

Trafficking in persons case of Cambodian women in Japan (forced prostitution)

Statement by the plaintiffs' attorneys on the victory at Tokyo High Court

1. A High Court judgment ordering the perpetrators to pay damages was handed down and finalised in a civil litigation in which we served as counsel for victims of trafficking in persons. The case involved seven Cambodian women in their 20s and 30s ("the Women"). In March 2017, the Women filed a lawsuit with the Maebashi District Court seeking payment of unpaid wages and compensation for damages.

2. In 2016, the Women came to Japan after being solicited by Japanese men, including A, who told them that they could earn a high income by working in Japanese restaurants. Two of the Women were invited to Japan once before all seven of them came to Japan, where they were shown around tourist attractions such as Tokyo Disneyland and were persuaded of the attractiveness of working in Japan.

Immediately after arriving in Japan, however, the Women were taken to the Ikaho spa resort in Gunma Prefecture and ordered to serve alcohol and take customers for prostitution in a so-called snack bar run by Japanese man B and Thai woman C.

When the Women refused to engage in prostitution, A and others would shout at them, telling them that if the Women worked there, they would have to sleep with the customers. The Women had to endure for a month, hoping that if they were paid, they would be able to return to Cambodia, but they were intimidated by A and others, who refused to pay them, saying that they would not be paid unless they took 40 customers a month. The Women feared that they would never be able to return to Cambodia.

The Women sought protection and were finally rescued by the Cambodian Embassy in December 2016. The Women were subsequently recognised as victims of trafficking in persons by the then Tokyo Regional Immigration Bureau, and A and others were arrested, prosecuted and convicted for breaching the Immigration Control Act. A Japanese man, D, who recruited the Women and others in Cambodia, was reportedly prosecuted for trafficking in persons in Cambodia.

On 14 March 2017, the Women filed a lawsuit against A-D and others in the Maebashi District Court, seeking damages based on tortious conduct for unpaid wages and forced prostitution.

In February 2022, one of the Women and Japanese men A and B were questioned.

3. The Maebashi District Court's 2nd Civil Division, acknowledged the Women's claim for unpaid wages, but did not acknowledge the fact that they were forced to engage in prostitution, and dismissed their claim for damages (judgement delivered on 10 February 2023 by Presiding Judge Junichi Sugiyama and Judges Toshiya Itano and Shun Takeuchi).

The District Court's judgment (a) found that the restaurant where some of the Women worked in Cambodia was "a restaurant where employees could be taken out of the restaurant to engage in sexual acts", (b) found that the Women had been recruited on the assumption that they would engage in similar work in Japan, and (c) found that the Women, who did not understand Japanese, could earn between USD 3000 and USD 5000 per month. Furthermore, the District Court held that (d) the Women sought rescue from the embassy because they were simply acting out of frustration at the lack of payment of their wages.

However, the District Court did not find that the Women were actually engaged in prostitution in Cambodia, nor did it examine or find any similarities between their work at the restaurant in Cambodia and their work in Ikaho for any reason. In the first place, the Women were completely different in occupation, age and private life situations, including some young women who were unmarried and had never had sexual intercourse. The finding that such Women were lumped together and that they voluntarily agreed to be prostituted lacks precision and is unreasonable. The District Court's judgment disregarded the right to sexual freedom/sexual self-determination, lacked the perspective that the Women were victims of sexual violence, and strongly expressed preconceptions, prejudice and discriminatory attitudes towards foreign women.

4. On 11 April 2024, the Tokyo High Court's 19th Civil Division (Presiding Judge Hiroto Waki, and Judges Iwao Saito and Hiroyoshi Amakawa) accepted the Women's claim for damages based on tortious acts and ordered the Japanese men A and others to pay a total of 7.15 million yen.

Although there were some findings that differed from the Women's claims, such as the timing of their recognition of the act of prostitution, the High Court's judgment, after examining in detail objective evidence that had not been considered at the District Court and specifically examining the credibility of the parties' statements, concluded that "the Appellants (the Women) were forced to engage in acts of prostitution due to the coercive behaviour of the Respondents (A and others). They were forced to engage in prostitution or were put in a situation where they were forced to engage in prostitution without sufficient prior explanation, and were not based on genuine intent", in line with the Women's claims.

The High Court then found that the conduct of A and others was highly illegal in breach of the

Anti-Prostitution Act and that they had used the Women to force them to engage in acts of prostitution by burdening them with debts, and found them responsible for tortious conduct as a violation of their sexual freedom or right to sexual self-determination.

5. The High Court judgment was based on a detailed examination of the Women's circumstances, including the circumstances of their arrival in Japan, the fact that they had no money soon after arriving in Japan, the fact that they had no acquaintances and could not seek help from others, and the power relationship between the Women and A and others, from the perspective of whether their engaging in prostitution was based on genuine intent or not. The judgment is significant in that it recognises that the act that forced the Women to engage in prostitution is a violation of their sexual freedom or right to sexual self-determination.

In Japan, victims of trafficking in persons such as those in this case are rarely recognised and identified as victims, and it is extremely rare for victims to seek financial redress in judicial proceedings for unpaid wages or sexual harm as a result of exploitation. Although there are concerns that the continuation of legal proceedings after the victimisation may be burdensome for the victim, the exercise of the natural right to seek wages as compensation for work should be carried out, and financial compensation, including wages, may help to prevent secondary victimisation of victims who have been victims because of poverty. Therefore, it is highly significant that victims of trafficking in persons such as those in this case sought financial redress in the judicial process and that this was granted.

We, the attorneys representing the victims, hope that the High Court decision in this case will lead to recognition that trafficking in persons continues to occur in Japan, and that it will lead to better remedies for victims of trafficking in persons, including judicial remedies.

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Ryoko Minagawa
Natsumi Fujii
Anna Ito
Masami Kittaka
Kosuke Oie
Mikiko Otani
and Reia Tokuda
attorneys-at-law