

Statement

November 11, 2021

In response to the tragic deaths that occurred at an immigration facility in March, we call for thorough and appropriate protection for foreign victims of domestic violence and improvement of measures.

Solidarity Network with Migrants Japan
Japan Network Against Trafficking In Persons (JNATIP)
All Japan Women's Shelter Network
KYOFUKAI-Japan Christian Women's Organization
Human Rights Now

Contact to
All Japan Women's Shelter Network
office@murasaki-ribbon.sakura.ne.jp

On March 6, 2021, a 33-year-old Sri Lankan woman, Ms. Ratnayake Liyanage Wishma Sandamali, lost her life in a detention facility of the Nagoya Immigration Bureau.

From the contents of the "Investigation Report on the Death of an Inmate at the Nagoya Immigration Bureau on March 6, 2021" (hereinafter referred to as the "Report") released on August 10 by the Immigration Bureau of the Ministry of Justice (hereinafter referred to as the "Bureau"), it became clear that the Bureau's response was inhumane and that it failed to take necessary medical measures. We strongly protest the inappropriate response of the Immigration Bureau, which took away her irreplaceable life, and we believe that it is an extremely serious problem that cannot be overlooked that Ms. Wishma Sandamali, in particular, did not receive proper protection despite her complaint of domestic violence (hereinafter sometimes referred to as "DV") and her request for help.

It must not happen again. Victims of DV should receive appropriate protection regardless of their nationality or status of residence, and it is never acceptable for them to lose their lives without appropriate measures taken. We recognize that both the verification of this problem and the measures to prevent its recurrence are extremely inadequate, and we call for a thorough verification and the formulation of measures to prevent its recurrence, especially the prompt revision of the law and the guidelines for measures.

Problem 1: The Nagoya Immigration Bureau's handling of DV victims

Ms. Wishma Sandamali was detained without being protected as a victim of DV, even though she was a DV victim who consulted the police for help after suffering DV from the man she was dating.

According to the "Guideline for Measures Concerning Domestic Violence Cases" (enacted on July 10, 2008 and revised on January 29, 2018, hereinafter referred to as the "Guideline") issued by the Director-General of the Immigration Bureau of the Ministry of Justice, "When a victim of domestic violence or a foreign national who is considered to be a victim of domestic violence is recognized during a residence examination or deportation procedure, the foreign national should be interviewed about the details of the domestic violence case" (Article 3-1 (1)). Also, "If they wish to do so, they should contact the Spousal Violence Counseling Center or police officer in the area where they reside" (Article 5-2). However, the Bureau failed to take any action based on the DV measures, even though Ms. Wishma Sandamali had complained that she had been subjected to DV. As a result, they did not interview her to clarify the actual situation of DV, did not inform the Spousal Violence Counseling and Support Center or police officers, and did not respond to her application for provisional release. Furthermore, the Bureau staff was not aware of the existence of the Guideline or its contents (see Report). If she had been protected in a shelter as a victim of DV by the Women's Consulting Center, she would not have died.

Problem 2: The initial response of the police

According to the Report, in the application for provisional release submitted by Ms. Wishma Sandamali on January 4, 2021, she stated that she had "appeared before the police and told them that her boyfriend had been violent" as the reason for requesting provisional release (page 57 of the report). This situation could have been prevented if the police had cooperated with the Spousal Violence Counseling and Support Center and had protected her in the shelter at a women's counseling center, instead of the Immigration Bureau.

In order to prevent a tragedy like this from happening again, the police response and the Bureau's response should be thoroughly examined.

Problem 3: DV judgment in the Report

The Report states that the staff should have interviewed Ms. A (Ms. Wishma Sandamali) in accordance with the Guideline, but it is not clear whether Ms. A (Ms. Wishma Sandamali) would have been recognized as a victim of DV even if the staff had followed the procedure. Ms. Wishma Sandamali claimed that she was forced to have an abortion and was subjected to physical violence, and it was revealed that her abuser threatened her with letters while she

was detained. This case is a clear case of DV, as the ex-boyfriend also admitted that he was physically violent. However, the Report does not state that she was a victim of DV because she resisted and because her ex-boyfriend's aggression was diminished in the second letter. In addition, without a detailed interview, the Report concludes that "there was no indication that Ms. A was illegally staying in Japan because she was unable to renew her period of stay due to domestic violence." The conclusion of the Report is extremely narrow in its view of cases in which a person should be protected as a victim of DV, and it displays nothing short of a gross lack of awareness of DV.

The results of this investigation are highly reprehensible and show that if the Bureau, which has little knowledge of DV, is left to deal with DV victims, many victims will continue to be detained without being recognized as victims.

According to statistics from the Ministry of Justice, the number of DV victims recognized by local immigration offices nationwide is only in the double digits every year (82 cases in 2019). In the past, the reasons for this have been cited as the lack of support information and the inability of consultation services to respond to victims, but this case has revealed a more serious problem: the extremely poor understanding of DV at immigration offices.

It must not happen again that victims of DV who seek help are detained instead of protected, or that they are detained for a long period of time without being released on parole and lose their lives.

Therefore, we request the following.

Part 1. To the relevant ministries and agencies:

1. To the Immigration and Refugee Management Agency of the Ministry of Justice

(1) Reconsideration of the response to DV victims in the report

We request that experts on the DV issue be involved in reports to re-examine the problems in the handling of DV victims in this case.

(2) The Immigration Bureau should immediately start to fundamentally revise the procedures for DV victims, including the following three points:

(i) Since the Immigration Bureau does not have the knowledge to determine whether or not a foreign national is a victim of DV, it should be made clear that foreign nationals who report or are suspected of being victims of DV should be immediately reported to the Spousal Violence Counseling and Support Center, without any discretion, in order to prevent a situation where a

victim is not protected due to a wrong judgment.

(ii) If the Spousal Violence Counseling and Support Center recognizes the report of DV, the foreigner should be treated as a victim of DV.

(iii) In order to clarify the above, Article 3-1(4) "Recognized as a victim of domestic violence", Article 3(1) "Confirmed as a victim of domestic violence", Article 5-1 "Identified as a victim of domestic violence", Article 5-3 "Identified as a victim of domestic violence", Article 6 "Victim of domestic violence or foreign national who is considered to be a victim of domestic violence", and other references to "victim of domestic violence" should be changed to "foreign national who has reported domestic violence or foreign national who is considered to be a victim of domestic violence".

(3) Investigate and clarify the reasons why the Guideline was not thoroughly disseminated to the frontline staff in this case, investigate the status of dissemination and implementation of the measures at facilities nationwide, compile measures for improvement, and announce the policy for the improvement of training methods.

2. To the police

When the police receive a consultation from a foreigner, if there is a complaint of domestic violence, regardless of whether or not the person has a status of residence, they should report it to the Spousal Violence Counseling and Support Center, not the Immigration Bureau, and ask for a response.

Part 2. Law revision

We call for the following revisions of the law:

1. Revision of the Immigration Control and Refugee Recognition Act

The "Immigration Control and Refugee Recognition Act" (Immigration Act) should be fundamentally revised based on international human rights standards, including the elimination of the principle of detention, the establishment of a statutory detention period, the introduction of judicial review of detentions, and the separation of immigration and residence management from refugee protection and support for foreign residents.

In addition, in order to properly respond to victims of domestic violence, we request that the following be included in the revision:

In order to respond appropriately to domestic violence counseling, local governments shall cooperate with the police, women's consultation offices, Spousal Violence Counseling and Support Centers, NGOs, etc., and endeavor to mutually cooperate in protecting domestic

violence victims.

If a Spousal Violence Counseling and Support Center recognizes a person as a victim of spousal violence, the Immigration and Refugee Management Bureau shall take necessary measures to protect the victim according to its judgment.

2. Revision of the Domestic Violence Prevention Act

Incorporate the following into the fifth revision of Act on the Prevention of Spousal Violence and the Protection of Victims, which is currently being discussed by the Specialist Committee on Violence against Women and the Working Group for Reviewing the Act.

(1) In Article 6, Paragraph 1 of the Act, "limited to physical violence" should be deleted.

(2) In addition, Article 6-2 should be newly established for the Immigration Bureau.

"1. Employees of the Immigration Bureau shall, in the performance of their duties (1) When immigration officers, in the performance of their duties, find a person who has reported being a victim of spousal violence, or a person who is considered to be a victim, they shall notify the Spousal Violence Counseling and Support Center to that effect.
2. Upon receiving a report, the Spousal Violence Counseling and Support Center will immediately interview the person who has reported being a victim of spousal violence or the person who is considered to be a victim, and temporarily protect the victim at a women's shelter, etc. The staff of the Immigration Bureau shall cooperate in the execution of the duties of the Spousal Violence Counseling and Support Center."

(3) Article 8 should be amended to read "take measures" rather than "obligatory efforts".

In addition, the following provisions should be newly established in Article 8.

Article 8

When a police officer discovers a person without status of residence who is believed to be a victim of spousal violence, the officer shall take measures to protect the victim.

(4) Include "Immigration and Residence Management Bureau and detention facility" in the organization in Article 9.

(5) Include "regardless of status of residence" in Article 23.

Additional explanation

In Japan, there is a problem of foreigners who have overstayed or remained in Japan illegally for various reasons being detained in immigration facilities for an unlimited period of time, and the environment and medical systems in the facilities are not adequate.

In such a situation, in March 2021, a 33-year-old Sri Lankan woman, Ms. Wishma Sandamali, died while being detained at an immigration facility in Nagoya, Japan. She entered the country on a student visa in June 2017, but then gradually began to miss school and was expelled. It is said that she had been abused by a Sri Lankan man who lived with her. In August 2020, when she went to a police box, she was sent to the Nagoya Immigration and Residence Bureau because she had lost her status of residence. She started feeling unwell in the facility in January 2021, about five months after she was detained, and died in March. The Immigration and Refugee Management Agency investigated the circumstances and the response of the facility, and released a report on August 10.

Migrant women are at a high risk of being victims of domestic violence and sexual violence, and due to anxiety and fear related to their status of residence, it is quite difficult for them to receive counseling and support for domestic violence and sexual violence. Therefore, the "Guidelines for Measures Related to Domestic Violence Cases" (enacted on July 10, 2008, revised on January 29, 2018) has been established. It is a guideline that stipulates how to properly respond to victims of domestic violence at regional immigration bureaus and immigration detention centers. This time, however, we found out that even though Ms. Wishma Sandamali had informed the police and the immigration officers that she was a victim of domestic violence, she had not been treated according to the guideline.

Therefore, we, organizations that support the rights of foreigners and victims of domestic violence, and organizations that work on human rights issues, will jointly point out the problems with this response and the government's investigation report.

We submit this request to the Cabinet Office on October 25 and to the Ministry of Justice and the National Police Agency on November 11.