



UNITED NATIONS
Office on Drugs and Crime



COALITIONS AGAINST TRAFFICKING IN HUMAN BEINGS IN THE PHILIPPINES

Research and Action
Final Report

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**Anti-Human Trafficking Unit
Global Programme against Trafficking in Human Beings**



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FOREWORD

Trafficking in human beings is one of the most repulsive and rapidly growing activities of organized criminal groups. The crime is especially pernicious, preying as it does on the most vulnerable - women, children, the poor and least educated.

Poverty, unemployment and lack of opportunity are in the background of many human tragedies. The trafficking of human beings the vulnerability of victims is the result of a basic, and understandable, desire for people to migrate in search of economic opportunity and greater security. In the case of trafficking, however, the result is often the opposite - greater economic dependence, greater insecurity and ruined futures.

The victims of human trafficking are mostly powerless. Legal frameworks are inadequate, law enforcement procedures weak, prosecution of perpetrators rare and punishments seldom severe. The work of UNODC has amply demonstrated that human trafficking is a serious concern that requires a serious response from the global community. Some important steps have been taken.

For example, Member States made trafficking in human beings one of their priorities during the negotiations of the UN Convention against Transnational Organized Crime. The negotiations produced the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which was adopted by the UN Millennium Assembly in November 2000. The entry into force of both instruments will greatly reinforce the fight against traffickers. The Philippines Government has ratified the Convention as well as the Trafficking Protocol in May 2002. Nevertheless, the ratification of the Convention and its Protocol is not a goal in itself. Measures are urgently required to ensure that their provisions have practical consequence.

Our Office in Vienna is responding to the growing appeal for support from countries in implementing the Protocol through the Global Programme against Trafficking in Human Beings. "Coalitions against Trafficking in Human Beings in the Philippines Phase I" is one such project. It was launched in 1999 as a joint venture between the Government of the Philippines, UNODC, which was responsible for the technical cooperation component, and the United Nations Interregional Crime and Justice Research Institute, charged with the research work.

The project's main goal was to improve existing levels of information on trafficking in human beings from the Philippines in order to provide an effective tool for policy makers and practitioners. In the context of the project, a number of important targets were also achieved, for example the regular planning and coordination meetings held by the Inter-Agency Executive Committee, established in April 2000, which resulted in the formulation of a national anti-trafficking policy. A manual for law enforcement officials related to human trafficking cases, combined with an inventory of legislation and relevant procedures, was produced and utilized in a series of training seminars, and other training materials were prepared to upgrade the skills of all relevant staff involved, from the different sectors of the criminal justice system. With regard to victim/witness support, a report on existing practices and recommendations for the improvement of victim/witness support was produced.

The information generated by the project will contribute both to improved victim protection and the fight against the criminal groups involved in trafficking. Already, the outcomes of the project have served as an important input for the formulation of the Philippines 2002 - 2004 National Strategic Action Plan against Trafficking in Human Beings which is currently being implemented by the Government of the Philippines.

Finally and critically, it is our hope that the project will provide insights and lessons for other societies and criminal justice systems facing similar challenges.

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ACKNOWLEDGEMENTS

Ms. Alexis A. Aronowitz supervised the work of the sub-contracted research teams, conducted research for and wrote the UNICRI study, and is the author of the final report *"Coalitions against Trafficking in Human Beings - Phase I"- Assessment Activities Final Report*. This report is based on the following individual studies:

- Institute for Strategic and Development Studies (ISDS): Research on NGOs and Repatriated Trafficking Victims in the Philippines;
- Crime Prevention and Coordination Service of the Philippines National Police Commission (NAPOLCOM): Research on Governmental Case Files and Interviews with Criminal Justice Experts in the Philippines;
- United Nations University (UNU): Research on Trafficking Victims and Governmental Sources in Japan;
- Institut Kajian Malaysia dan Antarabangsa (IKMAS), of the Universiti Kebangsaan Malaysia: Research on Trafficking Victims and Governmental Sources in Malaysia;
- Australian Institute of Criminology (AIC): Cross-analysis Study on the Trafficking of Filipinos to Australia;
- United Nations Interregional Crime and Justice Research Institute (UNICRI): Report on the Involvement of Organized Criminal Groups in the Smuggling of Filipinos to Italy.

This report summarizes the results of six individual research studies carried out in the context of the project on "Coalitions Against Trafficking in Human Beings in the Philippines". For interested institutions, organizations and individual researchers the full version of the report is available upon request.

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EXECUTIVE SUMMARY

EXECUTIVE SUMMARY

Introduction

The present research activities were carried out within the framework of the pilot project "Coalitions Against Trafficking in Human Beings in the Philippines - Phase I" of the Global Programme Against Trafficking in Human Beings (GPAT), which was launched in 1999 as a joint venture between the United Nations Interregional Crime and Justice Research Institute (UNICRI), in charge of the research component, and the United Nations Office on Drugs and Crime (UNODC), which is responsible for the technical cooperation component.

Research teams were contracted to assist in the development of survey instruments, conduct the research and submit final country reports. The Institute for Strategic and Development Studies (ISDS) conducted research on Non-Governmental Organizations (NGOs) and repatriated victims in the Philippines. The Crime Prevention and Coordination Service of the Philippines National Police Commission (NAPOLCOM) examined governmental case files and interviewed key criminal justice experts in the Philippines. The United Nations University (UNU) conducted research on both victims and governmental sources in Japan, while similar research was carried out by the Institut Kajian Malaysia dan Antarabangsa (IKMAS), of the Universiti Kebangsaan Malaysia, in Malaysia. The Australian Institute of Criminology conducted a cross-analysis study on the trafficking and smuggling of Filipinos to Australia. UNICRI prepared a report on the involvement of organized criminal groups in the smuggling of Filipinos to Italy. This final report is a synthesis of the findings of all six research projects.

The research aimed to collect data on the modus operandi of the trafficking in Filipinos, in particular, smuggling and trafficking routes, recruitment practices, use of fraudulent documentation, transport methods, deception, coercion and exploitation, the involvement of organized crime groups, criminal justice responses and victim reporting patterns. This was accomplished through victim surveys, criminal justice expert interviews and case files analysis. NGOs were also interviewed in the Philippines with the objective of identifying the quality of services provided and the special needs of trafficked victims.

Research Methodology and Samples

UNICRI, with the assistance of members of the research teams, designed four survey instruments: a victim survey, a questionnaire for criminal justice and government experts, a checklist for the analysis of case files, and an NGO survey. These instruments, with limited modifications to reflect the specificities of the country under study, are meant to become standard tools to be used in similar research activities in the GPAT.

Trafficking victims in the Philippines and Japan were initially identified by and approached with the assistance of NGOs and shelters, which in turn

constituted the sample for the NGO survey. In Malaysia, owing to the fact that there are no NGOs servicing migrants or trafficked victims in Sabah, the researchers made use of key informants working in an entertainment center employing Filipinas, who facilitated contact with the women. In total, 77 women were interviewed (Philippines n=29, Japan n=19, Malaysia n=29). The data from three women having made multiple trips were further recoded into 7 incidents, bringing the number of trafficking incidents to 85. In addition, researchers in all three countries conducted formal and informal interviews with a total of 34 criminal justice and government experts. Researchers in Italy and the Philippines conducted evaluations on 33 case files. Case file data in the Philippines provided limited data on an additional 123 victims. Information was obtained on 20 NGOs providing services to migrants and trafficked victims in the Philippines.

Research findings

Demographics of victims

All but two of the victims interviewed in this study are women. This may be attributed to the fact that the study in Japan and Malaysia focused on trafficking for the purpose of exploitation in the sex markets or possibly to the fact that women are more willing to seek the assistance of NGOs than men. Statistics involving smuggled Filipinos to Australia and Italy show more of a gender balance.

While the age at the time of interview varied widely, most young women at the time of their first departure to work abroad were in their early twenties (21-23 years). The Philippines, Japan and Malaysia studies indicated that eight girls were under the age of 18 at the time of their first departure from the Philippines to work abroad.

Multiple trips abroad

The Philippines and Japan data indicate that women make multiple trips abroad and generally stay for short periods of time. Of the 48 women in the Japan and the Philippines sample, 29 (60%) had traveled abroad more than once. Seventeen women (22% of the sample) had made three or more trips abroad (one respondent traveled abroad seven times, one traveled abroad 8 times). The Malaysia sample deviated from this pattern as all victims had been abroad only once and were at the time of interview, on average, younger than the victims in the Philippines and Japan sample. The possibility exists that these women will travel abroad again at a later point in time.

Recruitment practices

All of the victims in all of the studies left the Philippines willingly. The Philippines victim survey indicates that all respondents were recruited in highly urbanized and major population centers. This may be due to the fact that interviewees were living in urban centers when interviewed. This data

conflicts, however, with findings from the Italy and Japan studies where individuals were also recruited from rural areas.

In looking at the 85 instances of recruitment (in the Philippines victim survey and the studies in Japan and Malaysia), the majority of respondents (n=68 or 80%) stated they were actually sought out by the recruiter. In 14 others instances, the respondents sought out the recruiter; in Malaysia, 3 women responded to advertisements. Criminal justice experts in the Philippines report that the recruiters are often women. This was also the case in the Italy study. A large majority in both the Philippines and Japan victim survey were contacted through word of mouth by intermediaries that included family members, friends, and/or acquaintances known to the respondent or the family. Of the 56 respondents (Philippines victim and Japan study), almost half (n=27) were recruited at home or within the vicinity of the neighborhood/community.

In both studies, fifteen persons were also contacted through job agencies while a small number were recruited by formerly smuggled or trafficked persons. The initial recruitment is often done by Filipinos, or in some cases married couples of which the recruiter is a Filipina and the husband, a national of the country to which the trafficking victim will eventually be sent. The final selection of the women in the Philippines is often done by nationals who run the clubs in the destination countries.

Points of departure

All persons traveling to Japan and destinations other than Malaysia, left the Philippines by plane, generally via the NAIA international airport at Manila. This is followed by those using the Zamboanga ports in the Southern Philippines who travel by sea to Malaysia. According to government experts in the Philippines, about 71% of smuggled and trafficked persons are transported by air, through regular commercial flights, and 29% by sea, via big sea vessels, pump boats, speed boats and even fishing boats.

Experience during the trip

On average, trips, from point of departure in the Philippines to arrival in the destination country, lasted a matter of hours and were generally restricted to the flight and possible transportation by car or van to the final destination if this was a city or town other than the point of arrival. During the transport phase persons were not exposed to dangerous situations - other than the risk of getting caught with fraudulent documentation. The same can not necessarily be said of those persons traveling by small boat via the "Southern Backdoor" to Malaysia. On occasion they experienced dangerous situations.

Recruits tend to be moved in groups. Of the 56 respondents from the Philippines and in Japan for whom this data is available, 19 (34%) were moved individually and 37 (66%) were moved in groups. Of those interviewed in the Philippines, the majority traveled in groups of 4-10 persons (n=13) followed by groups of 2-3 persons (n=7). Four respondents claimed they were moved in groups of more than 20 persons (these were persons going to Malaysia by boat). All of the victims interviewed, working

at the entertainment sector in the Malaysia, were also moved in groups ranging in size from 8 to 15 persons.

Internal movement within the Philippines

There appears to be an internal movement from the place of recruitment to the place of departure which may, at times, involve longer stays within the Philippines prior to departure. This varies from a few days to weeks. This may have to do with the training that women often undergo prior to departure and/or the preparation of travel documents. Safe houses are sometimes used in the Philippines during the training session and in the destination country once the women arrived and began working. While in transit, women often stayed in (luxury) hotels.

Transit and destination countries

There is little information on transit countries as many of the victims flew directly to Japan or traveled directly by plane or boat to Malaysia. According to government experts in the Philippines, Bangkok, Hong Kong and Kuala Lumpur are the most commonly used transit points for those exiting the Philippines. In the Philippine Government case files, those traveling to Korea, often passed through Bangkok or Hong Kong before going to Korea. Data analyzed by the Philippine Department of Foreign Affairs on the illegal entry of Filipinos into Italy indicates that cities within Schengen countries are the most popular points of entry into Italy (in particular, Barcelona, Milan, Paris and Frankfurt). In another study, Filipinos smuggled into Italy used Bangkok, Thailand, Hungary and Slovenia as transit points / countries.

Because the destination country was already identified in the Japan and Malaysia samples, information gleaned in the two studies in the Philippines reveal more about destinations. From data generated on 160 persons in these two studies (through Government case files and victim interviews), Korea is the top destination country (n=87 or 54% of the sample). This is followed by Malaysia (n=26 or 16%), Japan (n=23 or 14%), Nigeria (n=10 or 6%) and Abidjan, Côte d'Ivoire (n=5 or 3%). The remaining 9 persons went to the following destinations: Hong Kong (3), Saudi Arabia (2), Saipan (2), Bahrain (1) and Kuwait (1).

Tampered and fraudulent documents

Forged or tampered documents were often used in both smuggling and trafficking cases. Of the total number of trips abroad (n=58) in the Japan and victim survey in the Philippines, a large majority of the sample (n=40 or 71%) reported using fraudulent documentation. This applies to both the passports as well as to supporting documentation needed to apply for the passport and for the issuance of visas. Often valid passports of third persons were used and falsified through photo substitution. A common means of obtaining entry into a destination country is to use a tourist visa and violate it by accepting employment and/or overstaying its duration.

Research findings point to the fact that fraudulent documents are being used and are generating huge profits for the networks that produce them.

Philippine Government experts were able to provide estimated costs for the procurement of various (fraudulent) documents to specific destinations. For a passport, visa and related documentary requirements, the purchaser could expect to pay the following: USA (US\$ 3,000-US\$ 6,000), Europe (Schengen Visa) (US\$ 4,000), Italy (residence permit) (US\$ 5,000), Japan (US\$ 3,000), Korea (US\$ 400). The Philippine Department of Foreign Affairs has pursued a rigorous campaign against passport irregularities introducing the use of machine-readable passports and visas.

Costs and debt

Of the total (n=85) in the Philippine victim, Malaysia and Japan study, 74 persons (87%) incurred a debt to the smugglers/traffickers, while 8 'paid everything up front', 1 incurred a debt to the family and 2 did not incur a debt. Upfront payment prior to departure does not protect one from becoming a victim of trafficking. The two male victims who paid their passage upfront were, upon arrival in the destination country, held against their will and forced into slave-like conditions on a plantation. Debts and upfront fees varied considerably and one of the determining factors is the destination country. Costs also vary according to distance, and payment for travel/job placement in Europe is much higher than that in Asia. Costs per selected country (which often includes procurement of fraudulent travel documents, passport and entry visas) are estimated at: USA & Canada (US\$ 4,000-US\$ 8,000), Australia, Italy (US\$ 2,000-US\$ 5,000), other European destinations (US\$ 2,000-US\$ 6,000), Japan (US\$ 1,000-US\$ 3,000), Korea (US\$ 400-US\$ 2,000), Malaysia (\$ 20-\$ 160). Prices may fluctuate due to cash advances made to the victims' family, the procurement of fraudulent documents or payments for safe houses or hotels. Other additional costs are arbitrary. It is therefore difficult to determine exactly how much money is paid separately for fraudulent documents, as often the price quoted is for the "entire package".

In the Malaysia study, trafficked victims incurred debts of approximately RM 4,500 (US\$ 1,185) for the cost of transportation and job placement; this was deducted from the monthly salary of the women after they assumed work. The three women who were smuggled into Sabah from the Southern Philippines paid between PhP 7,000 (US\$140) and PhP 9,900 (US\$ 200).

Deception

Deception was involved in the recruitment process of almost all of the victims in this study. Government case file analysis in the Philippines reveal that 117 persons (95%) complained of being deceived about the nature of the work such as being told that they would perform as entertainers or hotel chambermaids, or work in restaurants or bars, but ended up working in the sex industry. Similarly, over 97% of the sample (n=120) were deceived about their working conditions, such as having to maintain a quota of customers and drinks, long working hours, having to clean up the club after work, having to pay bar fines and work when they were sick. The government case file data is supported by the victim studies as well. In Malaysia, all 26 women working in the club were deceived about the nature of the work they would be undertaking and in Japan, 15 women (80% of the sample) complained about being deceived about the nature of the work,

while 14 complaints were lodged about deception involving the conditions of work.

Coercion

Coercion ranged from threats to stop payment to the victim's family, threats to report the victims to immigration officials, the seizure of the victim's documents, non-payment of wages, to threats to harm the victim's family and use of physical and sexual violence against the victim. Threats, physical and sexual violence was perpetrated against victims in the Philippines victim and Japan surveys. Physical violence was not used to control the women in Malaysia, however their freedom of movement was restricted and they lived in constant fear of being reported to immigration authorities. Coercion almost always took place in the destination country, although victims' movements may have been restricted in the Philippines prior to departure.

It appears from the Japan, Malaysia and Philippines victim surveys that for a number of women, original debts were paid off within a period of time generally ranging from 3 to 6 months. After that period, many restrictions were lifted and some of the women were free to leave, while others were further exploited, indebted and forced to continue working for the club. This is perhaps the pivotal point between women who continue to remain in debt bondage as trafficked victims and those who may be free to leave, but choose to continue working, albeit under exploitative conditions, to continue supporting their families back in the Philippines.

Victims' involvement in criminal activities

Victims reported forced but limited involvement in various criminal activities in the furtherance of profits for the traffickers. Most activities revolve around the "entertainment" within the clubs, such as prostitution and drug use, which occur frequently. However, it is not clear if the drug use is always forced upon the victims as a way to dull their senses, increase their performance or generate a higher debt to the club owners. The sale, dispensing of drugs and (forced) spiking the drinks of other women within the club appears to be widespread. Other smuggling offenses occurred (involving diamonds and drugs) but these appeared to be isolated incidents.

Organized criminal groups: their characteristics and modus operandi

Based upon a number of variables and the definition put forth in the United Nations Convention against Transnational Organized Crime, this study attempted to determine whether organized criminal groups were involved in the trafficking process.

A large majority of respondents report that foreigners are working together with Filipinos in the recruitment process, hinting that trafficking groups are transnational. These foreigners are generally from the destination country. However, it is not uncommon, particularly in the destination countries, for other foreign nationals to be involved in the trafficking / exploitation process as well.

According to the study carried out in Australia, facilitators in the Philippines appear to exist as loose networks of individuals, who have some level of association and may refer clients to each other for particular services but who do not work as closely-linked groups. The Italian and Malaysian study, as well as information provided by Philippines criminal justice experts categorize these groups as small networks comprised of fewer than 10 persons. At most stages of the process (recruitment, documentation, transport and settlement), the majority of individuals (in the Philippine victim survey) came into contact with only 1-2 persons. In the Japan study, the majority of victims came into contact with a group of 3-5 persons during the different phases of the trafficking process (although it is not clear in either study if these were the same or different persons). This may point to a more sophisticated organization bringing Filipinas to Japan. When victims came into contact with a larger group (more than 5) of persons, it was always at the settlement - exploitation phase.

The adult entertainment industry in Japan appears to be controlled by the Japanese Yakuza. It appears to be highly organized with rotation of women between cities and clubs. In Japan, 12 respondents were rotated between clubs within the same city, while 9 women were rotated between different cities or towns. Five (5) respondents reported being rotated between different criminal groups. The Yakuza has been linked to excessive violence, drug and gun smuggling as well, and appears to be operating on a different scale than that seen in the Philippines or in the entertainment center in Sabah, Malaysia.

This pattern of rotation was not repeated with the same frequency in the Malaysia and Philippines victim surveys. Women forced to work in the sex industry were occasionally sent to work in other clubs for single bookings. Not all of the victims in the Philippines survey were involved in the 'entertainment' industry; for those individuals working in other sectors, such as domestic service, rotation did not occur. It appears, then, that rotation is linked more to the sex industry than in the labor market. This may point to the fact that labor exploitation is a more isolated practice whereas the sex-industry is dominated by networks cooperating to provide a constant flow of new faces.

Almost all women (27 of 29 respondents in the Philippines victims survey and 17 of 19 in the Japan study) report that they are aware of other women who had been trafficked by the same group that trafficked them. The number of women varies from a few to dozens. This points to either a large operation, or a stable one which has been in existence for an extended period of time.

All of the above, taken together, points to either highly organized criminal groups or those operating with (extensive) extended networks. Indications of this are the fact that the criminal organizations were comprised of different ethnic groups, often moved victims in groups and under supervision or escort, had recruited numerous victims and were able to rotate women between clubs, cities or criminal groups. Based upon the number of persons with whom the victims came into contact at various stages of the process, it appears that groups are small in size but that these groups work together to help each other out. This hypothesis has been supported by the UNICRI data analyzing the smuggling of Filipinos into Italy.

Government corruption and collusion

Respondents (n=48 from the Philippines victim and Japan survey) were asked if they came into contact with corrupt government officials during their departure from the Philippines and stay in the destination country. Thirty respondents (62,5%) reported having had contact with corrupt officials in Philippines, while the remainder did not. Cases of police collusion with club owners in the destination countries was also reported. Allegations of isolated cases of individual government officials colluding with smugglers and traffickers, or at least facilitating the trafficking or smuggling process, points to the need for Governments in source and destination countries to take notice of, and rectify the problem. The Bureau of Immigration in the Philippines has taken aggressive measures to do just that.

Victims' contact with government officials

The majority of victims (n=41 or 85%) in the Japan and Philippines victim survey did not report their experiences to Philippine Government authorities or to authorities in the destination country. Reasons for this included lack of trust in the authorities (n=18), or the belief that the authorities can not or will not help (n=13), threats of violence from traffickers (against the victim (n=7) or victim's family (n=5)), and the promise to be smuggled again (n=3). While victims were hesitant to report to the authorities, many did turn to NGOs for support, whether in the destination country or after having returned to the Philippines.

NGOs evaluation

NGOs reported that, in general, the extent of coordination between NGOs and government agencies with regard to dealing with trafficked victims is but minimal if not completely non-existent. With respect to services sought by victims, the majority of responses point to the need for financial and legal assistance as well as protection from traffickers. This is followed by resettlement assistance and mental health care and counseling.

Problems identified during the course of the study

During the course of this study a number of problems were identified:

- Lack of agreement or confusion on the definition of "trafficking"
- Lack of recognition or denial of the problem coupled with criminalisation of the victim;
- Lack of government experts or focal points in destination countries;
- Difficulty in accessing case files and victims;
- Limited validity and quality of the data.

Recommendations

On 18 and 19 March 2002, UNICRI, with the assistance of the UNDP Office in Manila and NAPOLCOM, hosted an Expert Meeting on Trafficking in Human Beings from the Philippines, in Manila. The meeting brought together research, NGOS, Inter-Governmental Organizations (IGOs) and government experts from the Philippines, Japan and Malaysia to present the findings of the various research activities and to exchange ideas, best practices and recommendations. The most salient recommendations were:

General recommendations

In countries which do not yet have anti-trafficking laws, lobbying should be increased to encourage Governments to sign and ratify the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children supplementing it.

Build "sensitization programs" into training courses for Immigration and Law Enforcement officials and Prosecutors to sensitize them to the seriousness of trafficking offenses and the status of victims. These courses should be designed and implemented by the Government after consultation with IGOs and NGOs.

There should be trafficking focal points within various Government agencies to include, but not be limited to, Law Enforcement, Immigration, Prosecution. These focal points should serve on a Task Force which should receive and guide the investigation of complaints regarding trafficking in human beings and help shape a national strategy and a plan of action to prevent and combat the trafficking problem.

Governments should establish a type of Interagency Executive Committee or Advisory Board or Council on Migrants and Exploitative Conditions (similar to that in the Philippines) to bring Government agencies together to address the issues of trafficking, victims, victims' protection and rights, and investigation and prosecution of offenders. This Government Interagency Executive Committee or Council should include representation by IGOs and NGOs. This representation may take the form of one IGO and NGO representing the interest of other IGOs and NGOs dealing with trafficking victims (on a rotating basis), or may include representation by more than one IGO and NGO. Special invitation may be extended on a need-be basis to important persons such as academicians.

Law Enforcement agencies in destination countries should offer (telephonic) translation services to encourage victims to report cases of trafficking and exploitation. The Government in these countries should fund such police translation services.

There should be a direct link between law enforcement agencies (in destination countries) and NGOs so that front line officers have knowledge of NGOs providing services to trafficked victims. There should be automatic referral by police to NGOs in cases of trafficking and worker exploitation. NGOs in both source and destination countries should liaise with Law Enforcement agencies to make their services known to these agencies.

Destination countries should increase regulation and enforcement activities in industries employing and exploiting trafficked victims. The current studies generated in this project showed these to be the hostessing and adult entertainment industries (which does not exclude the fact that other persons in different countries may be exploited in the domestic service, agricultural, garment or other sectors).

More attention must focus on the criminal exploiters of trafficked victims. Too often trafficked victims are viewed solely as immigration violators. They are deported and their handlers and exploiters are allowed to continue working. In cases where exploited workers and possible trafficked victims are found to be in violation of immigration laws, the employers should be prosecuted, at the very least, for employing these persons in contradiction to law. Deeper investigations must be made to determine whether the migrant workers were trafficked, and if this is the case, the employers must be punished, barring a law prohibiting trafficking, under existing appropriate labor code and/or penal laws.

Research in all three countries has shown that the initial contact with respect to recruitment often takes place through family, relatives of friends. Therefore, prevention and awareness-raising campaigns must target not only populations at risk, but families of young men and women as well.

As all of the research studies indicated various levels of corruption and collusion by individual Government employees, Governments should examine the role that this plays in the trafficking and exploitation process and should more closely monitor enforcement and immigration officials.

The Philippines and Malaysia have already signed an "Agreement on the Exchange of Information" (Thailand will soon accede) which will facilitate the exchange of information with respect to, among others, trafficking in human beings. More countries (in ASEAN) should be encouraged to accede to this Agreement. Other countries should consider the importance of establishing such measures to facilitate the exchange of information.

Governments should provide resources to develop or expand databases containing information on (but not be limited to) destination countries, cities and specific clubs, offenders, organized criminal groups and *modus operandi* with respect to the recruitment, trafficking and exploitation of migrant workers and trafficked victims. Data should be made available on a need-be basis to other Government agencies as well as Government agencies in other (source / transit / and destination) countries.

Specific recommendations

Philippine Government

- a. The Government, in conjunction with NGOs, should conduct one (to two) day pre-departure orientation seminars. These should include two pillars: the first should be general in nature with a focus on potential situations and dangers which foreign workers may encounter when working abroad. The second half of the orientation should be tailored to the specific countries to which foreign workers are going and should

include information on:

- a. labor laws
- b. rights, obligations and pay
- c. NGOs or other bodies to which workers in trouble may turn.

b. The Philippine Government should re-examine its policy of allowing Filipinas to travel to Japan on "entertainer" visas. Allowing women to leave on an "entertainer" visa creates the illusion that they will be working as entertainers (singers or dancers). The large majority of these women end up in the hostessing industry, at times subjected to varying degrees of sexual exploitation. By allowing women to leave for Japan on visas which allow them to work in the hostessing industry, the women could be better prepared for the realities of their work.

c. The Philippine Government should consider funding the extension of the Tagalog Hotline in Japan in order to continue helping exploited Filipino workers in that country.

d. The Philippine Government currently disseminates flyers at Manila airport (the main point of departure for Filipinos seeking work overseas) warning them of the dangers of becoming an undocumented worker. This flyer should also include the names and contact numbers of NGOs in various destination countries to which exploited workers may turn for assistance.

e. The Philippine Government should consider establishing a Labor Attaché or a consular office in Sabah to service the large number of Filipino workers (many exploited or trafficked) entering into this area of Malaysia.

f. Barring the establishment of an official Government office in Sabah to provide services to the Filipino migrant workers and trafficked victims, ways should be considered to mobilize the large Filipino community (civil society or the church) to assist Filipino workers in trouble. This should be done in conjunction with Malaysian authorities.

Japanese and Malaysian Government

Foreign women who work in the entertainment and hostessing industry should be protected by the same labor laws as Japanese / Malaysian citizens working in these industries. There should be the same opportunity for exploited foreign workers, as is available to their Japanese / Malaysian counterparts, to bring labor grievances regarding contracts, conditions and wages before the proper bodies.

"Sensitization programs" should be introduced into training courses for Law Enforcement, Immigration and Prosecutors to raise awareness of the seriousness of trafficking offenses and the status of victims. These courses should be designed and implemented by the Government after consultation with NGOs.

Trafficking focal points should be introduced within various Government agencies. These focal points would help facilitate recognition of the problem as well as research from within the agencies or on behalf of external sources and could receive and guide the investigation of complaints regarding trafficking in human beings.

Governments should establish a type of Interagency Executive Committee or Advisory Board or Council on Migrants and Exploitative Conditions (similar to that in the Philippines) to bring Government agencies together to address the issues of trafficking, victims, victims' protection and rights, and investigation and prosecution of offenders. This Government Interagency Executive Committee or Advisory Board should include representation by IGOs and NGOs. This representation may take the form of one IGO and NGO representing the interest of other IGOs and NGOs dealing with trafficking victims (on a rotating basis), or may include representation by more than one IGO and NGO. Special invitation may be extended on a need-be basis to important persons such as academicians.

Due to language barriers in Japan, the Government should consider providing (telephonic) translation services to Law Enforcement Agencies to encourage victims to report cases of trafficking and exploitation.

Front line officers should have knowledge of NGOs providing services to trafficked victims and should automatically refer cases of trafficking and labor exploitation to appropriate NGOs.

1. THE UNODC GLOBAL PROGRAMME AGAINST TRAFFICKING IN HUMAN BEINGS AND THE PHILIPPINES PROJECT

CHAPTER 1

THE UNODC GLOBAL PROGRAMME AGAINST TRAFFICKING IN HUMAN BEINGS AND THE PHILIPPINES PROJECT

1.1 The Global Programme against Trafficking in Human Beings

The United Nations Office on Drugs and Crime (UNODC) in conjunction with the United Nations Interregional Crime and Justice Research Institute (UNICRI) launched the *Global Program Against Trafficking in Human Beings* (GPAT) in March 1999. In an effort to better enable governments to respond to the issue of trafficking in human beings and smuggling of migrants, the GPAT aims to shed light on the process of human smuggling and trafficking as well as the involvement of organized crime groups therein, and promote the development of effective criminal justice responses to these problems. The GPAT comprises policy-oriented research and targeted technical cooperation. UNICRI is responsible for the development and coordination of research activities including the creation of standardized survey instruments¹ and the research methodology for projects within the framework of the GPAT. The UNICRI studies aim to collect data on different routes of smuggling and trafficking in human beings, the modalities used for recruiting, transporting and subsequently exploiting victims, the criminal organizations involved in these activities as well as NGOs and governmental responses to the problem.

GPAT technical assistance and assessment projects are currently being formulated or carried out in selected countries in Asia, Africa, Europe and Latin America. The Philippines served as the pilot project and became the testing ground for developing the methodology and survey instruments, with a view toward developing and standardizing the measurement tools² for the Global Program against Trafficking in Human Beings.

¹ UNICRI has developed a number of research tools aimed at generating data with respect to recruitment practices, costs and debts, travel routes, exploitation, criminal organizations and connivance and corruption. Questionnaires have been developed for use in interviewing victims, government officials and non-governmental organizations (NGOs). A checklist has been produced to assist in the analysis of police and prosecution files.

² While an attempt is being made to standardize the research instruments, modifications will have to be made based upon the particular situation in a country. Variables which may influence the structure of the questionnaire are the age of the victim (child victims as opposed to adult victims), whether victims have been repatriated or have chosen to remain in the destination country.

1.2 The Pilot Project in the Philippines

A joint UNODC-UNICRI Start-Up Mission visited Manila during July of 1999 to assess the trafficking situation as well as governmental and non-governmental agency responses to the problem. This mission and further research resulted in a report entitled *Rapid Assessment: Human Smuggling and Trafficking from the Philippines*.³ Development and refinement of the research tools and meetings with the Philippines research team conducting victim and NGO surveys occurred in September 2000. Prior to its implementation, the survey instrument was submitted to the Philippines Inter-Agency Executive Committee⁴ for comments and feedback. Research into NGOs profiles and services, and repatriated Filipino victims was begun in January 2001.

In mid 2001, the U.S. Government increased financing of the project which allowed for the expansion of research activities to examine trafficking of Filipinos to two destination countries: Japan and Malaysia. Research into both the source and destination country allowed for a more complete understanding not only of the trafficking phenomenon but also of NGOs and governmental approaches to the problem in various countries.

The total research project comprises 6 smaller research components. The Institute for Strategic and Development Studies (ISDS) conducted research on NGOs and repatriated victims in the Philippines. The Crime Prevention and Coordination Service of the Philippines National Police Commission (NAPOLCOM) examined government case files and interviewed key criminal justice resource persons in the Philippines. The United Nations University (UNU) in Tokyo conducted research on both victims and government sources in Japan, while similar research was carried out by the Institut Kajian Malaysia dan Antarabangsa (IKMAS), of the Universiti Kebangsaan Malaysia, in Malaysia. The fifth research project was supported through a contribution of the Australian Government. A researcher from the Australian Institute of Criminology⁵ (AIC) conducted a cross-analysis study on the trafficking of Filipinos to Australia. UNICRI prepared a report on the involvement of organized criminal groups in the smuggling of Filipinos to Italy. This final report is a synthesis of the findings of all six research projects. A more extensive version containing detailed information on each of the country reports as well as all research instruments is expected to be released at a later date.

³ The initial output of the Pilot Project was a report detailing the situation with respect to trafficking in human beings in the Philippines (hereafter referred to as the Rapid Assessment Report). The report remains an internal, unpublished report. An abbreviated version, entitled *Rapid Assessment: Human Smuggling and Trafficking from the Philippines*, was published as a conference paper A/CONF.187/CRP.1 at the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Vienna, Austria, 10-17 April 2000.

⁴ The Inter-Agency Executive Committee on Trafficking in Human Beings is chaired by the Secretary of Foreign Affairs and comprises thirteen departments to include Commission on Filipino Overseas; Department of Justice; Bureau of Immigration; National Bureau of Investigation; Philippine Overseas Employment Administration; Social Welfare and Development; Interior and Local Government; Tourism; Department of Labor and Employment; Department of Education, Culture and Sports; National Commission on the Role of Filipino Women; Commission on Human Rights; Technical Education and Skills Development Authority.

⁵ A researcher supported by the Australian Institute of Criminology was the key author of the Philippines Rapid Assessment Report.

1.3 Smuggling of Migrants and Trafficking of Persons from the Philippines

While the original focus of the project was on the trafficking, and hence, exploitation of Filipinos, it became increasingly obvious, during the course of the research, that the focus of the project should be expanded to include aspects of smuggling of migrants as well. The reasons for this are threefold.

Firstly, one of the required outputs of the project was to identify the trafficking of Filipinos to Western Europe and Australia. However, preliminary interviews in the Philippines as well as in Australia and Europe during the course of this research project⁶ indicated that while Filipinos make use of smuggling routes and "extra-legal" means to enter and remain in these destinations, usually for the purpose of joining family members and to work in the underground economy, the *trafficking* of Filipinos to Western Europe and Australia remains undocumented among embassy and intelligence sources. If it is occurring, it is not coming to the attention of, or being registered by the authorities.

Additionally, an important objective of the research was to shed light on the involvement of organized criminal groups in the trafficking process. Because the same mechanisms may be used initially by smuggling and trafficking organizations: the procurement of fraudulent documents, corruption of government officials, organized transportation, it was felt that the analysis of smuggling activities in this report would provide added-value in terms of information on criminal networks.

Thirdly, during the course of analyzing the initial victim data collected in the Philippines, an unusual pattern emerged. Individuals, who initially left the Philippines, often times with fraudulent documents, became involved, in varying degrees, in the sex industry in a destination country. It is not clear from the data whether the women were actually trafficked or whether, after having completed their contracts or overstaying tourist visas, remained as illegal migrants and became involved and exploited in the sex industry. Their description of their exploitation, abuse and other elements point toward the involvement of criminal networks in the exploitation phase. Perhaps from a strict adherence to the definition of trafficking, the cases should have been rejected. But from both a human rights perspective as well as the desire to obtain more data on criminal networks, the decision was made to include these cases in this study.

1.4 Aims and Objectives of the Study

The study aims at improving the existing level of information on trafficking in human beings from the Philippines for the purpose of providing a tool for better policy planning and action. Based upon information generated from

⁶ Interviews with officers at the Australian Embassy in Manila, various Government officials in Australia, the Consulate General of the Philippines, Turin, Italy, an investigative officer specializing in trafficking in human beings at Europol, the Hague and an intelligence officer at the UK Immigration Service, London, point to the fact there are no cases of trafficking of Filipinos to these destinations. The situation involves more often cases of Filipinos using illegal channels to be smuggled into the country after their relatives in Western Europe or Australia have paid their passage. While there are cases of trafficking, in particular of women, from South-East Asia, it involves women from other countries in the region.

the objectives identified below, it is hoped that the formulation of recommendations will result in improved victim protection as well as strengthening joint action against transnational organized criminal aspects of trafficking in human beings.

The aims of the study are five-fold:

Identify the trafficking flows from the Philippines to various destination countries;

Describe trafficking patterns to include modus operandi of recruitment, use of fraudulent documents, costs and debt, transportation, deception, coercion and exploitation;

Provide information on the involvement of organized crime groups in the trafficking of human beings from the Philippines;

Provide information on victims' reporting patterns and (their assessment of) government responses;

Identify NGOS services to trafficked victims and their assessment of what further measures must be taken.

1.5 Data contained in this report

This UNICRI final report is based on the data and reports presented by the individual research teams. The country reports contain statements provided by individual victims and criminal justice experts relating to personal experiences with human trafficking in their country. All persons spoke under guarantee of anonymity. None of the respondents' testimony can be substantiated but is being provided as it was reported to the researchers. UNICRI neither supports nor denies the allegations made by individual victims or criminal justice experts. Furthermore, the statements and opinions of individual respondents do not necessarily represent the position or views of UNICRI or of the United Nations Office on Drugs and Crime. UNICRI would like to remind the reader that these are individual circumstances and situations which may not necessarily provide a representative picture of the situation or practices among particular agencies or in individual cities and countries.

2.

EXAMINING THE PHENOMENON

CHAPTER 2

EXAMINING THE PHENOMENON

2.1 Defining the Problem

The United Nations ad hoc Committee on the Elaboration of a Convention against Transnational Organized Crime submitted proposals in January 1999 for optional protocols on the smuggling of migrants and the trafficking in persons, in particular, women and children. The United Nations Convention against Transnational Organized Crime⁷ was adopted by the General Assembly at its Millennium Meeting in November 2000. It was opened for signature at a high-level conference in Palermo, Italy, in December 2000 and constitutes an important legal UN instrument in the field of transnational organized crime and crime prevention;⁸ it must be signed and ratified by 40 countries before it comes into force.⁹ In line with the proposed definitions in the Convention and its two supplementing protocols, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, the UN Global Programme against Trafficking in Human Beings uses the following definitions:

Organized criminal group shall mean a structured group of three or more persons existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offenses established in accordance with this Convention,¹⁰ in order to obtain, directly, or indirectly, a financial or other material benefit.

Smuggling of migrants shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.

7 The United Nations Convention against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and the Protocol against the Smuggling of Migrants by Land Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime can be downloaded from the web at http://www.undcp.org/odccp/crime_cicp_convention.html

8 The new instrument spells out how countries can improve co-operation on such matters as extradition, mutual legal assistance, transfer of proceedings and joint investigations. It contains provisions for victim and witness protection and shielding legal markets from infiltration by organized criminal groups. Parties to the treaty would also provide technical assistance to developing countries to help them take the necessary measures and upgrade their capacities for dealing with organized crime.

9 As of December 2002, 145 countries were signatories and 28 parties to the Convention on Transnational Organized Crime; 115 countries were signatories and 21 parties to the Trafficking Protocol and 111 countries were signatories and 20 parties to the Smuggling Protocol.

10 "Serious crime" shall mean conduct constituting an offense punishable by a maximum deprivation of liberty of at least four years or a more serious penalty. "Structured group" shall mean a group that is not randomly formed for the immediate commission of an offense. It does not need to have formally defined roles for its members, continuity of its membership or a developed structure.

Trafficking in persons shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.

This definition is broken down into three separate elements: criminal acts, the means used to commit these acts, and goals (exploitation). At least one element from each of these three groups is required before the definition applies.

- *the act(ion) of:* recruitment, transportation, transfer, harboring or reception of persons;
- *by means of:* threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim;
- *for the purpose of exploitation,* which includes exploiting the prostitution of others, other forms of sexual exploitation, forced labor or services, slavery or similar practices, and the removal of organs.

Both smuggling and trafficking are forms of irregular migration. Often both smuggled and trafficked individuals leave a country of origin willingly although in the case of trafficking an element of deceit is typically employed.¹² They may be exposed to similar cases of danger or discomfort during long journeys. Upon arrival in the destination country, smuggled individuals are usually left on their own by the smugglers, and many will look for work in the unregulated sector or apply for asylum.¹³ Trafficked persons, upon arrival, are put in a situation of debt bondage and forced into slavery-like practices in the sex or labor market.

Exploitation of the victim is the key element in the trafficking of human beings and usually occurs over a long period of time during which interdependency may develop between the trafficked persons and the (organized crime) group(s) that traffic them. This interdependency often leads to further networking, extended exploitation and possible recruitment for criminal purposes (Bajrektarevic 2000a; 16).

2.2 Smuggled Migrants and Trafficked Persons

¹¹ The consent of a victim of trafficking in persons to the intended exploitation shall be irrelevant where any of the means set forth (in the definition) have been used. Furthermore, the recruitment, transportation, transfer, harboring 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 the definition.

¹² Consent of the victim is negated in cases where coercion or deceit is used to obtain consent.

¹³ Their status in the destination country is that of an illegal alien, therefore even smuggled persons are at risk of being exploited.

The borders between smuggling and trafficking become blurred when migrants voluntarily seek the use of the services of smugglers only to find themselves in coercive situations due to their illegal status in the transit and/or destination countries, and thus become the victims of traffickers (at a later stage). One difference between these two groups of persons may be the amount of money that is paid prior to departure from the country of origin. Smuggled persons usually pay the amount 'upfront' and upon entering the destination country have ended their "contractual" arrangement with their smugglers. Trafficked persons, on the other hand, may pay a percentage or pay nothing upfront and incur a debt for the remainder of the trip. This situation creates a type of debt bondage¹⁵ and places them at the mercy of the traffickers and in situations in which they are easily exploited.

According to the Protocol's definition, consent to leave a country and work abroad does not determine the dividing line between smuggling and trafficking. What began as a voluntary activity on the part of the migrant, who may in fact have sought out the services of the smuggler, will still qualify as a case of trafficking if initial consent is invalidated through the use of deception and/or coercion.

2.3 Trafficking and the 'Shadow Economy': Illicit Markets Profiting from Trafficked Persons

The increasing number of migrant workers from poor countries and their exploitation can be understood as a supply and demand phenomenon - "where the supply of workers available for export is a function of specific economic conditions in the poorer country, and the demand for their services is a function of economic and social processes elsewhere within the world" (Taylor and Jamieson, 1999; 5).

Unrecognized, undocumented and thus unregulated economic activities are the basis for the informal sector which is known by various names: clandestine, illegal, underground, black, or "shadow economy". While the actual trade of trafficking and subsequent exploitation of persons is illicit, the activities in which the victims of trafficking are exploited, however, may fall within either the licit or illicit sector (Flemming, et.al., 2000; Journal of International Affairs, 2000).

The shadow economy, or the markets in which undocumented, and thus illegal migrants and trafficked victims are forced to work, can be divided into a number of different sectors: the informal, the criminal, the irregular and the household sectors (Flemming, et.al., 2000). The informal sector has been defined (Feige, 1990; 992) as "economic activities that circumvent the costs and are excluded from the benefits" of law. Micro-enterprise is an example

¹⁴ The up-front payment for travel services is not always the best indicator of the difference between smuggling and trafficking. Zhang and Chin (2001) report that smuggled Chinese incur debts approximating \$50,000-\$60,000, while a Dutch law enforcement official with expertise in trafficking in persons reports that trafficked women from Eastern European countries often pay the full amount prior to departure only to find themselves the victims of trafficking upon arrival in the Netherlands.

¹⁵ For the definitive work on debt bondage and modern slavery, see Kevin Bales, *Disposable People*, 1999.

of an activity within the informal sector. The criminal sector concentrates on illegal goods and services, such as the production and sale of illicit drugs or forced prostitution. In the irregular sector, legally produced goods and services evade legal requirements. Tax evasion is an example of an activity within this sector. The household sector is concerned with domestic servitude (Fleming, et.al. 2000).

Ruggiero (1996; 1997) identifies three basic (il)legal markets which are profiting from trafficked persons. These are the legitimate or conventional market economies (restaurants, factories, farms, etc.), the legitimate domestic service economy (households which employ maids) and the criminal economies of the forced sex industry - foremost, prostitution.

2.3.1 Domestic service and conventional market economies

Domestic workers often live with their employers. They have limited private space or privacy and their movement outside of the household may be restricted. Due to their often unregulated work environment and dependence upon the employer, domestic workers may find themselves secluded and in a particularly vulnerable situation. They may be exposed to psychological and physical abuse and maltreatment. The domestic workers are often underpaid and mistreated.¹⁷ "Instances of exploitation, abuse or violence are unlikely to be witnessed by anyone outside of the employer's family" (Rapid Assessment Report, 1999; 16). Fear of losing their job or possibly legal residence in the destination country may force domestic workers to continue remaining in a repressive environment. Another option¹⁸ is to flee the current situation and seek employment in another field. Similarly, illegal migrants working on farms and in factories may face the same conditions if their freedom of movement and contact with external sources is limited.

2.3.2 The illicit sex industry

The boundaries between the three markets distinguished above is not always strictly drawn and it is not uncommon for those working in the legitimate economy or in domestic service to escape unbearable conditions and find themselves in the illicit prostitution or sex industry economy. Research conducted in Germany shows that many servants escape their employee-owner and drift into prostitution (Ruggiero, 1996).

Activities and clubs within the entertainment market vary from 'night-clubs', in which 'entertainers' may, at times, engage in sexual contact with

¹⁶ Prostitution is not an illegal activity in all countries. In a number of countries, voluntary prostitution by adult women is not an offense. In these countries, however, it is typically a criminal offense to force an individual into prostitution or to exploit the prostitution of others.

¹⁷ "Many domestic workers endure fear of being misunderstood, of making mistakes, of being terminated, of offending employers, of being intimidated, of being assaulted verbally and physically and of being raped" (Rapid Assessment Report, 2000, citing page 145 in Cheng, Shu-Ju Ada. "Migrant Women Domestic Workers in Hong Kong, Singapore and Taiwan: A Comparative Analysis". *Asian and Pacific Migration Journal*. Vol. 5, No. 1, 1996, pp. 139-52).

¹⁸ The visa or living permit may be restricted to the performance of work as a domestic worker. To break the contract forces the migrant into the status of being an illegal alien in the country and may subject the individual to incarceration and deportation.

customers, to massage-parlors and full-fledged, full-time prostitution in clubs or brothels. The Coalition against Trafficking in Women argues that the more women who go abroad as entertainers or domestic helpers, the higher the number of victims of prostitution. Entertainment is the main¹⁹ channel of prostitution in Asia. The concentration of Filipino women in the entertainment industry in a number of destination countries places them at risk of exploitation.

In the case of the illicit sex industry, Italian researchers identify three different levels of illicit prostitution: those individual entrepreneurs who are involved in small-scale activities such as running a brothel in a particular area; the second or the mid-level prostitution schemes in which women are controlled by clandestine operations which imported them; the third and most sophisticated level involves large-scale international criminal organizations that are linked with domestic criminal organizations. The women under the control of the third group have no documentation and are kept under tight control (Pomodoro and Stefanizzi, 1996). Profits in this 'industry' are generated for the traffickers as well as for the owners of the brothels in which the women are often bought and forced to work. Profits are often reinvested in the legitimate economy through money-laundering operations.

2.4 Smuggling, Trafficking and Criminal Offenses Linked to these Phenomena

"Smuggling and trafficking are often two sides of the same coin. The organized crime groups that manage the recruitment and smuggling of migrants, are frequently the same groups involved in the exploitation of these migrants abroad. For this reason, persons leaving their country with the assistance of smuggling networks can easily become victims of trafficking. Because of the low risks, and the high income associated with these illegal markets, the size and complexity of transnational organizations profiting from these activities is increasing" (Rapid Assessment Report, 1999; 10).

The smuggling and trafficking of human beings share a number of elements and can be viewed as a process rather than a single offense. The process begins with the abduction or recruitment of a person and continues with the transportation and in the case of transnational trafficking, entry of the individual into another country.²⁰ Here the similarities end. In the case of trafficking, this is followed by the exploitation phase during which the victim is forced into sexual or labor servitude. A further phase may occur, which does not involve the victim but rather the offender. Depending upon the size and sophistication of the smuggling or trafficking operation, the criminal

¹⁹ Rapid Assessment Report (1999) citing CATW (Coalitions Against Trafficking Women) - Asia Pacific. CATW Primer on Trafficking.

²⁰ Entry into a third country is a prerequisite for smuggling. It can occur, but is not necessary for the offense of trafficking. Internal trafficking occurs as well and possibly to an even greater extent in many countries, than transnational trafficking. It is the subsequent exploitation, and not the crossing of international borders which defines the act of trafficking of human beings. However, it must be kept in mind that the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children supplementing the UN Convention against Transnational Organized Crime addresses acts of transnational trafficking OR domestic trafficking perpetrated by transnational organized criminal groups.

(organization) may find it necessary to launder the illegally-obtained proceeds. There may be further links to other criminal offenses such as the smuggling of weapons or drugs.

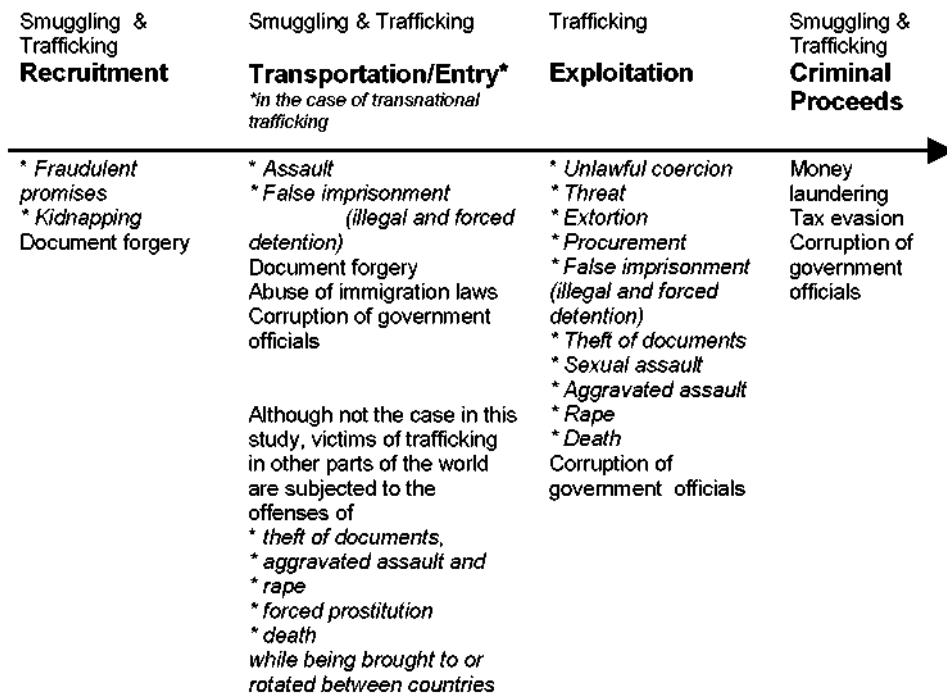
During this process, instrumental criminal activities may be perpetrated by the criminals involved, in direct furtherance of the trafficking activity (Europol 1999). Examples of these crimes are forgery of documents, corruption of government officials and violence associated with maintaining control over victims. Other crimes, such as money laundering and tax evasion, are secondary, and occur as a result of a 'successful' trafficking activity.

A typology can be created to further understand the nature of these offenses related to the trafficking process. The perpetration of crimes can be characterized according to the victim (the individual victim or the State) or in terms of the phase of the trafficking process: recruitment, transportation and illegal entry of the trafficked person, the exploitation phase or the subsequent phase of profit laundering. The numbers and types of offenses are often contingent upon the sophistication of the smuggling and trafficking operation and the criminal groups involved therein. These operations can be as simplistic as the smuggling and subsequent trafficking of an individual by another individual over a border with or without proper documentation by transport vehicle or foot, to sophisticated operations moving large numbers of persons, using forged documents and generating huge profits which must subsequently be laundered.

Trafficking and smuggling may involve offenses against the State such as abuse of immigration laws, document forgery, corruption of government officials, money laundering and tax evasion. In the case of trafficking, other violations are directed against the victims: unlawful coercion or threat, extortion, aggravated and/or sexual assault, rape or even death. Diagram 1 shows the various offenses perpetrated at different stages of the smuggling and trafficking process, while indicating whether the "victim" is the State, or the individual who has been trafficked.

²¹ The phases of recruitment and transportation occur in both smuggling and trafficking cases. The exploitation phase occurs in the trafficking of human beings. The final phase, involving the laundering of criminal proceeds is applicable to both smuggling and trafficking networks.

Diagram 1 The Process of Smuggling and Trafficking in Human Beings and Crimes Related Thereto



Offenses in italics preceded by an asterisk indicate that the offenses are perpetrated against the individual victim.

Seldom is violence exercised during the recruitment phase, except in cases where victims have been kidnapped. During this stage, fraudulent promises are often made to secure the willingness of the victim to leave. It is sometimes during the transportation phase, and much more commonly during the exploitation phase, upon having entered the destination country, that threats and violence are perpetrated against victims. In cases of both labor and sexual exploitation, threats or actual violence are often used to maintain control and prevent the escape of the victim. This may occur in the transportation phase as well.

The aforementioned discussion has examined the offenses perpetrated by the traffickers in furtherance of the trafficking scheme. However, the networks which smuggle and traffic human beings, as well as the victims themselves, have been linked to other criminal activities.

The criminal groups have been known to make use of existing contacts, routes, corrupt government officials and networks in order to expand their operations. A criminal organization may develop "horizontal interdependencies" (Adamoli, et.al. 1998; 17), by establishing connections among different activities. The criminal organization is thus able to diversify and expand its markets. Intelligence sources at Interpol reveal that trafficking in human beings supplements more traditional criminal activities such as drug trafficking, vehicle theft, (Kendall, 1999) trafficking in arms (Savona et al, 1995; Jantsch, 1998), cigarette smuggling (Italy Daily, 2002a) and money laundering. Traffickers have been linked to money lending to repay debts, extortion for protection money and physical violence.

Furthermore, traffickers have been known to coerce their victims into selling drugs (Gunatilleke, 1996; Richard, 1999), organized begging and pick pocketing (Kendall, 1999).

2.5 Networks

Networks have been described as a series of connected intertwined parts. These parts can be computers, individuals or companies. The critical element is that there is linkage between these parts. Networks can vary in size, cohesion and purpose and can be cohesive or diffuse, highly decentralized or centrally directed. The goals may be singular or multiple and may even change over time. Networks facilitate the flow of information as well as goods (drugs or persons) and provide links between supply and demand (Williams, 1998). Similar to the function of a drug-network that links the seller to the buyer of drugs and organizes the move of the drugs from the country of production to the country of sale, the smuggling networks link the persons desiring to be smuggled with the opportunity to be brought illegally from the source to the destination country.

Networks, as a form of organizational structure, have been described by business analysts as being "far superior to traditional hierarchies in terms of organizational effectiveness..." and are thus more "...resistant to disruption and have a degree of resilience that other forms of organizations lack" (Williams, 1998; 154). This is due, in part, to a number of factors:

a structure: networks are often two-tiered. There is a core and a periphery. The core of the network, consisting of persons or organizations densely bonded, provides direction and makes major decisions for the entire network. Bonding may be due to ethnic²² or family ties or shared experiences. The periphery of the network operates to provide services, but their role is less involved. They permit the network to operate more extensively;

b intelligence and counter-intelligence: law enforcement intelligence is combated through counter-intelligence. The effectiveness in (counter-intelligence gathering is often achieved through corruption or infiltration into the law enforcement organization. Information is protected by operating "... in a cellular fashion in which information is compartmentalized or shared only on a need-to-know basis" (Williams, 1998; 157);

c managing risk: this is accomplished through compartmentalizing the activities of the organization, separating the managers from the operators, and providing information to limited persons only when it is needed. "Built-in redundancy" and creating "generalist roles" enables persons to take over the task of others who leave the network;

d diversity: networks tend to diversify²³ and in their interest to increase profits, can forge links with other criminal enterprises.

²² Ethnicity and language make criminal networks often difficult to infiltrate.

²³ This also explains the movement of criminal organizations into other realms such as the smuggling of drugs, persons, weapons or cars.

2.5.1 Roles within smuggling and trafficking networks

There are two detailed descriptions of various roles or units within the smuggling/trafficking networks.²⁴ While there are many similarities, there are some differences. Bajrektarevic (2000a, 19-21; 2000b, 6) discusses the horizontal design of smuggling and trafficking organizations and argues that they are divided into several sub-units that specialize in a particular part or sequence of the operation. All, but two of these units are common to both smuggling and trafficking rings. The exploiting unit and re-escort unit provide "services" to networks dealing only with trafficked persons. The management unit maintains a vertical structure and has knowledge of and controls the other sub-units. All other sub-units are organized horizontally and have very limited knowledge of the other sub-units:

- *management/supervising unit*: this unit drafts, plans, finances, manages, and supervises the whole operation and maintains a criminal structure that is both operable and profitable;
- *recruitment unit*: advertises the organization and recruits new clients through means ranging from the informal (word of mouth) to formal advertisements in the press or internet or the use of travel agencies;
- *escort unit*: responsible for transport from the source countries through the transit countries to the country of destination;
- *corrupted public officials*: although they may not function as an integrated group, their behavior is instrumental in facilitating the smuggling and trafficking networks;
- *guiding/navigating unit*: individuals who know and make arrangements in the local environment;
- *supporting/logistics unit*: this unit provides supporting services such as food and safe houses;
- *debt collecting unit*: responsible for collecting transportation fees and keeping smuggled and trafficked persons isolated in safe houses;
- *exploiting unit*: operates in the destination country and may consist of numerous sub-units involved in various activities (exploitation in prostitution, pick-pocketing, car theft, drug smuggling or begging);
- *re-escort unit*: these units are responsible for "escorting" or rotating trafficked persons (usually those forced into prostitution) between cities or countries.
- Schloenhardt (1999: 217-219) also identifies a number of roles that individuals take on within the organization to provide specific services. Additionally, he addresses the issue of those in the organization responsible for the laundering of money:

²⁴ Excerpts taken from Aronowitz (2001a).

- *investors*: those who put forward funding for the operation and oversee the entire operation. These people are unlikely to be known by the everyday employees of the operation, as they are sheltered by an organizational pyramid structure that protects their anonymity;
- *recruiters*: seek out potential migrants and secure their financial commitment. These people may be members of the culture and the community from which migrants are drawn;
- *transporters*: assist the migrants in leaving their country of origin, either by land, sea or air;
- *corrupt public officials or protectors*: may assist in obtaining travel documents, or accept bribes to enable migrants to enter/exit illegally;
- *informers*: gather information on matters such as border surveillance, immigration and transit procedures, asylum systems, law enforcement activities;
- *guides and crew members*: are responsible for moving illegal migrants from one transit point to the other or helping the migrants to enter the destination country;
- *enforcers*: are primarily responsible for policing staff and migrants, and for maintaining order;
- *debt-collectors*: are in the destination country to collect fees;
- *money-launderers*: launder the proceeds of crime, disguising their origin through a series of transactions or investing them in legitimate businesses;
- *supporting personnel and specialists*: may include local people at transit points who might provide accommodation and other assistance.

What evidence points towards a high degree of organization in the human smuggling and trafficking of persons? Europol (1999) provides the following indications: different nationalities are smuggled on the same transport, a great degree of organization is needed to smuggle large numbers of persons over great distances, large amounts of money change hands, when things go wrong, immediate legal assistance is available. A study of illegal migrants intercepted in Lithuania²⁵ found that they had passed through an average of 3.6 transit countries and that their journey had been 'multi-modal' with an average of four modes of transport used. No migrant had covered the entire journey by the same means of transport.

2.6 Transnational Organized Crime Groups

²⁵ Sipaviciene, A. "New Routes in Trafficking of Migrants: Case of Lithuania", Paper given at the International Conference "International Migration Challenges for European Population", Bari, Italy, 25-27 June; cited in IOM (2000).

Adamoli (et al, 1998; 11) describes organized crime groups as becoming increasingly more flexible and decentralized. This flexible structure and increased cooperation with other criminal groups allows for the prompt re-organization of illicit activities according to threats from law enforcement, demand for services and the number of competitors. The incorporation of small sub-units of criminal specialists, who provide particular services and expertise that might otherwise be outside of the scope of the criminal organization, enables the organization to rapidly adjust to new market opportunities.

This view is shared by Europol. Criminal groups are adapting to the environment, new opportunities and markets. Europol reports that criminal groups are active in a number of different markets.²⁷ Technological advances have facilitated criminal activities²⁸ (counterfeiting and fraud) requiring less specialization than was previously necessary and which have allowed criminals to diversify their activities. Criminal organizations have changed from large, cumbersome, hierarchical entities to smaller, more flexible, horizontal structures. These criminal groups reach informal agreements to work together and Europol is reporting an increase in multinational criminal groups²⁹ active in the European Union.

A number of organizations³⁰ have documented the involvement of organized crime groups in the smuggling of migrants and trafficking of human beings. They fall on a continuum ranging from freelance criminals with ties to organized crime overseas, as is the case with Russians smuggling women into the U.S. to work in the sex industry, to loose confederations of organized criminal entrepreneurs or enterprises, as is seen among the Asian gangs who control the trafficking of women to and in the United States (Richard, 1999). At the end of the continuum are the highly structured, criminal organizations controlling the trafficking process from start to the finish (as is the case with Albanian groups; see Ruggiero, 1996).

Interpol's General Secretariat indicates that there has been a recent change in the structure of trafficking and smuggling. "Whereas in the past, the sex business was in the hands of nationals with a link to suppliers of women, and those groups dealing with women used to restrict themselves mainly to the import of women, new analysis has shown that they now tend to control

²⁶ In February 2002, Italian police arrested a group of 7 Turks and 5 Italians active in the smuggling of migrants into Italy. The Italians, former cigarette smugglers, assisted the immigrants to enter via the Swiss border (Italy Daily, 2002a). Their previous experience in smuggling cigarettes more than likely provided information concerning viable routes.

²⁷ "Europol: criminele groepen zijn op meer terreinen tegelijk actief", *Staats courant*, 18 December 2000; 5.

²⁸ Tax Police in Italy arrested nine people (5 Italians, 2 Moroccans and 2 Nigerians) belonging to an international criminal organization smuggling drugs and then delivering the drugs ordered by email (Italy Daily 2002b).

²⁹ In July 2000, the Dutch police apprehended an international criminal group including 54 Iranians, three Iraqis, two Algerians and a Romanian. They were charged with drug trafficking and falsification of documents. The criminal group, in possession of 265 passports, Schengen visas and other identification papers were believed to also be involved in the smuggling of migrants (*Staats courant*, 2000).

³⁰ These include international and national law enforcement and intelligence-gathering agencies as well as inter-governmental agencies including, but not limited to Europol, Interpol, the U.S. State Department, the IOM, the Global Survival Network (GSN).

the whole sex business chain, including the 'voluntary' prostitution market, in order to maximize profits. Whereas in the past the Lithuanian and Ukrainian traffickers needed to rely on the well-organized logistics and well-defined personnel structure in the countries of destination, they can now run their own exploitation business" (Kendall, 1999; 5). Analytical surveys generated by Interpol indicate that half of the sex business is now in the hands of non-nationals.

2.6.1 *Organized crime syndicates or criminal entrepreneurial networks*

The structure, characteristics and *modus operandi* of organized criminal syndicates varies from that of more loosely structured networks of criminal entrepreneurs to highly structured, stable, hierarchical criminal syndicates, often organized along ethnic lines. These tend to be few in number. In highly structured criminal syndicates, members maintain a criminal identity and are crime generalists involved in various types of illicit business opportunities. The use of violence is not unknown in these circles. In contrast, criminal entrepreneurs are organized in small, loosely structured, "flat" organizations. Members are often involved in undifferentiated roles. They maintain a "business" identity and generally tend to specialize in specific markets. Relationships are influenced by business ties, although even in criminal entrepreneurial networks, relationships built upon ethnic or familial lines may foster ties of loyalty. The dichotomy between organized crime syndicates and networks of criminal entrepreneurs can be seen more clearly in the following table (Clarke, 2002).

Table 1 Characteristics of Organized Crime Syndicates and Networks of Criminal Entrepreneurs

Organized Crime Syndicates	Networks of Criminal Entrepreneurs
Few in number	Many in number
Large	Small
Stable, enduring	Unstable, temporary
Structured	Loosely knit
Hierarchical	"Flat" organization
Differential roles	Undifferential roles
Criminal identity	Business identity
Ties of loyalty	Business relationships
Crime generalists	Crime specialists
Use of violence	Non-violent

2.6.2 *Organized criminal groups in the Asia-Pacific region*

There are several well-established transnational organized crime groups operating throughout the region. The better known of these include the Japanese *Yakuza* and the ethnic Chinese *triads*, based largely in Hong Kong, but also operating in many other parts of the world.³¹

"Ethnic Chinese organized crime groups are said to be involved in the smuggling and trafficking of migrants, particularly from the Peoples Republic of China (PRC), but also from other countries in the region. According to

³¹ Rapid Assessment Report (1999), citing McFarlane, J. "Transnational Crime as a Security Issue" in *Transnational Crime and Regional Security in the Asia Pacific*. Hernandez, C. and G. Pattugalan (eds), Council for Security Co-operation in the Asia Pacific, Institute for Strategic and Development Studies Inc, 1999, pp. 23-57.

Bolz,³² Chinese triads and other forms of organized crime have taken over human smuggling from smaller organizations, because of the low risk and high profits associated with the activity" (Rapid Assessment Report, 1999; 10). Members of ethnic Chinese organized crime are said to be operating in many countries serving as both transit and destination points to include Thailand, Hong Kong, Singapore, Australia and the United States. This information, however, has been contradicted by Zhang and Chin (2001) in a recent empirical study of Chinese smugglers bringing persons to the United States. These researchers report that smuggling rings often comprise members of a family or close social circle and that the smuggling organizations more nearly resemble 'ad-hoc task forces' assembled for specific operations. Smugglers get to know each other through informal social networking. Alliances are temporary and partnerships are formed and dissolved once they have fulfilled their purpose. 'Human smugglers are not connected with traditional triad societies, although individual members of traditional organized criminal groups may participate in the business' (Zhang and Chin, 2001; 36).

The Japanese *Yakuza* have also been involved in various criminal activities, including human smuggling and trafficking. According to Adamoli, et al:

The *Yakuza* maintains a significant presence throughout much of South-East Asia, where Japanese criminals have become a major organizing force in the sexual slavery of women (Adamoli, et al., 1998, 79).

There are suggestions that the *Yakuza* is branching out into the Peoples' Republic of China. *Yakuza* have been implicated in the smuggling of Chinese workers into Japan for cheap labor, and in the smuggling of women from the Peoples' Republic of China, Taiwan and South-East Asia into Japan to work in the sex industry.³³ It appears that there might be links between Japanese organized crime and ethnic Chinese organized crime, at least in Korea (Adamoli, et al., 1998; 81) and Taiwan (Bolz, 1995; 149)." (Rapid Assessment Report, 1999; 11).

Not all crime operations are spearheaded by well-established, highly organized crime groups. Smaller networks and individuals cooperate and provide varied services to one another including the falsification of documents, organization of travel, and the corruption of airline or government officials at points of departure and arrival.

2.7 Current Situation Involving Trafficking of Filipino Citizens

Within the context of the UN Project *Coalitions Against Trafficking in the Philippines - Phase 1*, interviews with government officials³⁴ in the

³² Citing Bolz, J. "Chinese Organized Crime and Illegal Alien Trafficking: Humans as a Commodity". *Asian Affairs*. Vol. 22, No. 3, 1995, pp. 147-58.

³³ In April 1993, three members of the Yamaguchi-gumi, the largest Japanese gang, were arrested in Kumamoto Prefecture while attempting to smuggle 145 Chinese into Japan (Adamoli, et al., 1998; 80).

³⁴ Interviews were held during a mission to the Philippines in September 2000 with high ranking government officials from the following departments: Bureau of Immigration, Interpol, National Bureau of

Philippines point to the fact that the government is mostly concerned with the welfare of women who have been trafficked to Japan and exploited in the sex industry. There are indications that these women are falling under the control of Japanese organized crime (Heazle, 1993). Case file studies, however, reveal that a large number of Filipino women are falling prey to traffickers in Korea.

The Philippines Center for Transnational Crime (PCTC) reports, however, that Japan is no longer a favorite destination for Filipina "entertainers" and only half of the 150,000 entertainers remain in Japan. The other half seeks employment in Canada, Nigeria, the Middle East and other countries (Cascolan, 2000). Other reports indicate that while the Middle East had been the traditional destination of Filipino workers in the past, the trend has changed in recent years and as of September 1999, Asian countries account for five out of the top 10 destinations of Filipino migrant workers (Paredes-Maceda, 2000).

Interviews with officials from the Australian, Italian and US Embassies confirm that these are not destination countries for trafficked Filipinos. Research conducted in Australia and Western Europe support their claims. Immigration and Naturalization Service Investigators from the US Embassy in Manila and INS Headquarters in Washington, D.C. confirm that while Filipinos are entering the U.S. illegally (smuggling), they are not becoming the victims of trafficking. A lack of Filipinos in statistics of trafficked victims was also supported by data from the Europol Report on Trafficking in Human Beings (Europol, 1999) and information reported by NGOs providing services to trafficked victims in Belgium. The director of the Philippines-Belgian *Pilot Project against Trafficking in Women* confirmed that the project had probably contributed to the decrease in trafficking of Filipinas since the completion of the project.³⁵

Trafficking of Filipinas to destinations in South-East Asia, and their subsequent exploitation, continues to remain a problem. Four surveys carried out within the framework of this study provided data on 208 victims. Destinations to which 5 or more persons were trafficked, included Korea (87), Malaysia (55), Japan (42), Nigeria (10), and Abidjan, Côte d'Ivoire (5). This points to the need for liaison between the Philippines and her close neighbors and other destination countries with respect to protecting Filipino workers in these countries.

2.7.1 The Philippines as a Transit and Destination Country

Former boundaries between countries of origin, transit and destination are becoming more diffuse. Traditional countries of origin are being used more frequently as transit and destination countries. Some are all three (Kelly and Regan, 2000).³⁶ With the frequent rotation between countries of young

Intelligence, Commission for Filipinos Overseas, Philippine Overseas Employment Administration and the National Police Commission.

³⁵ Email received by UNICRI project officer from Professor Brice de Ruyver at the Ghent University in Belgium, author of the report, 14 June 2001.

³⁶ This situation is evident in Kosovo where Albanian criminal gangs traditionally abducted or lured young women to Italy and further into Europe and forced them to work in brothels. With the arrival of peace-

women who have been trafficked, it is becoming more and more difficult to determine which are the transit and which are the destination countries.

There is some indication of a link between sending and receiving countries. These links are influenced by a number of factors, such as the traffickers use of the local language, key locations or weaknesses in border or migration control (IOM, 2000) or the ease in crossing borders (Kelly and Regan, 2000). Other determining factors are the presence and tolerance of an extensive sex industry, historical/colonial links between countries (Kelly and Regan, 2000) and the existence of a large immigrant population.

Traditionally the Philippines has been thought of as a source country, or the provider of migrant workers who are trafficked to other destinations. Can it, however, also be a country of transit or destination? Indications from both Philippines Bureau of Immigration officials as well as Embassy representatives from other countries indicate the increasing use of the Philippines as a transit and to a lesser extent, a destination country for persons smuggled and trafficked from the People's Republic of China. Another Embassy official reported³⁸ expanded activity by Russian organized crime groups who are increasingly trafficking Russian women to the Philippines for use as prostitutes.

The Philippines National Police (*Human Trafficking Situation*, September 2001) report that Nauru-Chinese are using the Philippines as a transit route to bring persons from the Peoples Republic of China to other destinations. The scheme involves a "nationality switch". Nauru-Chinese with Nauruan passports are eligible to enter the Philippines without a visa. Nauruan syndicates bring Chinese nationals from their country to Nauru to provide them with Nauruan or Kiribati passports. Chinese with these passports enter the Philippines and from there may then travel to and enter the U.S., Canada or Australia without a visa.

While Immigration officials are concerned with the illegal entry into the Philippines of Chinese and other foreign nationals, and measures are taken to rigorously control documents at the NAIA International Airport, little is being done to investigate the degree of trafficking and exploitation of Chinese or other nationals in the Philippines.

2.8 Summary and Conclusion

This chapter has examined the definitions recognized by the United Nations Convention against Transnational Organized Crime as well as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air, both supplementing the Convention. The discussion focused the differences between trafficking and smuggling and then provided a description of the markets in which trafficked victims are often forced to

keeping missions in Kosovo, gangs began setting up brothels filled with trafficked women to provide services to the foreign peace-keepers (Kenety, 2000; Stop-Traffic 2000).

³⁷ Interview during mission, September 2000 and 2001.

³⁸ Interview with an Embassy official during mission September 2000 and September 2001. Official spoke on condition of anonymity.

work. Smuggling and trafficking were examined as a process during which other offenses were perpetrated against individual victims or the State. A further focus was put on the criminal organizations that exploit victims. The roles within trafficking organizations were defined. The current situation in the Philippines as a transit and destination country were discussed. The following chapter turns to a brief description of the research instruments and methodology.

3.

RESEARCH INSTRUMENTS AND METHODOLOGY

CHAPTER 3 RESEARCH INSTRUMENTS AND METHODOLOGY

3.1 Research Instruments

UNICRI has designed standard research tools that could be used, with limited modifications based upon situational and cultural variables, for all projects within the framework of the Global Programme against Trafficking in Human Beings that have a research/assessment component. Toward this purpose, four instruments were designed. As much as possible, the questionnaires contained closed-ended questions to facilitate coding and analysis. In almost all questions the option "other" allowed respondents to give answers that were not provided in the categories offered. The structure, content and strengths and weaknesses of the survey instruments will be described below.

3.1.1 *Victim Survey*

The initial instrument utilized with repatriated Filipinos was designed by UNICRI with input from the Australian Institute of Criminology and the Institute for Strategic and Development Studies. The survey instrument administered to smuggled persons and trafficked victims comprised 49 items or questions and addressed the following topics: personal and demographic profile (gender and age); costs of being trafficked/smuggled and debts incurred in the process of recruitment and deployment or departure; recruitment practices; routes and experiences during travel; the extent of exploitation abroad; the involvement of organized crime groups and networks; government connivance and corruption; and reporting practices.

During the analysis of the data, UNICRI identified weaknesses and limitations in the victim survey questionnaire and introduced substantial improvements in the subsequent revised version of the research instrument. A second, more refined instrument was created and this one was utilized in Japan and Malaysia. This instrument, addressing the same topics, but in more depth, contains 73 questions.

3.1.2 *NGO survey*

The NGO survey, administered in the Philippines, consists of 29 items. NGO representatives were asked questions concerning the following issues: organizational and operational profile; clients and/or beneficiaries; the extent of their work with as well as assistance to trafficked victims and smuggled persons and the services most needed by trafficked victims; and coordination with government agencies as well as with other NGOs.

3.1.3 Criminal Justice Expert Survey

Two variations of this survey were developed: one for the Philippines (source country) and one for Japan and Malaysia (destination countries). It was felt that law enforcement and criminal justice experts in the source country might have more insight into recruitment practices, whereas their counterparts in the destination country might be able to provide more information on the exploitative practices. While there are minor differences in these two survey instruments, an attempt was made to have as much overlap as possible between the two questionnaires.

The survey instrument used in the Philippines comprised 74 questions, while the instrument developed for use in Malaysia and Japan comprised 64 questions. The topics addressed in these instruments are: routes and experiences during the travel, coercion, deception and exploitation, other criminal practices, criminal earnings, the involvement of organized crime, law enforcement and criminal justice responses, government connivance and corruption.

3.1.4 Checklist for the Analysis of Case Files

UNICRI also created a checklist for the analysis of case files. The checklist is a modified version of the checklist originally developed by the Research and Documentation Centre (WODC) of the Dutch Ministry of Justice to analyze justice case files for the Organized Crime Monitor.³⁹ This checklist is being used in an EU-funded "Falcone" project on organized crime and is set to become the standard instrument for analyzing police and prosecution case files of organized crime involving offenses such as drug and arms trafficking, human smuggling and trafficking.

The UNICRI checklist was revised slightly to focus on the crimes of smuggling and trafficking of human beings and mirrors the same categories and variables contained in the questionnaires being used in research projects within the larger study. It contains sections focusing on the following topics: victims (their experiences with recruitment and exploitation), offenders (demographic variables and their role within the organization), criminal organizations (nature, practice and *modus operandi*), contacts with the licit and illicit environment, routes taken, costs and proceeds of the criminal activity and case data.

3.2 Strengths and Weaknesses of the Research Methodology

The research relies heavily upon data generated from victims in order to analyze first-hand accounts of trafficking experiences. Victims willing to participate in the study were difficult to identify, thus the number of persons participating in the study is limited to 77 persons spread over the three countries. Furthermore, because "victims" were referred by NGOs, which do

³⁹ This checklist was adapted from one that was developed by members of a parliamentary inquiry commission in the Netherlands to examine the role of police investigative methods and organized crime (the Van Traa Commission). For more information see Kleemans, et. al. (1998).

not make a distinction between trafficked persons and other persons who later, due to their illegal status in a country, find themselves in exploitative situations, it was sometimes difficult to determine from the survey instrument alone, whether the victim was truly trafficked. Two victim-respondents had to be removed from the survey as they were neither the victims of trafficking nor smuggling. An additional problem was the reliance upon victims who had returned to the Philippines, some as many as ten to twenty years prior to their agreement to participate in the study. This time-lag certainly impacts upon the memory of the respondent and thus the veracity of the data.

Once victims were willing to share their experiences with the researchers, the survey and personal history of some of the victim-respondents in the Philippines and Japan provided a wealth of additional information. The question remains how much detailed information individuals are able or willing to provide about their criminal contacts and the networks which traffic and exploit them. This information can, at best, be pieced together based on individual answers provided, and should then be supported by law enforcement intelligence sources.

Trying to single out detailed information on trafficking patterns and the involvement of organized criminal networks involved in the trafficking (only) of Filipinos proved to be a problem.⁴¹ The Criminal Justice Experts survey required that justice officials in destination countries provide information only on Filipinos, to the exclusion of other groups, and this proved difficult, if not impossible. This additionally limited the number of case files available for study.

The methodology relies heavily upon information provided by trafficking experts in source, transit and destination countries. Identifying trafficking "experts" in countries which neither have trafficking laws nor are signatory to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime will remain a challenge. Trafficking is still viewed in many countries primarily as an immigration violation, particularly in the case of those individuals who willingly travel abroad fully aware of the risks of their (sometimes illicit) behavior. Much of the expertise in destination countries is found within the Immigration Department where information may be available on the criminal networks involved in people smuggling. The victim exploitation element, however, may have been (is often) overlooked. This will require research teams to be more "creative" in identifying government experts and case files in their own countries.

40 The individual, who was identified as a trafficked victim by the NGO which referred her, presented an interesting and tragic case. She entered the country legally, married a national with whom she had a son. The marriage dissolved leaving her in the country illegally. She was arrested in a police raid on a club, was jailed as an illegal alien, allegedly raped while in police custody and finally deported. She has never seen her son again. While, for the purposes of this study, the case was removed from the sample, it does highlight the dangers faced by illegal migrants and their need for support services offered by NGOs.

41 An attempt was originally made to conduct a part of this research in Thailand. A well-respected researcher at one of the universities there refused to conduct the research given the limitation that the research focus only upon the use of Thailand as a transit or destination country of trafficked Filipino victims.

3.3 Summary and Conclusion

Research in the field of trafficking in human beings is new and faces more challenges than research into more traditional types of crime (victims are less willing to share their experiences, there is a lack of government focal points and many countries lack anti-trafficking laws therefore, trafficking cases are often classified as other types of offenses). It may therefore be necessary that more time be allotted to the collection of trafficking data than in more traditional and non-controversial types of crimes. While it is possible to conduct research on trafficking in human beings and the involvement of organized criminal groups in these activities, it requires determination, creativity and a continued commitment of resources.

The UNODC Global Programme against Trafficking in Human Beings (GPAT) has made an important contribution in designing and testing its research instruments and methodology. This project has identified strengths and weaknesses in both the instruments and data-gathering techniques. While the instruments should serve as models in studying the phenomenon of trafficking in human beings in GPAT programs, it will be necessary to introduce modifications depending upon specific situations, demographics of victims and possible cultural and historical variables in different countries or world regions.

Once the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime has been ratified and countries have introduced anti-trafficking legislation, data collection should become easier. Further research should lead to the improvement of the UN research instruments and methodology resulting in more refined data. This in turn will contribute to improved concrete measures being taken to fight the trafficking problem.

4.

**EVALUATION: WHAT HAS
BEEN LEARNED FROM THE
STUDY**

CHAPTER 4

EVALUATION: WHAT HAS BEEN LEARNED FROM THE STUDY

This chapter will be divided into two main sections. The first section (4.1), summarizes the trends which emerged from analyzing the substantive issues gleaned from the interviews and analysis of case files: the recruitment practices, routes and experiences during the travel, exploitation, victims' involvement in other crimes, the involvement of organized crime, government connivance and corruption and criminal justice responses. The second, section (4.2), deals with problems encountered in the data collection phase. Suggestions to address or overcome these problems in future research will be presented in chapter 5.

4.1 Substantive Issues

It became clear during the course of the study, that the experiences of trafficking victims in the different countries varied widely as did experiences and attitudes of government officials towards trafficking victims in different countries and different parts of the country. Limiting the study to either one country or area of the country, or to either government experts and case files or to victims, would have provided only a piece of the puzzle. Only a broad approach utilizing different sources could provide a clearer picture of the trafficking phenomenon. Having now had the opportunity to study official case records and to interview both criminal justice experts and victims in the Philippines, Japan and Malaysia, certain trends with respect to substantive issues appear. These are discussed below.

4.1.1 *Demographics of trafficked victims*

While all but two of the victims in this study are women, this can be attributed to the fact that the study largely focused on exploitation in the sex industry. Had research activities been extended to labor exploitation in factories, farms or other sectors in which men are more commonly employed, there may have been a higher percentage of male trafficked victims identified.⁴² Another possible explanation for the overwhelming percentage of women in this study may be attributed to the fact that women are more willing to seek the assistance of NGOs than men. Statistics involving smuggled persons show more of a gender balance.

The age at the time of interview varied widely, however most women at the time of their first departure to work abroad were in their early twenties (21-22 years). The Philippines, Japan and Malaysia studies indicated that eight girls were under the age of 18 at the time they first left the Philippines to work abroad.

⁴² In fact, the two male trafficked victims were exploited as farm workers.

The Philippines and Japan victim data show that women make multiple trips abroad and generally stay for short periods of time. Of the 48 women in the Japan and the Philippines sample, 29 (60%) had traveled abroad more than once.⁴³ Seventeen women (22% of the sample) had made three or more trips abroad (one respondent traveled abroad seven times, one traveled abroad 8 times). The Malaysia sample deviated from this pattern. All victims had been abroad only once at the time of the interview, and were, on average, younger than the victims in the Philippines and Japan sample. The possibility exists that these women (who had traveled to Malaysia) will travel abroad again at a later point in time.

If one examines the time spent abroad and considers the entire sample of 85 responses,⁴⁴ 57 (67%) spent between one and eleven months abroad. It appears that this short time frame, often as short as three to four months, is linked to the work contract. When the contract is finished, the women return to the Philippines. However, it must also be noted that 11 persons (13%) had spent more than 48 months in the destination country. Of these, the large majority (8) were still in Japan.

4.1.2 Recruitment practices

All of the victims in all of the studies left the Philippines willingly. The place of recruitment varies per study. In the Philippines victim study all respondents were recruited in highly urbanized and major population centers. This may be due to the fact that interviewees returned to the place from which they were recruited and were living in urban centers when interviewed. This data conflicts, however, with findings from the Italy and Japan studies where individuals were also recruited from rural areas.⁴

In looking at the 85 instances of recruitment (in the Philippines victim survey and the studies in Japan and Malaysia), the majority of respondents (n=68 or 80%) stated they were actually sought out by the recruiter. In 14 others instances, the respondents sought out the recruiter; in Malaysia, 3 women responded to advertisements. Criminal justice experts in the Philippines report that the recruiters are often women. This was the case in the Italy study as well. However, this information was not available in the other studies.

A large majority in both the Philippines victim and Japan study (n=43 or 77%) were contacted through intermediaries that included family members,

⁴³ These statistics are roughly the same if one examines the number of multiple trips made by the Japan and Philippines samples separately.

⁴⁴ This figure includes three individuals in the Philippines sample who provided such detailed data on individual trips that they were recoded into separate responses bringing the number of 77 victims to 85 trafficking incidents.

⁴⁵ More than half of the respondents in the Philippines victim survey (n=20) were recruited from the Metro Manila Area. Three (3) were recruited in Cebu City (Central Philippines) and the remaining six (6) were recruited from the Southern Philippines (5 were recruited from Davao City and 1 from Zamboanga) (ISDS report, Tigno, 2001). In the data on smuggled Filipinos coming to Italy, of the 691 persons on whom data were collected, only 53 came from the Metro Manila area, while 397 were recruited in Southern Luzon and 129 in Northern Luzon (UNICRI report, Aronowitz, 2001b).

friends and/or acquaintances known to the respondent or the family.⁴⁶ This is often done through word of mouth. In both studies a large number (n=15) were also contacted through job agencies. A small number were recruited by formerly smuggled or trafficked persons. Of the 56 respondents (Philippines victim and Japan study), almost half (n=27) were recruited at home or within the vicinity of the neighborhood/community. Some (n=12) were recruited in their place of work, while another popular recruitment place was at a bar/restaurant/hotel (n=10). The recruitment stage is a crucial point in the trafficking/smuggling process in that it reflects the extent to which the victim trusts the recruiter. When family members, friends or acquaintances facilitate the contact, as is indicative in a majority of cases, it is easy to understand how the victims are so trusting and easily deceived.

The initial recruitment is often done by Filipinos or in some cases married couples of which the recruiter is a Filipina and the husband, a national of the country to which the women will eventually be sent; the final selection is often done by nationals who run the clubs and travel to the Philippines for the selection of the women. In the case of the smuggling ring bringing Filipinos to Italy, the Filipina recruiters traveled from Italy to the Philippines to either arrange the travel "booked and paid for" by Filipino family members already living in Italy or to look for persons interested in making the journey.

4.1.3 Routes and experiences during the travel

All persons traveling to Japan and destinations other than Malaysia, left the Philippines by plane, generally via the NAIA International Airport in Manila. This is followed by those using the Zamboanga ports in the Southern Philippines who travel by sea to Malaysia. According to Philippine Government experts, the international airport at Cebu was the third most popular point of departure.

On average, trips, from point of departure in the Philippines to arrival in the destination country, lasted a matter of hours and were generally restricted to the flight and possible transportation by car or van to the final destination if this was a city or town other than the point of arrival. These victims were not exposed to dangerous situations - other than the risk of getting caught with fraudulent documentation. The same cannot necessarily be said of those persons traveling by small boat via the "Southern Backdoor" to Malaysia. On occasion, they experienced dangerous situations. According to government experts in the Philippines, about 71% of smuggled and trafficked persons are transported by air, through regular commercial flights, and 29% by sea, via big sea vessels, pump boats, speed boats and even fishing boats.

Because the destination country was already identified in the Japan and Malaysia samples, information contained in the two studies in the Philippines reveal more about destinations. From data generated on 160 persons in victim surveys and case files in these two studies, Korea is the top destination country (n=87 or 54% of the sample). This is followed by Malaysia (n=26 or 16%), Japan (n=23 or 14%), Nigeria (n=10 or 6%) and Abidjan, Côte d'Ivoire (n=5 or 3%). The remaining 9 persons in the

⁴⁶ Fifteen (15) of 19 respondents in Japan and 28 of 37 responses in the Philippines victim survey. Data was not provided in the Malaysia study.

Philippines victims survey went to the following destinations: Hong Kong (3), Saudi Arabia (2), Saipan (2), Bahrain (1) and Kuwait (1).

Little information on transit countries is available as many of the victims flew directly to Japan or traveled directly by plane or boat to Malaysia. There is no indication in the Japan, Malaysia or Philippine victim studies of long stays, abuse or exploitation in transit countries. The amount of time spent in a country points to the fact that the "transit countries" were stopovers on a long flight. There is no indication that the women spent any significant amount of time in the countries, as the women were often traveling with a work contract. According to government experts in the Philippines, Bangkok, Hong Kong, and Kuala Lumpur are the most commonly used transit points for those exiting the Philippines. In the Government case files in the Philippines, those traveling to Korea, often pass through Bangkok or Hong Kong before going to Korea.

Data analyzed by the Department of Foreign Affairs on the illegal entry into Italy by Philippine nationals indicates that cities within Schengen countries are the most popular. Barcelona, Milan, Paris and Frankfurt are listed as top transit/entrance points. In another study, Hungary and Slovenia were used as transit countries to bring smuggled Filipinos into Italy. The trip lasted from weeks to a few months.

Further with respect to routes, there appears to be an internal movement (often from the place of recruitment to the place of departure) and longer stays within the Philippines prior to departure. This varies from a few days to weeks. This may have to do with the 'training' that women often undergo prior to departure.⁴⁷ Safe houses are sometimes used in the Philippines during the training session and in the destination country once the women have arrived and have begun their employment. While in transit, women often stay in (luxury) hotels. Once in the destination country, a different pattern emerges and women are often controlled and guarded in their residences. In the Japan study, three women were kept in safe houses in the Philippines only, while six were kept in safe houses in both the Philippines and in Japan. An additional four were kept in safe houses in Japan only. All 26 women working in the entertainment center in Sabah, Malaysia were kept guarded in their quarters and escorted to and from work.

4.1.4 Use of fraudulent documents

Fraudulent or manipulated documents were often used in both smuggling and trafficking cases. This applies to both the passports as well as to supporting documentation (such as birth or marriage certificates) to obtain the passports. Often valid passports of a third person were used and were falsified through photo substitution. This was not always the case, however,

⁴⁷ Data in the study provided limited information on routes. It is not clear from the data if a city located within a Schengen Member State was the point of entry into the Schengen area. By the same token, it was unclear how an individual entered Italy when "Bangkok" or "Ho Chi Min City" is listed as the "route". It appears that certain cities or countries were listed as transit points rather than entry points.

⁴⁸ The training often involves lessons in singing and dancing, leading the women to believe that they will be employed as entertainers in the destination country.

as a common means of obtaining entry into a country is to use a tourist visa and simply violate it or overstay the visa and obtain work.

Philippine Government experts were able to provide estimated costs for the procurement of various (fraudulent) documents to specific destinations. For a passport, visa and related documentary requirements, the purchaser could expect to pay the following:⁴⁹ USA (US\$3,000-US\$6,000), Europe (Schengen Visa) (US\$4,000), Italy (residence permit) (US\$5,000), Japan (US\$3,000), Korea (US\$400).

Of the total number of trips abroad (n=56) in the Japan and victim survey in the Philippines, a large majority of the sample (n=40 or 71%) reported using false documentation.⁵⁰ As persons sometimes reported using more than one form of fraudulent documentation (passport as well as supporting documentation to obtain the passport), the number of fraudulent documents used (n=51) exceeds the number of persons claiming to have used them. Two persons reported using fake passports, while the majority (n=28) reported using tampered passports. The remainder (n=23) used various forms of supporting documentation to include tampered birth certificates, false marriage certificates, police/National Bureau of Intelligence clearance or legal capacity to marry. It is unclear, whether persons claimed to use a false passport because the passport was based on false documentation.⁵¹ The data, with respect to the use of fraudulent documents is difficult to interpret.

Australian experts provided data on the cost of fraudulent documents. A visitor visa application with a package of false documents may range from PhP50,000 (US\$1,000) - PhP200,000 (US\$4,000) (including airfare); a fraudulent Filipino passport (photo-substituted) may sell for between US\$2,000-US\$4,000; counterfeit passports from other countries are more expensive, e.g., US\$10,000-US\$20,000.

Filipinas trafficked to Japan paid varying amounts for the fraudulent documents, but generally the price ranged between approximately US\$300 and approximately US\$2,000. According to a Filipino Community worker from an NGO in Japan, there is a substantial illicit trade in passports. A "Low Interest Loan" scam has been designed to secure passports. Tagalog advertisements have been placed in the Filipino community newspaper in Japan, advertising 'low interest' loans. To secure a loan, applicants must leave their passport with the lender, and advise of the approximate amount of time it will take them to repay the loan. The community worker suggested that the loan scheme is run by the Yakuza, and that while the passports are being held, they are used to get Filipino women into Japan, and to assist overstayers to leave. Japanese Immigration officials also believe this to be the case.

⁴⁹ Figures are approximations and were provided in Philippine Pesos. The Peso is valued at approximately PhP50 to US\$1.

⁵⁰ Some individuals used legitimate documentation to enter the country, while others, traveling to Malaysia from the Southern Philippines, did not use any type of documentation whatsoever.

⁵¹ It may be that the passports are legal and legitimate but incorrect because they are based upon inaccurate information in the supporting documents.

What is clear from this research is that forged and tampered documents are being used and are generating huge profits for the networks that produce them. The Philippine Government Department of Foreign Affairs has pursued a rigorous campaign against passport irregularities introducing the use of machine-readable passports and visas (Paredes-Maceda, 2000).

4.1.5 Costs and debts

Most of the respondents incurred a debt to the recruiter or smuggler. Of the total (n=85) number of incidents in the 3 victim studies, 74 persons (87%) incurred a debt to the smugglers/traffickers, while 8 'paid everything upfront', 1 incurred a debt to the family and 2 did not incur a debt in the Japan study, but were subjected to other forms of leverage which prevented them from leaving.

Debts and upfront fees varied considerably. One of the determining factors is the destination country. Government officials in the Philippines report that cost for travel or recruitment services to developed countries are higher than to developing ones. Costs also vary according to distance, and payment for travel/job placement in Europe is much higher than that in Asian countries. Costs per selected country (which often includes procurement of fraudulent travel documents, passport and entry visas) are estimated at: USA & Canada (US\$4,000-US\$8,000), Australia, Italy (US\$2,000-US\$5,000), other European destinations (US\$2,000-US\$6,000), Japan (US\$1,000-US\$3,000), Korea (US\$400-US\$2,000), Malaysia (US\$20-US\$160).

In the Malaysia study, trafficked victims paid approximately RM 4,500 (US\$ 1,185 for the cost of transportation and job placement; this was deducted from the monthly salary of the women after they assumed work. The three women who were smuggled into Sabah from the Southern Philippines paid between PhP7,000 (US\$140) and PhP9,900 (US\$200). A senior law enforcement officer in Sabah estimated, based on investigations involving 2,710 women that, in general, Filipino women were indebted by between RM3,300 (US\$870) and RM4,500 (US\$1,185) for their travel and job placement. The difference between that paid 'only' to be smuggled, and the debt incurred when a woman is promised a job can be clearly seen in these figures.

The data presented in the UNICRI study involving smuggling activities to Italy confirm that the average price to be brought to Italy is US\$4,000-US\$5,000, although it may be higher. Estimates by the "District Anti-Mafia Investigation Division" of Trieste Prosecution office place the total paid by Filipinos to be smuggled into Italy as high as US\$13,500. The procurement of fraudulent documents and additional costs incurred for safe houses in transit countries may determine the variance in price. Debt schemes in Japan were complex. Women incurred debts ranging from a low of US\$800 to a high of almost US\$7,000.

It is difficult to determine exactly what this debt comprises. Prices may fluctuate due to cash advances made to the victims' family, the procurement of fraudulent documents or payments for safe houses or hotels. Other additional costs are arbitrary. It is therefore difficult to determine exactly how much money is paid separately for fraudulent documents, as often the price quoted is for the "entire package" including airfare and work placement.

Furthermore, it is also unclear exactly when debts are paid and women are free to leave. After the initial debt has been paid, the women are often charged additional costs for housing, transportation, drug use (often forced upon the victims) or payment to corrupt police officials.

4.1.6 Deception and exploitation

Victims of trafficking are deceived about a number of things prior to their departure from the Philippines. These include deception in terms of the nature and conditions of work, living conditions, salary and allowances and debt. Government case file analysis in the Philippines reveal that 117 persons (95%) complained of being deceived about the nature of the work such as being told that they would perform as entertainers or hotel chambermaids, or work in restaurants or bars but ended up working in the sex industry. Similarly, over 97% of the sample (n=120) were deceived about their working conditions, such as having to maintain a quota of customers and drinks, long working hours, having to clean up the club after work, having to pay bar fines and work when they were sick.

Half complained of deception with regards to salary and allowances (no salary, salary less than what was promised or paid late, extensive deductions), while a small percentage (12%) complained of inadequate living conditions (inadequate food supply, small space, etc.) and other human rights violations (locked up, guarded, no medication when sick). The government case file data is supported by the victim studies as well. In Japan, 15 women (80% of the sample) complained about being deceived about the nature of the work, while 14 complaints were lodged about deception involving the conditions of work. Other complaints involved deception about the destination countries (n=4), immigration rules in destination countries (n=3) or living conditions in destination countries (n=3).

Analysis of government case files in the Philippines indicates that of cases involving 132 victims, 15 persons were promised work, but no work was forthcoming; two women were forced to become hostesses, and the remaining 115 women were promised jobs, many as waitresses and entertainers, and ended up in a position which often required nudity or forced prostitution. This scenario is repeated in the Philippines victim survey and the studies conducted in Japan and Malaysia. In Japan, a large number of the women (11) were promised jobs in restaurants or bars, but the majority (17) ended up working as sex workers. All 26 victims working as sex workers in the club in Sabah, Malaysia were promised jobs as cashiers in supermarkets. The picture was similar in the Philippines victims survey. Women were offered jobs in the "entertainment" sector (as dancers, singers, strippers) and many were forced into sexual contacts with customers.

4.1.7 Coercion and violence

Coercion, similar to deception, took on a number of forms. This varied from threats to stop payment to the victim's family, threats to report the victims to immigration officials, the seizure of the victim's documents, non-payment of wages, to threats against the victim's family, threats and the use of physical and sexual violence against the victim. Exploitation and coercion almost

always took place in the destination country, although victims' movements may have been restricted in the Philippines prior to departure.⁵²

Physical violence was directed solely against the women, and never at their families, however in a limited number of cases threats were made against the victim's family. In the Japan study, threats were made to withhold payments to the victims' families (n=4). In 2 cases, the women reported that their husbands threatened to take away their children. Coercion against the victim ranged from moderate, involving the confiscation of passports and travel documents (reported by most victims in the Philippines, Japan and Malaysia studies), to more severe forms.

In the Philippines victim study, 23 women were the victims of actual physical or sexual violence, while 4 more were the victims of threats and 7 were restrained against their will. It is not clear from the interviews whether or not the women were victimized by traffickers, club owners or customers. Women in the Japan study (n=12) reported being threatened with violence by smugglers/traffickers in Japan. Eight reported that their smugglers/traffickers had been physically violent, while 7 women reported sexual violence by their smugglers/traffickers. Five (5) reported restricted movement and 2 reported restricted communication and confinement. Employers in Japan exercised the most frequent use of physical violence against the victims. Thirteen (13) women reported having experienced physical violence while 5 respondents reported having been the victim of sexual violence (4 of these were also victims of physical violence). Physical violence was not used to control the women in Malaysia, however their freedom of movement was restricted and they lived in constant fear of being reported to immigration authorities.

It is clear from this study that women are held, manipulated, controlled, threatened and physically and sexually harmed during at least their initial period in the destination country. This period is directly tied to the debt that they incur for the journey to the destination country and the work provided. It appears from the Japan, Malaysia and Philippines victim surveys that original debts are usually paid off within a relatively short period of time (generally 3 to 6 months). After that period, many restrictions are lifted and some of the women are free to leave, while others are further exploited and indebted (for drugs they may have been forced to use at the club, forced payment to police officers to avoid arrest and deportation, rent, food, housing, etc.) and must continue working for the club. This is perhaps the pivotal point between women who continue to remain in debt bondage as trafficked victims and those who are free to leave but choose to continue working, albeit under inhumane and exploitative conditions, to continue supporting families back in the Philippines.

4.1.8 Victims' involvement in other crimes

⁵² In a case file located at the Philippines Center on Transnational Crime (PCTC), 331 young female recruits were locked up in a recruitment agency house in Taguig, the Philippines supposedly for pre-departure training. The women were recruited from Mindanao to work as entertainers in Japan. They had been detained for almost three months before being rescued by Philippine police.

Victims reported forced but limited involvement in various criminal activities in the furtherance of profits for the traffickers and exploiters. Foremost among these activities reported by women in the Philippines victim and Japan sample (n=56) is prostitution (13 women). Prostitution and drug use combined account for 10 responses. Drug use appears to occur frequently. This was found in the Malaysia sample as well, where all 26 victims reported using drugs (4 of them regularly took ecstasy pills).⁵⁴ What is not clear is the motivation for consuming drugs or if the drug use is always forced upon the victims - perhaps as a way to dull their senses, enhance their performance or generate a higher debt to the club owners.

A number of women in the samples admitted to being forced to administer drugs to or spike the drinks of other women working in the clubs. One Filipina was forced to import or transport drugs (the woman reported that she transported drugs on three different occasions) while according to government case files three men were also given drugs to smuggle into Korea.⁵⁵ Recruitment of other Filipina women to work in the clubs was also reported in the Japan study. While drug transport appears to be extremely limited, the sale or dispensing of drugs within the club appears to be more widespread. There was an isolated case of diamond smuggling. Beyond these activities, most of which revolve around the "entertainment" within the clubs, there are no indications of other forced criminal activities.

4.1.9 Involvement of organized crime

Based upon the definition put forth in the United Nations Convention against Transnational Organized Crime and based upon the studies carried out in the Philippines, Japan, Malaysia and Italy, organized crime groups have been involved in the smuggling and trafficking of Filipinos to these destination countries. A large majority of those interviewed report that foreigners are working together with Filipinos in the recruitment process, and that supports the notion that the trafficking groups are multi-ethnic and international. These foreigners are generally from the destination country. However, it is not uncommon for other foreign nationals, to work together with those from and in the destination country as well. This was documented in all of the studies.

In the Japan study, in 12 of 17 cases (70%), Filipinos worked closely with Japanese in the Philippines. This data, supported by the data from the Philippines victim study shows that once in Japan, it was more common for the Japanese to work predominantly with other Japanese. In a few cases, the Japanese worked with Filipinos or more often with Koreans. When they were joined by other ethnic groups, these were Chinese, Taiwanese and in one instance, American. In the majority of trafficking cases to Malaysia,

⁵³ The women reporting that they were forced to have sexual contact with male customers is higher. It may be that these women do not work full time in prostitution or are not forced into having sexual intercourse and therefore do not report prostitution as a criminal activity. This anomaly in the data is reported in both studies.

⁵⁴ Not enough information was provided by the research to determine if the women were actually forced to take drugs or whether they did this of their own accord.

⁵⁵ They were caught at the border and denied entry, according to the Government case files analyzed by NAPOLCOM. They are not included in the further analysis.

those working in Malaysia were Malaysian-Chinese or Indonesians working together with Chinese. Two victims in Malaysia claimed that they were exploited by Filipinos (only) but this seems to be the exception rather than the rule. According to the study carried out in Australia, facilitators in the Philippines appear to exist as loose networks of individuals, who have some level of association and may refer clients to each other for particular services, but who do not work as closely-linked groups. The Italian and Malaysian study, as well as information provided by Philippines criminal justice experts categorize these groups as small networks comprised of fewer than 10 persons. At most stages of the process (recruitment, documentation, transport and settlement), the majority of individuals (in the Philippine victim survey) came into contact with only 1-2 persons.

In the Japan study, the majority of victims came into contact with a group of 3-5 persons (although it is not clear in either study if these were the same or different persons). When victims came into contact with a larger group (more than 5) of persons, it was always at the settlement phase. The criminal justice expert in Japan claims that the Yakuza operate regionally, prefecturally or even smaller, however most Yakuza groups are somehow connected in a wider regional or even national level. According to Philippine criminal justice experts, all the Japanese groups are in some way or another connected to their counterparts in the Philippines or elsewhere in the world from where they import goods and persons. In major cities like Manila and Cebu, they station a branch or 'representative office' at the same time.

The operation of the entertainment industry in Japan appears to be in the hands of the Japanese Yakuza. It appears to be highly organized (with rotation of women between cities and clubs). The Yakuza has been linked to excessive violence, drug and gun smuggling as well, and appears to be operating on a different scale than that seen in the Philippines. It must also be added that the threats and violence perpetrated against the victims occurs almost exclusively in the destination country - not in the Philippines - which points to a more acceptable use of violence among the Japanese organized crime groups than among the Filipinos operating in the Philippines.

A Japanese criminal justice expert had the following to say about the criminal networks operating in Japan: "It is rare that a criminal organization has less than 5 members. There are small ones with around 10, and bigger ones. The organization of the 'underground world' is not so visible, so it is hard to determine the exact number of members involved. Some members have legitimate faces as corporate presidents, entertainment business owners or even politicians. Some others, who may own *pachinko* parlors for instance, are resident Koreans in Japan ('zainichi'). Unlike some decades ago, the loyalty and organizational discipline within such organizations have become loose. Some subordinates do not anymore obey their leader. While certain respect is still observed, one such discipline is not to harm ordinary citizens; the younger members may betray the boss ('oyabun')." (Cameron and Newman, 2002).

The criminal networks tend to move their recruits in groups. Of the 56 respondents from the Philippines and in Japan, 19 (34%) were moved individually and 37 (66%) were moved in groups. Of those interviewed in the Philippines, the majority traveled in groups of 4-10 persons (n=13) followed by groups of 2-3 persons (n=7). Four respondents claimed they were moved

in groups of more than 20 persons (these were persons going to Malaysia by boat). All of the victims interviewed, working at the entertainment sector in Malaysia, were also moved in groups ranging in size from 8 to 15 persons.

Once in the destination country, respondents were sometimes rotated between clubs, cities or club owners/criminal groups. In Japan, 12 respondents were rotated between clubs within the same city, while 9 women were rotated between different cities or towns. Five (5) respondents reported being rotated between different criminal groups. In the Philippines victim survey, 12 women reported being rotated between different clubs and 2 between locations and one between criminal groups. No rotation occurred in the Malaysia study. This appears to be a common practice in the sex industry but was not reported by those victims who worked in the domestic service sector.

Almost all women (27 of 29 respondents in the Philippines victim survey and 17 of 19 in the Japan study) report that they were aware of other women who had been trafficked by the same group that trafficked them. The number of women varies from a few to dozens. This points to either a large operation, or a stable one which has been in existence for an extended period of time.

All of the above, taken together, points to either highly organized criminal groups or those operating with (extensive) extended networks. Indications of this are the fact that the criminal organizations were comprised of different ethnic groups, often moved victims in groups and under supervision or escort, had recruited numerous victims and were able to rotate women between clubs, cities or criminal groups. Based upon the number of persons with whom the victims came into contact at various stages of the process, it appears that groups are small in size, but that these groups work together to help each other out. This hypothesis has been supported by the UNICRI data analyzing the smuggling of Filipinos into Italy.⁵⁶

4.1.10 Connivance and corruption

Given the fact that the majority of persons depart from the Philippines through international airports, collusion of officials at points of departure can greatly enhance opportunities for smuggling and trafficking. Heightened government control, on the other hand, could greatly diminish opportunities. Therefore, the role government officials play is crucial in either facilitating or repressing smuggling and trafficking of persons.

Respondents (n=48 from the Philippines victim and Japan survey) were asked if they came into contact with corrupt government officials during their departure from the Philippines and stay in the destination country. Thirty (62,5%) reported having had contact with corrupt officials in Philippines, while the remainder did not. As women reported contact with individuals

⁵⁶ The core of these two groups consisted of Filipino family members. There were, however, Slovenian and Pakistani smuggling groups involved in transporting the Filipinos from Hungary to Italy. Due to their involvement in smuggling other nationalities into Italy as well, it can be said that this smuggling operation was quite international and sophisticated in terms of widespread contacts.

from more than one agency, the number of government agencies identified as colluding on conspiring to smuggle and traffic (n=57) exceeds the number of victims who reported having had contact with government officers (n=30). Numerous reports identified practices of Bureau of Immigration officials at NAIA airport (n=27) or airport personnel (n=3). This is followed by Department of Foreign Affairs (n=13) and the Philippines Police (n=4). Isolated incidences, according to respondents, also involved other agencies such as the Bureau of Customs (n=2), the Armed Forces (n=2), the Philippines Overseas Employment Agencies (n=2), the National Bureau of Investigation and the Labor Department.

A number of things must be said about these data. The interviews did not delve deeply into the specifics of these accusations. In many instances, particularly regarding the accusation of the Bureau of Immigration, women claimed that officers had "escorted" them through or had allowed them to pass control check points with fraudulent documentation. Of those women interviewed in the Philippines, many had left and returned to the country years earlier.

The Bureau of Immigration has, over the years, taken numerous steps to thwart these practices. These include the removal of numbers from immigration counters, prohibiting the use of pagers, beepers or cellular phones and assigning restaurants near the airport known to be contact places for smugglers and traffickers "off limits" to immigration personnel. With respect to the claims against the Department of Foreign Affairs, this agency was identified as it is responsible for the issuance of passports. It is not known whether claimants assume the DFA is responsible for the issuance of fraudulent passports. To obtain more detailed, reliable information on these claims, it is necessary to conduct more in-depth questioning of respondents.

With respect to claims of government collusion in the destination country, the responses of the victims are quite interesting. In the Japan study, 3 women claimed that the Japanese police notified the women of an impending raid so that those working without legal papers were not present. This, in essence, may have assisted women as well as the club owners.⁵⁷ The Malaysia report also identifies police collusion/corruption at two levels. "Senior officers in collusion with syndicates are provided with regular financial payments and free access to drinks as well as sexual services of women in the entertainment centers. Lower ranking personnel are not party to these arrangements and attempt to get their share through direct extortion of the women themselves through regular harassment with the threat of arrest and detention" (Wong and Saat, 2002). The report cites three different incidents where women were told by club owners to provide sexual services to men identified as 'police officers'. In a fourth incident in which a woman refused, a payment was made to the police by the club owner to have her released, after which she incurred a debt.

It is clear from the research that there are isolated cases of individual officers colluding with smugglers and traffickers. It has also become clear

⁵⁷ At the same time, the Japan study also reports of police raids and the closure of clubs, not for trafficking or commercial sexual exploitation of women, but for employing illegal aliens. The women were often arrested, detained and then deported.

from discussions with high ranking officers from the Philippines Bureau of Immigration that the organization recognizes the problem and has in the past and is currently taking steps to address it. Perhaps in the destination countries, the problem lies as much with the failure to recognize the situation and treat the women as trafficked victims, as it does with collusion with the traffickers.

4.1.11 Criminal justice responses

With respect to the monitoring of labor recruiters and travel agencies/immigration consultants, respondents in the Philippines victim and Japan survey were quite pessimistic. Of 48 respondents in the sample, 25 (52%) found government regulation of labor recruiters to be non-existent while 14 (29%) more found the regulation insufficient. Eight respondents (17%) did not know and one thought the regulation was intensive. A similar pattern emerges with the victims' assessment of government regulation of travel agencies. Thirty-one persons (65%) found regulation to be non-existent or insufficient while a large number, 16, didn't know.

A special 'illegal recruitment branch' within the Philippines Overseas Employment Agency (POEA), along with other enforcement agencies in the Philippines, investigates illegal recruitment. Statistics show that between 1997 and 2001, the POEA has assisted and filed for preliminary investigation between approximately 400 and 579 cases per year. While the number of cases fluctuates, the number of victims involved in the cases has increased dramatically each year from 895 in 1997 to 1605 in 2001.⁵⁸ This means that while the number of cases remains relatively stable, the recruitment agencies are becoming increasingly successful in recruiting more victims. The number of surveillance missions carried out by POEA has also increased over the years from 299 in 1998 to 544 in 2001. Disappointingly, however, the number of suspects arrested and persons convicted has declined. This may be due to the fact that despite increased government awareness of and attention to the problem, criminals are becoming more successful at evading arrest and prosecution.

4.1.12 Victim reporting practices

With respect to reporting their victimization to government authorities (n=48), only 7 persons reported their experiences; 5 of these women in Japan filed reports with the Philippines Embassy. The remaining 41 persons (85%) gave multiple reasons for not reporting their experiences to government authorities: victims do not trust the authorities (n=18), the authorities will not or cannot help (n=13), the victim (n=7) or victim's family (n=5) was threatened with violence, or the promise was made to smuggle
⁵⁹
the victim again (n=3). Other individual responses were given as well.

⁵⁸ Statistics on cases filed for preliminary investigation.

⁵⁹ Another did not know where to ask for help while another victim had no more money (perhaps assuming that it would cost her money just to report to the authorities). Another simply discounted or ignored her experience and thought it was not necessary to report to the authorities. Another victim was simply relieved to be back in the Philippines. One was afraid of experiencing even more discrimination

No victims in Japan reported their case to the Japanese authorities. Reasons for failure to report their experience include threats of violence from traffickers (n=5), lack of trust in the authorities (n=6) or the belief that the authorities cannot or will not help the victim (n=3), the promise to be smuggled again (n=2). The inability to speak Japanese was also cited by two women. A large number of those not reporting, feared contact with government officials due to their illegal status and the fear of deportation (n=6). If Governments in destination countries are concerned about protecting victims of violence and exploitation and with prosecuting traffickers and exploiters, they must make it possible for victims to come forward without the fear of being arrested, detained and deported. A change in attitude and laws could greatly facilitate this.

What is clear from this study is that while victims may be hesitant to report to the Embassy or authorities in the destination country, many victims do turn to NGOs for support, whether in the destination country or after having returned to the Philippines. It is critical, in terms of providing victims with necessary counseling, support and protection, that these services are available in both the destination country as well as in the Philippines for repatriated persons. If victims truly mistrust government agencies, it is essential that government agencies support and work closely with NGOs in terms of victim outreach.

4.2 Difficulties Encountered in Conducting Research on Trafficking in Persons

The following topics outline the difficulties encountered in conducting research on trafficking in persons. Suggestions and recommendations to address some of these problems will be presented in the following chapter.

4.2.1 Distinguishing smuggled persons from trafficked victims

It is not always easy to determine the difference between trafficked persons and those who are smuggled, go to work in the sex industry and find themselves exploited. In the case of international trafficking, it is an "uninterrupted" process where the victim passes from recruiter to transporter to exploiter. With the smuggled person there may be a break in this chain of events. The individual may have contact with the recruiter and possibly even with a transporter. Upon entry into the destination country, the smuggled person is free to walk away and seek employment where he or she prefers (as was the case in the study of smuggled migrants into Italy). What happens, though, when the person, unable to find work, is forced to seek employment in a sector where he or she then becomes exploited? The end result, the exploitation and severe deprivation of human rights, is the same for both groups.

In addition to sometimes encountering difficulties in distinguishing between trafficked victims and 'exploited' smuggled persons, it also appears from the studies that women who were initially trafficked at some point pay off their

while one was bribed not to speak. One was ashamed and another was traumatized by her experience abroad.

debts and then voluntarily remain in the destination country. Although initially trafficked, they now work as free agents, albeit often in exploitative and unfavorable conditions. While some may argue that they are no longer trafficked victims, it should, however, not be underestimated that even when women are no longer kept in controlled environments or safe houses and may no longer be physically manipulated or harmed, the psychological threat of violence may force many to believe that they are not free to leave.

These scenarios add up to a large number of persons in dire conditions. Yet, according to definitions provided in the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air, some are truly trafficked victims while others are smuggled persons.

4.2.2 Lack of recognition of the problem

Due to the fact that there are currently no anti-trafficking laws in the countries under study,⁶⁰ it is not surprising that individuals working within governments have difficulty in recognizing the problem. This was mirrored in individual quotes of criminal justice experts in both destination countries. Much of this has to do with the fact that victims willingly travel abroad and in spite of opportunities to escape their situation, continue, for economic reasons, to work in the clubs exploiting them. This situation is further aggravated by the fact that women make numerous trips abroad and sometimes continue work in the same agency or club. In spite of this, the Japan study clearly indicated that women may have traveled abroad on previous occasions with irregular recruitment agencies and fraudulent papers and yet, were not exploited. It was not until a later trip that they found themselves trafficked and exploited. The lack of recognition of the problem is one of the most serious impediments to tackling it, and will require not just adequate legislation, but sensitization to the plight of victims and awareness of the necessity to prosecute offenders - for trafficking violations and not simply for employing illegal aliens.

4.2.3 Lack of agreement on the definition of "trafficking"

This problem goes hand in hand with the lack of recognition of the problem. While in Japan and Malaysia there seemed to be a denial of the problem, in the Philippines there was, at times, confusion in terms of what constitutes trafficking. This, in turn, has a dramatic impact on the classification and measurement of the phenomenon. While in some government agencies, cases of illegal recruitment (for the purpose of smuggling) were classified as trafficking, it was necessary for the research team to adhere to the definition put forth in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime. Exploitation or recruitment for the purpose of exploitation was a necessary factor for a case to be classified as trafficking. Nonetheless, given the importance of

⁶⁰ It is hoped that the Anti-Trafficking bill before the Philippines Parliament will be passed into law this year.

examining the role of organized criminal activities in moving migrants, this research project has also examined smuggling practices and its relation to organized criminal networks.

4.2.4 Lack of government experts or focal points

One of the major impediments to the study and to tackling the problem of trafficking, was the fact that there were no "trafficking experts" or "trafficking focal points" within government agencies in Japan or Malaysia. There is a burgeoning sex market in Japan and Sabah, Malaysia, however the law enforcement policy is mild toleration and subtle acceptance of the involvement of foreign women. When foreign women come to the attention of the police, it is often *not* due to their victimization as trafficked persons, but rather as violators of immigration law.

This lack of recognition of the problem and the dearth of "experts" in these countries made it nearly impossible to obtain information on trafficking using the Criminal Justice Expert Questionnaire designed by UNICRI. In the Philippines, the researchers left the survey instrument with the government officials so that they could collect the data at a later point in time and in all three countries researchers were forced to conduct unstructured, informal interviews to obtain whatever information was available.

4.2.5 Difficulty in accessing case files

It remained difficult to access official sources, in particular, case files, in Japan and Malaysia. In Malaysia, only the police and anti-corruption officers discharging their official duties are allowed access to the case files. As for the case files in Japan, access was a long and arduous process. The Supreme Court of Japan, through the Osaka District Court, was formally requested to provide information about the cases of final adjudication. The information (case number and the finalized date) was then presented to the record section of the Osaka Public Prosecutors' Office for the researcher to be able to have access in reading the original case files. Due to a combination of limited data in the files⁶¹ and time constraints, data from case files were not included in this study.

4.2.6 Difficulty in accessing victims

Accessing victims willing to share their experiences with researchers was difficult. In the Philippines and Japan, victims were approached with the assistance of NGOs. As their mandate and purpose is often to provide assistance to persons in distress and not necessarily limit themselves to victims of trafficking, some women were originally included in the interviews but upon later analysis it was determined that these women were neither trafficked victims nor smuggled persons and had to be removed from the sample.

⁶¹ A quick scanning of the case summaries indicated that most of the victims were deported for immigration violations. Of the cases presented to the UNICRI research officer, there was no information available on the criminal organizations.

The victims themselves were not always willing to cooperate. Their reasons ranged from fear of reprisal, particularly physical violence from traffickers or the shame of admitting their participation in prostitution, to not wanting to divulge information which may be used against the persons who may facilitate another trip abroad. Despite abusive experiences, many women made numerous trips abroad and saw their recruiters and smugglers, not as criminals but as those assisting them in finding work abroad. In Malaysia there was no NGO in the area in which the research was conducted. As the women were still under the control of the people who employed and exploited them, key informants were recruited to facilitate contact and interviews had to be conducted on the premises where the women worked.

4.2.7 Validity of the data

The data that was collected was also analyzed, however, the reader must keep in mind that there are weaknesses in the data. The data collected from repatriated Filipinos in the Philippines was generated from a sample which had returned to the Philippines, on average, 9.6 years prior to the interview. Given the detailed nature of some of the questions, the numerous trips that individuals made abroad and the time span between return and interview, the accuracy of the data generated by some of the victims in this sample is questionable. A whole different problem was encountered in Malaysia. The research was conducted with women "still under the control of the sex clubs" therefore it was impossible for the researcher to use the structured questionnaire during the interviews. Information was memorized and recorded at a later point in time.

Another completely different problem must be raised with respect to the language in which the interviews were conducted. While great pains were taken to produce questions and response categories that were clear to the interviewer, the English version was never officially translated into Tagalog in the study in the Philippines. While the interviewer was a native Tagalog speaker and the questionnaire was translated by the interviewer on the spot during the interview situation, it is possible that this translation was not consistent during all interview situations. In Malaysia, the victim interviews were conducted in English by a Malaysian (male) anthropologist who has been studying the phenomenon of trafficked Filipinas to Sabah for a number of years. He does not speak Tagalog and no Tagalog-language instrument was available at the time the research was conducted. It is unclear whether or not the victims had difficulty in understanding the questions in English. In Japan, a native Tagalog speaker translated the questionnaire into Tagalog and conducted the interviews herself. The three interviews which were administered in English were conducted by a non-Tagalog speaker, with the assistance of a Tagalog-speaking social worker. It is probable that the Japan study has generated more accurate and reliable data.

4.2.8 *Few experts in research field*

Unlike the international victimization studies which have a broad base of support⁶² or research into more traditional crimes or drugs, in which institutes have acquired years of expertise, there are few researchers with expertise in the area of trafficking in persons. Given this fact, combined with the lack of government focal points and case files "misclassified" as prostitution or immigration violations, it is a monumental task to conduct quality research within a limited time frame. The preparatory work in identifying victims, case files and government "experts" is much more time consuming than research into more traditional fields. All researchers involved in this project (barring a single researcher in Malaysia) had no prior experience in conducting research in trafficking in human beings, thus no reliable networks on which to depend. This made it much more difficult and time-consuming to conduct the research.

4.2.9 *Brief time frame*

Through the generosity of the US Government in providing additional funding for research activities, it was possible to expand the original research activities and conduct empirical research in Japan and Malaysia. Before official documents were signed and funds could actually be transferred, the research teams were given only three months to complete the research in those two countries. This brief time frame limited the amount of work that researchers were able to do. The Japanese research team was able to gain access to trafficking prosecution case files after the deadline for the final report. It is the UNICRI project officer's firm belief that had the research teams been given at least six months solely for data collection, they would have been able to produce larger samples and better results.

4.3 Summary and Conclusion

This United Nations pilot project on trafficking in human beings in the Philippines has provided some insight into methodology and problems of conducting research in this area. The research projects in this study were not always comparable thus for some variables, the sample is relatively small. Such research is in its infancy stage and must be further developed and refined. Expertise must be established in both the research field and within government agencies.

This research, combining information from six studies, has identified certain trends in different phases of the process. A number of these themes are dominant. One is the use of tampered and fraudulent documents. This points to the need for improved training and high-tech instruments to detect these documents at departure and entrance points, namely international airports.

⁶² The International Crime Victims Survey, carried out by UNICRI in conjunction with local research partners, is now conducted in 71 countries around the world. All the aspects of this study are standardized to guarantee optimal comparability between countries and over time.

Secondly, it appears from the studies that relatives, friends and acquaintances facilitate contact with recruiters. Therefore, any prevention projects designed at alerting persons to the dangers of illegal recruitment and illicit work abroad should also be aimed at the families of these prospective migrants, as well as the population at risk. Awareness-raising campaigns pointing out the danger of illegal migration must reach the general population.

Thirdly, it appears that 'large scale' recruitment occurs behind the guise of recruitment agencies. More research must be done to determine if these are *mala fide* agencies or whether they are legitimate agencies which at times are involved in illicit practices. *Bona fide* agencies will receive Government approval, thus their illicit practices may be more difficult to deter, guaranteeing their success for longer periods of time. Increased efforts must be made to alert potential workers to the dangers of illicit travel and recruitment agencies and the Philippine Government must continue to actively pursue the investigation and prosecution of such individuals and agencies.

A fourth dominant theme is the fact that victims will rarely turn to government agencies to report their victimization. They reported that government agencies were unsympathetic to their plight and often felt that the government would not or could not do anything about their situation. Their trust in NGOs is apparent, which calls for a continued financial support of NGOs, and a closer working relationship between NGOs and government authorities, in both source and destination countries.

There are two areas which need more refined study. The first should address the question why persons in the Philippines, despite legitimate opportunities, would choose to circumvent these, and take chances with unknown and often illicit recruitment agencies. Perhaps the Philippine Government should re-examine recruitment, work placement and departure policies to determine if there are ways to simplify and expedite the process so that potential foreign workers chose legitimate channels. The second area, involves the role of corruption and government officials' collusion with smugglers and traffickers to determine the degree to which this supports and furthers the practice of smuggling and trafficking. This holds true of government officials in both source and destination countries.

The study of trafficking in human beings must necessarily take a multi-tiered approach. It must encompass research in the source, transit and destination countries, and must include data generated by victims, NGOs and government experts. Only a concerted effort on the parts of victims, NGOs and government agencies working together within and between countries will assure success in tackling this problem.

5.

RECOMMENDATIONS

CHAPTER 5

RECOMMENDATIONS

This chapter presents recommendations gleaned from two different sources. The recommendations contained herein are those of the United Nations Interregional Crime and Justice Research Institute (UNICRI), and are based on experiences gained in the course of conducting research into the smuggling and trafficking of persons from the Philippines. Section 5.1 presents general recommendations addressing issues raised in the previous chapter, while section 5.2 offers recommendations presented by government, NGOs, and academic expert participants from the Philippines, Japan and Malaysia attending the two-day Expert Meeting in Manila in March 2002.

5.1 Recommendations based on the Research

5.1.1 Lack of agreement on the definition of "trafficking" and recognition of the problem

These two problems go hand in hand. With the international community's recognition of the problem of trafficking in human beings, as outlined in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime, countries may now work with a common definition. The Protocol takes the definition further than that previously used by many Governments, NGOs and IGOs as it goes beyond the offense of sexual exploitation, and includes forced and indentured labor as well as the trade in organs.

With this common definition, however, comes the added task of educating and sensitizing government officials to the problem of which NGOs have long been aware. Sensitization campaigns for police and immigration officials, as well as focus group discussions including government officials, members of parliament, NGOs, victim advocacy groups and victims, themselves, can raise awareness among government officials in a position to protect victims. Special training modules can be added to law enforcement and immigration curriculum. Trafficking in human beings can be placed on the agenda of international meetings, and law enforcement and immigration officials from countries which have solid anti-trafficking legislation and victim protection services in place should encourage an exchange with their counterparts in countries just beginning to recognize the problem. Until an agreement is reached on the definition of trafficking, and this definition is put into practice, any and all statistics/data must be screened for inaccurate classification.

5.1.2 Lack of government experts or focal points

Recognition and an increased awareness of the problem should lead to the development of specialization within government agencies. This

specialization will allow government officials to liaise with and learn from their counterparts in source, transit and destination countries. This research project strongly points to the need for government focal points in Japan and Malaysia. These contact persons can liaise with Philippine Government focal points and assist their counterparts in other countries. They could also be in a position to facilitate access to data and case files in their own country. More and better research will strengthen our knowledge of the problem, and this can lead to improved prevention, victim protection, investigation and prevention, victim protection, investigation and prosecution of offenders.

5.1.3 Accessing case files

Lack of understanding of the problem is aggravated by a lack of data. This may be due to a dearth of information or to the inability of researchers to access official government data. Access to government officials willing to share their expertise, is essential to completing the picture begun by victims. Research conducted by UNICRI in Italy has shown the benefit of accessing prosecution case files. While protecting sensitive investigations and the identities of victims and witnesses, government agencies should be more open to providing researchers with information on completed law enforcement and immigration files. Studies of successful (international) investigation and prosecution cases could provide material for best practices in future technical assistance projects.

5.1.4 Accessing victims and the role of NGOs

NGOs in this study have assisted, and should continue in the future to assist researchers in contacting victims. When NGOs are not available to liaise with researchers, researchers must look for other ways to gain access to victims. First and foremost in any victim research, is the guarantee of absolute anonymity and the protection of the victim from harm.

While the NGOs' understanding of organized criminal activity may be limited, they are often the ones who can provide important information on victims' initial contact with the recruiter to the exploitation in the land of destination. Furthermore, NGOs are essential in providing information on needed services, and may be a good indicator of government connivance and corruption. NGOs should be supported and strengthened in their duties and in their role as liaison between victims and researchers, and victims and government agencies.

According to NGOs interviewed in the Philippines, the following services should be offered to victims of trafficking: improved legal as well as litigation services; creation of a special police force to investigate trafficking cases; psycho-social and welfare services; providing for the basic needs of the people; effective laws on trafficking; on-site protection; and a fine-tuning of the government policy to encourage labor export. There is no doubt a need for these services to trafficked victims in the destination countries as well.

5.1.5 Distinguishing smuggled persons from trafficked victims

The distinction between smuggled persons and trafficked victims is an important one as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children specifically calls on countries to provide for, among others, victim protection services to trafficked victims. Anti-trafficking legislation should aim at provisions to allow trafficked victims to remain in the destination country, particularly when their safety is an issue. Other services include victim rehabilitation, and in appropriate cases, victim protection and assistance as well as the safe (and voluntary) repatriation of trafficked victims. This study has shown, however, that it is not always simple to distinguish between a person who was trafficked and one who was smuggled and later exploited, often in situations as egregious as those who were trafficked.

While, based upon requirements set forth in the UN Protocols on trafficking and smuggling, it is necessary to make a distinction between the two groups, social and moral obligations require that support should be given to victims of severe exploitation, including those who may have initially been smuggled and voluntarily entered into an exploitative situation. This, however, is a moral and legal issue which must be addressed by individual countries in discussions and legislation on victims of exploitation and their access to legal and protective services.

5.1.6 Validity and quality of the data

Our aim should be to improve the validity and quality of the data. This is difficult and dependent upon a number of requirements, to include but not be limited to 1) excellent research instruments; 2) well trained researchers; 3) common definitions, appropriate laws and proper classification of cases; 4) experts willing to provide information; 5) sufficient time and budget to assure quality samples and reliable data.

With refined research tools, increased expertise among researchers, and expanded knowledge of research methodology in trafficking in human beings, the UN Global Programme Against Trafficking in Human Beings is very likely to witness improvements in future research projects that could also translate into more effective technical cooperation projects.

5.2 Recommendations generated at the Expert Meeting

On 18 and 19 March 2002, the United Nations Interregional Crime and Justice Research Institute (UNICRI), with the assistance of the United Nations Development Program (UNDP) Office in Manila and the National Police Commission (NAPOLCOM) of the Philippine Government, hosted an Expert Meeting on Trafficking in Human Beings from the Philippines, in Manila.

The aim of the workshop was to bring together research, NGOs, IGOs and government experts from the Philippines, Japan and Malaysia. The findings of the research and problems encountered in conducting the research in those countries as well as the research that was conducted in Italy and

Australia was presented the first day. The second day was dedicated to an exchange of ideas, suggestions and best practices involving NGOs and various government agencies.

The participants produced the following list of recommendations aimed at the three countries involved in this project, as well as at other source, transit and destination countries which may be facing similar trafficking problems. Where recommendations were made to specific countries participating in this meeting, these have been enumerated in the following section.

5.2.1 General recommendations

1 In countries which do not yet have anti-trafficking laws, lobbying should be increased to encourage Governments to sign and ratify the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children supplementing it.

2 Build "sensitization programs" into training courses for Immigration and Law Enforcement officials and Prosecutors to sensitize them to the seriousness of trafficking offenses and the status of victims. These courses should be designed and implemented by the Government after consultation with IGOs and NGOs.

3 There should be trafficking focal points within various Government agencies to include but not be limited to, Law Enforcement, Immigration, Prosecution. These focal points should serve on a Task Force which should receive and guide the investigation of complaints regarding trafficking in human beings, and help shape a national strategy and a plan of action to prevent and combat the trafficking problem.

4 Governments should establish a type of Interagency Executive Committee or Advisory Board or Council on Migrants and Exploitative Conditions (similar to that in the Philippines) to bring Government agencies together to address the issues of trafficking victims, victims' protection and rights, and investigation and prosecution of offenders. This Government Interagency Executive Committee or Council should include representation by IGOs and NGOs. This representation may take the form of one IGO and NGO representing the interest of other IGOs and NGOs dealing with trafficking victims (on a rotating basis), or may include representation by more than one IGO and NGO. Special invitation may be extended on a need-be basis to important persons, such as academicians, who could make a contribution.

5 Law Enforcement agencies in destination countries should offer (telephonic) translation services to encourage victims to report cases of trafficking and exploitation. The Government in these countries should fund such police translation services.

6 There should be a direct link between law enforcement agencies (in destination countries) and NGOs so that front line officers have knowledge of NGOs providing services to trafficked victims. There should be automatic referral by police to NGOs in suspected cases of trafficking and worker exploitation. NGOs in both source and destination countries should liaise

with Law Enforcement agencies to make their services known to these agencies.

7 Destination countries should increase regulation and enforcement activities in industries employing and exploiting trafficked victims. The current studies generated in this project showed these to be the hostessing and adult entertainment industries (which does not exclude the fact that other persons in different countries may be exploited in the domestic service, agricultural, garment or other sectors).

8 More attention must focus on the criminal exploiters of trafficked victims. Too often trafficked victims are viewed solely as immigration law violators. They are deported, and their handlers and exploiters are allowed to continue working. In cases where exploited workers and possible trafficked victims are found to be in violation of immigration laws, the employers should be prosecuted, at the very least, for employing these persons in contradiction to the law. Deeper investigations must be made to determine whether the migrant workers were trafficked, and if this is the case, the employers must be punished, barring a law prohibiting trafficking, under existing appropriate labor code and/or penal laws.

9 Research in all three countries has shown that the initial contact with respect to recruitment often takes place through family, relatives of friends. Therefore, prevention and awareness-raising campaigns must target not only populations at risk but families of young men and women as well.

10 As all of the research studies indicated various levels of corruption and collusion by individual Government employees, Governments should examine the role that this plays in the trafficking and exploitation process, and should more closely monitor enforcement and immigration officials.

11 The Philippines and Malaysia have already signed an "Agreement on the Exchange of Information" (Thailand will soon accede) which will facilitate the exchange of information with respect to, among others, trafficking in human beings. More ASEAN countries should be encouraged to accede to this Agreement. Other countries should consider the importance of establishing bilateral and multilateral measures to facilitate the exchange of information.

12 Governments should provide resources to develop or expand databases containing information on but not be limited to, destination countries, cities and specific clubs, offenders, organized criminal groups and modus operandi with respect to the recruitment, trafficking and exploitation of migrant workers and trafficked victims. Data should be made available on a need-be basis to other Government agencies as well as Government agencies in other source, transit and destination countries.

5.2.2 Specific recommendations

Philippine Government

1 The Government, in conjunction with NGOs, should conduct one (to two) day pre-departure orientation seminars. These should include two pillars: the first should be general in nature with a focus on potential situations and dangers which foreign workers may encounter when working

abroad. The second half of the orientation should be tailored to the specific countries to which foreign workers are going and should include information on:

- a. labor laws
- b. rights, obligations and pay
- c. NGOs or other bodies to which workers in trouble may turn.

2 The Philippine Government should re-examine its policy of allowing Filipinas to travel to Japan on "entertainer" visas. Allowing women to leave on an "entertainer" visa creates the illusion that they will be working as entertainers (singers or dancers). The large majority of these women end up in the hostessing industry, at times subjected to varying degrees of sexual exploitation. By allowing women to leave for Japan on visas which allow them to work in the hostessing industry, the women could be better prepared for the realities of their work.

3 The Philippine Government should consider funding the extension of the Tagalog Hotline in Japan in order to continue helping exploited Filipino workers in that country.

4 The Philippine Government currently disseminates flyers at Manila airport (the main point of departure for Filipinos seeking work overseas) warning them of the dangers of becoming an undocumented worker. This flyer should also include the names and contact numbers of NGOs in various destination countries to which exploited workers may turn for assistance.

5 The Philippine Government should consider establishing a Labor Attaché or a consular office in Sabah to service the large number of Filipino workers (many exploited or trafficked) entering into this area of Malaysia.

6 Barring the establishment of an official Government office in Sabah to provide services to the Filipino migrant workers and trafficked victims, ways should be considered to mobilize the large Filipino community (civil society or the church) to assist Filipino workers in trouble. This should be done in conjunction with Malaysian authorities.

Japanese and Malaysian Government

1 Foreign women who work in the entertainment and hostessing industry should be protected by the same labor laws as Japanese / Malaysian citizens working in these industries. There should be the same opportunity for exploited foreign workers, as is available to their Japanese / Malaysian counterparts, to bring labor grievances regarding contracts, conditions and wages before the proper bodies.

2 "Sensitization programs" should be introduced into training courses for Law Enforcement, Immigration and Prosecutors to raise awareness of the seriousness of trafficking offenses and the status of victims. These courses should be designed and implemented by the Government after consultation with NGOs.

3 Trafficking focal points should be introduced within various Government agencies. These focal points would help facilitate recognition of the problem as well as research from within the agencies or on behalf of external

sources and could receive and guide the investigation of complaints regarding trafficking in human beings.

4 Governments should establish a type of Interagency Executive Committee or Advisory Board or Council on Migrants and Exploitative Conditions (similar to that in the Philippines) to bring Government agencies together to address the issues of trafficking, victims, victims' protection and rights, and investigation and prosecution of offenders. This Government Interagency Executive Committee or Advisory Board should include representation by NGOs. This representation may take the form of one NGO representing the interest of other NGOs dealing with trafficking victims (on a rotating basis), or may include representation by more than one NGO. Special invitation may be extended on a need-be basis to important persons such as representatives from IGOs or academicians.

5 Due to language barriers in Japan, the Government should consider providing (telephonic) translation services to Law Enforcement Agencies to encourage victims to report cases of trafficking and exploitation.

6 Front line officers should have knowledge of NGOs providing services to trafficked victims and should automatically refer cases of trafficking and labor exploitation to appropriate NGOs.

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