan with six other women recruited by the same agency. She had a fake passport that increased her age from 19 to 23. Her passport included an entertainment visa. When she arrived, her passport and tickets were taken away, and she was taken to a club where she was forced to strip, do lap dancing where she could be touched by customers, and to touch customers sexually. At first she refused, but she was slapped by the club owner in front of a customer and threatened with further violence. She experienced strong pressure to 'go on dates' (including sex) with customers, but at the time of the interview she had been able to refuse. Dolores was provided with accommodation and food money and was allowed to keep tips from customers.

Dolores was promised that if she did not report her situation to the Japanese authorities or Philippine Embassy things would be arranged so she could return to Japan possibly using a spouse visa.⁴⁸

TYPES OF DECEPTION

Recent cases have involved the following deceptive recruitment practices:

- Promise of a different kind of work
- Promise of higher wages
- Promise of fair living accommodation
- Promise of fair working conditions
- Promise of different location of work in Japan
- No information on debt prior to arrival

TYPES OF WORK

Trafficked women are usually recruited as entertainers but work as hostesses, with different degrees of pressure to provide other services. They may become aware of their situation immediately after arriving in Japan or the pressure may begin as a gradual process, where the job at first appears to be hostessing, escalating to include wearing revealing clothes, stripping and 'going on dates', i.e. prostitution. In some clubs, women will be required to go on a certain number of dates per month. In theory clubs may circumvent the prostitution law by insisting that women go on 'dates' which occur off premises. They may then argue that sex was not part of the agreement, and that if sex occurred, it was consensual sex between two adults.

Women are vulnerable to trafficking because the hostessing side of the entertainment industry is so open to exploitation. There are an enormous variety of practices in clubs and only relatively limited monitoring.

Gloria

Gloria had a graduate degree in banking and finance but decided to try working in Japan because she had heard she could make more money, and would be better able to support her four children. She gained accreditation as an entertainer and approached a promotion agency which was recommended by an acquaintance. The agency told her she would have an initial debt of US\$461 for documentation plus US\$1,000 for travel expenses. Her contract stipulated a monthly wage of US\$1,800 to work six days per week. She travelled from Manila to Tokyo with four other women and a promoter, entering with a genuine passport and valid entertainment visa.

After arriving in Tokyo, Gloria's passport and other travel documents were taken from her. She was taken directly to a club in Kinshi-cho, Tokyo. She was told that she would receive US\$1,000 a month, the entire salary being payable on the day of departure to the Philippines. The contract period was six months which also equalled the estimated time it would take to repay her incurred debt. She was told that after her debt was paid off, she could come back to Japan to work again.

At the club she met a top-ranking yakuza who said he wanted her for himself. He negotiated with the promoter and paid her entire debt plus “consolation money”. She was then transferred to Nagoya to become his forced “live-in girlfriend”, or as Gloria described it, his “sex slave”. He gave her clothing, a food allowance and the use of his apartment but she was not able to leave the apartment without being accompanied by a lower-ranking yakuza member.

Gloria managed to run away from Nagoya and started working in a club in Kinshi-cho, Tokyo. A month later, she was found by the yakuza who demanded that the club pay him the amount of money she had brought into the club while working there. She was taken back to Nagoya.

After two months in Nagoya, she escaped again and found a job hostessing in Chiba where she was working seven days a week to maximize her earnings. She believes the club owners know she is wanted by the yakuza, but are protecting her because she is the club’s top earner.⁴⁹

DEBT

Victims usually do not pay a fee up front, but are faced with a debt upon arrival. Their earnings are then completely controlled by their broker. They are provided with accommodation and receive only a small stipend for food each day. Their salary is held ‘for them’ and given to them at the airport prior to departure. This means that the brokers are able to deduct whatever they calculate they are owed (the ‘debt’, stipend, any fines, etc.) and the women do not actually know how much they will receive until they are about to board the plane. If they break their ‘contract’, they are not paid at all.

Sometimes debts are simple, but calculating the exact amount of a debt can be complex. One subject from the UNU study stated that: “I paid regularly for the first two months. I got sick for a week in my second month, and was penalized at 20,000 yen a day. In the third month, I ran away from my club. My entire salary of 200,000 yen was forfeited and nothing was given to me. I started to work in another club in Tokyo but I was found out and the Japanese promoter confronted my new employers, who negotiated another 100,000 yen as ‘compensation’ on the grounds that they could keep me. I paid this amount to my new employer in four months.”⁵⁰

In some instances, women may pay a fee up front for an agency to arrange all necessary documents. In this instance, women usually are not faced with a significant or indeed any debt but may simply be paid far below the legal wage.

TRANSPORT

Some trafficked women use forged passports and visas. This reflects the UNU study which found that 65 per cent of the 20 women interviewed used one or more fake documents, even when applying for legitimate entry means, such as entertainment visas. In some instances, passports are tampered with by changing the photo. The Philippine Government has a number of systems in place to offer passport security. There is a line embedded into the plastic seal which covers each photo. The line can only be seen under ultra violet light. If the plastic is removed the seal will be broken. Recently, it seems some crime groups have developed technology to circumvent this security arrangement.

Trafficked Filipino women usually travel directly from the Philippines to Japan, but have also been brought through Singapore or Hong Kong, changed passports, and then entered Japan.

Evelyn

Evelyn travelled to Japan on eight occasions and consequently might appear to be a willing participant and not easily deceivable or 'above deception'. On the first occasion, she entered Japan legally and worked as a cultural dancer per the terms of her contract. On her next six visits to Japan she had a range of experiences, some of which involved pressure and threats against her to have sex with customers.

While in Japan on her seventh visit, Evelyn was approached by the manager of a club who asked her to work in his club in return for arranging her return. She agreed. She was relatively confident that she understood the system and would be able to avoid exploitation. It was on this final occasion that she experienced physical violence, was forced to have sex with customers, was drugged and was forced to administer drugs to other hostesses.

Evelyn was told to put a drug in another hostess's drinks but refused. After the club closed, the management sent the other hostesses home so that only she, one other hostess and the male staff remained. The manager then forced them to strip naked, and staff watched as she was assaulted.

After the assault, Evelyn put drugs in other hostesses' drinks when demanded, and was also drugged. She explained that two kinds of drugs were used - one which made you very agreeable to everything the customer said and suggested. The other paralysed the person, while keeping them conscious. The worst part, she said, was not knowing when it would happen.

Despite having a broad understanding of the system, Evelyn was unable to extricate herself from the particular club and its accommodation once she had arrived. Finally, she married a Japanese man (yakuza) associated with the club, believing it to be a genuine marriage and that it would also offer her protection. Following severe domestic violence (including having a loaded gun held to her head) she fled.⁵¹

COERCION AND CONTROL

Many women arrive penniless in Japan and are given a daily allowance of 1,000 yen a day, sometimes less - barely enough to buy food.

Victims are hampered by their lack of Japanese, lack of understanding of Japanese welfare/labour/legal systems, and support from friends or family. The following coercive and controlling practices have been used to prevent a trafficking victim from leaving their situation:

- Threat of physical violence
- Threat of sexual violence
- Physical violence
- Sexual violence
- Withholding of passports
- Withholding of air tickets
- Withholding of salary
- Controlling communication
- Controlling movement
- Threat to report to the police
- Threat to report to Immigration

The UNU study found that 12 of the 20 trafficked women had experienced violence by smugglers/traffickers in Japan. Eight reported that their smugglers/traffickers had been physically violent. Seven had experienced sexual violence additional to other physical violence. Five subjects reported restricted movement. Two reported restricted communication and confinement. Thirteen women reported physical violence and five reported sexual violence (four of whom had also experienced physical violence) from their employers. Some victims ran away but were terrified that the yakuza were looking for them.

Margarita

Margarita was 20 and working in her aunt's dressmaking shop when she was recruited to work in Japan by an illegal employment agency attached to a travel agency. The agency promised her work in a restaurant or bar in Japan and arranged her documents. Margarita entered Japan with a fake passport and tourist visa. The agency arranged her ticket, booked accommodation at a hotel (to show Immigration) and gave her US\$3,000 'show money'. Her father turned in the title to his small farm as collateral to the Filipino promoter.

When Margarita arrived in Japan, her ticket, passport and show money were removed and she was told she had a debt of 250,000 yen. Margarita was forced to work as a hostess and sex worker. She received a minimum wage plus extra for going on 'dates' (including sex), which she was forced to do. Her minimum weekly salary was between 60,000-80,000 yen a week, of which she could keep about half. Margarita was threatened and experienced both physical and sexual violence from traffickers and employers in Japan. After paying her debt in nine months, she decided to stay in Japan and save money.⁵²

EFFECTS ON THE VICTIM

Trafficked women may present symptoms of stress or trauma. They may also exhibit low self-esteem. While in Japan, victims may face health problems because they do not have access to medical services. Alternatively, medical treatment may attract a huge cost. Consequently, the Embassy endeavours to repatriate women as soon as possible if they have health problems.

On their return to the Philippines, victims may be unable to function normally and become a burden on their family. If people discover that they were trafficked, victims may be stigmatized, as may their entire family.

The Embassy also pointed out that cases of individual trafficking can be expanded in the popular consciousness to create an image that 'Filipino women are a victimized group'. This kind of broad racial stereotyping has negative implications for all Filipinos living and working in Japan.

PHILIPPINE EMBASSY RESPONSE

The Philippine Government aims to limit abuse through its pre-departure programme, which provides basic information on cultural differences between the Philippines and the country of destination, and basic labour rights.

The Tokyo consulate has an 'Assistance to Nationals' section specifically to deal with such problems, although trafficking issues are also dealt with by the labour section when appropriate.

The Embassy undertakes a number of activities which include:

- Issuing urgent travel documents so that trafficked women may return to the Philippines as soon as possible
- Contacting the Immigration Office to arrange for a rapid departure when a woman believes herself to be in physical danger
- Negotiating with the promoters to secure a woman's return air ticket
- Escorting women to the airport when necessary

Embassy officials also notify the Government of the actions of recruiters and brokers who have breached labour standards or have trafficked women. Depending on the seriousness of their activities, these recruiters/brokers may receive a warning, may have funds removed from their bond, or may have their accreditation revoked.

RELATIONSHIP WITH THE JAPANESE GOVERNMENT

There is a strong working relationship with Immigration officials, the Ministry of Foreign Affairs and the Ministry of Justice. Consular staff also meet with Police officials but do not have much contact with the Police on a case-specific level.

The Embassy is not aware of any instance in which a trafficking victim has been able to use Japanese labour laws to remedy their situation despite the fact that in many cases there were labour-related complaints including low wages, non-payment of wages, long working hours, mandatory night work, unsafe/hazardous work environment, poor accommodation provided by establishments, no access to social security, no access to medical facilities, the actual work was different from that described in the contract and no contract was signed. The Embassy states that labour laws frequently do not apply because a woman's immigration status is illegal, or she has been doing work which does not fall within her visa category, for example, hostessing under an entertainer visa.

Embassy officials believe that the trafficking of women into Japan may be more effectively addressed if the Japanese Government was able to consider greater regulation and monitoring of the entertainment industry, particularly in relation to labour laws.

CONCLUSIONS

What emerges from research are different approaches to trafficking in each of the three countries, but commonality in the opinions of diplomatic representatives of these three countries in Tokyo as to the requirements for addressing the problem more effectively:

- Official public commitment
- A national action plan
- Development of a specific anti-trafficking law
- Ratification of the Palermo Protocol on trafficking
- Education of Government officials, and sections of Japanese society
- Funding of services to victims
- Provision of victim protection visas

SUPPLEMENT: FATE AFTER ESCAPE

Based on the interviews with Embassy staff of the Colombian, Thai and Philippine Embassies in Tokyo, as well as with shelter staff, this supplement attempts to describe situations of trafficking victims after they escaped to an Embassy or a NGO shelter.

WHAT HAPPENS AFTER THE VICTIM ESCAPES?

Victims of human trafficking who are looking for help would normally seek out either their Embassy or shelter institutions/other NGOs. Not seeking out official Japanese authorities in many cases is due to the fact that the victims either did not enter Japan on a proper travel document, or overstayed their visa. In these cases, the victims would face forced repatriation by the Japanese authorities. Their insufficient command of Japanese constitutes a serious obstacle to access to information to protect themselves.

HOW DO VICTIMS FIND OUT ABOUT WHERE TO TURN?

Taking the Filipinas as an example, there are various ways victims get to know about sheltering institutions and places they can seek help. Maybe more than half of the victims escaping would seek out shelters (HELP or others) or other institutions/NGOs before going to the Embassy. They find the shelters through a Philippine TV programme broadcast in Japan which provides information on shelter facilities for victims of trafficking or other kinds of abuse. Magazines also provide information for people who are in need of care. Furthermore, since the majority of Filipinas are Christian, information displayed in churches is useful. Since victims from the same background and compatriots tend to gather and stick together whenever possible, word of mouth is another common channel for passing information on to compatriots, especially in remote areas.

There are numerous NGOs in Japan run by Philippine nationals, normally persons with a permanent residence visa for Japan, who are aware of and in sympathy with the victims. These NGOs do cooperate with the Embassy (the Embassy holds various phone numbers) and are performing an important role in the work of rescuing victims, providing information, picking them up from wherever they are and bringing them/referring them to shelter institutions and/or the Embassy. Since the Embassy is centrally located in Tokyo, the outskirts are more easily and effectively taken care of by such NGOs. For this as well as for financial reasons, the Embassy highly appreciates this kind of cooperation.

The Thai Embassy also uses outreach to Thai communities across Japan, while the Colombian Embassy has started different activities, one of them a telephone hotline, another the placement of stickers with the phone number of the Embassy in areas known for prostitution.

Having met the 'Assistance to Nationals' and the Welfare Officer at the Section of Labor at the Philippine Embassy, the unit for the Protection of Thai Nationals and the person in the Office of Consular Affairs focusing on welfare issues at the Thai Embassy, as well as the social assistance post at the Colombian Embassy (operational since 1997), it can be stated that these Embassies seem to be aware of the problem and are trying to tackle it effectively. Financial resources, on the other hand, are limited.

There do not seem to be any specific instructions for the Embassies on how to handle cases of human trafficking. The Colombian Embassy states that a certain format has been developed to process the data of a trafficking victim. The Thai and Philippine Embassies explicitly state their gen-

eral policy, which is to 'protect Thai nationals generally' or, in the case of the Philippines, the 'Assistance to Nationals' applies a general policy of prioritizing citizens.

CONTACT WITH JAPANESE AUTHORITIES

If the victim arriving at the Embassy does not have any valid documents, the Embassy has to be very careful. Although all the Embassies state that they are in contact with the Japanese authorities in cases of trafficking and that they would accompany them to see the authorities, it seems that Embassy personnel are quite aware of the risks. Also from the general policy of taking care of citizens in need, one Embassy states that this may oblige the Embassy to ensure the victim's security and well-being before contacting the Japanese authorities.

It is all the more worth noting that, according to the Philippine Embassy, the Japanese Police can be quite cooperative and inclined to consider the proposals of the Embassy: once the Embassy takes responsibility for the victim and 'guarantees' the victim to be available to Japanese authorities for investigation as well as for repatriation procedures later on, it might be agreed on not to take the victim into police custody but entrust the Embassy/shelter with the humanitarian element of the case.

ACCOMMODATION AND LIFE AT THE SHELTER

In cases of the victim reaching the Embassy, she normally will be referred to a sheltering institution. There is shelter at the Thai Embassy for new cases, before victims are referred to other shelter institutions. There used to be a place for sheltering people on the premises of the Philippine Embassy, but due to budget cuts this system had to be abandoned. Victims are now referred to sheltering institutions such as SAALAA, HELP and others. However, for the victim this does not mean freedom: being referred to a sheltering institution can on the contrary mean restriction of movement in order to protect the victim. Often enough, organized criminal groups follow the victims in an attempt to bring them back to their place of coerced work. Therefore, the first rule for people at the shelter is not to tell anybody about the victim's whereabouts. Here, the Philippine Embassy states that although many of the victims who were able to escape their ordeal are looked for by organized criminal groups, the fact of an Embassy appearing on the scene works as a kind of 'repellent' against prosecution and repression from criminal groups.

To ensure the protection of the resident victims, shelters have to resort to security measures. At the HELP shelter the situation is as follows: the address of the shelter is kept secret. The shelter has installed surveillance cameras at the front and back doors. Two tightly locked doors are opened only to the staff members and users of the shelter. Due to budget constraints, HELP cannot afford full-time security staff.

The victims usually remain inside the shelter and staff members go on errands if necessary. Either Embassy staff or shelter staff contact an Immigration officer in charge and accompany a victim when she reports to the Immigration Bureau, providing language assistance. On Embassy request,

the Immigration Bureau can conclude investigations and the necessary procedure for displacement within a day, whereas it usually takes several days.

Mainly during the first week, many of the victims are exhausted, so it is quite normal for them to sleep late into the day and recover from their experiences. After this, they normally want to go home as quickly as possible.

The trafficking victims usually spend one to two weeks in the shelter before they leave Japan for their homeland. Sometimes it can take up to two months, a situation that puts additional stress on the victim, given the restricted movement and the desire to go home. According to a case worker at a shelter, victims show deep concern over their families at home since in most cases they were threatened that their escape would put their family in danger. Some are distressed by the burden of their new life in their countries of origin. A great majority of those who are victimized were initially promised decent employment, which would enable them to support their family, etc. However, at the last moment of their stay in Japan, they know they are leaving without any financial means and hope for a better life. Additionally, many of those who are protected in the shelters are worried about their health condition. Sexually-transmitted diseases (STDs) and AIDS are their major anxieties. Some say that at their work they were not allowed to use condoms, many are seriously worried about being pregnant. If necessary, shelter staff take some victims to hospital.

During the waiting time at the shelter, victims also suffer from solitude and an inability to communicate, especially when there is no one who speaks their mother tongue. In one case, a Colombian girl seemed to suffer from profound loneliness and developed feelings of isolation since the shelter had no Spanish-speaking staff at that time.

PROCEDURES BEFORE LEAVING THE COUNTRY

Embassies often have to issue new passports for the victims for various reasons, e.g. victims' passports taken away by brokers. Before departing Japan, the Immigration Bureau is usually involved as described in the previous section. In some cases, shelter staff provide the police⁵³ with information if they hear brokers' names repeatedly or a victim requests police investigation. The police would then initiate investigation if criminal cases are suspected. One such case is the 'Sony' case (see Chapter 4).

But the major problem is the purchase of the air ticket, since only a few Embassies have funds to cover these expenses. The Thai Embassy is in the advantageous position of getting a good price on Thai Airways for trafficking victims since Thai Airways is State-owned. The Embassy purchases the ticket (a loan in theory but not recovered; see also the section on Thailand). The Embassy also gets special funding from the Thai Ministry of Social Welfare; expenditure made is reimbursed by the Ministry.

The Colombian Embassy does not have any special funding or possibility of purchasing airline tickets, so funds have to be raised, which also takes time. The Philippine Embassy is believed to have a special budget for the airfare, but this 'Repatriation Fund' is set up centrally in the

Philippines and obtaining it is difficult, first because of the time it consumes and, second, because of its limited resources, given the huge number of Philippine nationals working abroad.

ARRIVING IN THE COUNTRY OF ORIGIN

Shelters do not normally have the resources to trace the victim's fate after going back to the country of origin. However, letters sometimes arrive at the shelters, written by former residents.

Going back to Colombia, contact with Colombian authorities starts early. Since victims often fear for their families back home (because of the links between Japanese and Colombian organized crime), the Embassy contacts Colombian authorities. The Colombian police are very cooperative in monitoring and protecting families of trafficking victims.

After going back to Colombia, the victim is picked up at the airport by a Colombian official. The Department of Foreign Affairs as well as the Department of Investigation is involved in the process of investigation.

There are NGOs taking care of repatriated victims of human trafficking. The Embassy works mostly with the Foundation Esperanza. Shelter institutions like HELP also have contacts with NGOs in Colombia and contact them concerning the return of the victim.

The Thai Welfare Ministry as well as Thai immigration is involved in the reintegration process. In one case reported by HELP, a 14-year old Thai girl was tricked into prostitution after having been promised employment in a bakery. With the income from the work she had wished to support her family. The Thai Embassy was concerned about her and her life after her return home; since she was from a poor region, she might easily fall in the same trap again. Additionally, the Embassy could not overlook the possibility that she had actually been sold by her parents. Thus a member of staff of the Welfare Department picked her up upon her arrival in Bangkok and brought her to a vocational training centre with accommodation. She was separated from her family. The case worker witnessed her calling her family telling them that she was doing fine. There are also NGOs providing help and the Embassy points out the importance of NGOs working in Thailand to prevent Thai nationals being deceived and sold into prostitution.

The Philippine Government offers support to victims returning to their country, giving assistance in the psychological recovery of the victim. There is also various vocational training for repatriated victims. Given the huge number of Philippine citizens working abroad, it is not surprising that there are many NGOs working to support victims of trafficking or coerced prostitution. The Department of Social Welfare (DSWD) works hand in hand with these NGOs (People's Organizations). Philippine legislation also features specific measures.

Statistical data on human trafficking

This chapter examines the issue of statistical data available today. Due to the absence of laws that directly address human trafficking, many trafficking cases fail to be recorded either because the victims simply do not report to the police, or are treated as immigration-violators and not recognized as trafficking victims. This chapter, however, tries to provide as much relevant data as possible in order to close in on, or at least give a clue to, the scale of the problem. In line with this aim, this chapter introduces data on organized crime groups, the entertainment industry, immigration statistics, and the “entertainer visa” as well as police statistics on human trafficking. Despite limited data affecting a complete grasp of the extent of human trafficking in Japan, this study conveys a sufficiently broad perspective of the present situation of human trafficking in Japan and the gravity of the issue.

STATISTICAL INFORMATION

It is extremely difficult to estimate with any credibility the number of women being trafficked into Japan. The following is statistical information primarily drawn from official sources, the Japanese Government and the Philippine Overseas Employment Agency.

POLICE STATISTICS

Police statistics on prosecuted cases of trafficking do not reflect the actual size of trafficking largely because of unreported cases. In addition to the absence of legislation specifically targeting trafficking, systems to protect the victims are not yet in place, which means that victims are unlikely to seek ‘protection’ from the police, and even if they do, there is little chance that this will lead to actual prosecution of the traffickers. What will most often happen is that the victim will either go back to her country at her own expense, or if her stay is illegal, which is often the case, she will be deported, also at her own expense.

However, police data on trafficking is important in itself as it indicates the status of prosecution of trafficking. In 2003, 51 cases were reported to the National Police Agency by Prefectural Police forces, 41 people were arrested (eight of whom were brokers) and 83 victims were found.

Year	2000	2001	2002	2003
Number of cases	80	64	44	51
Number of persons arrested ⁵⁴	55	40	28	41
Number of persons prosecuted	28	33	26	37
Number of brokers	16	9	7	8
Number of victims	104	65	55	83

Source: National Police Agency, 2004

Year (total)	Thail.	Col.	Phil.	Taiw.	Rus.	China	Indon.	Kor.	Cam.
2000 (104)	73	1	4	3	12	7	3	1	
2001 (65)	39	3	12	7					
2002 (55)	40	6	2	3		4	4		
2003 (83)	21	43		12	0	2	3		2
Total (307)	173	53	18	25	12	13	10	1	2

Source: National Police Agency, 2004

Note: Thail.: Thailand, Col.: Colombia, Phil. The Philippines, Taiw.: Taiwan, Rus.: Russia, Indon.: Indonesia, Kor.: Korean, Cam.: Cambodia

DATA ON TRAFFICKING

In the absence of a national policy to directly address trafficking, the National Police Agency is the first and still largely the only Government agency that has established some kind of structured approach towards trafficking. In addition to developing and distributing explanatory information to officers in the field including details on actual cases of trafficking, the Agency has set up a system requiring each Prefectural Police force encountering a possible case of trafficking to report to the National Police Agency, using a specific reporting form (See Appendix II). Tables 1 and 2 above are based on reports by the Prefectural Police.⁵⁵ The majority of reported cases were in the Kanto area, but cases were spread all over Japan. The 41 people who were arrested comprised eight brokers (who received and placed the victims), employers and staff members of the establishments where the victims worked. Almost all those arrested were prosecuted, except when sufficient evidence could not be gathered. Almost all cases were resolved in Court within three to four months - or even less in the case of simplified procedures - and resulted in conviction. Penalties over the last four years ranged from one to two years prison sentence on average (although suspended sentences were often awarded for first arrests), to a maximum of four years without suspension, with fines of usually less than 500,000 yen (approx. US\$4,700) up to a maximum of two million yen (approx. US\$19,000). Fines were sometimes accompanied by the collection of crime profit (around three million yen in one instance). Convictions were made on the basis of the Employment Security Law (Article 63, placement in harmful work; penalties from one to ten years or a fine of 200,000 to three million yen); the Immigration Control Law (Article 73.2, facilitation of illegal work; penalties up to three years imprisonment and/or a fine up to two million yen); the Anti-Prostitution Law (Article 12, managed prostitution; penalties of up to ten years imprisonment and/or a fine of up to 300,000 yen). Almost all victims had overstayed their residency permit. Some still had a legal visa but were performing activities not allowed under their visa. Almost all of the victims were repatriated. The convicted foreign brokers and employers were also deported, as a suspended sentence is a cause for forced deportation. A deported Colombian broker was arrested upon arrival in Colombia.

Based on hearings from 3,517 deportees in February 2004, 53 persons found to be trafficking victims as defined in the Palermo Protocol, according to the Immigration Bureau.

DATA ON ORGANIZED CRIME GROUPS

One major obstacle to the prosecution of trafficking is the powerful presence of organized crime groups (yakuza or boryokudan) controlling the sex industry. There are 24 boryokudans registered under the Anti-boryokudan Law,⁵⁶ with a total membership of 85,800, including quasi-members (individuals who are not formal members of a boryokudan but are collaborating with it and using the boryokudan's power to conduct illegal activities, or individuals who provide weapons or capital to boryokudans and contribute to the management of the group).⁵⁷ A total of 30,550 members and quasi-members of boryokudans were arrested in 2003 mainly on charges of drug abuse, assault, extortion or theft.⁵⁸ There is also increasing collaboration and complicity between the boryokudans and foreign crime groups.⁵⁹ The White Paper on Police 2003 and 2004 contains specific references to cases of trafficking of women for sexual exploitation, in complicity between foreign and Japanese organized crime groups.⁶⁰ The emphasis of the White Paper is on the criminal aspects of international organized crime groups smuggling women illegally into Japan for sexual exploitation. There is extremely little information on the victims, indicating that there is still too little attention given to the human aspect of such crimes.

The Japanese sex industry is largely controlled by boryokudans. Though illegal, prostitution is tolerated and largely provided in "restricted sex-related businesses", which comprise a number of types of businesses defined under the Law on Control and Improvement of Amusement Business as businesses providing services aimed at fulfilling 'the sexual curiosity of clients of the opposite sex'.⁶¹ Bars and night-clubs where hostessing is provided are "entertainment businesses" but not "restricted sex-related businesses" under this law. According to police statistics, in 2003 there were around 32,340 shops registered under this category.⁶² A total of 1,144 people were arrested in 2003 for violations of the anti-prostitution law, of which 260 (22.7 per cent) were members of boryokudans, indicating that prostitution is still a main source of funding for organized crime groups. Among people arrested, there were 50 Colombians, 46 Thais, 45 Koreans, and 42 Chinese.

THE ENTERTAINMENT INDUSTRY

Japan has a huge entertainment industry including thousands of hostess bars (in many of which sex is not sold) and an intersecting and enormous sex industry. The entertainment industry as a whole generates huge revenues, estimated by the Asian Wall Street Journal in November 2000 at gross annual earnings of between four and ten trillion yen (or US\$33 - 84 billion),⁶³ and by the Financial Times in February 2003 at ten trillion yen.⁶⁴ Even taking the more conservative estimate of the Asian Wall Street Journal, this figure represents 1 to 3 per cent of Japan's GNP.⁶⁵

The entertainment industry is an enormous employer of foreign women, though accurate figures are difficult to establish. The July 1999 bulletin of the IOM reported that “Japan has the largest sex market for Asian women, with over 150,000 non-Japanese women involved, mainly from Thailand and the Philippines”.⁶⁶ In 2000, the Far Eastern Economic Review suggested that there were 120,000 foreign women in Japan, and as many as 75,000 working under duress in the sex industry.⁶⁷

Although the above figures provide some context for discussing the scale of trafficking of women into Japan, they are estimates only and are not based on thorough disaggregation of notions such as hostessing/sex work and free agency/coercion/force. Generalizations about the entertainment industry are dangerous. ‘Hostessing’ is an occupation unfamiliar to many cultures, and many people erroneously presume that hostessing includes the provision of sexual services. Statistical estimates are often sloppy or completely fail to differentiate between hostessing (usually involving conversation, pouring drinks, lighting cigarettes but no physical contact or sexual service) and other sex work (including stripping and prostitution). Given the size of the entertainment industry, it is hardly surprising that clubs range from the highly formalized elite to those which include sexual services additional to normal hostessing services. To be effective, any debate on trafficking must grasp the enormous size and diversity of the Japanese entertainment industry, that it employs an enormous number of Japanese women (as well as foreign women), and that most women working within the industry are doing so with free agency. There is no evidence to date to suggest that trafficked women make up more than a small proportion of women working in the entertainment industry, and prostitution is only a part of that industry.⁶⁸

The huge size of the entertainment industry makes generalizations harmful (and probably offers some general reassurance to young women being recruited to work in it, i.e. sections of it offer highly paid, low risk work, without provision of sexual services). This difficulty in undertaking thorough analysis of the entertainment industry’s broad operation is compounded by a general lack of official government data on specifics within the industry and the practice of companies keeping very generalized records about their entertainment expenses. The entertainment industry forms a fundamental component of mainstream Japanese business culture. Entertaining and building trust between clients, customers and co-workers has a long tradition as a Japanese business practice, which is why the industry is at least in part supported by corporate accounts. While mainstream business is neither responsible for the entertainment industry’s worst excesses nor directly connected to the trafficking industry, the broad entertainment industry does enjoy mainstream support.

Another point relates to the entertainment industry’s operation in simple labour market terms. Clearly, the industry is an enormous employer of foreign women. Although employment as a hostess is legal, there is no visa category that specifically covers this type of work. Foreign women may work legally, for example, if they have a spouse visa or work visa (which they cannot get for this kind of work). It is likely that many foreign women working in the entertainment industry do not have appropriate visas.⁶⁹ This environment is precisely that identified by the ILO’s Head of the Special Action Programme to Combat Forced Labour, Roger Plant:⁷⁰ “Barriers ... put up against legal migration in a context of demand for cheap migrant workers ... can create a dangerous breeding ground for traffickers.”

IMMIGRATION STATISTICS

Victims of trafficking enter the country using either legal visas (usually short stay, entertainer visas, or spouse visas), or falsified travel documents, or sometimes they do not pass through the formal immigration process at all. Very often, both their stay and work in Japan are clandestine, although police data refers to cases where women were trafficked from Russia to work in prostitution for three months, until the expiry of their tourist visa, getting paid on return home.⁷¹

Immigration statistics provide information on the number of immigrants who have overstayed their visas, the number of deported illegal workers, the types of work performed, and their earnings while in Japan. Although this information is collected by immigration officers at deportation, which may compromise its absolute reliability, the data appears to be fairly consistent, showing that most illegal immigrants receive similar daily wages: between 7,000 and 10,000 yen/day. This is somewhat above the minimum wage in Japan.⁷² Only 13.6 per cent of illegal immigrants appear to have received less than the minimum wage.

IMMIGRATION DATA

- Refusal of entry: An average of 10,000 persons a year are refused entry to Japan at Immigration, because they lack valid travel documents; there are legal grounds for refusal; or their purpose for visiting Japan is suspicious. This relates to cases where entrants appear to come with the purpose of working while presenting tourist or short business visas or claiming to be visiting friends or family. Around 60 per cent of refusals of entry (6,000/year) fall into this category.⁷³ For example, in 2003, South Koreans and Chinese (mainland and Taiwan) constituted the two largest groups, while other major groups were: 346 people from Thailand, 274 from Colombia and 402 from the Philippines.
- Forced repatriation: The number of illegal immigrants deported from Japan in 2003 was 45,910 (of which 19,951 women). About one fifth (9,251) were illegal entrants, and 34,266 (75 per cent) overstayers.⁷⁴ A total of 5,698 Philippine nationals (3,763 women) and 2,993 Thai nationals (1,813 women) were repatriated for violation of immigration laws. Data is not available for Colombian nationals.
- Illegal immigrants: Trafficking should be clearly distinguished from illegal immigration. Not all overstayers are trafficking victims. Some trafficking victims leave Japan before their visa expires. Others probably do not show up on immigration data because they did not go through Immigration when they entered the country, or used forged documents. It seems likely, however, that many trafficking victims remain in Japan after expiration of their visa. Consequently, data on the number of overstayers may provide some context for estimating numbers of trafficking victims. As of January 2004,⁷⁵ there were 219,418 overstayers in Japan, among whom 31,428 (14.3 per cent) were Philippine nationals and 14,334 (6.5 per cent) Thai nationals. 113,066 (51.5 per cent) were men, and 106,352 (48.5 per cent) were women. Statistics show that the majority of overstayers entered the country under a short-stay visa (68.5 per cent) or entertainer visa (5.5 per cent). Among those who used the entertainer visa, 10,582 (88.4 per cent) were from the Philippines.

It is important to note that, in many instances, a trafficked woman's illegal immigration status may be a factor in dissuading her from seeking help or reporting her situation to the police.

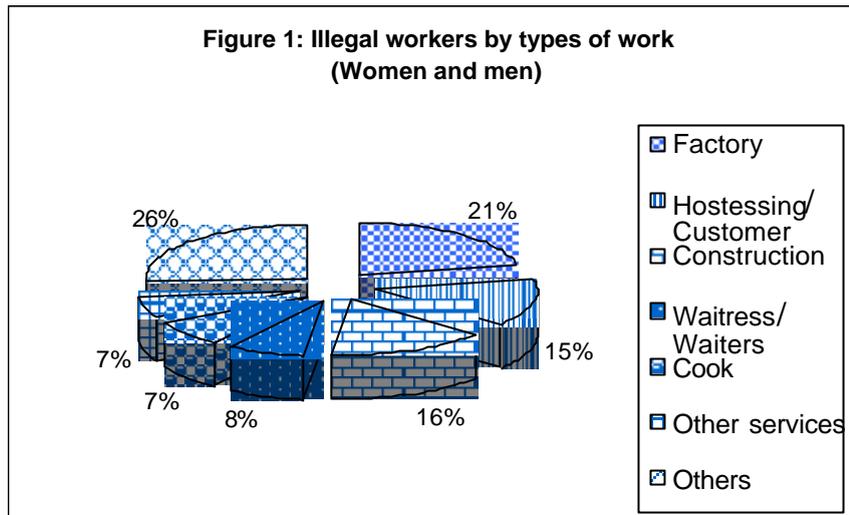
- **Illegal workers:** In 2003, 77 per cent of deported illegal immigrants (34,325) were found to have been working. Most of them were from neighbouring Asian countries, but the group included 104 countries in total. South Korea, China (mainland), the Philippines, Thailand and Malaysia formed the bulk of nationalities identified as illegal workers, representing 70 per cent of all illegal workers apprehended.
- **Official statistics reflect the highly gendered nature of work for illegal migrants.** Men tended to work as factory workers, whereas the majority of women worked as hostesses,⁷⁶ followed by factory workers and lastly waitresses (see table and graphs below).
- **Wages:** most workers received between 7,000 and 10,000 yen a day (38.2 per cent of total; 46.5 per cent of men; 26.9 per cent of women).

Country of origin	Number of people	Percentage of total
Korea	46,425	21.2 per cent
China	33,522	15.3 per cent
Philippines	31,428	14.3 per cent
Thailand	14,334	6.5 per cent
Maylasia	8,476	3.9 per cent
Others	85,242	38.8 per cent
Total	219,418 (106,352 women)	100 per cent (48.5 per cent women)

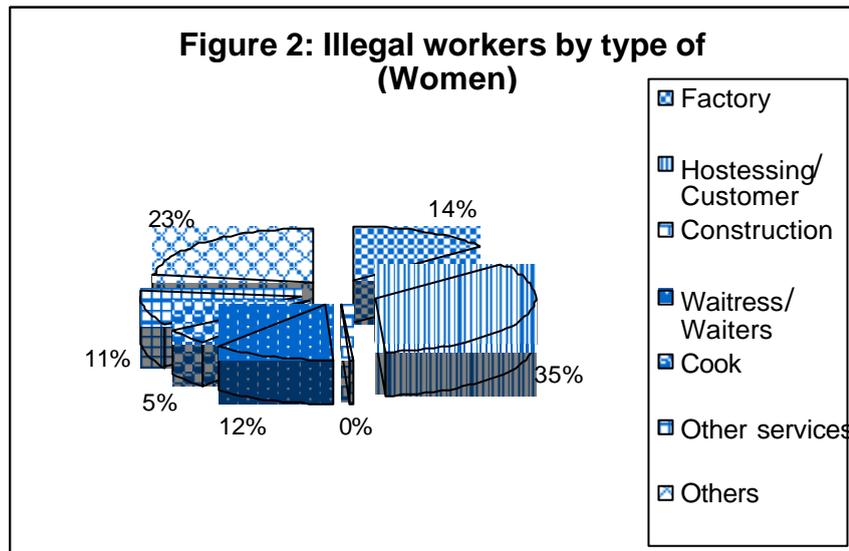
Source: Ministry of Justice, Immigration Bureau 2004

	Factory	Hostess- ing/ cus- tomer	Construction	Waitress/ Waiters	Cook	Other services	Others
Men	5,146	184	5,426	1,030	1,845	927	5,511
Woman	2,010	4,873	42	1,684	689	1,479	3,274
Total	7,156	5,057	5,468	2,919	2,534	2,406	8,785

Source: Ministry of Justice, Immigration Bureau 2004



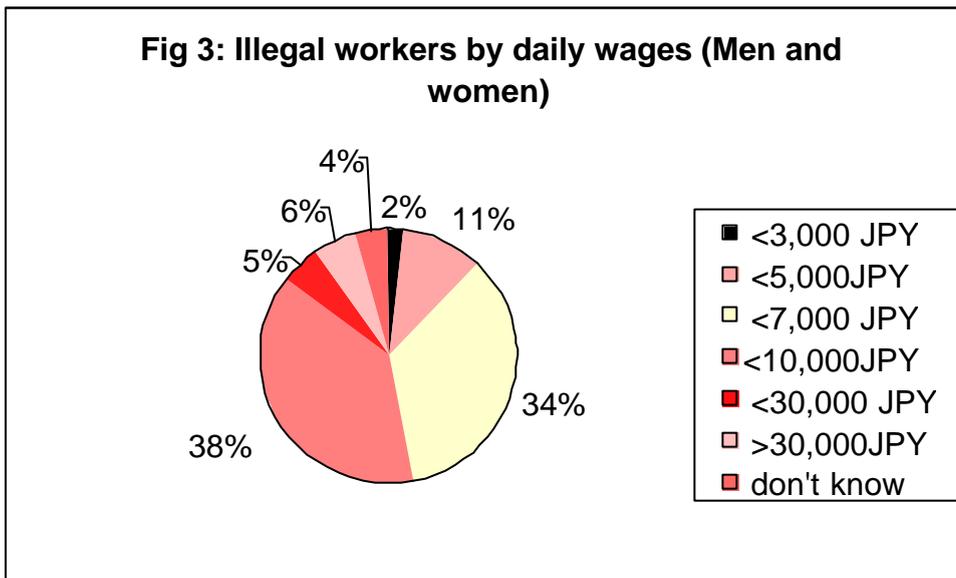
Source: Ministry of Justice, Immigration Bureau 2004



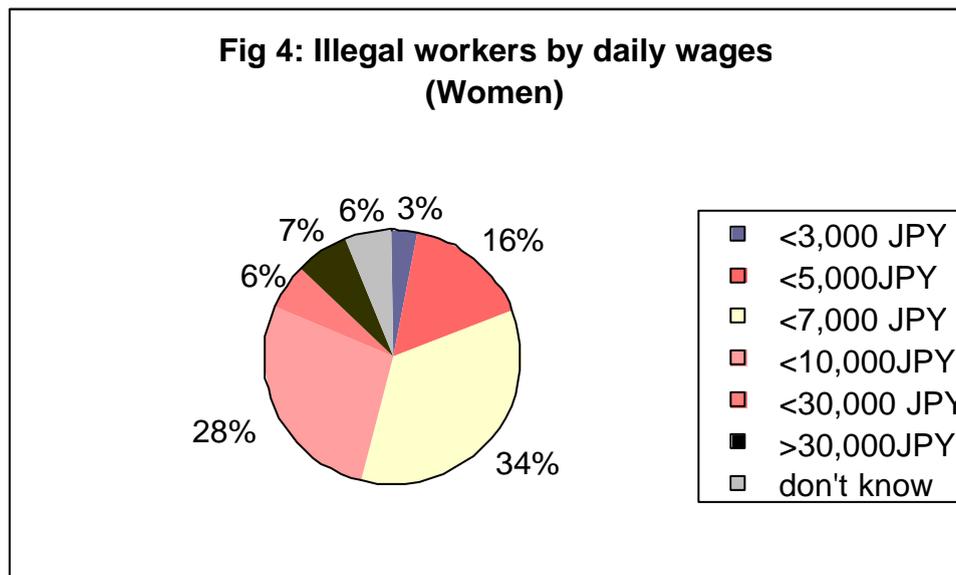
Source: Ministry of Justice, Immigration Bureau 2004

yen	<3000	<5000	<7000	<10000	<30000	>30000	Don't know
Men	175	1,388	6,886	9,415	883	959	568
Women	461	2,262	4,801	3,909	837	966	815
Total	636	3,650	11,687	13,324	1,720	1,925	1,383

Source: Ministry of Justice, Immigration Bureau, 2004



Source: Ministry of Justice, Immigration Bureau 2004



Source: Ministry of Justice, Immigration Bureau 2004

ENTERTAINER VISA (KOGYO VISA) (SO-CALLED FILIPINA "ENTERTAINERS")

According to statistics from the Philippine Overseas Employment Administration (POEA),⁷⁷ there were 73,685 Overseas Performing Artists (OPAs) active in foreign countries during 2002. As overseas deployment is strongly supported by the Philippine Government, the greatest part of the OPAs went to Japan, while only 439 went to other countries (mainly Korea); 73,246 left for Japan, entering on an Entertainer Visa. Roughly one per cent were male entertainers, the other 99 per cent were female overseas performing artists.⁷⁸ The number of Philippine entertainers coming to Japan continued to rise from 18,232 in 1996 to 73,246 in 2002 (and 80,000 in 2003, according to Japanese immigration authorities).

The Japanese Immigration Bureau in the Ministry of Justice provided the following figures: while there is an annual increase in foreigners entering Japan on an Entertainer Visa (rising from 53,952 persons in 1996 to 133,103 persons in 2003), Philippine nationals made up more than 60 per cent of this number in 2003, around 80,000 persons.⁷⁹ Given the fact that there was a total of 209,525 persons entering Japan on a Philippine Passport in 2003 (new entries 131,834, re-entries 77,691), the number of those entering on an Entertainer Visa is quite considerable. It is pointed out that this large number raises questions about the workplace of this huge number of entertainers, since the Entertainer Visa does not cover any kind of contact with customers/hostess-services.

The Immigration Bureau plans to review the requirements for the Entertainer Visa and/or examine more closely the qualifications of applicants as entertainers. It expects to prevent unqualified persons from entering Japan on an Entertainer Visa.

Table 6: Philippine nationals entering Japan

	1996	1997	1998	1999	2000	2001	2002	2003
Philippine Nationals entering Japan (new and re-entry)	no data	no data	no data	144,305	169,755	186,262	197,136	209,525
Persons entering Japan on an Entertainer Visa (new entries)	53,925	67,475	67,475	82,305	103,264	117,839	123,322	133,103
Philippine nationals deployed to Japan as OPAs according to POEA ⁸⁰	18,232	31,071	35,335	43,822	59,568	70,244	73,246	80,000 ⁸¹
Persons registered in Japan (Alien Registration), holding an Entertainer Visa	no data	no data	no data	32,297	53,847	55,461	58,359	64,642

Source: Ministry of Justice, Immigration Bureau 2004, Philippine Overseas Employment Administration

Government policy and legislative responses at national level

In the previous two chapters, the status of human trafficking for sexual exploitation in Japan was reviewed in detail with cases of many victims and statistical data. The qualitative and quantitative information presented in the preceding chapters reveal the gravity of the issue. However, the Japanese Government's efforts to tackle the problem of trafficking have not been sufficient, which has led to growing criticism. The Government has geared up to address human trafficking since the beginning of 2004.

This chapter describes the development of the responses to human trafficking from the Japanese Government in recent years. First, it lists the existing laws that deal with certain aspects of human trafficking. Application of the laws, however, has not been effective in solving the problem of human trade. Second, since human trafficking is multifaceted, the Japanese Government determined to take comprehensive approaches to this issue. It has mandated the inter-agency task force to coordinate actions of four relevant agencies. In addition, the Ministry of Justice is preparing a criminal charge against human trafficking. Third, the growing awareness of the issue has switched the Government's attention more to the human rights aspects of trafficking. As a result of this development, the operations of the Immigration Bureau have become more flexible, taking account of the fact that trafficked women are victims of serious crimes. Thus, existing government facilities and services came to be utilized for purposes of victim assistance. Lastly, the Government has formulated a comprehensive national plan of action in December 2004 to more effectively tackle the issue.

4-1. APPLICABLE LEGISLATION

To date, no anti-trafficking law has been adopted in Japan to directly prohibit the trafficking of foreigners into the country.⁸² The problem of trafficking and prostitution is currently being addressed within the legal framework provided by existing laws. These laws include laws concerning organized criminal groups (*boryokudan*) and organized crime, laws regulating prostitution and the sex entertainment sector, laws against child prostitution and child pornography, labour laws and immigration laws. The major laws are described below:

1. LAW ON PREVENTION OF UNJUST ACTS BY BORYOKUDAN 1991, REVISED IN 1993 AND 1997.⁸³

As criminal syndicates are at the centre of human trafficking, legislation aiming at controlling their activities is significant. The Anti-Boryokudan Law's main objective is to keep record of the presence and membership of organized crime groups by registering them as *boryokudan*. This Act aims to minimize the harm caused by their activities to the general public through orders direct-

ly issued by the National Public Safety Commission (Kouan Inkai) restricting their activities in certain fields. Currently, there are 24 registered *boryokudan* with a total membership of around 85,000. The Anti-Boryokudan Law is useful mainly for the surveillance of these groups, while prosecution of their crimes is sought through the Law on Punishment of Organized Crimes, Control of Crime Proceeds and other Materials (see below).

Article 9 of the Anti-Boryokudan Law lists 15 prohibited acts called ‘acts of violent demand’ (*boryoku-teki youkyuu kou*). These acts are in fact activities known to be typically conducted by *boryokudans*, using threats of violence and the power of designated *boryokudans*, and for which special measures can be ordered by the Public Safety Commission. Included in this list are, for example, acts of unjustly collecting debts (Article 9, 6.2.).

If *boryokudans* are likely to conduct an unjust act of violent demand, such as the collection of “guardian fees” or provision of service by strong-arm men, an order may be issued to the designated *boryokudan*, to prevent the recurrence of such an act.⁸⁴

2. LAW ON PUNISHMENT OF ORGANIZED CRIMES, CONTROL OF CRIME PROCEEDS AND OTHER MATERIALS, 1999.⁸⁵

This law aims at strengthening sanctions for crimes committed by organized groups, and against the hiding, transferring and receiving of illicit profits. It institutes measures for the confiscation and collection of crime-related assets as well as for reporting suspicious money operations.⁸⁶ The law also introduces various provisions extending money laundering offences to crimes related to the smuggling of immigrants, including assisting illegal employment of foreigners, assisting the illegal entry, receiving and harbouring of smuggled migrants in a group, and allowing measures such as the confiscation of such criminal proceeds.

3. LAW ON THE PROHIBITION OF PROSTITUTION, 1956, AS REVISED (LAST REVISION IN MAY 2002).⁸⁷

This law generally aims at preventing prostitution,⁸⁸ based on the rationale that prostitution is damaging to human dignity, is against sexual morality and corrupts public decency and morals. It states that prostitution itself (Article 3), as well as being an accomplice (*aite-kata*) to prostitution, is prohibited, though there is no sanction attached to this provision.

Solicitation and facilitation of prostitution (*Kan-yuu*) are punished by the law (Article 5). Women found in violation of Article 5 will either face criminal sanctions (imprisonment of less than six months or a fine of up to 10,000 yen) or will be put in Women’s Guidance Homes (*Fujin Hodo-in*) for guidance and rehabilitation (Article 17). Also, “women and girls at risk of falling into prostitution” will be put in a Women’s Consulting Office (*Fujin Soudan-jo*), for their protection and rehabilitation (Article 34). These provisions reflect a paternalistic perception of prostitution and of the women who provide the services, while there appears to be almost no consideration given to the responsibility of men who buy these services.

Most relevant to trafficking is Article 6 which punishes the act of being an intermediary/broker to prostitution (with penalties of less than two years' imprisonment or a fine of less than 50,000 yen), and Articles 7 to 13 which punish coercing a person into prostitution, taking the gains of the prostitution of a person, inducing a person into prostitution by an advance payment, concluding a contract of making a person prostitute themselves, providing a place for prostitution, managing a person's prostitution, and providing funds for a person's prostitution. Penalties attached to the above acts range from imprisonment from three to ten years, and/or fines ranging from 100,000 to 300,000 yen.

4. LAW ON CONTROL AND IMPROVEMENT OF AMUSEMENT BUSINESS, 1948, REVISED 1998.⁸⁹

This Law aims at controlling entertainment establishments, and in particular establishments providing sex entertainment services, by restricting their operating hours and confining them to restricted areas. An amendment to the Law in 1998 introduced provisions targeted specifically at practices used by employers of trafficked women.

Article 18 of the Law prohibits managers of entertainment establishments to impose debts that are disproportionately high in relation to the person's ability to pay, which he/she would have to repay when leaving his/her job. It also prohibits the employer from withholding or confiding to a third party, the passport of the person upon whom the debt has been imposed. No criminal sanction is attached to these offences, and there is no evidence that this provision has been used to date.

5. LAW PUNISHING ACTS RELATED TO CHILD PROSTITUTION AND CHILD PORNOGRAPHY, AND FOR PROTECTING CHILDREN AND ITS SUPPLEMENTARY PROVISION, 1999,⁹⁰ REVISED IN 2004.

Articles 4 to 7 punish acts related to child prostitution and child pornography (being an accomplice to child prostitution, soliciting, procuring child prostitution, producing, possessing, carrying, importing, or exporting materials containing child pornography), with criminal sanctions ranging from imprisonment of up to seven years and a fine of up to 10,000,000 yen. Trafficking of children for prostitution or pornography is punished under Article 8 with one to ten years' imprisonment. Under this same provision, a Japanese national found transporting a child who has been abducted, kidnapped, sold or bought in a foreign country, from its country of residence will be punishable with an imprisonment of not less than two years. Ignorance of the age of the child is not a mitigating circumstance, unless the perpetrator can prove that this ignorance is not imputable to his/her negligence.

The supplementary provisions of the revised law provide for the review of the act three years after the revision, in order to adopt necessary measures based on examination taking into account implementation of the act and international developments concerning the protection of the rights of the child.

6. LABOUR LAWS

- (1) Labour Standards Law: Trafficking for labour or sexual exploitation is internationally regarded as a form of forced labour. Article 5 of the law prohibits forced labour, intermediary exploitation (Article 6), and compensation of a debt prior to the establishment of the employment relationship with wages (Article 17). Penal sanctions are attached to the violation of any of these Articles (Articles 117 to 119 of the law) and complicity is also sanctioned. Violation of Article 5 entails a sentence of between one and ten years imprisonment or a fine of between 200,000 yen and 3,000,000 yen. Violation of Article 6 entails imprisonment not exceeding one year, or a fine not exceeding 500,000 yen. Violation of Article 17 entails maximum imprisonment of six months, or a maximum fine of 300,000 yen.
- (2) Employment Security Law 1947. ⁹¹ Article 63 of this law prohibits the provision of employment services or recruitment and placement services, which “make use of physical violence, threat or detention or any other means to unduly restrict a person’s psychological or physical freedom”, or “with the aim of forcing a person to do work that is harmful to public health or to public morality”. Criminal sanctions attached to this Article are imprisonment of between one year and ten years or a fine between 200,000 yen and 3,000,000 yen. ⁹²

7. IMMIGRATION CONTROL AND REFUGEE RECOGNITION LAW, 1951. ⁹³

According to this law, facilitation of work under an illegal immigration status is punishable by a penalty of imprisonment of less than three years, or fine of less than 2,000,000 yen. Article 5 prohibits the entry of “persons who engage or have engaged in prostitution, or procuring persons for prostitution or providing a place for prostitution, or any other business connected with prostitution”. The law further provides that any person using, transferring, lending, or in possession of falsified or altered travel documents as well as those who have arranged for the transfer or lending with the intention of helping another alien to illegally receive an issue of a certificate, a stamp of permission for landing or other legal permissions, will face deportation.⁹⁴ The use, keeping under control or procurement of persons, for the purpose of making them work illegally is forbidden and is punishable by imprisonment of less than three years or a fine up to 2,000,000 yen. ⁹⁵

Article 74 punishes activities related to the smuggling of persons for the purpose of using them in illegal work. Penal sanctions range from one to ten years imprisonment, and fines from up to 1,000,000 to 10,000,000 yen and one to ten years’ imprisonment.

8. THE PENAL CODE, 1907. ⁹⁶

Trafficking involves a variety of crimes, which may be punished under specific provisions of the Penal Code, that also apply to crimes committed outside Japan by Japanese nationals (Article 3), falsification of documents (Article 155), alteration of official documents (Article 157), use of falsified official documents (Article 158), forced acts of indecency (Article 176), rape (Article 177), quasi forced indecency and quasi rape (Article 178), attempted rape (Article 179), complicity to these acts (Article 180), forced indecency leading to death (Article 181), murder (Article 199), assault and aggression (Article 204 to 208), confinement (Article 220-221), threat (Article 222), coercion (Article 223), abduction and kidnapping of minors (Article 224), abduction and kidnapping for a commercial purpose (Article 225), abduction, etc., for the purpose of transporting the abducted person to foreign countries (Article 226), reception, etc., of an abducted person (Article 227). Penalties comprise the death penalty and life imprisonment. It is interesting to note that Article 226 provides that the abduction and kidnapping, as well as trade of persons with the purpose of transporting them outside Japan, is punishable by not less than two years' imprisonment. This Article refers to the transport and trade of Japanese women, known as "Karayuki sans", who went overseas, mainly in Asia for prostitution in the 19th century and the beginning of the 20th century.⁹⁷ The contemporary trafficking of women to Japan for sexual exploitation is sometimes compared to this earlier trade.

9. BASIC LAW ON GENDER EQUALITY, 1999. ⁹⁸

This Law aims to address the objective of building a gender-equal society. It lays down that national and local governments, schools, workplaces and individuals will all participate and bear responsibility in promoting a gender-fair society (Articles 8, 9 and 10). Article 7 states that national efforts towards gender equality will have to consider international developments and be conducted in harmony with efforts of the international community.

Trafficking for sexual exploitation and its relationship to the entertainment industry and labour migration, should obviously be considered with due regard to its gender implications. Articles 21 to 28 provide for the creation of a Commission for Gender Equality replacing the Council for Gender Equality or created in 1997. An Experts Committee on Violence against Women, created within the Commission for Gender Equality, discusses the issue of trafficking of women for sexual exploitation.

4-2. ANTI-TRAFFICKING LAWS

INTERNATIONAL INSTRUMENTS

Increasing international concern over human trafficking has led to two important United Nations instruments. The Japanese Government ratified one of them and signed the other. The ratification of the optional Protocol to the Convention on the Rights of the Child (CRC) on the sale of children, child prostitution, and child pornography was approved by the Diet on 21 April 2004. The protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention Against Transnational Organized Crime (the Palermo Protocol) was signed in December 2002. The Government expressed clearly its intention to ratify the Palermo Protocol in the national plan of action. Close examination including reform of legislation is being undertaken with the aim of achieving the Diet's approval for ratification in the next ordinary Diet session.

DEVELOPMENT OF A SPECIFIC ANTI-TRAFFICKING LAW

With a view to ratifying the Palermo Protocol, the Japanese Government has determined to develop/amend necessary laws to meet the requirements of the protocol. Currently, there is no specific Japanese law that directly prohibits human trafficking into Japan. Immigration and labour laws are not designed to address the specifics of human trafficking. This appears to be the case in the recent conviction of Hagiwara, commonly known by "Sony".⁹⁹ He was believed to be an actor in trafficking. He was successfully prosecuted for trafficking two women (with evidence to suggest his involvement as a systematic trafficker of women). He received a custodial sentence of less than two years. Recently, many countries have developed new legislation specifically targeting human trafficking (See Appendix III). The development of anti-trafficking legislation would include appropriately severe penalties which might include lengthy jail terms, fines and also confiscation of traffickers' assets, i.e. the profits of crime, as outlined in the Palermo Protocol.

Responding to the urgent need to crack down on human trafficking, the Ministry of Justice has come to a decision to embark on legal revision to cope more harshly with human trafficking, abduction and confinement that infringe on the freedom of a person. The Justice Minister sought the views of the Legislative Council, an advisory body to Justice Minister, concerning the revision of the Penal Code in September. The Ministry of Justice wishes to receive a report from the advisory body in February 2005. The Ministry plans to submit the revision to the 2005 ordinary Diet session.

Since current legislative measures to deal with human trafficking lag behind those seen in other countries, the Ministry intends to create a new offence of trafficking in persons. According to the Ministry of Justice, the charge will impose prison terms of one up to ten years upon those who are convicted for selling persons and three months to five years for those who purchased

persons. If the purchased person is a minor, the violator may face longer prison terms from three months to seven years. In cases where purchase of persons is for commercial purpose, the prison terms will be three months to ten years. Revision to Article 225 of the Penal Code is under consideration to punish abduction and kidnapping for the purpose of removal of organs. Existing legislation, such as charges for abduction and confinement, often fails to punish perpetrators of recent human trafficking cases simply because of victims' consent to work abroad. To overcome this default and duly punish those involved in the human trafficking process, e.g. "hiding", "handing over", and "transporting" victims, Article 227 of the Penal Code will be revised to criminalize receiving, transporting and harbouring abducted persons in order for the Penal Code to address the whole process of human trafficking.

AMENDMENT TO THE IMMIGRATION CONTROL AND REFUGEE RECOGNITION LAW

Another change in the existing laws relating to human trafficking is the expected amendment of the Immigration Law. The Ministry of Justice intends to submit a bill to amend a part of the law to the ordinary session of the Diet in 2005. The amendment will give a legal basis to grant special residence permission to trafficking victims. Meanwhile, the Immigration Bureau of the Ministry of Justice will apply the Immigration Law flexibly to victims.

4-3. INTER-AGENCY COORDINATION

INTER-AGENCY TASK FORCE

Based on the recommendation of the Experts Committee on Violence against Women,¹⁰⁰ the Japanese Government set up the Prime Minister's Office Coordination Mechanism on Trafficking in Persons, which is an inter-agency task force, intended to address the issue more effectively, on 5 April 2004. The task force is headed by the Assistant Cabinet Secretaries and aims at coordinating four relevant governmental agencies: Ministry of Foreign Affairs, Ministry of Justice, National Police Agency, and Ministry of Health, Labour and Welfare. The main tasks assigned to the task force are to arrange legal measures in order to: strengthen penalties and law enforcement concerning trafficking in persons; and provide protection and aid to trafficking victims.

INTER-AGENCY DELEGATION

In September 2004, the Japanese Government sent an Inter-agency Delegation to the Philippines and Thailand to help promote international collaboration and strengthen actions against trafficking in persons with various stakeholders concerned including government agencies, NGOs and

religious groups to concretely fight trafficking and rescue victims. Dialogue between the Government and other various stakeholders will further continue internationally/domestically to combat trafficking in persons by sharing updated information and experiences.

4-4. RECENT DEVELOPMENT OF INSTITUTIONAL ARRANGEMENT AND ADMINISTRATIVE MEASURES

1) INSTITUTIONAL ARRANGEMENTS

- a) The National Police Agency
An Organized Crime Control Department established in the National Police Agency on 1 April 2004.
- b) The Ministry of Foreign Affairs
An International Organized Crime Division set up in the Ministry of Foreign Affairs on 1 August 2004.

2) ADMINISTRATIVE MEASURES

- a) The National Police Agency
The National Police Agency instructs the prefectural Police in all 47 prefectures to intensify its efforts to investigate on trafficking in persons in order to arrest traffickers more effectively. In 2003, the Police arrested 41 brokers and employers allegedly for trafficking in persons. Between 2000 and 2003, the number of those who were arrested for this crime amounted to 164.
- b) The Immigration Bureau of the Ministry of Justice
The Immigration Bureau tightens up immigration control. It seized 3,660 forged documents in 2003. It will also strictly investigate Entertainer Visa abuse.
- c) The Ministry of Foreign Affairs
The Ministry of Foreign Affairs tightens up the control on visa issue where appropriate. For instance, Colombians who want to enter Japan have been recommended to obtain a visa prior to leaving their home country since February 2004.
- d) Women's Consulting Offices
Women's Consulting Offices are utilized as shelters for trafficking victims. Victims can stay and get proper treatment, without being immediately reported to the Immigration Bureau as visa violators.

3) PROVISION OF SPECIAL RESIDENCE PERMISSION

Frequently, victims of human trafficking do not have the appropriate travel documents allowing them to remain in Japan. This is one reason why some women are hesitant to contact the authorities. The deportation or forced departure of these victims means that they are not available to act as witnesses against their traffickers. The provision of temporary victim protection visas would allow victims to stay in Japan for a limited period. (For a brief summary of US Temporary Protection Visas, see Appendix V.)

Aware of this shortcoming, the Immigration Bureau of Japan has initiated flexible operation of regulations in favour of trafficking victims. The Bureau may grant special residence permission if a human trafficking victim is: willing to appear as a witness for the prosecution; to be put under dangerous situations where her life may be at risk; or pregnant. The Minister of Justice and eight local bureau heads are to make case-by-case judgements on whether the Bureau will grant the trafficking victim special permission to remain in Japan. In February 2004, around ten human trafficking victims were granted special permission. An official of the Bureau¹⁰¹ admits that there might be occasions where the Bureau permits the victims to engage in remunerated activities if the legal procedure takes a long period of time, during which the witness needs to have means to sustain him/herself.

4) ADMINISTRATIVE GUIDANCE OF THE NATIONAL POLICE AGENCY

Responding to continuing trafficking cases that involve foreign women and children, the National Police Agency issued in August 2004 administrative guidance which stipulates actions to be taken in response to requests to be made by alleged trafficking victims. The agency informed and requested every Prefectural Police force to familiarize officers with these new measures.

4)-1. INTERVIEW BY A POLICE INVESTIGATOR

A new circular stipulates that police investigators conduct interviews in a police station upon request for protection by foreign women who may possibly be trafficking victims. Since the women might be mentally unstable due to coercion by their employers and their brokers, and/or distrustful of the police, the Prefectural Police are encouraged to:

- a) assign an investigator who understands the mother tongue of the woman in question for police interview
- b) assign female interviewers/ female investigators
- c) instruct investigators to be gentle in order to reduce the anxiety of women under investigation and gain trust
- d) select a translator following the instructions above

If the women in question turn out to be trafficking victims, the police conduct further investigation for information that leads to cracking down on victimizers as well as seeking shelters for protection of the victims. Police investigators are expected to gather detailed information regarding victims' contact with broker organizations; passport and visa; routes from the country of origin to Japan, etc. Based on information gathered, a criminal investigation team carries out thorough police searches for the employers/brokers in Japan and abroad, and covert criminal organizations.

4)-2. PROVIDING PROTECTION AND SHELTER

Simultaneously, the police ask the Women's Consulting Offices and/or a relevant volunteer organization for protection of the trafficking victim in question. They also contact the Embassy or consulate of the country of origin of the victim. However, this may not be the case if the police judge that the trafficking victim needs to be detained for criminal activities other than those committed in association with forced prostitution such as visa violation including inappropriate employment and overstay.

In providing protection for trafficking victims, the circular reminds the Prefectural Police to take heed of the following points:

- a) Assurance of security for the victims by reinforcing cooperation and information sharing with the personnel in charge of protection
- b) Prompt and adequate arrangement of police interview with the victim in question for the sake of an early clarification of the case
- c) Nondisclosure of the name and the address of the facility sheltering victims in order to avoid harassment and/or manoeuvres to recapture the victims by suspects; even in the police station, information needs to be shared only with officers in charge
- d) Limited duration (two weeks in principle) of protection provided by the Women's Consulting Offices and/or a relevant volunteer organization

All the measures mentioned above are carried out in close contact with the National Police Agency.

5)-1. INSTRUCTIONS TO WOMEN'S CONSULTING OFFICES

On 16 August 2004, the Ministry of Health, Labour and Welfare issued written instructions regarding trafficking victims for the attention of civil affairs directors in each prefecture. The prefectural Women's Consulting Offices¹⁰² had been, though in few cases, providing necessary counselling and temporary shelter to foreign women in need of assistance,¹⁰³ the instructions clarify the procedures and points to which attention should be given.

The procedures taken by Women's Consulting Offices upon request for protection by foreign women are basically the same as those taken by the police. A Women's Consulting Office conducts an interview with the women who ask for protection. If necessary, it contacts the Embassy or consulate of the country of origin, and explains procedures for return to victims. The office itself or in cooperation with NGOs provides a temporary shelter for victims for two weeks. Women's Consulting Office case workers attend to the mental state of victims since victims are coming from physically and emotionally harsh situations where their basic human rights are violated. A certain budget is secured for emergent temporary protection of foreign women and children; a translator can be assigned to a trafficking victim if necessary.

Although the second clause of Article 62 of the Immigration-Control and Refugee-Recognition Law obliges government officials to report to the Immigration Bureau when they encounter foreign nationals illegally overstaying in Japan, this clause is interpreted and applied flexibly to leave leeway so that protection of victims can be given priority. The Ministry of Health, Labour and Welfare recognizes that trafficking victims are the victims of a grievous crime, and in many cases traumatized. Based on this recognition it recommends that Women's Consulting Offices provide temporary shelter and mental care for victims in accordance with the mental state of the victims instead of asking these victims to report to the Immigration Bureau immediately.

The Ministry of Health, Labour and Welfare is aware of the fact that women and children trafficked into Japan are victimized by organized crime, and thus does not deny the possibility of revenge by criminal organizations. Therefore, the Ministry recommends Women's Consulting Offices to ask for nearby police to guard the shelter facilities and victims when the victims report to the Immigration Bureau. The Ministry also advises Women's Consulting Offices to cooperate with Embassies or consulates and appropriate civil society organizations.

In the event of requests from the police to protect trafficking victims, Women's Consulting Offices are expected to accept people in need of assistance. The measures taken and care given to the victims are the same as mentioned above.

5)-2.

Prior to the above Ministry of Health, Labour and Welfare instruction, counsellors of Women's Consulting Offices have worked informally with the police to handle cases of human trafficking victims and domestic violence. According to one counsellor, both parties have fostered collaboration via meetings with various social welfare organizations. Domestic violence victims in crisis situations contact the Women's Consulting Office for help. In such cases the office instructs women to run to any nearby police station or any municipal welfare office for protection. Some victims come to the Office to enter the shelter facility accompanied by a police officer.

The Tokyo Women's Consulting Office sheltered two non-Japanese victims of trafficking in 2003 and two in 2004 (as of 2 September) via the police and Embassies. In all four cases, Embassy staff briefed the victims about shelter life and offered consultation. According to the counsellor, the four victims could speak rudimentary Japanese and there were no grave communication problems in the shelter.

As the Japanese Government recognizes the urgent need to protect human trafficking victims, Women's Consulting Offices face increasing expectations to function as a sheltering platform. However, the capacity of existing council shelter facilities would not be sufficient to meet these demands. The shelters have been accommodating an increasing number of domestic violence victims since the Law for the Prevention of Spousal Violence and the Protection of Victims was enacted in 2001. Although the official capacity of the shelter attached to the Tokyo Women's Consulting Office is 30 persons, the shelter has been managing to accommodate up to 35. At the time of writing, there were no plans to increase the capacity of the shelter in the foreseeable future.

5)-3. COOPERATION WITH PRIVATE SHELTERS

The Ministry of Health, Labour and Welfare plans to use private shelters for the protection of trafficking victims. Currently, private shelters provide protection to women in need of assistance upon request from the Women's Consulting Office based on the Law for the Prevention of Spousal Violence and the Protection of Victims. This is included in the National Plan of Action. The Ministry deems these private institutions, which have long been acted as shelters for domestic violence victims, appropriate places for the protection of trafficking victims. There were 50 private shelters commissioned by local governments in Japan as of 1 March 2004.

6) RAISING PUBLIC AWARENESS

The Government of Japan promotes public awareness on the issue through the following activities:

- a) The National Police Agency produced a videotape on human trafficking for distribution.
- b) On the occasion of "Campaigns for the Prevention of Illegal Working of Foreigners", the Ministry of Justice distributed 60,000 leaflets against trafficking in persons. The leaflets were also distributed through Japanese Embassies.
- c) The Ministry of Foreign Affairs held "The Second World Congress against Commercial Sexual Exploitation of Children" (December 2001), and the "International Symposium in commemoration of the tenth anniversary of the ratification of the UN Convention on the Rights of the Child".
- d) The Cabinet Office runs an annual campaign to eliminate violence against women.

7) INTERNATIONAL COOPERATION

The Japanese Government promotes international cooperation, which is indispensable in addressing human trafficking, via the following initiatives:

- a) The Government of Japan has been supporting various anti-trafficking programmes through the UN Trust Fund for Human Security and through international organizations.
- b) As for cooperation on investigation and immigration control, Japan shares information and develops practical regional measures through the Bali Process, and hosted “The International Symposium on Measures to Prevent the Commercial and Sexual Exploitation of Children in Southeast Asia” (2003), “The 17th seminar on immigration control regarding Southeast Asia” (2003), etc.
- c) The UNAFEI (United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders), a UN affiliate institute hosted and managed by Japan, holds regional training seminars for judicial and administrative officials.
- d) As part of collaboration with Embassies, NGOs and international organizations, the Japanese Government holds dialogues on human trafficking with various Embassies in Japan. The National Police Agency has established a contact point for Embassies and NGOs to enhance collaboration with them.

4-5. NATIONAL PLAN OF ACTION

This working paper was initially concluded in March 2004 and updated thereafter to include more recent Government and NGO initiatives including a brief note on the national plan of action of December 2004.

The Japanese Government formulated a National Plan of Action on 14 December 2004 with a view to more effectively addressing human trafficking. In the process of preparation, dialogues with civil society organizations have been conducted to take into account their concerns and views. The Government recognizes human trafficking as a serious infringement of human rights and sets out policies to prevent and eradicate human trafficking and to protect trafficked victims. The main points of the plan are as follows:

I. To obtain a clearer picture of situations/conditions of trafficked victims and brokers through intensive information gathering from workplaces of victims and information sharing with relevant agencies.

II. Comprehensive measures against human trafficking

- 1) Ratification of the Palermo Protocol
- 2) Preventive measures
 - a. Tighten immigration control
 - b. Secure the validity of travel documents
 - i. Introduction of Japanese passport with an IC (integrated circuit) chip

- ii. Measures against fake visas and travel documents
- c. Impose stricter visa requirement for foreign entertainers
- d. Take measures against fake marriage
- e. Prevent illegal work
- f. Promote action against prostitution
- 3) Measures to eradicate human trafficking
 - a. Improve the Penal Code and promote its strict implementation
 - b. Crack down on human trafficking
 - c. Exchange information on travel documents
 - d. Enhance cooperation and information sharing with foreign investigation agencies
- 4) Protection of human trafficking victims
 - a. Recognize trafficked victims
 - b. Provide shelter to victims
 - c. Provide counselling to victims
 - d. Clarify procedures to treat and protect victims when they seek assistance in a police station
 - e. Apply flexibly the immigration law to victims
 - f. Ensure safety/security of victims
 - g. Assist in returning home
 - i. Close coordination among relevant agencies and organizations
 - ii. Support the assisted voluntary return projects via International Organization for Migration
 - iii. Repatriation at Government's expense
 - iv. Exchange information so that victims who wish to return home sooner can obtain travel documents
 - v. Give due consideration to the safety/security of victims in their homeland
- 5) Note on promotion of measures against trafficking
 - a. Coordinate with internal and external relevant organizations
 - b. Raise public awareness
 - c. Provide training to government officials
 - d. Review the national plan of action

Initiatives at local level

The previous chapter provided an overview of recent initiatives addressing human trafficking at national level. Under international pressure to cope more harshly with the criminal activities, the Japanese Government has been taking actions against human trafficking in swift succession in line with international expectation. Major efforts include: establishment of the inter-agency task force; development of an anti-trafficking law, which is expected to be approved by the Diet in 2005; and flexible applications of laws and regulations in favour of trafficking victims.

This chapter presents two examples of initiatives at local level found in Hyogo and Chiba prefectures. The first deals with the first arrest in a domestic case of human trafficking and recounts the efforts of the Hyogo Prefectural Police to suppress human trafficking related criminal activities. The second introduces salient local initiatives headed by the prefectural governor. These two examples illustrate that attempts to combat human trafficking are in progress at the two levels, national and local.

5-1. HYOGO PREFECTURE

POLICE ORGANIZATION IN JAPAN¹⁰⁴

Hyogo Prefecture is located in the central part of Japan with around 5.6 million inhabitants. The structure of the Japanese Police is divided into a national level and a prefectural level. On the national level, there is the National Public Safety Commission (NPSC),¹⁰⁵ a governmental body mainly in charge of administrative supervision. Under the jurisdiction of the Prime Minister, the National Police Agency (NPA) administers police affairs, being under the supervision of the NPSC.

On the prefectural level, there is the Prefectural Police (PP) under each prefectural government, supervised by the Prefectural Public Safety Commission¹⁰⁶ and Police Headquarters. Police administration is thus the responsibility of prefectural government, carrying out its duties and functions for the protection of the life, property and for the maintenance of public safety and order within the jurisdiction of the prefecture. Each prefectural police headquarters contains administrative divisions corresponding to those of the bureau of the National Police Agency (for example, Administration Bureau, Criminal Investigation Bureau, Traffic Bureau, Security Bureau). Although the NPA still is entitled to take command of Prefectural Police in case of national emergency or large-scale disaster, most of the cases are handled by Prefectural Police officials, accounting for most of the arrests and investigations performed, as is the case in the first Japanese-only human trafficking case in Hyogo-Prefecture.

THE FIRST CRIMINAL CASE IN HUMAN TRAFFICKING IN JAPAN

In May 2004, for the first time in Japan, two Japanese nationals were arrested in a domestic case of human trafficking, for the alleged violation of the Child Prostitution Law. Later, the two suspects were prosecuted for the violation of the Child Welfare Law. The human trafficking charges were dropped due to the lack of sufficient evidence.

Three girls who later fell victim to human trafficking, A, B, and C, gave in to the skilful persuasions of “Karasu-zoku”, literally translated as “crow-gangs” since they wear black suits. The girls subsequently were induced to drinking in a bar, classified as a “host-club”, where handsome boys wait for customers, most of whom are girls. After the girls got drunk, the attendants at the bar started opening outrageously expensive brandy bottles, ranging from 300,000 yen¹⁰⁷ to 1,000,000 yen. As a result of indulging in being entertained in the bar, the bill amounted to 8 million yen for A, according to the bar, 1.5 million yen according to the victim; 4 million yen for B according to the bar, 1.5 million yen according to the victim; and 1 million yen for C according to the bar, and half a million yen in the victim’s story. There is no guarantee that the amount charged by the bar is based on the consumption by the girls. The commissary of the Hyogo Prefectural Police points out that it is a common practice to induce girls to drinking in a “host-club” and land them with extortionate bills.

Being unable to pay the bills, the girls were coerced by the attendants of the bar to prostitute themselves to pay their debts. They were told that they would have ‘dreadful experiences’ and their family might be in danger if they did not settle the bills. The owner of the bar, although he knew that these girls were minors, sold them to a brothel in Osaka for half a million yen each on 16 October 2003.

After being sold, the girls were put under loose house arrest close to the brothel. Not knowing how to deal with the miserable situation, and being put under surveillance and coercion, the victims could not ask for help from outside. Occasionally, the girls were brought to a bar in Kobe and kept under surveillance. The degree of the surveillance was, however, not tight enough to establish a criminal case for abduction and confinement which requires permanent surveillance and physical confinement by locks on doors. Although there is no evidence that the girls were physically abused or violated, the police inspector in charge of this case points out that these girls were, in effect, under the control of victimizers, since the surveillance and a series of coercions had considerable psychological effect on them.

The girls were coerced into prostitution from 5 pm until midnight in the brothel. The brothel charged customers 15,000 yen for 15 minutes and charged extra for extended time. Victim A allegedly took around 160 customers and earned roughly 4 million yen between mid-October and the end of December. B was dispatched to another brothel which sent her to customers. B allegedly had 5-6 customers who paid 100,000 yen in total. C took about 100 customers and earned about 2.6 million yen. Note that these are figures that the Police have proof of. The brothel did not leave anything but memos based on which the Police calculated these figures since relevant documents had been destroyed prior to police investigations.

The money earned through prostitution was supposed to be equally divided between the brothel and the girls. However, the girls' share was kept by the brothel for various reasons and by the bar for the debts. The girls received only small allowances to buy lunch and the like.

After two months of wretched experience, the girls escaped during an unguarded moment and reported to a police station accompanied by their parents to ask for protection. The police took up investigations. The bar owner and brothels were alerted to the police investigation and destroyed evidence relating to the case. In addition, the owner met the girls near their homes and coerced them into withdrawing their charges. Since a girl yielded to the coercion and actually dropped her complaint, the police immediately arrested the owner on charges of coercion and attempted coercion.

It is not clear if any organized criminal groups were involved in this case. However, such involvement is rather probable since organized crime is deeply rooted in the sex industry.

According to the child prostitution law, those who purchase minors as prostitutes shall be punished if they know that the prostitute they pay for is a minor. Although the brothel had no client registration, the police managed to interview a handful of people who solicited the victimized girls as prostitutes and engaged in sexual intercourse with them. The police could not build cases since those clients in question were not aware of the age of the girls. However, these clients remain important witnesses for this case since they provide crucial evidence that the girls served as prostitutes in the brothel.

After the speedy arrest in January on charges of suspected coercion and attempt at coercion, the police made steady progress in spite of the difficulties in determination of facts and interpretation of laws. Finally, a criminal case was established and the police re-arrested the bar owner and the ex-owner of the brothel on a charge of human trafficking on 26 May 2004.

The victimizers, even if convicted, are likely to be released on probation or be given a token monetary fine. The Hyogo Prefectural Police anticipate that the offenders may take revenge upon the victimized girls who accused them, thus the Police have taken protective action.

EFFORTS BY THE HYOGO PREFECTURAL POLICE

After the shocking case of domestic human trafficking that engulfed three girls under age 18, the Hyogo Prefectural Police took further steps to prevent similar incidents in future. As listed below, the Hyogo Prefectural Police employ wide-ranging methods to combat human trafficking and crack down on criminal activities affecting minors. The Hyogo Prefectural Police:

1. hold collective training for both young and experienced investigators
2. encourage experienced investigators to individually coach young investigators to share know-how for investigation
3. share cases as needed as well as distributing a paper on interpretation of laws and regulations. When a difficult case arises where technical judgement is required, investigators are supposed to contact the police headquarters

4. enforce control over criminal activities in busy shopping and entertainment districts based on communication from citizens
5. carry out on-site inspection. When the services are not duly registered, the police charge those who are involved. If necessary, they order suspension of business
6. take delinquent minorities on streets into custody and crackdown on organized crime groups based on the information provided by the minors. In a similar fashion, the police protect runaway children who work in the sex industry
7. provide consultation at police stations to parents whose children left home, use drugs (e.g. thinner) show signs of delinquency (e.g. children's possession of top-brand expensive bags and/or a large amount of cash). Taking advantage of information provided, the police investigate cases
8. offer a toll-free phone number for minors, called Young Talk, to provide them with consultation. This has similar objectives and effects described above
9. cooperate and consult with other agencies. The police share information intensively with child counselling centres, schools, family courts, and prosecutors. The police cooperate with child counselling centres concerning protection of children. In some cases, the police ask the centre for women and children to provide a shelter, run by public organizations or NGOs, where victims can be protected and free from reprisal by perpetrators

These police efforts are bearing fruit; however, detectives feel that they are playing an interminable cat-and-mouse game with criminals, partly because the sex industry in Japan is very loosely regulated.

5-2. CHIBA PREFECTURE

Chiba Prefecture is located on the eastern side of the Tokyo metropolitan area with around six million inhabitants. Narita International Airport is in this prefecture. Ms. Domoto, the Governor of the Prefecture, is one of the leading politicians who actively address human trafficking in Japan and in the world. Throughout her career as a journalist and a member of the House of Counsellors before she was elected Governor, she devoted herself to backing anti-trafficking movements from the late 1980s onwards when human trafficking attracted very limited attention in Japan. Under her leadership, the Chiba Prefecture has pushed to advance its efforts in dealing with human trafficking and recognizes the multifaceted nature of the problem and takes measures regarding crackdown, protection and care for victims, and prevention of human trafficking. Therefore, this section¹⁰⁸ introduces Chiba's approaches in this line as constructive initiatives at local level.

CRACKDOWN ON HUMAN TRAFFICKING

The Chiba Prefectural Police succeeded in eliminating a Japanese-Thai international trafficking organization, demonstrating the importance and effectiveness of international police cooperation. The case of exposing and destroying the Thai-Route criminal structure dates back to 1999.

The Prefectural Police of Chiba, in cooperation with the Immigration Bureau, arrested brokers at the waterfront, who had illegally brought in Thai women from Narita Airport. From the confessions of the arrested brokers it transpired that they were selling Thai women for two million yen each to a prostitution organization. Based on this, eight people belonging to five Japanese prostitution rings as well as two brokers, and 17 Thai women were arrested and taken into custody. From statements made by those arrested, the existence of a Japanese-Thai international trafficking organization emerged, and in concerted actions by the Japanese and Thai police, crackdowns and arrests were conducted, which led to the breaking up of the organization. This kind of cooperation between the police forces of both countries may be considered very important for the international alliance to eliminate human trafficking.

ASPECTS OF THE CRIME OF TRAFFICKING IN CHIBA PREFECTURE

In 2003, there were a total of 51 arrests for trafficking in Japan, two of them in Chiba Prefecture. Of the number of women who were the object of trafficking, 23 out of 83 were connected to the cases in Chiba. Three years ago, there were 12 Filipinas involved; the number of Philippine victims went down last year. Simultaneously, the number of Colombians was on the rise.

The Governor of the Chiba Prefecture reported that cases involving victims of human trafficking brought into the country by means of bogus marriages to unemployed and/or homeless Japanese men were on the rise. Criminal organizations would buy family registers from unemployed or homeless people for 200,000 to 300,000 yen, and falsify these documents by faking a marriage between the foreign woman and the Japanese man abroad. In this way, the “spouse of a Japanese national” can be brought into Japan without immigration scrutiny. The criminal organization then imposes a debt of several million yen on the woman who will subsequently be forced into prostitution in order to pay it back, and will thus be victimized. The Governor points out that these can be considered as examples of abusing the flexible labour market of the receiving country.

PROTECTION AND CARE FOR TRAFFICKING VICTIMS

NGOs providing shelter: “Friendship Asia House COSMOS”

Regarding the protection of trafficking victims, NGOs are providing shelters. According to the annual US report,¹⁰⁹ only the shelters in Tokyo and Yokohama were built as NGO shelters. Some shelter institutions for non-Japanese nationals may accommodate trafficking victims.

In Chiba Prefecture, there is a shelter called the “Friendship Asia House COSMOS” in Kisarazu City. The house, set up in 1991, is an institution for the support of Asian and Japanese, women and children, providing shelter for up to nine families, support for divorce procedures, help with child custody, obtaining a residence permit, child care, nutrition, safekeeping of money, training in Japanese customs and other support for everyday life, job hunting, apartment hunting, and developing Japanese skills and other activities. The shelter not only offers trafficking victims a

shelter, but also makes efforts to provide long-term assistance to victims until their integration into Japanese society.

Nationalities of those who have been sheltered during the last 13 years vary. There were 77 Philippine mothers and their 116 children, 44 Japanese mothers and their 67 children, in total, 144 mothers and their 211 children, including Vietnamese, Thai, Chinese and other nationalities. They are now living a self-supporting life.

The three cases below are real stories of trafficking and/or domestic violence against victims who sheltered in the Friendship Asia House COSMOS.

Cherie

Chérie was brought to Japan from the Philippines by a broker at the age of 16, worked in a bar, gave birth to a child by a Japanese man, and was divorced due to the opposition of his family. She remarried another Japanese man, but this marriage also broke up. Legally, there is no place for an 'illegal mother' with 'stateless children'. She finally came to COSMOS and the two children could go to school and kindergarten. The mother had applied for a special residence permit, but was suddenly deported with her two children. She then led a lonely life in a Philippine slum, but was able to return to Japan thanks to the support of a Philippine NGO. She now is in Japan, living a happy life.

This case is important because the woman was regarded as an illegal alien in the first place, rather than as a victim of human trafficking. Second, the cooperation and efforts of a Japanese and Philippine NGO has led her to a happy life in Japan.

Marylyn

Marylyn came to Japan from the Philippines in order to earn money for nursing school and was working at a bar. She married a Japanese man and they had a child. The man refused to work, and after being exposed to violence, she moved to COSMOS. In order to obtain custody of the child, the father went to court, and in spite of the District Court refusing his request, the Supreme Court ruled against the mother because of her economically uncertain situation. In fact, Marilyn was working in a supermarket, and therefore had regular income, but the child was taken from her by the father's parents. This case also is an example of Japanese law being applied rather than the victim being protected..

Martha

Martha took the place of a woman who was supposed to go to Japan on a bogus marriage, and traveled to Japan under another person's name and passport. Perhaps under coercion, she married a Japanese man, had twins, but because of domestic violence, she went to COSMOS with her children. Since she came to Japan as a substitute, she could not use her original name. Thanks to support from Ms. Hanazaki, founder of the COSMOS, after some procedures at the Philippine Embassy she obtained new passport.

Citing these three cases, Ms. Domoto, the Governor, points out that these women were regarded as illegal aliens and expelled from the country. From a human rights point of view, and from the point of view of the victim of a crime, this is a very unsatisfactory situation. In addressing human trafficking, the Governor emphasizes the importance of adapting approaches to the victim's perspective expressed in the "3Rs" (Rescue, Removal, Reintegration), in addition to the "3Ps" (Prosecution, Protection, Prevention) mentioned in the annual US report. 110 COSMO operates according to these principles. The Governor stresses the importance of providing secure living until a state of reintegration or self-reliance is attained.

CHIBA WOMEN'S SUPPORT CENTER

Chiba Prefecture set up a support centre for women and their children following the 2001 law on Domestic Violence. The Chiba Women's Support Center offers shelter of up to two weeks to victims of domestic violence and their children, as well as providing broad counselling and support services. Support is provided regardless of the nationality of the victim. In fact, the centre also provides interpretation services for foreign victims and accompanies them throughout immigration procedures. Last year there were 20 non-Japanese women given assistance in the centre: six cases of counselling and 14 cases of temporary shelter. For instance, the centre staff assisted Filipino, Thai and Colombian victims of domestic violence by their Japanese husbands until they became self-supporting with welfare benefits. In cooperation with NGOs, the centre also arranges shelter for victims who need longer than two weeks. Although shelter at the support centre is temporary, the centre is aware of the importance of care that continues until the victim becomes self-supporting.

COMMUNITY-BASED BROAD NETWORK:

"The networking conference against domestic violence and child abuse"

Chiba Prefecture organizes far-reaching conferences of experts in various fields related to violence against women and children. The conferences are held at high-level and at working-level. The aim is to provide expertise on domestic violence and child abuse, consisting of the Prefecture, court, police, medical association, bar association, and organizations for the protection of human rights and municipalities. This initiative has been proven to be a success thanks to cooperation from experts in both the public and private sectors.

Participation of medical experts is crucial as they play vital roles in uncovering cases of domestic violence and child abuse. Medical professionals are also able to provide victims with assistance-related information. Since human trafficking is often accompanied by violence and/or pregnancy as a result of prostitution, medical experts can contribute to detect trafficking cases as well as domestic violence and child abuse. As such, an additional mandate is under active consideration so that the conference may function as a platform for expert discussion on human trafficking.

IMPORTANCE OF CONCERTED EFFORT

The Governor of the Chiba Prefecture believes that it is important to create horizontal, vertical and international cooperation. As far as vertical cooperation and country-prefecture-municipalities alliances are concerned, a system is required that reflects problems detected by public organizations and NGOs onto national legal systems. On the horizontal side, it is necessary to promote coordinated approaches that go beyond the measures taken in with local field of expertise. International cooperation is also indispensable. For example, since it is extremely difficult to enter Japan on a Colombian visa, Colombian brokers take women to Europe or the United States, and then bring them into Japan on fake visas. Japanese and European/American syndicates are heavily involved and connected. Preventing international trafficking will be very difficult without international cooperation.

NGO Responses

Responding to growing international criticism against Japan's lukewarm anti-trafficking measures, the Japanese Government has finally initiated serious and rapid reinforcement of existing measures. This can be viewed as significant progress and momentum will escalate for cracking down on traffickers by the time the Diet approves the new charge for human trafficking, which was under discussion in the Legislative Council in September 2004.

In Japan, human trafficking is not a new problem, although until recently it was not a focus of the attention of the Japanese Government. It was civil society organizations that initially addressed the issue. This chapter introduces three NGOs that are active in this field. Two (HELP and SAALAA) provide shelters for trafficked women and the third (JNATIP) is a network of NGOs, academics and lawyers aimed at coordinating efforts of civil society in the fight against trafficking. A study on NGO responses was conducted in early 2004 and some observations may not necessarily reflect recent developments.

HELP

HELP is located in Tokyo and provides shelter and psychological support to victims of trafficking. It is funded by private donations and funds provided by the Tokyo Metropolitan Government. HELP started sheltering women around the adoption of the anti-prostitution law (1956), but already had a history of sheltering Japanese women known as "Karayuki sans". It began addressing contemporary trafficking of women from Asian countries to Japan in the early 1980s, when the issue arose of Philippine women holding entertainer visas and working in prostitution. After six years of preparation with a view to the possibility of sheltering foreign victims of trafficking, it re-opened the shelter in 1986, both to Japanese and foreign women, securing the presence of female counselling staff. Since its reopening, HELP has been sheltering victims of domestic violence and of trafficking. Around 30 victims of trafficking were referred to the shelter yearly on average, 2,368 in total since 1986. Recently, the number of victims referred to the shelter has decreased, despite an apparent expansion of trafficking itself. It appears that it has become more dangerous and difficult for victims to escape. Some Embassies (for example, the Colombian and Thai Embassies) provide effective support to their nationals who are victims of trafficking. Therefore, HELP has been referring victims to their Embassies for assistance in their safe repatriation, and the Embassies then refer the victims to HELP for shelter. It has no formal connection with government agencies, although sometimes victims are referred to them by the police.

Staff at HELP talk with the victims, with due respect to the trauma they have endured and their level of stress, and gather information on the ways in which they were deceived and brought to Japan, and on the conditions in which they were held while in Japan.

The victims might have been recruited by a family member, a friend or acquaintance, a stranger, employer, a formerly smuggled or trafficked person, a travel agency, someone pretending to be in love with them, or an e-mail friend inviting them to visit Japan.

The deception practices comprised:

- Promise of a different kind of work: most did not know they were going to work in prostitution. The kinds of jobs proposed were in a beauty salon and baby-sitting. In some cases the victims were told they could go to school in Japan.
- Promise of higher wages
- Promise of fair working conditions
- The victim was not informed about a debt prior to arrival

Victims were threatened and kept under the control of their brokers/employers using threats or actual violence against their family (this seemed to have the strongest effect in dissuading the victim to escape), threat or actual physical or sexual violence against the victim, withholding of air tickets/passports, withholding of salary, controlling communication, controlling movement, and threat to report them to the police or Immigration.

While most victims who came to HELP did not pay at recruitment, they were charged a large debt when they arrived in Japan, except for some Thai women recruited through the Internet. Most victims' debt was significant. Until around ten years ago, when the Japanese economy was booming, it usually took less than a year to repay the debt, and some of the women even managed to take some money back home. Lately this has become much more difficult or almost impossible, particularly as the victims are being resold with a new debt added.

Many of the victims had health problems. Some suffered from STDs, some were pregnant. Most needed immediate physical and psychological care. As the shelter needed to restrict victims' movements for their own safety and security, it also added to their stress.

HELP's recommendations

The Government must:

- Ensure greater commitment from government agencies. Currently, the National Police Agency has the most advanced understanding of the issue but deals mainly with prosecution and not protection.
- Urge the Ministries of Justice and of Health, Labour and Welfare to seriously consider necessary measures for the protection of the victims. Currently, public refuges for women (domestic violence protection centres) are not open to foreign women illegally staying in Japan. Victims without legal residency status are immediately deported. If an anti-trafficking law is eventually enacted, it is essential that it adequately addresses the issue of protection.

HOUSE OF WOMEN, SAALAA

The House of Women, SAALAA, also provides shelter and psychological support to victims of trafficking. It is funded by private donations and Kanagawa Prefecture Funds. The founders became aware of the issue of trafficking of women into Japan in the mid-1980s, when HELP was created. At that time there were also several cases of victims killing their “mama-san” (women managing the establishments where the victims were working). Concerned local women decided to create a shelter in the Kanagawa area. SAALAA has both salaried and voluntary staff who speak different languages.

SAALAA has sheltered around 30 victims on average a year. This number peaked in the early 1990s but has been relatively stable since 1995-1996. Victims who came to SAALAA had been recruited by a complete stranger, a friend/acquaintance, their future employer, a formerly smuggled or trafficked person, a job agency (for work in a factory), a travel agency (a tour company), or a family member. In one instance, it is suspected that the victim was sold by her own parents. In another, a victim was encouraged to come to Japan by her older sister who was already working there.

SAALAA staff maintain that recruitment is changing. In the 1980s, public officials were sometimes involved (including school directors). Since then, awareness-raising efforts seem to have been made in communities and SAALAA no longer sees such cases. Recently, several victims from Thailand had benefited from a government ‘scholarship’ (actually a loan to be repaid after school) for young people from poor families. They were approached by individuals who suggested working in Japan to save money to repay the debt.

Around 25 per cent of victims actually knew the real nature of their work, while 75 per cent were told they would have work in a restaurant, as a dancer, baby-sitter, factory worker, etc. In other cases, the victim was promised higher wages. Some Colombian victims had been lodged in luxurious condominiums in Bogota for a couple of days and were led to believe that this kind of life would be theirs after working in Japan.

In all cases, the victim was not informed about the debt incurred prior to arrival. Sometimes they were promised a smaller debt, which would be repayable in two to three months. Except for the Philippine victims, most victims did not pay their recruiters.

The routes taken by the victims varied. Some Thai victims had a ticket through Japan, with the United States as a final destination. Some arrived through Singapore or Malaysia, and some came directly from Thailand. Colombian victims usually took a very long journey through Europe. Some transited through Russia, while others transited through other countries in Asia.

The victims were always presented with a debt on arrival. Thai victims’ debt was around 3.5-4 million yen, while Colombian victims had a higher debt ranging from five million to eight million yen. While previously there were cases where a debt could be repaid in three months, it now usually takes several years (possibly as a result of the economic recession). Many women escape when they realize they will not be able to repay their debt.

Victims were kept under control using threats or actual violence against them or their families, withholding of air tickets and passport, or threats to report them to the police or Immigration.

While in Japan, all earnings were taken from the victims to repay their debts. Some lived on tips. Some had to pay an amount every day, while others had to pay a higher amount once a week or every ten days. They usually tried to save some of the money to escape and return to their country.

There was little meaningful contact between victims working together or living together. Often they did not know each other's real names, age, or place of origin. Brokers seem to make victims watch each other, making them responsible for preventing anyone else's escape.

The types of establishments where the victims worked seemed to differ typically by nationality. Thai victims were usually located in the countryside and worked in small bars. Colombian victims tended to work in small prostitution houses or in strip theatres. Chinese victims worked in beauty salons and massage parlours.

Shelter staff accompanied victims to the police when needed and interpreted for them. The shelter offered accommodation and psychological support, giving victims the opportunity to talk about their experience in their own language. They also provided reassurance to the victims that they could return quickly and safely to their country, helping them through immigration procedures.

Often victims coming to the shelter have no money to pay for their return airfare. Many are also in a poor state of health, and a substantial number have HIV or AIDS, or other STDs. This raises the issue of the need to secure healthcare after repatriation. The victims are also often terrified and traumatized. They fear the yakuza finding them and reprisals against their families.

SAALAA's recommendations

The Government must:

- Raise public awareness
- Protect the security of all people involved in addressing the issue
- Protect the victims
- Assist them in their repatriation
- Coordinate more with the shelters

JNATIP (JAPAN NETWORK AGAINST TRAFFICKING IN PERSONS)

JNATIP is a network of NGOs, lawyers and researchers based in Kyoto and funded by private membership donations, and is applying for public financial assistance. The network was launched at the International Workshop for the adoption of an anti-trafficking law, held in October 2003. It has two objectives; the Adoption of an Anti-Trafficking Law in Japan, and the ultimate elimination of trafficking. JNATIP conducts the following activities:

- Research on trafficking in Japan during the last ten years
- Raising public awareness about trafficking (by holding public seminars and producing audio-visual material and education material for universities)
- Campaigning for the adoption of an anti-trafficking law in Japan, including preparing a draft anti-trafficking bill

It has set up a workshop on human trafficking within the Japan Federation of Bar Associations (Nichibenren). Trafficking will be one of the main themes at the Japan Association of Gender Law (Gender Ho-Gakkai) Conference in December 2004.

JNATIP has contacts with foreign embassies in Tokyo, and with foreign NGOs (from Thailand, the Philippines and Korea). Linkage with Japanese Government agencies (National Police Agency, Ministry of Justice) is still very informal.

JNATIP's recommendations

The Government must:

- Unequivocally recognize the problem
- Introduce a comprehensive anti-trafficking law which includes measures to protect and support victims of human trafficking
- Establish a national strategy to address it

JNATIP further made a set of detailed proposals in October 2004 on measures for prevention of human trafficking, and protection and support of victims. These measures include:

1. Enacting a comprehensive law to protect and support trafficking victims
2. Promoting measures and supporting trafficking victims
 - (1) Setting up Support Centres as specialized institutions to coordinate with other public and private institutions as well as to provide assistance to trafficking victims for claiming damages caused by human trafficking
 - (2) Providing means to seek emergency help of trafficking victims such as 24 hour hotlines and advertising the hotlines and other necessary information
 - (3) Promoting emergency temporary protection measures
 - (4) Procedures to recognize trafficking victims
 - (5) Extending protection to recognized trafficking victims
 - (6) Bearing necessary costs for protection and support
 - (7) Legal status of trafficking victims
3. Cooperation to support recovery of victims
4. Preventing human trafficking
5. Establishing a mechanism to promote the elimination of human trafficking including headquarters and a working group for practical actions

Conclusions

7.1. RECENT DEVELOPMENTS AND OUTSTANDING CHALLENGES

By the end of 2004, the Government of Japan had demonstrated increasing commitment to take effective action against trafficking in Japan as a destination country. A watershed was the adoption in December 2004 of the National Plan of Action against Trafficking. Other important measures included the preparation by the Ministry of Justice of a specific penal law against trafficking, expected to be presented to the Diet in early 2005. Other announced measures, including the tightening of visa controls and support for the repatriation of victims, may also lead to more controls against trafficking and to improved protection and rehabilitation of victims in their countries of origin.

All of these efforts are to be commended, and it is hoped that Government initiatives to improve the law and policy framework against trafficking will yield concrete results over the coming months. It is important however that, together with the national and local governments, employers' and workers organizations become more actively involved in the fight against human trafficking in Japan. Trade unions can exercise vigilance, providing education and training on the problems for their members in different economic sectors. They might focus in particular on the transport sector, alerting their members to the risks of trafficking by either sea or air. Employers' organizations could have similar awareness raising programmes for their members, and can also monitor advertising and recruitment agencies to ensure that none of these are involved in trafficking activities.

EDUCATION OF GOVERNMENT OFFICIALS AND SOCIETY

An enormous number of individual government officials from various agencies may potentially come into contact with perpetrators and/or victims of human trafficking. At times it may be possible to underestimate the criminal nature of the actions of traffickers and employers, and to misconceive a victim of trafficking simply as an illegal migrant. It is vital that all officials are fully equipped with the training and resources necessary to deal appropriately with this complex matter. The comprehensive training of all relevant Government officials on the definition of 'trafficking' and appropriate mechanisms to deal with both perpetrators and victims, would increase the Government's capacity to work with trafficking victims as well as the quality of the experience of victims themselves. As a destination country, effective protection of victims would be a great challenge.

Some Japanese continue to hold trafficked women individually responsible for their situation, and consider the provision of services to be inappropriate. Yet, trafficking into Japan is driven by Japanese demand. Better education of society in general would have the potential of reducing demand, and simultaneously generating a more sympathetic approach to victims.

7-2. VOICES FROM CIVIL SOCIETY

Voices from civil society were collected during the study between winter 2003 and autumn 2004. This section presents some of these voices. These voices may not reflect changes since the formulation of the National Plan of Action.

1) AWARENESS-RAISING ACTIVITIES IN SOCIETY AT LARGE, PARTICULARLY AMONG MEN

Although already mentioned above, it seems necessary to emphasize the significance of the awareness-raising campaign on human trafficking, particularly for men, with a view to reduce demand for sexual services. The demand side as well as the supply side of human trafficking should be simultaneously tackled in order to solve the problem, as they are two sides of the same coin. Thousands of women are trafficked into Japan for sexual services because there is huge demand for them. Thus awareness-raising campaigns are crucial to show that paying for services provided by trafficked women is in fact as good as helping traffickers and organized criminal groups stay in business. As long as offenders find the business lucrative, they further victimize vulnerable women in various parts of the world. This understanding necessitates enlightening the public that it is crucial not to be part of human trafficking.

2) FUNDING OF SERVICES TO VICTIMS

In some instances, NGOs are a more appropriate forum than Government for working with victims. Currently, there are only two refuges in and near Tokyo which accept foreign women escaping from circumstances of trafficking. Neither is fully Government-funded and their capacity is limited. At the same time, there are no such services available in other regions of Japan. A review of services provided by refuges throughout Japan, possibly including increases in funding where appropriate, would extend services to women escaping circumstances of trafficking.

Funding is also necessary for assisting a smooth homecoming of trafficking victims who do not have sufficient financial means to cover the cost of an air ticket. Trafficking victims are, in many cases, exploited and often withheld payment, but have to bear the cost of their return/deportation home.

3) VICTIMS' RIGHTS

A co-director of an NGO emphasizes the importance of respecting a victim's rights such as the rights to protection, care and residence permit during the period in which the victim undertakes legal procedures, and recovers from physical and mental damages. With regard to the proposed trafficking charges, mentioned in Chapter 4, the co-director admits that this is recognized as progress in addressing human trafficking for sexual exploitation in Japan. Due attention needs

to be given to the fact that victims need to receive fair “treatment” since trafficking victims’ rights have so far rarely been acknowledged by public servants who rather tended to see trafficked women as an offence to public order and morals.

4) MENTAL CARE PROVISION

The Director of the HELP shelter sees a need to reduce the distress caused by traumatic experiences which the victim underwent. She points to mental care given by a psychiatrist of the same nationality as effective. A psychiatrist who understands the victim’s mother tongue and culture enable the victim to talk more freely and profoundly about her problems and concerns.

5) MEDIUM AND LONG TERM ACCOMMODATION

The Director also speaks of an increasing need for more adequate accommodation for trafficking victims who have to stay in Japan for a longer period of time. This is due to the fact that it often takes time for victims to procure the necessary travel document before their departure. A shelter can serve as temporary accommodation; however, shelters are not designed for medium and long-term stays since they limit the victim’s freedom, and thus some victims perceive shelter life as stressful. In addition, if the victims are to appear in court as witnesses, the litigation process may require the witness to remain for some time in Japan.

6) TRANSNATIONAL, WIDER AND CLOSER COORDINATION

It is also recommendable to extend ongoing care to the victims after their repatriation as their difficulties do not end at the point of departure from Japan. The real challenge they must face is their re-integration into society in their homeland. If they have limited financial means, they must learn to live with poverty as most of them are from deprived regions of their country. In addition, it is reported that stigmatizing effects attached to human trafficking victims pose a significant challenge on their re-integration into society. Furthermore, the victim’s fate remains vulnerable in their country as organized crime groups may attempt revenge. Having stated all of these concerns, it is hoped that Governments both at the national and local level and civil society organizations in both sending and receiving countries deepen their coordination in order to effectively reach out and help human trafficking victims by assisting them with their rehabilitation and re-integration into society using all means possible.

National Police Agency circular on trafficking

(Note: This is a National Police Agency document translated from Japanese by ILO Staff)

Circular

(Conservation: 5 years, until 31 Dec. 2008)

4 April 2003

From: Director, NPA Life and Security Department, Life and Environment Division

To: Chiefs of inter-regional coordination Departments of each Regional Police Bureau
Director, Life and Security Department, Tokyo Metropolitan Police
Chiefs of Police of each Prefecture

On the correct understanding of cases of trafficking,
the strengthening and full enforcement of their control and reporting

Recently, cases of trade in persons, especially of women and children (“cases of trafficking”) have become a serious international concern, both as a grave violation of human rights and as an important source of funds for criminal organizations. In our country also, cases where foreign women (and children) enter the country through the services of “brokers”, and are then charged with inflated debts for fake expenses and costs, then forced into prostitution or sex-related work are occurring persistently.

The Prefectural Polices are requested, concerning such cases of trafficking committed in conjunction with crimes related to sex-related entertainment and prostitution businesses and crimes related to the employment of foreigners, to capture their precise nature, strengthen their crackdown and when such cases identified, to report them systematically and without delay to the NPA.

This circular replaces the circular on “Reporting of cases of trafficking related to sex-entertainment / employment of foreigners” of 19 June 2001.

Memo

1. International Background

In November 2000, the United Nations adopted the United Nations Convention against Transnational Organized Crime (TOC) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons (Trafficking Protocol).

This Protocol defines trafficking as acts fulfilling the three conditions of “purpose of exploitation”, the use of “force, abduction, fraud/coercion, and improper purpose”, and “the recruitment, transportation, transfer, harbouring or receipt of persons”, and requests countries to prevent and severely punish these acts.

Japan signed the Protocol in December 2002 and intends to take measures for its ratification. The Police are required to respond actively to these efforts as well.

2. Cases concerned

According to 1 above,

- (i) “The purpose of Exploitation (Prostitution and other sex-related exploitation, and Forced Labour)”
- (ii) “The use of Force, abduction, fraud/coercion, improper purpose”
- (iii) “The recruitment, transportation, transfer, harbouring or receipt of persons”

are the three conditions for cases of trafficking. Accordingly, measures as stated below in 3 will be taken. However, cases fulfilling (ii) will be considered as trafficking even if the victim had agreed (i), and whenever the victim is a child, it will be trafficking as soon as conditions (i) and (iii) are filled. Concrete examples of (i) ~ (iii) are given below.

(i) “The purpose of Exploitation”

- In the entertained food and drink business, sex-related entertainment business and the like, when brokers or employers charge foreign women with inflated debts as entry costs or employment mediation fees, and withdraw the passports or put the victims under close surveillance until they pay their debts, forcing them into prostitution.
- On construction sites and factories, against foreign workers, when brokers or employers charge foreign women with inflated debts as entry costs or employment mediation fees, and withdraw the passports or put the victims under close surveillance until they pay their debts, forcing them into long and low-paid working hours.

(ii) “The use of force, abduction, fraud/coercion, improper purpose”

- When brokers (or recruiters, etc.), under the pretence of providing jobs as hostesses, recruit women with the purpose to force them into prostitution.

- When brokers have threatened the victims to harm them or their family if they fled or did not pay out their debts.

- When the brokers have paid money or gave profit to the victims' parents or any other person having authority over the victim's status.

(iii) "The recruitment, transportation, transfer, harbouring or receipt of persons"

- When the brokers have provided services for the foreigners' travel, such as the provision of passports and visas (whether legal or fake).

- When the brokers have helped in the travel of the foreign victims, by accompanying them during the travel by ship or by plane.

- When the brokers or employers have guided and accompanied the foreign victims from their arrival to our country to their lodging, or helped them elude police control by limiting their outings from their lodging place.

- When employers have taken over the victims from brokers, and used them as workers.

3. Requests to the Prefectural Police Departments

(1) Information collection and secret investigation of suspected cases of trafficking

A. Adequate information collection

In collaboration with departments dealing with boryokudan and foreigners' cases, and regional police forces, and the effective use of intrusive investigation based on the entertainment business law, strive to establish a precise picture of premises where foreign women are employed, and of construction sites and factories where foreign workers are employed, thereby gathering information on foreigners, brokers and employers relating to trafficking cases.

B. Pro-active prosecution

Where cases of trafficking are established, keeping in mind the objectives of prosecuting malicious brokers and employers and unraveling the organizational structures of national and international brokers, actively investigate crimes connected to sex-related entertainment, prostitution and the illegal employment of foreign workers, with the aim of prosecuting them.

C. Promotion of associated/collaborative investigation

When brokers and employers have numerous foreigners kept under their custody and employ them widely over several provinces, report without delay to the NPA division of Life and Environment, and actively promote associated/collaborative investigation.

(2) Measures taken on custody of a foreigner

A. Verification whether it is a case of trafficking

It is often the case that a foreigner taken into custody after an investigation or a joint arrest with Immigration, in relation to cases related to sex-related entertainment or prostitution or illegal employment of foreign workers, are either charged with suspicion of acts contravening either immigration laws or anti-prostitution laws, or put in immigration detention according to Article 39 of the immigration law, after a communication according to Article 62 of the same law. In every case of police custody of a foreigner, there should be an interrogation of the foreigner and other persons involved, on the nationality, type of visa, conditions of employment, and at the same time, a verification whether it is a case of trafficking should be carried out.

In addition, foreigners who are involved in trafficking might tend to refuse testifying, or not tell the truth, out of fear that they or their family back home could be harmed, or anxiety over remaining amounts of debts, or because the brokers might have instilled in them distrust towards the police. Therefore, verification on whether it is a case of trafficking should be made mainly on the basis of statements by other persons involved and facts established by the investigations.

When the relation to trafficking is established, a thorough interrogation should be made on the background and structure of the criminal organization behind, such as information on the process of contact with the criminal organization abroad, the process through which the passport and visa were obtained, the entry route to our country.

B. Adequate handling of victims

Concerning the handling of victims of trafficking, proper care should be taken regarding the psychological state of the victim, and measures should be taken where appropriate according to the circumstances in which the victim was placed, to remove fears and anxieties. In particular, in the case of women who were victims of sexual exploitation, measures such as interrogation by a woman officer, medical care given by a doctor, and psychological counselling should be considered.

C. Reporting of each suspected case of trafficking

Foreigners taken into custody after 1 January 2003 for cases related to sex-related entertainment business, prostitution or illegal employment of foreign workers, and where relation to trafficking is established, each case should be reported using Form 1 (attached) in the case of foreign victims, and Form 2 (attached) for brokers and employers, to the NPA Life and Environment Division (Cases; Foreign workers branch) through P-WAN and without delay (concerning foreign persons taken in custody between 1 January and today, to verify whether they are involved in trafficking by documents and report).

When a person involved in trafficking is sent to Immigration detention without being charged with criminal charges, or when the person's testimony cannot be obtained but it can be assumed through facts established by the statements of other persons involved or investigation that this person has been involved in trafficking, this person should also be reported.

(3) In-depth investigation and confiscation of illegal profits

In cases of arrest in relation to trafficking, investigations should not be stopped at the arrest of only the employer(s), but should lead further to the malicious national and international brokers making outrageous profits out of this business and the criminal organizations behind them.

In addition, legislation against organized crime and taxation reporting should be used for the confiscation of illegal profits.

National Police Agency Report form on cases of trafficking

(Note: This report form is a National Police Agency document translated from Japanese by ILO Staff)

Report form 1

Confidential Document

Report Form for Trafficking in Persons cases (cases involving foreigners)

		Prefecture (direction) Case number		Year Case No.	
Name of case					
Name				Date of birth	Year Month Day (year)
Nationality		Occupation (in reality)			
Address					
Part of entry		Purpose of entry		Passport Number	
Entry record		times	Date of entry	Y/M/D	Alien registration
Other foreigners involved		Foreigners, other than referred above by nationality			
Criminal offences		Date of arrest	Y/M/D	Division responsible	
Measures taken		Sent to prosecutor/ Art. 65; 62 of Immigration law; (Other:.....)		Date of measure	
Type of Business		Entertainment/ restricted sex-related business establishment (cat. ...)/ food and drink establishment operating at night/ other types of food & drink establishment (specify:.....)/ construction/ hotel/ iron and steel, machinery/ transport/ agriculture/ Others (specify:			
Place of employment					
Employer					
Grounds for considering it a trafficking case		Purpose			
		1. Prostitution, .. 2. Forced Labour 3. Others			
		Means used			
		4. Use of coercion 5. Deception about type of work 6. Abuse of power 7. High debt (amount:.....) 8. Others (.....			
		Acts			
		9. Recruitment 10. Transport 11. Confinement 12. Reception			
Description of the trafficking case (means of recruitment, of entry in the country, reception, brokers involved)					
Other remarks					
Date of Report		Author	Telephone		

- Notes: 1 Please complete one form per foreigner involved in a trafficking case
2 Please indicate the Report Form number for employers and brokers.
3 Please attach a chart describing the case

**Report Form for Trafficking in Persons cases
(Brokers and Employers)**

	Prefecture (direction) Case number		Year	Case No.
Name of case				
Criminal Offence(s)	Immigration Law (facilitation)/ Employment security Law (Hazardous work placement or recruitment)/ Dispatch of Workers Law/ Anti-prostitution Law/ Others (.....)			
Arrest	Date	/ /	Type of arrest	Standard/ Emergency/ In the act/ Voluntary
	Division			
Name of suspect	Date of birth		/	/
Nationality				
Address				
Occupation				
Organized Crime Group	Name of group		Rank	Leader/ executive/ member/ quasi-member/ other (.....)
Area of Action	In Japan: Prefectures (.....) Abroad:countries (.....)			
Foreigners involved in Trafficking	Number:	Number by country of origin	Country	/.....M;F
			Country	/.....M;F
			Country	/.....M;F
Description of the Trafficking Case				
Others involved (incl. Partners in Crime)				
Other remarks				
Date of Report		Author		Telephone

Notes: 1 This report form is to be used for brokers and employers involved in trafficking.
Please use one report form per person

2 Please indicate in the section on Others involved (including Partners in Crime), the No. of the report corresponding to each person

Anti-trafficking laws

In 1999, Lederer¹¹¹ estimated that some 154 countries had current legislation that at least minimally targeted the prosecution of traffickers by prohibiting the procuring of women or children for the purpose of prostitution and forced labour. These laws were mostly drafted between 1912-1960 and have been poorly enacted.¹¹²

Recently, a number of countries have taken measures to enact legislation that more effectively responds to modern trafficking trends and the growth of organized crime's interest in this area. Many such laws have shifted the focus from criminalizing the behaviour of trafficked persons to recognizing that such laws should target traffickers and employers, and that a trafficked person is a victim of a crime. Examples include Belgium (2000), Bulgaria (2002), Cyprus (2000), Denmark (2002), France (2003), Greece (2002), Nigeria (2001), Pakistan (2002), Philippines (2003), Romania (2001), Sweden (2002), and the US (2000). Some countries have criminalized trafficking as a specific offence by amending their existing Criminal Codes. These countries include Armenia, Bosnia and Herzegovina, Moldova, Portugal, Serbia, Tanzania, Turkey and Ukraine.¹¹³ Many other countries are in the process of enacting new anti-trafficking laws: Burkina Faso, Burundi, Côte d'Ivoire, Croatia, Dominican Republic, Finland, Gabon, Equatorial Guinea, Jamaica, Kyrgyzstan, Mauritius, Slovenia, Niger and Togo. The Russian Federation, Georgia and Tajikistan are considering the legislation in draft form.¹¹⁴

PENALTIES

Effective prevention must be accompanied by punishment of those who engage in trafficking. Penalties vary between countries although recently some countries have expanded their efforts to impose stringent punishment on traffickers. For example, US legislation states that traffickers shall be punished by imprisonment of 20 years, or for any term of years, or for life in cases involving forced labour, trafficking with respect to peonage, involuntary servitude, slavery or forced labour, sex trafficking of children or force, fraud or coercion. In fiscal 2001-2002, the US Department of Justice prosecuted 79 traffickers.¹¹⁵ In 2000, Ireland introduced a possible ten-year sentence as well as confiscation of any vehicles used in trafficking and unlimited fines. In 1998, Italy introduced a 15-year penalty. In January 2003, the Peoples' Republic of China gave life imprisonment to a man engaged in trafficking in women and children along the Vietnamese border. His four colleagues were sentenced to prison for between two and 15 years.¹¹⁶

International anti-trafficking instruments

The predecessor of United Nations, the League of Nations, first responded to the issue of trafficking with treaties addressing the “white slave trade”. In 1949, the United Nations introduced the first real Convention on trafficking when it consolidated two League of Nations treaties into the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others. The Convention was not widely ratified. In 1956, international Conventional law recognized trafficking in persons as a human rights violation through the Convention on the Abolition of Slavery. Since the early 1990s, all major UN instruments on States’ commitment to ensure women the full enjoyment of their human rights and protection from violence have included specific obligations to combat trafficking in women.¹¹⁷

The first international definition of trafficking and comprehensive approach to it was provided through the UN Convention against Transnational Organized Crime and its supplementing Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children in 2000. It views trafficking in women in the wider context of transnational organized criminal activities, such as money laundering, corruption, trafficking in firearms and the smuggling of migrants. The UN Protocol was adopted by the General Assembly in November 2000, and open for signature by UN Member States the following month in Palermo, Italy. The treaty and its protocol went into force in December 2003, after 40 States had ratified it.¹¹⁸

Article 2 of the UN Protocol, the Statement of Purpose, sets fourth the goal of the document:

- To prevent and combat trafficking in persons, paying particular attention to women and children
- To protect and assist victims of trafficking, with full respect of their human rights
- To promote cooperation among States parties in order to meet these objectives.

The UN Protocol is primarily a law enforcement instrument. It aims to eliminate differences among national legislations and contains strong language on States’ obligation to create law enforcement provisions at the national level. Signatories are obliged to undertake measures to provide victims with assistance and protection, but there are few laws at the national level regulating how such aid will be provided and to whom. Countries that have ratified the Protocol are obliged to enact domestic laws.

Other recent international initiatives on the issue of human trafficking are the Amsterdam Treaty, the Tampere Summit, and the Vienna Action Plan. Furthermore, the Rome Statute of the International Criminal Court entered into force in 2002.

The ILO has developed a training manual to monitor the recruitment of migrant workers, and drafted guidance for legislators to ILO Conventions and practical actions.¹¹⁹

Temporary protection status

The obligation of national governments to provide services to assist victims is set forth by international legal instruments such as the UN Protocol. However, the extent to which governments must provide such services is not prescribed. Traditional immigration laws usually consider alien victims of trafficking to be illegal aliens subject to deportation. On the other hand, some destination countries have recently reconsidered the appropriate status of trafficking victims and grant them some form of residency status. These countries include the US, Austria, Belgium, Canada, Netherlands, Italy, Spain, Czech Republic, Lithuania, Hungary and most recently, Australia.¹²⁰ A number of specific examples follow:

- Australia

On 1 January 2004, Australia introduced the Bridging F-Visa and the Witness Protection Visa. The latter visa may be provided to trafficking victims who contribute significantly to the prosecution and investigation of an alleged people trafficking offence, are not subject to any related offence, and may be in danger if they return to their home country.

- Belgium

In Belgium, victims of trafficking may obtain a temporary residence permit for three months if they agree to testify against traffickers. The judge can further decide to deliver a registration certificate, which allows the victim to remain in the country for a six further months. The certificate can be renewed every six months pending completion of the judicial proceedings. At the conclusion of an eventual trial, victims who cooperate with investigation authorities may be granted permanent residence status and unrestricted work permits.

- Italy

In the case of Italy, over 2,500 temporary residency and work permits were issued for trafficking victims in 2002.¹²¹ The visa grants access to legal and medical assistance, work, education and witness protection via an established network of government recognized NGOs working on trafficking.

- United States of America

The Trafficking Victims Protection Act grants temporary residency status to victims of severe forms of trafficking through ‘T-Visas’. Victims must meet a number of criteria including having “complied with any reasonable request for assistance in the investigation or prosecution of trafficking”¹²² and face “extreme hardship involving unusual and severe harm upon removal”. Amendments in 2003 allow for trafficking victims under the age of 18 to apply for a T-Visa without the requirement of compliance with reasonable request to assist in the investigation and prosecution in a trafficking case. It also extends the T-Visa to a victim’s unmarried siblings under the age of 18.

Under the T-visa, victims are provided three years' temporary residence status and an appropriate working permit. During any fiscal year, the number of T-Visas available is limited to 5,000. A person who has acquired a T-Visa may be eligible to adjust their status to permanent resident status after three years if the person:

- Has been physically present in the United States for a continuous period of at least three years since the date of admission as a non-immigrant.
- Has been a good moral character throughout the period.
- Has complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking.
- Would suffer extreme hardships involving unusual and severe forms upon removal from the United States.

REGIONAL LEVEL INITIATIVES AND COOPERATION

At the regional level, the Council of Europe and the European Union are examples of two institutions that draft legally binding law on trafficking in persons. These laws would be applicable to some of the countries of Central and Eastern Europe and the Commonwealth of Independent States. The Council of Europe reiterates many of the standards articulated by the United Nations on trafficking, but also promulgates specific recommendations for member States, related to trafficking in Europe. The European Union has identified the need for harmonized EU legislation to achieve a coordinated response on a transnational level.¹²³ Most of the work of the European Union in the area of trafficking has focused on increasing international law-enforcement cooperation, through Europol, funding of anti-trafficking initiatives and the adoption of resolutions. European Union resolutions adopted by the European Parliament are not legally binding for member States, but carry a strong persuasive force.

In 1997, the European Union issued the Council Joint Action to combat trafficking in human beings and sexual exploitation of children. It is a legally binding document for member States to review their relevant national laws and to classify trafficking as a criminal offence. In 2002, the European Council Framework Decision mandated that "Member States must take the necessary measures, no later than 1 August 2004, to criminalize trafficking in persons and provide for the appropriate penalties in addition to assistance to victims of trafficking".¹²⁴ Furthermore, in February 2002, the European Council Directive made a proposal to the European parliament regarding short-term residence permits issued to victims of action to facilitate illegal immigration or trafficking in human beings who cooperate with the authorities.¹²⁵ The aim of the proposal is the creation of a directive that would introduce a residency permit to be issued to adult victims of trafficking or illegal immigration who are third-country nationals. The victims would be granted a 30-day period in which to consider whether they will cooperate with national authorities in the prosecution of traffickers. During this period, the trafficked person would be eligible for aid, in the form of housing, medical and psychological care and other forms of social assistance. The proposal also calls for the possibility of issuing a six-month residency period for

those victims who cooperate with authorities. The proposal does not include measures about victim protection, witness protection or combating organized crime, since the purpose of such a residency permit is limited to combat illegal immigration. Victim protection and witness protection are addressed as matters of European and national law. Antonino Vitorino, EU Commissioner for Justice and Home Affairs, said¹²⁶ that the department regards temporary residency permits as an extremely important tool to commit the victims to cooperate with the police and the judicial authorities since it is “extremely difficult to gather evidence”.¹²⁷ He furthermore emphasized that it was equally important to provide assistance and protection to victims. The central objectives of the Commission proposal are also to provide for a rapid implementation of the UN Protocol. The author of a report on trafficking for the EU legislative body, Belgian Euro-Parliamentarian Patsy Sorenson, wants the Commission and EU member States to go a step further in the area of asylum and follow the lead of Belgium and Italy, both of which grant victims the right to stay indefinitely if they are willing to give evidence in court.

In addition, both the Organization for Security and Cooperation in Europe (OSCE) and the Stability Pact for South Eastern Europe (SEE) have created politically-binding documents which form anti-trafficking policy and standards for the region.¹²⁸ Other regional organizations such as the Economic Community of West African States (ECOWAS) and the 2002 South Asian Association for Regional Cooperation Convention are also cooperating to combat trafficking.

Colombian legislation

Colombia has a number of laws in place to address human trafficking. Key legislation includes:

Anti-trafficking legislation (Colombia Law on Trafficking of 2002): Colombia introduced anti-trafficking legislation in June 2002. The law criminalizes both national and international trafficking of men, women and minors for the purposes of prostitution, pornography, mendacity, indebted servitude, servile marriages, forced labour and other slavery-like practices. It criminalizes all actors involved in the process of introducing, forcing, facilitating, financing, collaborating or participating in trafficking. Punishment ranges from 10 to 15 years mandatory imprisonment with fines ranging from 600 to 1,000 times the monthly minimum wage, as well as the confiscation of goods resulting from trafficking. More severe punishment is exacted in circumstances where the victim is a child or disabled, the offender is a member of the victim's family or a public servant, or if physical or psychological harm has resulted from the trafficking.¹²⁹ The law also includes provisions against human smuggling.

Anti-organized crime legislation (Measures to Combat Organized Crime and Establishing Additional Provisions): Colombia has strong legislation specifically targeting organized crime. The law criminalizes any person who (through any means) establishes, promotes, finances, directs or heads a conspiracy or a permanent organized association or enterprise formed for the pursuit of criminal activities. The act carries a penalty of imprisonment of between 30 and 50 years and a fine of between 2,000 and 50,000 times the minimum statutory monthly wage. The legislation includes increased penalties if, for example, the crime is committed partly or wholly outside Colombia, or by a public servant, or against a public servant, or against a minor below 12 years of age or a person not criminally responsible for their actions, or against two or more people.¹³⁰

Other domestic legislation: the Colombian Constitution prohibits slavery or any form of forced labour. Minimum age for employment is 14. Domestically, prostitution is not criminalized among persons of legal age, however, it is illegal to procure or entice a person into prostitution. It is also illegal to encourage minors into prostitution. Colombia also has a range of laws to address issues of gender equity, domestic violence and displaced populations.

International Programmes: In August 2003, the IOM launched a counter-trafficking campaign aimed at providing information to potential trafficking victims. The campaign includes television and radio spots, a series of posters and the provision of three telephone hotlines, including one for international calls.¹³¹

Currently, the United Nations Office on Drugs and Crime has programmes in Colombia, including the 'Combating Trafficking in Human Beings in Colombia' project (funded by Sweden) which commenced in October 2003 and is due for completion in 2006. The project aims to assist the Colombian authorities to develop and implement an 'integral' national anti-trafficking strategy, and to support the criminal justice system in the prevention, investigation and prosecution of trafficking in human beings. The project plans to include development and publication of a comprehensive study, development of a national strategy and international cooperation agreements, and training of public officials.¹³²

Thai legislation

The Thai Government has taken several legislative measures to address prostitution and trafficking. Most relevant among these are The Prevention and Suppression of Prostitution Act B.E. 2539 (1996) and the Measures in Prevention and Suppression of Trafficking in Women and Children Act B.E. 2540 (1997).¹³³

The Prevention and Suppression of Prostitution Act B.E. 2539 (1996) : This Act makes pimping and prostitution illegal by providing penalties for any person who “solicits, induces, introduces herself or himself to, follows or importunes a person in the street, public place or any other place, which is committed openly and shamelessly or causes nuisance to the public” as well as any person “who associates with another person in a prostitution establishment for the purpose of prostitution of oneself or another person”.¹³⁴

More specifically applicable to trafficking in persons is the provision that stipulates:

Any person who procures, seduces or takes away any person for the prostitution of such person, even with her or his consent and irrespective of whether the various acts which constitute an offence are committed within or outside the Kingdom, shall be liable to imprisonment for a term of one to ten years and to a fine of THB20,000 to 200,000.¹³⁵

The penalty increases for the same offence when committed against a person aged between 15 and 18 years old (5-15 years of imprisonment and a fine between THB 100,000 to 300,000) and increases again when committed against persons younger than 15 (imprisonment for 10-20 years with a fine of THB 200,000 to 400,000).¹³⁶

The same section of the law states that if the above offences are committed “by means of fraud, deceit, threat, violence, exercising undue influence or coercing against her or his will in any manner whatsoever,” the punishment for the offender shall be heavier by one third of the case’s respective punishment.¹³⁷ If the person uses himself or herself as a ploy for another to commit prostitution, i.e., if that person admits to “having been procured, seduced or taken away” himself or herself, applicable penalties in the cases mentioned above shall be handed down.

The Thai Government has also legislated to punish parents who knowingly push or allow their children to enter prostitution:

Knowledge or connivance of parents in the commission of prostitution of their children below 18 years of age during their parental control makes them culpable of a range of penalties either from revocation of parental right to those of imprisonment for 4-20 years and a fine of THB 80,000 to 400,000.¹³⁸

Persons who bond others to engage in prostitution by detaining or confining, depriving such persons of liberty, causing or threatening to cause bodily harm, are liable to 10 to 20 years’ imprisonment and a fine of THB 200,000 to 400,000. If the offence results in grievous bodily harm or death, life imprisonment shall be the punishment accorded to the person committing the offence as well as to the person supporting the commission of the offence.¹³⁹

The above laws have the potential to address certain cases of bonded sex work. However, these benefits are greatly minimized by prostitution being illegal, and the probability that trafficking victims may be charged and treated as criminals.

Measures in Prevention and Suppression of Trafficking in Women and Children Act B.E. 2540 (1997): the Thai law on trafficking in persons protects only women and children. The Act defines and criminalizes trafficking in women and children as:

buying, selling, vending, bringing from or sending to, receiving, detaining or confining any woman or child, or arranging for any women or child to act or receive any act, for sexual gratification of another person, for an indecent sexual purpose, or for gaining any illegal benefit for him/herself or another person, with or without the consent of the woman or child, which is an offence under the Penal Code, the law on prostitution prevention and suppression, the law on safety and welfare of children and youths or this Act.¹⁴⁰

Any attempt to commit the offences by making preparations to do so is also punishable by law. The punishment for violation of the Act is imprisonment not exceeding five years, a fine not exceeding THB 10,000, or both.¹⁴¹

The Act empowers government officials to “inspect, examine and monitor airports, seaports, railway stations, bus stations, entertainment establishments, factories and public places” to prevent the mentioned offences. Officials are further empowered to issue a summons for statements, delivery of documents or evidence; bodily examination of a woman or child when there is reason to believe that s/he is a victim of trafficking; and search any place or vehicle if there is a reason to believe that such are being used to assault or conceal women or children. Provisions for rescue, detention, assistance and repatriation are also stipulated in the Act.

Other legislative measures in Thailand seen to help suppress trafficking in persons are the Thai Money Laundering Law, the Immigration Act of 1979 and the Witness Protection in Criminal Cases Act of 2003,¹⁴² and the recent Child Protection Act of 2003.

Philippine legislation

Republic Act No. 6955

Also known as the Mail Order Brides Law, the law declares its intention to “take measures to protect Filipino women from being exploited in utter disregard of human dignity in their pursuit of economic ‘upliftment’”. It further declares unlawful the establishment or carrying out of businesses which match Filipino women for marriage to foreign nationals either on a mail order basis or through personal introduction; the advertising, publishing, printing of information to promote matching for marriage; attracting women to join any association for matched marriage for a fee; and using the postal service to promote the preceding prohibited acts.¹⁴³

Violations of the Act can result in imprisonment of between six and eight years, and a fine of PHP 8,000 to 20,000. Foreigners committing the prohibited acts shall face immediate deportation and be barred forever from entering the country in addition to the stated terms of imprisonment and fine.¹⁴⁴

Republic Act No. 9208

The recently legislated Anti-Trafficking Law draws heavily on the Palermo Protocol. The law complements other laws, aiming to provide a holistic approach towards the prevention, protection and reintegration of trafficked women. Under the law, trafficking is defined as:

the recruitment, transportation, transfer, harbouring or receipt of persons, with or without the victim’s consent or knowledge, within or across national borders by means of threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation which includes, at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery, servitude or the removal or sale of organs.¹⁴⁵

The law further states that the “recruitment, transportation, transfer, harbouring, or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’” even if any conditions set forth in the above definition are not present.¹⁴⁶ Children are defined under Philippine laws as persons below 18 years of age or those who are over 18 but are unable to fully take care or protect themselves due to physical or psychological disability or condition.

Persons found guilty of committing acts of trafficking in persons will face imprisonment of 20 years and a range of fines of between PHP1,000,000 and 2,000,000.¹⁴⁷

‘Qualified Trafficking in Persons’ is defined under section 6 of the Act as trafficking (a) where the trafficked person is a child; (b) when a child is adopted for the purpose of prostitution, pornography, sexual exploitation, forced labour, slavery, involuntary servitude or debt bondage; (c) when the crime is committed by a syndicate (three or more people conspiring) or on a large

scale (committed against three or more persons individually or in group); (d) when the offender is an ascendant, parent, sibling, guardian or a person who exercises authority over the trafficked person or when the offence is committed by a public officer or employee; (e) when the trafficked person is recruited to engage in prostitution with any member of the military or law enforcement agencies; (f) when the offender is a member of the military or law enforcement agencies; and (g) when by reason or on occasion of the act of trafficking in persons, the offended party dies, becomes insane, suffers mutilation or is afflicted with HIV or AIDS.

Violating provisions which ensure the right to privacy (Section 7 of the Act) of the trafficked person at any stage of investigation, prosecution and trial of cases of trafficking persons shall attract the penalty of imprisonment of six years, with a fine of between PHP 500,000 and 1,000,000. According to Section 7, the right to privacy of the victim would be recognized and protected at all stages of the investigation, prosecution and trial by all persons involved. Measures include ordering a closed-door investigation, prosecution or trial, and that the name and personal circumstances of the trafficked persons or of the accused, or any other information that could reveal their identities shall not be disclosed to the public.

The Anti-Trafficking Law further criminalizes owners of establishments, foreigners, and employees or officials of government who become involved in various stages of the process of trafficking.

Mandatory services to trafficked persons provide for emergency shelter or appropriate housing, counselling, free legal services, medical or psychological services, livelihood and skills training as well as educational assistance to the trafficked child.¹⁴⁸

The Act also created an Inter-Agency Council against Trafficking in the Philippines, composed of concerned government offices, and NGO representatives (one each from the women, overseas Filipino workers and children sectors). This coordinating body is empowered to provide inter-agency pooling of resources to conduct programmes and activities contributing to the combating of trafficking in persons.¹⁴⁹

Republic Act No. 8042

Also known as the Migrant Workers and Overseas Filipinos Act of 1995, the law addresses the deployment of workers and criminalization of illegal recruitment. According to Section 4 of the Act, the Philippines will deploy overseas Filipino workers only in countries where the rights of Filipino migrant workers are protected. The Government will recognize the following as guarantee on the part of the receiving country for the protection and the rights of overseas Filipino workers: existing labour and social laws protecting the rights of migrant workers; signatory to multilateral Conventions, declarations or resolutions relating to the protection of migrant workers; has signed a bilateral agreement or arrangement with the Government protecting the rights of overseas Filipino workers; and taking positive, concrete measures towards the protection of the rights of migrant workers.¹⁵⁰

It further defines illegal recruitment as “any act of canvassing, contracting, transporting, utilizing, hiring, procuring workers and includes referring, contact services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-licensed or non-

holder of authority". Illegal recruitment may be committed by licensed or non-licensed persons, licensees or holders of authority in various acts prejudicial to the right of persons to a just process of job-seeking and safe employment.¹⁵¹ Depending on the gravity of the offence and on the person against whom the offence was committed, penalties range from six years to life imprisonment and fines of between PHP 200,000 to 1,000,000.

Those who are found guilty of acts that promote or facilitate trafficking in persons face imprisonment of 15 years and a fine ranging from PHP 500,000 to 1,000,000. Those found guilty of 'qualified trafficking' (defined in Section 6 of the Act.) will face life imprisonment and a fine of between PHP 2,000,000 and 5,000,000.¹⁵²

Other domestic laws

Other related domestic laws include Republic Act No. 8043 or The Inter-Country Adoption Law; Republic Act No. 8239 or the Philippine Passport Act of 1996, Republic Act No. 7610 or the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act which is amended by Republic Act No. 7658. A new child labour law, criminalizing the exploitation of children for purposes of labour in the worst forms, is also due to be signed and enacted.

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- 96 Law No. 45 of 24 April 1907 (Last revision by Law No. 138 of 1 August 2003).
- 97 For an article about ‘Karayuki sans’, see for example: B. Mihalopoulos: ‘The Making of Prostitutes: the Karayuki-san’, *Bulletin of Concerned Asian Scholars*, vol. 25, No. 1, Jan-Mar. 1993 (<http://csf.colorado.edu/bcas/sample/japdoc.htm>).
- 98 Law No. 78 of 23 June 1999 (Revised by Law No. 160 of 22 December 1999).
- 99 The arrest of the broker led to a nationwide police crackdown against 24 strip clubs. The police arrested 15 persons involved in strip clubs and rescued 68 Colombian women who worked as strippers. Among the Colombian victims, some women had a debt exceeding 5 million Japanese yen, and were forced to prostitute themselves. (Source: White Paper on Police 2004, page 121)
- 100 The Experts Committee on Violence against Women served as a centre for discussion at the central government level on the issue of trafficking for sexual exploitation until March 2004. It was composed of academics, lawyers, NGO leaders and other members of civil society, and examined all issues related to violence against women, including domestic violence, sexual offences, prostitution, sexual harassment and stalkers. In a meeting held in October 2003, the Experts Committee heard the positions of the relevant ministries on the matters raised within the Committee. On the issue of trafficking, it heard the opinions of the Ministry of Foreign Affairs, the Ministry of Justice and the Ministry of Health, Labour and Welfare.
- The Ministry of Foreign Affairs expressed its commitment towards the fast ratification of the UN Convention on Organized Crime, followed by the ratification of the Protocol on Human Trafficking attached to the Convention, as quickly as possible after the ratification of the Convention itself. It emphasized its will to contribute to the international fight against trafficking through the Bali process (2002) and international organizations. The Ministry of Justice expressed the need to strengthen punishment of the traffickers through the Penal Code, labour legislation, the law on Immigration and Refugee Status, anti-prostitution law and on the entertainment business, and child welfare and law on

child prostitution and child pornography. The Ministry of Justice also pushed for the fast ratification of the UN Convention against Organized Crime and its attached Protocol on Trafficking.

The Ministry of Health, Labour and Welfare limited itself to stating that it was considering a revision of the child welfare law to include the punishment of extra-territorial offences committed by nationals concerning child prostitution and child trafficking, for the ratification of the Palermo Protocol. Nothing was said on either the trafficking of men and women for labour exploitation or on necessary measures for the protection of women trafficked for sexual exploitation, or for the general protection of the victims of trafficking.

The Experts Committee recommended in March 2004 that legislative measures be taken for the strengthening of penalties applied to traffickers and the quick ratification of the relevant UN instruments, as well as the adoption of administrative measures to protect victims of trafficking. It also supported the promotion of international efforts to fight trafficking.

- 101 Interview via telephone conducted on 9 September 2004.
- 102 The Japanese Government has established Women's Councils in each prefecture to provide counselling and safe-harbour services to women.
- 103 According to the Ministry of Health, Labour and Welfare, Women's Consulting Offices provided temporary shelter to a Thai woman in Nagano Prefecture in 2001, and two Thai women in the Prefecture in 2002. In 2003, two Philippine women were harboured in Gifu Prefecture, a Thai woman and a Philippine woman in Nagano Prefecture, and two Thai women in Tokyo.
- 104 www.globalsecurity.org/intell/world/japan/npsc.htm
www.globalsecurity.org/intell/world/japan/npa.htm
www.country-data.com/cgi-bin/query/r-7333.html
<http://www.gens.niigata-u.ac.jp/bulletin/26pdf/26MJM.pdf>.
- 105 In some documents referred to as National POLICE Safety Commission which does not correspond with the Japanese denomination (Kokka Kouan Iinkai).
- 106 In some documents referred to as Prefectural Safety Public Commission.
- 107 US\$1 was equivalent to 109.9 yen as of 9 September 2004.
- 108 Information in this section is based on the Governor's presentation at a conference, "Strategies for Combating Human Trafficking in Asia", 23-24 June, 2004.
- 109 Fourth annual "Trafficking in Persons Report", based on the Victims of Trafficking and Violence Protection Act of 2000, published in June 2004.
- 110 *ibid.*
- 111 Former Director of the Protection Project at the Johns Hopkins University School of Advanced International Studies (US) testifying before the 106th Congress.
- 112 Mattar, Mohamed Y.: Protection Project, "A Comparative Analysis of the Anti-Trafficking Legislation in Foreign Countries: Toward a Comprehensive and Effective Legal Response to Combating Trafficking in Persons" (www.protectionproject.org/commentary/vvv.htm.)
- 113 *ibid.*
- 114 *ibid.*
- 115 US Department of State: Trafficking in Persons Report, June 2003 (www.state.gov/g/tip/rls/tiprpt/2003/21262).
- 116 Smith, Linda and Mattar, Mohamed Y.: Protection Project: "Creating International Consensus on Combating Trafficking in Persons: US Policy, the Role of the UN and

- Global Responses and Challenges”, John Hopkins University.
- 117 SVAW: “The International Legal Framework”.www1.umn.edu/humanarts/svaw/trafficking/law/intl.htm. March 10, 2004.
- 118 For a list of countries that have signed and ratified the Protocol, see http://www.unodc.org/unodc/en/crime_cicp_signatures.html.
- 119 “Trafficking for forced labour -How to monitor the recruitment of migrant workers” and “Trafficking in Human Beings for Forced Labour and Services - A Guide to ILO Conventions and Practical Action” (Draft).
- 120 Smith, Linda and Mattar, Mohamed Y.: Protection Project, op. cit.
- 121 US Department of State, Trafficking in Persons Report, 2003.
- 122 Minors under 15 years of age do not have to comply with such requests.
- 123 “Combating Illegal Trafficking”, www.irishrefugeecouncil.ie/factsheets/illegaltrack5.doc , 9 March 2004.
- 124 Mattar, Mohamed Y.: op. cit.
- 125 SVAW: “The International Legal Framework”.www1.umn.edu/humanarts/svaw/trafficking/law/intl.htm. March 10, 2004.
- 126 TWN, Third World Network: “Europe Pledges Harsher Penalties for ‘sex slave’ traffickers” by Brian Kenety. www.twinside.org.sg/title/harsher.htm, 9 March 2004.
- 127 *ibid.*
- 128 SVAW: op.cit.
- 129 “Colombian Legislation Against Human Trafficking”. accessed in April at: www.thai.net/gaatw/Information/ColombianLegis.htm.
- 130 Colombia Decree No. 1371 of 1995, Article 2, Par.1.
- 131 IOM, Press Briefing Notes, “Latin America - Sexual Exploitation: Colombia - Counter-Trafficking Campaign Launched”, LibertadLatina.org, 5 August 2003 at: www.libertadlatina.org/LatAm_Colombia_Anti_Traffic_Campaign_0805203.htm.
- 132 United Nations Office on Drugs and Crime, “UNODC Programme in Colombia: Basic Facts”, UNODC, January 2004 at: www.unodc.org/pdf/colombia/colombia_basic_facts.pdf.
- 133 Laws Relating to Prevention and Combating Commercial Sexual Exploitation and Trafficking in Women and Children, Department of Social Development and Welfare, Ministry of Social Development and Human Security, Thailand.
- 134 Thailand Prevention and Suppression of Prostitution Act B.E. 2539, Sections 5 and 6, respectively.
- 135 *ibid.*, Section 9, Para. 1.
- 136 *ibid.*, Section 9, Paras. 2 and 3.
- 137 *ibid.*, Section 9, Par. 4.
- 138 *ibid.*, Section 10 and 13.
- 139 *ibid.*, Section 12.
- 140 Measures in Prevention and Suppression of Trafficking in Women and Children Act B.E. 2540, Section 5.
- 141 Sections 6 and 7 respectively.
- 142 Uthaiwan Jamsutee, “Thai legislation against human trafficking,” International Expert Meeting on International Trafficking in Women, Tokyo, Japan, 25-26 November 2003.
- 143 Philippine Republic Act 6955, Sections 1 and 2 respectively.
- 144 *ibid.*, Section 4.
- 145 *ibid.*, Section 3 (a).

146 *ibid.*

147 Philippine Republic Act 9208, Section 10 (a).

148 *ibid.*, Section 23.

149 *ibid.*, Section 20.

150 Philippine Republic Act 8042, Section 4.

151 *ibid.*, Section 6, enumerating 13 instances.

152 *ibid.*, Philippine Republic Act 9208, Section 10 (b) and (c).