

**A report by Empower Chiang Mai on the human rights violations women are subjected to when "rescued" by anti-trafficking groups who employ methods using deception, force and coercion**

June 2003

*"Anti-trafficking measures shall not adversely affect the human rights and dignity of persons in particular the rights of those who have been trafficked and of migrants, internally displaced persons refugees and asylum seekers."*

— The Primacy of Human Rights; Number 3, Principles and Guidelines on Human Rights and Human Trafficking. Report of the UN High Commissioner for Human Rights to the Economic and Social Council

Empower Foundation is a Thai organization since 1985. Empower promotes opportunities for women workers in the entertainment industry. Empower strives to promote these opportunities and rights to all women workers regardless of their country of origin.

Far from being a "bold new method" as being proclaimed, Empower Chiang Mai has been dealing with the issue of "raids and rescues" of women working in brothels for the past 11 years.

Empower abhors the trafficking of any persons; forced labor including forced sex work; and the sexual abuse of children, whether for commercial exploitation or not.

Over the past three years there has been an increased international and national focus on the situation of women who have been trafficked.

However, the focus on trafficking in persons has meant many groups with little or no experience on the issues of migration, labor, sex work or women's rights have been created to take advantage of the large sums of money available to support anti-trafficking activities. Their inexperience and lack of contact with the sex worker community has meant they are unable or unwilling to differentiate between women who have been trafficked and migrant workers. They also show a great deal of trouble differentiating between women and girls, often applying identical standards and solutions for both. It is obviously inappropriate to treat a girl as an adult and just as obviously inappropriate to treat an adult as a child.

Empower has monitored the methods and results of these group's activities and we are very alarmed at the increasing violations and inhumane treatment women are subjected to by unworkable and unethical methods.

Empower has used the most recent experience of "rescue" to further highlight our concerns.

## **Rescue by Trafcord with the support of the International Justice Mission, Chiang Mai, Thailand, 2<sup>nd</sup> May 2003**

Prior to the 2<sup>nd</sup> of May women from a brothel called Baan Rom Yen had been studying Thai daily with Empower, joining our outside activities e.g. attending a workshop on migrant's rights, going to swimming lessons, going to a local water fall. Women also had access to the public health weekly and were provided with safe sex equipment and skills by Empower. None of these women had talked about being trafficked and when they discussed their work, plans and dreams none showed any need or wish for outside rescue.

On the 1<sup>st</sup> of May three of the women collected their savings from the owner and contacted a van in order to take them home to Burma on Friday 2<sup>nd</sup> of May. One of these three went with a customer on the 1st of May and didn't come back. Her friends and employer were worried for her. The other women postponed their trip home in order to wait for her.

At 11 pm May 2<sup>nd</sup> women heard people yelling "police". Those that could get away did and the others were "caught". Everyone, including the brothel owner saw the missing woman in the police car, saw her name on the arrest warrant and assumed that she had gone to the police.

*"Ensuring that trafficked persons are effectively protected from harm, threats or intimidation by traffickers and associated persons, To this end there should be no public exposure of the identity of trafficking victims and their privacy should be protected and respected."*

— Guideline Six (6), Recommended Principles and Guidelines on Human Rights and Human Trafficking, Report of the UN High Commissioner for Human Rights to the Economic and Social Council

Journalists and photographers also accompanied the police and "rescue team". Photos of the women were taken without their consent and appeared in the local papers and TV the next day.

*"States should protect the privacy of identity of victims of trafficking in persons, inter alia, by making proceedings confidential."*

— Article 6, UN Protocol to Suppress, Prevent and Punish Trafficking in Persons, Especially Women and Children, Supplementary to The UN Convention On Transnational Organized Crime 2000

Women who were "rescued" understood they had been arrested. They had their belongings taken from them.

*"No one shall be arbitrarily deprived of her property"*

Article 17(2), Universal Declaration of Human Rights

They were separated from each other. They were unable to contact friends, family or Empower.

*"No one shall be subjected to arbitrarily interference her privacy, family home or correspondence."*

— Article 12, Universal Declaration of Human Rights

In all 28 women were "rescued". Some of the women were not employees of that brothel but were simply visiting friends when they were "rescued". Women were transported by Trafcord and the police against their will to a Public Welfare Boys Home. Nineteen women were locked inside and have remained there for the past 31 days. We have no information on the whereabouts or situation of the other ten women.

*"Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of her liberty except in such grounds and in accordance with such procedures as established by law"*

— Article 9 (1), International Covenant on Civil and Political Rights

*"Women suspected of being trafficked must not be detained for longer than 10 days."*

— Article 10, Measures of Prevention and Suppression of the Trafficking in Woman and Children Act 1997 (Thailand)

As soon as they had their mobile phones returned women contacted Empower. They are only permitted to use their phones for a short time each evening and must hide in the bathroom to take calls outside that time. They report that they have been subjected to continual interrogation and coercion by Trafcord. Women understand that if they continue to maintain that they want to remain in Thailand and return to work that they will be held in the Public Welfare Boys Home or similar institution until they recant. Similarly they understand that refusing to be witnesses against their "traffickers" will further delay their release.

*"Migrant workers and their families shall have the right security and liberty of person. They shall be entitled to effective protection by the state against violence, physical injury threats and intimidation whether by public officials private individuals groups or institutions."*

— Article 16, International Convention on the Protection of All Migrant Workers and Members and of Their Families

*"States shall ensure that trafficked persons are protected from further exploitation and harm and have access to adequate physical and psychological. Such protection and care shall not be made conditional on the capacity or willingness of people to cooperate in legal proceedings."*

— Protection and Assistance Principle 8, Recommended Principles and Guidelines on Human Rights and Human Trafficking. Report of the UN High Commissioner for Human Rights to the Economic and Social Council

Five days after the "rescue" four women who had escaped the rescue team came to Empower Chiang Mai. They were still shaken and very worried about their friends and their own safety. They were shocked to hear that the raid had not been about arresting women but rather in order to "rescue" those women who were victims of trafficking.

Each of the women were emphatic that all the workers were well informed before coming, had made satisfactory salary arrangements with the employer, had the freedom to leave and all were 19 years and over.

One woman who has a 50,000 baht advance from the owner had traveled home twice in the past two months to visit family etc. Although she had borrowed the money as an advance against her wages she felt no fear or threat. She and the others were all supported by the management to refuse customers, attend to health care, access safe working equipment, education and training. They were receiving an average of 600 Baht a day (the minimum wage in Chiang Mai Thailand is 133 Baht a day) They now find themselves unable to work.

*"States will ensure the rights of women to protection and working conditions as well as the right to choose a profession."*

— Article 11 c & f, Convention on the Elimination on All Forms of Discrimination against Women

*"Everyone has the right to work to free choice of employment to just and favorable conditions of work and protection against unemployment."*

— Article 23 (1 ), Universal Declaration of Human Rights

They had fled the brothel leaving their possessions and savings behind. The brothel was now locked and they were unable to regain their goods.

*"No one shall be arbitrarily deprived of her property."*

— Article 17(2), Universal Declaration of Human Rights

These women have nowhere to stay, no money and therefore are unable to access basic needs including medical care and education.

*"Everyone has the right to a standard of living adequate for the health and well being of herself and her family including food, clothing housing and medical care and necessary social services and the right to secure in the event of unemployment, sickness disability widowhood old age or other lack of livelihood in circumstance beyond her control."*

— Article 25 (1), Universal Declaration of Human Rights

Many of the women come from Shan State in Burma. In an area where systematic rape, forced labor, food shortages and a multitude of other human rights abuses have been well documented. (One of the most telling and relevant reports "License to Rape" released just last year) There is no real process whereby people fleeing the situation can claim refugee status in Thailand. After "rescue" their situation will be made known to Burmese authorities, local village officials and family members. Under these circumstances a safe and beneficial return home is impossible.

*"Repatriation of victims of trafficking: When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or had the right to permanent residence, such return shall be with due regard for the safety of that person and shall preferably be voluntary."*

— Article 8, UN Protocol to Prevent, Suppress and Punish Trafficking in

Persons, Especially women and Children, Supplementary to The United Nations Convention Against Transnational Organized Crime UN 2000

On May 16<sup>th</sup> we found we were no longer able to contact the women by phone. On May 26<sup>th</sup> we called the Public Welfare staff where nineteen women were being held. The majority of women have been transferred to a rehabilitation center in central Thailand and the other seven will be sent to the same institution for an indefinite period. They are homesick, worried and furious and in the meantime their families are left without financial support. All the women being held plan to return to work as soon as possible after their inevitable deportation. This will of course result in them paying yet another transport fee and facing more risks, including the risk of being "rescued" again.

Traffickers and many anti-trafficking groups employ very similar methods to achieve their goals. Both groups deceive women, transport them against their will, detain them, and put them in dangerous situations.

### **Recommendations**

On the 12<sup>th</sup> of May Empower held a meeting on trafficking and anti-trafficking responses with 64 female entertainment workers from 3 major centers in Thailand. The large majority of the group was women from Burma, some of who had at some time been "victims of trafficking" and all of who had at one stage or other enlisted help to migrate for work in Thailand.

They were unanimous in their recommendations that:

1. No person should be trafficked, or forced to work in work they have not chosen to do and that no child under the age of 18 years should be abused sexually either commercially or domestically.
2. Methods to combat trafficking must be revised and solutions found that do not violate the rights of workers but support true victims of trafficking.
3. The rights of adult trafficked victims as workers must be acknowledged. We should receive recognition of our work and compensation, so we are not financially worse off after our "rescue".
4. All women affected by trafficking or anti-trafficking measures must receive adequate compensation and if we are victims of trafficking we be given full support to seek asylum and/or residency with the right to work included.
5. The primary goal of prosecuting traffickers must be altered to a primary goal of assisting trafficked women and children. We propose that if trafficked women and children (whether trafficked or not) are continually rescued and assisted, the use of trafficked women and children will become unprofitable and entertainment places will only wish to employ those women who are over 18 years, informed and willing to work.
6. Understand that all women, who are unable to access travel documents and need or wish to migrate, must secure the assistance of an agent or broker. If our situation as refugees from Burma is not recognized we must secure work for the survival of our families and ourselves. While we are willing to work our illegal status leaves us with no recourse against exploitation by agents or employers regardless of the work we do. Anti-trafficking groups must work toward improving

- the human rights situation in Burma, securing the ability for women to travel independently, and fully supporting the recognition of our refugee status.
7. Currently women who work in entertainment places have their own methods of assisting trafficked women, those being forced to work, and those under 18 years. Anti-trafficking dialogue and groups have yet to consider us as anti-trafficking workers and human rights defenders even though the numbers of women and children we assist far out way the handful women and children serviced by the recognized anti-trafficking groups. Instead we are ourselves caught up in the "rescues and repatriation". The latest stance from the USA government calling us "inappropriate partners" is just the latest example among many of the way we are ignored and our expertise sidelined.

Empower appeals to anti-trafficking campaigners, funding bodies and policy makers to urgently and very carefully consider these recommendations and ensure that they protect the rights of the women they propose to assist.