









Excerpt from the book:

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Cautionary note: The terms 'child prostitution' and 'prostituted children' are used in this text to denote children that are sexually exploited and sexually trafficked. The connotative manner in which these definitions are perceived and analyzed may differ due to linguistic, cultural, and perceptual differences.

JAPAN

 POPULATION 127,5 million	 GDP PER CAPITA 38,428.1 USD
 POLITICAL SYSTEM Constitutional Monarchy – Parliamentary Democracy	 HUMAN DEVELOPMENT INDEX 17 th rank among 187 countries
 GENDER INEQUALITY INDEX 21 st rank among 147 countries	 CORRUPTION PERCEPTIONS INDEX 20 th rank among 180 countries

Japan is a country of origin, transit, and destination for human trafficking for sexual exploitation purposes. The victims originate mainly from South and West Asia (China, Vietnam, the Philippines, and Indonesia), but also from Eastern Europe, the Russian Federation and South America (Colombia). Some trafficking victims pass through Japan before being exploited to other destinations, particularly East Asia and North America (*US Department of State*, June 2018).

Paradoxical legislation

The *Baishun Bōshi Hō* (Law on the Prevention of Prostitution) of 1956 aims to prevent prostitution, punish sex traffickers, and protect and rehabilitate women involved in prostitution.

Prostitution is “damaging to human dignity, goes against sexual morality and corrupts public decency and morals” (Article 1). Prostitution is defined as “having

sexual relations with one or more unspecified persons in exchange for compensation or the promise of compensation” (Article 2). This definition is strictly limited to vaginal intercourse, and any other sexual act is excluded from the scope of the law. As a result, places of business for the sex trade were created so as not to break the law (nudist massage parlors, pink salons where only oral sex is practiced, etc.).

Even though Article 3 states that “No one may engage in prostitution or be a sex buyer”, no coercive sentence is provided for in the law.

Article 5 condemns the incitement of others to purchase sexual acts in public (solicitation), with a maximum of three years in prison or a fine of up to 10,000 Japanese Yen (JPY) (USD 91).

Article 6 penalizes intermediaries and negotiators in prostitution with a maximum of two years’ imprisonment or a fine of up to JPY 50,000 (USD 455).

In addition, Articles 7 to 13 condemn the coercion of persons into prostitution, the act of taking advantage of the sexual services of a person, the incitement into prostitution with a payment in advance, the establishment of a contract with the intention of bringing a person into prostitution, the provision of premises for the purposes of sexual practices, the control of a person to force them into offering sexual services and the provision of funds financing acts of prostitution.

Article 15 provides that prostituted women are to be considered victims under the protection of the state. They are therefore not liable to any criminal sanctions, and on the contrary can be referred to protection centers (Article 36).

Similarly, Article 17 highlights that “women and young girls at risk of entering prostitution” should be placed at a counseling office set up for this purpose for their protection.

A specific law for child prostitution (*Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children*) was passed in 1999. It prohibits all acts of prostitution and pornography involving children (complicity, solicitation, and procuring, as well as the production, possession, and import or export of child pornography). Criminal sanctions can range up to seven years and/or a fine up to JPY 10,000,000 (USD 91,100) (Article 5).

Article 8 of this law prohibits and punishes trafficking children for prostitution or pornography purposes, from one to ten years in prison. Under the same provision, any Japanese national found transporting a child who has been abducted, kidnapped, sold, or bought in a foreign country will be liable to a prison sentence of at least two years.

Authorities indicated that they had sentenced three individuals under the

provisions relating to child prostitution, but this number only takes into account cases of child prostitution officially recognized by the government as trafficking; the actual number of convictions under these provisions was likely much higher (*US Department of State, June 2018*).

The Japanese government did not release the number of investigations into crimes linked to trafficking opened in 2017 (44 investigations in 2016), but the courts prosecuted 26 traffickers (43 in 2016), leading to 23 convictions (37 in 2016). Thus, six were fined, twelve were sentenced to 2 to 4 year suspended sentences, and five were incarcerated. The government conducted 956 child prostitution investigations (809 in 2016) (*US Department of State, June 2018*). Despite the identification of these 956 cases, the police officially identified only six children as victims of sex trafficking during the reporting period (10 in 2016); authorities continued to separate these statistics on the basis of persistent differences in definitions that may have had a negative impact on law application. The police continued to treat some children, potential victims of sex trafficking, as delinquents, warning them about their behavior instead of examining them to determine their victim status, investigating their cases, or referring them to specialized services (*US Department of State, June 2018*).

Japanese legislation has gaps when it comes to child pornography. According to ECPAT International, many written or audiovisual media (manga, anime, etc.) produced in Japan that show explicit images of sexualized children are not regulated (*ECPAT International, 2017 and 2018*). Maud de Boer-Buquicchio, UN Special Rapporteur on the sale of children, child prostitution and child pornography, notes that on and offline child sexual exploitation remains a major concern in

Japan (*Japan Times*, March 9, 2016) and evokes a certain social and institutional tolerance of sexual delinquency around children (*Libération*, November 14, 2015). For example, photos of children, from the age of 6, posing in swimsuits or underwear are sold in Tokyo neighborhoods linked to the entertainment industry (Akihabara, etc.) (*Mail Online*, February 28, 2017). This material is considered legal because the children are not completely naked (*ECPAT International, ECPAT/STOP Japan*, 2018).

Lastly, in July 2017, Japan passed a law approving the United Nations Convention against Transnational Organized Crime and became a State Party to the 2000 United Nations Protocol on Trafficking in Persons (*US Department of State*, June 2018).

The infantilized sex culture in Japan

The social acceptance and tolerance of child pornography and pedophilia seems to be a very peculiar phenomenon that can be explained by the fact that the Japanese society is very conservative regarding sexuality, and the attraction of men to *Lolicon* (women or girls with a prepubescent appearance). Many Japanese men do not look for a relationship with a woman. *Otaku* are single men who take refuge in fiction and the virtual world. Having grown up in the world of manga and video games, they perceive the “ideal woman” as being like a woman from an anime, which are most often created and imagined by men. They are not interested in “real” women who could lie to them, cheat on them, etc. In addition, in anime, girls are hypersexualized in their appearance and dress. The ideal woman is constructed from manga, where women look like teenagers, which partially influences male fantasies (*Boer-Buquicchio (de)*, March 3, 2016). In June 2014, a law was passed by the Japanese parliament to punish all persons

in possession of photos or videos of child pornography with a fine of JPY 1 million (USD 9,110) and a year of imprisonment. The law was not put in place immediately. In fact, the Japanese governments imposed a one-year moratorium to give Japanese companies and individuals extra time to dispose of images and videos with illegal content.

Younger and younger victims

Young Japanese girls –particularly young runaway girls– are victims of human trafficking for sexual exploitation purposes. A company was created around the phenomenon of *Joshi Kosei (JK Business)*, a widespread practice in Japan where young high school girls, employed by dating agencies, offer to walk or talk with men in exchange of remuneration (*JK osanpo*). However, the walks often end in a “Love Hotel” (rooms rented hourly) for massages (*JK rifu*).

Enjo Kosai, also known as “compensated dating,” and other variants of JK Business continue to facilitate the sex trafficking of Japanese minors. Highly organized prostitution networks target vulnerable Japanese women and girls – who often live in poverty or are cognitively disabled– in public places like the metro, popular meeting places for young people, schools, and the internet, and subject them to sex trafficking. Some groups pretending to be modeling or acting agencies use fraudulent recruiting techniques to force Japanese men, women, and girls to sign vague contracts, then threaten them with legal action or the publication of compromising photographs unless they participate in pornographic films. Japanese private immigration brokers help Japanese-Filipino children and their Filipino mothers move to Japan and gain citizenship for a large fee. Upon arrival, some of these women and children are sex

trafficked to pay their debts (US Department of State, June 2018).

Authorities have strengthened law enforcement measures against the sexual exploitation of children in *JK Business* and in forced pornography schemes. Police arrested and charged the director of an entertainment industry placement agency and the operator of a pornographic video production company that incited women and girls to engage in sex for profit –the first application of this criminal law in over 80 years. However, the Public Prosecutor’s Office did not prosecute the suspects. Police also arrested the owner of a major online DVD distributor for forcing women, including a child, into participating in pornography. The owner was convicted and sentenced to a suspended sentence, which prosecutors successfully challenged: he was then sentenced to two and a half years in prison and a JPY 300,000 fine (USD 2,733) (US Department of State, June 2018).

In order to combat the commercial sexual exploitation of children, the Tokyo Metropolitan Assembly passed an ordinance in July 2017 prohibiting girls under 18 from working in paid dating services and requiring that *JK Business* agencies record their employees on the city’s Public Safety Commission’s list.

Authorities identified 114 of *JK Business* agencies across the country in 2017, and 14 of them were shut down for violating the provisions of the ordinance. The courts then filed suit against the owner of one of these establishments for having sexually trafficked three minors under the Labor Standards Act.

In certain neighborhoods of Tokyo (Akihabara, Kabukicho), organized prostitution networks target vulnerable women and girls, and some massage parlors provide sexual services for

JPY 4,000-12,000 (USD 36-110) (Tokyo Business Today, January 15, 2016).

The Ministry of Health, Labor, and Welfare has implemented Women’s Consulting Offices, with reception centers for victims of sex trafficking. The protection of victims of foreign origin is handled with the help of their national embassy. The Japanese government raises awareness of this issue while NGOs like *Grow as People* support people trying to exit prostitution.

M. de Boer-Buquicchio has drawn up a list of recommendations for the government in order to better combat child sex trafficking, child prostitution and child pornography, including a more repressive legislation, stronger victim support programs, and further awareness raising on these issues (Boer-Buquicchio (de), October 26, 2015).

Japanese men remain major consumers of sex tourism involving children, mainly in Asian countries (ECPAT International, ECPAT/STOP Japan, 2018). On this subject, M. de Boer-Buquicchio noted in his last report that Japan has made significant progress in the fight against child sex tourism by Japanese men (Boer-Buquicchio (de), October 26, 2015). A dedicated committee promoted the adoption of the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism (The Code) (Boer-Buquicchio (de), March 3, 2016).

Preventive actions to fight against prostitution in Japan.

Authorities have continued to make the multilingual emergency hotline available to reach local police and immigration offices through NGOs and in consultation with the governments of countries of origin.

The government has raised public awareness of human trafficking through the dissemination of information online and through radio programs, posters and

leaflets, as well as by distributing leaflets to NGOs, immigration and labor offices, and to diplomatic missions in Japan and abroad.

The government has continued to distribute posters and brochures in transport hubs and to travelers with the intent to warn Japanese citizens that they can be prosecuted if they are suspected of being involved with child sex tourism abroad. The government has extraterritorial jurisdiction to prosecute Japanese nationals who engage in the sexual exploitation of children abroad, but the authorities have not declared that they intend to exercise their authority.

NGOs have welcomed the establishment of a high-level inter institutional group by the government. This group is led by the Minister of Gender Equality, and is tasked to address violence against children perpetrated through forced participation in pornographic films and *JK Business* (US Department of State, June 2018).

The fight against Boryokudan criminal organizations

The night life and the sex industry in Japan are inevitably tied to criminal organizations called *Boryokudan* (the term used by Japanese authorities for the *Yakuza*, large criminal groups organized in mafias). *Boryokudan* means “violent group.” Originating in Japan, they operate on a global scale and are considered one of the most sophisticated and prosperous criminal organizations in the world. *Boryokudan* manage a large variety of activities that generate illegal revenue, from fraudulent speculation to the extortion of people, commonly resulting in sexual exploitation (Washington University Global Studies Law Review, 2014).

Traffickers use fraudulent marriages between foreign women and Japanese men

to facilitate the entry of women into Japan for sexual exploitation purposes in bars, clubs, brothels, and massage parlors. Traffickers keep victims in prostitution through debt bondage, threats of violence or deportation, blackmail, passport retention and other psychologically coercive methods. Most victims have to pay their “employer” a fee (food, medical care, etc.). Brothel managers sometimes impose arbitrary “fines” on victims for misconduct in order to prolong their debt (US Department of State, June 2018).

A Colombian victim published a book about her experience as a victim of sex trafficking in Japan. As she was a single mother, a male broker proposed to help her to find a job as a dancer in Japan (*Infobae*, September 4, 2014). She entered the country with a fake Dutch passport that was subsequently taken away by a criminal organization. She was prostituted in a brothel until she repaid her JPY 4 million (USD 36,440) debt. She managed to escape and sought refuge at the Colombian Embassy in Tokyo (*Letras Libres*, April 30, 2010). The NGO *Polaris Project* estimated that there were 54,000 women and children victims of sex trafficking in Japan in 2012 (*World Justice Project*, October 22, 2012).

Aware that these criminal groups play a major role in human trafficking, the Japanese government has introduced specific legislation aiming to control the activities of organizations such as the *Boryokudan*. The anti-*Boryokudan* law (Law concerning prevention of unjust acts by organized crime groups – Act n.77) was enacted in May 1991. It defines *Boryokudan* as “Any organization that is likely to help its members to collectively and habitually commit violent illegal acts” (*National Police Agency of Japan*, 2015). The law aims to minimize the harm their activities inflict on the population by

prescribing regulations that restrict the areas to which they can be active. Violent illegal acts involve threats and violence (extortion, coercion) (Article 9). Articles 11 and 12 allow the police to issue cease-and-desist orders to criminal group members who have been reported for extortion.

In 2006, legislators amended the *Anti-Boryokudan Law* (Act. n.115) with the introduction of articles addressing the rituals and hierarchical relationships of the organizations. Articles 16 to 26 put in place new restrictions concerning:

- The recruitment of minors and the coercive methods of recruitment (Article 16)
- Traditional rites such as the tattooing on minors (Article 24-17)

The revision also included a clause making the Public Safety Commission responsible for assisting those wishing to leave a criminal organization (Article 28).

In 1999, the *Act on Punishment of Organized Crimes, Control of Crime Proceeds and Other Matters* was enacted, instituting measures for the confiscation of crime related assets as well as for the reporting of suspicious financial operations by financial institutions. As the law aims to strengthen sanctions against crimes committed by organized groups, the law introduced provisions extending monetary laundering offenses to crimes related to the smuggling of migrants, participation in the illegal employment of foreigners, assistance with illegal entry into the country, the reception and harboring of groups of trafficked migrants, as well as the confiscation of criminal evidence (*Government of Japan*, August 10, 1999).

A revision made to the anti-*Boryokudan* law in 2012 (Act n.53) authorized police to arrest those involved with criminal activities (extortion, etc.) without prior warning. This enforcement response provides a higher level of security for citizens wishing to inform police on the criminal activities of

these groups (*Washington University Global Studies Law Review*, 2014).

In terms of the containment of illegal activities, the *Anti-Boryokudan Law* goes hand in hand with the *Law on Control and Improvement of Amusement Business* enacted in 1948 and revised in 1998. This law aims to control entertainment establishments, in particular establishments providing sex entertainment services, by restricting their operating hours and confining them to restricted areas. Article 28 prohibits managers of entertainment establishments to impose debts that are disproportionately high in relation to the person's ability to pay when leaving their job. An amendment to the Law in 1998 introduced provisions specifically targeting the practices used by employers of trafficked women.

While measures such as the *Anti-Boryokudan Law* are put in place to curtail their activities and connection to other related illegal activities, the results do not seem to be sufficiently effective. The law requires that a member of a criminal organization has committed a crime to be tried and convicted (*Washington University Global Studies Law Review*, 2014).

In addition, *Boryokudan* groups have reorganized themselves so they can operate with greater discretion and improve their relations with the population. Close to 2,000 gangs were disbanded between 1991 and 2000. According to a report by the *National Police Agency* (NPA) of Japan, the total number of members of criminal organizations dropped from 86,000 in 2005 to 43,500 in 2014. Many analysts believe that the NPA's numbers are not representative of the actual total number of members (*Washington University Global Studies Law Review*, 2014). The three most important *Boryokudan* organizations remain the *Yamaguchi-gumi*, the *Sumiyoshi-kai*, and the *Inagawa-kai*. In 2015, they made up 70% of all members of criminal

organizations, giving them considerable power over the law (*National Police Agency of Japan*, 2015).

Male Prostitution, an invisible business in Japan

Even if it is less visible, male prostitution should not be neglected. The documentary “Boys for sale” explores this hidden prostitution of young boys (*Huffington Post*, July 22, 2017). The principle is the same as in the *JK Business*. Boys keep older men company, which can lead to sexual relations. Some are in host clubs, where they are paid to entertain customers and possibly have sexual relations with them, similarly to male *geishas*. Other are paid to entertain rich women; they are taken to dates, diners and movies or to Love Hotels.

A majority of them are doing it as a regular job, to pay rent or University fees. They are very vulnerable and exposed to sexually transmitted diseases (STDs) and HIV/AIDS because of the high number of unprotected sexual relations they have with sex buyers. Since prostitution is defined only in terms of vaginal intercourse, homosexual prostitution benefits from a legal loophole in the Japanese legislation.

Prostitution and Health

There are no official statistics on the number of prostituted persons infected with HIV/AIDS. Only 39.8% of prostituted persons use condoms (*UNAIDS*, 2017). Because of a certain taboo related to sexuality in the peninsula, little is known about the risks and modes of transmission of HIV/AIDS. This phenomenon is all the more worrying as sex buyers demand unprotected sex against the will of the prostituted person (*Huffington Post*, July 22, 2017). Nevertheless, the number of reports of people infected with HIV/AIDS has been increasing since 1985, which implies greater

awareness of the phenomenon, even though the number of infected persons is constantly increasing (*UNAIDS*, April 2016).

The majority of people in prostitution can receive assistance from NGOs that have a reception center with publicly funded medical care (*US Department of State*, June 2018). However, prostituted persons of foreign origin seldom seek help for fear of deportation (*World Justice Project*, October 22, 2012).

The government has allocated more than JPY 3.5 million (USD 31,885) to house male victims of trafficking, although it is not certain if the sole male victim identified in 2017 has received direct government assistance (*US Department of State*, June 2018).

What future for Japan?

NGOs have pointed out that the lack of language translation services poses a particular challenge for the protection of foreign victims. The availability and quality of these victim services varies according to the relative experience of administrative officers in trafficking cases. The government continues to offer training on investigation and victim identification methods for police officers, prosecutors, judges, and immigration officials (*US Department of State*, June 2018).

As a general rule, the penalties prescribed by the law provide for fines instead of imprisonment for sex trafficking, which is not proportional to the penalties for other serious crimes such as rape. Trafficking crimes should be punishable by at least four years in prison.

The Japanese government’s commitment to combating the exploitation of prostituted persons and assisting victims is relatively low, particularly for foreign nationals who have limited access to government services. Furthermore, there is a shortage of interpreters within these services (*US Department of State*, June 2018).

According to the 2018 US Department of State report on Trafficking in Persons, it is necessary to increase the resources allocated for victims of trafficking (housing, care, assistance) including those for foreign and male victims.

In addition, the criminal groups behind prostitution are not directly affected by the law, only their methods, means of action, and incomes (illegal gambling, prostitution, drug trafficking, and hacking) (OCCRP, July 12, 2017). This can be explained by the difficulty of identifying and targeting a specific group before it has committed a criminal act. Some measures can be devised, such as discriminatory laws against *Boryokudan* members (illegality of distinctive tattoos for example), but that would run counter to the rule of law. However, it is necessary to apply the prescribed penalties in the law, which would have a dissuasive effect on some prostitution and trafficking networks (US Department of State, June 2018).

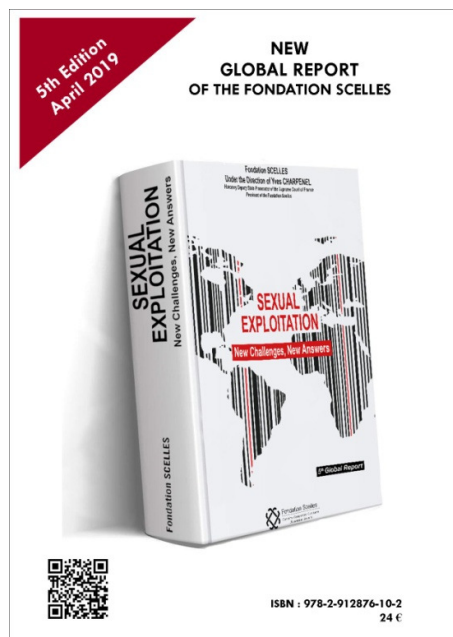
The Japanese legislation on human trafficking is fragmented and obsolete. It consists of a set of laws with articles condemning various aspects of trafficking (US Department of State, June 2018). The law as it stands currently lacks comprehension and readability, and therefore it is necessary to establish a single law regarding human trafficking. This would also make it possible to fill in the gaps of the current legislation, by widening the scope of prostitution to include all interactions that can be considered of a sexual nature, or by taking into account evolutions in society, such as JK Business and online prostitution.

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The Global Report is produced by the International Observatory on Sexual Exploitation, in collaboration with internal and external experts (magistrates, lawyers, social workers, NGO leaders...), and the support of local NGO correspondents or international researchers.



The **Fondation Jean et Jeanne Scelles**, recognized as a public utility since 1994 and as a consultative status with ECOSOC, is an independent, non-profit organization based in Paris (France) dedicated to fight the system of prostitution and the exploitation of prostituted persons, through information, analysis, advocacy, trainings, awareness initiatives and legal actions. The **Fondation Jean et Jeanne Scelles** is a co-founding member of the Coalition for the Abolition of Prostitution (CAP International) which was launched in 2013 and today brings together 28 abolitionist NGOs from 22 countries.

The **International Observatory on Sexual Exploitation** (Observatoire international de l'exploitation sexuelle) is a worldwide hub which allows for information exchange on the system of prostitution. The hub is regularly consulted by French and foreign experts including NGOs, institutions, journalists, lawyers, researchers and those involved in the defense of human rights. The goals of the **International Observatory on Sexual Exploitation** are:

- to analyze all the aspects of the phenomenon: prostitution, sex tourism, procurement, child pornography, sex buyers, human trafficking for the purpose of commercial sexual exploitation...
- to encourage reflection and to take a stand
- to inform the public who are interested in these issues

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