

May 14, 2020

**Comments on the Draft General Recommendation
on Trafficking in Women and Girls in the Context of Global Migration**

Japan Network Against Trafficking in Persons (JNATIP) and Japan NGO Network for CEDAW (JNNC) submit the following endorsement and comments on the Draft General Recommendation on Trafficking in Women and Girls in the Context of Global Migration.

Although the Japanese government has made some efforts to combat trafficking in women and girls, it is far from effectively reducing and eliminating it. Therefore, we sincerely hope that this General Recommendation will be promptly adopted and will serve as an opportunity to encourage governments to do more.

We greatly appreciate the fact that this draft is very comprehensive and exhaustive, envisaging all situations and circumstances of human trafficking. We then suggest the following nine items to further strengthen the Recommendation by adding more specific clarification. We hope you will consider and adopt them into your Recommendation.

1 (Sexual exploitation in the production of pornography)

Paragraph: 8

Suggestion: Please add “forced sexual intercourse for the purpose of producing pornographic videos and images” as an example of “sexual exploitation.”

In paragraph 8, “sexual exploitation” is cited as an example of what women and girls are trafficked for. We would like you to mention “sexual exploitation that includes forced sexual intercourse for the purpose of producing pornographic videos and images.” Although most cases of sexual exploitation are for the purpose of prostitution, cybersex and shooting pornography are also proliferating whether the victims are children or adults. Although the word “pornography” is not mentioned in the draft, the production of which is nonetheless a relevant purpose of sex trafficking that many people should pay attention to. Please include this as an example so that people can grasp the concrete images of sexual exploitation.

2 (Human rights violations that are unique to pornography in the digital media)

Paragraphs: 12 and 28 d)

Suggestion: Please add “production of pornographic videos and images” and “spread of videos and images through internet against the will of the victimized women and girls” as examples of “technology” and “information and communications technologies.”

In paragraph 12, it is stated that “the Committee is particularly concerned regarding the trends of trafficking in women and girls as well as the role of technology in the recruitment of victims.” The draft also mentions in paragraph 29 d) that the anti-trafficking legislation should ensure that it “explicitly addresses contemporary methods of trafficking, including those which make use of information and communications technologies.” The role of “technology” should not be limited to the recruitment of victims as mentioned in the former paragraph. Technology is used

specifically as a kind of sexual exploitation (production of pornographic videos and images). This type of “technology” also has a long-term effect that is directly caused by the production (spread of videos and images through internet against the will of the victimized women and girls). These misuses should be noted and mentioned in the Recommendation. In particular, production of pornography causes not only serious physical and psychological damage for the women at the time of the shooting, but also a life-time agony by the fact that once on the internet, the videos and images are copied and spread instantly, staying online perpetually without being able to be retrieved or deleted. So please mention this in the Recommendation.

3 (Human rights education for young men and boys who can become potential perpetrators of sex trafficking)

Paragraph: 27 a)

Suggestion: Please add “the buyers of sex or pornography who are the users of forced prostitution and pornography and the potential users, young men and boys” as examples of “potential users of trafficked goods or services.”

Paragraph 27 a) recommends to discourage demand through educational measures “targeted toward potential users of trafficked goods or services.” The trafficked goods or services can include various types, so it may be difficult to picture the images of what they really are. Some examples of sex trafficking are forced prostitution and pornography, so those who use them, i.e, the buyers of sex or pornography, and the potential users, young men and boys, should be informed about human trafficking and should be educated about human rights. Please mention this explicitly in the Recommendation.

4 (Unjust pressure at the time of signing a contract)

Paragraph: 59 b)

Suggestion: Please add the following sentence: “Even if some kind of contract (such as an employment contract or a business contract) was concluded between the parties at the time of the recruitment, if undue pressure was applied to the worker during the process of concluding the contract (such as violence, threats, prolonged persuasion, etc., where the worker's freedom of choice is considered to have been violated even in part), or if the content of the contract includes anything that is significantly disadvantageous to the worker; thus if it is considered inappropriate from the perspective of eradicating trafficking in persons to maintain the contract in question, then the contract should be invalidated.”

Paragraph 59 b) refers to the prosecution and punishment of recruiters. Even if some kind of contract (such as an employment contract or a business contract) was concluded between the parties at the time of the recruitment, if undue pressure was applied to the worker during the process of concluding the contract (such as violence, threats, prolonged persuasion, etc., where the worker's freedom of choice is considered to have been violated even in part), or if the content of the contract includes anything that is significantly disadvantageous to the worker; thus if it is considered inappropriate from the perspective of eradicating trafficking in persons to maintain the contract in question, then the contract should be invalidated.

5 (Prohibit charging workers unjust payment other than recruitment fee)

Paragraph: 59 b)

Suggestion: Please add to “the recruitment fees,” the following: “deposit, exorbitantly expensive fees for visas, passports, air tickets, and pre-departure trainings.”

Paragraph 59 b) requests prosecution and punishment of the illegal recruitment processes including charging of recruitment fees. Actually, there are cases where migrant workers are charged a large amount, as much as 10,000 US dollars, for a variety of fees by recruiters in their home country, often becoming indebted even before departure. This situation creates in practice debt bondage conditions even in their destination country. So, in order to alert workers, please include, in addition to the recruitment fees, more concrete names of fees such as deposit, exorbitantly expensive fees for visas, passports, air tickets, and pre-departure trainings.

6 (Prohibit exploitation based on the deposit contract and penalty)

Paragraph: 60

Suggestion: Following 60 a) and b), please add: “prohibit, even in the countries where tied visas regimes still remain, the situation of the workers being exploited because of the deposit contract and penalty and threat of forced repatriation that would make the workers more vulnerable for exploitation.”

In paragraph 60 a), it is mentioned “ending discriminatory conditionalities in recruitment, including the practice of making the migration status of migrant workers conditional on the sponsorship or guardianship of a specific employer, such as ... “tied visas”.” In paragraph 60 b), it is also stated, “providing the possibility for migrant workers to obtain residence and work permits independent of their employer in order to increase their autonomy and independence, and to prevent exploitation.” It is indeed ideal to end such “tied visas” regimes. However, the reality is that such visa regimes actually exist as in Japan’s Technical Intern Trainees Program where the residence and work permit of workers depend on one employer and the “trainees” cannot change their workplace legally. This in turn would lead to exploitation and human rights violations such as long hours and suspended payments, against which the workers cannot protest. So the Recommendation should include a sentence to prohibit, even in countries where tied visas regimes still remain, the situation of the workers being exploited because of the deposit contract and penalty and threat of forced repatriation that would make the workers more vulnerable for exploitation.

7 (Prohibit demanding repatriation or abortion because of pregnancy)

Paragraph: 61 e)

Suggestion: Please add “Do not allow a situation in which pregnant migrant women are subject to demands by the employer to either choose to stop working and go home or to have the fetus aborted.”

Paragraph 61 e) states “Repeal requirements for women migrant workers to undergo mandatory testing for pregnancy and sexually transmitted diseases resulting in deportation on the grounds of pregnancy or diagnosis of HIV.” In reality, there are employers who demand the pregnant female workers to either choose to stop working and go home or to have the fetus aborted; thus making some women choose physically

harmful abortions, or causing the crime of infant abandonment. Therefore, please add to the existing sentence a clause such as, “Do not allow a situation in which the pregnant migrant women are subject to demands by the employer to either choose to stop working and go home or to have the fetus aborted.”

8 (Awareness raising and education for those who work in accommodation facilities such as hotels)

Paragraph: 68 j)

Suggestion: Please add “Raise awareness and educate the employees of accommodation facilities such as hotels who may detect trafficked women staying at the facilities.”

In paragraph 68 j), “locations ...where there may be trafficked women including sites where forcibly displaced women and migrants are accommodated” are designated as places that can be the key to identify trafficking victims and it is recommended that communities surrounding the locations should be empowered. However, community residents are not the only ones to detect such victims; employees who work in accommodation facilities such as hotels may detect them. So, they should also be empowered to have more knowledge about human trafficking; to know the importance and procedure of reporting or consulting with certain authorities and NGOs. Please take a further step and include in the Recommendation awareness raising and education for the employees of accommodation facilities.

9 (Placement and training of interpreters for the purpose of protection of foreign victims)

Paragraph: 84 g)

Suggestion: Please add the following sentence: “In order to realize the above, hire interpreters who are fluent in the victims’ native languages, are knowledgeable in human trafficking, and are independent from perpetrators or employers.”

Paragraph 84 g) states about “creating adequate conditions to bring complaints in a language that they (victims) can understand.” Paragraph 88 d) also mentions being “informed about (migrant women’s) rights in a language and manner understandable to them”. Paragraph 96 b) also states that trafficked women should be “provided with ...information about their right to access legal aid, compensation, and remedies in a language and manner that they can understand.” In order to realize the above, it is necessary to hire interpreters who are fluent in the victims’ native languages, are knowledgeable in human trafficking, and are independent from perpetrators or employers. It is imperative to establish a system in which such interpreters are available as the needs arise, and if there is any lack of such interpreters, the government should recruit and train them. Please include this placement and training of interpreters in the Recommendation.

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