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Series on Women and Migration

JAPAN:

**AN ASSESSMENT OF THE INTERNATIONAL
LABOUR MIGRATION SITUATION
The case of female labour migrants**

by

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Foreword

Changing labour markets with globalization have increased both opportunities and pressures for women to migrate. The migration process and employment in a country of which they are not nationals can enhance women's earning opportunities, autonomy and empowerment, and thereby change gender roles and responsibilities and contribute to gender equality. But they also expose women to serious violation of their human rights. Whether in the recruitment stage, the journey or living and working in another country, women migrant workers, especially those in irregular situations, are vulnerable to harassment, intimidation or threats to themselves and their families, economic and sexual exploitation, racial discrimination and xenophobia, poor working conditions, increased health risks and other forms of abuse, including trafficking into forced labour, debt bondage, involuntary servitude and situations of captivity. Women migrant workers, whether documented or undocumented, are much more vulnerable to discrimination, exploitation and abuse – relative not only to male migrants but also to native-born women. Gender-based discrimination intersects with discrimination based on other forms of “otherness” – such as non-national status, race, ethnicity, religion, economic status – placing women migrants in situations of double, triple or even fourfold discrimination, disadvantage or vulnerability to exploitation and abuse.

To enhance the knowledge base and to develop practical tools for protecting and promoting the rights of female migrant workers, a series of case studies were commissioned. These studies were intended to provide background materials for an Information Guide on Preventing Discrimination, Exploitation and Abuse of Women Migrant Workers. The Guide, which is comprised of six individual booklets, aims at assisting and enhancing the efforts of government agencies, workers' and employers' organizations, non-governmental organizations and civil society groups in sending, transit and destination countries to protect the human rights of women migrant workers in the different stages of the migration process.

This working paper is based on one of the country case studies. The countries covered included Bolivia, Costa Rica, Italy, Japan, Nicaragua, Ethiopia, Nigeria, the Philippines, Sri Lanka and the United Arab Emirates. The focus was on the situation of the women migrant workers in their families, workplaces, communities and societies in sending and receiving countries and also on the initiatives, policies and programmes, “good” and “bad” practices implemented by government, private recruitment and employment agencies and a wide range of social actors to assist and protect women migrants against exploitation and abuse and to prevent them from being trafficked.

The case studies represent a collaborative effort between the Gender Promotion Programme and the International Migration Branch, as well as a number of Area and Regional ILO Offices. Katerine Landuyt had main responsibility for commissioning the case studies. Tanja Bastia provided technical guidance to the national consultants, while Minawa Ebisui and Tiina Eskola provided editorial and formatting assistance.

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Introduction

Background

“In the context of globalization, the world is described as a huge bazaar with nations peddling their workforce in competition against each other, offering the lowest prices for doing business¹.” The survey tells that since the 1970s, the traditional type of permanent labour migration has been declining around the world, in large part because of increased restriction introduced against international labour mobility by developed countries. However, new and complex form of population movements have since emerged, which can be summarized under five interrelated categories: (a) population displacements owing to war/famine/environmental/civil conflict, with economic consequences, (b) reverse and return migration from North to South, and from urban to rural; (c) shuttling between two or more worlds with strong links in all; (d) illegal forms of international migrant labour arrangements, including trafficking in women; and (e) temporary migration of “rented” labour. The significant increase in the number of women is striking feature of the new flows. And female migrant workers can be delineated into three groups: professional and highly skilled workers, manufacturing workers on short-term contracts, and domestic or entertainment sector workers.

This analysis is quite helpful to understand the current situation of female migrant workers in Japan. What is characteristic of female migrant workers in this country is that they are mostly concentrated on the service industry and tend to be young in age. It should also be pointed out that those who enter Japan with “entertainment” visa are not classified as workers in terms of Japanese labour law. Also, it is noted that overstay unskilled labour and matters related to settling down women in Japan without visa are, in short, the issue.

The presence of migrant workers in our society has become noticeable since 1980s. Even at the period of rapid economic growth from the end of 1960s to 1970s, Japan did not depend on migrant workers and stuck to its basic policy not to introduce unskilled foreign workers. During the bubble economy², however, the country was faced with serious shortage of labour, which was supplemented with workers from neighbouring Asian countries and Latin America. The rapid increase of migrant workers caused grave concern in the society, as most of them who entered the country became illegal workers by violating Japanese Immigration Act. For example, the numbers of foreigners who were apprehended for illegal working increased from 1’889 in 1982 to 32’908 in 1991³.

In addition, until the middle of 1980s, large part of migrant workers coming to Japan were female, who were engaged in sex industry and called “Japa-yuki”⁴. Trafficking in women and violation of human rights among them became grave social issue. Arranged marriage between Asian women and Japanese men in rural areas also increased in this period. These women are called “Asian brides.” Since 1990s, the numbers of male migrant

¹ World Survey on the Role of Women in Development, 1999, United Nations, p.32.

² Late 80s to early 90s, Japan’s economy expanded without reflecting actual economic situation which called “bubble”.

³ Immigration Annual Statistics, Ministry of Justice in Japan.

⁴ In the past many Japanese women sold for other countries, called “Kara-yuki” (Going China), today non-Japanese women sold to work in Japan called as “Japa-yuki”, the exact meaning of it is “going to Japan”.

workers has increased, engaged in so-called “3K” (hard, dirty and dangerous) work such as construction and manufacturing. In 1990, the Japanese Government suspended agreement of visa exemption between Bangladesh and Pakistan. And yet, migrant workers coming to Japan continue to increase until today, to which the government has been forced to revise its immigration policy to catch up with the development.

General trend

The Japanese Government has consistently maintained its immigration policy which limited receiving “unskilled workers” as much as possible, while welcoming “foreign workers with professional and highly skilled status.” The history shows that the country has never willing to receive foreign workers and its policy has focused on control of their entry.

After the WWII, immigration control and status of residence for foreigners was administered by Immigration Act and Refugee Recognition Law, primarily enacted in 1951 as “Immigration Ordinance.” Until 1970s, the Act mainly targeted around 600’000 Koreans who suddenly lost the nationality as Japanese when their native country, either north or south Korea, was no longer Japanese colony. In 1965, legal status for Korean residents in Japan was established and first and second generation of south Koreans were given the right of permanent residence.

As the International Convention on Human Rights on Civil and Political Rights as well as Economic and Social Rights was ratified in 1979, the Immigration Act of Japan was revised in 1981. The policy not to receive foreigners who enter Japan aiming for permanent residency was partly revised, so that some refugees and returnees from China could be received. At the same time, foreigners with the status of permanent residence were given the right to apply for social security system.

In 1989, Immigration Act was again revised in order to increase employment of professional foreigners. Labour shortage and drastic increase of overstay workers were also major reason to change the law. With the amendment, the list of Status of Residence was reorganized and enlarged from 18 to 28 categories. It is noted that as a new category, “Long Term Resident” was added for the second or third generation of Japanese who migrated Brazil or Peru in the past. They are called “Japanese descendent workers.” Another new category, “pre-college student,” was also established for activities to receive education at high schools, higher or general courses of advanced vocational schools or other educational institutions such as Japanese language schools. From 1993, the skill training system for foreigners was introduced to ease labour shortage. The number of those who overstayed their visa reached, however, around 300’000 in 1993, and has been decreasing slowly along with recession of Japanese economy.

According to the report of Immigration Bureau⁵, the number of foreign nationals who entered Japan came to the record of 5’272’095 in 2000, increase by 379’778 (7.6 per cent) from the previous year. The new comers, aside from those who have re-entry visa, counted 4’256’403, which is 296’782 more than previous year (increase of 7.5 per cent) and also came to the record.

As for the types of status of residence (the purpose of entry) among the new comers, 3’910’624 (91.9 per cent) are temporary visitors such as tourism, business, visiting family. The number increased 232’892 or 6.3 per cent compared with the previous year. Those

⁵ Immigration Bureau Statistics, Ministry of Justice, March 2001.

who entered the country as “entertainers” counted 103’264, increased by 20’959 (25.5 per cent). Out of them, entertainers from the Philippines count the largest number of 60’455 (58.5 per cent). College students (19’503), pre-college students (22’404) and trainees (54’049) also increased by 35.0 per cent, 15.3 per cent, and 12.6 per cent respectively.

The new comers who have visa that qualify to work in Japan amounted to 120’868, 20.2 per cent increase from the previous year. The types of the status increased include professor, artist, specialist in humanities/international services, intra-company transferee, entertainer and skilled labour.

There were 33,167 new comers (24.0 per cent increase) who were granted a visa to a spouse of a Japanese national. Among them Brazilians make up the largest percentage (43.9 per cent), followed by Chinese, Philippines and Koreans. Those who came to Japan as “long-term residents” increased by 70.6 per cent, in the number of 40’033, coming mostly from Brazil (73.1 per cent), China, Philippines and Peru in order.

Altogether 2’954’947 were male new comers, which was 8.0 per cent increase, while female counted 2’317’148 (7.0 per cent increase). The ratio of male new comers and female new comers is 56.0 per cent to 44.0 per cent. When they were divided into age group, those who are in thirties are the largest group (1’454’831), accounting for a quarter of the all (27.6 per cent). The number of male is larger in every age group, except female in twenties whose number is 1.3 times more than male.

It should be noted that these statistics show only those who entered Japan legally with official passport and document. At present, there are more than 1.6 million registered foreigners living in the country (1.3 per cent of total population) including migrant workers, as of August 2000, comprising 13 per cent of population in some cities. The statistics of Immigration Bureau shows that those who have overstayed their visa are estimated to be 232’121 as of 1 January 2002. Apart from these, at least 30’000 smuggled into country by sea, though the exact number is not known. The number of the registered foreigners in Japan was 1’686’444 at the end of 2000, increased more than 600,000 for the past ten years. The number still continues to increase. By region, those who come from Asia are 1’244’629 (73.8 per cent), with around 626’109 permanent residents such as Korean residents in Japan (95.2 per cent). Meanwhile, new comers amount more than 1 million, including those who have overstayed their visas.

Situation of female migrant workers

Although the job opportunity for female migrant workers has expanded to factories and restaurants since the early 1980s, both employment and age group are clustered on one side.

A large number of female migrant workers come to Japan with an entertainer’s visa. Philippines are the most in number. They are supposed to work as a singer or a dancer. In many cases, however, they are forced to entertain customers or bring a customer together when they come to work. What makes the matter worse is that they are often compelled to prostitution. The problem with the entertainer visa is that the holder engaged in entertaining is not considered a worker, to whom no labour law is applied. Most of the female migrant workers with an entertainer visa are paid at the end of a six-month contract. In the meantime, they are dependent on their employer for living or paid a minimum of living expenses. Their employer is afraid that they cancel the contract early or they run away. As of 1 January 2001, those who overstayed their “entertainment” visa were

estimated to be 11'029 (4.7 per cent of all), among them 9'972 or 90.4 per cent were coming from the Philippines⁶.

The statistics of registered foreigners as of 2000 can be divided into country of origin, age and sex. Apparently, those who come from China, Brazil, Philippines, USA and Peru are mostly between 20 to 39 years old including both men and women, though there are slight differences: China (male 62.2 per cent, female 66.6 per cent), Brazil (male 54.1 per cent, female 53.1 per cent), Philippines (male 56.1 per cent, female 51.7 per cent), and Peru (male 52.7 per cent, female 51.7 per cent). In the case of female migrants from the Philippines, those who are 25 to 34 years old account for 54.2 per cent.

There are several reasons for this trend. The demand of female migrant workers in Japan is concentrated on sex industry offering services and entertainment. Also brokers and agents both in sending countries and in Japan are quite organized. It is noticeable that in Japan entertainment establishments such as snacks and bars are willing to employ young women without any skill or education. Many female migrant workers are working at bars, snacks and clubs as hostesses, singers, dancers, entertainers, and strippers, for whom forced prostitution is often a part of their "work." In many cases, these workers are confined together in a small place, being watched and limited their activities, for they cannot understand Japanese and it is difficult for a female foreigner to find a place to live on her own. Even though they are employed, they are faced with various violation of human rights and disadvantageous practice: (a) to be taken away passport or returning ticket, (b) not to get paid monthly, or paid in one lump sum on returning home, (c) being imposed penalties for various reasons, (d) being used violence, (e) being forced over-time, out-of-contract work, and (f) to offset wages with debt in advance.

Furthermore, many migrant women are "resold" to more than one place, spreading to local cities. Quite often, their conditions of employment and actual employers are not clear, which puts them at disadvantage if they want to acquire their rights, become ill or encounter some accident. For Filipino women, most agencies have the age limit, allowing only women under 30 to come to Japan with entertainment visa. It is difficult for older women to come to Japan. That is why many Filipino women say they became overstayed voluntarily before they are faced with the age limit. More and more entertainers overstay their visa (more than 13'000 every year since 1997). Among those who originally came to Japan with entertainment visa, some Filipino women say they have been overstayed more than 10 years. There are also increasing cases that they get married with Japanese after they have renewed their entertainment visa several times.

Needs and concerns of female migrant workers

As more foreigners overstay and settle in Japan willingly or under various circumstances, their major concern has shifted from economic advantage to securing stable status of residence. Thus, marriage with Japanese is increasing in an attempt to acquire stable status of residence, along with large number of young migrants of marriageable age. In 1999, marriage between Japanese and foreigners reached more than 30'000 cases⁷, accounted for 4 per cent of total number of marriage. Previously, the Japanese Nationality Act granted nationality as Japanese for children whose father was Japanese (paternal line). This Act was revised in 1985 and now children whose parent is foreigner, if either father or mother is Japanese, could be given Japanese nationality.

⁶ Immigration Bureau Statistics, Ministry of Justice, 2000.

⁷ Statistics from the Foreigners' Registration, 1999.

Furthermore, as the members of a family increase, concerns related to “settle down”, daily problem are expressed, including domestic violence, education for children, medical care and daily life related to school and communities, divorce cases caused by lack of understanding within the family and so on.

Meanwhile, those who apply for “special permission for residence” is given a status of residence in accordance with the circumstances including marriage with a Japanese national have drastically increased. Regional Immigration Bureau cannot process the applications smoothly and it takes long time to acquire the permission. Thus in July 1996, the Ministry of Justice issued an official notice that foreign resident with a child whose parent is a Japanese national is granted “special permission of residence.” The Immigration Bureau says, however, that it is to be understood that the granting of special permission of residence is bestowed at the discretion of the Justice Minister.

A report from the Foreign Workers Human Rights’ Network (in Kanto area) engaged with protection of human rights of non-Japanese living in the vicinity of Tokyo tells the recent change of the situation of female migrant in particular. From the early 1990s to around 1995, the group was mostly engaged to “rescue the victims of trafficking ranging from 15 to 40 years old women”. They were completely deprived of human rights. However, since the late 1990s, they began to be asked to settle various issues including marriage, divorce, childbirth, death, medical care, domestic violence and education of children. During the early days, their major work was to rescue victims, support them to return to their country, investigate and reveal the vicious system of smuggling and trafficking. Although the practice of sex industry and trafficking system still remains in the society, it is more urgently required to deal with foreign residents who wish to stay in Japan. Basically, since the whole system of this society aims to assimilate the whole population as Japanese, it is necessary to have a perspective to integrate foreigners into the society not just in terms of the status of residence.

I. Legislative framework and readjustment

How, then, has the Japanese government responded to the situation?

1.1 Laws relating to migrant workers

There are various international documents relating to migrant workers. In December 1990, UN General Assembly adopted the “Convention to Protect the Rights of All Migrant Workers and Their Families” which Japan has not ratified yet. In terms of related ILO conventions, two of them, Nos.29 (forced labour) and 182 (worst forms of child labour) have been ratified, while other three conventions, Nos.111 (discrimination in employment and occupation), 97 and 143 (migration) have not been ratified. There is no bilateral agreement in particular.

1.2. Immigration Act

In Japan, administration regarding immigration control is based on the Immigration and Refugee Recognition Act and Foreigners Registration Law, which aims to “fair residence” and “fair control of immigration.” The criteria of “fair” is national interest, which means the whole system is to prevent entry of foreigners who are against national interest and to deport them as quickly as possible. The Immigration Control and Refugee Recognition Act is a basic framework for entry and status of residence for foreigner coming to Japan. The Act, primarily “Immigration Ordinance” enacted in 1951, had been little changed until 1970s, when migrant workers from the Philippines and other Asian countries drastically increased. Then the Act was amended several times under the changing circumstance.

The first major amendment was conducted in 1989⁸, focused on three areas. First, the list of Status of Residence was reorganized and enlarged from 18 to 28. It should be noted that as a new category, “Long Term Resident” was added for “those who are authorized to reside in Japan with designation of period of stay by the Minister of Justice in the consideration of special circumstances.” With this category, the second or third generation of Japanese who migrated to Brazil or Peru in the past could be given the status of residence quite easily. They are called “Japanese descendent workers.” Another new category, “pre-college student,” was also established for activities to receive education at high schools, higher or general courses of advanced vocational schools or other educational institutions such as Japanese language school. They are allowed to work up to 20 hours a week with permission. They usually work a part time bases (permitted 4 hours a day), i.e. waitresses and/or washing dishes at restaurants and fast food shops, etc., except for businesses which may affect public morals. As the procedure to acquire the visa for pre-college students is easier than college students, this status has become convenient route for those who come to Japan to find job.

Secondly, the new penalty for a person who has hand an alien engage in illegal work in relation to business activities (illegal employment) was established.

Thirdly, it was clearly stated that unskilled workers should not be received basically, although more Japanese descendants are allowed to come. Thus, the amendment was

⁸ Immigration Control Act, Ministry of Justice 1989.

criticized that the objective was to deal with labour shortage through legal bypaths and bringing Japanese descendents.

In the next amendment in 1997, the new penalties were introduced to challenge the smugglers who assist collective stowaways. The penalty for those who has harboured or concealed illegal residents (overstays) was also established ⁹.

Subsequently, in May 1999, the Immigration Act was again amended. According to Ministry of Justice, as the illegal entrants are out of the status of residence system which is the basis of the immigration control administration in Japan. Their existence or activities has caused various problems including serious crimes or drug related crimes. And vicious system of organized smuggling, as Chinese organized crime group called “Snake Head” has been still active, counter-attack measures are needed. Thus, penalty for illegal entry was established. In the previous Act, there had been a penalty for staying over the authorized period of stay, but not for the stay after the illegal entry nor illegal landing and that was an unbalanced situation. Then the new regulation was established to impose the same penalty as overstay on the person who continuously stays in the country after he or she entered or landed illegally. In fact, however, there are cases which enter the country legally and then overstay, could be forcefully deported without any indictment.

The 1999 revision could be applied without considering the background of original entry. For example, in the case of female victims of trafficking, they are brought to Japan unwillingly by the broker and forced to pay back the dept of 3 to 4 million yen, or, women recruited as domestic maids and brought to Japan with forged travel documents, forced to be prostitutes to pay the debt back of several million yen for her travel expense. Among the victims of trafficking, some women have settled in Japan after long years, married with Japanese and formed new family. The new law could be applied to these women, as well as refugees who fled from life-threatening difficulty.

As to the period of entry refusal for the deportees, it was made longer from previous 1 year to 5 years. What would happen if a couple who married in Japan were to be separated for 5 years? Or, it is tragic if a child cannot meet parent for five years. Naturally, it was said that the amendment lacks consideration for human rights.

1.3 Laws relating to employment of migrant workers

Apart from the Immigration Act, labour-related legislation such as the Employment Security Act and Workers’ Dispatching Law are applied for employment of migrant workers. For female migrant workers are engaged in such jobs as hostesses and waitresses, the law prohibits employers to let the worker shoulder unfairly large amount of debt. Some employers wish that the balance will be promptly repaid if the worker quits the job, and confiscate the passport or travel document of the worker in debt. Therefore, it is against the law for employers to offset against the advance or to take away passport of the workers.

In addition, if managers or brokers force female migrant workers to be engaged in prostitution by using violence or forcing to repay their debt, they violate the Anti-Prostitution Law. The Article 10 of the law prohibits contracts to prostitution, while the Article 7 prohibits prostitution to force the person in the state of embarrassment, confusion, or using threat or force. The Law “Fueiho” regulates business practice, while the Anti-Prostitution Law regulates conduct.

⁹ Immigration Control Act, Ministry of Justice 1997.

As the Japanese economy has entered recession, the labour market is declining, in which brokers are busy to bring in cheap foreign workers for employers. Some brokers related to organized crime make huge profit. Their conducts are regulated by Employment Security Law, Workers' Dispatching Law as well as Labour Standards Law. It is noted that violation of Workers Dispatching Law is now accounted for 12 per cent, following violation of the law that prohibit helping illegal employment.

According to the most recent report by the Police, there are 12'711 foreigners arrested in the year of 2000, among arrests of 6828, 53.7 per cent were overstayed their visas. Smuggling were 21 cases, arresting 103 persons which represents an 86.6 per cent decrease compared to the previous year. The law enforcement was clearly showed in this area. Illegal entries using fake passports were reported 357 cases which were decreased 50 cases from previous year. Related to the employment offense cases, the violation of Workers Dispatching Law (one case), Employment Security Act (18 cases), Labour Standard Law (no case) and Illegal Employment regulations of the Immigration Law (323 cases) were imposed on together for 342 cases and 379 persons were arrested. In these enforcements, 1'033 foreign workers were involved, and 695 were women. Penalties on illegal employment and replacement, 17 brokers were arrested in 2000. One arrested Japanese who used to live in Thailand, brought 80 Thai women into Japan within 1 and a half year.

1.4 Laws relating to trafficking

In November 2000, UN General Assembly adopted two Protocols as the supplement of UN Convention on Transnational Organized Crime, i.e. "Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children" and "Protocol Against Smuggling of Migrants by Land, Sea and Air." Japan signed the Convention but did not sign the Protocols. This convention comes into effect ratified by 40 countries, while the protocols do not take effect until the Convention on Transnational Organized Crime will come into effect.

"Protocol to Prevent, Suppress and Punish Trafficking in Persons", so-called "Protocol for Smuggling of Persons," aims to protect victims of trafficking, restore their rights, and to promote cooperation among sending, transferring and receiving countries. The victims are often brought to Japan with forged passport to be engaged in illegal work. Although Japan has not signed the protocol, there have been quite a number of victims of trafficking entering the country, whom mostly NGOs have dealt with using appropriate national laws. In Japan, in particular, these two protocols would be necessary to monitor carefully as to identify between "illegal migrants," in general while those who are identified as victims of trafficking. Also, the female migrants who lost their status of residence are not able to work while they wait for recovery of their rights at court procedures, which usually takes long time in Japan.

The exact number of victims of trafficking entering Japan is not known as no statistics is available. According to the survey conducted by Immigration Bureau in 2000, 6'552 foreigners were deported from April 17 to June 30, among whom 3'762 (57.4 per cent) were male and 2'791 (42.6 per cent) were female. The countries of origin are Korea, China, Philippines and Thailand were top four in order, and there were at least 56 victims of trafficking as defined in the UN Protocol. In fact, one woman was brought to Japan against her will by brokers in order to support her poor family. She was recruited as a maid of Thai family living in Japan, given a forged passport and shouldered debt amounting to 4.5 million and finally forced to sell her body to pay back the debt.

Note: Out of 56 victims of trafficking, those who come from Thailand are the largest, 48, followed by those from Columbia, Philippines, Korea and China. Fifty-five of them are female, and forty-nine of them are under 40 years old. None of them were under

18 years of age. All of them were deported on the grounds of both illegal stay and illegal entry.

1.5. Law implementation and enforcement

The Immigration Law has been revised in an attempt to make regulations stricter for both migrant workers and employers. However, illegal over-stayers have steadily accumulated. As of 1 January 2001, 232'121 are overstaying in the country, which 7.8 per cent decreased compared with the previous year¹⁰. The Immigration Bureau points out some features of illegal foreign nationals in these days as follows:

1.6. Longer periods of stay

By statistics on the duration of working by illegal workers who were proceeded for deportation in 1999, around 60 per cent of them had been working in Japan illegally for more than two years. Along the trend, for these days, the number of those who had been staying over 5 years is increasing. It shows the tendency to establish stable life in Japan. Possibly, it has become more difficult to enter into Japan because of the stricter entry control and they try not to leave the country. At the same time it also said that the economic recession in Japan compels them to work longer period to earn the amount of money they had initially intended.

1.7. Being spread over the country

By statistics on the location of working by illegal workers who were deported in 1999, still 70 per cent of them were found in the Kanto area (9 prefectures around and including metropolitan Tokyo). At the same time, they were also found in every prefecture of the country, which was not been the case before. They are now spreading all over the country.

1.8. Being involved in unskilled jobs

Statistics on the nature of working by illegal workers who were deported in 1999 show that 32.4 per cent of male illegal workers were found to be involved in construction followed by 28.7 per cent in manufacturing. As for female illegal workers, 42.9 per cent were involved in service related jobs such as hostess followed by 12.6 per cent in waitress.

1.9. Being more organized and vicious

The cases which have been seen more often recently include those imposture cases, using Japanese forged passports or genuine re-entry permit of others, camouflaged marriage cases or disguising the descendants of Japanese orphans who were left in China during WWII and have some privileges to come back to Japan. As for the collective stowaway cases, so-called "Snake Heads" which recruit smugglers and arrange for smuggling in a sending country and another crime organization in Japan work together very closely. As the immigration control gets stricter, the method of smuggling becomes more organized, tactful and vicious.

¹⁰ As of January 1 each year, Immigration Bureau reports the number of over-stayers.

Note: Families of smugglers enter Japan by borrowing money up to US\$2'000–3'000. Most of the migrant workers, earn ¥7'000–10'000 per day, followed by ¥5'000–7'000 per day, however, it decreased in general compared to the previous year. They cannot, therefore, apply for workmen's accident compensation and medical treatment.

The Japanese Government has maintained its basic policy not to receive unskilled workers, deal with illegal migrant workers more strictly. In practice, various penalties have been introduced, including penalty for employers. However, this policy contributed to hide illegal employment arranged by unprincipled brokers and agents. Even if they are illegal workers, their basic human rights and workers' rights must be protected. Nevertheless, the aspects of protecting human rights are neglected in the revised law. In fact, there are cases that workers are not compensated for labour accident or do not get paid.

Meanwhile, the Japanese Government has increased the types of visa to enter the country in response with the request of international community as well as with lower-level labour shortage within the country. That is, more Japanese descendants have been received, and visas for trainees and pre-college students have been added. The so-called "Backdoor Policy" for foreign migrant workers are comprised of "official" and "unofficial" policy. In other words, officially Japan does not receive "unskilled" foreign worker, while unofficially receive them in various ways based on the "double standard."

II. Protection of female migrant workers

2.1. Prevention

There is no comprehensive statistics collected by the government agencies regarding wage and working conditions of migrant workers in Japan. According to the report on violation of Immigration Act by Immigration Bureau, more than 80 per cent of illegal workers were paid less than 10,000 yen per day during 2000. Furthermore, those who were paid between 5000 yen to 7000 yen a day increased than the previous year, indicating that wage has been largely decreased¹¹.

Even if they are legally employed, many migrant workers do not join social securities, such as health insurance and pension insurance. Prejudice against migrant workers is largely reinforced by media report of crime committed by foreigners. Also, applying for Workman's Accident Compensation Insurance or claiming damages is often quite difficult for most migrant workers. There are, at least, two reasons why migrant workers have difficulty in claiming accident compensation insurance. One is that most of them are employed by small-size enterprises and that they are not organized. The other is that their employers are reluctant to join such insurance or they do not know much about the insurance system. The procedures are also difficult to follow workers themselves.

“International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families” prescribes that all migrant workers including those who are considered “as un-documented or in an irregular situation” shall enjoy the basic human rights and liberty prescribed in the existing international documents such as International Convention of Human Rights. They also have the right “to receive any medical that is urgently required for the preservation of their life,” and not to be arbitrarily deprived of property such as passport or other travel document. Their cultural identity must be respected. All of the protection of rights should be applied for their family members, too. As to migrant workers who are documented or in a regular situation, access to educational institutions, vocational training and housing, social and health services are included as their rights, as well as protection against dismissal and deportation.

The Welfare and Labour Ministry of Japan has its own “Guidance for employment and working conditions of foreign workers”¹². This is a book introducing, (a) restrictions of employing migrant workers, (b) consideration for cultural and religious freedom, (c) security education by different languages, etc.

There are a lot of labour-related laws in Japan. Three major labour laws are the Labor Standards Law, The Trade Union Law and the Labour Relations Adjustment Law. Other labour-related laws include the Workmen's Accident Compensation Insurance Law, the Employment Insurance Law, the Equal Opportunity of Employment of Men and Women, the Minimum Wages Law, Industrial Safety and Health Law, Employment Security Law, Workers Dispatching Law and Child Care Leave Law. All of these laws can be applied for all workers regardless of their nationalities, including overstay workers. According to the Labour Ministry Memorandum dated 26 January 1988, “The labour laws such as the Employment Security Law, Workers' Dispatching Law and Labour Standards Law apply to every labourer and worker, whether or not he/she is Japanese and whether or not he/she

¹¹ Monthly Labour Statistics of the Ministry of Labour show that average monthly wage in 1998 is around ¥410'000, or ¥18'780 per day if the worker works 22 days a month.

¹² It was revised in December 1999.

is working legally.” Migrant workers are also entitled to fundamental labour rights such as the right to organize and hold collective bargaining negotiations.

Article 3 of the Labour Standards Law stipulates that the employer shall not engage in discriminatory treatment with respect to wages, working hours or other working conditions by reason of nationality, creed or social status of any worker. In recent years, Public Employment Security Offices in several parts in the country provide a foreign language service for migrant workers.

In response to prevent trafficking or other ways to bring children from Asian countries to Japan, the “Law to Punish Child Prostitution and Child Pornography and to Protect Children” was enforced in November 1999. While the “Prostitution Prevention Law” does not punish “customers” of prostitution, the new law stipulates penalty for customers, in case the victims is under the age of 18 years, which could prevent child prostitution. Also, supporting NGOs in sending countries financially and providing “pre-departure orientation” are a part of effort to prevent trafficking in women and children.

2.2. Protection

There are some protective provisions for female workers in labour laws. It is reasonable to request the company/employer to pay due consideration to the following when female workers are engaged in work late at night:

- (a) safety measures specifically for female workers
- (b) giving due consideration when they raise children or take care of family members
- (c) providing a room for rests and naps
- (d) carrying out medical checkups and maternity protection.

The nearby Labour Standards Inspection Office or Labor Administration Office is ready to give information in detail. If a female worker suffers sexual harassment, she can consult a Labour Administration Office or a Women’s Center nearby.

Regarding tax and other matters related to daily life, ward, city, town or village office will give necessary information, while Social Insurance Office will be helpful for information of health insurance. Both offices provide foreign language service.

Protection of victims is also clearly stipulated in the Law for Punishing Acts related to Child Prostitution and Child Pornography, and for Protecting Children. In addition, the Amendment of Criminal Procedure Code and Prosecutor’s Examination in May 2000 aimed protection of victims which include: (a) to allow someone to attend to witness during examination, (b) to put a shelter between witness and victim or observers, and (c) to use video for cross-examination of witness. Previously, rape offense should have been reported within six months. This rule has been deleted so that victim’s rights would be recovered. It has to be noted, however, the penalty towards the buying side is only possible when the victim’s age is under 18 years old.

2.3. Assistance and public service ¹³

As public service, the Social Welfare Office provides the consultation service by women staff members, regarding family life, marriage, intimate relationship, sexuality, domestic violence, organized crime, massage parlor, forced prostitution and so on. Public shelters are also available in an emergency. At a public shelter, woman with a status of residence is preferred and overstay female migrant usually would not apply for admission. But, recently, more women married with Japanese men are admitted in a public center along with their children. Still overstay female migrant would consult with NGOs first.

To support to pay for medical treatment, National Assistance Service can be applied for those who have a long-term resident visa. As to overstay migrants, some local governments have enacted the Live Saving Law ¹⁴, while others have introduced a system to make up unpaid medical expenses for emergency medical care.

The mother's pocketbook is a guide book which is issued and supplied for the purpose of protecting mother's and baby's health. The book is used to record the results of health check and instructions on health. In addition, the mother is supposed to record the state of her pregnancy and delivery, developmental progress of her baby and the results of vaccinations. The book also includes information necessary to keep the mother healthy (before and after delivery) and bring up the baby. Upon submitting a pregnancy notice (not always necessary), a mother's book will be supplied. In addition to the Japanese edition, there are English, Chinese, Korean, Tagalog, Spanish and Portuguese versions. Mother's books are supplied to any pregnant woman without regardless of nationality, foreign registration and status of residence. She is not requested to show her passport when she gets a copy.

Childbirth assistance program is the program under the control of the Child Welfare Act.¹⁵ This programme is aimed at giving childbirth assistance to a pregnant woman without regard to nationality and status of residence when she has financial difficulties to give birth to a baby in a hospital (the amount of income tax paid by her is less than 16,800 or less). The welfare office of a local government deals with the program, and the office designates the hospital for delivery. Suppose that the pregnant mother is hospitalized for fear of imminent abortion, and she will have to bear and pay the hospitalization expenses by herself. Also, she will bear miscellaneous expenses during hospitalization for delivery. It may depend on the local government whether or not the program is applied.

Care and medical treatment is given to those children suffering from physical disability, visual disorder, impairment of hearing/equilibrium disturbance, vocal, speech and masticate functional disorder, cardiac trouble, kidney trouble, congenital visceral disorder including the respiratory organs, vesicle, rectum and small intestine, and/or immunity trouble which needs operation, and expecting early treatment to be able to live for and in the future. Allowances are provided to cover the expenses the child is to bear for treatment. In case humanity and emergency need, a child of a foreign nationality will be benefited.

Medical and infant care services are available for such infants who were born immature (2000g or lighter when they were born) and/or need treatment by a doctor in a

¹³ Regarding the Public Assistance, please refer to the list of the Public Service at the end of this report.

¹⁴ Law to assist sick and dead persons in transit.

¹⁵ This act comprises two laws; Law related to granting Special Child (disabled) Care Allowances and granting Child Allowances.

hospital (because they have a certain symptom of weakness in living though they marked 2000g or heavier when they were born. For example, infants are benefited who are suffering from cyanosis or yellow jaundice even if they are not covered by insurance.

There are vaccinations of all kinds available including tuberculin tests and B.C.G. vaccination given on and to infants of 4 months to less than 3 years free of charge. Vaccination against polio, Japanese encephalitis, DPT (diphtheria, pertussis and tetanus) and measles is carried at different times and in different frequencies. Some vaccination may be free of charge with a vaccination coupon contained in a mother's pocketbook. A foreign registration certificate is required, but vaccination for pay is available with no regard to the status of residence.

2.4. Migrant workers' freedom of association

The Constitution of Japan guarantees their fundamental human rights to foreign nationals. A ruling made by the Supreme Court is to be construed that the fundamental human rights are guaranteed equally to foreign nationals residing in Japan with an exception for fundamental human rights applicable by nature only to the Japanese people.

Accordingly, the Constitution of Japan provides the migrant workers with freedom of association and they are basically free to form any organization or join an organization. Almost no issue may happen in the case that such an organization is aiming to get together for a cultural, educational and/or religious one, or a trade union.

It is political activities that may cause a concern. Migrant workers are of course entitled to organize a political group or association, provided, however, that their political activities are acceptable to the extent as noted in the ruling that they do not interfere with Japan's decision making and taking action accordingly and are not deemed proper in view of their status. In other words, freedom of political activities itself is basically enjoyable by migrant workers as well, but in case that their activities do not go well with the Japanese interests, the Immigration Bureau may take it as a matter of negative nature when they are requested to renew the visa of a member belonging to a political group or organization.

Recently, many of the legal employers of the language schools and manufacturing factories, men and women organize themselves forming their own unions, usually affiliated with the community unions, for negotiating issues such as work conditions, dismissal, salary bargaining, etc. The entertainers were also organized themselves to bargain improving working hours, conditions, and so on.

2.5. Assessment of government initiatives and suggestions

When it comes to the evaluation of Japan's policies relating to migrant workers, there are two issues that cannot be overlooked. One is that undocumented workers exist at a high rate, amounting to nearly 300'000. The other is that most of female workers work with an entertainer visa. In either case, it is not easy to assess Japan's policies and make an effective proposal. It is difficult to tolerate further young women mainly working in Japan's entertainment business, which largely benefits for the organized crime syndicates and exploitative practices. Can we, then, leave this area for purely "demand" and "supply" market? There are many attempts by the government enforcing laws from various aspects, but "cheap and fresh" labour demands are increasing because of the present economic situation in Japan. Japan's policy relating to the workers with an entertainer visa seems, therefore, in favour to meet the demands for young women from domestic entertainment

business. This is the major area nothing substantial to respond well to criticisms from international and national communities to date, since early 80s.

The number of foreign workers who entered Japan in 2000 with a work visa reached 120'868. Of these workers, 103'264 (85.4 per cent) have an entertainer visa¹⁶. As is seen from the above, most of them are female workers, and trafficking in women still occurs often. The number of migrant workers with an entertainer visa is, nonetheless, still on the increase.

As to the entertainer visa, it is necessary to strictly examine sending and receiving recruiters and brokers on their eligibility and introduce a systematic means designed to protect the human rights of female migrant workers.

The issue of overstays workers lies in the fact that the Japanese Government officially does not permit unskilled workers to enter on one hand, but there is a strong labour shortage at work sites (deemed dangerous, demanding and dirty) on the other hand, and migrant workers are essential labor force in certain area. Under the circumstances, the Japanese government is forced to acquiesce in the presence of overstay, so-called unskilled workers.

Japan's policies relating to foreign workers have two faces, causing a grave discrepancy between the actual policy and the reality of unskilled Labour shortage. As is the case, the Japanese Government has difficulty to go at the problem to protect migrant workers, which is a serious issue left unsolved.

It is also urgently necessary for the Japanese Government to grant an amnesty to overstay foreign workers and reorient its policies of immigration control to frontally address labour demand.

¹⁶ Immigration Bureau Statistics, Ministry of Justice, 2001.

III. Private initiatives for protecting female migrant workers

4.1. Awareness-raising on migrant workers' rights

NGOs are playing important role for support activities for migrant workers in Japan since early 80s. For example, Catholic Diocese of Yokohama Solidarity for Migrants has published "Survival Manual: A Guide to Foreigners' Rights in Japan"¹⁷, in an attempt to provide enough information on human rights, how to apply for various public services, how to fill application form, directory of human rights lawyers, labor unions which accept individual membership, shelters for women, medical institution for foreigners, list of counseling services.

In fact, increasing number of female migrant workers suffered from nonpayment of wages, unfair transfer of work or sexual harassment are encouraged by citizens' group to join trade union and settles their issues.

There are some private projects to empower female migrant workers and re-integrate them into home society after they return home. The Filipino support groups such as DAWN and BATIS are introducing for the returning entertainers and their families for income generating projects, role plays for pre-departure orientation and re-integration programmes, etc., and the Japanese groups in Kobe and Tokyo are selling their products in Japan. It is to be noted that these projects have been planned and carried out by leading female migrant workers themselves.

4.2. Advocacy for policy and law amendment for migrant workers

As mentioned earlier, the labour laws of Japan are applicable to any worker without regard to nationality and status of residence. It is not always right to say so when it comes to less-organized foreign workers, especially undocumented male and female workers. According to a survey conducted by a labor union in the metropolitan area which any individual worker can join, 85 per cent of the workers who visited the union for advice mentioned that the Japanese labor laws were not applied to their cases. A half of the cases was related to the un-payment of wages, followed by the un-payment of dismissal allowances. 80 per cent of the workers who were the victims of labour accidents were benefited from the Workmen's Accident Compensation Insurance Act¹⁸. Even if the employer bears and pays medical expenses and living expenses, he is often reluctant or neglectful in joining labour accident compensation insurance. It is not unusual that he does not report to the competent labor standards inspection office of the facts of the accident. Trade unions which individual workers are able to join are making efforts to organize foreign workers into a trade union, and they want the competent labor standards inspection offices to give a stronger instruction to the employers in order for the labour laws to be fully applied. In addition, there are many seminars and lectures to enable foreign workers to have a better understanding of not only labour laws of Japan, but also the UN

¹⁷ A part of the Guide is attached at the end of this report.

¹⁸ Compensation benefits include medical treatment, leave of work, pension for injury ,disease and casualty, survivor and funeral benefit, etc.

Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.

The National Network in Solidarity with Migrant Workers¹⁹ consists of civic groups, trade unions and individuals, engaged in advocacy, networking and publicity. It also lobbies members of the House of Representatives and the House of Councilors, prepares counter reports of UN human rights conventions to protect the human rights of migrant workers and encourages the members to exchange information and share experiences with each other. It is expected that NGOs all over the country will take action hand in hand with migrant workers to put the labor laws into full application to migrant workers regardless of status of residence and nationality and urge the Japanese government to ratify the UN Convention on the Protection of the Human Rights of all Migrant Workers and Members of their Families concluded in 1990.

The National Network is also preparing proposals for comprehensive foreign nationals' oriented policies. Heated discussion is under way to finalize the policy proposals relating to the revision of legal system of Japan, the rights of workers, the rights of women, children and education, children's nationality, medical care and social security of foreign nationals, local autonomy, treatment in detention centers, xenophobia and the rights of foreign nationals to appeal their cases at court proceedings.

4.3. Assistance and support

It is since the 1980s that more and more non-Japanese workers were seen all over the country, and the Ministry of Labor (currently, the Ministry of Health and Welfare and Labor) started to equip the Labor Standard Departments with English-, Spanish- and Portuguese-speaking staff to handle labor issues of foreign workers. The government of Tokyo has extended their translation services in many parts of the administrative offices, particularly Labor Administration Offices in Tokyo, to give advisory services in English and Chinese to foreign workers.

Earlier, many civil groups were born to support and exchange with foreign workers and residents all over Japan, and they have been extending various programs to this effect. Japanese-language classes mushroomed to help foreign nationals learn Japanese essential to their daily lives here. In fact, there are more than 200 Japanese classes offered on a voluntary basis in Tokyo. Japanese lessons are given seven days a week, and day and night free of charge or at a very low cost.

Many local governments including the metropolitan government set up such an organization as international friendship association to give counseling services to and exchange with foreign workers and residents. A variety of projects are conducted for the purpose of understanding different cultures and exchanging with foreign nationals. They also hold Japanese classes periodically. In particular, international friendship associations located at Musashino City, Tokyo and Toyonaka City in Osaka are well known for their outstanding and variety of activities which many of non-Japanese national participates in the programme from the beginning, together with Japanese volunteers. A lot of foreign people who got married to Japanese take the initiatives in organizing a meeting or an event. Not a few foreign volunteers are ready to act as an interpreter and talk with compatriots as an advisor. There are many spouses of Japanese nationals who have registered to be volunteer interpreters in case of disaster or necessity.

¹⁹ Loose nationwide network of over 100 groups. The network organizes a meeting once every year in different cities of Japan including migrant workers.

Large trade unions usually are not interested to recruit non-Japanese members unless they are part of the organized companies. Non-Japanese workers usually join the community unions in the area they work. The individual community unions are organized at national level and a worker can join individual base and expect support when necessary.

In addition, civil groups, trade unions and other groups belonging to the National Network in Solidarity with Migrant Worker, have supported foreign workers and people in their own style and manner since the 1980s. Counseling, Japanese-language classes, study tours, events and seminars are some of their programs. These are Christian-based, labor union-based, professionals' groups (ex. a group of lawyers who addresses foreign labor issues, doctors, etc.). Many civil groups were organized to get together about foreign nationals' issues and exchange with them who came to stay in Japan. At first, emphasis was put on the supporting and relieving of female migrant workers victimized by trafficking and forced prostitution. And then a helping hand was extended to male foreign workers at construction sites, centering on labor and medical care issues.

APFS (Asian Peoples' Friendship Society) is a typical example of this kind. This group is a Tokyo-based civil group, but unlike similar groups, foreign members have been in the center of organizing and activities from the outset. Japanese staff members are at the rear line to support foreign staff members in terms of deskwork and planning. The group has been active in joint filing applications for special permission to reside in Japan on behalf of foreign families overstaying their visas. They also set up another organization for the promoting of communications and exchange of information of international couples.

Government of Japan and NGO's assistance and support are extended in different areas. The government is heading for the effective formulation of policy and control for exploitation which is a realistic approach toward the issue, on the other hand, NGOs are dealing the issue from the perspectives of the migrant workers themselves which is based on their rights. Both assistance and support were extended whether documented or undocumented, male or female although the level of assistance and support are different degrees according to their appeals, situations, and/or constraints such as confined and isolated places, or guarded.

4.4. Migrant workers organizing themselves

While there are few organizations here whose members are migrant workers only, but some which are jointly formed by migrant workers and Japanese, there are 200 or more support organizations or groups whose members are Japanese for the most of members. These organizations or groups started to emerge in the late 1980s.

Christian churches, trade unions, civil groups and groups of professionals (such as doctors and lawyers) have given basis to these organizations. More than 200 Christian churches read mass in foreign languages. Christian communities have been established in an area where there are groups of foreign people with the initiatives taken by the church in the area. Philippine people are energetic in particular in this connection. There are also seen a few mosques, solidifying Moslem with each other.

General large scale unions in Japan are not active to organize migrant workers working in the companies and factories. Rather, enterprise-free community unions which admit membership to individual workers are working hard to organize migrant workers. The number of organized migrant workers ranges from 100 to 900 approximately. Many of migrant workers join a community union after they have met with any real problem. It is characteristic of such community unions that many migrant worker members come and go. Some community unions have Bangladesh and Pakistani members while others Korean members. There are also unions whose main members are language teachers from America

and Europe. Foreign members of these unions are broadening gradually their scope of activity by themselves.

A host of civil groups usually provide migrant workers with advisory services individually on various topics, and many of them make negotiations with local governments and governmental institutions. As issues of migrant workers are diversified, some civic groups are good at handling daily life-related problems (marriage, divorce, nationality and domestic violence while others are at medical care, labor and technical training program-related issues. These groups are, however, in cooperation with each other in many cases. As mentioned earlier, one civil group has the foreign secretary general in the centre of their activities.

Groups of professionals are formed mainly by lawyers and doctors, and they are often asked for advice on specialized topics by support groups. A medical group has introduced a membership system targeting at foreign nationals. A pioneer project of this kind has been carried out by Minatomachi Kenko Gojokai (MF-MASH) located in Yokohama. This is a membership-based, mutual aid-oriented medical system for foreign nationals who are not covered by health insurance. There is also a labor union corporate named International Mutual Aid Union. These will be a good example of organizing a mutual aid union by migrant workers themselves²⁰.

4.5. Assessment and proposal for NGO activities

Some NGOs such as churches and trade unions had been set up and started their own activities years before problems arising from and/or in connection with migrant workers came into existence. They later included handling of migrant workers involved problems in their scope of activities. Some civil groups were established when they wanted to deal with migrant workers' problems. Churches and trade unions are relatively solid in organization and finance. When they are equipped with professional knowledge inherent in foreign nationals' issues, they are expected to play a pretty important role in society. In contrast, many civil groups are not well organized and funded though they have much professional knowledge. They tend to act through networking. Recently, internet used information is widely available through the well organized mailing lists.

More particularly, some NGOs hold Japanese language classes on a daily and regular basis, and others handle individual cases when so necessary. They provide medical checks regularly or irregularly, and make negotiations with administrative institutions when the need arises. Such NGOs are linked with each other in a rather less tight manner through the National Network in Solidarity with Migrant Workers (established in 1997), which enables, the member groups or organizations to cooperate with each other to find a solution to a certain problem as soon as it occurs.

A migrant worker, once involved in any kind of trouble, will be able to get a useful response from any of the above groups or organizations when he/she has succeeded in getting in touch with any groups. It is no exaggeration to say that almost all NGOs respond well in all sincerity, even if not sufficiently, to any issue.

Since the private sectors usually substitute the government sectors, and easy to be approached by illegal migrant workers, it is desirable that NGOs should be subsidized in terms of finance, manpower and exchange of information, etc.

²⁰ To be completed.

IV. Institutional framework

5.1. Bodies to promote, enforce and supervise

It is necessary for the Japanese Government to review the entertainer visa and to cope with overstay foreign nationals in an appropriate manner as a means to redress the current practice relating to foreign workers.

Among the entertainment business related offences, 1'190 non-Japanese women involved in 2000, which is decreased compared to the previous year. The authorities to supervise the practices of the entertainment businesses are the national police and where necessary the immigration offices. As it was mentioned earlier, the laws have been revised in order to meet the exploitative practices and effective regularization. In 2000, 1'108 cases were reported for the violation of the entertainment business practices; among the total of 1'108, 56.6 per cent, 627 cases were violation of Anti-Prostitution Law, followed by 29.4 per cent, 326 cases by Entertainment Business Regulating Law, 6.3 per cent, 70 cases by Criminal Law, 3.5 per cent by Child Welfare Acts, 3.2 per cent by Employment Security Acts offences.

There were 2'947 cases and 1'225 arrests for the violation of Anti-Prostitution Law. Among the arrests 20.7 per cent, 254 arrests were belonged to the Crime Syndicates.

5.2. Coordination

The Japanese government is undertaking efforts to work with the civil groups, particularly women's groups in recent years inviting them to study their opinions in various fields, and reflect on the policies. The government is also coordinate with the sending countries to develop better pre-departure orientation introducing the migrant workers, what is possible and where to contact if in trouble.

It is natural that Japan should exchange information with sending countries and cooperate with them in addressing migrant workers' issues. It is also urgent for the Japanese Government to take up the issue such as over expanded entertainment business world, discrimination against foreign nationals, policies which take precedence over the enterprises' and national interests, unclear criteria and arbitrary judgment, and double standards practices, and take action accordingly. It is therefore needed that the Japanese Government discusses these matters with the parties including women and NGOs for the establishing of international framework.

Conclusion and recommendations

The Japanese Government does no effective measure to tackle the situation of migrant workers until it finds the current law system works no longer to control them. The Government decides then to take a countermeasure, reluctantly accepting the situation. Naturally, the interests of the country and the business world have come first at all times in law making, leaving behind the human rights of workers. As a result, things often happen which go against the interests of workers even though they have a legally established status. Under the circumstances, the Government has granted lately a special permission for residence to the families of some overstaying migrant workers, which seemed never happened under the scheme of Japan's law system. It was a landmark change. It may be right to say that as the world get diversified, the Japanese Government is forced to change its political stance from control and regulation to the acceptance of multi-cultures and nationalities in society even though there still remain some opaque and arbitrary policies.

Proposals in connection with the general trends

- The Government has to grant residence status to all necessary migrant workers.
- Japan tends to rule out those who believe in a different culture or religion, imposing on a minority group of foreign nationals its own culture and values as unique. It is recommended to check the system of Japanese society for validity and criteria which are taken for granted. It is also recommended to introduce a law to ban on the discrimination against foreign nationals so as to improve the situation of migrant workers, realizing everyone's social commitment and serve to review and metamorphose Japanese society from an institutional and cultural point of view.
- Japan considers migrant workers as alien, and does not allow them to enjoy social participation. It does not provide them with an opportunity to feel that they belong to Japanese society, either, resulting in increase in social costs and undermining the human rights of migrant workers. The Japanese Government has to make efforts to hold meetings to exchange views with migrant workers and NGOs for planning, and reflect their opinions on policy making.
- It also requires the Japanese Government to provide migrant workers with opportunities for social activities through interpreters and language-teaching services.

Proposals as to nationality and status of residence

- It is proposed to avoid the Ministry of Justice of discretionary power in granting a status of residence to foreign nationals, and produce a clear and transparent criterion.
- It is proposed that the Japanese Government should make a clear criterion to grant an amnesty to those foreign nationals who have overstayed their visa over a certain period of time.
- It is proposed to amend the current nationality law in terms of the requirement for prenatal recognition of the child to enable every child to get Japanese or any proper nationality.
- It is also proposed that the Ministry of Justice should guarantee any foreign national to stay without deporting her/him while the court proceedings are under way to provide her/him for their rights.

Labour-related proposals

- Foreign nationals who enter Japan with an entertainment visa or a technical trainee visa are not guaranteed in legal status as workers. Even though they actually supply labour, they are not considered as a labourer with no application of Labour laws. It is proposed that the Japanese Government should apply the Labour Standards Law and decide which governmental agencies handle, control and redress labour-related issues including wages, working conditions, compensation for workmen's accidents and insurance so as to prevent the human rights of migrant workers from being violated.
- Non-Japanese workers are to be treated in an equal manner to Japanese workers in terms of worker's rights without regard to status of residence. In practice, however, there are observed some cases where foreign nationals are put under obvious disadvantages in relation to employment conditions and compensation for labour accidents. It is necessary for the Ministry of Health, Labour and Welfare to regulate such a situation and the labour standards inspection offices to intervene to redress
- There are many enterprises or companies to use migrant workers as a regulating valve for their business. It is proposed to regulate those (brokers) who illegally dispatch workers and employers and make them aware of the situation.

Proposals relating to female workers

- It is proposed that the competent agencies or institutions should maintain a stricter control of unfair acts and sexual exploitation of brokers and employers such as confiscate of passports.
- The labour standards inspection office is less positive to control and give instructions to the entertainment business where a great number of female workers with an entertainment visa work than any other business with respect to unlawful acts and working environment. It is proposed that the Ministry of Health, Labor and Welfare and the labour standards inspection offices should instruct inspections in more effective attitudes to the entertainment business.
- It is also proposed that the fields of labour and types of work should be expanded for the benefit of female workers. It is apparent that there is a shortage of skilled labor force and training in the field of care-nursing and language teaching. These fields can be expanded and be able to accept more migrant workers. The Japanese Government should be responsible to discuss with relevant governments and NGOs how to introduce into these areas and what steps to take to further policy formulation. There should be provided public shelters and consultation centres to offer those victims of confinement and forced prostitution by organized crime groups, and restore their rights. It is also necessary to financially support public and private facilities for interpreting services and language instruction to address the issues.

Proposals for medical care, education and social security

- The requirement for nationality should be removed from the social security system.
- It is proposed to separate the welfare pension system from the health insurance system, and it should be admitted that employees join the latter only, if they prefer.

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- It is also proposed that the Japanese Government should hold intergovernmental discussions with sending countries to enter into a bilateral agreement, for example, which allows the premiums paid by the insured in Japan to sum up in the premiums to be paid in their home country until such a new system as mentioned above is set up.
 - Emergency medical care should be provided to any foreign national staying here.
 - All children should be guaranteed to receive education without regard to status of residence.

Trial and administration of justice

- It is proposed to eliminate difference in legal rights between Japanese and non-Japanese.
- It is also proposed to discuss and improve the situation where language barriers result in disadvantages to foreign nationals in police stations, detention centres, court and prisons.
- It is proposed to treat foreign nationals at detention centres or prisons in terms of their dietary preferences on board, if any and religion. Their rights for religion must be respected.
- There shall be no limit on language which affects adversely meetings and communications in police stations, detention centres and prisons.

Others

- Migrant workers who have stayed for a certain period of time should be granted a right to local politics to promote social participation and activation.