

Finding Victims and Access to Justice

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Foundation for Women

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- Promote women's human rights
- Provide assistance to victims of structural and gender based violence
- Work on trafficking issue since 1984
- Identify victims in the immigration detention centre
- Provide support to Thai and non-Thai victims

Finding Victims

Checklist to identify victims

- Living conditions in the country of origin
- Mode of transportation
- Agent and the amount of brokerage fee
- Promised and actual worksite
- Living conditions
- Forms of violence and exploitation
- Identified needs

Dilemma of Identified Victims

- Long process of official repatriation
- Homogenous recovery programme/skills training
- Witness without damage compensation
- Agency of women and protection of children

Access to Justice

Min Min a nine-year old Burmese girl was crying in the detention cell after learning that she would be sent back to Burma without her younger sister. She was afraid that her mother and step- father would beat her to death. Min Min came with her sister and other children to find work in Thailand. They were forced to sell flowers and candy on the street in Bangkok by a young woman. If they could not earn sufficient money they would not get food and be beaten seriously. Sometimes the woman put chilly powder in their eyes and genitalia. Min Min could remember the location of the house where they were confined and wanted to have her sister and other children rescued. After learning her story of being trafficked FFW collaborated with police and other relevant agencies to help all the children and finally arrested the woman and two Burmese couples. The children wanted to have only the woman severely punished because the two couples were kind to them. They requested FFW to find a lawyer defending the four adults in the court. FFW complied with their request. Finally the four were acquitted with the trafficking charge but they were punished on violating the immigration law, and the woman was convicted with trafficking charge and sentenced to five-year imprisonment.

Lessons learned

- Need to have NGOs working in IDC to identify victims and assist migrant detainees
- Identified victims can help rescue others
- Vertical v.s. Horizontal approach/strategy
- Complexity and the role of human rights lawyers
- Insensitive vertical criminal justice cannot respect victims' decision and their sense of justice
- Media coverage and vertical repatriation > no civil compensation

Justice Denial

Two tribal women were recruited to work in a restaurant in Bahrain but forced to work in prostitution to pay back the debt. After their family sent money to the traffickers they could return home. They complained their case to the police. There was no due process in investigation and prosecution. After nearly 2 years the prosecutor in charge decided not to pursue the case because the two women were consent to work in prostitution.

Lessons learned

- Tribal women and children are new vulnerable groups
- Limited understanding on TIP and discrimination and prejudice against women involved in prostitution
- Intervention of support agencies
- Rhetoric and action
- Training and practice

Access to Compensation

Thirty Burmese women and girls were rescued from garment factory. The employers were prosecuted and punished by the immigration and labour laws. The prosecutor argued that trafficking was only for prostitution not forced labour and MOU is not a binding document. FFW and lawyer claimed for their unpaid wages in the Labour Court. The court ordered the employers to pay two million Baht to 30 workers. Until now only one third of the amount was paid. All the workers were officially repatriated.

Lessons learned

- Limited understanding on trafficking
- Criminal and civil litigation and the best interest of the victims
- Set a precedent in the Labour Court that foreign workers are entitled to fair wage regardless of their legal status
- Weak enforcement on the court ruling
- Burden on NGOs and HR lawyers

Collaboration with NHRI

FFW and the Law Society consulted NHRI on the case of foreign mother and new born baby who was sent to IDC after the hospital reported to the police. The NHRI expressed concern on the healthcare of mother and baby in the IDC, and required the responsible ministries to respond on this problem. In 2004 the Ministry of Health issued a guideline of practice to all provincial hospitals to delay the report to the police for deportation and provide adequate care to mothers and babies.

Recommendations to NHRI

- Encourage local NGOs and facilitate their access to work in IDC to identify victims ;
- Ensure due process of returning and claiming the rights of migrant workers;
- Promote programme to remove stigma and prejudice against trafficked persons esp. against women involved in (forced) prostitution

Recommendations

- Apply the horizontal strategy/approach to promote the participation of all groups;
- Set up system that requires due diligence and accountability of the government and state agencies in responding the needs of trafficked victims;
- Ensure that mandatory social provision and victims protection are included in the trafficking legislation;

Recommendations

- Organise the right-based training on trafficking for law enforcers and lawyers;
- Prepare the annual report on the situation of human trafficking.