

# **Forced Labor Risk in Japan's Technical Intern Training Program**

## **Exploration of Indicators among Chinese Trainees Seeking Remedy**

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## 1. Introduction

Japan's Technical Intern Training Program (TITP) has attracted hundreds of thousands of workers over the past ten years, primarily from other Asian countries. In 2017, the top five sending countries for TITP trainees were Vietnam, China, the Philippines, Indonesia, and Thailand.<sup>1</sup> Past research and reporting has indicated the presence of many intermediaries that a trainee must engage with in order to secure a position in the TITP program, and that trainees are often subjected to a combination of high recruitment fees resulting in debt and a lack of transparency regarding working and living conditions.<sup>2</sup> In general, as has been widely documented by Verité and others, the process of international labor recruitment via the use of third party intermediaries can heighten migrant worker vulnerability to forced labor and human trafficking. Stakeholders focusing on mega-sporting events in particular have noted that the increased attention on Japan leading up to and during the 2020 Olympics presents an opportunity to highlight the role that TITP trainees play in the Japanese labor economy and to reflect on the widely reported experiences of exploitation for foreign workers associated with the program.<sup>3</sup>

From 2015 to 2017 Verité had the opportunity to analyze testimonies of Chinese trainees in the TITP program who had submitted complaints to a local migrant advocacy organization. The respondents were primarily women employed at small and medium enterprises, and all had reported experiencing some degree of exploitation during their time in the TITP program. This exploration of previously documented labor violations among Chinese trainees was designed to provide an in-depth look at the experiences of trainees self-reporting problems in the program, as well as an analysis of potential vulnerability to specific indicators of forced labor. The findings herein are offered as a contribution to the understanding of the nature of exploitation in the TITP program where it occurs; and to help inform targeted interventions by government, business, and civil society in seeking to remedy exploitation experienced by trainees and prevent further abuse.

## 2. Background

Japan's steadily declining population has led to serious labor shortages. According to the National Institute of Population and Social Security Research, the country's population of 127 million will shrink by more than 40 million over the next 45 years.<sup>4</sup> By 2060, people 65 and over will make up an estimated 40 percent of the population.<sup>5</sup> The number of working-age people has been decreasing since the mid-1990s and is projected to continue dropping over the coming decades.<sup>6</sup>

These sharp demographic changes have left Japan with a strong need for foreign labor. Nationwide, the unemployment rate is only three percent. There are three to four positions open in construction for every person who applies, according to government surveys.<sup>7</sup> In 2016, it was estimated that Japan would need over 25,000 construction workers nationwide in the following years.<sup>8</sup> To complete ambitious infrastructure projects for the 2020 Tokyo Olympics, Japan will face a deficit of approximately 150,000 construction workers, according to a recent estimate.<sup>9</sup> In addition to construction, which has

received increased attention due to the link to the 2020 Olympics, fishing, farming, and small-scale manufacturing industries bear the brunt of the labor shortage.<sup>10</sup> Care workers are also in demand; the Health, Labor and Welfare Ministry estimates that by 2025, Japan will need 2.53 million care workers for its aging population, and the domestic labor market can only provide 2.15 million, leaving a gap of about 380,000 care workers.<sup>11</sup>

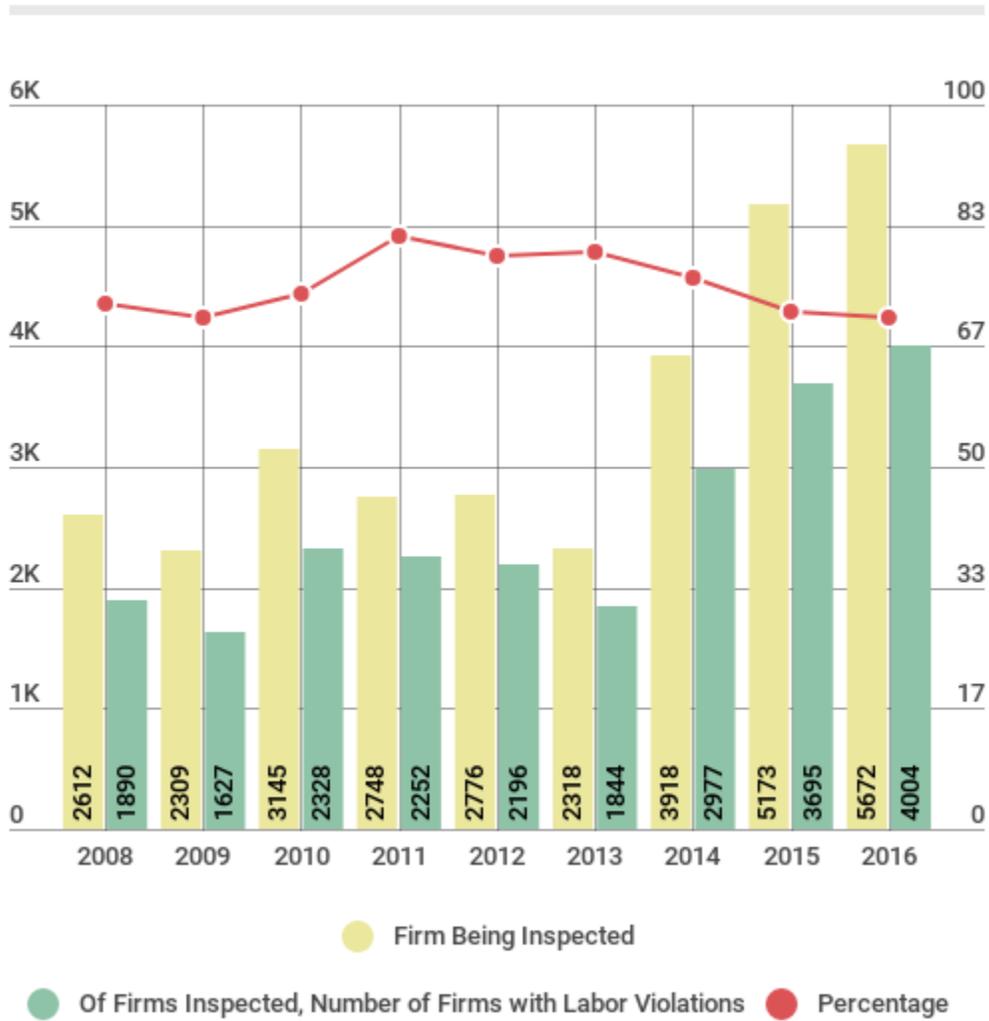
Japan has sought to balance the growing demand for a foreign, low-skilled labor force with political pressure to maintain low rates of migration.<sup>12</sup> The government has reported that foreigners made up only 1.1 percent of the workforce in 2013.<sup>13</sup> Representatives from Japanese NGOs and unions interviewed by Verité believe that political aversion to a more liberal immigration policy has driven the development of the TITP program, which functions as a labor migration framework for temporary low-wage workers. According to media reports, Prime Minister Shinzo Abe's administration has demonstrated a desire to use the TITP to bring in more foreign workers; the administration has committed to extending the training period for foreign workers in construction companies from three to five years in order to address the labor shortage.<sup>14</sup>

It has been reported that employers in Japan use the TITP program to access foreign labor to fill low- and semi-skilled jobs.<sup>15</sup> In 2017, the U.S. State Department has described the TITP as a "de facto guest worker program"<sup>16</sup> and has noted that "many migrant workers are placed in jobs that do not teach or develop technical skills—the original intention of TITP," and that "some of these workers continued to experience conditions of forced labor."<sup>17</sup> A study by the Japan Ministry of Internal Affairs and Communications found that in 19 percent of enterprises surveyed trainees comprised half of all employees, and in four percent, trainees made up 100 percent of employees,<sup>18</sup> suggesting companies may be replacing permanent staff with trainees.

The Japan International Training Organization (JITCO), the organization responsible for TITP program oversight, has acknowledged that "various problems have occurred since this program was established."<sup>19</sup> The Ministry of Justice (MOJ) of Japan reported that 213 host organizations were found to have mistreated TITP participants in 2017, with offenses including withholding wages and illegal overtime.<sup>20</sup> The number of trainees leaving the program has been rising since 2010, reaching 5,803 in 2015,<sup>21</sup> and 3,205 in just the first half of 2017.<sup>22</sup> The MOJ has reported that many trainees leave in search of informal jobs with higher wages.<sup>23</sup>

Annual inspections by Japan's Ministry of Health, Labor, and Welfare (MHLW) have uncovered labor violations by firms participating in the TITP. In 2016, the MHLW inspected 5,672 workplaces of concern from among the 30,000 workplaces with TITP trainees and uncovered labor violations in about 71 percent of those inspected.<sup>24</sup> Between 2008 and 2016, inspectors found that 75 percent of the total 30,671 firms they inspected had violated at least one labor regulation, such as limits on working hours, minimum wage and overtime wage requirements, and safety and hygiene regulations (See Chart 1).

Chart 1: Labor Inspection Data (2008-2016)<sup>25</sup>



MHLW official inspection data from 2012 to 2016 included 24,590 noncompliance cases; the most common violations related to workplace safety and health violations, wage violations (about half of which related to overtime wage underpayment) and working hour violations (See Chart 2).

Chart 2: MHLW Inspection Data by Category of Violation, 2012-2016<sup>25</sup>



Reported rates of death among TITP participants are high. At least 127 trainees died between 2005 and 2010, roughly one out of every 2,600 trainees.<sup>25</sup> The UN Human Rights Committee and the Labor Union of Migrant Workers has expressed concern over the high rate of death in a population that is generally healthy and relatively young.<sup>26</sup> JITCO has reported that the rate of deaths from heart disease among trainees is twice the rate for Japanese people in the same age group.<sup>27</sup> Since 2010, the government has classified two trainee deaths as cases of “*karoshi*,” death from overwork.<sup>28</sup> One of these victims had worked over 120 hours of overtime per month before dying of heart failure in his dorm.<sup>29</sup> On January 14, 2018, The Ministry of Health, Labor and Welfare issued the first official statistics on work-related deaths among foreign trainees in Japan: 22 foreign trainees were killed by work-related incidents over the three-year period from 2014 to 2016. The ratio of work-related deaths for foreign trainees per 100,000 was twice as high as the ratio for Japanese workers.<sup>30</sup>

Civil society organizations and media outlets have widely reported human rights violations experienced by TITP trainees, including passport retention, enforced savings, unpaid overtime, debt bondage, and

serious abuse and harassment.<sup>31</sup> The Labor Union of Migrant Workers has reported that trainees are vulnerable to abuse due to their inability to change employers, and that they suffer from unsafe working conditions, retention of identity documents, and illegal overtime. The union also alleges that the threat of deportation is used to force trainees to work. The Japanese Trade Union Confederation reported that nearly 16 percent of trainees paid a deposit to their employment agencies, and roughly 80 percent of this group never had the money returned to them.<sup>32</sup> The Japan Federation of Bar Associations (JFBA) has called for the abolishment of TITP due to the gaps between its stated purpose and its practices.<sup>33</sup>

The UN's Human Rights Committee, Special Rapporteur on Trafficking in Persons, and Special Rapporteur on the Human Rights of Migrants have all expressed concern over human rights violations, including trafficking, experienced by foreign workers in the TITP.<sup>34</sup> Regarding foreign trainees and technical interns, a report by the UN Human Rights Committee notes that as of 2014 "there are still a large number of reports of sexual abuse, labor-related deaths, and conditions that could amount to forced labor."<sup>35</sup> The U.S. State Department's annual *Trafficking in Persons Report* has mentioned trafficking in persons (TIP) risks associated with the TITP every year since 2007. The 2018 report devotes considerable attention to the TITP, noting that migrant workers placed through the program have been known to be exposed to working situations that amount to instances of forced labor.<sup>36</sup> According to the report, TITP trainees continue to face limits on freedom of movement and communication as well as retention of identity documents. The report also highlights high recruitment-related debt and contracts that require trainees to forfeit thousands of dollars in fees if they leave the TITP, which violate Japanese law. According to the U.S. State Department, the Japanese government has yet to identify a victim of forced labor in the TITP or prosecute anyone for trafficking offenses connected to the TITP, in spite of strong evidence of abuses.<sup>37</sup>

The government of Japan has taken several important steps toward stemming abuse associated with the TITP program, including entering into memoranda of cooperation with Vietnam, Cambodia, India, Laos, Mongolia, and the Philippines under which TITP trainees are only accepted from state-approved organizations that do not charge participants excessive fees.<sup>38</sup> However the U.S. State Department reports that TITP trainees from these countries are still being charged high fees due to circumvention of the regulations.<sup>39</sup> Notably, the 2016 Act on Proper Technical Intern Training and Protection of Technical Intern Trainees established criminal penalties for certain labor abuses, loosened restrictions on trainees' ability to change employers, implemented mechanisms to promote transparency in employment contracts, and increased oversight and accountability, including the creation of the Organization for Technical Intern Training (OTIT). OTIT has boosted inspections of TITP worksites.<sup>40</sup>

### 3. Methods

Verité researchers reviewed 769 cases filed with the Gifu General Workers Union between 2010 and early 2017. These are referred to as the "Gifu Cases" in this report. Researchers coded grievances according to forced labor indicator or other type of labor abuse in order to determine a list of potential issues and assess their relative frequency. Typical cases in each category were selected for further

review and analysis. Twenty-seven in-depth, semi-structured interviews were then conducted with Chinese trainees who had active grievance cases filed with the Gifu union in order to elicit qualitative and descriptive information about their recruitment and work experiences in the TITP program. Of the 27 trainees participating in these interviews, the majority worked in the garment industry, followed by construction, food processing, metal parts manufacturing, and electronics. All interviewees worked for small- and medium-sized enterprises that were typically family-owned and employed under 20 workers. The average age of interviewees was 35, and 78 percent were women (21 out of the 27). While not statistically representative, the findings highlight some experiences of women working in small- and medium-sized enterprises, a demographic well represented in the overall population of Chinese trainees in Japan.<sup>41</sup>

In addition to the 27 semi-structured interviews, Verité researchers administered a short online survey to 132 Chinese trainees. This survey was distributed by the Gifu union via social media groups frequented by Chinese trainees in Japan. The survey was designed to gather targeted information on amounts of recruitment fees paid, employment contract provisions, working hours, earnings, costs for housing and utilities, retention of identity documents, and freedom of communication.

Verité researchers also reviewed relevant local and international publications on rights violations associated with the TITP – including official data from the Japan Ministry of Justice and the Ministry of Health, Labor and Welfare – and examined the legal and regulatory frameworks governing migration of foreign trainees to Japan. Additionally, sixteen experts with TITP knowledge were consulted, including stakeholders such as migrant worker NGO advocates, migrant labor lawyers, labor union activists, Chinese labor agents, representatives from organizations that supervise TITP workplaces, and representatives from Japanese companies that employ foreign trainees.

For this exploratory analysis, Verité used the definition of forced labor offered in the International Labor Organization (ILO) Forced Labour Convention, 1930 (No. 29) and followed ILO guidance for identifying individual indicators of forced labor as articulated in *Hard to See, Harder to Count: Survey Guidelines to Estimate Forced Labour of Adults and Children*.<sup>42</sup> Analysis of the presence of specific indicators of forced labor generates actionable information for all stakeholders that can be used to inform policies and program interventions to better protect workers and prevent abuse.

The non-random selection of respondents self-identifying as victims of exploitation is a natural limitation of this analysis, and the results herein are not intended to be representative of the general population of Chinese trainees in the TITP but rather to provide insight on the nature of exploitation in the TITP program where it has already been found to have occurred. A process of triangulation served to decrease the risk that an identified issue was an anomaly. Researchers sought to identify and describe only issues that were reported by multiple of the 27 in-person interview respondents, that were represented in significant numbers within the 769 Gifu cases, and that could be independently confirmed by multiple sources as problems commonly experienced in the program.

This analysis is qualitative and exploratory. It is not statistically representative and should not be interpreted or attributed as such.

## 4. Analysis of the Experiences of Chinese Trainees Seeking Remedy

This section of the report examines and discusses the analysis of indicators of forced labor and other critical labor violations among Chinese trainees who filed cases with the Gifu union between 2010 and early 2017. The analysis draws upon information gathered from 27 in-depth interviews, 132 online survey responses, and the review of 769 archived cases on file with the Gifu union. Brief case studies are presented to illustrate the experiences of individual trainees.

The findings are organized under three categories: in keeping with the ILO framework, forced labor indicators are separated into those that relate to involuntariness and penalty or menace of penalty.<sup>43</sup> Additional factors contributing to forced labor vulnerability are then subsequently discussed.<sup>44</sup>

It should be noted that although the existence of indicators of forced labor for a given respondent points to a risk of forced labor, it would be necessary to examine the interplay of indicators experienced by the respondent in order to determine an actual case of forced labor. For this exploratory analysis, Verité did not seek to determine the existence of actual forced labor cases, but rather to explore forced labor risk based upon whether respondents experienced individual indicators of forced labor.

### 4.1 Indicators of Involuntariness

#### 4.1.1 Deceptive Recruitment<sup>45</sup>

Most of the Chinese trainees interviewed were not provided complete and accurate information regarding the jobs into which they would be placed in Japan. Respondents reported that descriptions of working conditions provided by Chinese labor recruiters and Japanese employers often contrasted sharply with their actual experiences on the job. Respondents reported having been deceived or not provided with important information about a range of aspects of their employment in Japan, including the tasks to be performed, hours of work, and level of remuneration. Interview subjects reported that hours were longer than expected. Labor agents in China falsely told some

#### Case Study:

##### Blank Contract

One interview subject reported that he never received a copy of his contract. “In China, the contract was signed, but the terms were different from what I encountered in Japan. For example, they did not count travel time to the construction site when calculating my hourly wage,” he recalled. He signed a blank contract each year when his old contract expired. When he asked his employers to explain the contents of his contract, they told him they would do this later, but never did.

interviewees that their working hours and holidays would compare favorably to the jobs they were leaving behind.

Deception around working hours also had implications for wage expectations. Some trainees were not told how many hours they would be required to work in order to earn the promised amount of compensation. All but one of the 27 trainees interviewed reported that they earned less in the TITP than the amount they had been promised when they were hired. None received information on possible wage deductions (described in more depth in the section on financial penalties). On average, labor agents told trainees they would earn RMB 300,000 (USD 45,718)<sup>46</sup> over three years. In reality, trainees interviewed rarely earned this amount. Chinese trainees interviewed by Verité in-person and via the online survey reported earning RMB 220,000 (USD 33,526) on average over their three years with the TITP.

Some trainees interviewed by Verité reported that their labor agent forced them to sign blank contracts. Others reported being forced to sign contracts without being able to read them. Eight trainees interviewed reported that they first saw – and were asked to sign – their contracts at the airport immediately prior to departure for Japan. Few trainees had access to copies of their contracts. Among online survey respondents, 78 (61 percent) did not receive a copy of their contract after signing it, including both contracts signed before departing for Japan and contracts signed in Japan to renew participation in the TITP on a yearly basis.

#### **4.1.2 Debt<sup>47</sup>**

Many of the Chinese trainees that Verité interviewed and surveyed had accrued significant debt during their time in the TITP that, in effect, prevented them from leaving their jobs. All 27 interview subjects reported that the need to pay off recruitment fees led them to endure difficult experiences in Japan, and most reported feeling it was impossible to leave their job before paying off their debt. The 132 online survey respondents paid an average of RMB 53,000 (USD 8,077) in recruitment fees, over eight times the average monthly wage the trainees received in Japan.<sup>48</sup>

#### **Case Study:**

#### **Deceptive Recruitment**

A 48-year-old female trainee was working in a garment factory in Jiangsu province in China, when a labor agent promised her a “relaxing,” “low intensity” job in a garment factory in Gifu Prefecture. “The intermediary said, ‘you are only required to sew and attach labels on clothing,’” she recalled. She realized, upon arrival in Japan, that her main job would involve using large, heavy irons. This task was never mentioned during her recruitment process. She was also required to unload a full shipping container with her two co-workers, a task requiring heavy manual labor. The labor agent also promised the trainee that she would earn RMB 300,000 (USD 45,718) in three years, at a rate of RMB 8,300 (USD 1,265) per month. However, after arriving, she discovered that she would receive a monthly wage of only JPY 50,000 (USD 468). It would be impossible for her to earn what she was originally promised, even when including overtime wages for the maximum amount of legally allowed overtime hours. “If I had known I was going to be paid on this [wage] model, I would not have come to Japan for this job,” she said.

Many respondents reported taking on debt to secure their positions, leaving them highly vulnerable to the threat of financial penalties. While most trainees interviewed borrowed money from friends and relatives to pay recruitment fees, some obtained loans from Chinese banks by mortgaging their homes. In most cases, regardless of the party to whom the debt was held, its existence acted as a binding agent, leading interviewees to feel they had no choice but to serve out their three-year trainee term in order to pay off the debt incurred.

Many trainees reported paying a deposit during the recruitment process as part of their recruitment fees. Trainees interviewed by Verité reported that they were told the deposit would be forfeited if they left the program before completing the full three years. All but one of Verité's 27 interviewees paid a deposit, with amounts ranging from RMB 5,000 (USD 762) to RMB 10,000 (USD 1,524). Similarly, some trainees Verité interviewed reported being required to take out IOUs that were presented as a form of debt that they would have to repay should they fail to meet agreed upon conditions. IOUs generally required trainees to find a guarantor – typically a family member – for their debt. Verité researchers spoke with one man working in construction in Mie Prefecture who had signed an IOU for RMB 210,000 (USD 32,002) with a labor agent in China. He asked his uncle to be his guarantor for this large amount of debt, which would be cleared only after completing a full three years of employment in Japan.

Some respondents reported that mandatory training and exams associated with the TITP inflated their debt.<sup>49</sup> According to experts consulted, it is not uncommon for Chinese labor agents to require aspiring TITP trainees to take a month of Japanese language classes before departing for Japan, at a cost ranging from RMB 3,000 to 5,000 (USD 457-762). Trainees interviewed by Verité reported that the classes only taught very basic Japanese. Trainees were required to live at Japanese language schools while taking classes, which cost them another RMB 2,000 to 3,000 (USD 305-457). The language schools were reportedly often owned and run by Chinese labor agents, and in some cases the school principals were also the CEOs of the labor agencies.

Once in Japan, trainees must pay fees for re-application exams, which in practice could serve to inflate debt burdens. JITCO requires each foreign trainee to take a national skill test after their first year, to continue with the program. Verité interviewed the chairman of an organization who spoke of trainees paying JPY 20,000 (USD 187) to attend pre-test training in the morning before taking a re-application test costing JPY 25,000 to 35,000 (USD 234 to 328) in the afternoon. For the pre-test training, the administrators of the test reportedly asked test takers to perform basic tasks (in one case, the task was shovelling). Although under JITCO requirements trainees are not supposed to pay these fees, some of those interviewed by Verité reported that oftentimes their employers would ask them to share the costs of the tests. According to experts interviewed, the people administering the tests and providing pre-test training are often the same, and are, in some cases, retired officials from relevant government departments.

Some trainees interviewed reported struggling with a high cost of living, which could also inflate debt burdens. For the 132 trainees who completed the online survey, the average cost of rent and utilities

was JPY 30,400 (USD 285) per month, equivalent to one quarter of their average pay. In some extreme scenarios, among trainees interviewed, rent plus utilities reached JPY 50,000 (USD 468), accounting for almost half of the average monthly wages.

#### **4.1.3 Limited Freedom of Movement and Communication; Confiscation of Identity Documents**

Trainees interviewed reported being isolated by long hours, few or no days off, and significant language barriers. Further, some respondents reported that their employers restricted their ability to communicate in Chinese while working or out in public. This restriction prevented them from communicating at all, since most Chinese trainees in the TITP have no more than two months of Japanese language training. Nearly 40 percent of online respondents reported that their employers prohibited them from using their phones or computers to communicate, including while they were at their dormitories during non-work hours. For example, one trainee interviewed reported that her employer repeatedly told Chinese trainees not to speak Chinese during supervised visits to the supermarkets to buy groceries; others reported that their employers prohibited them from shopping at Chinese supermarkets. One respondent reported that her employer prevented her from meeting with her Chinese relatives who were living in Japan at the time.

Some interviewees reported that employers retained their passports despite clear prohibitions against this practice. Out of the 132 online survey respondents, 21 percent reported that they were not in possession of their passports while at their work sites in Japan.

## **4.2 Indicators of Penalty or Menace of Penalty**

### **4.2.1 Financial Penalties**

Many of the trainees interviewed by Verité reported facing steep financial penalties imposed by Chinese labor agents and Japanese employers for various infractions, including leaving their TITP positions early. Verité researchers also came across several instances where trainees' contracts contained restrictions of freedom of movement or expression that were accompanied by the option for levying a financial penalty in the event of a breach of contract. One interviewee's contract prevented her from participating in strikes, "leaving the premises of her implementing organization for more than three consecutive days," and participating in "activities that are deemed political, religious, or have the capacity to cause international dispute." "Damages" for failing to adhere to these conditions could amount to RMB 50,000 (USD 7,620). Another trainee signed a contract agreeing to adopt a "controlled attitude" and "gentle approach" in dealing with her Japanese employer and supervising organization if "differences of opinion" arose. In the event of a dispute, if she failed to adhere to the instructions and requests by her recruitment agency's representative in Japan, she would be subject to "damages" between RMB 10,000 to RMB 40,000 (USD 1,524 to USD 6,096).

## 4.2.2 Withholding of Assets (Cash or Other); Withholding of Wages

Although JITCO explicitly prohibits “compulsory savings,”<sup>50</sup> Verité found several reported cases in which Japanese employers, in coordination with Chinese labor agents, withheld wages from Chinese trainees, often for the ostensible purpose of helping them safeguard their earnings. This form of enforced savings sometimes accounted for as much as 70 percent of trainees’ wages. Some trainees reported having their earnings automatically saved into a Japanese bank account controlled by their employer, which they could only access to check their account balances or withdraw money after filing requests with their employers.

### 4.2.3 Dismissal

All 27 trainees interviewed by Verité reported that their employers had, at some point, threatened to dismiss them and send them back to China. These threats often occurred when they did not acquiesce to a demand, expressed a grievance, or when their employers thought they were underperforming. For some, repatriation would result in steep financial losses, rendering them unable to earn back what they had paid in recruitment fees and causing them to forfeit the deposits they had paid to their recruiters. Some employers follow through with these threats. Of the 769 Gifu Cases, 76 (about 10 percent) involved dismissal and deportation.

Several trainees recounted being threatened with deportation after demanding basic workplace rights. The employer of one construction trainee threatened not to renew his contract after the

#### Case Study:

#### Compulsory Savings

Verité spoke with a 45-year-old woman from Jiangsu Province who came to Gifu Prefecture to work in a garment factory. She recounted that the head of her Shanghai-based recruitment company, known to her only as “Boss X,” visited her factory in Gifu once every three months to collect compulsory savings from her and two other Chinese trainees. Before a visit from the Shanghai recruiter, her Japanese employer would collect roughly JPY 105,000 (USD 984) from each person, about 70 percent of what they earned in a month, and place the cash in envelopes for them to deliver personally to the head of the recruitment company. “Boss X” always came with a briefcase to collect the money. In total, he collected around JPY 1.14 million (USD 10,680) from each trainee over the course of their three-year TITP term. “He told us he was safekeeping the wages for us and if we refused [to give him the wages], we would be sent back,” the woman explained. The Shanghai-based labor agency also informed them that if they quit their jobs, they would not be able to retrieve the wage earnings that were being held in “safekeeping” for them.

trainee asked for sick leave to recover from a workplace injury. Some trainees were threatened with deportation after asking to receive the Japanese minimum wage, to which they are legally entitled.

#### **Case Study:**

#### **Summary Dismissal**

After working in a garment factory for three years, three female trainees requested overtime wages owed to them. Their employer responded by ordering them into a car and driving them to Nagoya Airport without explaining where they were going. He left them at the airport without their belongings, which remained at their hostel. They subsequently sought shelter at the Gifu Union Office.

#### **4.2.4 Physical violence; Threats Against Family Members**

Some trainees interviewed by Verité reported experiencing or witnessing occasional violence against TITP workers at the hands of their employers. The Gifu Trade Union Office has handled 11 cases involving violent acts against Chinese trainees over the past five years. Several trainees interviewed by Verité reported being subjected to threats of violence. One woman who worked in a family-owned textile factory in Aichi Prefecture described how her Japanese boss would often make a threatening motion suggestive of slitting her throat when he thought she was underperforming, causing her great anxiety. One male agricultural trainee faced repeated verbal abuse that eventually escalated to physical violence. He said his boss would insult him and pelt him with tomatoes and later pointed scissors in his face and beat him with a shovel.

Verité also spoke with some interviewees whose family members in China had experienced threats when the trainees complained or sought help from unions and NGOs. For example, a female trainee reported that when she and two other female trainees tried to reach out to a local union in Japan to file a case against their employers for wage underpayment, their family members in China received threatening anonymous calls ordering them to ask the trainees in Japan to behave themselves.

#### **4.3 Additional Factors Contributing to Vulnerability**

Analysis of cases filed with the Gifu union and interviews with respondents in-person and via the online survey yielded evidence of several additional serious labor violations that, while not indicators of forced labor in isolation, nonetheless increase vulnerability to forced labor conditions and can serve to exacerbate other forced labor conditions where they are present. Verité includes a discussion of these labor violations here.

### 4.1.3 Excessive Overtime<sup>51</sup>

Trainees interviewed by Verité reported that work hours were generally not fixed and employers notified trainees when they could leave work. Interviewed trainees reported that they typically worked 300 hours per month, with no days off, and sometimes worked up to 350 hours per month when approaching production deadlines. Some trainees Verité spoke with reported working through the night until 5 a.m. One trainee described working long hours six days per week, even when there was no factory work to be done. On these days, her employer sometimes required TITP trainees to clean his home.

### 4.3.1 Additional Wage-Related Violations<sup>52</sup>

The experiences of Chinese trainees analyzed by Verité often included wage-related violations. Some of the primary violations included payments below the minimum wage, under or non-payment of overtime wages, unlawful deductions, and delays in payment. Of the Gifu Cases reviewed, 72 percent reported wage underpayment.

In the past two years, with the Gifu General Workers Union's assistance, 16 Chinese trainees recovered JPY 17.8 million (USD 166,768) in wages owed to them by Japanese employers. The money recovered amounted to less than half of the JPY 36.5 million (USD 341,968) that these Chinese trainees reported being owed. These trainees received an average of RMB 133,125 (USD 20,287) per person, equivalent to about 60 percent of what trainees typically earn over the course of a three-year contract, according to Verité's interviews.

The amended Immigration Control Bill requires Japanese employers to pay their trainees at least the minimum wage, which is revised every year and varies by prefecture and industry. The majority of trainees interviewed by Verité reported receiving less than the minimum wage. Some earned less than half of the minimum wage. One female garment trainee was underpaid by about JPY 780,000 (USD 7,308), the equivalent of 1,900 hours of work paid at the minimum wage.

Respondents also frequently reported under-payment and non-payment of overtime wages. Of the 27 trainees interviewed, 17 reported not being paid for overtime work or receiving less than the amount legally required. For example, three female trainees working in a garment factory never received overtime pay for working on Saturdays. In total, on average, they did not receive 70 percent of the

#### Case Study:

#### Wage-Payment Delay

A Japanese employer in Gifu owed three female trainees an average of JPY 1.5 million (USD 14,053) each in withheld wages for three years of work. The wage withholding left the women unable to purchase sufficient daily essentials, forcing them to rely on packages of dried food sent by their relatives in China in order to survive during their three years in the TITP. After his business collapsed, the owner disappeared and became unreachable.

overtime wages owed to them for their three years of work. Some Chinese trainees reported that their Japanese employers occasionally asked them to sign fake payroll records understating how much time they had actually worked in what they surmised was preparation for audits by the government or supervising organizations.

In addition, although Japanese labor law dictates that wages must be paid in full at least once a month and on a specified date,<sup>53</sup> seven out of the 27 respondents reported delays in receiving their payments.

### **4.3.2 Hazardous Working Conditions**

Some trainees reported experiencing work environments that could cause adverse health effects. One trainee reported a lack of access to drinking water while at work. Some trainees did not receive adequate personal protective equipment, such as face masks in dusty, poorly ventilated environments. In one case, Verité observed trainees working in a cluttered yarn factory that lacked emergency exits. One woman in a fish processing factory worked with her lower body constantly immersed in cold water and developed frostbite on her hands. Her employer had given her a tattered apron that was not water resistant and was only replaced after three months of requests. Several trainees reported undertaking challenging and potentially dangerous tasks without having undergone adequate safety training. Compounding these problems, some trainees reported being forced to work while sick and being denied medical insurance or treatment.

#### **Case Study:**

#### **Hazardous Working Conditions**

One male trainee worked in a waste recycling plant in Mie Prefecture, where he operated a plasma arc machine that uses heat to cut and melt metal. He never underwent training to operate the machine. One day, there was an explosion that threw him more than two meters, causing him to crash to the floor and shatter his cutting torch into multiple pieces. “I am lucky that I didn’t die that day,” he said.

In general, he described his working conditions as “too dirty and tiring.” “Every day, I breathe in smoke and ash – my nose feels as dirty as a chimney. I lose my appetite, always feel lethargic, and have lost a lot of weight in a year. Instead of earning money, I came here and saw the gradual destruction of my body,” he said. “When I discussed the conditions with my employer, all they gave me was an old, used mask. The so-called ‘protective’ gear has only normal cotton that is about 0.5 cm thick – not effective in preventing entry of dust and sand at all.” His employer ignored and dismissed his repeated requests to see a doctor for a lung checkup, only relenting after the trainee threatened to resign. Results from the checkup were never shared with him.

### **Case Study:**

#### **Inadequate Safety Training**

According to a case file at Gifu Trade Union, a trainee working as a construction worker reported that his training in Japan did not cover work safety, despite the dangerous nature of his job. Not long after he arrived in Japan, his employer requested he work as a scaffolder, the only prerequisite for which was doing some push-ups as a “test” to demonstrate his fitness for the job.

While working, the trainee injured his legs and broke his left hand. His injuries required multiple hospital visits over the course of six months. His employer insisted that he continue working during this time even though he was in a cast. When he requested time off from work to recover, his employer threatened not to renew his visa and to send him back to China. After losing income from the days he was unable to work, he was forced to depend on friends for living expenses.

## **5. Conclusion**

Verité has analyzed verbal testimonies and written complaints submitted by Chinese trainees in the TITP program to the Gifu General Workers Union between 2010 and early 2017, in order to evaluate the presence of indicators of forced labor – and therefore forced labor vulnerability – among these Chinese trainees. The experiences of TITP trainees from China have important bearing on the well-being of TITP participants in general, as Chinese trainees have made up roughly half of all foreign trainees in the last five years.<sup>54</sup> Verité’s analysis evaluated working and living conditions and included interviews and consultations with key stakeholders, a literature review, and analysis of data from government ministries and civil society sources.

The results of this analysis point to clear patterns of exploitation that entail elements of forced labor vulnerability: Many trainees among those interviewed and among whose cases were reviewed reported experiencing deception during recruitment and having been placed in positions that were more dangerous, difficult, or lower paid than those they were originally promised during their recruitment in China. All trainees interviewed during the research reported paying recruitment fees. Trainees surveyed by Verité paid on average RMB 53,000 (USD 8,077) in recruitment fees, over eight times the average monthly wage of a Chinese trainee in Japan and more than twice the amount permitted by Chinese regulations. Some trainees reported having high recruitment-related debt that had the effect of tying them to their TITP jobs. Most trainees interviewed reported being required to make compulsory deposits to accounts held by their labor recruiters in China, ranging from RMB 5,000 (USD 762) to RMB 10,000 (USD 1,524), which would be forfeited if they failed to complete three years in the TITP. Verité also found evidence of some trainees being required to sign IOUs to Chinese labor agents, sometimes

amounting to tens of thousands of dollars, which their guarantor, often a family member, would have to pay should they prematurely leave the TITP.

In addition to debt related to recruitment fees and/or deposits, some respondents also reported wage withholding and compulsory savings programs. It was also reported that some Japanese employers, at times in cooperation with Chinese recruiters, withheld up to 70 percent of trainees' wages for "compulsory savings" that would be forfeited should trainees leave their positions prior to completion of three years in the TITP. Some trainees reported threats of violence and deportation for advocating for themselves or failing to meet employers' demands. Finally, trainees also described wages that failed to reach even half of the minimum wage, working hours above legal limits, poor living conditions, and hazardous working conditions.

As Japanese employers have increased their reliance on the TITP program to supply workers in recent years, it is critical that companies, civil society, and government officials understand the program's labor and recruitment mechanisms, as well as how they may contribute to forced labor vulnerability. Verité recommends that robust research, investigation, and monitoring be conducted to fully investigate and document the scale of forced labor vulnerability, forced labor itself, and other forms of grave labor exploitation in the TITP program. Such investigation should include an evaluation of the unique migration pathways and vulnerabilities of trainees from all major sending countries, including Vietnam, the Philippines, Indonesia, Cambodia, and Thailand. Research should also evaluate the nature of vulnerability to forced labor and other labor exploitation in specific supply chains and sectors, and should seek to better clarify and bring insight to how the networks and systems of sending organizations, recruitment agencies, third-party recruitment agents, other intermediaries, and Japanese employers may be increasing trainees' vulnerability to forced labor and debt bondage through institutionalized high recruitment-related fees and expenditures, lack of transparency, and poor oversight of trainees' working and living conditions.

Companies operating in or sourcing from Japan should ensure that their codes of conduct prohibit forced labor and human trafficking, that codes are clearly communicated to suppliers, and that they are cascaded throughout company operations and across the supply chain, including suppliers and labor recruiters at all tiers. These codes should be integrated into existing and new business contracts as a basis for ensuring compliance and establishing social audits and assessments. The charging of fees for any recruitment-related expenses to trainees should be strictly prohibited, including payment of a professional services fee to labor agents and any ancillary fees associated with the recruitment, hiring, and placement process. Due diligence should be conducted to confirm that trainees have not been required to pay recruitment-related fees and expenses, and any illegal or inappropriate payments that are identified should be reimbursed to trainees. Companies should also take steps to ensure that employers adhere to the 2010 JTICO guidelines prohibiting excessive deposits, wage theft, and withholding of identity documents;<sup>55</sup> and that TITP employers are operating in compliance with labor legislation including The Minimum Wage Act, Workmen's Accident Compensation Insurance Act, Health Insurance Act, Employment Insurance Act, Labor Standards Act, and Welfare Pension Act. Awareness should be raised among senior managers and key personnel about how to identify and address risks of

forced labor, human trafficking, and other forms of exploitation in relevant supply chains. Public policy actors can be engaged to encourage strong government enforcement efforts to protect trainees and prevent abuses by employers and third-party agents. Companies can engage individually or through employers' associations, multi-brand groups, or multi-stakeholder initiatives.

The government of Japan should redouble efforts to implement and enforce the 2016 Act on Proper Technical Intern Training and Protection of Technical Intern Trainees. The OITT should be robustly staffed and resourced and supported in its ability to conduct investigations and follow ups on reports of labor violations. Inspections of employers should be increased, and more rigorous penalties should be enforced for employers found to be charging excessive fees, withholding passports, or engaging in other practices that increase forced labor risk. Finally, there is a broad need for increased knowledge and capacity among a variety of stakeholder groups. Labor inspectors, police officers, NGOs, service providers, health workers, and other stakeholders who come into contact with TITP trainees would benefit from an improved ability to identify signs of forced labor, labor trafficking, and labor exploitation. Police officers, prosecutors, and judges should likewise receive training and capacity building on the legal framework governing the TITP and what constitutes a violation in order to effectively uphold the rights of trainees. TITP trainees themselves should be provided with explicit and clear information in their training on labor rights, forced labor, and labor trafficking. Following identification, forced labor victims should be assured they will not be deported and provided mechanisms through which they can access government and NGO service providers, as well as free legal assistance and witness protection. There is a need for more independent oversight and better grievance channels within the TITP, and these should be included in future government reforms.

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<sup>43</sup> ILO. "Hard to see, harder to count - Survey guidelines to estimate forced labor of adults and children." 2012. <http://un-act.org/wp-content/uploads/2015/06/Harder-to-See-Harder-to-Count.pdf>. Accessed March 26, 2018.

<sup>44</sup> As noted earlier in this report, the presence of individual indicators of forced labor does not alone constitute a diagnosis of a case of forced labor. Rather, as defined by the ILO, these indicators need to be present in specific combinations in order to qualify as a forced labor case. Verité did not attempt to diagnose whether the experiences of individual respondents indicated the existence or prevalence of forced labor among Chinese trainees. Rather, the presence of these indicators reflects vulnerability to forced labor that should be addressed and remedied through targeted intervention to stem the risk of this egregious labor abuse.

<sup>45</sup> This section refers to the following ILO indicators of forced labor: deception about the nature of the work and deceptive recruitment (regarding working conditions, content or legality of employment contract, housing and living conditions, legal documentation or acquisition of legal migrant status, job location or employer, wages/earnings).

<sup>46</sup> Throughout this paper, the exchange rate to US dollars is offered as an average from the IRS Yearly Average Currency Exchange Rates over the 5-year period from 2012 to 2016 (<https://www.irs.gov/individuals/international-taxpayers/yearly-average-currency-exchange-rates>), as the research cases occurred from 2012 to 2016.

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<sup>47</sup> This section refers to the following ILO indicators of forced labor: recruitment linked to debt; forced to work for indeterminate period to repay outstanding debt or wage advance; induced or inflated indebtedness (by falsification of accounts, inflated prices for goods/services purchases, reduced value of goods/services produced, excessive interest rates on loans, etc.).

<sup>48</sup> Sino-Japan Trainee Cooperation Organization of China. "Temporary Measures for Collecting Service Fees for Trainees and Technical Interns Going to Japan, 2008."

[www.shandongbusiness.gov.cn/index/content/sid/120793.html](http://www.shandongbusiness.gov.cn/index/content/sid/120793.html). Accessed March 26, 2018.

<sup>49</sup> The charging of fees associated with recruitment can sometimes include not only a fee directly to the labor agent, but also fees for ancillary services such as pre-departure or post arrival training, skills-testing or orientation; pre-departure or receiving country medical examinations, or immunizations; visas, work permits, residency certificates, or security clearances; or government-mandated fees, levies, or insurance. The charging of these ancillary fees can have the effect of inflating indebtedness of a prospective migrant worker.

<sup>50</sup> JITCO. "Guidelines on Allowance for Lectures, Wages, and Management Expenses in Technical Training Program." [www.jitco.or.jp/system/data/guideline02\\_en.pdf](http://www.jitco.or.jp/system/data/guideline02_en.pdf). Accessed March 26, 2018.

<sup>51</sup> It was beyond the scope of this analysis to determine whether the excessive hours reported by respondents constituted "forced overtime" in keeping with the ILO's forced labor indicator.

<sup>52</sup> It was beyond the scope of this analysis to determine whether the wage violations reported by respondents constituted "wage withholding" in keeping with the ILO's forced labor indicator.

<sup>53</sup> Japan Labor Standards Act, Article 24. [www.jil.go.jp/english/laws/documents/l\\_standards2012.pdf](http://www.jil.go.jp/english/laws/documents/l_standards2012.pdf). Accessed March 26, 2018.

<sup>54</sup> Ministry of Justice, Government of Japan. *Immigration Statistics*. 2008-2017.

[www.moj.go.jp/housei/toukei/toukei\\_ichiran\\_touroku.html](http://www.moj.go.jp/housei/toukei/toukei_ichiran_touroku.html). Accessed March 26, 2018.

<sup>55</sup> JITCO. "Guidelines on Allowance for Lectures, Wages, and Management Expenses in Technical Training Program." [http://www.jitco.or.jp/system/data/guideline02\\_en.pdf](http://www.jitco.or.jp/system/data/guideline02_en.pdf). Accessed March 26, 2018.