

Human Security and the Issue of Trafficking: Where Does Japan Stand?

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“ルールを守って、国際化”

-Slogan of the Japanese Immigration Bureau

In December 1998, the then Prime Minister Keizo Obuchi of Japan remarked that “human security is the key concept to comprehensively seizing all the menaces that threaten the survival, daily life and dignity of human beings” (UN Press Release, January 14, 2001). He subsequently announced the creation of a Trust Fund for Human Security in March 1999 with an initial contribution from Japan of 500 million yen. By 2001, the Trust Fund amounted to approximately \$170 million, the largest of its kind established within the United Nations; paving the way for the formation of the Commission on Human Security on January 24, 2001.

Assigned to head the CHS were the Nobel Laureate Amartya Sen and Sadako Ogata, the former UN High Commissioner on Refugees who is also the most visible female international leader in Japan, a country where the status of women remains low even according to the latest study released by its own Prime Minister’s Office (July 2003). The CHS was created to “protect and empower people who face critical and pervasive threats and explore a concept of human security as an operational tool for policy formulation and implementation” (Asahi Shimbun, Feb. 24, 2003).¹ The categories of activities supported by

the CHS Trust Fund cover such issues as poverty, refugees and internally displaced persons, medical and health care, including HIV-AIDS, drug control and trafficking of women and children.

Japan's involvement in the CHS is another addition to an already long list of high profile yen diplomacy with regards the issue of trafficking. Japan has given generous monetary and/or personnel contributions to United Nations organizations that pursue trafficking issues and has also hosted several international conferences on trafficking with appearances of its leading bureaucrats and government officials.²⁾

Despite all these efforts, however, when the U. S. Department of State released its Trafficking in Persons Report for the year 2004, Japan was the only G8 member country included in the Tier 2 list that included countries like Bangladesh, Bulgaria, El Salvador, Guatemala, Mali, Nigeria, Ukraine and other developing countries. The TIP Report is divided into three tiers: the first tier includes countries that comply with the Trafficking Victims Protection Act; the second are those "that are not in compliance with the Act but are making significant efforts"; and the third, "countries that are not attempting to comply."

The Report states that:

Japan is a destination country for Asian, Latin American and Eastern European women and children trafficked for the purposes of forced labor and sexual exploitation. There have also been cases of Asian and Latin American men trafficked to Japan for criminal, labor and/or sexual purposes. Japan's trafficking problem is large and Japanese organized crime groups (*yakuza*) that operate internationally are involved. The Japanese government must begin to fully employ its resources to address this serious human rights crime within its borders. (See Appendix I for full text).

The Philippines was also included in the same Tier 2 as Japan. Commenting on the reasons for its inclusion, the TPI explains that:

The Philippines is a source, transit, and destination country for persons trafficked for the purposes of sexual exploitation and forced labor. There is internal trafficking from rural to urban metropolitan areas. Filipino women who are trafficked for sexual exploitation to destinations throughout Asia, the Middle East, Africa, Europe and North America, are often lured abroad with false promises of legitimate employment. The Philippines is a transit point and destination for victims from the People's Republic of China (PRC). The sexual exploitation of children within the country is also a growing concern. Endemic poverty, a high unemployment rate, a cultural propensity towards migration, a weak rule-of-law environment, and sex tourism all contribute to significant trafficking activity in the Philippines. (See Appendix II for complete text).

It could not be helped but compare the assessment of these two countries that were lumped together in the Tier 2 list: first, while Japan is a destination country, the Philippines is a source, transit and destination country for trafficked persons. Second, while Japan is a highly industrialized country, the Philippines remains a poverty-laden country and highly dependent on the remittances of its overseas workers. Third, while both countries were at equal footing at the time of the State Department assessment of "not yet fully complying with minimum standards for the elimination of trafficking, however,... making significant efforts to do so," the Philippines had, among other things, established an Inter-Agency Council Against Trafficking and Center for Trafficking that maintains a database on all suspected trafficking-related cases. Recently, the Philip-

pine Senate passed an Anti-Trafficking in Persons Law³⁾ that provides a maximum penalty of life imprisonment and fine of up to 5 million pesos to traffickers, and likewise criminalizes any person who engages the services of trafficked persons.

True to form, Japan immediately approved the release of \$243,000 assistance to the Philippines to support some of its anti-trafficking programs (MOFA, 2003). Shozo Azuma, Japan's Senior State Secretary for Foreign Affairs also commented that "Japan provided \$84,000 in aid to Thailand's Empower Foundation, which is active in the protection of women who work in the sex industry and has provided support through grass-roots grants for NGOs actively involved in the care of victim children in Southeast Asia" (MOFA, 2000). Yet, no such program of its kind currently exists within Japan.

Why then has Japan been generous in giving funds to other countries so that they could get eradicate trafficking, yet been slow in combating the same problem within its territory? The answer probably lies within the conflicts that the issue of migration has brewed between the national and local authorities, between bureaucracies, and most importantly, within the postwar Japanese society itself.

This paper will look into how trafficking, within the context of human security and immigration issues, is viewed in a) academic studies; b) domestic and international laws and covenants to which Japan is a signatory; c) interviews of Japanese officials; and, d) selected court cases involving Filipinos in the Kansai area, for the period 2001-2003.

Migration Studies in Japan

The interest in migration studies in Japan was a direct consequence to four developments in its history: first, the colonization of Korea and China in the

prewar period that resulted in the massive entry of migrants from these two areas; second, Japan's defeat in World War II that displaced members of these two migrant communities who have been considered up to that point as *de facto* Japanese citizens; third, the massive and on-going globalization of migration to Japan not only from East and Southeast Asia but also from former Eastern European states, and fourth, the officially sanctioned "u-turn" migration of ethnic Japanese from Brazil and Peru (even the Philippines), that is currently putting pressures on the Japanese government and society.

Iwasawa (1986) traced the historical roots of the *zainichi gaikokujin* (resident foreigners) to the displacement of nearly a million and a half ex-Japanese Koreans and thousands of Chinese after Japan's defeat in World War II compelled it to give up its colonies and territories. He linked this colonial past to legal issues that later confronted the Koreans and Chinese specifically with the passing of the 1951 Immigration Control and Refugee Recognition Act (heretofore referred to as ICRRA) which was formulated primarily to clarify their status as they were reduced from being *de facto* Japanese citizens to mere residents. Many were permitted to acquire Japanese citizenship, but the bulk were instead given the status of *teiju* (special long-term resident permit) to permit them to stay legally, while officially holding passports which attested to their South or North Korean citizenship. On the other hand, Japan's recognition of the People's Republic of China in 1972 left resident Chinese with little space to veer, especially for those who wanted to maintain ties with Taiwan.

De Vos (1966) published the results of his research on Korean communities which documented the difficulties of what he called as Japan's "invisible race," linking their sufferings to the deep-seated conviction that the Japanese are and have remained ethnically homogeneous. Weiner (1994) further investigated how the illusion of homogeneity was created in Japan through the exclu-

sion of minorities in mainstream historical studies. He looked at the limits imposed upon the second and third generation minorities and the widespread discrimination in work, marriage, education and social relationships. Pak (1995) traced the current contradictions and tensions between local and national level migration policies in Japan as rooted in unresolved tensions between economic interests and national identity issues that generate insularity and homogeneity.

In the late 1980s, the filtering to the country of foreign male workers engendered research that introduced the phenomenon of the *Japayuki-kun*, a term used to refer to undocumented, male laborers. Issues related to migration—from policy, economic, legal, public safety to human rights—were conducted by governmental and non-governmental institutions, political parties and academicians. These studies came to form the backbone of current migration studies in Japan, prompting the formation of study groups within political parties such as the Liberal Democratic Party, Democratic Socialist Party and Komei Party to discuss internally the question of the foreign migrant labor. Even the powerful association of businesses started discussions about what to do with the huge presence of a pool of cheap labor.

Komai (1995) investigated the conditions of the Iranian workers in Tokyo and later on expanded to include all foreign workers in the country. He argued that migrant laborers have contributed greatly to the Japanese economy as they perform crucial “3-D” work shunned by the people, and pushed for promulgation of laws that would protect and integrate foreign workers into the Japanese society. Governmental agencies both in Japan and in the Philippines also began to undertake their own studies to clarify the tremendous gap between Japan’s official legal position on the acceptance of workers, and the absence, or ambiguity of regulations that bridge this gap. In these studies, again, the focus is on men laborers with hardly a reference to women migrant workers.

However, in mainstream Western and Japanese migration studies, the emergence of women entering Japan and into a very specific work sector in the entertainment industry did not produce massive inquiry or interest. It was the feminist writers who started to focus on the phenomenon of the *Japayuki-san* and there was a more concerted effort among them to connect this phenomenon to gender issues and/or global factors prior to and at the onset of migration. Matsui (1987), one of the early prolific writers on the topic, situated it within Japan's historical acceptance of prostitution and to the expansion of the country's sex and entertainment industry fueled by the economic growth. De Dios (1988) pointed to the contraction of the economies of oil-producing states in the Middle East and the prolonged recession of the Philippine economy in the 1970s as the trigger for Filipino women to look for work outside of the country. She was the first to raise the issue of trafficking of women to Japan, under the guise of entertainment.

Allison (1994), an anthropologist who worked in a bar in Japan to observe the behavior of men who frequent these watering holes, concluded that the entertainment industry is not only an extension of the corporate world, but also reflects the thin line between the "work and play" attitude of the Japanese *sarariman*. Ballescas (1994) conducted empirical studies on the complexities of the life of an entertainer, from the time that the decision to migrate was made to the process of negotiating with labor brokers. She also looked into the work conditions within the *o-mise* (place of work, usually a karaoke bar, pub or nightclub).

A groundbreaking research by Wayama (1995), a medical doctor who specializes on psychological problems arising from multiculturalism, found a high level of stress among foreign women married to Japanese men. He based his findings on clinical diagnosis of Filipino and Korean mail-order brides in the

Tohoku area, attributing stress to a combination of the *maza-con* (mother complex) of the spouses and criticized the Japanese society and the state that sanctioned these marriages as not firmly grasping the serious responsibilities and complications of international marriages. This lack of preparations for “long-term care” to protect these women, their children and their marriages are creating social problems for these women and families. As will be discussed, the mail-order system has encouraged trafficking through the use of “dependent of a Japanese national” visa (there being no existing “spouse visa” category under Japan’s immigration laws).

The most comprehensive study on the sex industry so far is the ILO Study edited by Lin Lean (ILO 1998), where several researchers investigated the problem of prostitution in several countries, connecting it to the propensity of underdeveloped countries to depend on the earnings of its migratory labor force, and to the implicit acceptance of developed countries of the system of exploitation. However, the authors viewed prostitution mostly from an economic perspective, concluding that most of the women who end up in this industry are willing workers. The study most seriously failed to situate the women’s situation within the oppressive economic structures that created the market for prostitution, and the social and cultural norms that aggravate and perpetuate their situation. There was hardly any effort to also incorporate the issue of race, class and nationality, pursuing only the economic bases that push women to work in an industry that degrades them as human beings.

It is notable that in mainstream Western academic publications, for example, on postwar Japanese labor history (see for example, Gordon, 1998), the impact of the entry of Filipino women to Japan hardly elicits intellectual curiosity.

The phenomenon is simply noted as with passing reference, relegated to footnotes or in brackets as exemplified by Yamanaka’s comments (1994):

(Interestingly, while women formed the first wave of Japan's guest workers in the late 1970s, it was only after men began to arrive in large numbers in the mid-1980s that the foreign worker problem arose to prominence.)

The uneasiness in dealing with the "women migrant" issue could be attributed to the fact that their entry to Japan was into the very specific work of entertainers, a word that has become a euphemism for prostitution. Like male migrants, the primary aim of women entering Japan as entertainers is to work, but the door that they subsequently opened widely for others has not been given due analysis despite the fact that more than half of all foreign workers coming into Japan are classified as entertainers, and entertainment is also the (visa) category that has continued to increase most markedly in recent years. In fact, the Ministry of Justice (2002) lists several categories of work undertaken by migrant women as "hostesses, prostitutes, waitresses, service and entertainment industry workers." How each is different from the other is not clarified, and even the current migration laws have remained ambiguous regarding these terms.

Wayne (1995), in a desperate attempt to explain the phenomenon of Filipino women entering specifically the entertainment industry, even attributed it to the closed market for domestic helpers.

In Japan, the labor market for maids, in-home providers of childcare, and housekeepers is limited mainly to foreign professionals and diplomats who are temporarily posted there. This is a major reason why so many female immigrants from Asian countries have been forced into Japan's "entertainment" sector, in other countries *many of them would be working as live-in maids*. (Italics supplied)

The question of how to quantify “entertaining” as “labor” has proven to be difficult as estimates of how large the entertainment industry has grown remains very sketchy. The Asian Wall Street Journal (2000) estimated it at around US\$33-84 billion while Osteria (1995) calculated the entertainers’ contribution to the Philippine economy to be in the vicinity of several hundreds of millions of dollars.

Roots of Filipino Migration to Japan

Historically, the Japanese were the ones migrating to the Philippines until World War II. Japan had a state-sanctioned migration policy at the turn of the twentieth century that proved to be so successful that by 1939, the Philippines was home to around 30,000 Japanese settlers, the largest Japanese community in Southeast Asia (Shimizu, 1985). They were primarily construction workers in the north, hemp plantation workers in the south, fishermen or shop owners in the retail trade. The *karayuki-san* (the Japanese prostitutes “bound for China,” from which the term “*Japayuki-san*” was derived) plied their trade in heart of the two cities of Manila and Davao where large Japanese communities existed.

In the immediate post-war period, hundreds of Filipino women were repatriated to different parts of Japan together with their Japanese spouses and children (NHK, 1990). Until the mid-1970s, a small number of Filipino women could be found only in Okinawa as spouses of workers and entertainers in the U. S. military installations or as domestic helpers working in diplomatic missions and foreign multinational corporations (Suzuki, 1996).

In 1973, however, an entirely new era of migration between the two countries was inaugurated with the ratification of the Philippine-Japan Treaty of Amity, Commerce and Navigation (henceforth referred to as RP-Japan Treaty).

The RP-Japan Treaty was drafted in the wake of the San Francisco Peace

Number of Non-Japanese Residents by Qualification (1993-2001)
(No. of Persons)

	1993	1994	1995	1996	1997	1998	1999	2000	2001
Total	1,320,748	1,354,011	1,362,371	1,415,136	1,482,707	1,512,116	1,556,113	1,686,444	1,778,462
Permanent Resident	631,812	631,554	626,606	626,040	625,450	626,760	635,715	657,605	684,853
Japanese Spouse, etc.	222,353	231,561	244,381	258,847	274,475	264,844	270,775	279,625	280,436
Settler	129,506	136,838	151,143	172,882	202,905	211,275	215,347	237,607	244,460
Study in Japan	60,110	61,515	60,685	59,228	58,271	59,648	64,646	76,980	93,614
Residence with Family	48,392	53,252	56,692	60,783	64,275	65,675	68,679	72,878	78,847
Entertainer	28,528	34,819	15,967	20,103	22,185	28,871	32,297	53,847	55,461
Entering School	44,418	37,653	34,441	30,079	29,095	30,691	34,541	37,781	41,766
Training	23,455	24,774	25,070	27,377	29,941	31,285	31,766	34,739	40,861
Culture Knowledge, International Operation	17,431	17,305	17,713	20,883	25,806	27,108	26,630	36,199	38,169
Technology	9,922	10,119	9,882	11,052	12,874	15,242	15,668	16,531	19,439
Technical Skills	5,913	6,790	7,357	8,767	9,608	10,048	10,459	11,349	11,927
In-house Transfer	5,718	5,841	5,901	5,941	6,372	6,599	7,377	8,657	9,913
Education	6,195	6,752	7,155	7,514	7,769	7,941	8,079	8,375	9,068
Professor	—	3,757	4,149	4,573	5,086	5,374	5,879	6,744	7,196
Permanent Resident Spouse, etc.	7,360	7,002	6,778	6,460	6,325	6,219	6,410	6,685	7,047
Others	73,902	84,479	88,451	94,607	102,270	114,536	121,845	140,842	155,405

Source: Ministry of Justice, 2002

Treaty in 1951 and subsequently ratified by the Japanese Diet in 1961. However, it remained shelved for two decades in the Philippine legislature due to lingering anti-Japanese sentiments. With the abolition of the Philippine Congress after the declaration of martial law in 1972, then President Marcos ratified the treaty ten days before the state visit of Prime Minister Tanaka Kakuei. This treaty abol-

ished all restrictions on travel and trade and within a span of one year, Japanese investments expanded by 400% (Tsuda, 1986) and resulted in the influx of businessmen and workers, primarily men. Consequently, this led to the development of service-related businesses catering exclusively to the Japanese market, including nightclubs and bars, and by 1975, tourist arrivals to the Philippines were comprised mainly of groups of Japanese men, usually in company-funded vacations that came to be known as “sex tours” (Matsui, 1997).

Birth of *Japayuki-san*

Protest actions within Japan, Korea, the Philippines and other Asian countries were mounted by feminist, religious and other non-governmental organizations against sex tours, specifically during the Southeast Asian visit of Japanese Prime Minister Suzuki Zenko (Asahi Shimbun, 1981). The mass actions were successful in drawing international attention to this issue, ironically, the result had a more far-reaching complication as it signaled the birth of the *Japayuki-san* (Valiente, 1987). From an insignificant number in the mid-70s, Filipino women entering under tourist visas to Japan ballooned to 9,100 in 1979, reaching its peak in 1992 (Ministry of Justice, 1993).

Before 1990, the only way for most women who want to work illegally in Japan was by securing a tourist visa, which expressly prohibited employment and limited the stay in the country from a few days to a week. After the revised ICRRRA was put into effect in 1990, an entertainer visa category came to be issued that permitted women to work in specifically in the entertainment industry. It is renewable twice for a maximum of six months.

The term “*Japayuki-san*” came to be used and up to the early 1990s, was used almost synonymously to refer to Filipino women entering Japan. By the mid-1990s, women from other developing countries filtered in, and the inflow

now includes women from the former Eastern European states. The peak of entry of Filipino women using tourist visas was in 1991, which could be attributed to the fact that entertainer visas became available from 1990, and at the same time other “entertainers” were entering the country through other means, for example, through student and trainee visas. When the arranged marriage system became commercially successful for brokers, fake marriages have become one of the easiest methods to traffic women to Japan, as the paperwork is simple, and provides a stable status to force women to work in the sex industry.

Marriage to Japanese men thus created another a new phenomenon within the Japanese society: the permanent settlement of Filipino women in Japan. This caught the Japanese law enforcement agencies in particular, and the Japanese society in general, unprepared because with the temporary nature of the work that they originally were given permission to stay, the Japanese immigration laws have supposedly clearly defined that they were not welcome to stay long. Legally and socially, Japan has always prided itself with the pronouncement as a “non-migration country” (Immigration Bureau, 1996).

We do not accept immigrants.... The immigration law does not provide conditions for the acceptance of immigrants... we have no provision for granting permanent residency at the time of initial entry. Furthermore, this means that on the policy side it is necessary to do so as much possible to prevent foreigners in general from staying long or settling down.

The longer presence of newcomers became evident by the mid-1980s when official statistics showed an overwhelming number of overstayers (Immigration Bureau, 1989). Then in 1989, the first batch of mail-order brides came to arrive in a remote farming community in Yamagata. From 1990, the settlement be-

came increasingly permanent, with Filipino former entertainers contracting marriages with Japanese men in what is now popularly referred to as *kokusai kek-kon* (international marriage).

The Ministry of Health and Social Welfare (1995) started to collect data on international marriages since 1965 which showed that the early pattern was for Japanese women to marry western men, as exemplified by the influx of approximately 50,000 “war brides” in the period immediately following the American occupation of Japan. Since the start of the 1980s, marriages between Japanese men and foreign women have been on the increase. While data on marriages between Koreans (both South and North), Chinese and American women were closely monitored from the mid-1960s, marriages to women of other nationalities were non-existent until 1992 (Ministry of Health and Social Welfare, 1998). It was after this period when brides from the Philippines joined Koreans and Chinese as the top marriage partners to Japanese men. Around 25,862 marriages were recorded in 1992 in which the partners were women from Korea, China and the Philippines, a three-fold increase compared to the 1982 figures. By 1993, Filipino women started to dominate the category of foreign spouse, when 32% of all recorded intermarriages were recorded between Japanese men and Filipino women (Ministry of Health and Social Welfare, 1993.) Currently, it is estimated that more than 60,000 Filipino women are married to Japanese men.

***Omote*: Japan and the International Conventions on Trafficking and its Related Domestic Laws**

Trafficking became a world-wide issue when non-governmental org (NGOs) began to push for international laws to protect the rights of migrants, women and children in the face of the globalization and feminization of migration. As a

result, an almost universal definition of trafficking is now used, which is “the recruitment, transportation, transfer, harboring or receipt of a person by means of the threat or use of force or other means of coercion, or by abduction, fraud, deception, abuse of power or 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” (UN, 2003).

The U. S. Department of State Trafficking in Persons Report 2002 was not alone in pinpointing Japan as a major market for trafficked women and children. International organizations such as IOM (1997), ILO (1998), CATW (1998), HRW (2000), UNICRI (2002), and others, have all presented facts and figures, including testimonies of victims and returnees to underscore Japan’s active role in keeping the sex industry, where the victims eventually fall into, lucrative and flourishing. UNICRI strongly stated that “there is a continuum between smuggling and trafficking as victims who depart the Philippines (undocumented or with forged documents) are trafficked upon reaching the country of destination,” while the IOM bluntly reported that “Japan has the largest sex market for Asian women, with over 150,000 non-Japanese women involved, mainly from the Philippines and Thailand.”

So what has been the official stance of the Japanese government in the face of all these reports? On the international level, Japan is signatory to the most important conventions on which trafficking laws and policies world-wide are based. These include the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, the Convention relating to the Status of Refugees and the related Protocol, the Convention on the Elimination of All Forms of Discrimination Against Women (1979), Convention on the Rights of the Child and the Protocol on the Sale of Children, Child Prostitution and Child Pornography, Convention for the Suppres-

sion of the Traffic in Persons and of the Exploitation of the Prostitution of Others, the UN Convention on the Protection of All Migrants, Workers and Members of their Families (recently enforced officially on July 1, 2003), the UN Convention Against Transnational Organized Crime (2002) and the subsequent Protocols against Trafficking in Persons and Smuggling of Migrants (2002).

The Ministry of Foreign Affairs (2001) proudly summed up its efforts to combat organized crime, including trafficking:

“Measures by Japan

(1) Japan actively participated in the deliberations on the Convention against transnational organized crime in the United Nations... and in the context of the G8, Japan demonstrated leadership in... in its Capacity of the Chair of the Lyon Group (President of the National Police Academy and Former Director-General of the International Affairs Department of the [Japanese] National Police Agency). Japan was particularly active in the coordination among G8 members and Asian countries concerning the Convention and the three related Protocols, and contributed to the agreement over the draft Convention and two of the related Protocols.

(2) Furthermore, in order to strengthen the criminal, judicial, and law enforcement systems of developing countries mainly in the Asia-Pacific region, Japan has provided a variety of support for the development of the legal framework, and has provided training to judicial and law enforcement experts in developing countries through such organizations such as the United Nations, Asia, and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEM). In January 2000, Japan hosted the Asia-Pacific Symposium on Trafficking in persons and also the Asia-Pacific Law Enforcement Conference against Transnational Crime in 2001.

Japan's active international role, however, merely reflects the state of the country's official stance towards trafficking: all rhetoric in the international arena, no action on the domestic front. For example, in the Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime held in Bali in February 2002, the report noted that

“Japan actively participated in the discussions from the standpoint of placing importance on transnational issues, based on Prime Minister Junichiro Koizumi's policy speech of January 2002. Vice-Minister Sugiura's opening statement on the root causes of these issues introduced Japan's measures and set the tone for the conference as a whole. Japan also contributed to the organization of the conference's results during the ensuing discussion, including the importance of follow-up process.” (Report on the Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime, March 1, 2002.)

On the Domestic Front: Theory vs. Reality

There are already several laws that are in place that could be utilized to combat the problems associated with trafficking, foremost of which are: Article 31 of the Constitution that stipulates that “no person shall be deprived of life or liberty,” the Law Punishing Acts Related to Child Prostitution and Child Pornography, and for Protecting Children, the Child Welfare Law,” the Labor Standards Law, and the Employment Security Law.

Japan's Penal Code also stipulates that the law may be applied to serious crimes committed by Japanese nationals outside of the Japanese territory, with regard to indecency through compulsion, rape, constructive compulsory indecency, constructive rape, forced indecent act resulting in death or injury and

solicitation to commit fornication. Furthermore, there is also the Travel Agency Law, that theoretically prevents travel agents and their employees from providing services that constitute the so-called sex tours to the Japanese. Examples of penalties in the commission crimes that could be used in trafficking cases are listed in the following page. (Ministry of Justice, 2001): In addition, the Penal Code provides for the punishment of anyone kidnapping by force or allurement a minor, and anyone involved in buying or selling another for the purpose of transporting him/her abroad. There is also a Prostitution Prevention Law that criminalizes “sex for a fee” that targets primarily brokers and employers.

The Law on Control and Improvement of Amusement and Entertainment Businesses of 1999 was passed to supplement the Prostitution Prevention Act. It regulates sexual acts not covered in the Prostitution Prevention Law, and also prohibits entertainment and amusement businesses from “allowing persons less than 18 years of age to engage in jobs involving meeting with guest or dancing with guests,” and “allowing persons less than 18 years of age to attend to guests from 10 pm until sunrise.”

Even the ICRRRA (the Immigration Law) has provisions that prohibit “welfare crimes,” those that injure the welfare of children, for example, child abuse and exploitation that could be used to protect non-Japanese children (Article 73-2. Assisting illegal employment (Art. 73-2) was also later illegalized under the ICRRRA.

All these laws are in existence and could be used anytime to discourage trafficking in Japan. However, apprehension and prosecution rates remain low as the legal costs to pursue cases are so exorbitant given the small number of lawyers, judges and detention centers. If there are any convictions, the punishment tend to be suspended, short, non-accumulative, and with small fines compared to the amount culled from the lucrative trafficking business.

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Law	Penalty
Indecency through compulsion (Art.176, Penal Code) Constructive compulsory indecency (Art.178, Penal Code)	Prison term of 6 months or more but not exceeding 7 years
Rape (Art.177 of Penal Code) Constructive rape (Art.178, Penal Code)	Prison term for a definite term of 2 years or more
Public Indecency (Art. 174. Penal Code)	Prison term not exceeding 6 months or a fine not exceeding ¥300,000, or custody or minor fine
Distribution of obscene literature, etc. (Art. 175 of the Penal Code)	Prison term not exceeding 2 years or a fine not exceeding ¥2,500,000 or minor
Act of inducing children to practice obscene acts (Art. 34, Child Welfare Law)	Prison term not exceeding 10 years or a fine not exceeding ¥500,000
Act of keeping a child under one's control or for purposes harmful to the child (Art. 34, Child Welfare Law)	Prison term not exceeding 1 year or a fine not exceeding ¥300,000
Persuasion of prostitution (Art. 5, Prostitution Prevention Law)	Prison term not exceeding 6 months or a fine not exceeding ¥10,000
Solicitation for prostitution (Art. 6, Prostitution Prevention Law)	Prison term not exceeding years or a fine not exceeding ¥500,000
Prostitution through embarrassment (Art. 7, Prostitution Prevention Law) Contracts for Prostitution (Art.10, Prostitution Prevention Law) Furnishing of a place for prostitution (Art 11, Prostitution Prevention Law)	Prison term not exceeding 3 years or a fine not exceeding ¥100,000
Business of making a person prostitute (Art. 12, Prostitution Prevention Law)	Prison term not exceeding 1 year a fine not exceeding ¥300,000

The Japanese government has been generous in extending research and program development against trafficking to other countries, only one official research that has been done to assess the problem of trafficking within Japan. In 2000, the Life and Safety Bureau commissioned a private research center in To-

kyo to conduct a survey-research on Thai women, in which members of the National Police joined as co-researchers. The report was never made public.

The National Police Agency (NPA) in answer to a question during a meeting of the Prime Minister's Office (2003) regarding what measures it has taken to combat trafficking merely stated that "in 2002, there were 901 investigations of anti-prostitution law related cases, of which 785 cases were recommended for prosecution." The NPA did not state that in reality, the victims are deported and the victimizers are given light, if not, suspended sentences. Furthermore, the proceedings clearly equated trafficking with the criminal act of prostitution.

Other Factors that Exacerbate Trafficking as a Taboo Issue

In addition to domestic laws that seem to be more than enough to curb trafficking, there are other factors that should be taken into consideration in order to understand why trafficking has remained a "taboo" issue in Japan. These include conflicts between the different government agencies and institutions in Japan, the negative public opinion with regards to the presence of foreigners in the country, that could directly be linked to the successful efforts of the National Police Agency to blame the rising crime to foreigners.

A fact that is almost erased in the historical books of Japan is the important contribution of the members of its ethnic Korean and Chinese communities in postwar economic recovery and reconstruction. They provided the needed pool of cheap labor, much like the Asians who migrated to the United States and helped create the foundation of America's dominance in agriculture, mining, fisheries, transportation and other industries. However, as Japan's status as an economic power grew, pressures to accept more responsibility in the international arena became stronger, including the acceptance of refugees from 1975. The term "internationalization" became the slogan for the Ministry of For-

**PROSTITUTION-RELATED OFFENSES CLEARED BY APPLIED PROVISIONS
(NUMBER OF CASES, NUMBER OF PERSONS)**

		1997	1998	1999	2000	2001
NUMBER OF CASES	TOTAL	3,497	3,595	3,748	3,404	3,368
	ANTI-PROSTITUTION LAW	3,271	3,388	3,475	2,947	2,840
	SUBTOTAL	3,271	3,388	3,475	2,947	2,840
	SOLICITATION	362	296	367	345	278
	PROCUREMENT	1,682	1,877	1,857	1,585	1,724
	CONTRACT	1,084	1,047	1,123	911	742
	FURNISHING OF PLACES	109	143	102	83	67
	BUSINESS OF MAKING A PERSON PROSTITUTE	15	9	7	10	13
	PROVISIONS OF FUNDS	6	6	13	3	3
	OTHERS	13	10	6	10	13
	CHILD WELFARE LAW	186	121	200	65	88
EMPLOYMENT SECURITY LAW	15	48	64	25	36	
OTHER LAWS	25	38	9	367	404	
NUMBER OF PERSONS	TOTAL	1,629	1,592	1,493	1,475	1,539
	ANTI-PROSTITUTION LAW	1,495	1,464	1,330	1,225	1,177
	SUBTOTAL	1,495	1,464	1,330	1,225	1,177
	SOLICITATION	357	284	363	354	277
	PROCUREMENT	792	781	647	614	684
	CONTRACT	134	156	130	88	74
	FURNISHING OF PLACES	138	209	156	129	88
	BUSINESS OF MAKING A PERSON PROSTITUTE	53	25	15	26	36
	PROVISIONS OF FUNDS	7	7	14	4	4
	OTHERS	14	2	5	10	14
	CHILD WELFARE LAW	92	70	103	43	98
EMPLOYMENT SECURITY LAW	13	29	41	32	36	
OTHER LAWS	29	29	19	175	228	

SOURCE: NATIONAL POLICE AGENCY, 2003

ign Affairs, a situation that remains sensitive as it sometimes finds itself in a collision course particularly with the Ministry of Justice.

On the other side is the Ministry of Justice, which has the jurisdiction of the police and immigration. The most anti-immigrant among all government agencies is the National Police Agency (NPA), whose annual White Paper on Crime has consistently blamed the rise of criminal activities to the increasing

number of foreigners. It is also interesting to note that a top-ranking official of the NPA is Japan's foremost trafficking expert and was instrumental in the formulation of the basic conventions of trafficking. In his report (2000), he said that "the police handled 1,522 cases of foreign women charged with immoral conduct (crimes related to prostitution, obscenity and law regulating adult entertainment business). By nationality, they included 497 Koreans, 342 Thais, 227 Filipinas and 142 Colombians." The same report did not specify statistics with regards to brokers and handlers.

In 2002, the National Police Agency released the data of prostitution cases that were recommended to the Prosecutor's Office for prosecution. It is believed that most of these women were prosecuted and later deported, as most of the cases would not have flourished if the women had legal status of stay in Japan. The total number of cases is also small, considering that there are literally thousands of women who end up working in the sex industry. However, the NPA does not release figures to show the number of men prosecuted. Despite the high profile presence of Japanese officials in international anti-trafficking bodies, their personal opinions that "trafficking victims are merely illegal migrants with crime syndicates behind them" (HRW, 2000) is the same line toed by the individual Japanese officers who were interviewed for this study.

In an interview an Immigration Police Section Officer in Tokyo candidly stated that:

"Generally speaking, there is no trafficking of women in Japan. Those who come to this country know beforehand what awaits them here. The offenses against public morals (fuzoku) are charged by the police, not by the

ACCEPTANCE AND DISPOSITION OF ANTI-PROSTITUTION LAW CASES

	1997	1998	1999	2000
ACCEPTANCE	1,387	1,454	1,226	1,145
PROSECUTION	1,008	1,052	918	806
NON-PROSECUTION	324	361	302	316

SOURCE: MINISTRY OF JUSTICE, 2003

<NOTE>: ACCEPTANCE DESIGNATES CASES PERCEIVED AND RECEIVED DIRECTLY BY PUBLIC PROSECUTORS AND REFERRED BY JUDICIAL POLICE OFFICIALS.

Immigration Bureau. The police arrest the women if they are in violation of the Anti-Prostitution Law, and then public prosecutors would indict them. After that, the Immigration Bureau is responsible for their deportation. We deport the hostesses, as most of them are found to be violating immigration laws.

In a case for example in Chiba, twenty-two Filipinos were arrested in a club but then released to us (Immigration) because the police detention rooms were full. The police did not bother to call interpreters to interrogate them, therefore, were not handled as cases to be filed at the public prosecutor's office. These cases were processed by the Immigration for immediate deportation.

It is bothersome to question their involvement in the sex business. The Immigration Bureau is just concerned with the legality of their visa status. The hostesses may be victims in some ways, but we would have to arrest and deport them anyway.

A police officer in charge of international relations strongly disagreed and said that based on his 20-year or so experience, trafficking and smuggling exists in Japan not only involving women but also "children who really were 13, 14 or

15 years old when they entered Japan, but on paper, were passed off as adults. There are also trafficked boys and men, those who end up working in 'host clubs' that cater to women. These victims of trafficking could be found not only in urban or rural areas, but also in hot spring resorts, military bases, and industrial establishments, some in 'gaijin clubs.' Many of them are often traded and exchanged like a commodity."

Another gray area which the Japanese government has not acknowledged is the extent of the involvement of corrupt officials in the entertainment industry. A police officer who was one of those originally trained in trafficking issues gave an honest assessment that:

All kinds of people are involved in corruption in this industry. From both countries (Japan and the Philippines). There are staff and officials of the Philippine consulate and embassy in Japan who are very much involved in this business. In fact, it is quite difficult to invite a labor attaché, for instance, to play golf before or after the inspection of the 'omise' that they would have to issue or renew the permit to 'import' Filipino women. Why? Because there are many, many invitations extended to those officials from different promoters at once. You must be special in succeeding to invite and 'entertain' them. Some past embassy peoples made a big fortune during their 'mission in Japan. There was once a woman Consul General, quite known and often recognized inside many 'omise' where the Filipino women were working. She was a notoriously difficult person to please and satisfy, according to the Japanese promoters.

The following charts shows the number of persons engaged in prostitution among deportees working illegally in Japan, and the estimated number of businesses and persons involved in entertainment-related sectors

	TOTAL	MALE	FEMALE
1997	395	—	395
1998	300	1	299
1999	364	2	366
2000	435	1	434
2001	351	4	347

SOURCE: MINISTRY OF JUSTICE, 2003

In enforcing rules, an immigration officer sums up the difficulty it faces as it is faces in reviewing the current laws and policies regarding the entertainment industry:

The *Japayuki-san* issue has been talked about for the last twenty years or so. There were efforts to correct the terrible situation of those entertainers, but it has been difficult. Because, if you try to control them too severely, the related industry people as well as parliamentarians exert pressures. In fact, the Philippine government itself is still promoting (its women).

The number of women, according to their nationality and the kind of occupations that they are engaged are summarized in the following table:

Human Security and the Issue of Trafficking: Where Does Japan Stand?

(NUMBER OF PERSONS)

WORKPLACE	NATIONALITY	TOTAL	PHILIPPINES	CHINA	TAIWAN	THAILAND	NORTH AND SOUTH KOREA	COLOMBIA	OTHERS
1997	TOTAL	630	10	32	114	371	78	189	36
	ADULT ENTERTAINMENT BUSINESSES	111	3	15	22	50	8	4	9
	SEX RELATED AMUSEMENT SPECIAL BUSINESS	6						6	
	LATE-NIGHT OPERATION RESTAURANTS	105			15	75	6	8	1
	OTHER RESTAURANTS	157	1	13	44	79	13		7
	OTHERS	451	6	4	33	167	51	171	19
1998	TOTAL	639	49	21	106	252	72	113	26
	ADULT ENTERTAINMENT BUSINESSES	189	42	1	52	70	24		
	SEX RELATED AMUSEMENT SPECIAL BUSINESS	5				2	1	2	
	LATE-NIGHT OPERATION RESTAURANTS	43	1	1	11	22	2		6
	OTHER RESTAURANTS	139	6	14	12	74	31		2
	OTHERS	263		5	31	84	14	111	18
1999	TOTAL	438	4	34	46	256	22	63	13
	ADULT ENTERTAINMENT BUSINESSES	99	2	7		88	2		
	SEX RELATED AMUSEMENT SPECIAL BUSINESS								
	LATE-NIGHT OPERATION RESTAURANTS	91		22	15	47	7		
	OTHER RESTAURANTS	55			5	46	4		
	OTHERS	193	2	5	26	75	9	63	13
2000	TOTAL	497	20	38	48	197	77	79	38
	ADULT ENTERTAINMENT BUSINESSES	112		1	30	81			
	SEX RELATED AMUSEMENT SPECIAL BUSINESS								
	LATE-NIGHT OPERATION RESTAURANTS	27			3	19	3		2
	OTHER RESTAURANTS	77	17	10	5	40	3		2
	OTHERS	281	3	27	10	57	71	79	34
2001	TOTAL	472	3	146	61	136	60	52	14
	ADULT ENTERTAINMENT BUSINESSES	217		121	43	34	11		8
	SEX RELATED AMUSEMENT SPECIAL BUSINESS	8				5		2	1
	LATE-NIGHT OPERATION RESTAURANTS	37		13	1	22			1
	OTHER RESTAURANTS	14				14			
	OTHERS	196	3	12	17	61	49	50	4

SOURCE: NATIONAL POLICE AGENCY, 2003

CASE STUDIES:

Court Cases Involving Filipinos in the Kansai Area

For this study, 67 cases in a District Court in the Kansai area involving Filipinos for the period 2001-2003 were studied (see Appendix for the complete list). This involved reading the original documents from the time of the police investigations, the reinvestigation at the Prosecutor's Office, and court procedures and decision.

Because of the absence of an anti-trafficking law (and consequently, the unfamiliarity of police, prosecutors and judges with the issue of trafficking), criminal cases, although easily identifiable as trafficking (i.e., element of force and violence, trickery, fake documents, minor age), were prosecuted uniformly under two laws: "Violation of Immigration Law" which usually refers to illegal stay, and the "Violation of Foreign Registration Law" whereby the defendant fails to officially register as an alien. Under the former, twenty-four males and twenty-one females were found guilty, while under the latter, four males and three females were found guilty. The perimeters that define under which law a person arrested is charged is unclear, but the usual sentence is guilty with hard labor but with suspended sentence. After the sentence is served, the defendants are summarily deported as an immigration police officer is usually present at the time of the sentencing.

The surprising result of the research is the large number of women indicted in drug-related cases. Except for one male, 11 females were charged and found guilty of the use of stimulant drugs, or "shabu." All users were working in the entertainment industry. Except for one murder case, there is no prostitution-related case prosecuted in the period covered by the study, despite the fact that Osaka has one of the biggest entertainment districts in Japan, and that the re-

gion where it is located has traditionally been home to syndicates that control the “*mizu shobai*” industry.

The Intersection between Trafficking, Internal Displacement and Anti-Terrorism Policies

Three of the women included in the above court cases reviewed were indicted with Violation of Immigration Law and subsequently deported to the Philippines. They were traced and interviewed in the Philippines. These women shared a common background: that they were originally internally displaced persons (IDPs) from areas in Mindanao, where an active Muslim insurgency is being waged, and consequently, anti-terrorism efforts had intensified following the 9/11 tragedy.

Case 1

CA was 21 years old at the time of interview. She was originally from North Cotabato, 4th child of a Christian father and Moslem mother (later converted to Christianity). After experiencing heavy fighting in the place of residence, the family moved to an evacuation center in Kolambugan, 50 kilometers from Iligan City in 1999. A travel agent, introduced by a fellow evacuee to her parents, promised jobs to her and several other women as factory workers in South Korea. She was charged 90,000 pesos as fees for expediting her application. To raise funds, she borrowed from a distant relative, a Filipina married to a Japanese man. The travel agent disappeared without trace and was left to pay the debt.

Forced to repay back her loan, she was introduced to a Japanese broker, who promised to settle her loan if she accepted the job as domestic worker in Japan. In Aug. 1999, at the age of 17, she came to Kobe using

the passport of her relative and traveled together with her “husband.” She was “auctioned off” and then forced to work to pay her debt that amounted to more than 1 million yen (to cover for the original debt, transportation, broker’s fees, fees to the “husband”, food and lodging, and a ballooning debt for regular remittances to her family). Despite the wish to go home, she decided to stay and continue to work as a prostitute until a sting operation that led to her arrest in December 2002. She was deported in March 2003.

At the time of interview, she lived in Zamboanga City and “services” American soldiers stationed there, the main reason being, “I do not have any other skill to buy food for my family.”

Case 2

TD was 24 years old at the time of interview, eldest daughter of family of six, and originally from Basilan, of Chinese descent. In 2000 her family was forced to evacuate from Basilan and subsequently moved to Davao. She was introduced to a Japanese resident in Davao, notorious for running an “arranged marriage” and recycling business. She later contracted marriage with a 27-year old Japanese Korean from Sakai City, Osaka. She met the Japanese only briefly during the marriage ceremony in Davao, then again, when she was met by him in Kansai airport after six months. She was given a 6-months “dependent of a permanent Resident” visa at the time of entry.

Upon arrival in Osaka, she was taken to an apartment to live with 6 other foreign women. Later, she was transported to Hokkaido to work in a snack bar to pay for her mounting debts worth 600,000 yen. She ran away a few months later, back to her “husband,” who renewed her visa, for an

extra fee of ¥300,000. Started to work in another snack bar in Sakai until her arrest for use of drugs. She was deported in May 2002 since her “husband” refused to guarantee the renewal of her visa. Currently works as a dancer in Davao.

Case 3

ZA was originally from Zamboanga del Norte and was 25 years old at time of deportation. She and her family suffered from multiple evacuations since the mid-1990s due to intensified fighting and later, the entry of Filipino and American soldiers in the area of evacuation. Worked as a factory worker in Malaysia until 2000 and then returned to family in 2001 that were living in Marawi City. In April 2003, her place of residence suffered from heavy fighting between MILF and Philippine military and was forced to evacuate to a center with entire barangay.

She moved to Cagayan de Oro to find work and was recruited as entertainer to Japan, via Manila, where she worked in a Japanese-owned bar while waiting for her papers. Entered Japan in June 2002 with a 3-months entertainer visa. Forced to accept “dohan” to pay for debts and earn extra money for her family. Arrested in December 2002 and subsequently deported in April 2003. Currently working as a GRO in Quezon City.

These three cases illustrate the link between internal displacement, anti-terrorism policies and trafficking. As the end to the conflict in many parts of the Philippines does not seem to be near, internal displacement in these areas will not abate. Furthermore, the combination of the Philippine government’s inability to improve the economy to its people and Japan’s insatiable demand for entertainment services plus the lack of anti-trafficking laws in Japan, women and

children will continue to be trafficked between these two countries.

CONCLUSION

In the issue of trafficking, Japan has once more shown its “ATM mentality” i.e., the pervasive thinking that providing cash to NGOs and countries that have been identified as point of origin of possible victims will quickly help solve the problem. While providing money for research and outreach programs to third parties, it has turned a blind eye as to the reasons why a domestic market continues to exist where these trafficking victims could be absorbed easily.

There are already existing constitutional and civil laws, as well as treaties to which Japan is a signatory that could help in the control and policing of the entertainment industry. Japan also has labor laws that theoretically cover all workers and are non-discriminatory in terms of visa status like the Labor Standards Law and Employment Security Law. But in this area lies the conflict with immigration laws. Since prostitution or the acts that constitute prostitution is illegal, the women cannot make claims under these laws. The farthest they could go is to claim unpaid wages during agreed upon working hours. In addition, due to their usually illegal status and thus, fear of deportation, as well as the lack of knowledge of the system, rather than pursue a court case, they either choose to run away, change workplaces or remain quiet. The powerlessness of a woman forced into “dohan” can be illustrated by the fact that she could not force her customer to use a condom. She cannot claim unfair labor practice if a client refuses to practice safe sex.

Japan will remain to be the center of the lucrative trafficking industry because of several reasons. First, its economic power will continue to attract individuals and organizations that aim to bring in more workers in the entertainment industry. Second, the cultural tolerance of prostitution assures that there is

no strong censure waiting for customers of the victims, making the demand regular and insatiable. Third, the conflicting governmental approach to solving the problems inherent in the unstoppable inflow of migrants to the country will further result in diminishing political will. Fourth, the continuing low respect for women and the social and moral problems brought about by the disintegration of families all spell a rather gloomy future for eradicating the very serious problem of trafficking.

It should also be noted that there are also factors within the countries of origin that push women into the entertainment industry: First, the socio-economic inequalities that breed poverty. Second, the lack of educational and employment opportunities for women. Third, the continuing role of the government as official brokers of its men and women as it heavily depends on hard currency remittances as the main pillar for economic sustenance. And fourth, the race, class and gender discrimination that migrant women face whether in their country of origin or in the country of settlement or work.

RECOMMENDATIONS

In shaping its future relationship with other countries and people, Japan should accept the reality that its rapidly aging society and low birthrate will spell doom in its very survival as a nation and society, and there is no doubt anymore that migration will be a continuing trend and the influx is unstoppable.

Given this situation, its immigration policy and visa categories should be reevaluated, particularly the "entertainment" visa. It is this one particular entry category that has provided a fertile environment for the trafficking of women and children. It should also hold serious bilateral talks with the countries of origin for trafficking victims and exercise political will to stop once and for all,

this crime that debases the core of humanity.

Japan should also put efforts into research to understand the enormity of the problem of trafficking that is happening within its territories. At the same time, the people should be educated firmly not only about trafficking but also with related issues such as HIV-AIDS, racism, discrimination and exploitation.

Trafficking is not only a domestic issue. It concerns all countries and societies. Thus, it should be attacked bilaterally and multilaterally, publicly and privately and with equal inputs from the government and the civil society.

Trafficking cannot be understood profoundly unless it is viewed as a gender issue. Its presence in society reflects the acceptance of violence against women.

Trafficking IS terrorism. It attacks the core of the state, its territory and borders, its people and its laws.

END NOTES

- 1) The Prime Minister's Office on Gender Equality ironically replaced the original Committee on Prostitution that foresaw laws and policies concerning prostitution. It publishes annually the White Paper on Gender Equality, comparing the situation of women in Japan to other countries in terms of wages, political involvement, educational attainment and so on.
- 2) These include the Centre for International Crime Prevention (CICP), the UN Office on Drugs and Crimes (UNODC), Interregional Crime and Justice Research Institute (UNICRI), Development Fund for Women (UNIFEM), UNCHR, UNICEF, ILO, and others. Japan officially hosted the Asia-Pacific Symposium on Trafficking in Persons (July 2000), and the Second World Congress against Commercial Sexual Exploitation of Children (December 2001), among other major conferences.
- 3) Officially known as the Republic Act 9208, promulgated on May 27, 2003. A subsequent "Rules and Regulations Implementing the Anti-Trafficking in Persons Act" was also promulgated.

APPENDIX I

U. S. Department of State 2004 Trafficking in Persons Report on Japan

JAPAN (TIER 2-WATCH LIST)

Japan is a destination country for Asian, Latin American and Eastern European women and children trafficked for the purposes of forced labor and sexual exploitation. There have also been cases of Asian and Latin American men trafficked to Japan for criminal, labor and/or sexual purposes. Japan's trafficking problem is large and Japanese organized crime groups (*yakuza*) that operate internationally are involved. The Japanese government must begin to fully employ its resources to address this serious human rights crime within its borders.

The Government of Japan does not fully comply with the minimum standards for the elimination of trafficking; however it is making significant efforts to do so. Its placement on Tier 2 Watch List is based on its commitments to bring itself into compliance with the minimum standards by taking additional steps over the next year. The government needs to increase its efforts to combat severe forms of trafficking in persons, including increased investigations, prosecutions and convictions of trafficking crimes and better assistance to victims. The government should pursue efforts to prosecute the powerful organized crime figures behind Japan's trade in human traffic. Considering the resources available, Japan could do much more to protect its thousands of victims of sexual slavery. The government did, however, provide support for international anti-trafficking programs and conferences. Japan must speed its review of anti-trafficking legislation and ensure trafficking-related punishments are commensurate with the severity of the crimes.

Prosecution

Japan still lacks a comprehensive law against trafficking and until recently there was no official, clearly defined policy to coordinate anti-trafficking efforts. The Prime Minister and his Cabinet have made a significant effort to mobilize the resources of the bureaucracy to address the trafficking issue, creating a senior coordinator presiding over an inter-ministerial committee for anti-trafficking efforts in March 2004. The government currently employs the Penal Code and a variety of labor, immigration, and child welfare/protection statutes to carry out limited trafficking-related prosecutions. These laws provide for up to 10-year prison terms and steep fines, but actual penalties have been far less severe. Efforts are underway in the government to draft legislation to improve Japan's anti-trafficking statutes. The National Police Agency (NPA) has instructed prefecture offices to increase law enforcement efforts against traffickers; investigate suspect locations and possible organized crime connections; report any foreigners arrested for prostitution who may have been trafficked; provide female officers to interview female victims; and provide counseling and medical assistance as required. An Organized Crime Control Department was established in the Japanese Police in early 2004 to carry out these anti-trafficking activities.

Last year, the NPA arrested 41 individuals for trafficking-related offenses, 8 of whom were traffickers. Thirty-six of these individuals were convicted, resulting in 14 defendants receiving prison terms, 17 receiving fines, and five receiving both a fine and a prison term. In February 2003, 17 prefecture police offices and the Tokyo Metropolitan police simultaneously raided 24 strip clubs and rescued 68 trafficking victims. The NPA also participated in 16 transnational investigations. Victims were generally not encouraged to participate in investigations or prosecutions of traffickers. However, the Immigration Service is revamping its training programs to include the proper treatment and questioning of victims.

Human Security and the Issue of Trafficking: Where Does Japan Stand?

Efforts are also underway to improve screening of travelers arriving in Japan from key source countries of trafficking and to tighten the issuance of “entertainer” visas, which are often used by traffickers to bring victims to Japan.

APPENDIX II

US State Government 2004 Trafficking in Persons Report on the Philippines

THE PHILIPPINES (TIER 2-WATCH LIST)

The Philippines is a source, transit, and destination country for persons trafficked for the purposes of sexual exploitation and forced labor. There is internal trafficking from rural to urban metropolitan areas. Filipino women who are trafficked for sexual exploitation to destinations throughout Asia, the Middle East, Africa, Europe and North America, are often lured abroad with false promises of legitimate employment. The Philippines is a transit point and destination for victims from the People's Republic of China (PRC). The sexual exploitation of children within the country is also a growing concern. Endemic poverty, a high unemployment rate, a cultural propensity towards migration, a weak rule-of-law environment, and sex tourism all contribute to significant trafficking activity in the Philippines.

The Government of the Philippines does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The Philippines is placed on Tier 2 Watch List due to the government's failure to provide evidence of increasing efforts to combat severe forms of trafficking, particularly in terms of its weak implementation of the anti-trafficking law and a lack of progress in law enforcement. The government recognizes that trafficking is a problem and has been engaged internationally to combat it. Despite limited resources, the government supports several programs in the areas of prevention and protection. In 2003, the government passed anti-trafficking legislation that protects women and children from sexual exploitation and forced labor. The Philippine government should take immediate corrective action through the prosecution of traffickers, aggressive implementation

of the new law, and the arrest and prosecution of officials involved in trafficking.

Prosecution

Anti-trafficking law enforcement efforts in the Philippines remained weak in 2003. The government enacted a comprehensive anti-trafficking law in May 2003 that imposes harsh penalties against traffickers and clients. However, there has been no improvement in the government's enforcement efforts. The government has investigated cases of trafficking related offenses but prosecuted only three trafficking cases under the new anti-trafficking law. Government sources report two convictions for trafficking-related offenses under other laws, resulting in sentences ranging from time served to life in prison. The paltry number of prosecutions and convictions is a serious shortcoming and available data on prosecutions is also incomplete. Corruption and a weak judiciary remain serious impediments to the effective prosecution of traffickers.

Protection

In 2003, the government continued to sponsor adequate protection efforts for trafficking victims. Under the 2003 anti-trafficking law, the government recognizes trafficked persons as victims and does not penalize them. The government provides a range of protective services, including temporary residency status, relief from deportation, shelter, and access to legal, medical, and counseling services. The government in 2003 also devoted anti-trafficking resources to protect overseas Filipino workers. The Philippine government trains law enforcement officials and consular officials in all of its embassies to deal with trafficking victims.

Prevention

Fourteen government agencies coordinate the government's anti-trafficking efforts, much of which is prevention-oriented. In 2003, the government reported a decline in illegal recruitment and recruitment violations due to an intensified information campaign on overseas employment. Government offices conduct information campaigns on child labor and sexual exploitation for the hotel and tourism industries.

SOURCES

A. In English

AFP News Service, 1997.

"*Drop in Filipino Women Entertainers Going to Japan.*" February 17.

Asahi Daily News, 2003.

"Human Dignity and Security." Tokyo. Feb. 24.

Asian Wall Street Journal. 2000.

"*Bright Lights, Brutal Life.*" New York. Nov. 12

Allison, Anne. 1994.

Nightwork. Illinois. University of Chicago Press.

Azuma, Shozo. 2000.

"*International Efforts on Human Trafficking.*" Keynote Speech delivered in the Asia Pacific Symposium on Trafficking in Persons. Tokyo. Dec.

Battistella, Graziano and Anthony Paganoni. 1996.

Asian Women in Migration. Manila. Scalabrini Migration Center.

Beltran, Ruby Palma and Aurora Javate De Dios, eds. 1992.

Filipino Women Overseas Contract Workers: At What Cost? Manila. Women in Development Foundation.

Boehning, W. R. 1994.

"*Helping Migrants to Stay at Home.*" The Annals of the American Academy of Political and Social Science. Vol. 534 (July).

Bureau of Immigration. 2003.

Infringements of Immigration Law in 1994-2002. Tokyo. Ministry of Justice.

Cabigon, Josefina. 1995.

"*Filipino Wives in Foreign Lands.*" Philippine Social Sciences Review. Vol. 52, No. 1-4.

Cahill, Desmond. 1990.

International Marriages in Context. Quezon City. Scalabrini Immigration Center.

Castles, Stephen and Mark Miller. 1993.

The Age of Immigration. New York. Guilford Press.

Chiba, Tatsuya. 1995.

"*Asian and South American Migrants in Japan: With Special Attention to Spatial Distribution Pattern.*" PRIME. No. 3. (July).

Commission on Overseas Filipinos. 1995.

- Annual Report. Manila. Republic of the Philippines.
- Constable, Nicole. 1997.
- Maid to Order in Hong Kong. Ithaca and London. Cornell University Press.
- Cornelius, Wayne, Philip Martin and James Hollifield. 1994.
- Controlling Immigration. Stanford, California. Stanford University Press.
- De Dios, Aurora Javate. 1988.
- "The Case of the Japayuki-san and the Hanayome-san."* Springbook. Quezon City. Kalayaan and Women's Research and Resource Center.
- _____. 2000.
- Migration and Trafficking. Bangkok, Thailand. The Coalition Against the Trafficking of Women.
- _____. 2002.
- Macro-Economic Policies and their Impact on Sexual Exploitation and Trafficking of Women and Girls. Bangkok, Thailand. The Coalition Against the Trafficking of Women.
- De Vos, George and Hiroshi Wagatsuma, eds., 1966.
- Japan's Invisible Race: Caste in Culture and Personality. Berkeley and Los Angeles: University of California Press
- De Vos, George. 1981.
- Koreans in Japan: Ethnic Conflict and Accommodation. Berkeley. University of California Press.
- Fitzgerald, Keith. 1996.
- The Face of the Nation. Stanford, CA. Stanford University Press.
- Gordon, Andrew, ed. 1993.
- Postwar Japan as History. Berkeley. University of California Press.
- Gosh, Nirmal. 1997.
- "Review Policy on Filipino workers overseas."* Philippine News Agency. March 13.
- Hara, Toshihiko, Takeshi Ueki and Masakutsu Murakami. 1994.
- Estimate of the Number of International Children in Japan.* International Journal of Japanese Sociology. No. 3, October.
- Hofmann, Cecilia. 1998.
- Questions and Issues on Prostitution. Manila. The Coalition Against Trafficking in Women-Asia Pacific
- Howe, Philip. 1994.

- "*Speaking a different language.*" Kansai Time Out. October 1994.
- Human Rights Watch. 2000.
- Thai Women Trafficked into Debt Bondage in Japan. New York. Human Rights Watch
- IBON. 1995.
- "*The Feminization of Labor.*" Ibon Facts and Figures. Manila.
- International Center for the Rights of Children. 1995.
- "*Japanese Filipino Children: Coming to Japan.*" AMPO. Vol. 26. No. 2.
- Iwasawa Yuji. 1986.
- "*The Legal Treatment of Koreans in Japan: The Impact of International Human Rights Law on Japanese Law.*" Tokyo. Report of the International Human Rights Law Group.
- Kanemoto, Toshinori. 2000.
- "*Trafficking by Transnational Organized Crime: The Current Situation and Law Enforcement.*" Ministry of Foreign Affairs. Japan-Asia Pacific Symposium on Trafficking in Persons (Proceedings). Tokyo.
- Kobayashi, Kengo. 1996.
- "*Illegal Labor Policy in Japan Means Disposable Workers.*" Immigration World. Vol. XXIV. No. 5.
- Lee Changsoo and George de Vos. 1981.
- Koreans in Japan: Ethnic Conflict and Accommodation. Berkeley. University of California Press.
- Mainichi Daily News. 1995.
- "*Marriages between Japanese and foreigners on the rise.*" May 26.
- Matsui, Yayori. 1987.
- Women's Asia. London and New Jersey. Zed Books.
- Miyagi Foreigners' Problems Study Group, ed. 1993.
- Foreigners, the Law, and Living in Japan. Sendai. Miyagi Foreigners' Problems Study Group.
- Mori, Hiromi. 1997.
- Immigration Policy and Foreign Workers in Japan. New York. St. Martin's Press.
- National Police Agency. 1995.
- "Internationalized Communities and Police Activities." In White Paper on Police. Tokyo: The Japan Times, Ltd.
- _____. 2003 and 2004.

- White Paper on Crime. Tokyo. Ministry of Justice
- Nitta, Fumiteru. 1988.
“Kokusai Kekkon: Trends in Intercultural Marriage in Japan,” *International Journal of Intercultural Relations*. Vol. 12.
- Neuman, Gerald. 1996.
Strangers to the Constitution. Princeton, N. J. Princeton University Press.
- Osteria, Trinidad. 1994.
Filipino Female Labor Immigration to Japan: Economic Causes and Consequences. Manila. De La Salle University Press.
- Pak, Katherine Tegtmeier. 1966.
“Entry Controls vs. A Multicultural Japan: Contradictions between National and Local Immigration Policies.” Paper presented at the Annual Meeting of the American Political Science Association. California. August.
- Papademetriou, Demetrios and Kimberly Hamilton. 2002.
Reinventing Japan: Immigration’s Role in Shaping Japan’s Future. Washington D. C. Carnegie Endowment for International Peace.
- Philippine Free Press. 1988.
“Brides for Mail, Brides for Sale.” December 3.
- Republic of the Philippines. 1992.
Primer on Questions Frequently Asked by Filipinos in Japan. Embassy of the Republic of the Philippines. Tokyo.
_____. 1994.
Annual Report of the Philippine Consulate General. Manila. Philippine Consulate General. Osaka
- Rodriguez, Edgard. 1996.
“Net Social Benefits of Immigration from the Perspective of the Source Country.” *Philippine Sociological Review*, Vol. 44, No. 11-14. Jan.-Dec.
- Selby, Marilyn. 1989.
“Human Rights and Undocumented Immigrant Workers in Japan.” *Stanford Journal of International Law*. V. 26. No. 1.
- Shimada, Haruo. 1995.
Japan’s “*Guest Workers*.” Tokyo. Tokyo University Press.
- Stalker, Peter. 1995.
Work of Strangers. Geneva. International Labour Organization.

- Statistics and Information Department, Ministry of Health and Welfare. 1995.
30-Year Special Report on Marriage And Divorce Statistics. Tokyo. Ministry of Health and Welfare.
- Tigno, Jose V. 1993.
"Immigration, the market and society: Issues in Philippine labor flows to Japan." Philippine Social Science Review. Jan-Dec.
- Tsuda, Mamoru. 1980.
A Study of Japanese Filipino Joint Ventures. Quezon City. Foundation for Nationalist Studies.
- United Nations Commission on Human Security. 2001.
Press Release. Tokyo. January 14.
- United Nations International Crime and Justice Research Institute. 2002.
Report on Trafficking of Filipinos in Italy. Turin.
- United States Department of State. 2004.
Trafficking in Persons Report. Washington DC.
- Valiente, Tito. 1987.
"Those who Go to Japan." Solidaridad II. Tokyo. Resource Center for Philippine Concerns.
- Watanabe, Kazuko. 1995.
"Domestic Violence and Women's Human Rights in Japan." Review of Women's Studies. Quezon City. University of the Philippines Press.
- Weiner, Myron, 1995.
The Global Immigration Crisis. New York. Harper Collins College Publishers.
_____. ed, 1993.
International Immigration and Security. Colorado. Westview Press.
- Yamanaka, Keiko. 1995.
"Theory vs. Reality in Japanese Immigration Policy." In Wayne Cornelius, Phillip Martin and James Hollinfield, eds. Controlling Immigration. Stanford, CA. Stanford University Press.
- Yokohama Solidarity Center for Migrants. 1997.
Manual for Migrants. Yokohama City. Catholic Diocese of Yokohama
- Yomiuri Shimbun. 2001
"Report says women's lot improving." March 6.

B. In Japanese:

Administration Inspection Office. 1992.

Gaikokujin wo meguru gyosei no genjo to kadai. Tokyo. Management and Coordination Agency.

Asahi Shimbun. 1998.

“*Dekasegi ookoku firippin ni mo eikyou.*” January 12.

_____. 1981.

“*Suzuki-shusho firippin iri; netsu retsu kangeki omote dake.*” March 8.

_____. 1981.

“*Baishun ni kaigi shukai.*” March 8.

Ajia-jin Rodosha Mondai Yushiki Kaigi, ed. 1995.

Ajia no kosaten: zainichi gaikokujin to chiikishakai. Tokyo. Shakaihyoronsha.

_____. 1995.

Obasutei josei no kekkon, rikkon to kodomo. Tokyo. Dai-san Shokan

Ballescás, Rosario Piquero. 1994.

Firipin Josei Entertainer no Sekai. Tokyo. Akashi Shoten.

Fujita, Shoji. 1997.

“*Tokei kara mita saikin no kokusai kekkon no jokyō.*” Kokusai Jinrui. February.

Immigration Bureau. 2000.

Zairyū gaikokujin tokei. Tokyo. Ministry of Justice.

_____. 2001.

Zairyū gaikokujin tokei. Tokyo. Ministry of Justice.

_____. 2002.

Syutun'yūkoku kanri-kokusai jidai e no aratana taio. Tokyo. Ministry of Justice.

Isomura, Eiichi, Yasuko Ichibangase and Tomohiko Harada, eds. 1998

Koza sabetsu to jinken. Tokyo. Yuzankaku.

Japan Immigration Association. 2002.

Heisei 14-Nen ban: zairyū gaikokujin tokei. Tokyo. Nyūkoku Kyokai.

Kanematsu, Sachiko. 1987.

Tojirarerta nirekisho. Shinjuku, sei o uru onnatachi no 30-nen. Tokyo. Asahi Shinbunsha.

Kawasaki-shi Gaikokuseki Shimin Ishiki Jittai Chosa Kenkyū Iinkai. 1995.

Kawasaki-shi Gaikokuseki Shimin Ishiki Jittai Chosa Hokokusho (Jirei Mensetsu Chosa-hen). Kawasaki. Kawasaki-shi Shimin Kyoku.

Komai, Hiroshi. 1995.

Taijuka suru gaikokujin. Tokyo. Akashi Shoten.

_____, ed. 1996.

Koza Gaikokujin Taiju Mondai, v. 2. Tokyo. Akashi Shoten.

_____, ed. 1986.

Sugao no kokusai kekkon. Tokyo. The Japan Times.

Kokusai Jinrui. 1996.

“Nihon ni zairyu suru gaikokujin to media.” No. 107, April.

Kyodo News Daily. 1994.

Sakunen no nippi kekkon hajimete 5 sen ken toppa. February 3.

Ministry of Health and Social Welfare. 1991.

Kokusai ido ni kansuru tokei shiryō-Sekai to nihon no doko. Research Series No. 268.

Miyajima, Takashi and Kajima Takamichi. 1996.

Gaikokujin rodosha kara shimin e. Tokyo. Yukaikaku

Nakamura, Hisashi. 1996.

Boodaresu rabu. Tokyo. Shukan Oruta.

Nikkan Manira Shimbun. 1996.

“Kokoro kanashinde sokoku e.” February 4.

Osaka Bar Association. 1995.

Gaikokujin jinken handobuku. Osaka. Osaka Bar Association.

Prime Minister's Cabinet. 2003.

JNNC kara no shitsumon ni taisuru kotae. Tokyo.

Sasaki, Seiko. 1994.

Ajia shokoku ni okeru rodosha no kokusai ido ni kansuru kenkyū. Tokyo. Judicial Affairs Research, Ministry of Justice.

Sadamitsu, Aya. 1996.

“*Kazoku no Mondai*.” In Gaikokujin rodosha kara shimin e. Miyajima Takashi and Kajima Takamichi, ed. Tokyo. Yukaikaku.

Shimizu, Hajime. 1985.

“*Gaimusho kaigai zairyu hompojin shokugyobetsu jinko chosa ikken*,” Ajia Keizai.. Vol. 26. No. 3

Suzuki, Seki. 1996.

“Okinawa no firippin jin.” Journal of Legal Studies. Ryuku University. No. 57. Tokyo Metropolitan Social Welfare Council, ed. 1991. Zaiju gaikokujin no fukushi seikatsu ka-

dai ni kansuru jittai chosa.. Tokyo. Tokyo Metropolitan Social Welfare Council.
Wayama, Norihiko. 1995.

Kokusai kekkon to sutoresu. Tokyo. Akashi Shoten.

C. Internet sources

<http://www.catw-ap.org>

<http://www.mofa.go.jp/policy/human/women>

<http://www.un.org>

<http://www.state.gov/g/tip>

<http://www.moj.go.jp>

D. Documentary

Nihon Hoso Kyokai (NHK). 1990

“Sengo no tsuma-tachi.”

E. Interviews

May 29, 2003, officer of the Public Safety Bureau, National Police Agency

Jan 8, 2003, police inspector in Hyogo Prefecture

April 21 2003, Osaka Immigration Officer

August 5, 2003, deported trafficking victim in Manila, Philippines

August 28, 2003, deported trafficking victim in Zamboanga City, Philippines

Sept. 2, 2003, deported trafficking victim in Iligan City, Philippines

Summary

人間の安全保障とトラフィッキング

Yolanda Alfaro Tsuda

日本政府は2005年に法制化が期待されているトラフィッキング [人身売買] 防止法の制定過程にある。内容は縮小化されているが、これは、二十年を超える国内外の女性組織からの講義の声に対する、政府の回答である。しかしながら、主な契機はアメリカ政府からの圧力であり、アメリカ国務省のトラフィッキング報告書が、2001年以来毎年、日本をアジアにおけるトラフィッキングの中心として名指ししてきたことにある。

この論文ではトラフィッキングにおける人間の安全保障の問題が、日本国内で、そして移住の問題という文脈の中でいかにとらえられているかを考察する。それは、a) 学術研究、b) 国内法および日本が条約国となっている国際法、c) 日本の公務員へのインタビュー、d) 2001年から2003年にわたる関西地方におけるフィリピン人をめぐるいくつかの厳選された裁判事件、各項の検証からなる。

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