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## مجلس حقوق الإنسان

الدورة الرابعة عشرة

البند ٣ من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

تقرير مقدم من المقررة الخاصة المعنية بالاتجار بالأشخاص، لا سيما النساء والأطفال، السيدة جوي نغوزي إيزيلو\*

إضافة

### البعثة إلى اليابان\*\*

موجز

قامت المقررة الخاصة المعنية بالاتجار بالأشخاص، لا سيما النساء والأطفال، بزيارة رسمية إلى اليابان في الفترة من ١٢ إلى ١٧ تموز/يوليه ٢٠٠٩. وكان الغرض من الزيارة تجميع معلومات مباشرة عن ظاهرة الاتجار بالبشر في هذا البلد وتقييم ما للتدابير التي اتخذتها الحكومة والجهات المعنية الأخرى من تأثير على منع الاتجار بالبشر وحماية حقوق الإنسان للأشخاص المتجر بهم.

\* تأخر تقديم هذه الوثيقة.

\*\* يعمّم موجز هذا التقرير بجميع اللغات الرسمية. أما التقرير ذاته فيرد في مرفق الموجز ويعمّم باللغة التي قُدم بها فقط.

واليابان هي بلد المقصد لكثير من ضحايا الاتجار بالبشر. واعترافاً بفداحة هذه المشكلة، اتخذت اليابان تدابير للتصدي لها، لا سيما في عام ٢٠٠٤ عندما اعتمدت خطة العمل الوطنية المتعلقة بتدابير مكافحة الاتجار بالأشخاص، وإدراج جريمة الاتجار في قانون العقوبات في عام ٢٠٠٥. ومع ذلك، لا تزال هناك العديد من التحديات التي يتعين التصدي لها، وبخاصة فيما يتعلق بحماية ضحايا الاتجار، واعتماد نهج لمكافحة الاتجار يقوم على حقوق الإنسان. وقدمت المقررة الخاصة توصيات تضمنت حث البلد على اعتماد تعريف أوضح للاتجار ووضع معايير ومبادئ توجيهية واضحة لتحديد الضحايا. وضرورة القيام كذلك بوضع إطار قانوني وسياسي شامل بشأن حماية ضحايا الاتجار، كما يتعين تحسين المساعدة المقدمة للضحايا بصرف النظر عن أماكن وجودهم، ويشمل ذلك إمكانيات إعادة التأهيل (التعافي) وإعادة الإدماج والجبر. وينبغي الشروع على وجه السرعة في تدريب الموظفين المعنيين بإنفاذ القوانين. وأخيراً، ينبغي إنشاء وكالة تنسيق دائمة تكون مخصصة حصرياً لتعزيز وتنسيق ورصد السياسات والإجراءات المتصلة بمكافحة الاتجار بالبشر، وذلك بالتعاون مع المنظمات الدولية والمجتمع المدني والجهات المعنية الأخرى.

## Annex

### Report of the Special Rapporteur on trafficking in persons, especially women and children, on her mission to Japan (12 to 17 July 2009)

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## I. Introduction and methodology

1. Joy Ngozi Ezeilo, the Special Rapporteur on trafficking in persons, especially women and children, carried out an official visit to Japan from 12 to 17 July 2009. Her visit to the prefectures of Tokyo and Nagoya included meetings with government officials, representatives of intergovernmental and civil society organizations, lawyers and victims, as well as visits to shelters and a detention centre.
2. The Special Rapporteur wishes to express her gratitude to the Government for the invitation to undertake this visit, its cooperation throughout and the opportunity to meet and engage with stakeholders.
3. The objective of the visit was to gather first-hand information on the phenomenon of human trafficking in the country and assess the impact of the measures taken to prevent trafficking and protect the human rights of trafficked persons. Since a comprehensive and holistic approach is imperative in order to combat this phenomenon, the Special Rapporteur particularly focused her attention on strategies for combating trafficking that rest on the following “5 P’s” and “3 R’s” – protection, prosecution, punishment, prevention, promotion (of international cooperation), redress, rehabilitation (recovery) and reintegration of victims to assume a constructive role in the society.
4. Japan, as a wealthy country, is a destination country for many victims of human trafficking. Although trafficking for prostitution and other forms of sexual exploitation constitutes the vast majority of the recorded cases in Japan, the Special Rapporteur also focused on trafficking for labour exploitation, a phenomenon that has not received the required attention by Japanese authorities.

## II. Background

5. Japan, an island chain located in Eastern Asia, has a population of 127 million. Among the foreign population, which represents 1.74 per cent of the total population, Chinese nationals constitute the largest foreign community (655,377), followed by South and North Koreans (589,239), Brazilians (312,582), Filipinos (210,617) and Peruvians (59,723).<sup>1</sup>
6. Japan has a Parliamentary Government with a constitutional monarchy. While the emperor retains his throne as a symbol of national unity, elected politicians exercise the actual decision-making power. Administratively, [Japan](#) is divided into 47 prefectures, the country’s subnational [jurisdictions](#), with local prefectural governments.
7. The economy has experienced a major slowdown since the 1990s following three decades of unprecedented growth, but Japan still remains a major economic power, both in Asia and globally. It is therefore a country of destination for foreign workers.

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<sup>1</sup> See Japan, *2009 Immigration Control* (Immigration Bureau, 2009). Available from [www.moj.go.jp/NYUKAN/nyukan91.html](http://www.moj.go.jp/NYUKAN/nyukan91.html).

### III. Main findings

#### A. The institutional framework and its implementation

##### 1. Legislative and policy framework

8. Japan is party to a number of core international human rights treaties, in particular the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the International Convention on the Elimination of All Forms of Racial Discrimination. Japan has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families or the Optional Protocols to the Covenant on Civil and Political Rights, the Covenant on Economic, Social and Cultural Rights, the Convention against Torture and the Convention on the Elimination of All Forms of Discrimination against Women.

9. Of particular concern to the Special Rapporteur is that Japan has not ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime ("Palermo Protocol"), despite it signing the Protocol in December 2002. In that regard, the Government indicated that it is committed to ratifying the Protocol in the near future and that domestic legislation had already been brought in line with the Protocol.

10. The legislative and policy efforts undertaken by Japan to combat human trafficking are framed around the National Action Plan on Measures to Combat Trafficking in Persons,<sup>2</sup> adopted in December 2004 by the Inter-ministerial Liaison Committee headed by the Cabinet Secretariat. The plan is divided into five main sections with the following objectives:

(a) Ratification of the Palermo Protocol: this includes the ratification of the Protocol and the adoption of amendments to several laws to bring domestic legislation in line with the Palermo Protocol;

(b) Prevention of trafficking: this includes enforcement of immigration control; exchange of information with countries of origin; enhancement of reliability of travel documents; review of status of residence and visas for entertainers; counter-measures against false marriages; and measures to prevent illegal employment and prostitution;

(c) Eradication of trafficking: this includes criminalization of trafficking; thorough repressive actions; sharing of information on passports and visas; and coordination with investigating authorities of various countries;

(d) Protection of victims: this includes identification of victims and due consideration of their status with regard to potential criminalization; provision of shelters; counselling and consultation activities; interview and protection of victims; permitting an extension of period of stay or granting a special permission for residence (on a case-by-case basis); ensuring the safety of victims; and repatriation assistance to victims;

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<sup>2</sup> The official text of the Action Plan is available from [http://www.mofa.go.jp/policy/i\\_crime/people/index\\_a.html](http://www.mofa.go.jp/policy/i_crime/people/index_a.html).

(e) Points of methodology: this includes cooperation with domestic, foreign and international institutions, in particular on investigations and on prevention; awareness-raising on trafficking and violence against women; and training for law enforcement officials.

11. To implement the action plan and bring domestic legislation into line with both the plan and the Palermo Protocol (yet to be ratified), Japan amended several laws. Firstly, the Law Concerning Partial Amendment to the Penal Code of 22 June 2005 established the crime of trafficking in persons. It criminalizes the buying and selling of persons and the transporting, transferring and harbouring victims of kidnapping, abduction, buying or selling. According to the revised article 226 of the Penal Code, kidnapping by force, threat, fraud or enticement for transportation to a foreign country shall be punished for no fewer than 2 years and no more than 20 years. The buying or selling of a person shall be punished with imprisonment for no fewer than three months and no more than five years (seven if it is a child), and if the purpose is for profit, indecency, marriage, or threat to the life or body, the penalty is imprisonment for no less than 1 year and no more than 10 years. The acts of transporting, transferring and harbouring victims of kidnapping, abduction or sale for these purposes are also punished with imprisonment for not fewer than six months and no more than seven years.

12. With regard to the definition of trafficking, the Special Rapporteur is concerned that it is not as comprehensive as the definition contained in the Palermo Protocol, in particular because it does not include recruitment without kidnapping. In addition, the penalties seem inappropriate, in particular with regard to the minimum duration of imprisonment.

13. The Law for Punishment of Organized Crime, Control of Crime Proceeds and Other Matters has been amended to designate trafficking in persons as an offence to be considered relevant for money-laundering. The Law on Control and Improvement of Amusement Businesses was also amended in October 2005 to prevent illicit work by requiring the owners of amusement and sex-related businesses to verify the immigration status of foreign employees at recruitment.

14. The Immigration Control and Refugee Recognition Act was amended in 2005 to stipulate that a residence permit can be given to a victim of trafficking for the purpose of protection or the prosecution of those responsible for procuring, providing or possessing a fraudulent Japanese passport. Also, the Ministerial Ordinance to provide for criteria pursuant to article 7, paragraph 1 (2), of this Act was amended to prevent the use of the entertainer residence permit for trafficking purposes.

15. Japan has also strengthened its border controls in order to prevent illegal entry. The Immigration Bureau attached to the Ministry of Justice is in charge of delivering eligibility certificates for migration to Japan. The Ministry of Foreign Affairs is in charge of issuing visas. Furthermore, the Ministry of Justice is creating a new system based on fingerprints and pictures taken at airports that will allow information-sharing within the Ministry.

16. Concerning the protection of children, the Act on Punishment of Activities Relating to Child Prostitution and Child Pornography and the Protection of Children,<sup>3</sup> punishes the sexual exploitation of children under the age of 18. It criminalizes the solicitation of child prostitution, the provision of child pornography and other related activities, and the trafficking in children for the purpose of child prostitution or pornography. Internal trafficking for these purposes is punishable with imprisonment for no less than one year, or, if it is international, for no less than two years. However, the law does not punish the

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<sup>3</sup> Japan, Act No. 52 of 26 May 1999, as revised by Act No. 106 of 2004.

possession of pornography of children if it is not intended for sale, which is a serious gap and of particular concern. An amendment to the law in this regard is being discussed.

17. Lastly, in 2005 a draft bill on the protection of victims of trafficking and the prevention of trafficking was submitted to the House of Representatives, but was not adopted. Civil society organizations indicated that a revised version of this victim protection bill is being prepared for submission.

## **2. Implementation: general framework and areas of concern**

### *(a) National coordination mechanism on trafficking*

18. The Cabinet Secretariat (which supports the Inter-ministerial Liaison Committee in charge of the action plan) indicated that it is quite satisfied with the plan's implementation. According to the Cabinet Secretariat, five years after its adoption, the objectives have been mostly achieved, although this view is not necessarily supported by many organizations that are working on the ground for victims of trafficking in Japan. However, the Government has indicated its commitment to reviewing the plan by the end of December 2009.<sup>4</sup>

19. Concerning human resources dedicated to the plan's implementation, there is no separate office on human trafficking or any officer in the Cabinet Secretariat that is solely dedicated to its implementation.

### *(b) Entertainment visas*

20. The entertainment visa was one of the major channels used by traffickers to introduce victims into Japan. Given that 85,000 visas for entertainers were issued in 2004 to Filipino nationals and that many of them ended up being trafficked for sexual exploitation, the Government of Japan decided to cancel the system of artist accreditation cards established between Japan and the Philippines, whereby the Government issued entertainment visas based on Philippine companies' certification that a person was indeed an artist. Following this amendment, Japan now requires two years of experience or training as an entertainer abroad to issue these visas. As a consequence, the number of entertainment visas fell from 139,000 in 2004 to 36,000 in 2008.

### *(c) False marriages*

21. Since entertainment visas have been subjected to strict control, traffickers have used other channels, in particular false international marriages, to traffic victims into Japan. In many cases, women are not aware that the marriage proposal is false and that they will have to pay money back, while in other cases women are aware of it, but are still deceived about the real conditions of the "contract". The realities they face upon arrival in Japan are often exploitive forced labour with extremely low salaries and limited freedom, and, in some cases, debt bondages ranging from US\$ 30,000 to 60,000. It is difficult for the police to identify these victims, since — as "supposed spouses" of Japanese citizens — they have access to all types of work legally.

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<sup>4</sup> The Special Rapporteur received information according to which, in December 2009, the Government revised the National Action Plan, taking into account some of the preliminary recommendations that she issued at the end of her mission. The Special Rapporteur notes with appreciation that the Government has taken prompt action in this regard and looks forward to receiving more details thereon.

22. Women who are falsely married frequently become victims of domestic violence. A serious obstacle for these women to leaving the house is the terms of their visa. Even if these women have Japanese children, if they leave the marriage, they lose their visa. They can get a permanent visa only after five years of marriage. Therefore, many of them endure the violence for years in order not to be returned. Concerns were also expressed to the Special Rapporteur that the immigration law is being amended to stipulate that foreign women who divorce will lose their residence permit, even if they have a permanent visa.

23. The Special Rapporteur was informed that, in the Nagoya prefecture, victims of this form of trafficking are mostly women from the Philippines and Indonesia. Also, in some parts of Japan, adverts in community newspapers written in native languages of foreign residents invite trainees and technical interns to marry Japanese nationals. This makes trafficking even easier, since these foreign victims are already in Japan.

24. Finally, concerns were expressed that the residential permits granted to caregivers have also started to be used to traffic persons. In countries of origin, such as the Philippines, traffickers establish caregiver training centres and from there traffic persons to Japan. In some cases, sending Governments may acquiesce and omit to take action to combat trafficking (especially where the country receives a lot of money from remittances from victims) and some officials are directly corrupted by traffickers.

25. The Government indicated that it is aware of the trend of trafficking through false marriages and that it has taken measures to monitor this risk. For example, the Tokyo Metropolitan Women's Counselling Office, a public shelter, referred to the case of a Filipino woman who, in 2008, had undergone a false marriage with a Japanese man. She was forced to work in a bar. She escaped and went to the police, and it took 11 days for her to be recognized as a victim of trafficking, since she was involved in a false marriage and had a false work contract; eventually she was assisted and returned to her country.

(d) *Industrial Training and Technical Internship Programme*

26. The Industrial Training and Technical Internship Programme was established in order to develop human and industrial resources of developing countries, with the aim of securing the transfer of industrial technology, skills and/or knowledge. Many reported that this system is used by some companies as a conduit to bring in unskilled workers to Japan to work at very low wages, under conditions that may well amount to trafficking. There are around 200,000 trainees and interns in Japan, and the majority come from China (67.6 per cent in 2008).

27. Under this programme, a foreign national can enter Japan as a "trainee" for one year and become a "technical intern" for another two years at the most. Thereafter, the technical intern is required to go back to his/her country. In 1991, the Japan International Training Cooperation Organization (JITCO) was established under the supervision of five ministries; JITCO today manages the vast majority of the programme and should have a role in monitoring abuses. It is composed of associations of companies that provide trainees to their member companies, relevant ministries and labour unions.

28. In their first year, trainees are not covered by labour law and are extremely vulnerable to employers' abuses. Trainees are not considered as workers but more as students; therefore they receive an allowance rather than a salary, cannot do repetitive work or overwork, and have to be trained. However, according to lawyers and non-governmental organizations (NGOs), trainees are in many cases used as cheap labourers and required to perform repetitive work that is unconnected with their field of work in their home country and what they were promised at the time of recruitment. They are taught technical skills only in a low percentage of cases and, in the majority of cases, are used as normal workers and obliged to do overtime, for which they are mostly unpaid.



29. A particular concern relates to the practice of some receiving organizations of confiscating trainees and interns' passports, in order to deter them from complaining or running away. Many trainees pay huge amounts of money as a "guarantee" prior to leaving their country and this money is only paid back if they complete the period of training and internship. They are also often requested to offer their house as an additional guarantee. They are therefore trapped: forced to continue to work and live under very harsh conditions and subject to practices similar to slavery and servitude. Such abuses continue to take place despite the administrative guidance issued by the Government in 2007 that prohibits the confiscation of passports, deduction of money and compulsory savings, and deposits in the country of origins. In 2008, the Ministry of Justice recognized that 452 employment agencies had engaged in some kind of related illegal behaviour.

30. Restrictions on the freedom of movement of trainees and interns have also been reported, such as prohibition of mobile phone possession, prohibition or restriction of making phone calls, going out, writing letters, going to Internet cafés or speaking with individuals other than staff of accepting organizations. Some are even timed and fined for every minute spent using the toilets.

31. The Special Rapporteur heard various testimonies of trainees who were housed in containers, without heating at 10 degrees, drinking dirty water or sleeping on the floor. She also heard testimonies of young women who were sexually harassed and abused. In one case, a young Chinese woman who was supposed to be a trainee in a farm to acquire agricultural skills was taken by the entrepreneur to work as a servant in her house and raped on a regular basis until she could escape. A case was filed in court. She succeeded in receiving monetary compensation through an out-of-court settlement. Generally, it is difficult to reach the end of a court case, since interns have to leave after three years and a court case usually lasts two years.

32. Attorneys representing trainees reported the case of a Chinese woman who was told she would be trained in making clothes but, once in Japan, was put to work as a cleaner. She worked for almost three years from 8.30 a.m. to 12.00 a.m. with very few days off. When, together with other colleagues, she asked for better working conditions, the employer forced her and her colleagues into a car and took them to the airport to be deported to China, with the assistance of the airport police. She subsequently escaped and went to a workers' union in Tokyo that has tried to sue the company in court. The Special Rapporteur heard several testimonies of Chinese men and women forcibly deported when they complained about their work and living conditions.

33. Despite the fact that, when trainees become technical interns, they are fully covered by Japanese labour laws, their labour rights continue to be violated by companies: they are often paid less than Japanese workers, do overtime and work during holidays without being compensated at higher rates, and do not take their paid holidays.

34. An additional concern is that companies in countries of origin send trainees without employment contracts. While it should be a training programme under which companies employing workers send them for training to Japan and — keeping their contractual relationship — reintegrate them when they come back, in reality sending companies do not have a contractual relationship with the trainees and do not take them back on when they go back. This system does not offer sufficient guarantees and seems to be more of a disguised recruitment system that opens corridors for trafficking.

35. The Ministry of Foreign Affairs indicated that the programme is monitored by five ministries through JITCO. Measures to prevent or stop abuses include the careful selection of trainers, requests for copies of contracts, one or two missions per year dispatched to monitor how interns are using their skills back in their countries of origin and suspension of a company from the programme for three years when irregularities are identified. JITCO

publishes annual evaluation reports, which note that the objectives of the programme have generally been met.

36. A revised immigration law was recently adopted,<sup>5</sup> which extends the applicability of labour laws to trainees and therefore entitles them to be paid the minimum wage and have the same labour rights as any Japanese worker. However, the programme has not been improved and the rest of the concerns remain valid, mainly owing to lack of effective measures to guarantee the implementation of the law, in particular considering that the majority of these abuses remain unnoticed for lack of appropriate inspections and monitoring, especially by trained labour inspectors.

(e) *Discrimination and violence against women*

37. Women and girls, including Japanese nationals, fall into the vicious circle of trafficking and sexual exploitation and other forms of gender-based violence. In this regard, the high incidence of domestic violence against women and girls in Japan is of particular concern.<sup>6</sup>

38. According to the statistics provided by the Cabinet Office, 13.3 per cent of women living in Japan feared for their life in 2008 because of domestic violence. Also in 2008, 68,196 cases of domestic violence were reported to relevant government bodies. In this regard, the Special Rapporteur welcomes the assistance provided to victims of domestic violence by the spousal violence counselling and support centres and of women's consultation offices (WCOs) in each prefecture since their establishment by the Government and local authorities. She regrets, however, that the hotline for domestic violence that was established in January 2009 is available in Japanese only.

39. Furthermore, it is practice for women victims of domestic violence to have to leave their home with their children to go to a WCO, while their husband can remain at home. This solution deeply frustrates women and increases their vulnerability to gender-based violence.

40. Moreover, according to the statistics provided by the Ministry of Health, Labour and Welfare, women are still strongly discriminated against in the employment sphere in Japan in comparison with other major developed countries, including in relation to salaries (the average woman's salary is 67.8 per cent of the average man's salary; this percentage rises to 79.9 per cent in the United States of America), access to managerial posts (10.2 per cent are occupied by women, as opposed to 42.7 per cent in the United States) or access to services which facilitate those mothers who wish to continue working (70 per cent of women resign after the birth of their first child). These inequalities at work make women vulnerable in both public and private spheres.

41. Women victims of discrimination and domestic violence are at a higher risk of becoming victims of the deceptive recruitment methods of traffickers. Advertisements ask for models and actresses for videos and soap operas and promise high wages. However, the reality is different: women end up working as hostesses in the entertainment industry or for

<sup>5</sup> The amendments to the Immigration Control and Refugee Recognition Act were adopted by the Japanese Parliament on 15 July 2009 and will take effect over the next one to three years.

<sup>6</sup> The Committee on the Elimination of Discrimination against Women recently expressed its concerns at the obstacles women victims of domestic and sexual violence face when bringing complaints and seeking protection in Japan, particularly with regard to immigrant women, minority women and women of vulnerable groups. See concluding observations on Japan (CEDAW/C/JPN/CO/6), 7 August 2009.

sex video shoots; commoditized and sexually and economically exploited. Thus, many victims find themselves trapped in a cycle of violence.

42. This phenomenon is particularly alarming with respect to underage girls. They are less capable of protecting themselves and escaping from their abuser once they fall into such a circle. Some girls who respond to advertisements are forced to have sex during their first interview and are kept by the threat of compromising photos or videos being published on the Internet. Some are first employed in other sectors where they end up becoming heavily in debt and then start working in the sex industry in order to pay back their debts. Lastly, the *enjo kosai* compensated dating phenomenon, whereby relatively wealthy girls occasionally make dates with men and have sex with them for money, has not been eradicated.

(f) *The situation of men*

43. Concerning men and boys, the situation is particularly worrisome, since they are not considered as victims of trafficking and therefore not protected under the anti-trafficking strategy. Thus, there is no form of direct assistance such as shelters for trafficked men. Furthermore, there is no legal framework to protect victims of trafficking for labour exploitation, which often affects men.

## **B. Prevention**

44. The action plan provides that the Government will engage in awareness-raising activities. The Government indicated that more than 1 million leaflets in nine languages have been distributed and posters are put up in airports and foreign consular offices. Awareness-raising activities have been implemented in cooperation with the United Nations Children's Fund (UNICEF). Embassies and consulates also play an important role in source countries, providing pre-departure briefings on potential risks and where to go to seek help. In 2008, the International Organization for Migration (IOM) in Tokyo launched an anti-trafficking campaign with the television channel MTV, called "EXIT campaign", which was broadcasted in newspapers, on the television and on the Internet and widely disseminated among young people.

45. Civil society organizations reported that, while in 2004 and 2005 there was considerable media coverage about human trafficking, this has decreased and awareness-raising efforts are at present minimal. In addition, there is no legislation that sets out clear obligations on the prevention of trafficking. Civil society organizations feel much more should be done to protect vulnerable persons and wish to work together with the Government on prevention and joint awareness-raising programmes.

## **C. Identification, protection and assistance to victims of trafficking**

### **1. Identification**

46. Since 2005, the Police and the Immigration Bureau are the authorities in charge of officially identifying victims of trafficking. Following identification, victims are entitled to specific protection and assistance. Therefore, identification is a crucial step for the protection of victims.

47. The National Police Agency is in charge of coordinating action and formulating policies and standard operating procedures on action to be taken when encountering a

trafficking case, while the Prefectural Police is in charge of taking action on the ground. The Agency indicated that general training on trafficking in persons is included in the Police Academy curriculum and career training, and that each prefecture has some officers dedicated to human trafficking who receive training every one or two years. However, when asked about written documentation on the subject, the Special Rapporteur was informed that no specific standard procedure or written training material on human trafficking exists within the police. However, IOM Tokyo indicated that it has distributed the *IOM Handbook on Direct Assistance to Victims of Trafficking* to both central and prefectural police offices across the country.<sup>7</sup>

48. When asked about the scope of the definition of trafficking, the police explained that it has a broad interpretation, which includes deception and recruitment. However, police officers on the ground encounter difficulties in identifying victims. They felt the definition needs to be improved.

49. Other interlocutors explained that, in practice, sexual work is seen as a condition to being identified as a victim. Labour exploitation has not been so far considered as a basis for identifying victims of trafficking. In fact, no trainee or technical intern has been identified as such. The Ministry of Health, Labour and Welfare provided statistics on the inspections of companies receiving trainees and technical interns that were carried out in 2007 by the Labour Inspectorate. Of the 2,633 companies inspected (which were targeted for being suspicious), 1,907 were found to have some illegal conduct: 910 for violation of working hours, 444 for unpaid or delayed payment of salary, 704 for unpaid overtime, 375 for not issuing a proper contract, 221 for improper dormitory conditions, 210 for not respecting the minimum wage and 743 for violating the health and safety regulations. However, no victim of trafficking was identified, since this is not the direct prerogative of labour inspectors.

50. The Immigration Bureau is also in charge of identifying victims of trafficking. However, this office does not have published or written internal guidelines on the identification of victims. It sometimes relies on IOM for the identification assessment, based on an agreement between the two entities. Following an established interview form, IOM interviews victims within 48 hours of their referral and, upon obtaining an informed consent from the victims, shares its decision on whether the person is a victim of trafficking with the Immigration Bureau, which then takes its decision.

51. Proper identification is also fundamental within the court system, in order not to criminalize victims and place them in double jeopardy. However, the lack of knowledge of prosecutors and judges on identification of victims is a real concern, since some victims are misidentified and end up being criminalized. For example, the Special Rapporteur was informed about a case in December 2008 where the public prosecutor pressed charges against a woman from the Philippines who had been identified as a victim of trafficking both by the police and IOM. The judge gave a guilty verdict.

## 2. Protection

52. Once identified, victims of trafficking are directed to a WCO, the local government offices in charge of assisting women in difficulty and that run shelters. WCOs mainly assist women victims of domestic violence, but since the adoption of the action plan, they are also in charge of temporarily protecting victims of trafficking. These centres provide the first protection to victims, a place where they can sleep and stay without fear.

<sup>7</sup> Geneva, International Organization for Migration, 2007.

53. In many cases, victims are afraid of going to the police, although the situation has improved since trafficking was established as a crime. Victims are less afraid and it is easier for them to be identified as victims. Despite this positive development, many victims prefer to go to NGOs, IOM, the Office of the United Nations High Commissioner for Human Rights (OHCHR) or the Japanese Association for Refugees, which organizations would then refer victims to private shelters.

54. According to the Ministry of Health, Labour and Welfare, 261 victims of trafficking (all female) were provided with protection between 1 April 2001 and 31 March 2009: 255 by WCOs and 6 by child guidance centres. The Special Rapporteur is particularly concerned by the extremely low number of victims of trafficking identified and protected in Japan, in comparison with comparable industrialized countries.<sup>8</sup> These numbers do not seem to reflect the reality of human trafficking in Japan and raise questions as to the effectiveness of the rescue and protection measures implemented by the Government.

55. The average age of victims was 25 years. Filipino, Indonesian and Thai nationals accounted for 88 per cent of the total number of victims. Of the 261 victims, 90 were hosted by shelters other than WCOs. Lastly, the average length of stay at a WCO is about 30 days. In the case of a foreign victim, embassies are alerted so that they can provide assistance, as may be required.

56. The Special Rapporteur is concerned that there is no hotline for victims of trafficking, where they could call any time and report their case in different languages. This is a serious concern in terms of lack of access to protection for victims. The National Police Agency has a general police assistance line, which has limited knowledge concerning trafficking. According to some stakeholders, the line is answered only in Japanese and no effective action follows calls. However, the Government insists that it takes the necessary action to investigate reported cases and protect victims. Some private shelters have established hotlines, and some of them are available 24 hours a day in different languages, particularly Chinese, Filipino and Thai.

### 3. Assistance

57. The Ministry of Health, Labour and Welfare is in charge of providing assistance to victims of trafficking, principally through WCOs across the country. Civil society organizations and IOM also provide services to victims. In particular, IOM assistance includes: an initial victim identification interview; referral to various stakeholders, including shelters; legal assistance through a dedicated lawyer; referral to medical institutions; and provision of individual, culturally-sensitive counselling in a number of languages.

#### (a) Shelters

58. In Nagoya, the Special Rapporteur visited the Nagoya Centre for Women, a WCO. The population of the Aichi prefecture is around 7 million people, and this is the only public shelter for that area. There are seven WCO branch offices in the prefecture, but they only provide counselling. According to the centre's staff, the centre is inadequate, since it

<sup>8</sup> In Italy, 54,559 victims were identified and provided assistance between March 2000 and April 2007 (see report from the Inter-ministerial Commission on Trafficking, available from [www.pariopportunita.gov.it/images/stories/documenti\\_vari/UserFiles/Il\\_Dipartimento/Art\\_18\\_aggiornato.pdf](http://www.pariopportunita.gov.it/images/stories/documenti_vari/UserFiles/Il_Dipartimento/Art_18_aggiornato.pdf)). In the United Kingdom, 347 victims were identified between April and September 2009 (see United Kingdom Human Trafficking Centre data at <http://www.ukhtc.org/about-ukhtc#Statistical>).

can host only 20 people at a time. Victims may stay up to two weeks, although this period can sometimes be extended. The longest stay was for 116 days. Since the shelter cannot accommodate all requests, it commissions other places to provide shelter services. Minors may be sent to a child consultation centre.

59. In 2007, of the 256 women who stayed in the centre, 4 were victims of trafficking. In 2008, of 330, 4 were victims of trafficking. The centre has a call line open from 9 a.m. to 9 p.m. At night, the office phone line is also open and records messages, although in an emergency, the staff take the call and report to the police so that they may rescue the victim and bring them to the centre.

60. The services provided include interpreters on call, counselling by three psychosocial experts and a legal attorney (in Japanese only), and referral to health facilities when required. Staff at the centre consider that domestic violence and trafficked victims have entirely different needs, more so when the latter are mainly foreigners. In that sense, they thought having a centre dedicated solely to victims of trafficking would be the best solution.

61. The Special Rapporteur also visited one of the two WCOs in Tokyo. From April 2008 to March 2009, it received 901 women. Seventy per cent were victims of domestic violence (15 per cent were foreigners), and 0.2 per cent were victims of trafficking (only two cases). In the last six years (2003–2009), the centre has received 25 victims of trafficking; 96 per cent of them returned to their country.

62. The centre has a call centre working 24 hours a day that receives around 70 calls per day. The facilities include a day nursery, an emergency room, a study room for children and a restaurant that adapts to various religious food requirements and other needs. The centre also commissions services from nine other facilities in the prefecture. Women stay an average of two weeks.

63. The concerns expressed by the centre's staff mainly related to the lack of interpretation services on a daily basis (it is mainly provided for legal issues) and to the fact that the personnel is specialized in domestic violence, therefore the psychosocial services provided to victims of trafficking are not fully adequate.

64. The Special Rapporteur also visited private shelters run by NGOs. They principally receive victims of domestic violence, with some victims of trafficking. The majority are foreign women, although they receive an increasing number of Japanese women. As opposed to WCOs, the private shelters visited had staff who spoke other languages, mainly Thai. But they lacked the necessary budget to be able to offer additional assistance, in particular medical and psychological assistance.

65. The stay of victims in these centres is paid for by the Government social services once they have been identified as victims of trafficking by the authorities and sent to these shelters. In an emergency, victims are admitted to the centre immediately and their case is then referred to the authorities for approval.

66. Throughout the visit, the Special Rapporteur observed that WCOs are rarely seen as a point of reference for victims of trafficking for several reasons:

- Lack of language skills and culture-sensitivity: as staff members speak only Japanese, foreign victims end up leaving since they feel isolated and cannot engage with the staff in order to receive proper assistance. Some shelters provide only Japanese food.
- Medical costs: some victims have sexually transmitted infections including HIV/AIDS. WCOs provide basic medical support. For other medical needs, victims of trafficking are allowed to go to hospital at a reduced cost; however, they have no

money to pay for medical treatment — and more generally for livelihood sustenance — and end up leaving Japan.

- Lack of training: since WCOs mainly receive victims of domestic violence, their staff members are not appropriately trained to respond to the needs of trafficked persons.
- Isolation: since the vast majority of women have very different problems, victims of trafficking feel isolated.
- Short length of stay: victims of trafficking are generally traumatized by the psychological and physical abuses they have suffered. Their self-esteem is extremely low. Their health is precarious. Medical and psychological assistance should be envisaged for a longer term. An average of one month's assistance is not appropriate.
- Lack of rehabilitation or recovering services: shelters are not envisaged as places that can offer comprehensive services, where victims can have access to training activities in order to reintegrate into the Japanese society, if they so wish.
- Exclusion of men: there is no shelter taking men and no assistance is envisaged for men.

67. Lastly, the Special Rapporteur observed a lack of clarity on assistance provided to trafficked children. Concerning girls, they should not be sent to WCOs, but to child guidance centres. However, that does not always happen, since there appears to be reluctance to take sexually abused children.

(b) *Rehabilitation (recovery) and reintegration*

68. The plan of action does not include rehabilitation and reintegration services for victims. This is one of the biggest lacunae in the assistance framework. WCOs do not offer victims the possibility to learn skills and/or undertake activities that could enable them to reintegrate into society. In WCOs, victims of trafficking are left to their own devices and there is nothing to do for them. They have no money, are not allowed to work under the temporary permit granted to them and cannot learn any skill. They are in a limbo where they cannot take any steps to resolve their situation.

69. This concern has also been recently reiterated by the Committee on the Elimination of Discrimination against Women, which indicated that it “remains concerned about the persistence of trafficking in women and girls, the exploitation of prostitution, and the lack of measures aimed at rehabilitating women victims of trafficking”.<sup>9</sup> Owing to the lack of rehabilitation, some victims leave WCOs and fall back into the trafficking circle. Others accept to be repatriated even if they may face reprisals once back in their country or risk being re-trafficked.

70. The Cabinet Office informed the Special Rapporteur that it is in the process of implementing programmes to help victims of domestic violence to find a job through collaboration with private companies. However, these rehabilitation/recovery programmes are not extended to victims of trafficking. The Ministry of Health, Labour and Welfare also indicated that victims of trafficking who have a proper residence permit that allows them to work can access labour employment assistance and vocational training. However, women who do not have a proper permit are not included therein.

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<sup>9</sup> CEDAW/C/JPN/CO/6, para. 39.

71. According to current government policy, assistance for the reintegration of victims is provided only when they are back in their own countries, through the financing of reintegration programmes, implemented mainly by IOM and the International Labour Organization.

(c) *Special residence permit and return*

72. According to the amendment introduced in the Immigration Control and Refugee Recognition Act, a special residence permit can be given to victims of trafficking “for the purpose of protection, or for the prosecution of those responsible of procuring, providing or possessing a fraudulent Japanese passport”. According to that amendment, traffickers are subject to landing refusal and deportation, while victims of trafficking can be granted a special permission for temporary stay. The Immigration Bureau explained that, concerning the return of victims, they do consider whether the victim would be at risk in case of return to his or her country of origin and provide the option to continue staying in Japan if the victim so wishes.

73. This amendment is a welcome step that enhances the protection of victims. However, the kind of permit provided does not allow victims of trafficking to work, which makes their stay practically unfeasible. Also, no clear data were available on how many victims were granted such a permit and for how long. The Cabinet reported that this kind of permit has been given for one, three or six months, but that most victims have chosen to return to their countries of origin. Immigration officials indicated that there is no specific category of permits for victims of trafficking: depending on the interview and the case, different types of short-term permit are given. Another criterion considered in deciding which permit can be granted is whether the victim can earn a living in Japan. Participation in judicial proceedings is not a condition to being granted a permit; however, victims who decide to participate in proceedings are granted a permit for the duration of the proceedings.

74. A number of interlocutors from international organizations and civil society indicated that, in practice, the return of victims is still the rule. The Special Rapporteur believes that the main reasons for this are: the lack of proper identification of victims of trafficking, who are thus returned as undocumented migrants; the lack of appropriate assistance and rehabilitation programmes in Japan; and the lack of authorization to work under the permit they are eventually granted.

75. In 2007, the Committee on Torture expressed concern in relation to “victims of trafficking being treated as illegal immigrants and deported without redress or remedy”.<sup>10</sup> In the light of this concern, the Special Rapporteur visited a detention centre for undocumented migrants in Tokyo. The centre visited had 600 detainees, of which 200 were women. The centre has detainees of 40 nationalities: 24 per cent are Chinese, 21 per cent Filipinos and 8 per cent Thai. The rest are mainly Asians, along with some Africans and Eastern Europeans. Women and men are detained on separate floors. Most of them have overstayed after the expiration of their residence permit and are detained pending the finalization of the deportation process. The average length of stay is 17 days.

76. During the visit to the detention centre, the Special Rapporteur was not given access to detainees, despite her requests. She saw the detainees’ rooms, but was not allowed to speak to any of them. To her disappointment, she was therefore not in a position to verify the following information. The centre’s authorities indicated that they assess during the first interview whether some of the detainees could be victims of trafficking, while no identification assessment is done by any external entity. Detainees can use public phones

<sup>10</sup> Concluding observations on Japan (CAT/C/JPN/CO/1), 3 August 2007, para. 25.



with prepaid cards to contact any external person or entity they wish. They are not informed at the outset of their right to ask for legal aid, but if they so request, they are given access to free legal aid, limited to the deportation procedure. When necessary, outside interpreters are called in.

77. Children are temporarily released, together with their parents, until the time they are eventually deported. A new amendment to the Immigration Act that should enter into force in 2012 will allow undocumented migrants with children to stay in Japan when certain specific conditions are met.

78. According to information received by UNHCR, no victims of trafficking have been granted asylum or long-term residence permits on the basis of humanitarian considerations.

79. IOM is the main organization in charge of assisting the authorities and victims in organizing their return. The scope of IOM activities includes pre-return risk assessment, assisted legal return to countries of origin (including document arrangements and escort for minors or vulnerable victims) and reintegration activities in their country of origin through cooperation with government agencies and NGOs. IOM offices in countries of origin also assist in assessing whether victims can safely return to their villages. Post-return assistance also includes shelter services, legal aid, economic/social reintegration and empowerment of victims.

80. In the experience of IOM, the vast majority of victims of trafficking wish to return quickly to their countries, because of the traumatic experience they have had in Japan. A few victims wish to stay, mainly because they fear returning or have no means to survive. IOM mentioned the case of a woman who chose to stay. She was granted an unconditional permit within a couple of days. In her case, the permit was extended three times and she had been in Japan for nearly two years. However, as a victim of trafficking she cannot work. She receives safe accommodation, meals, legal and medical assistance, but she has no possibility of accessing rehabilitation activities or employment opportunities, in order to reintegrate into Japanese society. Without money and permission to work, her life is very hard, with no prospects for the future. For this reason, few victims choose to stay in Japan. In the view of IOM, if rehabilitation programmes existed in Japan, victims would be more inclined to stay in order to recover, have a proper reflection period, rehabilitate, reintegrate into society and cooperate in the prosecution of traffickers.

## **D. Prosecution of cases of trafficking**

### **1. Prosecuting and punishing traffickers**

81. According to Tokyo's Metropolitan Police, the Yakuza (Boryokudan), the Japanese mafia, is mostly responsible for human trafficking. The Yakuza uses big tuna fishing boats that stop in various ports to traffic arms and human beings. The police and the Immigration Bureau are trying to address this problem.

82. According to the National Police Agency,<sup>11</sup> the number of arrests related to trafficking cases since 2005 is as follows:

- 2005: 83 persons arrested, of which 26 were traffickers; 117 victims
- 2006: 78 persons arrested, of which 24 were traffickers; 58 victims

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<sup>11</sup> National Police Agency press release of 5 February 2009. Available from <http://www.npa.go.jp/pressrelease/index.htm> (in Japanese).

- 2007: 41 persons arrested, of which 11 were traffickers; 43 victims
- 2008: 33 persons arrested, of which 7 were traffickers; 36 victims (2 Japanese and 34 foreigners)

83. Of these cases, perpetrators were indicted for the crime of trafficking by the Public Prosecutor's Office in 39 cases. Thirty-one persons were sentenced in first instance, of whom 20 were sentenced without a stay of execution.

84. The number of traffickers arrested (68) and sentenced (31) in the last four years has been very low. The Special Rapporteur considers that this may be linked to the fact that, in the majority of cases, victims are returned to their countries of origin within a very short space of time. As a consequence, the majority of the victims do not offer their assistance in the prosecution of traffickers and a considerable amount of information on traffickers operating in Japan is getting lost. This is a serious obstacle in the fight against traffickers. It feeds impunity, which in turn encourages criminals to continue operating in the human trafficking business, and therefore severely undermines all efforts being undertaken by government and non-governmental actors to fight human trafficking.

85. Lastly, several stakeholders reported that prosecutors and judges lacked the capacity to deal with the problem of human trafficking. It was suggested that appropriate training could be delivered by the National Judicial Institute. Training efforts by the Government in this regard are clearly insufficient.

## **2. Remedies and compensation for victims**

86. The Ministry of Justice indicated that the Prosecutor's Office provides protection to victims of trafficking who cooperate in judicial proceedings, which includes psychological counselling and escorts if they have any fear linked to attending court or being a witness. A psychologist can accompany them into court and a screen to separate witnesses and offenders can be installed, if the victim so wishes. Nevertheless, other organizations who assist victims of trafficking in judicial proceedings have indicated that their experience was that such protective measures were not in place. On the contrary, they reported that there have been instances where prosecutors threatened victims of trafficking with arrest and imprisonment if they were not forthcoming in providing testimonies.

87. Victims who have no financial means are, in principle, entitled to legal representation free of charge, but this has often not been the case. The Bar Association and some NGOs provide legal assistance to victims. In addition, IOM facilitates a victim notification procedure, keeping victims who have returned to their countries informed of the developments of judicial proceedings.

88. In relation to the forms of compensation available to victims of trafficking, the Ministry of Justice indicated that victims can file a case to seek compensation and damages under a 2008 amendment to the Criminal Victim's Law. However, no figures have been made available to the Special Rapporteur on cases where victims of trafficking would have received compensation. According to the information received, no victim has received compensation through this avenue yet, but only through settlements outside the court. Some of the reasons could be the lack of knowledge on the part of the judges, prosecutors and lawyers of legal remedies that can be sought for victims and an unwillingness to seek them, as well as the difficulty of identifying perpetrators and, therefore, the impossibility of accessing their money and possessions to compensate victims. In that regard, the Special Rapporteur noted that there is currently no compensation fund for victims of trafficking.

## **E. Cooperation with civil society**

89. A number of NGOs working on trafficking issues gather under the umbrella of the Japan Network Against Trafficking in Persons, a network of individuals and NGOs established in 2003.

90. In Nagoya, the Special Rapporteur saw the important work done by a civil society organization based in the red light district supporting migrant workers and victims of trafficking, mainly from the Philippines, but also from other Asian and non-Asian countries. Their work chiefly consists of assisting victims who call or come to their centre, liaising with IOM regarding its identification procedure, giving counselling and referring victims to a shelter, and working with IOM to organize the return of those who wish to go back home. They also succeeded in working closely with the prefectural authorities to organize information campaigns and liaise with countries of origin on prevention.

91. The Special Rapporteur observed that the level of cooperation between the Government and civil society is still relatively weak. Most NGOs were of the view that they had both expertise and grass-roots experience and that the Government could be more receptive to cooperating with them. Some indicated that they cooperated with prefectural governments. Many indicated that their work to help victims of trafficking might not be sustainable in the long term because of limited public funding options.

## **F. International, regional and bilateral cooperation**

92. International, regional and bilateral cooperation is essential for an effective action to combat trafficking in human beings. In this regard, the Ministry of Foreign Affairs reported various international cooperation activities the Government had promoted in the fight against human trafficking. At the bilateral level, the Government has dispatched inter-ministerial delegations to a number of countries to discuss the issue of trafficking in persons. Japan has a joint cooperation procedure with the Government of Thailand, called the Joint Task Force on Counter Trafficking in Persons, which met in 2006 and 2007. It includes police and immigration officers and aims at strengthening cooperation on prevention, law enforcement and protection. Standard operating procedures for cooperation with Thailand are being finalized. However, Japan has no bilateral agreement as such in the area of anti-trafficking.

93. At the regional level, Japan participates in the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime, a consultative mechanism that brings participants together to work on practical anti-trafficking measures. Japan supports this process, including by financing the website of the Bali process.

94. At the international level, Japan participates actively in international forums advocating strong efforts to fight human trafficking. It also contributes to funding IOM and cooperates with it, in particular on the safe return of victims of trafficking. Japan also funds technical cooperation projects through various United Nations agencies and programmes, for example, it provided funding to UNICEF for a project on awareness-raising and prevention of girl trafficking in the Lao People's Democratic Republic in 2003 and the United Nations Office on Drugs and Crime for art therapy projects for the recovery of victims of trafficking in Thailand in 2006 and 2007.

95. Japan also finances projects with several countries in South-East Asia and Central Asia through the United Nations Trust Fund for Human Security established at the initiative of Japan, including on economic and social empowerment of returned victims of trafficking (Thailand and Philippines, 2006). Finally, the Japanese police shares information

internationally by providing data to the International Criminal Police Organization (Interpol).

## **IV. Conclusions and recommendations**

### **A. Conclusions**

96. The Government of Japan, in recognition of the seriousness of the human trafficking problem, has taken measures to address it, in particular since 2004 with the adoption of a National Plan of Action on Measures to Combat Trafficking in Persons, the introduction of the crime of trafficking into the Penal Code in 2005 and the adoption of other legislative amendments. Victims in some cases have been granted the right to a special residence permit if they wish to stay in Japan. The Special Rapporteur also recognizes the efforts undertaken by the Government to cooperate with sending countries to support the reintegration of victims in their home countries and the Bali Process.

97. Notwithstanding the considerable progress made by the Government in order to tackle this phenomenon, there are challenges that it must address in order to effectively combat trafficking in human beings occurring within its borders and affecting both its citizens and foreign nationals.

### **B. Recommendations**

98. In the light of the foregoing, the Special Rapporteur addresses the following recommendations to Japan.

99. Japan should urgently ratify:

- The United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing that Convention
- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
- The Optional Protocols to the International Covenant on Civil and Political Rights, to the International Covenant on Economic, Social and Cultural Rights, to the Convention against Torture and to the Convention on the Elimination of All Forms of Discrimination against Women
- The Hague Convention on the Civil Aspects of International Child Abduction

100. Japan should adopt a clear definition of trafficking which includes all elements of the Palermo Protocol definition, and prepare written informative material and standard operating procedures which will allow all enforcement officials to have a clear understanding of when a person should be considered and identified as a victim of trafficking. In this regard, it should be made clear that trafficking also occurs for labour exploitation and affects men and boys.

101. Japan should strengthen the penalties for the crime of trafficking in persons, in particular with regard to the minimum duration of imprisonment.

102. Japan should adopt new legislation on the protection of victims of trafficking with a holistic approach, that would provide for comprehensive assistance to victims of trafficking through specialized shelters and assistance, including: psychological, medical, social assistance to be provided in the native languages of victims of trafficking; legal assistance to seek redress through judicial authorities; rehabilitation (recovering) programmes for victims to learn skills and be able to reintegrate into Japanese society; the possibility to assist victims for longer periods and grant longer residence permits with work permits; and appropriate budget to be allocated for these purposes.

103. The Act against Child Prostitution and Child Pornography should be amended to criminalize the possession of child pornography. There should be zero tolerance for child pornography and child prostitution, including the *enjo kosai* phenomenon.

104. Concerning the Trainees and Technical Interns Programme, the Government should:

- Take full responsibility for the programme and its monitoring. Since JITCO is not playing an effective monitoring role, an independent body with no connection to the participating companies should be given direct responsibility to closely supervise companies participating in the programme and ensure the full respect of the rights of trainees and technical interns, including their right to appropriate wages and working hours, freedom of movement, privacy, health coverage, decent housing conditions and access to an interpreter. For that purpose, labour inspections should be significantly strengthened to closely monitor the correct implementation of the programme, in line with the concluding observations of the Committee on the Elimination of Discrimination against Women requesting the Government “to continue to monitor the issuance of visas for internship and trainee programmes closely”.<sup>12</sup>
- Adopt a law to better regulate the programme, which would include more effective guarantees for the rights of trainees and interns outlined under the previous paragraph, as well as avenues for redress.
- Establish a hotline and an office to report abuses under this programme.

105. When revising the action plan and adopting any relevant legislative amendment, Japan should make use of the Principles and Guidelines on Human Rights and Human Trafficking as a reference, since these offer guidance on how to include a human rights-based approach in the combat against trafficking in persons.

106. Japan should establish a national rapporteur office or a coordination agency that will be solely dedicated to promoting, coordinating and monitoring policies and actions related to the fight against human trafficking, on a permanent basis, in cooperation with international organizations, civil society and other relevant stakeholders. The current Inter-ministerial Liaison Committee is not sufficient, as it is not a body with a secretariat that deals exclusively with anti-trafficking activities.

107. Clear identification procedures should be set out and shared with all actors, in order to avoid victims of trafficking not being identified and/or incorrectly identified and thus being treated as undocumented migrants and deported without redress or remedy. Specialized training should be provided to law enforcement officials in this regard.

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<sup>12</sup> CEDAW/C/JPN/CO/6, para. 40.

108. Japan should establish regional and specialized shelters exclusively for victims of trafficking that would provide specific assistance to victims of trafficking, as well as sufficient time for a reflection period and rehabilitation if the person chooses to stay.

109. Japan should establish a 24-hour multilingual hotline with staff trained on trafficking, as well as a clear referral mechanism within the country, which should include all government and non-governmental stakeholders and should ensure timely referral of victims to relevant entities.

110. Free legal aid should be guaranteed to victims of trafficking who do not have sufficient financial resources.

111. Trafficking in men and boys should be included in the action plan and in the legislation on human trafficking, in order to comprehensively address this phenomenon.

112. Despite the decreased use of entertainment visas, the Government should continue inspections and investigations in this sector, where trafficking, in particular of women and girls, continues to occur.

113. Full implementation of the right of victims to obtain compensation should be ensured. The setting up of a fund for compensation of victims is recommended.

114. Prevention and awareness-raising efforts should be considerably increased and should focus on both informing potential victims and educating potential perpetrators, including men who could be potential clients of trafficked persons in the sexual exploitation sector. This could be carried out jointly with civil society organizations.

115. Criteria and conditions for granting permits to stay to victims of trafficking should be clear and applied systematically, not on an ad hoc basis. In order to allow victims to recover psychologically, feel socially integrated and prevent them from being re-trafficked, they should be allowed to reside for a longer time and work and/or study. To that effect, the Ministry of Health, Labour and Welfare should establish rehabilitation programmes to allow victims to acquire skills that may enable them to integrate into society and stay and work in the country, if they so wish.<sup>13</sup> For example, existing programmes to help victims of domestic violence to find a job through collaboration with private companies could be extended to and adapted for victims of trafficking.

116. Efforts should be intensified to eliminate all forms of violence against women and girls, in particular domestic violence, and bring perpetrators to account. The hotline for domestic violence should be answered in the main foreign languages spoken in Japan. The law should be revised to make domestic violence an offence to be prosecuted automatically and not subject to the victim's complaint. Also, efforts should be made to allow victims of domestic violence to remain at home with their children, instead of the current practice whereby the men remain in the home and women are moved with their children to a shelter.

117. In view of the serious lack of knowledge on the rights of victims of human trafficking, specialized mandatory training should be established to provide the necessary skills to law enforcement officers — in particular Immigration Bureau officials, judges, prosecutors and labour inspectors — on how to deal with victims of

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<sup>13</sup> The Committee on the Elimination of Discrimination against Women has asked the Government “to take measures for the rehabilitation and social integration of women and girls who are victims of exploitation of prostitution and trafficking” (CEDAW/C/JPN/CO/6, para. 40).

trafficking as well as prosecute and punish traffickers. Such training should include the acquisition of skills on identification and protection of victims and on the implementation of their right to an effective judicial remedy. Service providers, such as health-care workers, should also receive specialized training on human trafficking.

118. Improved partnership between the Government and NGOs and support for the work of NGOs that provide services to victims of trafficking should be urgently pursued. NGOs should also be involved in the implementation, monitoring and evaluation of the national action plan.

119. Japan should seriously consider the adoption of bilateral agreements with source countries to tackle the human trafficking problem on a long-term basis, including by addressing the root causes of trafficking such as poverty, unemployment, undereducation and gender inequalities. Bilateral agreements should at the minimum include the following:

- A commitment by sending countries to monitor and regulate sending organizations and assistance by Japan in that task
- Identification of major places from which victims are sent and implementation of preventive programmes in those areas
- Provisions whereby sending countries prohibit forced deposits before departure to Japan and contracts signed before departure that are in violation of Japanese labour law in terms of labour and human rights

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