

Inputs on the “Questions for other stakeholders” by SMJ

30 April 2025

Solidarity Network with Migrants Japan (SMJ)

3F 1-12-6 Ueno, Taito-ku, Tokyo, Japan

Tel:+81-3-3837-2316 Fax:+81-3-3837-2317

Email:smj@migrants.jp

Solidarity Network with Migrants Japan (SMJ), as a networking organization of civil society organizations working to support migrant workers and migrants in Japan, would like to provide the Working Group the six out of the twelve questions as below.

1. Progress in relation to the protection of migrant workers’ rights at the national level

(1) Changes in Japan's Temporary Labor Migration System

The Technical Intern Training Program (TITP), which has been criticized for rampant human rights violations by various international organizations, is a typical example of a temporary labor migration system in Japan. Even before TITP, the “Training Program” which existed prior to TITP, was also used to utilize trainees as laborers to make up for the shortage of workers

Although “Training Program” which began in the 1950s, was supposed to be an activity to acquire Japan’s knowledge and skills, it has been misused to utilize the labor force. In order to fill the gap between the original purpose and the actual situation, the TITP was established in 1993 to accept trainees as workers. Initially, TITP consisted of “one year of training and one year of technical internship.” Later, in 1997, the program was extended to “one year of training and two years of technical internship” for a total of three years, and this program has taken root.

However, since trainees are not labors, the labor-related laws did not apply to them. As a result, human rights violations have continued. Therefore, since 2010, the Government started to provide protection under labor-related laws and regulations from the first year.

In spite of the reform, human rights violations still continued. The Act on Proper Technical Intern Training and Protection of Technical Intern Trainees was enforced in 2017, and the Organization for Technical Intern Training (OTIT) was established to administer the system. There is no other example of a unique law being enacted for a single status of residence like this. The existence of a problem that could not be left unattended became apparent.

However, the reality of human rights violations remained unchanged, and the gap between the institutional objective of international contribution through skills transfer and the reality of utilization as a labor force remained wide. Thus, the gap between the objectives of the temporary labor migration system in Japan and the actual situation has continued for a long time.

(2) Shift from TITP to “Employment for Skill Development” Program

Meanwhile, TITP, which aims at international cooperation through skills transfer, was reviewed and “Employment for Skill Development (ESD)” Program was established to develop and secure human resources in industrial fields with labor shortages. The program will come into effect by 2027.

However, while some improvements were made in the areas of “no freedom to change jobs” and “payment of large fees,” which have been basic factors in the violation of human rights under TITP, these improvements might be far from fundamental.

a. Under ESD Program, foreign workers can transfer of their own volition if they meet certain conditions, but many conditions are also imposed on the transferee, and it is not easy for a worker to meet both conditions and actually transfer.

In other words, although ESD Program is for a period of three years, there is a transfer restriction period of between one and two years for each field, and the foreign worker must also pass a Japanese language and skills test. In addition, the government is considering limiting the number of foreign workers who can be accepted by the transferee to one-third or so of the total number of foreign workers under ESD Program. In addition, the recipient of the transfer will be required to bear much of the initial costs incurred by the originator of the transfer.

b. The maximum amount of fees is to be set by ministerial ordinance under the Law on ESD Program. Currently, discussion is underway to limit the maximum fee charged by sending organizations to no more than two months of wages received by the worker. Informal brokers other than sending organizations are not subject to the regulation. This is a far cry from the international standard of zero fees. Japan has ratified ILO Convention No. 181, and it should not be allowed for workers to bear the fees.

According to the survey of the Immigration Services Agency published in 2022, the average total fees paid by technical intern trainees to sending organizations, etc., is a little over 540,000 yen (US \$3857). In Vietnam, where the fees are the highest, they are almost 690,000 (US \$4928) yen. However, based on our consultation with technical intern trainees from Vietnam, many of them came to Japan after paying approximately 1 million yen (US \$7142), which is equivalent to several years of annual income in their home country.

2. Key human rights challenges faced by transnational migrant workers

Other major human rights issues under TITP include the forced return of technical intern trainees against their will, frequent violence in some construction and manufacturing industries, power harassment and sexual harassment that can easily occur in any industry against the backdrop of the

extremely large power disparity between labor and management. The high amount of supervision fees paid by the receiving company to the supervisory organization is one of the factors of low wages, nonpayment of wages, long working hours, etc.

These are most prominent under TITP. Similar problems also occur in other category, such as Specified Skilled Worker (SSW) program, which is also a temporary labor immigration system. Since ESD Program is expected to be operated in tandem with the specified skills system, it is highly likely that the problems will continue.

Forced return to Japan will be pointed out in question 7.

Violence has occurred frequently in some industries, but it has not been taken up as a serious issue, partly because some industries, such as construction and manufacturing, have also seen violence against Japanese workers. However, in 2022, a case in which the network of the Solidarity Network with Migrants Japan (SMJ) involved received a great deal of attention when a technical intern trainee from Vietnam held a press conference at the Foreign Correspondents' Club of Japan, including a video showing the scene of violence. After that, the government issued a notice for the purpose of raising awareness. The Immigration Services Agency has been requested to take special measures in cooperation with the Ministry of Land, Infrastructure, Transport, and Tourism, which is in charge of that industry, but this has not materialized.

Power harassment and sexual harassment occur frequently even against Japanese workers on a daily basis, and no special action has been taken by the government. In the past, there have been dozens of cases of sexual violence against technical intern trainees in the agricultural sector, where there is little understanding on the labor contract. The problem is really serious.

Under the Act on Proper Technical Intern Training and Protection of Technical Intern Trainees, technical intern trainees are entitled to receive wages equal to or higher than Japanese workers doing the same work. However, according to a survey conducted by the Ministry of Health, Labor and Welfare, the wages of technical intern trainees in FY2024 were 182,700 yen (US \$1,305), which is significantly lower than the overall average of 330,400 yen (US \$2,360), including Japanese workers' wages. In many cases, the wages of technical intern trainees are actually the minimum wage for each prefecture.

Nonpayment of wages is also associated with long working hours, and nonpayment of wages for overtime work is rampant. While this is also common among Japanese workers, the consequences are more serious for low-wage technical intern trainees.

4. Specific intersectional risks and challenges faced by migrant workers, such as migrant women

Specific intersectional risk that should be addressed is the issue of pregnancy and childbirth among female technical intern trainees due to the fact that they are foreign workers under the temporary labor migration system and are female whose rights are more vulnerable. They face severe restrictions on pregnancy and childbirth, resulting in isolated births and stillbirths, and the subsequent criminalization of infanticide.

The Japanese government has neglected to address these issues for many years. The Immigration Services Agency conducted its first survey in 2022, directly interviewing technical intern trainees during on-site inspections at receiving organizations where they were working, and released the result in December of the same year.

According to the survey results, 26.5% of the technical intern trainees had received “inappropriate remarks” such as “If you get pregnant, you must quit from your job” from the supervising organization, receiving organizations(companies), or sending organizations. The breakdown is that 73.8% were from sending organizations, 14.9% from supervisory organizations, and 11.3% from receiving organizations.

In addition, 5.2% of the technical intern trainees were forced to sign “inappropriate contracts” such as stating that they would quit their jobs if they became pregnant. Of these, 70.3% were from sending organizations, 21.6% from supervisory organizations, and 8.1% from receiving organizations. Cases in which isolated childbirth became an issue as a criminal offense began to be picked up by mass media around the end of 2018, and the following year the issue was raised in the Diet, calling for the Japanese government to take action.

In 2019, a suspended sentence was issued in a case in which a female trainee left an infant born after an isolated birth at someone else's residence.

In a case in which a stillborn infant was left on a shelf in its own room in a dormitory, the Supreme Court ultimately acquitted the defendant. The Supreme Court has overturned lower court rulings, acquitting a technical trainee from Vietnam accused of abandoning and concealing the bodies of stillborn twin boys she had given birth to in her room in Kumamoto Prefecture in 2020. She was not able to tell anybody her pregnancy because she had read on social media that pregnant foreign trainees were forced to return to their home countries.

Similar cases have since been declared crimes, and the issue of pregnancy and childbirth among technical intern trainees continues to be an ongoing problem, as the issue is still being contested in the courts.

5. Positive practice examples of businesses upholding the rights of all migrant workers

While initiatives related to business and human rights in Japan gradually

expanded from the latter half of the 2010s, for some time they remained largely superficial and formal, lacking tangible results. However, since the beginning of the 2020s, initiatives by companies and business associations have deepened and are beginning to show effectiveness.

Teijin Frontier Group's Zero-Fee Project

Teijin Frontier Co., Ltd. launched a CSR strategy project in 2011 and began promoting CSR procurement. Furthermore, starting in fiscal year 2019, they launched the "Zero-Fee Project" to eliminate the issue of high recruitment fees paid by technical intern trainees, ensuring that the accepting companies (host companies/institutions) bear these costs instead. To implement this, Teijin Frontier consolidated the selection process for supervising organizations, choosing reliable partners committed to the zero-fee policy. They also require written confirmation from technical interns stating they did not pay any fees in their home country. Although Teijin Frontier Group is a relatively small corporate group, its company-led initiative to achieve zero-fees is a groundbreaking development.

6. Positive practice examples from our organization's work in safeguarding and promoting the rights of all migrant workers

The Solidarity Network with Migrants Japan (SMJ), established in April 1997, is a nationwide network comprising NGOs, civil society organizations, labor unions, and individuals dedicated to assisting and protecting the human rights of migrants, migrant workers, refugees, and their families in Japan. The organizations and individuals affiliated with SMJ provide ongoing daily consultations. When necessary, they engage in negotiations (including collective bargaining through labor unions) and offer support, such as accompanying individuals to public institutions, thereby securing remedies for individual cases. Additionally, SMJ holds regular consultation sessions for migrants and migrant workers to identify underlying problems. They analyze these issues, engage in regular negotiations with relevant government ministries seeking systemic reforms, and lobby Diet members and other officials to establish systems that protect the rights and dignity of all migrants and migrant workers.

7. Examples of policies and practices taken by Governments that have had an adverse impact or proved to be ineffective in relation to enhancing the protection of migrant workers' rights, especially in a cross-border context?

(1) Checks on Forced Returns

Technical intern trainees who assert their legitimate rights or express dissatisfaction with their working environment are sometimes threatened with deportation (e.g., "If you keep complaining, we'll send you home") or are forced to return to their home country against their will.

When establishing the Act on Proper Technical Intern Training and

Protection of Technical Intern Trainees (effective November 2017), the Japanese government did not include provisions specifically addressing forced returns. However, following lobbying efforts by NGOs like SMJ directed at Diet members, the issue of forced returns was raised during the 2016 ordinary Diet session's Justice Committee deliberations on the Act. Consequently, checks on technical intern trainees returning home before completing their training period began in September 2016. Specifically, a system was introduced whereby upon departure, interns are asked to declare on a multilingual "Intention Confirmation Form" whether their return is forced and against their will.

However, this mechanism has proven largely ineffective. Despite tens of thousands of trainees returning mid-term annually, the number of declarations indicating involuntary return is extremely low, typically only around a dozen per year (totaling just 70 from the system's inception to 2023). This suggests it has not functioned as an effective deterrent against forced repatriation. Contributing factors include coercive tactics used by supervising organizations and/or sending organizations, such as falsely promising debt reduction for a "quiet" return, exerting pressure on the trainee's family in the home country, or forcing trainees to sign documents stating their departure is voluntary. The Immigration Services Agency of Japan (ISA) has thus far failed to implement effective countermeasures against these practices.

(2) Reality of On-site Inspections

On-site inspections conducted by the Organization for Technical Intern Training (OTIT) are intended to assess the actual conditions at supervising organizations and host companies/institutions (accepting organizations). While these inspections generally meet the required frequency targets (annually for supervising organizations, once every three years for host companies/institutions), their substantive effectiveness is often questioned. TITP officially aims for international contribution through skill transfer. Therefore, it mandates that "mandatory tasks," specific to each occupation type, must constitute at least half of the total training hours. However, the laxity of these on-site checks is undeniable, as inspections sometimes fail to identify cases where trainees perform almost none of the required mandatory tasks.