



Written Contribution of Migrant Forum in Asia to the UN Special Rapporteur on Violence against Women, its causes and consequences thematic report on shelters and protection orders

Introduction

Migrant Forum in Asia (MFA)¹ welcomes the decision of the UN Special Rapporteur (SR) on Violence against Women (VAW), its causes and consequences, to write a thematic report on shelters and protection orders for the 35th session of the Human Rights Council in June 2017. MFA is pleased to contribute to the SR's report with recommendations to the different stakeholders with regard to issues relating to shelters for women migrant workers.

A number of MFA members from countries of origin (COOs) and countries of destination (CODs) of migrant workers are currently running shelters for migrant workers or are working in collaboration with state-run shelters to provide assistance for distressed women migrant workers. MFA's submission to the office of the SR on VAW, its causes and consequences, is focused on shelters and protection orders in CODs in Asia.

Shelters are one of MFA's big concerns as it has been rapidly increasing in the CODs. Shelters for distressed women migrant workers in Asia can be state-run shelters, including those attached to embassies or managed by CSOs, charities, faith based organisations, recruitment agencies, private or others in both urban and rural settings.²

Shelters emerge largely because there is little or limited access to justice in which migrant workers are often restrained from having access when they are exploited, may it be labour or human rights exploitation. Due to the limited access to justice, migrant workers who are being exploited try to escape from their situation but are often referred to as "absconding workers" or "runaways" in the Gulf region. With this, they are already considered as undocumented or have "absconded" even when they run for or remain in the shelter due to the *kafala* system practiced in the Gulf. This makes it more complicated and more difficult to address their situation as their options are often limited to going back and stay with their employer or be repatriated to their country of origin (COO).

Shelters exist under no legal framework as it is largely a result of COOs to provide some assistance to their nationals when in dire circumstances, as well as the difficulty of acquiring access to justice in the CODs. The establishment of shelters in CODs was a response to the demand for a space for workers who fled their employers due to labour and human rights violations created by the absence of a rights-based approach to labour migration and restrictive immigration systems.³ Shelters become a sort of space when neither the COD acts upon the migrant workers' access to justice nor the COO is not in a position to strongly ask for access to justice and at the same time trying to get access to the labour market.

¹ Migrant Forum in Asia (MFA) is a network of grassroots organizations, trade unions, faith-based groups, migrants and their families and individual advocates in Asia working together for social justice for migrant workers and members of their families. For more information about MFA please see: www.mfasia.org.

² MFA Policy Brief No. 9: Providing Shelter for Distressed Migrant Workers: A Rights-based Approach, Winter 2014

³ *Ibid*

The delegation by the state of control over migrant workers to employers and recruitment agents with weak regulation and either no legal protection or limited implementation of the law, fosters the conditions for exploitation and abuse.⁴ Policies governing entry, employment, and residence frequently disadvantage migrant women and increase their risk of abuse.⁵ It is the failure of the system to protect low-income migrant workers from poverty, gender discrimination and prevent rights violations that produces ‘victims’, not just a single perpetrator.

Shelters are predominantly for low income women migrant workers. According to information provided by MFA members and partners the women in the shelter can be: domestic workers, caregivers, beauticians and factory workers that have fled exploitative and abusive workplaces; women who are victims of labour and sex trafficking; pregnant migrant workers; lesbians and migrant wives on spousal visas who are victims of domestic violence; women who are ill and/or disabled. Each group require specific protection measures.⁶ The numbers are high for women who escape terrible conditions in their workplace, evidence that the system is failing to protect them.⁷ Very often, cases in the shelters are largely a result of limited access to justice and responses are often arbitration within the embassy which does not actually bring about justice but rather gives the worker an option to go back to his/her employer or be repatriated.

Looking at the labour and human rights abuse, shelters have become a convenient space for both CODs and COOs to not let such issues surface or become more visible. It has somewhat turned into a way to conceal labour and human rights issues of CODs and for COOs not to lose market. Such instance happened when migrant domestic workers in Oman who were victims of abuse fled the abusive situation but were accused by their employer of “absconding”. This is considered a legal offense in Oman given that the Gulf region practices the *kafala* system as this constitutes a breach of contract and “absconding” cases prevent the migrant domestic workers from leaving their employers despite their situation.⁸

There have been shelters emerging in COOs for female returnee migrant workers such as Bangladesh, Nepal, and the Philippines. Migrant workers who have suffered abroad often find it very difficult to return to their home and local communities due to the stigma of leaving their homes only to find out that they have suffered abroad. This often happens in those COOs to the extent that some do not want to go home and would rather stay away by remaining in the shelter because of too much shame that they feel. With this, violence against women comes into play once again with the discrimination and violence they encounter when returning from the COD.

Based on data from MFA members and partners, majority of shelters in countries of destination are only open to women and sometimes children. Shelters for male migrant workers are rare and most often run by civil society organizations such as the shelter run by MFA members in ROC (Taiwan)⁹. The general attitude for male undocumented workers is being independent who can fend for themselves while women cannot. Hence, they are left with self-support mechanisms which can make it much more difficult to move their cases forward when approaching their Missions.

⁴ *Idem*

⁵ *Idem*

⁶ *Idem*

⁷ *Idem*

⁸ *Human Rights Watch*. (2016). Retrieved January 29, 2017, from https://www.hrw.org/sites/default/files/report_pdf/oman0716web.pdf

⁹ Republic of China

While shelters are important, unless it becomes a transit space in which access to justice can be materialized, shelters can only be a temporary respite from suffering and abuse which can still continue in many ways with either limited options of staying with their employer or being repatriated and going home, but often with very limited reintegration mechanisms and be stigmatized. With this, MFA is calling for the shelters, as well as what happens in shelters, to be not only a safe house but also a launching space for migrant workers to acquire access to justice and reform the current system contributes to the abuse and exploitation of migrant workers. It should not become a way for COOs and CODs to silence their issues of abuse in labour migration and should be made public for genuine repatriation of migrant workers with due process. When migrant workers come to the shelters, it should be a moment of hope for them. Lastly, assistance from non-government organizations (NGOs) should be more recognized and be able to collaborate and intervene with government-led and/or state-run shelters to be able to respond more accurately to those migrant workers in abusive situations.

MFA would like to thank its members and partners who have contributed to this compilation which can be referred to below. Specifically, MFA would like to thank Migrant Workers Protection Society (MWPS) from Bahrain, Joint Committee with Migrants Korea (JCMK) from South Korea, the Hope Workers Center (HWC) and Hsinchu Migrants and Immigrants Services Centre (HMISC) from ROC (Taiwan).

South Korea

In the context of South Korea, shelters are guided by the Prevention of Domestic Violence and Victim Protection Act—a special act for the punishment of domestic violence. The Women’s and Youth Rights Promotion Bureau of the Ministry of Gender Equality and Family is responsible for supporting and for the development of shelters as well as counselling centers for victims of domestic violence and sexual trade and abuse. However, South Korea’s current government-run shelters offer services only to those who have legal status and married migrant woman based on the aforementioned national law. Shelter should also include and protect undocumented migrant woman who is a victim of domestic violence and abuse.

As of 2016, there are twenty-four (24) shelters funded by the central government in which women may stay for a maximum of two (2) years until the legal case is settled. After the legal case is settled, a second-stage housing is also available in which it is a self-supporting facility. Currently, there are two (2) self-supporting facilities (group home) available for a maximum stay of two (2) years. There are also twenty-seven (27) educational self-supporting centers which help migrant women to find jobs and providing Korean language classes. Specifically for women with their children, they may have access to shelters if they are victims of domestic violence, sexual violence, and sexual trade; children can stay with their mothers in the shelter only if boys, specifically, are under 10 years old.

The Seoul Metropolitan Government has commissioned a woman migrant shelter which is a temporary shelter for crisis established to support migrant women as a form of social safety net. It does not have a well-established legal framework compared to the central government-run shelters however, a wide range of migrant women who cannot prove victim of violence, undocumented woman migrant, woman who need a shelter before divorce etc. can be protected at this shelter. There is no limit of service eligibility to migrant women however, due to financial constraints, only a small number of women can be accommodated. The length of stay may also vary depending on the case.

ROC (Taiwan)

ROC (Taiwan) has enacted the Sexual Violence Act, the Family Violence Prevention Act and the Sexual Harassment Act in 1997, 1998, and 2005 respectively. With this, ROC (Taiwan) has established centers for domestic violence, police, civil protection orders by courts, shelters, housing, job-training, and offender correction. There is also the Regulations Governing the Placement and Protection of Victims and Suspended Victims of Human Trafficking, The Regulations Governing, Reporting, Classification, and Categorization of Sexual Assault Cases, and the Regulations of Temporary Shelters for Foreigners, which can all be found in Annexes I, II, and III, respectively.

With regard to the shelters, domestic violence centers are run by local governments with a toll free helpline available 24 hours in Chinese, Taiwanese, English, Vietnamese, Thai, Indonesian, and Cambodian. These centers also collaborate with services such as counselling; enacting procedures to issue normal protection orders; transportation; medical care; obtaining certification of injury and psychological counselling.

Civil protection orders include prohibition of further violence; harassment; direct contact; stalking; contact by phone and other communication methods; expulsion of offenders; the continued use of the necessities needed for ordinary life such as automobile or building; arrangements for the burden of the child care costs; visitation rights; medical expenses of victims; shelter admission costs; attorney agents costs; and, participation in a perpetrator rehabilitation program. The major role of the police, as described in Chisato Kitanaka's research¹⁰, includes prevention of further violence' to contact shelter; providing information about protection orders; supporting victims' application for protection orders and order an offender not to commit violence anymore. The police also has a specialized division for women and children victims.

Hsinchu Migrants and Immigrants Service Center (HMISC) is a Catholic Migrant Center under the Hsinchu Diocese that employs Taiwanese, Filipino, Indonesian, and Vietnamese social workers. Part of their work is to educate migrants on their rights, lobby the government for fair employment conditions for migrant workers, and assist migrants in distress. They run one female shelter and one male shelter which can each accommodate 20 people. The HMISC is supported by the government, providing them with NT\$ 500 per person per day. The types of shelter cases are victims of trafficking, sexual harassment, sexual assault, occupational accident, and labour dispute. For cases of victim of trafficking, sexual harassment, and/or sexual assault, the length of stay in shelters are usually more than a year.

Hope Workers' Center (HWC), based in Chungli, also shelters migrant workers who are victims of labour-related disputes and a number of sexual assault and/or sexual harassment, and a few of victims of trafficking. They also utilize the use of the toll free hotline for migrant workers they shelter.

Kingdom of Bahrain

The Migrant Workers Protection Society (MWPS), a registered Non- Government Organization (NGO), registered with the Ministry of Social Development in Bahrain was established in February

¹⁰ Kitanaka, C. (2016). Domestic Violence Victim Support in Taiwan. *Journal of Asian Women's Studies*, 23, 1-13. Retrieved January 28, 2017, from http://www.kfaw.or.jp/publication/pdf/JAWS_vol.23.pdf

2005. The Society's main objective is to protect the illiterate and impoverished workers and provide these "voiceless and invisible thousands with a modicum of protection and security". MWPS established its Shelter within two months from being officially recognized and fulfilled its stated commitment to establish such a facility at the earliest.

The MWPS Shelter became operational on 24th April 2005 and is the only shelter established in the Kingdom of Bahrain, by an NGO that reaches out to all abused women migrant workers, without any discrimination of race, religion or region. Prior to the establishment of the MWPS Shelter in April 2005, there was no 'safe house' where these victims could find refuge. The Shelter is one of the important projects undertaken by the Society. In the last twelve years since the establishment of the shelter, approximately 1,500 women from over a dozen countries have found refuge and protection at the MWPS shelter.

The Shelter has housed women from countries in South Asia and Africa such as India, Sri Lanka, Ethiopia, Indonesia, Kenya, Ghana, Nepal, Uganda, Philippines, Bangladesh, Pakistan, Eritria and Ivory Coast. The Indian Embassy and the Sri Lankan Embassy refer their nationals who require housing, to the MWPS Shelter, as they do not have safe house programs of their own.

The Philippine, Indonesian, and Nepal embassies in the Kingdom of Bahrain operate their own shelters exclusively for their citizens. These shelters operated by the embassies come under the umbrella of the mission and enjoy "diplomatic immunity".

On 23rd Nov 2006, "Dar Al Aman", under the Department of Social Welfare, the Ministry of Social Development, Kingdom of Bahrain was started. It is a government social care institute and provides protection to women and their children who are exposed to violence or abuse either by their families or by the surrounding environment. Until November 2015, the Dar Al Aman shelter looked after both Bahraini citizens and non-Bahraini residents. In November 2015, after the Labour Market Regulatory Authority (LMRA) in Bahrain opened the 'Migrant Workers Assistance and Protection Unit', shelter in north Sehla, the services provided by Dar Al Aman for expatriate women was transferred to the LMRA shelter.

In November 2015, the Labour Market Regulatory Authority (LMRA) opened the 'Migrant Workers Assistance and Protection Unit', expat shelter. The shelter extends services to both expatriate men and women. The six-storey building in Sehla, has 16 fully-furnished three-bedroom apartments that can accommodate up to 200 people at a time and is managed by the Bahrain Corporate Social Responsibility Society. It also has a clinic that provides medical and psychiatric care, legal counseling, social services, and a training centre that aims to work with civil societies, schools, universities and clubs, to spread awareness among citizens and residents.

The MWPS shelter can be accessed by any woman migrant worker (without any preconditions), who is facing labour related problems, human trafficking or has been subjected to physical, emotional, sexual, verbal abuse or forced labour-like working conditions. The MWPS Shelter does not refuse any woman who may require temporary shelter. The MWPS shelter has also provided support and housing on an emergency basis to expatriate women (along with their children), who have suffered domestic/ family violence. Since the MWPS Shelter is exclusively for women, they are unable to house any boys, except those who are below the age of 10 years of age and who are accompanied by their mothers. This would be under emergency circumstances and typically the request for housing, would have been received by an MWPS member, from either an Embassy or a Bahrain governmental agency. The MWPS Shelter has to date, neither been approached to house children with special needs, nor does it have the necessary infrastructure to do so. Shelters operating under Embassies, such as those by the Philippines, Indonesian and Nepal governments can be accessed only by the citizens of those countries.

The LMRA's 'Migrant Workers Assistance and Protection Unit', Expat Shelter can be accessed by victims of human trafficking or by cases referred directly by the police stations, or from referrals provided by Embassies, after they first register the worker's case with the appropriate police station. The MWPS shelter does not extend services to Bahraini national women as the society is registered with the Ministry of Social Development to provide services only to migrant women workers. There are several registered Bahraini NGO's that have established counselling centers with in-house support facilities and outreach programs, for national women who are victims of domestic or family violence.

In terms of length of stay at the shelters, the MWPS shelter does not impose any restriction on the number of days that a worker can reside at the shelter. The worker is extended all services and protection for as long as it might take for the satisfactory resolution of her case. Some workers may require only a single night of stay, while others could be resident at the shelter for several weeks or even months.

Though the MWPS Shelter lacks in material resources available to government- funded shelters, it more than makes up for the lack of resources, by the resourcefulness of its team of dedicated volunteers. Twelve years of continuous operation and the comprehensive services extended to 1,500 women from over a dozen diverse nationalities and cultures, is testimony to this fact.

ANNEX I

Regulations Governing the Placement and Protection of Victims and Suspected Victims of Human Trafficking

Announced Date: 2009.06.01

Article 1

These Regulations are enacted pursuant to Paragraph 2, Article 17 of Human Trafficking Prevention Act (referred to as the "Act" hereunder).

Article 2

The human trafficking victims (referred to as the "victims" hereunder) and suspected victims shall be placed and protected by the following authorities according to their identity status:

1. Victims who are nationals residing in Taiwan and having household registration: The local competent authority.
2. Victims without a visitor visa or resident visa (referred to as "work visa" hereunder) for the purpose of working in Taiwan: The central competent authority.
3. Victims with work visa: The central labor authority.

The authorities mentioned in the preceding paragraph may engage or commission other agencies or groups to undertake the placement and protection of victims and suspected victims.

Article 3

The suitable shelters to be established or designated by the competent authorities and labor authorities of all levels as provided in Paragraph 2, Article 17 of the Act may be combined in view of the actual circumstances, and may adopt the mode of "established by government and run by private organization" or "commissioning private organizations", or be handled by other means.

Article 4

Before referring a victim or suspected victim to a shelter, the judicial police authority should contact the competent authorities mentioned in Paragraph 1 of Article 2 herein or the specialized operation corps under the National Immigration Agency of the Ministry of Interior to arrange the escort, handover and placement matters.

Article 5

A shelter shall place victims and suspected victims by providing separate accommodation to men and women.

A shelter shall establish rules for managing and regulating the daily activities at the shelter and submit the same to the competent authority in charge of the shelter for reference.

The shelter rules shall be provided in Chinese and English side-by-side and signed by the victim or suspected victim as consent to adhere upon his/her admission. The shelter rules shall cover at least the following particulars:

1. Rules on the safety and maintenance of the shelter and confidentiality obligation.

2. Rules on shelter's gate control and check-in/check-out time.
3. Rules on communication and visitors.
4. The conduct or acts of clamoring, quarreling, drinking, gambling, disobeying the order of shelter management, interfering with the order of shelter, injuring the life or body of others, or destroying or damaging public properties are strictly prohibited.
5. Other matters to be observed and heeded.

The shelter rules mentioned in the preceding paragraph shall be posted or hung at a conspicuous place inside the shelter.

Article 6

For victims and suspected victims who violate the shelter rules, a shelter shall first restrain the person, and if deemed necessary, may report to the competent authority in charge of the shelter to impose the following disciplines:

1. Reprimand.
2. Banned from making phone calls.
3. Banned from receiving visitors.
4. Providing labor or service.

Any of the disciplinary actions in the preceding paragraph as decided by the competent authority in charge of the shelter shall be made in writing and shall conform to the principle of proportionality.

Article 7

A shelter shall inform victims and suspected victims of the following after their admission:

1. Personal safety and protection measures in place;
2. Necessary medical assistance, interpreter service, legal aid, psychological counseling and other counseling services available to them;
3. They will be accompanied to questioning (interrogation) for cases under investigation or in trial;
4. Other economic subsidies; and
5. Other necessary aids.

For victims and suspected victims already having a work permit, the shelter shall document their employer, method of contact, workplace and nature of work. For victims without a work permit, the shelter shall inform them that they may not work illegally.

Article 8

In case any victim or suspected victim leaves the shelter without permission or is found to violate laws or regulations, the shelter shall report the information on the offender, time and particulars of the violation, and subsequent actions taken to the competent authority for review.

If the competent authority deems after review that the victim or suspected victim has indeed violated the rules, the provisions in Article 6 herein shall apply mutatis mutand. Where the violation

is of serious nature, the competent authority shall report the case to the central competent authority to take action according to Article 19 of the Act.

Article 9

A shelter may decide not to provide accommodation for the time being to victims and suspected victims having any of the following situations:

1. Refusing to accept placement; or
2. The victim could be contagious following the screening for designated infectious diseases as provided in Article 12 of the Act.

In the situation provided in subparagraph 2 of the preceding paragraph, the shelter should work with the health authority and provide proper assistance.

Article 10

A shelter should provide, make referral or arrange courses on technical training, adaptation to living in Taiwan, language or other training for victims and suspected victims in view of needs.

Article 11

When a victim or suspected victim needs to testify or undergo questioning (interrogation) during the investigation or trial of a case, the shelter may request the judicial police authority that forwards the case involving the victim or suspected victim to provide the escort service.

The judicial police authority that forwards the case may not refuse the request made in accordance with the preceding paragraph.

Article 12

Where it becomes necessary for a victim or suspected victim to seek medical care at a medical institution, the shelter shall assign a staff to accompany the victim or suspected victim and provide necessary assistance.

Article 13

For victims that meet the conditions set forth in Paragraph 1 and Paragraph 2, Article 28 of the Act, the shelter shall assist the victim in applying for an extension of visitor (resident) visa in fifteen (15) days before his or her current visitor (resident) visa expires.

Article 14

For victims holding a legal and valid visitor (resident) permit or having a temporary visitor permit issued from the central competent authority, the shelter shall, by the intent of the victim, assist them in applying for a work permit with the central labor authority.

Article 15

A shelter shall produce the following lists and records and establish files on victims and suspected victims:

1. Name list (including basic personal information of victim, brief description of the case, the agency that forwarded the victim, and name and telephone of the contact person);
2. Brief record on daily activities.

3. Visitors record.
4. Illness and medical visit record.
5. Record of questioning by the courts and/or prosecutors.
6. Record of victims receiving legal assistance, psychological counseling and other counseling service, economic aids and other assistance.
7. Expiration date of visitor (resident) permit.
8. Record relating to end of placement arrangement and discharge.

Article 16

When a victim or suspected victim ends the placement arrangement and leaves the shelter, the shelter shall notify the competent authority in charge of the shelter in one working day after the victim or suspected victim is discharged.

When a victim is repatriated pursuant to Article 19 or Article 30 of the Act, or a suspected victim switches identity status due to the investigation of a case, the shelter shall coordinate the assistance of relevant agencies before the victim or suspected victim is discharged.

Article 17

The date of promulgation for these Regulations shall be set forth by the central competent authority.

ANNEX II

Regulations Governing Reporting, Classification, and Categorization of Sexual Assault Cases

Announced Date: 2016.07.27

Ministry of Health and Welfare (衛生福利部)

Article 1

The Regulations are established in accordance with Paragraph 4 of Article 8 of the Sexual Assault Crime Prevention Act (hereinafter referred to as the Act)

Article 2

The municipal and city/county competent authorities shall designate officers to be responsible for handling reported sexual assault cases.

Article 3

The reporting of sexual assault cases to the municipal and city/county competent authorities, as set forth in Paragraph 1 of Article 8 of the Act, shall be done by means of transmissions via the Internet, telecommunication, or any other technological equipment. In cases of emergency, the reporting of sexual assault cases may first be done verbally or by telephone communication, and a supplementary report form shall be submitted within 24 hours.

Attention shall be paid to protecting the confidential data or privacy of victims in the course of the reporting of sexual assault cases as set forth in the preceding paragraph. Unless otherwise provided by law, disclosure of such data or privacy for any reason is prohibited.

Article 4

Any person other than those specified in Paragraph 1 of Article 8 of the Act may report alleged sexual assault offences known to him/her to the municipal or city/county competent authorities by the means specified in Paragraph 1 of the preceding article or by any other means.

Article 5

Cases reported in accordance with the preceding two articles shall be handled by the municipal or city/county competent authorities that accept the reporting of sexual assault cases. In the event that two or more municipal or city/county competent authorities accept the same victim's case, the municipal or city/county competent authority that has jurisdiction over the domicile or residence of the victim shall handle the case. However, the municipal or city/county competent authority that has jurisdiction over where the victim is located shall handle the case under emergency circumstances.

The municipal or city/county competent authorities that accept the reporting of sexual assault cases may, depending on the requirements of the case, refer the case to the municipal or city/county competent authority that has jurisdiction over the domicile or residence of the victim for any further action.

Article 6

The municipal and city/county competent authorities shall, within 24 hours after learning of a case or receiving a report done in accordance with Article 3 or 4, classify the reported case according to the following methods:

1. Class 1: Under emergency circumstances that require a immediate rescue, medical diagnosis and treatment, medical examination, or evidence collection;
2. Class 2: Under circumstances other than those specified in the preceding subparagraph.

Article 7

Upon classification in accordance with the preceding article, the municipal and city/county competent authorities shall proceed with the following categorization according to the identity of the victim and details reported:

1. Category 1: The victim is a child, an adolescent, or a person with physical or mental disabilities;
2. Category 2: The victim is 18 years old or over and has no physical or mental disabilities;
3. Category 3: The victim is in any circumstances other than those set forth in the preceding two subparagraphs.

Article 8

The municipal and city/county competent authorities shall comply with the following provisions in handling all of the reported Class 2 cases, as defined in Article 6:

1. Category 1:
 - (1) The suspect is a parent, a guardian, or any other actual caregiver or family member: The needs of the victim for safety and placement shall be determined, and evaluations and actions shall be conducted based on the victim's mental and cognitive development and the degree of disability as well as the family support system.
 - (2) The suspect is a person other than those who are listed in the preceding item: Due regard shall be given to the rights and interests of the guardian or legal representative of the victim; the psychosocial needs of the victim shall be evaluated and intervened; the assistance to the victim shall be provided with adequate and intergrated resources, and the whole course of handling the case shall adhere to the requirements in the Act and other applicable laws and regulations.
 - (3) A visit to the victim is required; however, this provision would not applicable if there were significant difficulties for such a visit to be taken place.
 - (4) An investigation report that contains details of the communication and handling as well as evaluation records shall be filed in accordance with applicable laws and regulations.
2. Category 2: Due regard shall be given to the juridical rights of the victim, evaluations on his/her psychosocial needs shall be conducted, and relevant protective and supportive measures, such as physical and psychological treatment, counseling, legal aid, and employment services shall be provided.

3. Category 3: Relevant communication or inquiry records shall be kept.

Article 9

The municipal and city/county competent authorities shall observe the provisions of the preceding article in handling cases in all categories, with the exception of the reported Class 1 cases defined in Article 6, which shall be handled in accordance with Subparagraph 1 of the same article.

Article 10

In the case where the pre-examination visits and evaluations were conducted for the purpose of eliminating victims of sexual assault from making repeated statements (hereinafter referred to as the eliminating repeated statements procedure), social workers shall fill out a pre-examination visit form for the eliminating repeated statements procedure and to evaluate whether the victim is suitable for an interrogation/examination. This form shall be hand in to judicial policemen/investigator who then shall submit this form to a juvenile court judge, a prosecutor, or a military prosecutor who has the jurisdiction to handle the case.

If the victim in the case set forth in the preceding paragraph is subject to the order of the commencement of guardianship, to the order of commencement of assistance or is under the age of 12, the approval from his/her guardian, assistant, or legal representative is required through providing their consent to undertake the eliminating repeated statements procedure. Nevertheless, this provision is not applicable if the aforesaid guardian, assistant, or legal representative is the sexual assault suspect or defendant of this case.

Article 11

The municipal and city/county competent authorities may provide appropriate protection and assistance for any of the following circumstances:

1. When the suspect is a child, an adolescent, or a person with physical or mental disabilities, tailor-made resources may be recruited in order to provide adequate assistance for the suspect during the investigation and trial procedures.
2. When the parties are in any of the relationships defined in Article 3 or 63-1 of the Domestic Violence Prevention Act, the municipal and city/county competent authorities may represent the victim or help the victim to apply for a civil protection order.
3. When the victim is a foreign worker, a request may be made to the authority in charge of the said worker to provide assistance in changing the employer, protection, placement, companionship, interpretation, legal aid, and other matters.
4. In the event that the victim is required to undertake an interrogation/examination during the legal proceeding, prior to that procedure, the municipal and city/county competent authorities may help the victim apply for an out-of-the-court room approval that, by means of using audio or video transmission technology and equipment or other appropriate partitioning measures, separate the victim from the defendant, judge, or military judge
5. If the offender is a lineal or collateral relative of the victim and is released from the prison, an evaluation on the protective functioning of the family of the victim shall be conducted based on the age, degree of disability, and the willingness of the victim, as well as following up on the safety of the victim.

Article 12

The municipal and city/county competent authorities shall combine the efforts of the juridical, police, health, education, labor, immigration, correction, civil affairs, and other relevant authorities to carry out the promotions, education, and training regarding the reporting and handling of sexual assault cases according to the general conditions of the sexual assault cases within their jurisdiction.

Article 13

The municipal and city/county competent authorities shall strengthen the coordination and communication among reporting units across the disciplines, and shall coordinate with responsible units to investigate and handle any cases for which the reporting responsibility is unfulfilled.

Article 14

The Regulations shall take effect immediately upon promulgation of this Act.

Regulations of Temporary Shelters for Women (Chinese)

受聘僱從事就業服務法第四十六條第一項第八款至第十一款規定工作之外國人臨時安置作業要點 (民國 103 年 04 月 30 日修正)

公(發)布日期：

民國 97 年 03 月 14 日

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一、為處理受聘僱從事就業服務法第四十六條第一項第八款至第十一款規定工作之外國人（以下簡稱外國人），因法令爭議、檢舉雇主非法使用、遭受人身侵害或雇主違反契約任意遣返等情事，所衍生之安置問題，特訂定本要點。

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二、外國人符合下列規定之一者，為本要點之安置對象：

（一）在等待轉換雇主或遣返回國期間，經勞動部（以下簡稱本部）核准外國人工作所在地之直轄市、縣（市）政府（以下簡稱地方主管機關）認定雇主無法妥善照顧或管理。

（二）面臨雇主關廠、歇業、或負責人行蹤不明，經地方主管機關認定膳宿乏人照顧。

（三）因主動檢舉或其他原因發生之勞資爭議情事，經地方主管機關認定不宜再留置雇主處。

（四）雇主不當對待（例如性侵害、性騷擾、虐待、毆打、惡意遺棄等），經地方主管機關認定屬實。

（五）其他經主管機關專案核定有安置必要之外國人。

地方主管機關認定外國人符合前項規定後，應採行先安置後調查原則，並確保外國人不受相關爭議利害關係人影響下，探詢外國人之意願後，進行安置。

3

三、本要點所稱安置單位如下：

（一）地方主管機關審查同意之非營利外國人安置單位。

（二）地方主管機關自籌經費設置之外國人安置單位。

（三）由本部補助地方主管機關以勞務委託方式辦理之外國人安置單位。

（四）經地方主管機關認定有必要交付安置於前揭以外之其他之外國人安置單位。

前項安置單位應注重外國人之人身安全及隱私，其內部空間之規劃與設計，應具有性別意識觀點，依性別之差異適度調整。

4

四、前點第一項第一款至第三款規定之安置單位，應檢具下列文件送地方主管機關審查後，由地方主管機關函送本部備案：

- (一) 計畫書(如附表一)。
- (二) 社團法人成立者及財團法人附設者，其設立主體之章程、法人登記證書影本。
- (三) 住宿類建築物使用執照影本。
- (四) 消防安全設備檢修報告書影本。
- (五) 安置單位訂定之生活公約影本。

前項生活公約應以中文及外國人母國文字併列記載，並於外國人接受安置時，由外國人簽訂遵守之，內容應包含下列事項：

- (一) 安置單位安全維護及保密義務規定。
- (二) 安置單位門禁管理及進出時間規定。
- (三) 通訊及訪客規定。
- (四) 不得有喧嘩、爭吵、飲酒、賭博、違抗管理命令、妨害安置保護秩序、傷害他人生命或身體及破壞毀損公物等行為。
- (五) 其他應遵守及注意事項。

5

五、地方主管機關依本要點安置外國人，安置期限最長為二個月，必要時得延長一次，最長以二個月為限。但安置期限不得逾外國人之聘僱許可期限。

依前項規定，延長安置期限屆滿之外國人，有下列情形之一，地方主管機關得函報本部核准再延長安置：

- (一) 聘僱許可期限屆滿前，向地方主管機關提出勞資爭議申訴，並有委任代理訴訟需求者，每次延長安置以一個月為限，最長不得逾外國人第一次出庭後十四日。
- (二) 遭受職業災害，經醫師診斷，有治療必要者，每次延長安置以一個月為限。
- (三) 身受重大傷病，經醫師診斷，有繼續治療必要者，每次延長安置以一個月為限。
- (四) 依入出國及移民法規定，經司法機關通知限制出境情事者，每次延長安置以一個月為限。

(五) 刑事訴訟案件被害人，經地方主管機關認定屬實者，每次延長安置以四個月為限，最長不得逾檢察機關不起訴處分或法院一審判決之日。

(六) 向本部申請轉換雇主，於轉換審核期間，每次延長安置以一個月為限。但最長不得逾本部函知外國人審核結果送達後十四日或經本部核准轉換雇主期限屆滿後十四日。

6

六、地方主管機關及安置單位安置外國人之通報程序如下：

(一) 地方主管機關將符合第二點規定之外國人安置於安置單位時，安置單位於受理後一個工作日內傳真「外國人安置通報表」（以下簡稱通報表，如附表二）至本部註記，並電話確認。

(二) 安置單位受理外國人安置要求時，應於受理後一個工作日內通報地方主管機關，地方主管機關接獲安置單位通報後，於一個工作日內審核是否符合第二點之安置對象資格，並將認定結果通知安置單位。安置單位應於地方主管機關同意後一個工作日內傳真通報表至本部註記，並電話確認。

(三) 本部接獲安置單位傳真之通報表，經審查如所報外國人不符合本要點規定者，不予註記，並通知地方主管機關及安置單位。

(四) 地方主管機關如無法於受安置外國人初次安置期間內處理完其後續相關事宜，安置單位應在外國人安置期滿前經地方主管機關同意後，傳真通報表至本部延長安置期限。符合前點第二項各款規定之一者，地方主管機關應於安置期滿前函報本部延長安置期限。

(五) 安置原因消滅，地方主管機關應即通知安置單位取消安置，並由安置單位於接獲通知後一個工作日內傳真通報表至本部註記，並電話確認。

7

七、外國人安置經費之額度，應依下列規定辦理：

(一) 安置單位安置外國人，所需安置相關費用，每安置一名外國人每日以新臺幣五百元為限，半日者以新臺幣二百五十元為限；受本部經費補助之地方主管機關採勞務委託方式辦理之外國人安置處所，其安置外國人所需費用，應由上開經費中勻支，不得再依本要點重複申領經費。

(二) 地方主管機關應陪同安排外國人至所委託之安置單位安置，其所需人員差旅費，依國內出差旅費要點規定，得向本部申請補助。

(三) 依前點第一款安置外國人時，安置單位陪同外國人至安置單位安置者，其所需人員交通費，得準用國內出差旅費要點規定，申請補助。

8

八、有下列情形之一者，本部不予同意安置單位申請外國人安置經費：

- (一) 無正當理由未依第六點第一款、第二款、第四款或第五款規定期限內通報本部。
- (二) 安置之外國人不符本要點規定之資格條件。但不可歸責於外國人之事由，以本部函知地方主管機關及安置單位之發文日為同意安置單位申請外國人安置經費之截止日。

9

九、申請外國人安置經費，其請款期間及程序如下：

- (一) 本部依上年度地方主管機關安置經費執行情形於每年一月、五月及九月分三期撥付，地方主管機關應於每年五月、九月及次年一月底前，檢據前期「外國人安置業務實施計畫經費支出明細表」（如附表三）向本部辦理結報及請款事宜。
- (二) 安置單位應於每月十日前，將上月安置外國人之「外國人臨時安置名冊表」（以下簡稱外國人名冊表，如附表四）及「陪同外國人至安置單位安置之交通補助申請名冊表」（以下簡稱交通補助名冊表，如附表五）正本三份及請款收據，函報地方主管機關審核。
- (三) 地方主管機關接獲安置單位所報外國人名冊表及交通補助名冊表後，經審查符合本要點規定者，應於當月二十五日前核撥相關安置經費。
- (四) 主管機關得不定期查核安置單位使用補助經費情形。安置單位有違規挪用補助經費屬實者，除依法追訴其挪用之經費外，並取消其安置單位之資格。

10

十、安置單位應辦理下列事項：

- (一) 安置單位應確實妥善安置外國人，並適時提供諮詢及協助勞資爭議等服務。但不得於無權代理下，逕行處理爭議事項。必要時，應報請地方主管機關請求協助。
- (二) 安置單位應確實要求外國人遵守相關規定，發現其有行蹤不明等違反法令之情事，應即通報本部、地方主管機關及當地警察機關。安置單位因故意或重大過失致使外國人發生行蹤不明者，得取消其安

置資格一年。

- (三) 安置單位應確實遵守本要點及其他法令等規定。有違反規定，經地方主管機關限期改善；屆期不改善者，本部除得不予補助安置經費外，並得取消其安置單位資格。
- (四) 被安置之外國人涉及勞資爭議事項，地方主管機關應依勞資爭議處理法及相關法令儘速妥適處理。
- (五) 安置單位於接獲地方主管機關交付安置外國人時，應依全民健康保險法相關規定，協助外國人投保全民健康保險。
- (六) 安置單位依入出國及移民法逕向安置所在地之入出國及移民單位辦理居留地址變更。
- (七) 外國人於安置期間居留期間即將屆滿，符合第五點第二項各款規定情事之一者，安置單位應於其居留期間屆滿前十四日內，協助外國人向入出國及移民單位辦理居留期限延長事宜。