

# **Observation by JNATIP**

## **We need the new legislation**

Japan Network against Trafficking in Persons (JNATIP)

**February 12th 2009**

The number of identified victims decreased to 36, down from 43 in 2007, 58 in 2006 and 117 in 2005.

Government of Japan has not taken any effective measures to criminalize acts of labor trafficking although they are said to be preparing for the revision of laws at this current Diet session.

In January 2009, one TIP victim identified by the police was prosecuted and received suspended prison sentence.

Despite of repeated requests by JNATIP, GOJ has not allocated fund for multi-lingual hotline that are easily accessed by potential victims.

Government's financial assistance to NGOs who support foreign TIP victims who face violence and exploitation is still limited and NGOs have no choice but bear the responsibility by themselves so as to provide services for protecting victims, resulting in restriction on their efforts to proactively look for potential victims.

Ministry of education, culture, sports, science and technology has no intention to include the issue of TIP neither in school text books nor in authorized reference books.

The Act against child prostitution and child pornography has not been revised to criminalize the possession of child pornography.

To be fair, however, we should note that the Inter-Ministerial Liaison Committee on trafficking in persons has tried to develop cooperation with JNATIP by proposing to hold the working level meetings in addition to the annual meeting at the higher level.

In conclusion, we believe that without proper legislation for TIP prevention and victim protection, GOJ will not be able to take actions as recommended in TIP report 2008.

## 1. Victim identification

The table 2 indicates that there can be more victims behind these numbers identified by the authority.

< Table 2. Breakdown of occupations of female illegal employees (2007)

Occupations	Hospitality Industry (hostess etc.)	Industrial labor	Waiter and	Other service industry	Cook	Dishwashing	Others	Total
The Number of woman	5,409	3,674	1,883	1,214	747	730	2,399	16,056

The Immigration Bureau, Activities against the Immigration Law, 2007

The table suggests that women who worked at the entertainment-related industries accounted for the majority of the ones arrested as illegal employees. The Japanese government should explain the criteria to identify “victims” among “illegal employees” and the large difference between these two numbers.

## 2. Remaining issues

### 2-1. Coordination between government and civil society

Coordination among the Japanese government, NGOs, related organizations in victims’ sending countries remains ineffective.

For instance, in human trafficking case committed in Cambodia by Japanese, the Japanese government interrogated a victim, a Cambodian child, in October 4, 2006. As a result, this Japanese was sentenced to three years in prison with the suspension of four years in March 2007. However, the child was not informed of this fact as of May 2007.

### 2-2. Right to information

The information should be thoroughly provided to victims. Victims can apply for renewing their resident status or for other new resident status that enables them to work in Japan after receiving the special permission to stay, when their return to home country may incur danger to them, such as revenge by brokers. However, the information is not properly communicated to victims. As a result, victims often believe that they have no choice but returning home.

### 2-3. Mid-term and Long-term shelters

We need special shelters for TIP victims, operating in their mother tongues. Currently in Japan, there are women counseling centers and entrusted NGO run shelters, providing initial short-term support for victims

However, it takes usually 1-2 months to return home countries after they choose to do so.

For those who decide not to return, mid-term and long-term shelters are needed for their rehabilitation and vocational training.

#### **2-4. Psychological, medical and legal assistance and vocational training**

Victims should receive psychological therapy and rehabilitation program through gender-sensitive and child-friendly manner.

Some sexually exploited victims are infected to sexual disease. However, medical treatments for victims are extremely limited.

In addition, legal assistance for victims is needed, which enables them to swiftly and effectively advance a legal claim for losses against perpetrators. Although victims bring the cases to court, they are hardly able to recover losses because of the insufficient systems by the government to find out the perpetrators and their organizations. In fact, the government excludes the TIP victims from the victims of other crimes who are to be protected under the Basic Act on Crime Victims.

Vocational training program by which victims could earn some money at shelters is useful for recovering self-esteem and facilitating economic independence.

#### **2-5. Protection of Male Victims and special consideration of child victims**

Some foreign trainees suffer serious exploitation which should be recognized as TIP victims and in this connection, measures to support and protect male victims are necessary.

The special status of child victims and their right to special protection should be recognized.

### **3. New Legislation for protection of TIP victims and prevention of TIP**

In 2005, a draft bill on protection of TIP victims and prevention of TIP was prepared by MPs of Democratic Party, reflecting the proposal of JNATIP, and submitted to the House of Representatives at the 163th regular session.

However, since then, this draft bill has remained pending without being deliberated mainly due to the imbalance of power in the House of Representatives.

Since 2005 when the penal code and the other relevant laws were revised to penalize the act of TIP, it has turned out that without proper and sufficient measures of protection, prosecution cannot be realized. It has also turned out that the public facilities such as the women counseling centers are not able to provide mid-term and/or long-term social care and such social care needs the financial resources to be sustainable.

In order to develop and sustain social service facilities such as multilingual hotlines and mid-term and/or long-term private shelters, we need to have the proper legislation for protection of TIP victims and prevention of TIP with the sufficient

regular budget

So, JNATIP has prepared the revised proposal for the current draft bill and is lobbying for MPs to get this draft bill revised and adopted as soon as possible.

The major points of JNATIP proposal are as follows;

- 1) Setting up the committee in which not only government officials but also NGO staff and representatives of relevant international organizations become the members for deliberating the budgetary allocation, including additional fundraising activities, and training plans for public and NGO staff
- 2) Assisting and developing the existing as multi-lingual hotlines and NGO run shelters for mid-term and/or long-term social cares for TIP victims