

A written submission to the UN Human Rights Council by the Asia Pacific Mission for Migrants (APMM)

ASIA PACIFIC: Action required to protect the human rights of migrant workers in Japan

1. The Asia Pacific Mission for Migrants (APMM) would like to draw the attention of the Human Rights Council of the United Nations to the increasing trends of abuses, exploitations, deceits, human trafficking, government neglect and other forms of human rights violations against migrants in Japan.

Background

2. As one of the many destination countries, the Japanese government has always been wary of migrants. Its stringent immigration policies and laws make it very difficult for migrant labor to enter the job market. However, with the increasing needs of Japanese society in the last decades, it slowly opened up its borders for the entry of low and unskilled migrants that satisfy the socio-economic and cultural needs of Japanese society. Just like other destination countries in times of economic crisis, migrants in Japan are always the ones who suffer the most.

3. According to statistics on foreign residents in Japan collected by the Ministry of Justice, there are more than 2.3 million migrants in Japan as of 2015.¹ This number does not include undocumented migrants, “overstays”, short-term foreign visitors and tourists staying less than 90 days in the country.

4. Meanwhile, in terms of marriage migrants, there are an estimated 30,000 to 40,000 international marriages taking place annually since 2000, which account for approximately five (5%) percent of total marriages taking place in Japan. Foreign women married to Japanese men usually come from developing and under developed economies of Asia and Latin America.

5. Migrants in Japan can be categorized in terms of marriage migrants, entertainers, trainees, undocumented and overstay (migrants who entered Japan legally but opted to stay after their visa had expired). These migrants are vulnerable to all kinds of abuses and exploitations like domestic violence, forced labor, sex slavery, debt bondage and other forms of human rights violations.

6. The Japanese government is signatory to two important conventions that pertain to civil and political rights of people including the migrant workers such as International Convention on Civil and Political Rights and Freedom of Association and Protection of the Right to Organize Convention. In Japan’s Constitution, it clearly stipulates and gives respect to the “fundamental rights of person” as reflected in Article 10-40. Despite all these, the Japanese government wittingly and unwittingly allows the abuses and exploitations of migrants.

Marriage migrants - victims of domestic violence and other forms of HRVs

7. Marriage migrants in Japan are relatively young and barely have adequate education. They come from low-income families in their country of origin and opted to marry their husband mainly to uplift their condition and improve the life of their family back home.²

8. Being a highly patriarchal society, women, in general, are in disadvantage position. It is even more disadvantageous to marriage migrants who mostly come from poor countries. They are looked down as “inferior” and those who worked as entertainers prior to their marriage are viewed as “bad women” and “gold-diggers” who cheat and manipulate people, and therefore, cannot be trusted. These images are played up in media, creating conditioning in the minds of ordinary Japanese and bringing more problems to marriage migrants as they try to blend in the society and relate with people in the community, particularly with the family of their husband.³

9. Gen and Mabby (not their real names) are both married to Japanese men. According to them, they’ve had the most horrific experiences during the early years of their marriages. They were virtual slaves of their husbands; they had to follow them every time even if deep inside, they were against their orders. Gen said her husband would constantly threaten her of deportation if she would resist sex. Her husband would sign the guarantee letter only to tear it into pieces afterwards. Gen said that was how her husband would torture her. Mabby, on the other hand, lamented that her husband would crumple the paper on her face whenever she

¹ Japan sees record high number of foreign residents: Justice Ministry http://www.japantimes.co.jp/news/2016/03/11/national/japan-sees-record-high-number-foreign-residents-justice-ministry/#.WMea_Rhh3eR

² “DV Handbook: Case Studies on Domestic Violence Involving Filipino Women”, Filipino Migrant Center, Nagoya, 2008

³ FMC Executive Summary Report, Filipino Migrant Center, Nagoya, 2007

failed to deliver his demands. Worse, Mabby said that aside from her husband, she would also make extra efforts to woo her parents-in-law who lived in the same apartment because she could sense their control over her husband.

10. Marriage migrants without permanent status of residency rely on guarantee letters of Japanese spouses as required by Japan Immigration. They are virtually living at the mercy of their husbands and are conditioned to endure all kinds of abuses (physical, sexual and verbal) and sufferings just to stay in Japan and help their families at the home country to survive from abject poverty. They are hoping that before their visa ends, their abusive and exploitative Japanese spouse will still provide them with that letter because without the guarantee letter of the Japanese spouse, it is impossible for marriage migrants to extend their visa.

11. The abusive and exploitative condition besetting many marriage migrants in Japan resulted to a huge army of single mothers who take sole care of their children after they divorce their Japanese spouses. For those who are not permanent citizens yet, the Japanese government grants them a special permission to stay in Japan as custodial parent to their Japanese children.

12. But due to lack of opportunities to earn for their children, many of them rely on government support (*seikatsuhogo*), albeit limited, in order to survive while others are underemployed and their monthly salary is not enough to meet the needs of the family. At the onset, the Japanese government seems to understand the difficulties facing marriage migrants and their children that is why they are exempted from paying taxes. However, the experience of Kaycee (not her real name) reveals a discriminatory policy intended for migrants. Kaycee has been living in Japan for more than 6 years now. Yet, immigration denies her application and she surmises that being divorced from her former husband and living under government support (*seikatsuhogo*) make her ineligible to acquire permanent status.

Entertainment industry breeds human trafficking

13. Japan's bubble economy gave rise to a lucrative entertainment business that, until today, lures thousands of women from Asia, Latin America, and even as far as Europe and Africa.⁴ These women work as entertainers and hostesses or Japayuki (literally means Ms. Go in Japan) in nightclubs and snack bars that cater to middle-aged and mostly unattached Japanese men.

14. Recruitment agencies profit from the huge placement fees that women migrant pay amounting to between US \$5,000-10,000. Migrant women from the Philippines and Thailand and other parts of Asia, Latin America and Europe are deceived to work as "model", cultural dancer, and singer among others. With such short period of time to stay, it is nearly impossible for women migrants to recuperate from the debt that she incurred before leaving their country of origin.

15. The Japanese government's disingenuous immigration policies allow these women to come to Japan as entertainers. These migrants from the Philippines and Thailand among others come to Japan as entertainers and are often deceived by their recruitment agencies and brokers. With a very limited period of stay up to 6 months coupled with the urgent need to pay for their debts incurred prior to their hiring and to support their families to survive from abject poverty and hunger they are vulnerable to all forms of abuse and exploitation.

16. Thus, women migrants in Japan working as entertainers are often pay below minimum wage. Many times they are forced into sexual slavery, prostitution, labor exploitation, deprived of their right to organized, human trafficking and other forms of human rights violations.

Technical Training Program as a tool for exploitation and abuse

16. The Technical Training Program of Japan started in 1993 and revitalized in 2014. It is primarily designed to support foreigners in their acquisition of technical skills and knowledge of Japanese advanced technology as a means to transfer technology that may help the developing and underdeveloped countries of Asia.

17. In reality, it is being used to augment the shortage of unskilled, cheap, docile and disposable labor needed by small and medium scale businesses in the country that venture in agriculture and primary industries. Trainees in Japan are not actually trainees but migrant workers who are exploited by employers who ignore the Labor Relations Law that capsulized the training program. It is no secret among Japanese people that interns and trainees are migrant workers who are offered work and receive salary below the minimum wage.

⁴ FMC Executive Summary Report 2008, Filipino Migrant Center, Nagoya, January 2009

18. In its Trafficking in Persons Report 2014, the U.S. Department of State declared that Japan's Technical Intern Training Program is a program whose actual purpose is to drive foreign workers into forced labor.

19. The widespread abuse of the "trainee program" has basically made it an exploitative guest worker program that provides very inexpensive migrant labor. However, because the program continues to be designated as for "skills training," the government is able to disguise its true nature by ideologically justifying it as a benevolent form of overseas development assistance and technology transfer to developing countries.

20. The training program as well as the entertainers visa scheme are, in one way or another, traps that lured migrants to overstay and become undocumented in the country. Moreover, the Japanese government does not solve the problem of overstaying and the presence of larger numbers of undocumented migrants for there are many Japanese companies that need illegal immigrant workers to survive.

21. Undocumented migrants in Japan are forced to toil under exploitative working conditions and low wages and cannot report their employers' abuses for fear of apprehension. It is being worsened by the lack of Japanese government efforts to run after and punish the abusive and exploitative employers. They also do not have basic worker rights and protections or access to adequate medical insurance and care.

Recommendations:

22. Prosecute recruitment agencies, brokers and employers that exploit migrant workers and provide effective mechanisms that can protect migrants from all kinds of abuse and exploitations.

23. Sign the International Convention on the Rights of All Migrant Workers and their Families and make the necessary policy reforms to ensure the human rights and dignity of migrants.

24. Grant residency visa, including permanent visa, to foreign spouses of Japanese citizens without the letter of guarantee currently required for the granting of such visas.

25. Criminalize spousal abuse and impose harsher penalties on violators. The current law lacks the necessary teeth to run after abusive husbands and partners, particularly Japanese men who often take advantage of their victims' ignorance and lack of access of the legal system and procedures in Japan to avoid prosecution. In many instances, abusive spouses even manage to turn the blame on the victims because the latter often have difficulty with the language.

26. Prosecute violators of spousal abuse not the victims – especially foreign spouses or partners of Japanese citizens who have no legal status of residence in Japan. Priority should be on the protection of and support to victims, and the immigration status of the victim should not get in the way of this objective. Many victims of domestic violence are reluctant to report their case to the police or other government agencies for fear of arrest and deportation.

27. Make basic plans for the implementation of policies and measures for the prevention of spousal violence and the protection of victim. Make the policies uniform to all prefectures in order to prevent discrimination and to ensure equal treatment of victims. As victims trying to flee from their abusive spouses or partners often have the tendency to move from one prefecture to another, it will benefit the victims if different prefectures subscribe to common plans of action and programs.

28. Enact an anti-human trafficking law that will cover the training program and protect migrants from becoming victims of human trafficking in Japan. ###

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