

# Benevolent Paternalism and Migrant Women:

## The Case of Migrant Filipina Entertainers in Japan

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The article examines the migration process of entertainers from the Philippines to Japan. It establishes the conditions of trafficking that leave foreign entertainers in a position of debt bondage and indenture vis-à-vis middleman brokers. Then, it shows how laws established to protect entertainers in the process of migration in fact make prospective migrants vulnerable to trafficking. This is because such protective laws, which are espoused by the culture of benevolent paternalism that surrounds the migration of women in Asia and the rest of the world, preclude the independent migration of entertainers.

**Key Words:** Migration Policy, Entertainers, Philippines, Japan.

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One afternoon, I paid a visit to Cindy, a 21-year-old mother of two who was soon completing her six-month contract to work as an “entertainer” in Japan.<sup>2</sup> She was returning to the Philippines in a few days and could not help but share her anxiety over the unlikelihood of her return to Japan and the grim outlook of her jobless future in the Philippines. Cindy has only ever worked as a hostess in Japan, but recent changes in visa requirements for foreign “entertainers” is closing the door to her possible job renewal and resulting in the denial of many visas for prospective migrants and return migrants like Cindy. Cindy vaguely understood the changes in policy to be forced by the United States, but for reasons unknown to her. Figuring I would know, she then asked me “*Ate* (big sister), why is your government making our lives difficult? Is it because they want us to be caregivers?” Recently, the government of Japan opened its doors to a limited number of elderly caregivers from the Philippines, but I told her that I do not think that the United States is involved with this bilateral agreement between the Philippines and Japan. Responding then to her question over the role of the United States in the tightening of visa requirements for “entertainers” in Japan, I said, “I think they are doing it to protect you.” Perhaps not sure of how denying her reentry to Japan could possibly protect her, Cindy then gave me a puzzled look, because for Cindy the denial of her re-entry only means her inability to do the job she has learned to like and the only job that she has known in her young adult life.

In 2000, the United States put into law the Victims of Trafficking and Violence Protection Act (hereafter referred to as VTVPA).<sup>3</sup> This law is not only of relevance to domestic issues in the United States as it also designated to the Department of State the job of monitoring the anti

-trafficking activities of other nation-states. The Department of State specifically has to monitor whether or not other nation-states have put into law and practice the U.S. universal solutions to trafficking of the 3-Ps-prevention, protection, and prosecution-and 3-Rs-rescue, rehabilitation, and reintegration.<sup>4</sup> Nations who do are placed in the Tier 1 list; those who make an effort to put these solutions into place but albeit unsuccessfully are placed in the Tier 2 list; and those who do not try to meet the anti-trafficking action plan set forth by the United States are placed in the Tier 3 list.<sup>5</sup> Possibly succumbing to the pressures imposed by the release of the annual *Trafficking in Persons Report*, Japan, as indicated by the anxieties of Cindy, has recently tightened its visa requirements for foreign entertainers and disqualified the reentry of experienced entertainers such as Cindy. Japan did so after it dipped down from a ranking of Tier 2 in the 2004 *Trafficking in Persons Report* to the Tier 2-Watch List in 2005.<sup>6</sup> Explaining the demotion of Japan, the 2005 *Trafficking in Persons Report* had specifically cited the U.S. Department of State suspicion that the flow of entertainers to Japan was a backdoor to prostitution.<sup>7</sup>

I use the story of Cindy and her concerns over the policy changes prompted by VTPVA in Japan as the springboard to address the culture of protectionism and benevolent paternalism in current migration policies in regards to the labor migration of women. VTPVA gives us an example of the culture of benevolent paternalism that surrounds the global migration of women and more specifically for the purposes of this paper, the migration of foreign entertainers to Japan. Paternalism in the most recent O.E.D. refers to “the policy or practice of restricting the freedoms and responsibilities of subordinates or dependants in what is considered or claimed to be their best interests.”<sup>8</sup> In the case of migrant women, it seems “their best interests” would refer to the protection of their presumed moral values and consequently their protection from immoral jobs, specifically hostess work, i.e., the work of serving men on the table, or any form of sexually explicit jobs. Benevolent paternalism aptly captures the culture of protecting foreigners with entertainer visas in Japan from their work as hostesses, which is ironically work that most of them know they will perform once in Japan.<sup>9</sup>

The protection of women’s moral values, as illustrated by Nana Oishi (2005), shapes migration policies of sending countries and subsequently controls the movement of women. The protection of women’s safety and moral values motivates nations to establish a minimum age for migrant women or limit the types of jobs that their female citizens can pursue abroad. For instance, Bangladeshi women are barred from entering domestic work in foreign countries, India sets forth a minimum age requirement for its nurses, and the Philippine government has likewise repeatedly debated and changed its minimum age requirement for overseas performance artists bound to Japan.<sup>10</sup> In contrast, no country worries about the morals of its male migrant workers and accordingly limits the types of jobs that its male citizens can seek outside its territories.<sup>11</sup>

In this paper, I build from Nana Oishi’s use of moral values as a category of analysis for understanding women’s migration. I examine the culture of benevolent paternalism in the migration policies that concern the flow of “entertainers” from the Philippines to Japan. My cross

-national analysis of migration policies in Japan, the Philippines, and the United States shows how each of these three countries project a culture of benevolent paternalism that espouses traditional moral values concerning women. The collusion among nations in regards to the culture of benevolent paternalism surrounding women's migration points to a universal moral standard across nations concerning the need to protect women. Notably, not all women's rights advocates would not all frown against this culture of protectionism. Across the globe, feminists have long fought for the greater protection of women against various forms of violence including female genital mutilation, sex trafficking, and domestic violence. From transnational feminist efforts there has also emerged an "international consensus around particular norms regarding women's rights".<sup>12</sup> In the era that calls for "women's rights as human rights," few would argue against the claim that the need to protect migrant women from abusive work conditions is one such norm.

Yet, the call for women's protection has led to gender distinctions in the treatment of men and women migrants with women having to circumvent more restrictive laws against their free movement across nations. Women cannot move freely because their movement unlike those of men are monitored and controlled by the state. In the case of the United States, we see this in the protectionist stance that it takes towards the "severe human trafficking" of women and children (notably, not men) worldwide. In the case of Japan, the restriction imposed on the migration of hostesses as well as the subsequent response of Japan to U.S. pressures to implement an anti-trafficking program illustrate the state's attitude of benevolent paternalism towards migrant women. Notably, Japan did not revisit its laws that control labor migration flows dominated by men. In the Philippines, the culture of benevolent paternalism is illustrated by the strict imposition of labor requirements for emigrants by the Philippine Overseas Employment Administration. Prior to migration, "entertainers" must ease doubt of the likelihood of their participation in hostess work once in Japan by establishing their skills as performance artists to a government commissioned panel in the Philippines.

In this paper, I unravel the culture of benevolent paternalism concerning the migration of Filipina entertainers so as to illustrate how this culture that is in place in various laws across nations does not protect women but ironically increases their vulnerability towards trafficking. In this paper, I follow the U.N. definition of trafficking, which refers to

..... the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.<sup>13</sup>

The first part of my paper explains how protective migration laws in both the Philippines and

Japan actually institutionalizes trafficking conditions in the process of migration. Protective laws that espouse the culture of benevolent paternalism place migrant entertainers in a highly dependent position on middleman brokers that leave them in a relationship of debt bondage. Protectionist laws encourage middleman brokers to take a paternalistic stance that in its extremity borders indenture. After I establish how migration policies in Japan and the Philippines make migrant entertainers indentured vis-à-vis middleman brokers, I move to discuss the hegemonic imposition of VTVPA towards the universal protection of migrant women from trafficking. I show how this law, its cross-national operation as U.S. foreign policy, and its universal imposition of American moral principles regarding trafficking fails to solve the conditions of trafficking for Filipina migrant entertainers in Japan. Instead, VTVPA exacerbates the conditions of trafficking for foreign entertainers. They leave prospective migrant entertainers more vulnerable to be indentured by middleman brokers.

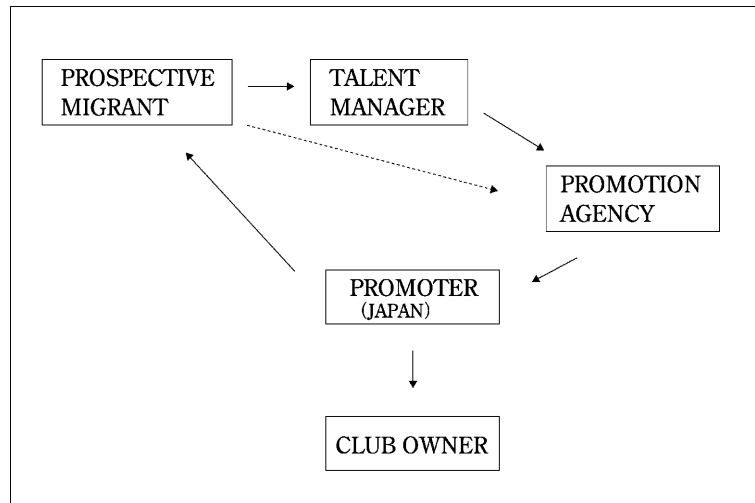
#### JAPAN, THE PHILIPPINES, AND THE LAW'S INSTITUTIONALIZATION OF TRAFFICKING

In this section, I describe the process of migration from the Philippines to Japan for migrant laborers entering with an entertainer visa. Stringent visa requirements for prospective entertainers in both the Philippines and Japan create a culture of benevolent paternalism that leaves migrant entertainers in a dependent relationship vis-à-vis middlemen brokers. For migrant entertainers from the Philippines, the process of migration to Japan is not a simple process of going from A to B but instead involves multiple negotiations with middlemen brokers. It begins with a prospective migrant signing on with a talent manager who then takes the prospective migrant to an audition usually in Manila with a labor placement agency, otherwise known as a promotion agency, and the subsequent selection of the prospective migrant by a Japanese promoter at the audition. The Japanese promoter then places the prospective migrant in a club in Japan without much input from the club owner on the entertainers they decide to send to Japan. Notably, the club in Japan is *not* the employer of the migrant entertainer even though the migrant entertainer is technically working for the club owner. Instead, the promoter and promotion agency act as the employer of the migrant entertainer.

What explains this complex migration process (See Figure Migration Process)? Why the need for middleman brokers such as the promoter or promotion agency? Ironically, the law mandates their services for the protection of migrant entertainers from unscrupulous club owners who (if not monitored) are assumed could force them into prostitution. For instance, the work of the promotion agency in the Philippines is to make sure that the prospective migrant meets the professional qualifications required of entertainers in Japan, while the promoter has the responsibility of placing the entertainer in a club that meets the guidelines set forth by the government of Japan for clubs that hire foreign entertainers.<sup>14</sup> Can migrant entertainers ever circumvent this process and negotiate directly with the club, i.e., their workplace, in Japan? What sort of

dependent position vis-à-vis middleman brokers does the current migration process leave migrant entertainers? As I show, protectionist measures in the law of both Japan and the Philippines threaten the independence of prospective migrant entertainers as they ironically force their dependency on middleman brokers.

#### MIGRATION PROCESS



We first see how protective measures force the dependency of migrants on middleman brokers if we look at the implementation of Japan's professional certification requirements for entertainers. The government of Japan maintains specific qualifications for prospective migrants seeking entry with an entertainer visa. As I noted earlier, these qualifications became more stringent after Japan implemented an anti-trafficking program mirroring the universal template of VTVPA.<sup>15</sup> Prior to the changes in policy made by the government of Japan in March 14, 2005, prospective migrants would qualify for an entertainer visa if they meet any one of the following three criteria:

- (1) The applicant meets the standards as set by a foreign national or local government agency or an equivalent public or private organization.
- (2) The applicant has spent a minimum of 2 years at a foreign educational institution studying subjects relevant to the type of performance in which he or she will engage.
- (3) The applicant must have a minimum of 2 years' experience outside Japan in the type of performance in which he or she will engage.<sup>16</sup>

Only upon meeting any of the above criteria does one become eligible to be a performance artist in Japan. Once in Japan, foreigners with an entertainer visa cannot legally engage in hostess work, i.e., sit with and entertain customers at a table, but instead one can do no more than sing and/or dance on a stage that is no less than 13 square meters.<sup>17</sup> Social interactions between customers and entertainers inside the club are strictly prohibited.<sup>18</sup> By limiting the job of foreigners with an entertainer visa to public entertainment, the government of Japan protects the professional status of the job and maintains its policy of barring the entry of non-professional

labor migrants to Japan.

The government of Japan has historically not recognized the standards established by most foreign national or local government agencies. Instead, it has selectively recognized only those set by certain foreign countries, particularly Korea and the Philippines, which have historically been its two largest sources of foreign entertainers.<sup>19</sup> This agreement across nations should not come as a surprise, for it leaves both sending and receiving nations in a win-win situation. The number of eligible migrants increases, thus allowing Japan to meet the consumer demand for foreign entertainers and ensuring Korea and the Philippines a secure source of foreign remittance from Japan. Perhaps to maximize its number of eligible emigrants, the government of the Philippines has chosen not to require two years of training for its overseas performance artists. Instead, overseas performance artists could qualify to apply for an entertainer visa to Japan if they could obtain a Certificate of Eligibility (COE) from the government of the Philippines, which prospective migrants could secure via audition after the completion of their training to be a performance artist in a training center accredited by the Technical Education and Skills Development Authority (TESDA).<sup>20</sup> Training for dancers usually lasts no more than six months and is even briefer for singers. To obtain a COE, one must pass the audition at TESDA. Singers must perform two of five pre-selected songs in front of a panel of professional judges and dancers must successfully complete a five-minute dance performance that shows their adeptness in a variety of dances including ballet, modern dance, and, sometimes, traditional folk dances of the Philippines.

The dependency of overseas performance artists on talent managers and promotion agencies begins with the preparation for the audition. This is because the Philippine government requires prospective migrants to seek training at a TESDA certified training center, which are often promotion agencies, before they can audition with TESDA.<sup>21</sup> While training, prospective migrants often accumulate debt to their promotion agencies or talent managers. The debt includes the cost of training as well as food and lodging. Notably, in interviews, promotion agency representatives and talent managers claim not to charge women for food and lodging during the time the women are fulfilling the requirements of the government mandated training program for entertainers or they only charge the bare minimum costs of 200 pesos a day (\$5). In contrast, most of the 61 Filipino migrant entertainers who I interviewed in Tokyo mentioned accumulating a significant amount of debt to their talent managers or promotion agencies prior to migration. They usually accumulated debt while training, as they were often required to live in the premises provided by either their talent manager or promotion agency. The largest debt among my interviewees reached 200,000 pesos (\$4000), but most debts ranged from 10,000 to 50,000 pesos (\$200 to 1000).

Promotion agencies can impose fees on prospective overseas performance artists because the law of supply and demand works on their side.<sup>22</sup> There is an abundance of prospective migrants seeking work in the nightlife industry of Japan. The 50 women who audition every Friday at one of the largest promotion agencies in Manila testify to their large number. In contrast, there are only approximately 50 promotion agencies accredited by the Philippine Overseas Employment

Administration to train and deploy overseas performance artists to Japan.<sup>23</sup> Accreditation requires an initial capital of approximately 2,000,000 pesos and additionally requires the business to secure a Special Power of Attorney granted by a Japanese promoter for the recruitment agency to hire on their behalf a minimum of 50 overseas performance artists from the Philippines within one year.<sup>24</sup> In Japan, most clubs do not employ more than 25 overseas performance artists. This means most clubs *cannot* directly hire prospective migrants even if through a promotion agency in Manila. Instead, clubs have no choice but to employ the services of a promoter who could meet the requirement of hiring more than 50 overseas performance artists by being a job placer for multiple clubs.

The government of the Philippines requires promoters to guarantee a large volume of placement, i.e. 50 individuals per year, so as to protect prospective migrants from fly-by-night operations or small scale establishments in Japan, where the government assumes women would be more likely vulnerable to unscrupulous labor requirements, one of them being hostess work. Yet, this protective stance taken by the Philippine government does little to protect overseas performance artists as it only complicates their migration process and places them a greater degree of separation from their employer in Japan, i.e., the club owner. Thus, the requirement of limiting promoters, i.e., those with power to hire women for a club in Japan, to only those who can guarantee jobs to 50 overseas performance artists often prevents clubs from directly hiring overseas performance artists. Under this law, the promoter technically becomes the employer of migrant entertainers, which then give promoters a slice of the earnings gained by entertainers in the club.

Yet, promoters are not only those who take a slice of the earnings of entertainers. Talent managers and promotion agencies also do. Current laws in the Philippines prevent overseas performance artists from directly negotiating with promoters but they can only secure jobs through promotion agencies. As noted earlier, promotion agencies, as they have been granted a Special Power of Attorney by promoters, hire performance artists on behalf of the promoter from Japan. Promotion agencies ensure that promoters in Japan comply with labor laws in the Philippines, or at least labor conditions set forth in the contract certified by the Philippine Overseas Employment Administration. The Philippine government also imposes this requirement to protect overseas performance artists.

However, promotion agencies usually do more than just broker the work arrangement between migrants and club owners. Prior to brokering that first contract, promotion agencies have made it a common practice to place prospective migrants in a binding relationship of indenture, requiring the prospective migrant to commit to completing at least four or five contracts to work in Japan through their agency for the next five years before they secure the very first job placement of that overseas performance artist. For each contract, the promotion agency obtains a percentage of the salary of the overseas performance artist. In the Philippines, promotion agencies can legally obtain up to 40 percent of the overseas performance artists' minimum monthly salary of 200,000 yen.<sup>25</sup> This means overseas performance artists are not made legally entitled to

their 200,000 monthly minimum salary but only 120,000 yen of it.

Overseas performance artists do not only maintain a relationship of indenture with promotion agencies. They also do so with talent managers. Often, staff members of promotion agencies double as a talent manager for a prospective migrant. The law does not mandate overseas performance artists to work with talent managers. However, the many hurdles entailed in meeting the eligibility requirements for prospective overseas performance artists have led to the role of talent managers. Talent managers who recruit prospective overseas performance artists often based not on their artistic talents but their physical features introduce prospective migrants to promotion agencies usually contingent upon them signing a contract that they will share their earnings with the manager for the next five years. My interviewees in Tokyo describe “nice” talent managers as those who only take \$200 of their monthly salary for the next five years and unscrupulous managers as those who earn a 50 percent cut of their wages. To ensure the dependence of the migrant worker on them, talent managers usually confiscate the passports and other travel documents of the overseas performance artist when in the Philippines.<sup>26</sup> They maintain this relationship until the end of their five-year agreement. This relation of indenture will be hard to justify in court but talent managers have been able to maintain an unequal relationship with overseas performance artists by forcing them to sign blank checks prior to departure or blank contracts, which they will later fill in the blanks if they ever have a disagreement with the performance artist. Talent managers are a big reason why overseas performance artists get paid so little. When talent managers take a 50 percent cut of a performance artist’s salary, which would be no more than 120,000 yen after the promotion agency takes its share of 40 percent, then the artist would be left with no more than 60,000 yen in monthly salary, which is significantly less than the minimum wage requirement of 200,000 yen for foreign entertainers.<sup>27</sup> Notably, most first time contract workers in the nightlife industry of Japan earn around 50,000 yen a month. Second time contract workers earn not much more, taking home 60,000 yen per month, while a third time contract worker could expect a salary of no more than 70,000 yen per month. As the salaries of entertainers increase after they gain more experience in Japan so does the commission of their talent managers and promotion agencies.

Looking at the cuts taken by the talent manager, promotion agency and promoter, we can see that the inability of clubs to hire overseas performance artists directly results in much lower wages for the performance artist than is the minimum wage requirement in Japan. Overseas performance artists can eventually circumvent the reduction in their salary by various middleman brokers when they become a “freelancer,” i.e., someone who brokers for their salary directly with a promotion agency and not through the services of a talent manager. However, they are still technically not free because they still have to broker their wages through a promotion agency and a promoter. As I noted earlier, the law in the Philippines requires overseas performance artists to enlist the services of such middleman brokers so as to ensure that the club in Japan complies with labor standards for overseas workers set forth by the Philippine government as overseen by the



Philippine Overseas Employment Administration and its accredited representative of the promotion agency. However, requiring overseas performance artists to negotiate labor contracts with club owners in Japan through middleman brokers only illustrates how protective laws in place for migrant workers in the Philippines inadvertently puts them in a relation of debt bondage and indenture prior to migration.

Protective laws should be in place to ensure the rights of migrant workers. Promotion agencies likewise should be in place to ensure that overseas employers recognize labor standards of the Philippines. However, the government should also monitor the activities of promotion agencies more closely. The fees that they maintain, the terms and duration of their contracts with performance artists, and the percentage of salaries that they obtain should be kept to a minimum. Moreover, promotion agencies should not be allowed to bar overseas performance artists from negotiating with other promotion agencies, for instance by securing a five month contract agreement with prospective migrants prior to their departure, but instead they must give artists the flexibility to work with other agencies every time they go to Japan so as artists they may secure the most optimal work conditions in a club in Japan. If overseas performance artists were given the flexibility to choose promotion agencies, then promotion agencies would have to offer the best labor conditions to prospective migrants. At the moment, many promotion agencies do not.

#### THE U.S. ANTI-TRAFFICKING CAMPAIGN AND ITS UNIVERSAL SOLUTION TO TRAFFICKING

In Japan, the moral panic over the migration of Thai, Filipino, Columbian, and Eastern European “entertainers” has been exacerbated by U.S. Department of State suspicions that the entry of migrant entertainers to Japan is a backdoor to prostitution.<sup>28</sup> However, hostess work—while entailing the insinuation of sex—does not require the act of sex between “entertainers” and customers.<sup>29</sup> Still, many, particularly nongovernmental organization representatives, would disagree with me. For instance, most view the job requirement of a *dohan*, a financially compensated date, as “prostitution in disguise” and “an obvious channel for trafficking” (39).<sup>30</sup> While a hostess is more vulnerable to the unwanted sexual advances of customers outside the club, a *dohan* is not necessarily prostitution.

As I have established in previous work,<sup>31</sup> prostitution is not part of the job of migrant entertainers in Japan. Still, suspicions of trafficking are based on the speculation that migrant entertainers engage in prostitution. Notably, the U.S. Department of State has not looked at the relationship of middleman brokers and migrant entertainers in their identification of the latter as trafficked persons.<sup>32</sup> In this section, I look closely at whether or not the U.S. anti-trafficking campaign addresses the conditions of trafficking for Filipino migrant entertainers. I argue it does not, simply for the reason that the United States fails to recognize the actual conditions of trafficking for foreign entertainers in Japan. Additionally, I look at the actual impacts of anti-trafficking laws on foreign entertainers, particularly examining the situation of Filipina migrants.

In the implementation of anti-trafficking laws, are foreign entertainers given alternative job options? Are they eased of their dependence on talent managers and promotion agencies? As I show, the measures taken by Japan to abide by the U.S. anti-trafficking campaign have significantly reduced the flow of overseas performance artists from the Philippines to Japan, but without the cushion of alternative jobs in the Philippines, it aggravates the conditions of trafficking for the few migrant Filipina entertainers able to return to Japan. The latter occurs because anti-trafficking measures have increased the dependence of migrant entertainers on middleman brokers.

Filipinas have historically comprised the majority of migrant entertainers in Japan.<sup>33</sup> Simply because of their larger numbers, they are the ones most suspected in the U.S. *Trafficking of Persons Report* of falling trap to forced prostitution in Japan.<sup>34</sup> This is despite the fact that local non-governmental advocacy groups who I met with in 2005 claim that the wider support networks in the Filipino community of Japan make its members less vulnerable to trafficking than their counterparts from Thailand, Columbia and other senders of “entertainers” to Japan. Still, the government of Japan has clamped down on the entry of Filipinos with an “entertainer visa.” Consequently, their numbers declined drastically from nearly 80,000 in 2004 to approximately 36,000 in 2005 and only 8,000 in 2006.<sup>35</sup> The decline occurred after Japan amended its eligibility requirements for entry with an entertainer visa to Japan, which as I noted earlier occurred after the United States demoted Japan to the Tier 2 Watch List in its 2005 *Trafficking in Persons Report*.

The prevention of migration for overseas performance artists poses a short-term solution to the problem of trafficking. After all, the demand for their entertainment in the nightlife industry remains. Hence, overseas performance artists who find themselves ineligible for reentry have resorted to illegal means of entry to Japan. As the number of overseas performance artists entering with an entertainer visa has declined in the last year, the number of those entering with a visiting family visa, tourist visa, and marriage visa have accordingly increased.<sup>36</sup> In the past, those entering with non-entertainer visas have been identified as more susceptible to trafficking. We can only assume that they still are today. Despite their greater vulnerability to trafficking, the majority of overseas performance artists in Japan have not been able to return to Japan. Without much job options in the Philippines, they have notably not been targeted by the government in its highly touted reintegration program for return migrants that the government administers through the Overseas Workers' Welfare Administration. As suggested by the lack of government intervention on the plight of 'displaced' overseas performance artists, we can speculate that recent changes in policy made in response to VTVPA by Japan have left most of them without economic options in the Philippines. This is more likely the case if we consider the fact that most overseas performance artists are without a college education unlike most other groups of migrant workers from the Philippines.<sup>37</sup>

As I noted earlier, Japan recently implemented changes in its policies concerning the entry of foreigners with an “entertainer visa.” Changes were most likely made in response to VTVPA. Since the passage of VTVPA, the U.S. Department of State has been required to submit a report

to the U.S. Congress an annual report—the TIP Report—which describes the efforts of foreign governments to eliminate human trafficking. Foreign governments in turn have been pressured to submit records and reports on their anti-trafficking activities to the United States. According to the U.S. Department of State,

[The TIP Report] is intended to raise global awareness and spur foreign governments to take effective actions to counter all forms of trafficking in persons—a form of modern day slavery ..... A country that fails to take significant actions to bring itself into compliance with the minimum standards for the elimination of trafficking in persons receives a negative “Tier 3” assessment in this Report. Such an assessment could trigger the withholding of non-humanitarian, non-trade-related assistance from the United States to that country. In assessing foreign governments’ efforts, the TIP Report highlights the “three P’s”—prosecution, protection, and prevention. But a victim-centered approach to trafficking requires us equally to address the “three R’s”—rescue, rehabilitation, and reintegration.<sup>38</sup>

According to TVPA, foreign countries must prohibit and punish severe forms of trafficking; punish so as to deter trafficking; and demonstrate sustained efforts to eliminate trafficking.<sup>39</sup> If countries do not comply with these basic requirements—in other words fail to implement the 3-Ps campaign, they receive a Tier 3 ranking and become ineligible to receive “nonhumanitarian, nontrade related foreign assistance.”<sup>40</sup> This means countries become ineligible for development assistance from international agencies such as the World Bank and International Monetary Fund.<sup>41</sup> Countries also become ineligible from receiving military protection from the United States. The denial of aid as a means of deterring trafficking ironically seems to aggravate one of its central causes—poverty. If punishment is the denial of aid, then would not the country be in greater risk of poverty, which would then heighten the economic desperation of individuals and in turn push them to willingly take the risk of being trafficked? Regardless, the United States threatens countries with the denial of aid for their non-compliance with TVPA. This tells us that prevention is conditional to prosecution as the failure to prosecute puts countries at risk of receiving a Tier 3 ranking.

For richer countries not in need of foreign aid such as Japan, a low ranking in the annual TIP Report translates to social ostracism in the international community as well as social exclusion. Richer countries with a Tier 3 ranking become ineligible to partake in cultural exchanges with the United States. As stated in TVPA, “in the case of a country whose government received no nonhumanitarian, nontrade-related foreign assistance from the United States during the previous fiscal year, the United States will not provide funding for participation by officials or employees of such government in educational and cultural exchange programs for the subsequent fiscal year until such government complies with the minimum standards of making significant efforts to bring itself into compliance.”<sup>42</sup>

Perhaps out of pressure or maybe in agreement with the government of the United States, the

government of Japan has designed a solution that follows the 3Ps and 3Rs models of the United States. As of March 15, 2005, Japan imposed new visa requirements for migrant “entertainers” from the Philippines,<sup>43</sup> in response to the recommendation by the U.S. Department of State for the Japanese government to impose the higher scrutiny of visa requirements and implement greater screening procedures “for repeat applicants and sponsors.”<sup>44</sup> Since the release of the annual TIP Report, Japan has scored no higher than a Tier 2 ranking. Yet, in 2004, Japan’s ranking dipped to the Tier 2 watch list, harboring slightly above the dreaded Tier 3 ranking.<sup>45</sup> Notably, the TIP Report explicitly calls attention to the migration of Filipino “entertainers” as a central reason for the low ranking of Japan.

The most relevant change in policy concerning foreign “entertainers” involves the evaluation of artistic skills and the disqualification of the Philippine government to evaluate the artistic ability of “entertainers” they deploy to Japan. Japan eliminated the first of three earlier cited provisions for determining the eligibility of foreign entertainers and removed the abilities of foreign governments to accredit the performance artistry of its migrant workers. This comes in direct response to the recommendation of the United States for Japan to impose a closer scrutiny of visa requirements. As the government of Japan notes:

It has been recognized that not a few people who have entered Japan with the status of residence as “entertainer,” have become victims of trafficking in persons, in particular those who have entered the Japan having fulfilled the criteria for landing permission by holding a certificate issued by the Government of the Philippines, which testifies that the holder is an artist, but as a matter of fact do not have capability as an artist. Given this situation, the paragraph below the description of the activities of entertainers—“The applicant who is qualified by a foreign national or local government agency or an equivalent public or private organization”—will be deleted from the [law].<sup>46</sup>

This change in policy has resulted in more stringent landing and resident examinations, with the most striking change being the extension of the training required of “overseas performance artists” from six months to two years, making it nearly impossible for experienced “entertainers” to re-enter Japan as those with past experience in Japan are not given exemption.<sup>47</sup> Work experience in Japan does not qualify for training purposes.<sup>48</sup> This means that an experienced “entertainer” can now be ineligible to renew her visa if she had received training to be an overseas performance artist for less than two years outside of Japan. As noted earlier, since this change, there has been a drastic decline in the number of eligible “entertainers” entering Japan from the Philippines, which the government considers to be indicative of the artistic ineligibility of most contract workers hired in the past.<sup>49</sup>

In its implementation of an anti-trafficking platform, the government of Japan directly responded to the accusation that “entertainers” are supposedly prostitutes by implementing more stringent criteria for evaluating the professional skills of foreign “entertainers.” Increased

professionalism, according to the government, translates to the less likelihood of prostitution.<sup>50</sup>

In reward for its efforts, Japan was taken out of the Tier 2 Watch List and reinstated in the Tier 2 category in the 2005 TIP Report.<sup>51</sup> Notably, the U.S. Department of State explicitly lauded Japan for its decision to curtail Filipino migration, which suggests that Japan is unlikely to ease its borders for Filipino “entertainers.” As the latest TIP Report states: “During the reporting period, the government undertook major reforms to significantly tighten the issuance of “entertainer” visas to women from the Philippines, a process used by traffickers to enslave thousands of Philippine women in Japan each year.”<sup>52</sup> For the U.S. Department of State, the curtailment of Filipino migration is considered a prevention measure against trafficking. Interestingly, the U.S. State Department explicitly describes the Philippines and not the other sending countries of “entertainers” including Thailand, a greater source of trafficking, to be a “major source of trafficking victims” in Japan.<sup>53</sup> Perhaps this is because of the greater number of migrant “entertainers” from the Philippines.

Nongovernmental organizations in the Philippines applaud the recent changes in immigration policy of Japan. In a press release aptly titled “Why we support Japan’s new immigration policy on entertainers,” Carmaletia Nuqui, the executive director of Development Action Network of the Philippines, an advocacy group for entertainers and Filipino-Japanese children, expressed its support for the new migration law that “requires Filipino entertainers to complete at least two years of formal courses in music, dancing or singing, or have at least two years experience in the entertainment industry before they can be qualified to work in Japan.” This supposedly ensures that Filipino women “will really be working as singers and dancers in Japan.”<sup>54</sup>

In the press release, DAWN proceeded to critique the Philippine government for failing to deal with corruption in the emigration process, alluding to the relation of indenture between promotion agencies, talent managers, and overseas performance artists, but ironically DAWN, in doing so, does not recognize how the increased professionalization of the job may in fact not protect overseas performance artists but instead make them more vulnerable to trafficking. The longer training required of “entertainers” translates not necessarily to the validity of their professional status as so argued by representatives of DAWN and the government of Japan, but it could also mean the longer duration of training for overseas performance artists under the control of managers in the Philippines. This means their greater likelihood of indenture. The possibility of their aggravated indenture highly suggests that the solutions posed by Japan do not necessarily prevent trafficking but instead places prospective migrants in a greater position of being trafficked.

## CONCLUSION

We could find irony in the allegiance between DAWN, a nongovernmental organization touting radical feminist views, and the United States, a government spreading its moral authority over other nations when it comes to the protection of migrant women. How these strange bedfellows came in agreement with Japan's implementation of restrictive measures against the migration of foreign entertainers from the Philippines however is not at all surprising if we look more closely at their beliefs regarding the work of women or more accurately the "proper" work of women. DAWN, the United States, and Japan all share the belief that entertainers should not work as hostesses. They view such work as degrading to women.

While hostess work is not a preferred job for most Filipina migrants who perform it in Japan, they however morally accept this job. But they can only do this job with the assistance of promotion agencies and talent managers, as these two groups are those who monitor overseas performance artists so they do not become prey to illicit or immoral job situations. Yet, in the disagreement over the morality or immorality of hostess work, what has been overlooked is the relation of indenture between promotion agencies, talent managers and overseas performance artists. This severe condition of trafficking, which is much more threatening than the risk of prostitution, is ironically what is ignored in the overzealous protection of hostesses from prostitution. How did such an oversight occur in the campaign against the trafficking of Filipina entertainers in Japan?

My cross-national analysis of migration policies and anti-trafficking measures concerning Filipina overseas performance artists in Japan shows the underlying concern over the moral values of women in policies espoused by the Philippines, Japan, and the United States. But in protecting women's moral values, laws have created conditions of trafficking. In the Philippines, for instance, laws have left women dependent on the assistance of middleman brokers who take advantage of such dependence by maintaining a relation of debt bondage with migrants. However, in protecting women from trafficking, new laws have remained focused on the issue of women's moral values, ignoring the problem of debt bondage that confronts Filipino overseas performance artists.

As I have argued in this essay, the new laws implemented to protect women from trafficking could aggravate the condition of debt bondage for overseas performance artists. This is because the new laws ignore the nuances and particularities in the conditions of trafficking for migrant Filipina entertainers. The new laws do not confront the premise upon which the conditions of trafficking for migrant Filipina entertainers are founded in the first place, which as I had described in this essay are the protectionist measures taken by Japan and the Philippines towards migrant entertainers. Instead, the new laws blindly protect migrant entertainers as they aggravate the effects of existing protectionist measures. The new policies enforced by Japan and supported by NGOs in the Philippines maintain the culture of benevolent paternalism surrounding women's migration, continue the protective stance that governments take towards migrant women, and

support the protection of women's moral values, particularly against prostitution. After all the anti-trafficking measures enforced in recent years, we still need to protect migrant entertainers from the threat of trafficking. Benevolent paternalism is the foundation that we need to dismantle to confront the issue of trafficking of migrant Filipina entertainers.

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## Notes

- 1 The generous support of the Institute for Gender Studies in Ochanomizu University allowed me to complete the research for this project. I thank Pauline Chu for her editorial assistance.
- 2 The government of Japan refers to migrants employed in the nightlife industry as “entertainers” and accordingly grants them an “entertainer visa” for entry. An “entertainer” is technically a professional *skilled* in the performance arts. See [http://www.mofa.go.jp/j\\_info/visit/visa/appendix1.html](http://www.mofa.go.jp/j_info/visit/visa/appendix1.html). Last verified on December 26, 2005.
- 3 H.R. 3224; 106<sup>th</sup> Congress.
- 4 See U.S. Department of State. *Trafficking in Persons Report* (2003, 2004, 2005).
- 5 *Ibid.*
- 6 U.S. Department of State. *Trafficking in Persons Report* (2004, 2005).
- 7 U.S. Department of State. *Trafficking in Persons Report* (2005), at 132.
- 8 Oxford English Dictionary, Web Edition. See <http://www.oed.com/>. Draft revision June 2005. Last verified on July 29, 2006.
- 9 In 2005, I interviewed 61 overseas performance artists in Tokyo. I base this claim on my interviews.
- 10 Nana Oishi (2005). *Women in Motion*. Stanford, CA: Stanford University Press.
- 11 *Ibid.*
- 12 Aili Mari Tripp, “The Evolution of Transnational Feminisms: Consensus, Conflict, and New Dynamics.” pp. 51-75 in *Global Feminism: Transnational Women's Activism, Organizing, and Human Rights*, New York, New York: New York University Press, at 51.
- 13 United Nations, Article 3, UNITED NATIONS PROTOCOL TO PREVENT, SUPPRESS, AND PUNISH TRAFFICKING IN PERSONS, supplementing the United Conventions against Transnational Organised Crime (2000).
- 14 See A Guide to Japanese Visas, Appendix 1 Ministerial Ordinance to Provide for Criteria pursuant to Article 7, Paragraph 1(2) of the Immigration Control and Refugee Recognition Act (Ministry of Justice Ordinance No. 16 of May 24, 1990). See [http://www.mofa.go.jp/j\\_info/visit/visa/appendix1.html](http://www.mofa.go.jp/j_info/visit/visa/appendix1.html). Last verified on July 31, 2006.
- 15 See Japan Action Plan to Combat Trafficking in Persons. December 7, 2004. See <http://www.vitalvoices.org/files/docs/japan%20action%20plan.pdf>. Last verified on July 31, 2006.
- 16 See A Guide to Japanese Visas, Appendix 1 Ministerial Ordinance to Provide for Criteria pursuant to Article 7, Paragraph 1(2) of the Immigration Control and Refugee Recognition Act (Ministry of Justice Ordinance No. 16 of May 24, 1990). See [http://www.mofa.go.jp/j\\_info/visit/visa/appendix1.html](http://www.mofa.go.jp/j_info/visit/visa/appendix1.html). Last verified on July 31, 2006.
- 17 *Ibid.*
- 18 Meeting with Ministry of Immigration Officials, Tokyo, Japan, November 11, 2005.
- 19 *Ibid.*

- 20 TESDA is a branch of the Department of Education in the Philippines.
- 21 Philippine Overseas Employment Administration Memorandum Circular No.12. Series of 2004. "Guidelines on the Certification of Overseas Performance Artists." (August 25, 2004).
- 22 For a similar description of relations between prospective migrants and recruitment agencies to Taiwan, see Pei-Chia Lan (2006). *Global Cinderellas*, Durham, NC: Duke University Press.
- 23 Interview with representative of Philippine Overseas Employment Agency, Marketing Mission Office (July 14, 2006).
- 24 Memorandum Circular No.10. Series of 1997. "GUIDELINES ON THE ACCREDITATION OF JAPANESE PRINCIPALS HIRING FILIPINO PERFORMING ARTISTS (OPAs)." (May 5, 1997).
- 25 Memorandum Circular No.10. Series of 1997. "GUIDELINES ON THE ACCREDITATION OF JAPANESE PRINCIPALS HIRING FILIPINO PERFORMING ARTISTS (OPAs)." (May 5, 1997).
- 26 The government of the Philippines has identified the practice of confiscating passports as illegal. See POEA, Memorandum Circular 15 (2001), "Custody of the Artist Record Book," [www.poea.gov.ph/docs/MCs/mc%202001/MC15%20S2001.doc](http://www.poea.gov.ph/docs/MCs/mc%202001/MC15%20S2001.doc) (Verified on August 8, 2006).
- 27 See "A Guide to Japanese Visas" (1990).
- 28 U.S. Department of State (2004).
- 29 See a previous article in which I give a more thorough description of the nature of "entertainment" work in Japan among Filipina migrant workers. Rhacel Salazar Parreñas. "Trafficked? Migrant Filipina Entertainers in Tokyo's Nightlife Industry." *Yale Journal of Law and Feminism* 17(2) (Spring 2006).
- 30 Maria Angela C.Villalba. GENPROM WORKING PAPER NO.8 Series on Women and Migration, Philippines: Good Practices for the Protection of Filipino Migrant Workers in Vulnerable Jobs. Geneva: Gender Promotion Programme International Labour Office. See [www.ilo.org/public/english/employment/gems/download/swmphi.pdf](http://www.ilo.org/public/english/employment/gems/download/swmphi.pdf) (Verified on May 15, 2006).
- 31 Rhacel Salazar Parrenas (2006). "Trafficked? Filipino Hostesses in Tokyo's Nightlife Industry." 18 *Yale Journal of Law and Feminism* 145.
- 32 See U.S. Department of State (2004, 2005).
- 33 Nana Oishi. *Women in Motion* (Stanford, CA: Stanford University Press, 2005).
- 34 U.S. Department of State (2005).
- 35 Interview with the Executive Director of BATIS, Manila, Philippines (July 25, 2006).
- 36 Interview with representatives of PARADA and PEEPA, two promotion agency organizations, Manila, Philippines (July 20, 2006). Increased vulnerability for undocumented workers is also cited in a recent International Labor Organization study: "OPA status is made more hazardous for migrant women because, more often than not, they are "undocumented" and thus deprived of medical, legal, and professional attention in the host country. Thus, if they contract HIV/AIDS or STDS they have no recourse but to return home, when they are not likely to get adequate care, either" (51). Maria Angela C.Villalba. GENPROM WORKING PAPER NO.8 Series on Women and Migration, Philippines: Good Practices for the Protection of Filipino Migrant Workers in Vulnerable Jobs. Geneva: Gender Promotion Programme International Labour Office. See [www.ilo.org/public/english/employment/gems/download/swmphi.pdf](http://www.ilo.org/public/english/employment/gems/download/swmphi.pdf) (Verified on May 15, 2006).
- 37 See Nicole Constable (1997). *Maid to Order in Hong Kong*, Ithaca, NY: Cornell University Press.
- 38 U.S. Department of State (2005), at 5.
- 39 H.R. 3244, 106<sup>th</sup> Session, Section 108(a).
- 40 H.R. 3244, 106<sup>th</sup> Session, Section 110(a).
- 41 H.R. 3244, 106<sup>th</sup> Session, Section 110(d) (4). Note that the United States has kept exception to keep providing aid "notwithstanding the failure of the government of the country to comply with minimum standards for the elimination of trafficking" if it is "in the national interest of the United States."



- 42 H.R. 3244. 106<sup>th</sup> Session, Section 110(d) (1) (A) (ii).
- 43 Tony McNichol, The show's over, JAPAN TIMES, April 26, 2005.
- 44 U.S. Department of State (2005), at 14.
- 45 U.S. Department of State (2004), at 96.
- 46 Government of Japan. Japan's Action Plan of Measures to Combat Trafficking in Persons. 13<sup>th</sup> Economic Forum, Prague, Czechoslovakia (May 23-27, 2005), at 4.
- 47 Immigration Bureau, Ministry of Justice. Amendment of the Criteria for the Landing Permission for the Status of Residence "Entertainer," Tokyo, Japan (February 2005).
- 48 *Ibid.*, p.1.
- 49 Meeting with Ministry of Immigration Officials, Tokyo, Japan, November 11, 2005.
- 50 Interview with Government Officials, Japan Ministry of Justice, in Tokyo, Japan (November 11, 2005).
- 51 U.S. Department of State (2005).
- 52 U.S. Department of State (2005), at 132.
- 53 *Ibid.*, p.133.
- 54 Nuqui, Carmaletia. "Why we support Japan's new immigration policy on entertainers," Cyber Dyaryo, January 11, 2004. See [http://www.cyberdyaryo.com/commentary/c2005\\_0111\\_01.htm](http://www.cyberdyaryo.com/commentary/c2005_0111_01.htm) (Last verified on May 11, 2005).