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2019 Trafficking in Persons Report: Japan

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JAPAN: Tier 1

The Government of Japan fully meets the minimum standards for the elimination of trafficking. Authorities continued to demonstrate serious and sustained efforts during the reporting period; therefore Japan remained on Tier 1. These efforts included

increasing labor inspections of the Technical Intern Training Program (TITP) and convicting and incarcerating more traffickers than in the previous reporting period. Although Japan met the minimum standards, authorities again failed to identify a single trafficking case in TITP, despite multiple reports of forced labor among migrant workers in Japan under its auspices. The government did not fully enforce TITP reform law provisions aimed at blocking foreign-based recruitment agencies from charging excessive fees—a key driver of debt bondage among TITP participants. Authorities continued to prosecute traffickers under laws carrying lesser sentences, which courts often suspended in lieu of incarceration, and they continued to suspend the majority of convicted traffickers' prison sentences. Some traffickers received only fines. Interagency stakeholders relied upon disparate screening and referral procedures, leading to issues with proper identification and protection of victims. Law enforcement bodies continued to identify hundreds of children exploited in commercial sex without formally designating them as trafficking victims, and authorities continued to address many suspected

cases of child sex trafficking and forced labor with administrative penalties or loss of business licenses rather than through criminal investigations and proceedings.

PRIORITIZED RECOMMENDATIONS

Vigorously investigate and prosecute sex and labor trafficking cases, and hold convicted traffickers accountable by imposing strong sentences. • Amend anti-trafficking laws to remove sentencing provisions that allow fines in lieu of imprisonment and to increase the penalties prescribed for trafficking crimes to include a maximum of no less than four years' imprisonment. • Increase resources to provide specialized care and assistance to trafficking victims, including designated shelters for trafficking victims, and ensure these services are also available to both foreign and male victims. • Increase implementation of the TITP reform law's oversight and enforcement measures, including by training Organization for Technical Intern Training (OTIT) personnel and

immigration officials on victim identification, improving OTIT coordination with NGOs, increasing employer inspections, and terminating contracts with foreign recruitment agencies charging excessive commissions or fees. • Enhance victim screening to ensure victims, including children exploited in commercial sex without third party facilitation, migrant workers under the TITP program, and migrant workers entering Japan under the new visa regimes, are properly identified and referred to services, and not detained or forcibly deported for unlawful acts traffickers compelled them to commit. • Reduce migrant workers' vulnerability to debt-based coercion by amending relevant policies to eliminate the imposition of all worker paid recruitment- and service fees. • Increase enforcement of bans on "punishment" agreements, passport withholding, and other practices by organizations and employers that contribute to forced labor. • Aggressively investigate, prosecute, convict, and punish Japanese citizens who engage in child sex tourism overseas.

PROSECUTION

The government increased some law enforcement efforts. Japan did not have a comprehensive anti-trafficking statute that included definitions in line with international standards. However, it criminalized sex trafficking and labor trafficking offenses through disparate laws pertaining to prostitution of adults and children, child welfare, immigration, and employment standards. Article 7 of the Prostitution Prevention Law criminalized inducing others into prostitution and prescribed penalties of up to three years' imprisonment or a fine of up to 100,000 yen (\$910) if fraudulent or coercive means were used, and up to three years' imprisonment and a fine of up to 100,000 yen (\$910) if force or threats were used. Article 8 of the same law increased penalties to up to five years' imprisonment and a fine of up to 200,000 yen (\$1,820) if the defendant received, entered into a contract to receive, or demanded compensation for crimes committed under Article 7. The "Act on Regulation and Punishment of Activities Relating to Child Prostitution and Pornography and the Protection of Children" criminalized engaging in, acting as an intermediary for, and soliciting the commercial sexual exploitation of a

child and prescribed penalties of up to five years' imprisonment, a fine, or both. The act also criminalized the purchase or sale of children for the purpose of exploiting them through prostitution or the production of child pornography, and prescribed a maximum penalty of 10 years' imprisonment. The government reportedly also prosecuted trafficking-related offenses using the Child Welfare Act, which broadly criminalized transporting or harboring children for the purpose of causing them to commit an obscene or harmful act and prescribed penalties of up to 10 years' imprisonment, or a fine of up to 3 million yen (\$27,310), or both. The Employment Security Act and the Labor Standards Act both criminalized forced labor and prescribed penalties of up to 10 years' imprisonment or a fine not exceeding 3 million yen (\$27,310). The Supreme Public Prosecutors Office issued sentencing guidelines in March 2018 that reportedly directed prosecutors to recommend imprisonment for convictions of trafficking offenses that violated the Child Welfare Act. The majority of convicted traffickers continued to receive sentences allowing them to avoid jail time during

the reporting period. Civil society organizations reported that reliance on this series of overlapping statutes continued to hinder the government's ability to identify and prosecute trafficking crimes, especially for cases involving forced labor with elements of psychological coercion.

The government reported initiating 39 investigations into crimes related to trafficking in 2018 (unreported in 2017; 44 in 2016), and courts newly indicted 34 individuals (26 in 2017), leading to 27 convictions (23 in 2017). Authorities did not disaggregate prosecutorial data by type of trafficking. Two of the 27 convicted traffickers were sentenced with fines alone. Sixteen received suspended sentences, allowing them to avoid serving prison terms (12 suspensions in 2017); and six of them also received fines ranging from 50,000 to 1 million yen (\$455 to \$9,100). Authorities sentenced the remaining nine traffickers to one to seven years' imprisonment (17 sentenced to two to four years in 2017) and incarcerated all nine (only five in 2017). The government reported investigating more than 700 adult individuals for cases involving "children in prostitution" without formally

identifying them as trafficking crimes (956 in 2017); authorities indicted and convicted nearly 600 of these individuals, but did not report sentencing or incarceration data. In previous years, authorities reported convicting a small number of individuals under “child prostitution” provisions of the “Act on Punishment of Activities Relating to Child Prostitution and Child Pornography and the Protection of Children,” but this figure often only included “child prostitution” cases the government formally recognized as trafficking; the true number of convictions under these provisions was therefore likely much higher. In an effort to streamline prosecutorial efforts, the central government instructed prosecutors’ offices nationwide to designate trafficking-specific personnel to serve as law enforcement liaisons. The NPA also created and disseminated new leaflets with QR codes leading to a website offering emergency contact information in nine languages and encouraging victims to report abuses; authorities also featured this content in interagency awareness raising materials. In 2017, Japan passed a law containing a provision that criminalized bribery of witnesses, which would

allow authorities additional grounds to pursue obstruction of justice charges against some traffickers. However, the government did not report to what extent it implemented this for trafficking cases during the reporting period.

Despite the prevalence of forced labor indicators identified through increased OTIT inspections, the government did not report prosecuting or convicting any individuals for involvement in the forced labor of TITP participants. The Labor Standards Inspection Office and regional immigration authorities conducted on-site inspections of more than 7,300 TITP implementing organizations allegedly abusing program participants; they found 5,160 of these organizations to be in violation of unspecified labor laws and issued corrective notices. They reported referring 19 of these cases to the Public Prosecutor's Office for further criminal investigation of "severe abuses" (40 cases in 2017 and 40 for lesser violations in 2016). NGOs claimed courts set prohibitively high evidentiary standards for forced labor cases involving foreign victims, thereby stymying appropriate law enforcement action. Some local law enforcement

authorities reportedly assisted abusive TITP employers in blocking NGOs from rescuing and assisting victims of forced labor.

Authorities continued to take law enforcement action against child sex trafficking in *Joshi kosei* or “JK” businesses—dating services connecting adult men with underage girls—and in coerced pornography operations, but they did not provide data or case specifics, unlike in previous reporting periods. Seven major prefectures passed ordinances banning “JK” businesses, prohibiting girls younger than 18 from working in “compensated dating services,” or requiring “JK” business owners to register their employee rosters with local public safety commissions. During the reporting period, authorities identified 137 of these operations nationwide (114 in 2017); they did not report closing any of these establishments for violating the terms of the ordinance (14 in 2017), but they arrested 69 individuals alleged to have been engaged in unspecified criminal activities surrounding the JK business. Some authorities were reportedly unaware of the crime or unsure how to prosecute it, often citing prohibitively

high evidentiary standards. The government continued to provide training on investigative methods and victim identification for police officers, prosecutors, judges, and immigration bureau officials; despite these efforts, contacts noted an acute need for additional training to address lack of awareness among key judicial stakeholders.

PROTECTION

The government maintained insufficient efforts to protect victims, including by again failing to formally identify victims of trafficking within the TITP and among hundreds of children in commercial sexual exploitation. Authorities relied upon formal manuals instituted by an Inter-Ministerial Liaison Committee in 2010 encouraging government bodies to develop broad protection measures for trafficking victims. National Police Agency (NPA) officials also reported consulting an IOM-developed handbook to identify and refer victims to available protective services. In practice, interagency stakeholders followed disparate, often insufficient victim identification procedures—

especially among child sex trafficking victims and migrant workers.

Authorities identified only 25 trafficking victims, compared with 46 in 2017 and 50 in 2016. Of these 25, the government identified one underage male victim of forced labor (one male in 2017); three women forced to work as “hostesses,” some of whom may have also been subjected to sex trafficking; and at least 20 female sex trafficking victims (31 in 2017; 37 in 2016), including four children. Only one victim identified in 2018 was male, and the government has never identified a forced labor victim within the TITP despite substantial evidence of trafficking indicators. Authorities continued to arrest and deport TITP participants—particularly those from Vietnam—who escaped forced labor and other abusive conditions in their contracted agencies. The government did not report national statistics on forcible TITP deportations. However, immigration authorities in one city reported interviewing at least 8,000 TITP participants leaving Japan prior to the end of their contracts to screen for unjust employer-initiated deportations; they detected nine attempted forcible deportations among this group,

successfully intervened in five of the cases, and reinstated TITP employment for two of the workers.

Authorities identified and provided unspecified protection services to an additional 544 “children in prostitution”—a form of sex trafficking—among 827 offenses during the reporting period, but police did not identify any of them as sex trafficking victims (six of 654 in 2017; 10 of 518 offenses in 2016); authorities continued to separate these statistics based on persistent definitional discrepancies that may have affected service provision and proper law enforcement action. Contrary to definitional standards under the 2000 UN TIP Protocol, authorities did not consider children to be victims of sex trafficking unless the sex acts were mediated by a third party, preventing hundreds of children from formal designation. Police continued to treat some potential child sex trafficking victims as delinquents—particularly LGBTI children—and counseled them on their behavior instead of screening them for victim status, investigating their cases, or referring them to specialized services. Authorities arrested some child victims in

connection with their trafficking situations.

As in prior years, the government did not fund trafficking-specific shelters, but it continued to fund shelters run by Women's Consulting Offices (WCOs) and those for victims of domestic violence. Authorities reported assisting 16 of 27 victims in these shelters among those identified in 2018 (16 of 46 in 2017). An unknown number of additional victims received assistance in NGO shelters, where they could access government-subsidized medical care. WCO shelters provided food and other basic needs, psychological care, and coverage of medical expenses to victims, who were free to leave the facilities if accompanied by WCO personnel. The government reported allocating more than 3.4 million yen (\$30,950) for sheltering trafficking victims (3.5 million yen (\$31,860) for male victims alone in 2017). The availability and quality of victim services varied according to prefecture-level officials' relative experience with trafficking cases.

The Ministry of Health, Labor, and Welfare (MHLW) continued to partially fund an NGO-run general counseling

hotline for foreign workers, but it was not trafficking-specific; it reported fielding 2,197 calls from TITP participants, but it was unclear how many featured trafficking allegations. The immigration bureau operated a similar hotline but did not identify any victims through its use (two in 2017). Police also ran a general hotline through a private entity that received more than 14,500 calls, 295 of which the NPA identified as possible trafficking cases (433 of 19,078 in 2017). This hotline was only available in the Japanese language, and authorities did not report whether the calls culminated in positive victim identification or further investigation. The government continued to fund a program through an international organization to provide counseling, temporary refuge, social reintegration, and repatriation services to trafficking victims. Through this program, five foreign victims received repatriation assistance (seven in 2017; 23 in 2016). Despite the existence of these services, international organizations and NGOs reported most foreign trafficking victims had limited or no access to other government-provided social services from which legal resident victims could benefit. NGOs

highlighted a lack of language interpretation services as a particular challenge to the protection of foreign victims.

Although the law ostensibly protected victims from denial of entry into or deportation from Japan, inadequate screening of vulnerable groups reportedly led to the arrest and deportation of some victims due to immigration violations or other crimes committed as a result of being subjected to sex trafficking or forced labor. NGOs noted increased cooperation between the Ministry of Foreign Affairs and the Ministry of Justice (MOJ) to tighten victim screening of Japanese-Filipino children entering the country on residency arrangements, but authorities did not report whether this led to any positive identifications. Temporary, long-term, and permanent residence benefits were available to foreign victims who feared the repercussions of returning to their countries of origin. The government reported granting one long-term and eight short-term visas under these circumstances (compared with two and 16, respectively, in 2017); some victims identified in 2018 already had residence permits at the time of

identification. Victims had the right to file civil suits to seek compensation from their traffickers; some foreign workers, including potentially unidentified victims, and sex trafficking victims filed civil suits for non-payment of wages in 2018. However, companies ordered to provide restitution—including TITP employers—often filed for bankruptcy, making receipt of restitution awards nearly impossible. Civil society organizations reported some victims of coerced pornography chose not to participate in court proceedings against their traffickers due to fear that doing so would create stigma-based challenges to their reintegration and rehabilitation.

PREVENTION

The government maintained efforts to prevent trafficking but demonstrated a lack of political will to adequately do so among highly vulnerable migrant worker populations. It produced its fourth annual report on government actions to combat trafficking and tracked measures against the stated goals of its anti-trafficking action plan. Authorities raised awareness on trafficking by disseminating

information online and through radio programs, posters, and brochures, as well as through leaflets distributed to NGOs, immigration and labor offices, and diplomatic missions in Japan and abroad. The government continued to distribute posters and brochures in transportation hubs and to travelers warning that Japanese citizens could face prosecution if suspected of having engaged in child sex tourism overseas. Authorities continued to advertise the multilingual emergency contact hotline number at local police and immigration offices, through NGOs, and in consultations with source countries' governments.

The government continued to implement the 2016 Act on Proper Technical Intern Training and Protection of Technical Intern Trainees (TITP reform law), including by allocating more human and financial resources to OTIT—its oversight mechanism; increasing the number of inspections of TITP supervising organizations and worksites; and continuing the issuance of corrective orders for labor violations detected during inspections. The TITP reform law mandated the MHLW approve work plans outlining living conditions,

working hours, and other factors developed jointly by incoming TITP participants and their employers; as of December 2018, authorities reported having approved 383,240 of these plans since enactment of the law. With the implementation of the new law, enforcement shifted from the Immigration Services Agency to the Labor Standards Inspection Office within MHLW during the reporting period. The Labor Standards Inspection Office and regional immigration bureaus conducted 7,339 on-site investigations into TITP work sites (5,966 in 2017), leading to “corrective notifications” for 5,160 organizations (4,226 in 2017) and 19 cases of “severe abuses” referred for prosecution. The Immigration Services Agency also notified more than 100 TITP organizations of misconduct, leading to approximately 170 corrective notifications in 2018 (210 in 2017), including two firms who used trainees for unpaid nuclear decontamination work in areas affected by the Fukushima nuclear disaster. The MOJ reported authorities banned more than 100 organizations from receiving interns in 2018.

Civil society groups lauded the OTIT’s

work to increase monitoring of working conditions at TITP factories, but they continued to express concern the OTIT was too understaffed to adequately investigate allegations of abuse, including forced labor, within such a large program—particularly as the number of participants continued to grow. Authorities revoked only eight MHLW-approved work plans for unspecified violations in 2018; some observers expressed these work plans lacked enforceability due to the high number of TITP employers and participants relative to the small number of inspectors. Although the TITP reform law ostensibly expanded participants' rights to change employers at will once in Japan, observers noted most TITP participants were still barred from doing so; some participants reportedly fled from abusive conditions in their contracted workplaces, thereby violating the terms of their visas and becoming more vulnerable to trafficking in unemployment. Immigration officials issued orientation pamphlets with hotlines and contact information to all incoming TITP participants, but the content in some cases appeared to be intended to discourage them from seeking to change employers due to

unfavorable working conditions. TITP employers continued to threaten participants with punitive fees if they attempted to leave. Some participants reported the OTIT was unresponsive to their request for mediation when their employers suddenly changed or terminated their contracts.

In an attempt to prevent TITP participants from incurring high debts in their sending countries, the government maintained memoranda of cooperation with Bangladesh, Bhutan, Burma, Cambodia, India, Laos, Mongolia, Pakistan, the Philippines, Sri Lanka, Thailand, Uzbekistan, and Vietnam, affirming it would accept TITP trainees only from state-approved organizations that would not charge participants excessive fees. However, some sending organizations in these countries were able to circumvent the fee restrictions and still secure their respective governments' approval by charging high "commissions" in lieu of fees; trainees from these countries therefore remained vulnerable to debt bondage once in Japan. This was especially true for Vietnamese participants, who constituted the highest proportion of TITP trainees. OTIT authorities could request that

sending countries investigate allegations of recruitment fee violations, but the decision to penalize or ban sending organizations for the practice was at the discretion of sending country authorities; OTIT offices in at least one major TITP region did not report requesting any such investigations. Japanese authorities published the names of “discredited” TITP sending organizations on a website, but did not report steps to ensure incoming TITP participants avoided those organizations.

In December 2018, the government passed a new visa regime law that would allow an additional 345,000 migrant workers to enter Japan and fill positions in construction, shipbuilding, nursing care, and 10 other sectors with known labor shortages over the next five years. The new regime would permit qualifying individuals already participating in the TITP to switch their visas to the newly created categories, allowing them to extend their stay in Japan and change jobs within the same sector. However, observers expressed concern that the new visa categories could engender the same vulnerabilities to labor abuses,

including forced labor, as those inherent to the TITP. The MOJ issued regulations requiring employers to compensate these workers at a rate equal to or greater than Japan's minimum wage. However, the law also enabled for-profit employment agencies and individuals to become "registered support organizations"—with no licensing requirements—to liaise between labor recruitment brokerages and employers for a fee. Observers were concerned these service fees would create additional vulnerabilities to debt-based coercion among migrant workers entering under the auspices of the new regime, and that the authorities had not instituted sufficient preventative measures in favor of accelerating the process to assuage urgent labor shortages.

The government had extraterritorial jurisdiction to prosecute Japanese nationals who engaged in child sexual exploitation abroad, but authorities did not report exercising this jurisdiction during the reporting period. The government conducted joint MHLW and NPA legislative information sessions targeting hundreds of companies involved in the adult film

industry in an effort to prevent forced participation in pornography. The government also continued to convene a high-level interagency task force, led by the Minister for Gender Equality, to address violence against children perpetrated through forced participation in pornographic films and the “JK” business. The government did not make significant efforts to reduce the demand for commercial sex acts, and many of its awareness-raising content on the JK business appeared to be targeted toward victims, rather than the demand source. Authorities did not make significant efforts to reduce the demand for forced labor.

TRAFFICKING PROFILE

As reported over the last five years, human traffickers subject Japanese and foreign men and women to forced labor and sex trafficking, and they subject Japanese children to sex trafficking. Traffickers subject male and female migrant workers, mainly from Asia, to conditions of forced labor, including in Japanese government-run programs. Men, women, and children from Northeast

Asia, Southeast Asia, South Asia, Latin America, and Africa travel to Japan for employment or fraudulent marriage and are subjected to sex trafficking. Japan's fast-growing foreign student population is also vulnerable to trafficking in the unskilled labor sector. Traffickers use fraudulent marriages between foreign women and Japanese men to facilitate the entry of women into Japan for sex trafficking in bars, clubs, brothels, and massage parlors. Traffickers keep victims in forced labor or forced prostitution using debt-based coercion, threats of violence or deportation, blackmail, passport retention, and other psychologically coercive methods. Employers require many migrant workers to pay fees for living expenses, medical care, and other necessities, leaving them vulnerable to debt-based coercion. Brothel operators sometimes arbitrarily impose "fines" on victims for alleged misbehavior as a tactic to extend their indebtedness. Traffickers reportedly transport victims from elsewhere in the region through Japan before exploiting them in onward destinations, including East Asia and North America.

Traffickers also subject Japanese

citizens—particularly teenage girls—to sex trafficking. Enjo kosai or “compensated dating” services and variants of the “JK” business continue to facilitate the sex trafficking of Japanese children. Highly organized prostitution networks target vulnerable Japanese women and girls—often living in poverty or with cognitive disabilities—in public spaces such as subways, popular youth hangouts, schools, and online, and subject them to sex trafficking in commercial sex establishments, retail spaces, and reflexology centers. Some groups posing as model and actor placement agencies use fraudulent recruitment techniques to coerce Japanese men, women, and girls into signing vague contracts and then threaten them with legal action or the release of compromising photographs to force them to participate in pornographic films. Private Japanese immigration brokers help Japanese-Filipino children and their Filipina mothers move to Japan and acquire citizenship for a significant fee, which the mothers often incur large debts to pay; upon arrival, some of these women and their children are subjected to sex trafficking to pay off the debts. Organized crime syndicates posing as immigration

brokers also lure these families to Japan with deceptive job offers, and then subject the women to forced labor in the nightlife industry. Japanese men remain a source of demand for child sex tourism in Thailand and other countries in Asia.

Cases of forced labor occur within the TITP, a government-run program originally designed to foster basic technical skills among foreign workers that has effectively become a guest-worker program. TITP participants from Burma, China, Cambodia, the Philippines, and Vietnam pay sending organizations in their home countries up to \$10,000 in excessive fees, deposits, or vague “commissions”—despite international agreements aimed at curbing the practice—to secure jobs in fishing, construction, and manufacturing. TITP employers place many participants in jobs that do not teach or develop technical skills, contrary to the program’s intent; others place participants in jobs that do not match the duties they agreed upon beforehand. Some of these workers experience restricted freedom of movement, passport confiscation, threats of deportation, and other conditions indicative of forced labor.

Some sending organizations require participants to sign “punishment agreements” charging thousands of dollars in penalties if they fail to comply with their labor contracts. Some participants who abscond from their contracted TITP jobs are reportedly subjected to sex trafficking.

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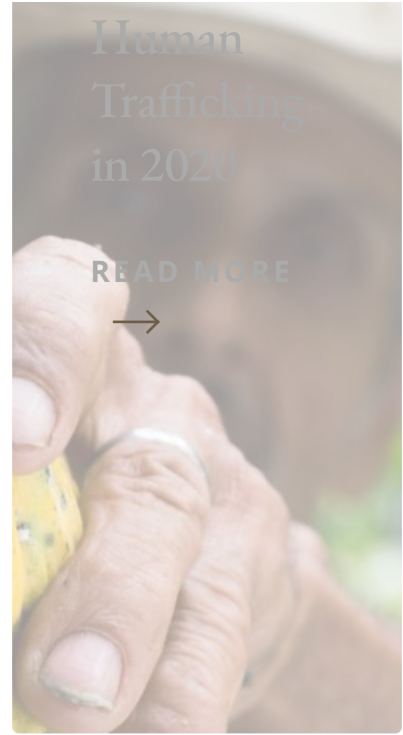
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