

# **Report on the Current Situation of Migrant Women and the Discrimination They Face in Japan**

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## **General Situation**

Migrant women who comprise more than half of the total foreign residents in Japan (2.12 million in 2014), with resident statuses and those whose stay is limited to their activities, continue to face multiple discrimination and violence (intimate, community, workplace and state) mainly because of their gender, ethnicity and class.

Even with CEDAW Committee's recommendations in 2009, still deep rooted stereotyping of migrant women persists and victims of domestic violence are inadequately protected and supported to overcome their traumas, and to regain their empowerment for their stable settlement in Japan. Discrimination and harassment in the community even in government service facilities and in the workplace continue due to the differences in culture and lifestyle and the perceived unfitness of migrant women to the ideal image of a woman or mother according to the Japanese standards.

Sexual and Labor trafficking of migrant women and men is expanding and is becoming alarming. Migrant women who are being sexually exploited may not be very visible due to the fewer number of entertainers but fewer entertainers does not mean less sexual exploitation. It could even more coerced and hidden. Women migrant workers from Asia are continuously subjected to forced labor through the government's Technical Intern Training Program (TITP) and yet the government tends to condone the exploitation and abuse by not sincerely addressing the problem. The government even plans to expand the system to cover other jobs needed in Japan like getting caregivers for Japan through this system. Abandoned Japanese-Filipino Children with their mothers is an emerging trafficking issue. They are vulnerable to traffickers, who recruit and bring them to Japan with a promise of better life and opportunities, only to find themselves in huge debt and a more miserable situation.

The majority of the migrant women have been living in the country for more than 20 years and together with the newcomers are making valuable contribution for the sustenance of Japanese society.

The slow progress, almost inaction of the government to sincerely and effectively remedy the abuses, exploitation and discrimination faced by migrant women and other minority women show

no sincere regard to protect their rights and welfare. It also reinforces the image of migrant women as mere objects to be utilized for some special needs in Japanese society. We are deeply concerned about the government's virtual inaction.

**Issues of Urgent Concern to Migrant Women** (Indicated in CEDAW List of Issues)

**A. Domestic Violence (Violence Against Women) <Para 8, NGO Joint Report (JNNC) in response to CEDAW List of Issues>**

Related Article: Article 2, Article 5, Article 6

Proposed Recommendations:

1. Surveys especially on the situation of domestic violence against migrant women and other minority women in vulnerable situation must be conducted to find out their condition, protection and assistance needed.
2. Train and develop interpreters (multiple languages) with expert knowledge on domestic violence and assign them to local governments, and create a specialized organization for consultation, protection and assistance for migrant women and other minority women who are victims of domestic violence.
- 3. Revise the rule of revoking the residence status under the Immigration Control Act that has the effect of accelerating domestic violence against foreign women married to Japanese or discouraging them to escape domestic violence.**
- 4. Measures that can enable foreign women married to Japanese to seek a stable residence status without having to depend on their husbands.**

**Current Situation**

1. According to statistics provided by the Ministry of Health, Labor and Welfare, on the number of Japanese and Non-Japanese women victims of domestic violence who were provided with temporary protection, the proportion of migrant women provided with temporary protection was around 9%. This means that the rate of protection of migrant women is 5 times higher than that of Japanese women.

In spite of the high occurrence of domestic violence among migrant women, concrete efforts by the government to prosecute perpetrator against migrant women and to provide remedies and protection have not progressed. High quality service is lacking such as when consulting offices of local government and immigration bureaus.

The numerous consultations NGOs receive in recent years regarding family problem and divorces of international marriage indicate power differences where Japanese men control and foreign women are in a weaker position. It also reveals their isolation and vulnerability to violence mainly because measures to protect their human rights and to facilitate settlement as marriage migrants are absent on the national level.

2. There is concern about the Immigration Control System that compels foreign wives to be dependent on their Japanese spouse or foreign nationals with permanent residence for their residence status. This situation might reinforce occurrence of abuse and control of the foreign wives, a possibility that has been repeatedly raised in the UN related bodies: CEDAW Concluding Observations 2009, par. 31; Special Rapporteur on the Human Rights of Migrants Report, Mission to Japan in March 2010, para.59 to 61 and others).

Yet, the Revised Immigration Control Act and the Basic Residence Registration Act entered into force in 2012 with a rule that the residence status of spouses of Japanese and permanent residents may be revoked when they “fail to continue to engage in the activities as wives for six months or more or when they fail to make notification of the change, like change of place of domicile to the Ministry of Justice within 90 days from leaving the place of residence” (Art. 22-4(1) vii and ix, Immigration Control Act). As a result, the status of migrant women has become more insecure and serious concerns that it may even make migrant women more vulnerable to domestic violence.

The Committee on the Elimination of Racial Discrimination (CERD) in its Concluding Observation, 7<sup>th</sup> to 9<sup>th</sup> Periodic Report of Japan, 2014, recommended to the Japanese government to “*review its legislation on residence status to ensure that foreign women married to Japanese citizen or to non-citizens with permanent residence status will not be expelled upon divorce or repudiation, and that the application of the law does not have the effect, in practice, of forcing women to remain in abusive relationship*”.

From the NGOs experience migrant women victims of domestic violence have blocks and difficulties to clearly explain their circumstances to the immigration authorities, this is compounded when the woman has Japanese language difficulty. There have been instances and it is still continuing that residence permit of migrant women victims were revoked and were judged to go back to their country with their Japanese children.

In its 7<sup>th</sup> and 8<sup>th</sup> Periodic Report, Japanese government indicated that “(W)here such a foreign national requires temporary evacuation or protection for the reason of spousal violence, her status of residence is not revoked, deeming that there is a ‘justifiable reason’”. However, the government failed to effectively deliver to migrant women the detailed information regarding the change in the immigration policy and much about the point where their residence status would be revoked.

The **number of revocations under Clause vii (not engaging in the activities as a spouse of Japanese national, a permanent or special permanent resident) was 19 in 2013, 30 in 2014 and 27 in 2015.** Considering the circumstances of migrant women victims of domestic violence, NGOs have had vital concerns about cases of revocation. The Ministry of Justice however, has not published any clarification regarding the background and reasons for determining whether a spouse has or has not engaged in activities under the status as a spouse.

**B. Trafficking in Migrant Women <Para 10, NGO Joint Report (JNNC) in response to CEDAW List of Issues>**

Related Articles: Article 3, Article 5

Proposed Recommendation:

1. In general, investigate human trafficking cases and prosecute perpetrators and offenders.
2. For Foreign Victims of Human Trafficking
  - Establish a specialized center for consultation, protection and as a

Proposed Recommendations:

step for self-sufficiency. (Given the language and cultural needs plus the number of these victims, establishment of facilities that will include DV victims would be ideal.)

- Enact laws to support trafficking victims and prepare a permanent residency and self-sufficiency program.
3. Specific to Japanese-Filipino Children (JFCs) and Their Mothers –
- Investigate the number of JFCs and their mothers entering Japan and also, the malicious intermediary agencies and their current employment conditions to be able to take measures to prevent future harm to them.
  - Protect JFCs and mothers who are currently suffering damages and take supportive measures for their independence.
4. For the Technical Intern Trainees –
- Abolish the Foreign Technical Intern Training Program and **establish a new system of decent employment in which worker's rights are guaranteed.**
  - If abolishment cannot be done soon, there should be stricter enforcement of laws to forbid human and labor rights violations like sexual harassment and forced deportation because of pregnancy as well as labor exploitation through practices of “guarantee money” and non-payment or cheaper payment of work or overtime.
  - Protect victims who fled using public funds instead of the status quo where NGOs provide protection for the victims.

### **Current Situation**

Sexual and Labor trafficking in Japan are flourishing but due to the narrow understanding of human trafficking under the present existing measures, only minimal number of TIP cases are identified, the prosecution of perpetrators could not be executed and the protection of victims not sufficiently addressed.

#### 1. Foreign Victims of Human Trafficking

From the statistics released by the National Police Agency regarding human trafficking

crimes in fiscal year 2014 there were 25 human trafficking victims, all were female. Of the victims, 7 were under 18 years of age. Twelve were Japanese, 10 were Filipinos and 3 were of other nationalities.

(Source: “Measure to Combat Trafficking in Person”, May 2015, Kantei, pp.10-11 <http://www.kantei.go.jp/jp/singi/jinsintorihiki/pdf/eigoban.pdf>)

Identified foreign victims are few though there could be more. One of the reasons is due to the lack of support for foreign victims who rarely contact support agencies on their own. Victims are placed in public or private shelters that also accept Japanese women suffering from homelessness, family abuse, pregnancy, etc. These facilities do not have trained interpreters and staff who have wide understanding of cultural differences. Shelter staff struggle to handle needs of foreign victims who are ask to stay as witnesses.

The inappropriateness of the facility (catering to more Japanese women) and the lack of cultural understanding of staff and interpreters often are causes of repeated control, abuse as well as more isolation for foreign victims as seen in the recent case in Gifu prefecture.

The Japanese government believes that building a shelter for foreign trafficking victims is an inefficient use of funds given the small number of trafficking victims in Japan. A safe place for the victims however, is needed. **We request that the Japanese government establish a shelter for both foreign victims of domestic violence and human trafficking victims.**

We request the enactment of laws for foreign trafficking victims and the preparation of a permanent residency and self-sufficiency program for them.

2. Specifically, for Japanese-Filipino Children (JFC) and their Mothers –

Incidents of increasing trafficking of JFCs and their mothers in the different areas in Japan have been happening since 2009 when the revised Nationality Act was enforced. JFC children who are born or raised in the Philippines and later abandoned with their mothers, by their fathers, are the targets of brokers posing as charitable institutions in the Philippines to earn profits.

To bring JFCs and their mothers to Japan is easier and less expensive because of the fact that

they are children of Japanese. They are promised (1) support for the processing of their papers to enter Japan (2) employment placement (3) secure housing (4) entrance of their children into government schools. Only later on do they find out that they have a substantial amount of “debt” said to be for their airfare, employment placement, education expenses, etc. They are made to sign exclusive contracts for 2 to 4 years with employers and are placed in a very bad working condition.

For example, in July 2014, a media report revealed a nursing care service company in Higashi-Osaka demanded JFCs and their mothers, prior to their arrival in Japan to sign an unjust contract that required them “*not to bring a charge against the company in the event of their death and to give up their rights forever*”.

Upon arrival the company forced them to do harsh labor. (Japan Times, July 14, 2014 <http://www.japantimes.co.jp/news/2014/07/14/national/crime-legal/japanese-nursing-care-provider-illegally-withheld-funds-filipino-employees-salaries-sources/#.Vlk7oXbhBdg>)

In February 2015, more than ten brokers, owners and employees of pubs in Gifu and Aichi prefectures were arrested for allegedly forcing mothers of JFC and adult JFC women to work illegally. The police took the women and their children into protective custody by the police. (MainichiShimbun, Feb. 14, 2015 <http://mainichi.jp/english/articles/20150214/p2a/00m/0na/015000c>) In this case the same broker and intermediary agency had sent approximately sixty JFCs and their mothers to Gifu and Aichi area in Japan within the period of one year. The JFCs and mothers were made to live in the agency’s lodging and their movement was restricted, being monitored by surveillance cameras; obviously a case of human trafficking. However, the prosecutor dropped the charges against the broker and other suspects because of insufficient evidence. Only the club owner was charged with a summary offense and the summary order made by Gifu Summary court for a fine of 700,000 yen the biggest punishment in the case.

Despite this kind of exploitation of JFCs and mothers linked to human trafficking, the Japanese government does not have a clear knowledge of the number of arriving JFCs and mother into Japan, nor detailed information on the malicious intermediary agencies, nor information on their employment. Therefore the Japanese government is not taking effective measures to prevent future harm.



Since the government did nothing to aid them, ten of the women who worked at the nursing care facility in Higashi-Osaka took action by themselves to seek justice and sued the company for compensate for damages incurred.

As for the Gifu case, the government temporarily took the victims into a women's shelter for a limited period of time, but since no such "measures" have been taken to ensure their rehabilitation and reintegration appropriately, NGOs instead are taking on these roles. Also, while women and children are eligible for public financial support through the current system, male and sexual minority victims are excluded from such programs sponsored with governmental budgets.

### 3. The Technical Intern Trainees -

The state party's report CEDAW/CJPN/7-8 made no mention of CEDAW's concerns and comments on the foreign trainee program and foreign technical internship program.

In the above-mentioned "Measures to Combat Trafficking in Persons" report, in the section "Improvement of Technical Training Program by drastic revision", the government proudly declares it submitted a "bill for Act on Technical Intern Training and Protection of Technical Intern Trainees" and of distributing a handbook for technical intern trainees released in the native languages of interns . . . and which contains information such as Japanese labor laws. However, there has been no one case in which, force labor or sexual exploitation of technical interns are considered trafficking cases and where the victims are protected.

In 2010, the program was reformed and the training program was removed and returned to the original form that existed before 1993. However, the Technical Intern Training Program (TITP) because of the newly established status of residence has moved farther from its originally intended goal of "technical skill transfer to developing countries", to merely expanding the labor force in Japan. This direction is indicated in the publicly stated governmental policy of utilizing the Technical Training Program to supplement the labor force to meet the construction demands for the 2020 Tokyo Olympic and Paralympic games.

Under the new Technical Intern Training program, the slave labor and trafficking structures

remain unchanged. Malpractices still continue like debt bondage through its “guarantee money”, wages below the minimum wage and long working hours (400 hours per month), force return for women found pregnant and withholding of ID and bankbook. Human rights violations continue in the Dorm Rules on restrictions on personal freedom”.

Right now, the Diet continues to discuss the “Technical Intern Training Act” however, a **comprehensive structural change cannot be expected** for the following reasons: the bill does not mention forced deportation; not a single case has been reported of protection and support for the victims of forced labor under the current system, the overall attitude of the government still lacks the viewpoints of victim protection. This reality is also indicated in the Revised Immigration Act that is being discussed in the Diet together with the Technical Intern Training Act, which features unilateral enforcement of punishment to prevent Technical Interns from “escaping”.

**The government must abolish the Technical Intern Training Program as soon as possible and shift to a decent employment system in which labor rights of workers are duly guaranteed.**

**C. Education of Migrant Women <Para 13, NGO Joint Report (JNNC) in response to CEDAW List of Issues>**

Related Article: Article 10

Proposed Recommendation (As suggested by the Committee’s Recommendation)

1. Educational support for migrant women should be institutionally provided.
2. To provide support including funding for improving opportunity and quality of education of minority women, including Japanese language training for those in need.

**Current Situation**

The need for educational support for migrant women

Migrant women who came to Japan to work since the end of the 1980s have been settled in this country for more than 20 years. But their opportunities for public Japanese language education,

such as those found in other European and North American countries were not ensured. The problem of language ability is the reason for the difficulty these women face in moving from the blue-collar non-regular employment to more stable and regular employment.

The poverty of single-parent households regardless of nationality has been pointed out in particular. The Ministry of Health, Labor and Welfare survey in 2012 reports that the relative poverty rate is at a high level of 50.8%. In the 2010 national census, the unemployment rate of Japanese parents in single-parent households was at 7.8%, while the same rate for non-national parents was twice as high. This is because foreign parents are unable to work in jobs that require Japanese reading and writing abilities. It is clear that Japanese language education is necessary for migrant women to settle and lead stable lives in Japan, and such education must be institutionally guaranteed.

#### **D. Employment of Migrant Women <Para 14, NGO Joint Report (JNNC) in response to CEDAW List of Issues>**

Related Article: Article 14

##### Proposed Recommendations:

1. As suggested by Committee's Recommendation) Urge the Japanese government to take effective measures to improve employment of minority women under proper working conditions and to provide assistance in finding a decent job.
2. **On accepting foreign domestic workers**, the government has to take necessary measures to ensure that their rights are respected. One concrete and necessary action is to ratify the International Labor Organization Domestic Workers Convention, 2011 (No. 189) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

##### The Situation of Employment of Migrant Women

The unemployment rate according to the 2010 national census was 5% for Japanese women, while the same rate was 5.8% for Chinese, 9.2% for Philippine, 11.6% for Thai, and 9.8% for Brazilian women, showing that the rate was approximately twice as high for foreign women except for the Chinese women. Seen by family relations, unemployment rates were higher for those who were

divorced, with 19.3% for Chinese, 19.8% for Thai, and 15.0% for Philippine women respectively. (The unemployment rate for divorced Japanese women was 8.0%.) The same rate for unmarried women was also high, with 22.9% for Peruvian, 12.8% for Brazilian, and 11.2% for Philippine women. (The rate for unmarried Japanese women was 9.1%.) The Japanese labor market is based on the male-breadwinner model, with women placed in supportive roles. This structural factor is compounded with the problem of Japanese language ability in the case of migrant women who experience acute forms of exclusion from the labor market.

An additional pressing concern regarding employment of migrant women is the government's plan to accept foreign domestic workers soon this year 2016, at the National Strategic Special Zones as a means of facilitating 'women's active role in society'. At the same time that this system expands the public and economic spaces of Japanese women, it could also be a venue of abuse, harassment and exploitation to the other, without effective measures to protect migrant women's human and labor rights. We are also concern of women to be trafficked through this channel of getting foreign domestic workers.

The government has to recognize that there are these possibilities and therefore has to be prepared by taking necessary measures to insure that their rights are respected. One concrete and necessary action is to ratify the International Labor Organization Domestic Workers Convention, 2011 (No. 189) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

**E. Refugee and Asylum-seeking Women and Girls <Para 19, NGO Joint Report (JNNC) in response to CEDAW List of Issues>**

Related Article: Article 2, Article 5

### Proposed Recommendation

1. Measures must be taken so that persecution of women victims of sexual violence in situation of conflict or generalized violence would be taken into consideration appropriately in the interpretation of the Convention relating to the Status of Refugees and be applied in the procedures examining the recognition of refugee status by the Japanese government. In doing so, reference must be made to the international norms including guidelines issued by UNHCR and conclusions of the Executive Committee of the UNCHR.
2. Consider gender aspects including mental health care and addressing special needs must be taken without fail in the procedures for recognition of refugee status.
3. Training on gender-related forms of persecution should be provided for inquiry officers and refugee examination counselors who examine the applications for refugee status. Training to acquire knowledge and skills needed to interview applicants for refugee status suffering from the effects of torture and trauma should be provided.
4. Assistance for women applying for asylum in Japan should be promptly provided, particularly, measures to provide safe housing.
5. Unnecessary detention should be avoided and alternative measures should be taken particularly for women with special needs, such as victims of violence or those with mental illness.

### Current Situation

The Working Group on Refugee Recognition System established by the Immigration Bureau of the Ministry of Justice under the 6th Immigration Policy Panel in October 2013 pointed out that “Government interpretation of the Refugee Convention is restrictive and has to consider gender-related persecution”. However, there are no concrete measures on interpreting the definition of refugees according to international norms nor mention any gender-related persecution. Regarding new forms of persecution, it merely states that refugee examination counselors would submit proposals to the Minister of Justice. Experts on the Refugee Convention or on international law are limited. It is unlikely that the counselors would be able to submit proposals on measures to examine the forms of gender related persecution in the refugee recognition procedures as well as

on the application of the UNCHR guidelines and conclusions of the Executive Committee.

Gender-related matters are insufficiently considered during recognition procedures like, the request of a female victim of torture to have an interview with women only panel was denied. It is also unclear whether inquiry officers or examination counselors have received appropriate training on gender-related issues. A case of a female asylum seeker, who was a victim of torture and sexual violence and suffering from PTSD was granted after she appealed a special permission to stay after 7 years and not as her right but for humanitarian considerations.

While the UNHCR states that trafficking involving forced prostitution or sexual exploitation may be grounds for refugee application, the application of a woman who was forced to enter with a mistress contract since she was a minor and later engaged in forced prostitution was denied as a refugee in the primary examination. And there was only one woman of the three refugee examination counselors who interviewed upon appeal and a man counselor made remarks that lack consideration on the terrible experiences of the applicant.

Due to the length of time, 3 to 4 months before a refugee applicant can be given financial assistance to cover living and housing expenses many women applicant from African countries stay with their fellow Africans. There are many cases of women forced to have sexual relation in return for being allowed to stay. Government assistance does not cover childbirth expenses, and even when the mothers manage to join the health insurance scheme, they would be left with debts of approximately 200,000 yen.

”Indefinite detention of violators” is the government’s principle in its immigration law. The period of detention in general is long, lasting for around a year.