

# **Japan’s “Monoethnic Identity” and the Evolving Answers to Low-skilled Labor Shortages**

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## **Abstract**

This research paper attempts to trace the development and evolution of Japan's foreign workers employment policy, and demonstrates how the idea of monoethnicity, or ethnic homogeneity, has been an underpinning feature of Japan's postwar foreign workers employment policy. More specifically, as the idea of monoethnicity becomes synonymous with Japan's national identity, the need to be consistent with the dominant ethnocentric narratives has resulted in, if not necessitated, the government's use of legal euphemisms to obscure the changing, if not unpleasant, reality within the Japanese labor market and the larger Japanese society. Yet, as it happened, the state's refusal to legally acknowledge the new reality for what it has become has resulted in a dearth of integration policy, and consequently, structural discrimination and pervasive abuses against Japan's foreign worker population. In this way, Japan's ever-so-conscious attempt to maintain the appearance of an ethnically homogeneous society has threatened to undermine Japan's current and future foreign workers' recruitment efforts, and thereby its socioeconomic stability, which the ethnocentric narratives had been devised to advance and preserve in the first place.

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I take sole responsibility for any errors of fact or analysis and for the views expressed in this research paper.

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# INTRODUCTION

## Finally, the front door is open, but ...

On April 1, 2019, a set of new residence statuses called “Specified Skilled Workers I” and “Specified Skilled Workers II” (SSW Type I, II) were established in Japan. In a country where ethnic homogeneity is prized and considered part of the national identity, the latest amendment of the Immigration Control and Refugee Recognition Act (ICRRA), which *explicitly* accepted “foreign workers” to fill the so-called “3K jobs” (Kitanai 汚い or “dirty”, Kiken 危険 or “dangerous” and Kitsui きつい or “demanding”; therefore 3D in English), represents a major shift in policy. Strictly speaking, the creation of the SSW categories to accept foreign nationals who possess “a certain level of expertise and can begin work immediately”<sup>1</sup> was the first time Japan has ever accepted low-skilled foreign nationals to come to Japan precisely as foreign “workers”. With acute labor shortages now felt in every part of the economy and the population that continues to shrink—by as many as 644,000 in 2021<sup>2</sup>—it appears that the super-aged country can no longer rely on euphemisms and keep its front door closed off to Gaikokujin Rōdōsha (外国人労働者), or low-skilled foreign laborers.

According to the Ministry of Justice<sup>3</sup>, after the law was passed back in December 2018, the new residence statuses, which entered into force on April 1, 2019, would be granted to a total of 345,150 foreign workers over the following five years (between the fiscal year 2019 - 2023).<sup>4</sup> The quota is subdivided into 14 categories where the labor shortages are considered the most severe. The top three categories are nursing care, food service industry and construction industry and they have been allocated the highest number of foreign workers—at 60,000 workers, 53,000 workers and 40,000 workers, respectively.

In keeping with the basic principles for accepting only skilled foreign workers, as continuously articulated in the Ministry of Health, Labor and Welfare’s **Basic Plan for**

<sup>1</sup> Immigration Services Agency of Japan. (2019). “A New Status of Residence “Specified Skilled Worker” has been created. Pamphlet.

<sup>2</sup> Statistics Bureau of Japan (MIC), Population Census. October 1, 2021

<sup>3</sup> Immigration Service Agency of Japan. “Initiatives to Accept New Foreign Nationals and for the Realization of Society of Harmonious Coexistence” (Revised in April, 2022)

<sup>4</sup> See “Government approves measures it says will make life easier for foreign workers under new blue-collar visas.” *The Japan Times*. 25 December 2018 and “Japan’s changing immigration and refugee policy.” *The Diplomat*. 22 January 2020.

**Employment Policy** and the Ministry of Justice's **Basic Plan for Immigration Control and Residency Management**, the SSW system also reflects a longstanding attitude among the Japanese policymakers of being 'selectively generous'<sup>5</sup> when it comes to the immigration policy. Accordingly, while the foreign nationals in professional or technical fields are to be *proactively accepted* as they can "contribute to the revitalization of the Japanese economy"<sup>6</sup>, the admission of 'other foreign nationals', when referring to those with less advanced and less valuable skill sets, is something that policymakers must *correspond deliberately while gaining a national consensus* since the acceptance of the latter group could have "a big impact on Japan's economic society and people's living."<sup>7</sup> This double standard is certainly not unique to Japan. Yet, it also goes to show why the process of screenings, admission, and administration of foreign workers under the SSW can still be lengthy and involve a variety of requirements and limitations.

With regards to the day-to-day administration, all 14 categories under the SSW, namely (i) nursing care, (ii) building cleaning management, (iii) machine parts & tooling industries, (iv) industrial machinery industry, (v) electric, electronics and information industries, (vi) construction industry, (vii) shipbuilding & ship machinery industry, (viii) automobile repair & maintenance, (ix) aviation industry, (x) accommodation industry, (xi) agriculture, (xii) fishery & aqua-culture, (xiii) manufacture of food and beverage and (xiv) food service industry, are assigned under specific jurisdictions in terms of skills qualification and Japanese language tests<sup>8</sup> by relevant government ministries. Nursing care and building cleaning management, for example, are supervised by the Ministry of Health, Labor and Welfare. On the other hand, the construction industry, shipbuilding and ship machinery industry, automobile repair and maintenance industry, aviation industry, and accommodation industry all fall under the direct supervision of the Ministry of Land, Infrastructure, Transport and Tourism, etc.

Foreign workers who wish to come to work in Japan must take both the Japanese language test and skill qualification examination administered by relevant authorities. As

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<sup>5</sup> Liu-Farrer, 2020: 50

<sup>6</sup> Ministry of Justice, Basic Plan for Immigration Control and Residency Management (April, 2019)

<sup>7</sup> Immigration Service Agency of Japan. "Initiatives to Accept New Foreign Nationals and for the Realization of Society of Harmonious Coexistence" (Revised in April, 2022)

<sup>8</sup> Under the SSW, two Japanese language tests are available: Japan Foundation Test for Basic Japanese (JFT-Basic) or Japanese Language Proficiency Test (JLPT). Those intending to work in the nursing care category, however, will be required to take the Nursing Care Japanese Language Evaluation Test.

both MHLW and MOJ basic plans articulate, these requirements are there to ensure that the foreign workers arriving in Japan to work in blue-collar jobs are only those that are absolutely necessary. As such, not only should they be work-ready, they also need to prove their possession of “a certain degree of expertise in the industrial fields” where employers in Japan cannot otherwise secure human resources despite the efforts that have been made to find and employ domestic labor.<sup>9</sup>

To further attract foreign workers to come to Japan and assure that employers can get their money’s worth for what they have paid to train the workers, the SSW Type I residence status is designed to be renewable every 1 year, 6 months, or 4 months for up to a total of 5 years. Foreign workers who have previously been working in Japan under the Technical Intern Training Program (TITP), a much less direct way to secure cheap foreign labor that began in 1993 (also for a 5-year maximum period of stay) are exempt from skills test and language qualification. What is even more interesting and indeed should be seen as a real shift in Japan’s immigration policy concerning low-skilled foreign workers, however, is the SSW Type II. Albeit still limited to foreign workers working in the construction industry and shipbuilding and ship machinery industry, the SSW Type II residence status allows foreign workers to renew their status every 5 years, 1 year, or 6 months ***with no upper limit*** as to how many times the foreign workers can apply for the renewal. Equally unprecedented, the Japanese government also permits the SSW Type II foreign workers to be accompanied by their family members (spouse and/or children) to live with them in Japan. Taken together, this means that foreign workers who have upgraded their status to SSW Type II can continue to work and stay in Japan and eventually gain permanent residence status by application after fulfilling the residency requirements and other related administrative conditions, a privilege that was previously granted only to high-earning professionals and highly skilled workers.

In April 2022—precisely three years after the SSW system had been implemented—Weng Fei, a 35-year-old Chinese man working for a construction company in Gifu Prefecture, became the first person to be granted the SSW Type II residence status.<sup>10</sup> Weng Fei came to Japan as a technical intern in 2010 and had been engaging in concrete

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<sup>9</sup> Immigration Service Agency of Japan. “Initiatives to Accept New Foreign Nationals and for the Realization of Society of Harmonious Coexistence” (Revised in April, 2022)

<sup>10</sup> See “Chinese man gets Japan’s 1st skilled worker visa with no time limit” *Kyodo News*. 14 April 2022

pumping work before getting promoted to a construction site supervisor and having his residence status updated to SSW Type I in 2020.<sup>11</sup> With SSW Type II residence status now under his belt, Weng Fei can start counting his continuous working years in Japan toward the time required for obtaining Japanese permanent residency.

A story like that of Weng Fei's is certainly a cause for celebration. Weng Fei's career advancement and his improved status in Japan serves as proof to other foreign workers that they too can achieve upward mobility in terms of their socioeconomic opportunity and their residency status. That being said, it is also important to point out that Weng Fei's story has, by and large, been an exception rather than the norm. As of December 2021, the official number of foreign workers under the SSW Type I status released by the Immigration Office stood at 49,666<sup>12</sup>, which is considerably lower than the 345,150 workers over a five-year period that the Japanese government has expected. As things stand, it seems that Japan's reliance on the exploitation-prone technical intern training program as the main source for foreign labor will be far from over.

To be sure, the SSW system was disrupted from its early stages of implementation when the arrival of the COVID-19 pandemic resulted in border restrictions both from the Japanese side and those imposed by the governments of potential SSW foreign workers. Nevertheless, even before the COVID-19 restrictions, many employers and local NGOs have voiced their concerns that the SSW system involves too many tests and qualification hurdles.<sup>13</sup> As mentioned earlier, according to guidelines provided by the Ministry of Justice<sup>14</sup>, foreign workers who intend to work in Japan under the SSW system but do not have any experience under the TITP must take both a skill exam and Japanese language proficiency test in order to be qualified for work placement. Yet, as many employers, NGOs and even the governments in the countries of origin have called to our attention, the skills exams are not available in all countries, and in some sectors

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<sup>11</sup> Ibid and "Carefully examine specified skilled worker system as 3 years have passed" *The Japan News by the Yomiuri Shimbun*. 9 May 2022.

<sup>12</sup> Immigration Service Agency of Japan. "Initiatives to Accept New Foreign Nationals and for the Realization of Society of Harmonious Coexistence" (Revised in April, 2022)

<sup>13</sup> See "Japan's new working visa falls far short of expectation in 1st year" *Kyodo News*. 29 May 2020 and "Carefully examine specified skilled worker system as 3 years have passed" *The Japan News by The Yomiuri Shimbun*. 9 May 2022.

<sup>14</sup> Ministry of Justice. Pamphlet "New Status of Residence 'Specified Skilled Workers' has been created." Available at <https://www.moj.go.jp/isa/content/930005373.pdf>

the hopeful foreign workers are actually required to come to Japan as temporary visitors in order to take the required skills exam.<sup>15</sup> It is clear, therefore, that what the prospective foreign workers will need to do in order to attain all necessary qualifications can be a long and arduous journey. Hence, many employers and NGOs see these requirements as unnecessary barriers. The various requirements under SSW essentially make the system all too difficult for Japanese employers to find and employ foreign workers.<sup>16</sup> Many are also worried that the requirements can render the SSW program as a whole a much less attractive option for foreign workers, in the current international environment where similarly advanced but aged economies are simultaneously competing for foreign labor.

Understandably, from the Japanese government's point of view, they are treading a very thin line between economic necessity and public concerns over a wage-depressing effect of migration and ethnic homogeneity—a concept which is tightly woven into the fabric of modern Japanese identity and the idea of nationhood. As many close observers of Japanese society have pointed out<sup>17</sup>, rather than seeing themselves as members of a heterogeneous community where immigrants as well as their racial and cultural diversity are welcome, the Japanese see themselves as members of a single race and their country as that which belongs only to the Japanese people. The presence of foreign workers, therefore, challenges not only the dominant state ideology of racial and cultural homogeneity, but also the derived notion of social harmony that equates racial integrity and group-oriented conformity to the origin of lasting peace and order.<sup>18</sup>

For this reason, the Japanese government always—at least officially—maintained a closed-door immigration policy and articulated no exigency for official labor migration schemes that target, in truth and in name, unskilled workers. Even though severe labor shortages have been a widespread economic reality since the late 1970s, the government has kept up with the ethnocentric discourse that paints Japan as a monoethnic society, therefore off-limits to large-scale immigration. As Foote (1993) points out, many legal

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<sup>15</sup> See "Specified Skilled Worker: New Status of Residence" *Public Relations Office, Government of Japan*. March 2020.

<sup>16</sup> See "Japan must address inconsistencies with the new working visa system" *The Mainichi*. 12 December 2019 and "Japan mulls indefinite stay for blue-collar foreign workers" *Aljazeera*. 18 November, 2021

<sup>17</sup> Foote, 1993; Lie, 1994; Friman, 1996; Askew, 2001; Liu-Farrer, 2020; Mondwurf, 2021; Strausz, 2021

<sup>18</sup> Lie, 1994: 8-9

fictions, or “tatemae” in Japanese (建前, a façade that conceals the truth or one’s real feelings for the sake of harmony), have been devised in order to obscure the reality of manpower scarcity, thus allowing low-skilled foreign nationals to come to Japan and fill low-status 3K jobs without necessarily accepting the departure from the dominant ethnonationalist narratives. Precisely because the Japanese government could use legal fictions to manipulate the interpretation of reality in this way, they could maintain—or even reinforce—the perception that social harmony, a highly prized value within Japanese society, remains intact.

Accordingly, despite the SSW system being less of a tatemae and indeed seen as a major shift in Japan’s policy related to admitting foreign workers, the number of foreign workers coming to work in Japan under the SSW program has consistently been lower than what the authorities predicted. This outcome points to the existence of structural, but perhaps less conspicuous, barriers that continue to reinforce the persisting ambivalence toward accepting and integrating foreigners into the Japanese society. Hence, with this aim to understand these recruitment difficulties, the research paper will first trace developments related to the use of foreign labor in modern Japan. Next, it will highlight the ethnonationalist elements that may help explain the country’s perennial reluctance when it comes to making policy related to unskilled foreign workers.

Admittedly, this reluctance over admitting foreign workers also has a lot to do with the concerns that the influx of foreign workers will increase competition for jobs, and consequently, lowering the wages among native-born workers and impeding improvements in the overall working conditions. This view is certainly rooted in the classic economic theory of demand and supply, whereby admitted foreign workers are equated with an increase in labor supply, which, in turn, lowers the equilibrium wage for the entire labor market. Nevertheless, most empirical research and studies do not support this conclusion. Rather, they point to a much more complicated reality and various other market mechanisms that are at play to absorb the additional workers, ultimately demonstrating how changes in wages are not the only way in which an economy responds to foreign workers.<sup>19</sup> While the issue is a legitimate concern in Japan,

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<sup>19</sup> See “The Labor Market Effects of Immigration” *The Migration Observatory, COMPAS at the University of Oxford*. (February 2020) and Perri, 2014

as is typically the case with any market-based industrialized economy around the world, the validation and/or refutation of the wage-depressing effect of immigration is beyond the scope of this paper, which aims to show how Japan's ethnonationalist narratives play a key role in shaping Japan's labor migration policy.

Accordingly, the structure of the paper is as follows. First, I briefly examine Japan's first ever use of foreign labor—the Ainu—during Japan's initial contact and subsequent colonization of Hokkaido. I then discuss Japan's use of Koreans in mining and public construction projects during Japan's annexation of Korea, thus spanning the period between the 1700s to 1945. Secondly, I look more closely at the development of Japan's immigration policy and domestic situation that contributed to stronger assertion of ethnonationalism in the aftermath of World War II, during the Allied occupation of Japan. Thirdly, I look further to the period between the 1950s and late 1970s and investigate how Japan's economic miracle effectively strengthened Japan's stance toward ethnic homogeneity and strict immigration control. Fourthly, looking at the period between 1980 - 1989, I discuss how the reality of labor shortages finally kicked in and how the Japanese government fundamentally alleviated the labor shortages with the so-called "Back Door Policy", in which visa overstayers ended up filling positions in the business sectors facing severe labor shortages.

Next, focusing on the period between 1990s - 2010s, I discuss what has come to be known as the "Side Door Policy", which alludes to Japan's use of legal *tatemae* to enable entry of foreign workers. Most notably, the Japanese government created new visa categories called "Long Term Resident" status to allow *Nikkeijin*, defined as up to third-generation foreign nationals of Japanese descent, and the "Technical Trainee" and "Technical Intern" residence statuses, defined as a sort of official development assistance program that aims at transferring "Japan's advanced technologies and knowledge"<sup>20</sup> to less developed countries, but both of which were to essentially allow foreign nationals to come to work in Japan as unskilled workers.

During the same period, the government also loosened immigration regulations to allow foreign students to work longer part-time hours, thereby providing critical

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<sup>20</sup> See "Quick Understanding of Technical Intern Training Program" *IM Japan*. Available at <https://imm.or.jp/en/about.html>, and "New Technical Intern Training Program" (April 2017) *Immigration Bureau, Ministry of Justice*. Available at <https://www.moj.go.jp/content/001223972.pdf>

human resources to Japan's restaurants, shops and convenience stores, etc. In the same vein, some close observers of the Japanese immigration system have also pointed out how loopholes in Japan's restrictive refugee recognition system have been exploited and (ab)used as another side door to bring in foreign labor. Journalists and scholars have also documented how some employers in Japan actually prefer hiring absconding trainees or interns and other legal-entrants-turned-illegal-foreign-workers, whom they consider a more "cost-effective" manpower option, perpetuating the employment of unauthorized foreigners as another side door measure and a key feature in the lower spectrum of the Japanese labor market. Finally, in the closing section, I discuss the SSW system and highlight how the Abe administration, despite pushing hard for the program, was adamant in maintaining that the SSW system targets skilled workers and "is not an immigration policy." I end the paper with a brief discussion of how, going forward, the SSW system may be adjusted to improve its recruitment and placement capacity.

## **Part I. Colonial Labor Migration (1700s - 1945):**

### **Foreign, and often Forced, Labor**

Japan's first employment of foreign workers can be traced back to the 17th century after the Tokugawa shogunate, established in 1603, granted the Matsumae clan from Shimokita peninsula in Northernmost Honshu<sup>21</sup> <sup>22</sup>an exclusive right to trade with the Ainu, the indigenous people of Ezo (蝦夷, later colonized and renamed Hokkaido in 1869). Not long after the Matsumae clan established a trade-fief system and new trade practices with the Ainu began in 1630s, the growing unfairness and exploitative nature of the system prompted Shakushine, a distinguished Ainu chief, to lead an uprising against the Matsumae clan in 1669. The aim of the uprising was to end the unfair trade practices and restore the Ainu's traditional lifestyles.<sup>23</sup> The Ainu chief, however, led a losing battle, and his act of aggression ended up causing the Ainu to be subjected to an even greater control under the Matsumae domain. Meanwhile, in western Honshu, the demand for Ezo commodities, especially *nishin-shimekasu*, fish fertilizer made from herring for use in cash crops farming (rice and indigo, etc.), grew rapidly.<sup>24</sup> This led the Matsumae domain to come up with a new trade operating system known as Basho Ukeoi-sei (場所請負制, or subcontracted trading post system), in which the trading posts were subcontracted to interested Wajin (Japanese) merchants trading in the area. Previously producers and traders, the Ainu were now forced to completely abandon their traditional lifestyles and start laboring for wages at fishing grounds or sites of other lucrative businesses operated by the Wajin merchants.<sup>25</sup>

In the 19th century, after temporary Russian occupation of Aniwa Bay in Southern Sakhalin and the signing of the Shimoda Treaty in 1855 to establish the border between Russia and Japan between the islands of Etorofu and Uruppu, the Tokugawa shogunate and, subsequently, the Meiji government pushed further into the northern wilderness to assert the Japanese influence in preparation against possible

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<sup>21</sup> Jolliffe, 2020: 5

<sup>22</sup> The area possession of the Matsumae clan (previously Kakizaki clan) stretched from modern day Shimokita Peninsula in Aomori prefecture to Oshima subprefecture in Hokkaido.

<sup>23</sup> Tezuka, 2016: 41

<sup>24</sup> Wilson, 2019; The Foundation for Ainu Culture

<sup>25</sup> Oskow, 2019; Jolliffe, 2020: 5; Hokkaido Museum pamphlet, "The Age of Ezochi"

Russian attack. It should not come as a surprise that, through this process of territorial advancement, and after 1869, formal settlement by Japanese mainlanders, the number of Ainu fishermen and seasonal laborers working for the mainlander Wajin merchants rose dramatically.<sup>26</sup>

In light of the modernization and westernization efforts of the Meiji government, mining and forestry became important industries in Hokkaido. The increasing demands for coal and timber resulted in rapidly increasing demand for labor. Hence, by the turn of the next century, penal labor, “takobeya” (夕ヶ部屋労働, or camp laborers)<sup>27</sup> were sent to Hokkaido and added to the pool of workers working in coal mines and construction sites.<sup>28</sup> Later on, after the Japanese takeover of Taiwan in 1895, the establishment of Karafuto prefecture in Southern Sakhalin in 1907, following Japan’s victory in the Russo-Japanese war, and the annexation of the Korean peninsula in 1910, the production of coal, which was then Japan’s primary source of energy, came to be increasingly dependent on the use of Korean laborers. Consequently, despite the fact that Koreans were initially genuinely interested in migrating for the job opportunities, Japan’s soaring demand for coal eventually resulted in the situation where Koreans found themselves forced to emigrate to Japan. As the Japanese empire grew, Korean men reportedly were even abducted and forcibly resettled when the number of workers

<sup>26</sup> Peng et al, 1974: 740

<sup>27</sup> Takobeya labor (夕ヶ部屋労働) or Tako labor usually comprised the unemployed and homeless people from populous urban areas in Tokyo and Osaka. According to Yohei Achira’s “Unearthing takobeya labor in Hokkaido” (2015) in Seaton, Philip A. (Ed) *Local History and War Memories in Hokkaido*. Routledge. (p.146-58), there are many theories about the origin of the word *Tako*. (1) *ta* = other, *ko* = employment, meaning people employed from regions other than Hokkaido; (2) *tako* = octopus, as an analogy of the indentured labor in harsh working conditions. It paints the picture of an octopus trapped in an octopus pot that can never escape. Similarly, a *tako* labor camp was similar to an octopus pot for the workers who were tied to their work sites because of their debts and a violent supervision system to keep the workers on the work sites. The octopus analogy is also thought to have come from the way an octopus will eat its own limbs to survive, which is similar to how *tako* laborers sacrificed their bodies to perform harsh physical labor to survive; (3) *tako* = callus, because *tako* laborers would get calluses on their shoulders from doing hard labor; (4) *tako* = kite, because if a kite's string is cut, the kite would quickly disappear. This alludes to how *tako* laborers would also escape just as quickly given the chance. *Tako* laborers ended up in this form of debt bondage usually because they accepted advanced money, food or alcohol from agents or brokers who recruited them in the big cities. However, when the workers got to the work sites, the initial advanced payment would be multiplied many times over. The workers would fall into debt bondage and needed to work as indentured laborers in order to pay back the debts. Due to Hokkaido’s harsh weather conditions as well as the labor-intensive nature of the works, many workers tried to escape, thus giving rise to a violent laborer supervision system that entailed beating, forced tattooing (for escapees that were caught) and other kinds of physical compulsion. Poorly fed, with little rest, many *tako* workers died from overwork and exhaustion. The takobeya labor system was officially abolished in 1947 during the Allied Occupation.

<sup>28</sup> Jolliffe, 2020: 10

recruited in their village through voluntary means did not meet the quota.<sup>29</sup> The number of Koreans working in Japanese mines therefore rose significantly. The Hokutan Horonai coal mine (幌内炭鉱) in Mikasa, Hokkaido, for instance, hired a total of 33 Koreans in 1916. In 1917, the number of Koreans employed in the company rose to 192, and to 447 in 1918. By 1928, some six thousand Koreans were working in Hokkaido, half of whom were in the northern region's coal mines.<sup>30</sup>

The demand for colonial laborers, especially those from Japan's annexed Korea, continued to grow in the following decades. With the Japanese invasion of Manchuria in 1932 and full-scale aggression against China in 1937, the Japanese government shifted its industrial capabilities to that of a wartime economy through the enactment of the **National Mobilization Law** (国家総動員法, *Kokka Sōdōin Hō*) in March 1938. Hence, while Japanese males were conscripted and sent to fight the enemy on the war fronts, the government, lobbied and increasingly pressured by coal businesses and other industrial associations, began to intensify its labor mobilization campaigns.<sup>31</sup> Japanese women, for example, were allowed back in coal mines in 1939, when the government revoked the ban on underground female labor, imposed in 1933 due to mounting international pressure against women working in "dangerous" jobs.<sup>32</sup> The *burakumin* (部落民), who were traditionally ostracized and became outcasts within the Japanese society due to their feudal association with "defilement" (穢れ *kegare*) or occupations considered "unclean" or "tainted with death" (such as executioners, undertakers, leather tanners, butchers, etc.) would also find Japan's wartime economy to suddenly open up new possibilities for them, as many burakumin were elevated in their social standing by being assigned to supervise Koreans and other colonial workers.<sup>33</sup> Likewise, workers from Okinawa who, like Koreans, often encountered prejudices and employment exclusions during the time of peace, would find wartime beneficial as many more job opportunities became available to them. As Takehiko Shimabukuro, a former employee at Osaka Machinery, himself an Okinawan native, recalled in a 1995 interview on the life and experiences of Okinawan migrants on the mainland, "... there were fewer exclusions of

<sup>29</sup> Crockett, 2016; Smith, 2000: 225

<sup>30</sup> Jolliffe, 2020: 10

<sup>31</sup> See "70 Years Later, Families of Koreans Forced Into Labor Are Desperate for Answers" *The Diplomat*. 12 August 2020.

<sup>32</sup> Smith, 2000: 221; Smith, 2005: 398

<sup>33</sup> Smith, 2000: 201

Okinawans and Koreans during the war when the factories needed our labor. It was a time when they would have hired a cat and put its paws to work.”<sup>34</sup>

In this climate, it comes as no surprise that the labor mobilization in the Japanese colonized territories would indeed become even more coercive. In Hokkaido alone, an estimated 145,000 Korean workers and 16,000 Chinese workers were brought to work against their will, in the most difficult and most dangerous parts of Japan’s coal mines and construction projects.<sup>35</sup> During the same period, an estimated 30,000 Koreans were sent for similar employment in Karafuto, then a Japanese-occupied territory in Southern Sakhalin.<sup>36</sup> According to Smith (2000), the number of Koreans in Japan’s coal mining industry reached a peak of 136,825 workers in February 1945, approximately 32.1% of the total workforce, which meant the Korean workers were second only to long-term Japanese coal miners, who comprised 57.6 % of the workforce.<sup>37</sup>

In addition, thousands of Koreans were also put to work on dams, tunnels, and airfields and also as unskilled workers in Japan’s factories.<sup>38</sup> At the same time, a total of 4 million Koreans were mobilized to work in ammunition plants and on construction projects located on the Korean peninsula.<sup>39</sup> During the war period, it was further estimated that over 365,000 Koreans were conscripted by the Japanese military and sent to work as civilian workers, soldiers and guards outside of Japan.<sup>40</sup> Another bedeviling mobilization issue that continues to plague Japan-Korea relations to this day involves the so-called “comfort women”. Allegedly, an estimated 50,000 to 200,000 women, the majority of whom were Korean, were coerced into sexual servitude in “comfort stations” across Asia.<sup>41</sup> By the end of World War II, Korean reportedly comprised the majority of

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<sup>34</sup> Rabson, 2012: 2; Rabson, 2013: 5

<sup>35</sup> Jolliffe, 2020: 11; Smith, 2000: 226

<sup>36</sup> “70 Years Later, Families of Koreans Forced Into Labor Are Desperate for Answers” *The Diplomat*. 12 August 2020

<sup>37</sup> Smith, 2000: 224

<sup>38</sup> Brown, 2017

<sup>39</sup> Ibid: 226

<sup>40</sup> Underwood, 2008: 1

<sup>41</sup> Estimates vary and are still in dispute. Nonetheless, the most often cited number, 200,000, comes from a calculation by Yoshiaki Yoshimi, a history professor at Chūō University in Tokyo. In one of his most famous works, titled “Comfort Women: Sexual Slavery in the Japanese Military During World War II” (Columbia University Press, 2002), Professor Yoshimi estimates the number of comfort women by dividing the total number of Japanese military personnel dispatched overseas—at 3,000,000—with the postulated number of military personnel each woman was to ‘service’—commonly said to be one woman for every 30 military personnel, thus yielding 100,000. This is then multiplied by the replacement rate of 2.0, which accounts for women that were brought to replenish those who were repatriated, or became

at least 15 million foreign workers from different parts of “the Greater East Asia Co-Prosperity Sphere” who were forcibly put to work on the Japanese empire’s various imperial war projects. All in all, Japan’s imperial labor mobilization campaigns contributed to a mass exodus that left at least 11% of the Korean population outside their motherland.<sup>42</sup>

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unable to provide the service for any other reason, thus giving an estimate of 200,000 comfort women. According to Asian Women Fund, in its report on the issue, entitled “The Comfort Women Issue and the Asian Women’s Fund” (2007), the 200,000 figure came to be used more widely after it appeared in a report submitted to the United Nations Sub-commission on Prevention of Discrimination and Protection of Minorities. Accordingly, in the decade that followed, the figure came to be widely cited in international media coverage of various high-profile controversies related to the issue. In early 2000s, for instance, a BBC article entitled “Sex slaves put Japan on trial” (8 December 2000) as well as a CNN article “Japan court rules against ‘comfort women’” (29 March 2001), both cited 200,000 as the rough estimate. Later, in 2007, after the late Prime Minister Shinzo Abe caused an international furore after denying that there was any proof that women were forced into prostitution for Japanese soldiers, most articles reporting on the controversy, for example, one in the International Herald Tribune, titled “Japanese opposition calls on Prime Minister to acknowledge WWII sex slaves” (7 March 2007), and another article by the Irish Examiner, titled “Japan refutes to apologise for WW2 brothel Scandal” (8 March 2007), cited 200,000 as the estimated number of comfort women.

<sup>42</sup> Smith, 2000: 232

## **Part II.**

### **The Allied Occupation, the Absence (?) of Migrant Workers and Japan's Assertion of Ethnic Homogeneity (1945 - 1950s):**

#### **To be and to not be (counted as) a Japanese**

After the end of World War II, Japan, now under the Supreme Commander of Allied Powers (SCAP), General Douglas MacArthur, was forced to relinquish all of its imperial possessions. Seeing colonial migrants as “displaced persons”, the Allied Powers initiated massive repatriation programs, which did “return” approximately 1.5 million Koreans to the Korean peninsula.<sup>43</sup> Nevertheless, because of harsh economic situations and not so much of a better prospect awaiting them in their homelands, about 620,000 Koreans as well as some 40,000 Taiwanese chose to remain in Japan.<sup>44</sup>

Apart from these former colonial subjects and returning Japanese civilians and soldiers, migration during the time of the Allied occupation was strictly prohibited.<sup>45</sup> According to Morris-Suzuki (2006), SCAP issued a series of ordinances in the first half of 1946 prohibiting all cross-border movements, except by those who had obtained explicit permission from SCAP. Morris-Suzuki further notes that this blanket travel ban was indeed a sudden and rather surprising development, given that for the entire period of the Allied Occupation, both Koreans and Taiwanese were considered to have Japanese nationality, as defined under international law.<sup>46</sup> The travel restriction initially was justified on the basis of public health protection, with the authorities citing the cholera outbreak in Korea during the summer of 1946. However, because large-scale repatriation programs for Japanese nationals in former colonies and war stations were also underway, the strict border control actually did very little to stop cholera transmission. The travel bans nevertheless stayed on for many years, even long after the cholera epidemic ended. SCAP and the Japanese government eventually came to justify the travel ban for what it was—preventing cross-border movements of black marketeers, communists and other subversive elements.<sup>47</sup>

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<sup>43</sup> Kondo, 2015: 157; Morris-Suzuki, 2006: 126

<sup>44</sup> Friman, 1996: 968; Brown, 2017; Sneider, 1985

<sup>45</sup> Kondo, 2015: 157; Kondo, 2020

<sup>46</sup> Morris-Suzuki, 2006: 128

<sup>47</sup> Ibid: 128

Against this backdrop, the situation of former colonial subjects who chose to remain in Japan was about to take a turn for the worse. According to Chapman (2011), an order was issued in March 1946, requiring the remaining Koreans and Taiwanese who, during the Japanese imperial era, were registered on “the outer territory family registries” (外地戸籍 *gaichi koseki*) and therefore had obtained Japanese legal status (日本国民 *nihon kokumin*), to re-register themselves as ***non-Japanese***. As noted by Chapman, the order was issued in the context of a previous SCAP memorandum (SCAPIN 224 1945), which advised the repatriation of non-Japanese population to their respective homelands.<sup>48</sup> Nevertheless, for former colonial subjects who chose to stay in Japan, the order represented a sudden and seismic contraction of the legal parameters that would have otherwise qualified them as Japanese. The change was significant in many respects. But before proceeding to the next legal developments, I will now take a closer look at what it meant to be legally ‘Japanese’ during the colonial era.

According to Chapman (2011), Japan in the year 1872—the early days of the Meiji period—saw the promulgation of the family registry, or *Jinshin Koseki* (壬申戸籍), as the legal basis for being ‘Japanese’. After the northern territory of Hokkaido and the southern islands of the previously Ryūkyū kingdom were incorporated as part of the Japanese nation, the Ainu, the Ryūkyū Islanders as well as the former Burakumins were included under the Koseki. Later, in 1899, the Nationality Law (国籍法 *Kokusekibō*) was introduced to legislate Japanese nationality. The Kokuseki was nevertheless secondary in its status to the Koseki registry. The Koseki is closely linked to the traditional concept of “ie seido” (家制度), which defines the Japanese nationality as that which can only be derived from one’s membership in the Japanese society inherited through a household head or *koshu* (戸主) in a state-recognized family or household. Accordingly, the Koseki links the family via the patriarchal head or Koshu to the polity and therefore to the Emperor, who is considered the father of the nation. In this sense, the basic requirement for any individual to be considered a Japanese person came to be whether he/she can prove this “indelible connection”<sup>49</sup> with the Japanese state by first proving his/her existence on the family registry.

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<sup>48</sup> Chapman, 2015: 4

<sup>49</sup> Ibid

As mentioned earlier, however, the definition of that which could establish this ‘indelible connection’ was considerably expanded during the period under the Japanese Empire. After the annexation of Taiwan, the colonization of Korea and the establishment of the puppet state of Manchukuo, Japan’s imperial justification and expansionary ambitions necessitated the government to enlarge the definition and the parameters of Japanese legal status. The “outer territory family registry” (外地戸籍 *gaichi koseki*) was created to this effect. As a consequence of this new legal tool, millions of colonial subjects in Korea, Taiwan and Manchukuo would come to possess the *gaichi* Japanese legal status upon their registration on the *gaichi koseki*.

Suffice to say, the March 1946 order, the Alien Registration Order issued in 1947 and finally the 1951 San Francisco Peace Treaty reverted all of these legal configurations. As the Occupation approached its end, the signing of the San Francisco Peace Treaty in 1951 officially stripped Japan of all claims to its former colonies—its ‘*gaichi*’ or outer territories. For the Japanese government, the understanding then was that the legal basis for *gaichi* Japanese nationality had thus vanished. Accordingly, the Japanese government announced, through a circular decree of the Civil Affairs Bureau in 1952, that Koreans and other minorities residing in Japan would no longer hold the *gaichi* Japanese nationality and were to be re-classified as resident aliens.<sup>50</sup>

According to Onuma (1992), the Japanese government’s rationale behind this unilateral decision was that the Peace Treaty brought the prewar legal statuses to an end and since Japan must now recognize the independence of its former colonies and renounce all rights, titles and claims, the former colonial subjects should also be liberated from Japan’s personal jurisdiction.<sup>51</sup> From that point onward, the former colonial subjects were consequently regarded and treated as foreigners (*gaikokujin*). With the enactment of the 1952 Alien Registration Act—heavily influenced by the U.S. Alien Registration Act of 1940-1944—the now foreign residents would also be required to be fingerprinted,<sup>52</sup> a process which would later become an issue of confrontation between Japan’s bureaucracy and its foreign residents.

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<sup>50</sup> Onuma, 1992: 528; Friman, 1996: 968

<sup>51</sup> Onuma, 1992: 517; Asaba, 2019; Morris-Suzuki, 2006: 128

<sup>52</sup> Chapman, 2015: 5

This process of “othering” also took place in other legal arenas. In 1951, the last year of the Allied Occupation, Nick D. Collaer, a U.S. immigration and naturalization expert with more than 30 years’ experience, was brought to Japan to become an advisor at the General Headquarters (GHQ). The Immigration Control Order of 1951 drafted by Collaer reflects McCarthyism and cold-war mentality anti-enemy suspicions.<sup>53</sup> It grants broad administrative discretion for controlling foreign citizens from the viewpoint of anti-communism and preservation of public order.<sup>54</sup> Thus, while the law made entry relatively easy for short-term travelers, business visitors, journalists and missionaries, it strictly prohibited the entry of other foreigners and did not even attempt to address the issues of the recently de-naturalized Koreans and Taiwanese residents in Japan.<sup>55</sup> More specifically, the law gave power to the authorities to deport not only illegal migrants and those with criminal convictions but also any other foreign residents who suffered from physical and mental illnesses as well as those “whose life has become a burden to the state or local authorities by reason of poverty, vagrancy or physical handicap as well as anyone who is determined by the Minister of Justice to be performing an act injurious to the interests and public order of Japan.”<sup>56</sup> In a sense, the great discretionary power vested by the immigration control law effectively allowed authorities to deport anyone deemed as “undesirable”.<sup>57</sup>

Indeed, it was only in 1952, toward the end of the Occupation, that the Japanese government issued a supplementary regulation to allow Koreans and Taiwanese residents who had entered Japan before the start of the Occupation and had lived in Japan continuously (including their children born between 1945-1952) to remain in Japan despite not having an official residence status. The law would permit their residence in Japan until their residence status and period of residence was determined by some other laws.<sup>58</sup> As the migration control functions were transferred from the Ministry of Foreign Affairs to the Immigration Control Bureau under the Ministry of Justice after the end of the Occupation, the precarious legal position of the Koreans and

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<sup>53</sup> Onuma, 1992: 518

<sup>54</sup> Chapman, 2015: 4-5

<sup>55</sup> Morris-Suzuki, 2006: 129

<sup>56</sup> Ibid: 137

<sup>57</sup> Ibid: 138

<sup>58</sup> Ibid: 139

Taiwanese residents resulted in a situation where the immigration officials and the police could exercise full discretion with regard to which clauses of the Immigration Control Law would be applied when dealing with the foreign residents. Needless to say, the situation made for an arbitrary environment. Since the local governments and police forces did not have equal enforcement capacity, be it financial or personnel, the treatment received would also vary and depend on the place of their arrest and investigation.

## Closed Door Policy and the Absence (?) of Migrant Workers

It is commonly understood that, unlike many Western countries, Japan's post-war reconstruction and economic miracle did not rely on foreign workers. As noted earlier, the Immigration Law and Alien Registration Act introduced at the time of the Allied Occupation were significantly influenced by SCAP; hence the U.S. "obsession" with Cold War communism and strict border control.<sup>59</sup> From the end of the Second World War to the end of the Occupation, it was almost a circumstantial requirement that Japan would be maintaining a closed-door policy.<sup>60</sup> From the Allied Occupation authorities' point of view, this seemed to be the only sure way to limit the exposure of the Japanese population and other resident communities to communist influence and to avoid disruption to the public order.<sup>61</sup>

Despite this appearance, the reality on the ground was another matter. According to Morris-Suzuki (2006), the first wave of post-war mass migration in Japan indeed took place alongside the immigration law reforms under the Allied Occupation. The initiated repatriation programs to return people to where they belong and the border restrictions that were implemented soon after resulted in "tens of thousands and possibly hundreds of thousands" of non-Japanese migrants entering Japan without proper documentation in the period between 1946 and the late 1970s.<sup>62</sup>

The illegal cross-border movements took place for a variety of reasons. For one thing, it is important to remember that many of those who were repatriated had actually

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<sup>59</sup> Chapman, 2015: 3

<sup>60</sup> Mori, 2001:

<sup>61</sup> Hollifield and Sharpe, 2017: 383

<sup>62</sup> Morris-Suzuki, 2006: 124, 122

lived in Japan for most of their lives. Some had made friends and already built a family. Others simply did not want to return to chaotic and unstable situations and once again try to survive economic hardships in war-torn Korea. Many of the newcomers joining the exodus were simply escaping from war and social disruptions as well as from political persecution. Whatever the case may be, for many repatriated and war-fleeing Koreans, post-war Japan emerged as their only way to survive. And as noted by the Korean residents interviewed by Morris-Suzuki, many Koreans who were previously residing in Japan had indeed already made themselves a small fortune.<sup>63</sup> They had kept real estate, property and all of their life savings in Japan. Making them return to their ‘home country’ while leaving all of their possessions behind when they knew for sure that living in Korea was impossible was essentially forcing them to endure another kind of injustice and personal tragedy.

For all of these reasons, many Koreans tried to re-enter Japan in people smuggling boats, leaving from Jeju island or Busan in the southern part of the Korean peninsula for Shikoku in Japan, and becoming “stowaway” people or *mikkosha* in the process. Because of their immigration status and remnant discrimination against Koreans from the colonial era, the so-called stowaways often would end up together in low wage jobs, making metal goods, metal plating or garment manufacturing in small factories, usually in the Kansai region.<sup>64</sup> Some stowaways found better positions elsewhere, but this would usually mean living another identity, becoming an “illegal entrant who lives a concealed life” (*Senzai fuhō nyukokusha*).<sup>65</sup> A case in point mentioned by Morris-Suzuki is that of Coca Cola Japan. In 1964, a manager at the company was exposed for having come to Japan as a stowaway, while the company was also condemned widely for having hired an illegal immigrant. The most shocking aspect for many who had learned about the story was the fact that the man once held a position in the Korean bureaucracy before deciding to flee to Japan in a people-smuggling boat during the Korean war.<sup>66</sup>

In any event, the post-war presence of stowaways had many significant impacts. At the policy level, the presence of the stowaways prompted both SCAP and the Japanese authorities to clamp down on the illegal migration flow by installing draconian

<sup>63</sup> Ibid: 127

<sup>64</sup> Ibid: 124-125, 137, 152

<sup>65</sup> Ibid: 125

<sup>66</sup> Ibid: 125

border control policies that included the use of prison-like detention centers and immediate measures for foreigners' deportation.<sup>67</sup> In a way, the illegal migration during the post-war years, which is often neglected—or left as a “blank” in Morris-Suzuki’s lexicon—should indeed be seen as a time of crucial development. After all, this was the formative period of the Japanese immigration system and many of the initiatives started at that time remain intact and continue to have profound impacts on Japan’s present-day “immigration control” policy.<sup>68</sup>

## Japan’s Assertion of Ethnic Homogeneity

One of the first things anyone could come across when learning about Japan is the notion that Japan is an “ethnically homogeneous” country. In plain words, ethnic homogeneity is the idea that the Japanese people are unique, especially in the sense that they are of the same race, of the same culture and speaking the same language. Believers in the idea of Japan’s ethnic homogeneity further subscribe to the notion that because the Japanese people are of the same race, of the same culture and speaking the same language, Japan is able to minimize conflicts and maintain social harmony and cohesion, which lies at the foundation of the strength of the Japanese economy and the prosperity of the Japanese nation.

As a matter of fact, the idea of ethnic homogeneity is a view held by many people. With a total population of 125.50 million<sup>69</sup> as of October 2021 and foreign residents totaling 2.8 million<sup>70</sup>, or a mere 2.2% compared to the native-born population, it is not really hard to see why the perception of ethnic homogeneity would become a common understanding among Japanese and foreigners alike. In this context, in Japan—unlike many countries in the West—diversity is traditionally perceived as something less of a value that the society as a whole should strive toward. Diversity, individuality and differences are seen more as an anomaly that should be minimized, as they can threaten

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<sup>67</sup> Ibid: 147

<sup>68</sup> Ibid: 122

<sup>69</sup> Statistics Bureau of Japan, MIC “Current Population Estimates as of October 1, 2021”

<sup>70</sup> Immigration Service Agency of Japan. “Initiatives to Accept New Foreign Nationals and for the Realization of Society of Harmonious Coexistence” (Revised in April, 2022)

the social foundation and disrupt peace and order, causing disturbances and turmoil within the society.

Many political figures in Japan have indeed exalted Japan's ethnic homogeneity and contributed to entrenchment of this notion. Prime Minister Yasuhiro Nakasone, for example, (in)famously told his governing Liberal Democratic Party at a gathering in September 1986 that because Japan is a *tan'itsu minzoku* (单一民族), or "monoethnic society", the Japanese population has a higher literacy level than the U.S. population, whereas the minorities in the U.S.—African Americans, Hispanics and Puerto Ricans, et al.—lower the intelligence level of the overall population.<sup>71</sup> Likewise, Taku Yamazaki, Japan's Defense Agency Director-General, also said in 1995 that "Japan is a country of one race, one nation, and one language and this is what makes it strong. This was demonstrated by the consideration shown by Japanese to other Japanese during relief efforts after the Great Hanshin Earthquake."<sup>72</sup> In another internationally (in)famous incident, Taro Aso, who is known for gaffes and controversial statements and was, in 2005, the Minister for Internal Affairs and Communications, made a remark while attending a ceremony at a museum in Fukuoka Prefecture that Japan is "one nation, one civilization, one language, one culture and one race" and in this sense "[Japan] is a country like no other."<sup>73</sup> More recently, in 2020, Aso, now doubling as Deputy Prime Minister and Minister of Finance, made another slip of the tongue when he said to his home constituency in Fukuoka that "No country but this one [Japan] has lasted 2,000 years with one language, one ethnic group and one dynasty"<sup>74</sup>, effectively ignoring the existence of the indigenous Ainu, the Ryukyuans and other minorities forcefully brought to Japan during its colonial past.

As Burgess (2007) notes, these sorts of remarks by political figures typically come under fire from mostly non-Japanese journalists and academics. However, in Japan, such remarks generally spark little controversy, if any. More often than not, they pass almost unnoticed. Even in the case of remarks that generated an international firestorm, such as

<sup>71</sup> See "Nakasone Apologizes for Remark on Minorities' IQs: Yields to Mounting U.S. Anger" *The Los Angeles Times*. 26 September 1986; "Japan Minority hits Nakasone Remarks" *The Chicago Tribune* 4 November 1986; and "Yasuhiro Nakasone, Japanese PM Makes Racist Remark" *African Registry*. Available from <https://aaregistry.org/story/japanese-prime-minister-makes-racist-remark/>

<sup>72</sup> Burgess, 2010: 11

<sup>73</sup> See "Aso says Japan is a nation of one race" *The Japan Times*. 18 October 2005.

<sup>74</sup> See "Aso apologizes for remarks about Japan's historical unity" *Kyodo News*. 14 January 2020

that of Prime Minister Nakasone, the Japanese media only picked up the story after it had already become an international controversy and had been heavily criticized in the American media. Even then, Nakasone's fault among his compatriots seems to be only the fact that he expressed his opinions.<sup>75</sup> In the view of many Japanese, what Nakasone said was simply "common sense."<sup>76</sup> As any visitor or foreign resident in Japan would probably realize soon after the first few hours in the country, uniformity, and not diversity, is highly prized and considered a virtue. A common perception in Japan seems to be that be it a society, a train station, a train carriage or an escalator—everything would function better and work more efficiently if and when people think alike, act the same and adopt similar *manners* (マナー モード!).

The Japanese appreciation of uniformity and conformity—part and parcel to the idea of monoethnicity—is rooted in Japanese history. According to Yasuaki Onuma<sup>77</sup>, a scholar of international law in Japan, the myth of single-race society is not age-old and people in pre-modern Edo period actually viewed themselves as members of their respective feudal domains (han) and villages.<sup>78</sup> The perception that they are 'Japanese' only emerged after the Meiji Restoration in 1868, when the Meiji government employed the myths contained in the Kojiki and Nihonshoki, i.e. the story of the ancient Yamato race with the Emperor as the direct descendant of Amaterasu, the Sun Goddess, to construct the discourse of a single, homogeneous Japanese race, and used it to transform the previous feudal society into a unified modern nation-state.<sup>79</sup> Likewise, Zohar (2020) argues that "Japanese" as a common single-race identity only emerged in the aftermath of Japan's victory in the Sino-Japanese War (1894 - 1895). It was also only then that Japan began to draw a clear line between "Japan Proper" (naichi) and its outer territories (gaichi) or colonies. Furthermore, the time period also witnessed Japan's first ever attempt to differentiate between "Japanese people" and "Japanese subjects," as opposed to members of other racial populations.<sup>80</sup> According to Zohar, this process of

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<sup>75</sup> Burgess, C. 2007

<sup>76</sup> See "Japanese Proud of Their Homogeneous Society" *The Washington Post*. 28 September 1986

<sup>77</sup> See "Prejudice in Japan. Korean minority battles for basic civil rights" *The Christian Science Monitor*. 21 November 1985

<sup>78</sup> As mentioned in Narzary, 2004

<sup>79</sup> Yamamoto, 2015

<sup>80</sup> Zohar, 2020: 9

territorialization and racial demarcation was undertaken rather enthusiastically by the Japanese state as Japan saw it as an opportunity to bring itself closer to the West and place the Japanese people on an equal footing with people of the “white race.”<sup>81</sup> In so doing, the ultimate hope among Japan’s leaders and intellectuals was that Japan would be able to preserve its autonomy in the era of imperialism and colonial expansion.<sup>82</sup>

In creating and solidifying the new, single-race “Japanese” ethnicity, one of the most important factors for the common identity to take hold was the unity of the “Japanese” people. In order to make sure that the Japanese people were united, it was crucial that the people were able to see themselves as “unique”, “different”, and perhaps inevitably, “superior” to other racial populations. To this end, Japanese leaders adopted European racial worldviews and the European-conceptualized “standard of civilization” rhetoric and began to use the binary logic to similarly bifurcate the peoples and nations of the world into “the civilized” vs. “the barbarians”; “the advanced and sophisticated” vs. “the primitive and simple-minded.”<sup>83</sup> This was certainly a crucial moment in modern Japanese history, especially if we consider Japan’s future expansionist trajectory in Japan’s pursuit of modern development, since the very logic it adopted had been used thus far by Western imperial powers to justify their imperial ambitions, colonial conquest, racial subjugation and resource exploitation, a practice which Japan would soon emulate to the detriments of other Asian populations.

Against this backdrop, the existence and presence of the Ainu, the Ryukyuans and other minorities on the archipelago provided, at convenience, a very effective tool for the modernizing and westernizing Japan to racialize and dichotomize between ‘us’ and ‘them’.<sup>84</sup> What’s more, the sense of inferiority especially in terms of technological and scientific advancements<sup>85</sup> that Japan had developed as a result of the attempts to become closer to and more like the West convinced Japanese leaders and intellectuals to turn their back on cultural heritages and contributions from Korea and China, Japan’s most ancient neighbors, and start to adopt all things Western.<sup>86</sup> Consequently, through

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<sup>81</sup> Zohar, 2020: 5

<sup>82</sup> Askew, 2002: 114

<sup>83</sup> Ibid: 2

<sup>84</sup> Brown, 2017: 8

<sup>85</sup> Zohar, 2020: 1, 5-6

<sup>86</sup> Ibid: 1

the dual process of racial “othering” and distancing itself from Korea, China and also Asia in the broader sense, the Japanese people began to see themselves as Japanese—defined as members of the ancient, pure-blooded Yamato race with superior racial attributes compared to those of people of other ethnicity.<sup>87</sup> This further solidified the coveted self-image of Japan as a modern, advanced, unique, and powerful nation.

As mentioned earlier, however, the parameters of being ‘Japanese’ were indeed expandable. Eiji Oguma, a scholar whose interests lie in the construction of the modern Japanese national identity, argues in his 2002 book, *A Genealogy of Japanese Self-Images*, that the Japanese empire, for all intents and purposes, was multi-racial. Oguma points out that after Japan annexed Taiwan in 1895 and Korea in 1910, 30% of the imperial population were non-Japanese subjects. Moreover, a well-known Japanese government slogan at the time, “Onwards, One Hundred Million Balls of Fire” (進め一億火の玉だ) clearly referred to the total population of the empire, including those from the gaichi of Korea and Taiwan, since the population of naichi Japan at the time was only 70 million.<sup>88</sup> Undoubtedly, the population of the Japanese empire also included peoples other than the Yamato (Japanese) race. Additionally, the stories of colonial subjects being forced to learn to become ‘Japanese’ at the expense of their own language and cultures points to the fact that the Empire of Japan placed great weight on the assimilation of its subjects, which, at times, had even gone to the point of arguing that Japan was a mixed nation originating from a melting pot of various Asian peoples.<sup>89</sup> In this way, Oguma argues, Japan was clearly not an homogeneous nation-state—at least not always and, most definitely, not in the way that most post-war Japanese politicians would like to believe.

The next question to ask then is: What changed?! How did the heterogeneous Empire of Japan come to be one that fervently subscribes to the idea of monoethnicity and cultural homogeneity? Again, according to Oguma (2002), the idea of Japanese as a single-race nation regained its primacy in post-war Japan. Tired of war and shattered by their country’s defeat, the Japanese people saw the reconstructed self-image of Japan as “a peace-loving island nation of agricultural people that contained no aliens and was

<sup>87</sup> Ibid: 5

<sup>88</sup> Oguma, 2002: 60-61; Askew, 2001: 112

<sup>89</sup> Askew, 2001: 114

united in a peaceful manner under the Emperor” as a very attractive alternative portrayal of their war-ravaged nation.<sup>90</sup> Equally important, according to Oguma, was the fact that post-war Japan had lost its military force, which was the Empire of Japan’s ultimate means when dealing with alien cultures and differences. Post-war Japan no longer had such a means to overcome the ethnic barriers. Thus, in order to reconstruct their new, post-war identity as peace-loving people unified under the Emperor—with the Emperor being a cultural symbol (i.e., ruling over the people of the Yamato race), and **not** a military symbol (i.e., ruling over a multitude of foreign nations)—the existence of alien peoples—the foreign others who had no intrinsic connection to the Emperor (i.e., not members of the Yamato race)—had to be denied.<sup>91</sup>

Naturally, this brings us back to the fate of Japan’s ethnic minorities, including the Koreans and Taiwanese who chose to remain and/or come back to Japan after the end of the Second World War. For these ethnic minorities, the post-war return of monoethnicity discourse had meant that it was almost impossible for an ordinary Japanese to imagine that there could be ‘other’ people within the same community who might be racially and culturally different from them.<sup>92</sup> As such, there was very little room for differences, or any sort of tolerance for that matter. Facing strong pressure to assimilate, members of the ethnically diverse population were left with two choices: becoming Japanese or suffering racial discriminations.

For many Koreans—who comprised the majority of ethnic minorities in post-war Japan—choosing between the two options was not an easy choice. With vivid memories and bitter experiences of the Japanese atrocities done to their country and compatriots before and during the war, becoming Japanese—by making a conscious decision to obtain the Japanese nationality and renouncing their Korean one—would essentially constitute “an act of betrayal to their own nation and ethnic identity.”<sup>93</sup> Additionally, Onuma maintains that, although the Japanese government should certainly be criticized for unilaterally retracting the gaichi Japanese nationality, which rendered its former colonial subjects resident aliens all of a sudden, few Koreans would actually opt to adopt

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<sup>90</sup> Oguma, 2002: 616-7

<sup>91</sup> Ibid, 618

<sup>92</sup> Narzary, 2004: 319

<sup>93</sup> Onuma, 1992: 517. For a similar view, Kondo, 2002: 6

a Japanese name and obtain the Japanese nationality.<sup>94</sup> Part of the reason was the fact that during the first few years after the end of the Second World War, many Koreans saw Japan as a temporary home. Most Koreans intended to go back to their motherland, but that was simply not possible as a result of the ongoing Korean War and the resulting harsh economic conditions. Hence, for the aforementioned reasons, former Korean colonial subjects and their children ended up living in Japan as resident aliens, whose basic rights were restricted and whose day-to-day living was subject to discriminatory practices—all despite the fact that they spoke Japanese, acted Japanese and, for all intents and purposes, were Japanese.

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<sup>94</sup> Ibid, 517

## Part III.

# Japan's Postwar Economic Miracles: High-Speed Growth Powered by Domestic Labor Supply

### Rising from the ashes...with (no) immigration

Unlike many other countries, Japan did not experience transformational waves of international migration following the end of the Second World War. Apart from former colonial subjects who chose to be repatriated, the other notable cross-border movement between 1945-1950 was that of 5 million returnees from Japan's former colonies and soldiers who were demobilized at the end of the war.<sup>95</sup> Moreover, after the Occupation, the Japanese government continued to maintain a closed-door immigration policy and never implemented—at least not until the 1990s—any guest workers program to satiate the increase in labor demand. The country did not open up for foreign labor during the period of postwar reconstruction. It also did not do so during the subsequent period of rapid economic growth (1950s - 1970s).

By way of comparison, many countries in the West, especially in Western Europe, are well-known for relying on the use of foreign labor for their postwar reconstruction and especially in the subsequent period of rapid economic growth. In direct contrast to the situation in Japan, countries in Western Europe experienced an unprecedented level of cross border movements after the end of the Second World War. Indeed, according to one estimate, between 1945 and 1993, approximately 31 million people had migrated to, across, and eventually settled in Western Europe.<sup>96</sup> As Peach (1997) puts it, the massive migration flows after World War II had fundamentally transformed Western Europe from “a subcontinent of emigration,” where there was a long established tradition of people moving out to settle and reestablish themselves in sparsely populated parts of the world, to a “subcontinent of immigration,” where the would-be settlers would be kept at home, whereas newcomers from other countries would follow political and economic incentives and subsequently settle in a way and in a volume that dramatically and irreversibly changed the subcontinent’s ethnic composition.<sup>97</sup>

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<sup>95</sup> Yamamura, 1965: 61

<sup>96</sup> Peach, 1997: 269

<sup>97</sup> Ibid: 280; Rist, 1979: 28-31

Understandably, the first wave of postwar mass migration in Western Europe, similar to Japan's case—albeit only in patterns and not in volume—had a lot to do with the war itself. The German-Polish border realignments in 1945, for example, resulted in an estimated 15-18 million persons having to migrate to realign themselves with the redrawn national borders.<sup>98</sup> Likewise, the use of forced foreign labor by the Nazis—with one estimate suggesting 7.5 million people—meant that international organizations such as the United Nations Relief and Rehabilitation Administration (UNRRA) and the International Red Cross were involved in an intraregional repatriation effort, with intraregional migration of millions of people.<sup>99</sup>

Given that most countries in Western Europe had a long history of imperialism, another substantial wave of postwar immigration was that of “reflux”, or the returning of native-born populations, who had previously emigrated and settled in some distant colonies. More often than not, the reflux wave of migration would also carry to shore non-European former colonial subjects. In the UK, for example, approximately 560,000 whites who were born in Australia, New Zealand, Canada and South Africa—all of which were former British colonies—decided to return to their ancestral homelands at the end of World War II. Later on, between the 1960s and 1970s, Africanization policies in East Africa also resulted in a large UK-bound inflow of expelled Indians, who were former British colonial subjects, from former British East Africa—or present-day Kenya, Uganda, Zanzibar and Tanzania.<sup>100</sup> In France, approximately 1 million *pieds-noirs* (“black feet” in English), people of French and European descent who were born in French Algeria, also decided to leave for the mainland after the long-time colony gained its independence in 1962.<sup>101</sup> Likewise, in the Netherlands, approximately 300,000 Dutch settlers as well as native Indonesians from the Dutch East Indies left for the former metropole in 1953. Between 1972-1975, about 60,000 Surinamese also departed for the Netherlands to claim Dutch citizenship. In Portugal, after Angola and Mozambique became independent in 1975, approximately 800,000 Portuguese decided to board Europe-bound ships and headed to their motherland.<sup>102</sup>

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<sup>98</sup> Rist, 1979: 28-29

<sup>99</sup> Ibid: 30

<sup>100</sup> Peach, 1997: 270-273

<sup>101</sup> Ibid

<sup>102</sup> Ibid

It is important to point out that many of these colonial movements were taking place simultaneously with another major cross-border movement: migration of foreign labor. Owing to Europe's large war casualties—estimated at 7.8 million for Western Europe and 5.6 million for Eastern Europe,<sup>103</sup> a large proportion of able-bodied males had disappeared from the labor markets. Thus, in order to accelerate their postwar reconstruction and economic recovery, many Western European countries decided they had no choice but to adopt some forms of short-term, temporary labor recruitment programs and essentially allow citizens of other countries to migrate for work in their territories and contribute to their economy.

Accordingly, immediately after the end of the war, the British government, for example, operated the “European Voluntary Worker” or EVW program (1945 - 1951), which recruited about 90,000 single men from refugee camps across Europe in order to speed up its reconstruction efforts.<sup>104</sup> In France, the government set up the national immigration office (Office National d’Immigration, or ONI) in 1945 and went on to conclude bilateral labor recruitment agreements, with Germany and Italy between 1946 - 1950, and later with Greece in 1954.

Likewise, in Belgium, the government started recruiting foreign workers after the war ended. Its “contingentensysteem” functioned in the same way as France’s ONI. The initial bilateral agreements which the Belgian government signed were also with countries in Southern Europe, namely Italy and Spain.<sup>105</sup> Similarly, Switzerland started accepting foreign workers in 1945. At the same time, the Swiss government also made large scale use of foreign seasonal workers and frontier workers who were crossing the borders between Switzerland and its neighboring countries daily as a way to keep the number of foreign workers who might decide to settle in the country to a minimum.<sup>106</sup>

By the mid 1950s, as postwar reconstruction efforts had revitalized the economy and jumpstarted economic upturns in many Western European countries, it became clear to governments that the expanding industrial bases and the resulting insatiable demand for labor could no longer be quenched by Europe’s traditional labor pool in the Southern European countries—which by then were also becoming rapidly exhausted.

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<sup>103</sup> Rist, 1979: 30

<sup>104</sup> Castles, 1986: 762

<sup>105</sup> Ibid: 762

<sup>106</sup> Ibid: 767

According to Hansen (2003), this inability to secure the preferred *white* European workers meant that policymakers had no choice but to rely on, or as Hansen puts it, “tolerate”, colonial immigrants<sup>107</sup> and also shift their attention in terms of the foreign labor recruitment southward—beyond the outer edge of their continent.

Thus, in this particular manner, all cross-border movements on the European continent quickly blended into one. Now, no matter the reason—whether one was a colonial migrant, a war refugee, or a foreign worker—all were essentially heading toward Europe’s booming economies’ labor markets. For this very reason, from the mid 1950s onward, the ethnic composition of Western Europe’s foreign workers would change dramatically. In Great Britain, economic stagnation and fiercer competition for foreign labor among the European booming economies convinced British policymakers to make use of its imperial citizenship regime and turn increasingly toward commonwealth migrants and non-European workers from its disintegrating empire.<sup>108</sup> In Belgium, the government shifted its attention southward and eventually signed additional bilateral labor recruitment agreements with Morocco and Turkey. Realizing, however, that the intended temporary migration was not exactly temporary, and that the current system failed to meet the employers’ demands, the Belgian government, which was rather liberal at the time, abolished the contingentensysteem in 1963 and shifted the recruitment strategy to that of regularization. A large number of foreign workers who traveled to Belgium as “tourists” after 1963, therefore, could and would become regularized as soon as they found employment.<sup>109</sup>

In France, the cultural affinity with Southern Europe and Northern Africa as well as the policies that allowed the citizens from France’s former and current colonies to freely enter the country had translated to 600,000 Algerians, 140,000 Moroccans, and 90,000 Tunisians by the end of 1970.<sup>110</sup> Furthermore, in parallel with these movements, dictatorships in different parts of Europe also generated a large inflow of “clandestine workers” from Spain, Portugal, Yugoslavia, and Turkey. Pulled by political stability and economic prospects, but not legally facilitated by their governments, clandestine workers migrated to France illegally at first. All the while, many knew, however, that

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<sup>107</sup> Hansen, 2003: 26

<sup>108</sup> Castles, 1986: 762; Hansen, 2003: 26

<sup>109</sup> Castles, 1986: 763

<sup>110</sup> Ibid: 764

because their labor was much needed, the French government would not be able to afford driving them out. In this way, most clandestine workers were eventually allowed to stay in France and were granted amnesty to become regularized foreign workers.<sup>111</sup>

Similarly, in the Netherlands, the recruitment of foreign workers took place in the 1960s and 1970s. Most of the foreign workers in the Netherlands came first from Italy, Spain, Portugal, Turkey, and Greece. However, the Netherlands' unquenchable labor demands also meant that the later cohorts of foreign workers would also come from non-European countries, namely Morocco, Yugoslavia and Tunisia, etc.<sup>112</sup>

In (Western) Germany, the situation as a whole was not much different. The German labor recruitment for postwar economic recovery, however, started a little later and only picked up steam in the 1960s. Part of the reasons here was because Germany had a large domestic labor supply that was due, in no small part, to 3 million refugees who fled Eastern Germany as it was falling under the control of the Soviet Union.<sup>113</sup> And precisely because Germany started its labor recruitment programs much later than other countries, this made it possible for them to draw from the experiences of their neighbors, on top of what they had learned from the historical employment of foreign labor during the Nazi war economy. As Castles (1986) points out, it should not come as a surprise that the German “Gastarbeiter” or guest workers program was to be regarded as one of the most highly-organized foreign labor systems in the postwar era.<sup>114</sup> Indeed, as will be discussed in the later section, the German system would come to provide a frame of reference for Japanese immigration policymakers as they contemplated how to deal with Japan’s “foreign workers problems” in the late 1980s.<sup>115</sup>

The above accounts of Western European countries’ experiences on the employment of foreign workers are by no means exhaustive. They, nevertheless, paint a picture of the patterns and, most importantly, the unprecedented and unrivaled magnitude of postwar international and intraregional migration that was taking place after the war in Western Europe. Accordingly, for the European policymakers as well as the general public, it would not be an exaggeration to say that they were compelled by

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<sup>111</sup> Castles: 1986: 764

<sup>112</sup> Ibid: 766

<sup>113</sup> Ibid:768; Rist, 1979: 35

<sup>114</sup> Castles, 1986: 768

<sup>115</sup> Yamanaka, 2008: 190

the surrounding circumstances to contend with the question of mass migration and the ideas of ethnic heterogeneity, diversity and social integration as soon as the war ended. And once we juxtapose the Western European experiences with the situation in Japan during the same period, i.e. the Allied Occupation, SCAP's strict closed border policy and the relative absence of large-scale cross-border migration, with the few exceptions consisting of the repatriation of Koreans and Taiwanese, the return of 5 million Japanese citizens and soldiers from former colonies, and a rather small number of illegal immigrants and stowaways, when compared to the scale of irregular migration that was taking place in Western Europe—it becomes rather clear why the idea of ethnic homogeneity would take root so firmly in postwar Japan and also why the Japanese resistance to foreign laborers would persist well into the twenty-first century.

## Japan's Postwar Reallocation of Labor

To paint an equally detailed picture of Japan's postwar labor market, the first thing that needs to be established is the fact that Japan's *prewar* labor market is often described as "perpetually crowded"<sup>116</sup>, "crowded"<sup>117</sup>, and characterized by "labor surplus and low wages"<sup>118</sup> and "oversupply."<sup>119</sup> In this sense, the reason that Japan used forced foreign labor during its empire days appears to be something that had less to do with extreme labor shortages, but much more to do with the prewar Civil Code that allowed the male head of the household to keep male heirs (typically the eldest son) on the family farm<sup>120</sup>, tying into the traditional values that discouraged members of farming households from leaving the village to take waged manual labor employment elsewhere.<sup>121</sup> For this reason, with the 5 million returnees from Japan's former colonies and soldiers who were demobilized immediately after the end of the war, the Japanese labor market during the postwar period had more or less returned to its prewar level. Indeed, according to Yamamura (1965), the postwar influx of returnees and soldiers

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<sup>116</sup> Mentioned in Yamamura, 1965: 58. The original quote is from William W. Lockwood's *The Economic Development of Japan* (1954).

<sup>117</sup> Yamamura, 1965: 58

<sup>118</sup> Yoshihiro, 1974: 26; Minami, 2008: 10

<sup>119</sup> Gordon, 2017: 13

<sup>120</sup> Hayashi and Prescott, 2008

<sup>121</sup> Oshiro, 1984

actually represented “an equivalent of a natural increase for a ten-year period” for the population in the 15-59 years old age group.<sup>122</sup> Thus, in a direct opposite to what was happening in Europe, Japan’s postwar reconstruction and economic recovery did not have to rely on any additional sources of labor other than the manpower that was already in the country.

According to Tachi and Okazaki (1969), another reason that may help explain why postwar Japan did not experience “absolute shortage of labor” lies in the fact that the Japanese labor supply was accumulated in the non-industrial sectors—particularly in forestry and in the agricultural sector.<sup>123</sup> In other words, Japan had more farmers, and, in the context of postwar industrialization, more reserved industrial manpower than most Western European countries. The economic analysis of Japan’s postwar labor market by Minami (2008) also confirms the existence of a large excess of workers in Japan’s agricultural sector. In particular, Japan’s rural agricultural workers’ marginal labor productivity was estimated to be a little under 60%, which is lower than the conventional minimum standard. According to the analysis, this demonstrates that early postwar Japan had an oversupply of agricultural labor,<sup>124</sup> which, in turn, had kept the average income of Japan’s rural farming households lower than it should have been.<sup>125</sup>

In the decade following the Allied Occupation, Japan’s economy underwent a significant reallocation of labor resources. Previously concentrated in the agricultural sector and physically in rural parts of the country, many Japanese migrated to find work with better pay in the cities. In a way, this pattern of internal migration and population distribution, which in Japan accounted for as much as two-thirds of all persons regarded as being in the productive age range (20 - 50 years old), is a natural occurrence of an economy experiencing industrialization and rapid economic growth.<sup>126</sup> Nevertheless, in Japan’s case, it could not have happened at a more opportune moment. A large-scale reallocation of labor supply between the agricultural and the industrial sectors was materialized precisely after the war. The 30% reduction in the total number of agricultural workers, from 16,040,000 workers in 1955 to 10,840,000 workers in

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<sup>122</sup> Yamamura, 1965: 61

<sup>123</sup> Tachi & Okazaki, 1969: 180-181; Yamanaka, 1993: 74

<sup>124</sup> Minami, 2008: 10

<sup>125</sup> Ibid: 12

<sup>126</sup> Taeuber, 1951: 150-151

1967,<sup>127</sup> indicates that many Japanese farmers decided to leave their traditional farming jobs to join Japan's industrial labor force, concentrated in the Pacific Coast Industrial Belt, or the Taiheiyō Belt (太平洋ベルト), encompassing major urban areas and industrialized zones of the Kanto, Tokai and Kinki regions.

It is worth noting, however, that in a traditional society like that of Japan, leaving the family farm to find work elsewhere was not always easy. Initially, even for those who left the countryside temporarily as seasonal "dekasegi" (出稼ぎ), migrants to work in off-farm employment usually in the city during the agricultural rest period, their actions would be frowned upon.<sup>128</sup> Traditionally, seasonal migration generated negative associations—not least in terms of exploitative working conditions in which most workers would end up, but also in terms of cultural perceptions which equated off-farm, additional employment to the head of household's inability to earn adequate income, thus resulting in feelings of shame and embarrassment among members of the family.<sup>129</sup> The image was especially bad in the prewar period and only began to change in the late 1950s when it became clear that the additional income obtained during the otherwise long and idle winter could provide cash flow and improve the material wellbeing of members of the family.<sup>130</sup> Thus, in this manner, the social mechanism that had long kept Japan's manpower in the countryside began to reverse and leaving ancestral farmlands for other additional sources of income became socially accepted—so much so that most able-bodied men in the 1960s would find it hard to stay in the village during off-farm season as doing so would result in them being labeled as lazy and irresponsible.<sup>131</sup> Nonetheless, as Japan's economic development and the expansion of industrial bases brought more job opportunities to the countryside and corresponding government policies expanded public works and construction projects to rural areas, the demand for labor also moved outward and spread to Japan's outlying areas. The seasonal dekasegi thus no longer had to be seasonal, nor did it necessarily mean migrating to another province in search of work. Accordingly, a decline in the number of seasonal workers became apparent in the 1970s. In any case, the unintended but

<sup>127</sup> Tachi and Okazaki, 1969: 181; Minami, 2008: 12

<sup>128</sup> Oshiro, 1984: 145

<sup>129</sup> Ibid

<sup>130</sup> Ibid: 153

<sup>131</sup> Ibid

nevertheless economically savvy practice of seasonal workers helped unleash Japan's labor surplus and channeled it into urban areas, effectively breaking the deep-seated barriers that had inhibited efficient resource allocation in the Japanese labor market.

Another important mechanism that has been identified as having helped Japan to avoid absolute labor shortages during the postwar economic boom is the practice of group hiring (集団就職; *shūdan shūshoku*). The system was originally developed under the wartime government's labor mobilization plan for the purpose of allocating workers, particularly graduating high school students—a key source of new workers—to strategic wartime production. As some variants of the practice persisted even after the end of the war, Japan's booming industries could rely on this specific mechanism to expeditiously find and hire young people from rural communities immediately after their graduation.<sup>132</sup> Even in the case of Okinawa, which was still under the U.S. military occupation during Japan's postwar economic boom (from 1945 to 1972), group hiring practice could cut through many of the American-imposed travel restrictions, allowing recent high school graduates from the prefecture to find employment and fill labor shortages in major industrial areas such as Osaka, Kobe, Yokohama and Kawasaki.<sup>133</sup>

## The First Signs of Labor Shortages

By the beginning of the 1960s, it became clear the Japanese labor market had undergone a major transformation. The period of "labor surplus" and "oversupply" and "overcrowded labor market" had already passed.<sup>134</sup> "Labor shortages", on the other hand, were becoming the new reality in every industrial sector. Rapid economic growth from the latter half of the 1950s had meant rapid absorption of the country's manpower. Even with the windfall labor supply of 5 million demobilized soldiers and colonial returnees, on top of the agricultural-turned-industrial workers, the Japanese labor force began to encounter difficulties in keeping up with the growing industries and rapid rise in aggregate labor demand.<sup>135</sup> Companies across the country ramped up

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<sup>132</sup> Okazaki, 2015

<sup>133</sup> Rabson, 2012: 3

<sup>134</sup> Tachi & Okazaki, 1969: 170; Minami, 1972, 57; Yoshihiro, 1974: 26-27

<sup>135</sup> Yamamura, 1965: 65

their effort to find and hire new workers—to the point that the term “golden eggs” (*kin no tamago*; 金の卵) was often used to call high school graduates being transported from their hometowns to the cities, symbolizing how rare and precious these new workers were to the companies that had been grappling with labor shortages.<sup>136</sup> As Tachi and Okazaki (1969) put it, Japan’s postwar economic miracle had practically turned the Japanese labor market upside down. The labor oversupply, which had always been a “chronic problem” in Japan, had dissipated in a matter of a few years.<sup>137</sup>

Gordon (2017) points out, however, that precisely because of the dissipation of the excess in labor supply, Japanese workers could see their employment conditions and wages significantly improved. Naturally, union activities also met with more success. Temporary workers who were unionized, for example, began to call for a conversion to regular status and indeed between 1960 and 1962 roughly one in four workers were converted. As manpower shortages continued well into the following decades, the employment status upgrade also continued—so much so that the number of male workers classified as ‘temporary workers’ in large companies (defined as companies that employ more than 1,000 people) was reduced from well over 10% in the late 1950s to 4% by the late 1960s and to only 1.6% by the end of the 1970s.<sup>138</sup>

As for Japanese women, the traditional expectation for them to be “a good wife and wise mother” had also begun to erode.<sup>139</sup> As the labor shortage intensified, Japanese women, who have always been treated as Japan’s reserve labor force, also began to gain more access to paid work opportunities outside their home—albeit often as part-time and low-paid workers and not the type of jobs that would allow them to earn money as their father’s, their husband’s, or their son’s equal.<sup>140</sup>

Another new practice that also emerged during this period of labor shortages was so-called “employee-raiding.” Large companies with more financial resources would poach workers in smaller firms and businesses by offering them higher wages and better fringe benefits. Even if the practice was deemed “unconventional” when it first emerged in the late 1950s, the battle for economic survival among companies quickly made it a

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<sup>136</sup> Nishio, 2019

<sup>137</sup> Tachi & Okazaki, 1969: 179

<sup>138</sup> Gordon, 2017

<sup>139</sup> Taeuber, 1951

<sup>140</sup> Gordon, 2017

rather common, if not perfectly acceptable, practice. The White Paper on Labor released by the Ministry of Labor, as it was called then, even regularly documented the practice as part of their annual labor mobility studies. The statistics for 1957, for example, showed that among key sources of workers in companies employing more than 500 people, workers who were ‘raided’ from other firms in the non-services industries comprised 13% of all workers, whereas those who were ‘raided’ from other firms in the service sector comprised 9%. In 1961, or five years later, the trend would continue and the numbers would also rise to 25% and 11%, respectively.<sup>141</sup>

All in all, the Japanese labor market in the 1960s was characterized by rapid growth in labor demand. Initially, the business sectors were able to find workers and fill their growing labor needs through the inherent mechanism of industrialization, which is the agricultural-industrial labor resources reallocation, thus the necessitated rural-urban and seasonal migrations, as well as through other more inventive means such as group hiring, employee raiding, or increased use of traditional labor reserves.

In any event, as the economic upswing and growing labor demands continued unabated, businesses and industries began to have more difficulties finding and hiring new workers. Thus, from November 1965 to July 1970—the so-called “Izanagi Boom”, some business leaders began to ask the government to let in some unskilled foreign labor.<sup>142</sup> Nevertheless, as Weiner (2000) argues, from the Japanese government’s point of view, the postwar presence of de-naturalized Koreans and Taiwanese and their existence as “the foreign others” served as ‘a bureaucratic reminder’ of the unforeseeable consequences of foreign labor importation.<sup>143</sup> Accordingly, the Japanese government’s **First Basic Employment Measures Plan** (1967) laid out an official policy position that foreign unskilled workers should not be allowed into the country.<sup>144</sup> The government was firm in its position and reiterated its closed door policy in its **Second Basic Employment Measures Plan** (1973) despite widespread businesses and industries’ clamoring and support for the importation of labor from the powerful and usually opinion-swaying Keidanren (Japan Federation of Economic Organizations).<sup>145</sup>

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<sup>141</sup> Mentioned in Yamamura, 1965: 66

<sup>142</sup> JILPT, 2016: 63; Weiner, 2000: 57

<sup>143</sup> Weiner, 2000: 57

<sup>144</sup> JILPT, 2016: 63

<sup>145</sup> Weiner, 2000: 57

A turning point in Japan's labor crunch would come in October of the same year. The OAPEC (Organization of Arab Petroleum Exporting Countries) instituted an oil embargo to retaliate against the U.S. and other countries that supported Israel during the conflict known as the Yom Kippur War in October, 1973. The abrupt reduction in the oil quantity resulted in soaring oil prices and worldwide economic recession, which meant reduced demand and lowered production. In this manner, the oil shock dampened the labor demand in Japan and, unexpectedly, alleviated the labor shortages that would have otherwise kept worsening. According to the Labor Force Survey by the Statistics Bureau of Japan, the unemployment rate in Japan, from the last quarter of 1960 onward, had been consistently low—never exceeding 1.5%.<sup>146</sup> However, in the aftermath of the oil embargo, specifically from the third quarter of 1974, Japan's unemployment rate exceeded the 1.5% mark for the first time in more than a decade. Accordingly, the problem of labor shortages, which had been a continuous trend for the prior several years, was also suddenly halted. From this perspective, it might be argued that had it not been for the 1973 oil crisis, the increasing pressure from the Japanese industries and the lack of any other alternative inside the country might have pushed the government to yield to the private sector's demands and start accepting foreign labor by the late 1970s. Nevertheless, it can also be argued that, given how the idea of Japan as an ethnically homogeneous country, and therefore unique and special, had recently gained primacy and lay at the heart of postwar Japan's national discourse, accepting low-skilled foreign workers to solve the problem of labor shortages might have been too much of a departure from the state ideology, therefore not necessarily something that would have happened.

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<sup>146</sup> Statistics Bureau of Japan, MIC "Labor Force Survey" (Historical Data) as of May 13, 2022.

## Part IV. Japan's Monoethnic Identity and the Back Door Policy for Low-skilled Labor

### Nihonjinron & the (Im)Possibility of Foreigners' Social Integration

One of the most important social developments in Japan as it emerged from the rubble of World War II was a popular discourse that defines (i) Japan as a country that belongs exclusively to the Japanese (Yamato) people; (ii) Japanese people as ethnically and culturally homogeneous, and (iii) Japan's ethnic and cultural homogeneity as the quality that makes Japan as a country unique<sup>147</sup> As a genre of writings that became extremely popular in Japan and abroad during the period of postwar rapid economic growth (1960s - 1980s), the discourse came to be known as "Nihonjinron" (日本人論), or "Theory of Japaneseness". At its core, the "theories" focus on the discussion and theorization of Japan and Japan's national identity<sup>148</sup> and can include almost anything that demonstrates the perceived exceptional, unlike-anywhere-else-on-earth qualities of Japanese culture, Japanese language, Japanese society and Japanese people.<sup>149</sup> Indeed, many Nihonjinron subgenres have also emerged and focus even more specifically on different aspects of the purported uniqueness of Japan and being Japanese. These subgenres include, for example, Nihonbunkaron (日本文化論) or "theories on Japanese culture", Nihonkeizairon (日本經濟論) or "theories on Japanese economy", Nihonshakairon (日本社会論) or "theories on Japanese society", and Shinfūdoron (新風土論) or "new theories on climate", which discusses the influence of climate and weather conditions on peoples, etc.<sup>150</sup>

According a book published by Nomura Research Institute in 1978<sup>151</sup>—at the height of Nihonjinron popularity, it was estimated that, excluding articles published in periodicals, more than 700 books which can be categorized as Nihonjinron had been

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<sup>147</sup> Sugimoto, 1999: 83; Burgess, 2004

<sup>148</sup> Befu, 2001: 140

<sup>149</sup> Befu, 1984: 66; Ando, 2010: 34

<sup>150</sup> Ando, 2010: 35-36

<sup>151</sup> The book was released in 1978 under the title 日本人論 : 國際協調時代に備えて (Nihon Jinron: Kokusai Kyōcho Jidai Ni Sonaete), which may be translated as "Japanese Theory: Preparing for the Age of International Cooperation" (NRIレファレンス / 野村総合研究所編; 2). The book's compilation of more than 700 Nihonjinron publications is mentioned in Befu, 1984: 68 and Sugimoto 1999: 82

published between 1945 and 1978 and at least one-fourth of the Japanese population, or roughly 20 million people, have read one or more books that belong to this genre. Not surprisingly, many of these books remain popular and are available in bookshops to this day. Ruth Benedict's 1946 book, "The Chrysanthemum and the Sword: Patterns of Japanese Culture", for example, remains one of the best known Nihonjinron classics. It characterizes Japanese as having a strong culture of shame and the Japanese people as being group-oriented. "The Anatomy of Dependence", first published in 1971, by psychoanalyst Takeo Doi, is another bestseller. The book describes Japanese people as having "unique Japanese sensibilities", an intrinsic quality that can only be developed by using the Japanese language.<sup>152</sup> Likewise, "Nihonjin no No" or "The Japanese Brain" is another famous book to purport unique Japanese qualities. The book was written by Tadanobu Tsunoda, an ENT physician at the University of Tokyo, and released in 1978. It declares that the Japanese language has the ability to alter one's brain-wave functions, and, therefore, the Japanese language is the reason Japanese people have developed and operated a more sophisticated brain than people of other races.<sup>153</sup>

Despite the fact that many of the Nihonjinron theories on the unique qualities of Japan and the Japanese people can be traced back to the Tokugawa period and post-Meiji national building epoch, during which Japan enthusiastically adopted Western concepts, including the concepts of race and culture,<sup>154</sup> many scholars have argued that Nihonjinron is a post-WWII construct.<sup>155</sup> It was devised specifically for the purpose of unifying the Japanese people into a single collective to psychologically mobilize them out of the bitter, war-torn conditions and the 'embarrassing' reality of their country's defeat.<sup>156</sup> Initially, the monoethnic Japanese identity was propelled through a sense of victimhood in the aftermath of the Hiroshima and Nagasaki bombings, the subsequent American-led Allied Occupation and subjugation of the Japanese military,<sup>157</sup> which also means that for the majority of the 1950s, the discourse was rather subdued.<sup>158</sup> However, as Japan began to recover and reemerged as an

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<sup>152</sup> Doi, 1973: 13

<sup>153</sup> Mentioned in Yates, 1986 and Ando, 2010: 36

<sup>154</sup> Befu, 1984: 60; Yamamoto, 2015

<sup>155</sup> Oguma, 2002; Demelius, 2020: 166

<sup>156</sup> Oguma, 2002; Askew, 2001: 115; Befu 2001: 140; Burgess, 2004; Sawada, 2008: 104

<sup>157</sup> Sugimoto, 1999: 84

<sup>158</sup> Lie, 2001: 132

economic powerhouse in the 1960s, the narratives of Japan's monoethnicity shifted to a more positive, celebratory tone and Nihonjinron, as a way to collectively extol the unique Japanese qualities that made postwar Japan the success that it was becoming, was born. With books, magazines and televised media as the vehicle, the idea of Japan as a single-race, ethnically and culturally homogeneous nation thus began to take a firmer hold in the Japanese people's collective imagination.<sup>159</sup> John W. Dower, historian and author of the seminal work "Embracing Defeat: Japan in the Wake of World War II" perhaps puts it best by saying that Japan's postwar racial and cultural preoccupation and the Japanese fixation on 'being Japanese' provide a *psychological bulwark* against what was perceived as a threatening international environment.<sup>160</sup> Befu (1984) goes even further by arguing that the Japanese fondness of their uniqueness had made Nihonjinron a national sport, and that the popularity of Nihonjinron discourse reflects "Japan's deep-seated feeling of inferiority towards the Western nations."<sup>161</sup> According to Befu, this feeling had been planted ever since Japan was forced to open its borders to allow in their territory the Westerners, who possessed more advanced technology and military power, and who subsequently professed their racial and cultural superiority to the Japanese.<sup>162</sup> Accordingly, if the previously defeated Japan was to emerge in the postwar international community as a unique nation—so unique that it would defy any comparison, then the 'new' Japan could never be regarded as inferior, as there would be no common yardstick that could be used to measure, and thereby compare, postwar Japan with other nations.<sup>163</sup>

As Andrew Gordon notes in the concluding chapter of his 1993 book, "Postwar Japan as History", the concept of Japan as a homogeneous and socially cohesive country was a powerful ideological force in postwar Japan. As a discourse, it permeated every level and stratum of the society and could garner support from key institutions in Japan e.g., the mass-media industry, educational institutions, the private sector, LDP members and others who comprised Japan's political leadership.<sup>164</sup> As Sugimoto (1999) and other

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<sup>159</sup> Burgess, 2004

<sup>160</sup> Dower, 1986

<sup>161</sup> Befu, 1986: 69

<sup>162</sup> Ibid; Dower, 1986

<sup>163</sup> Ibid

<sup>164</sup> Gordon, 1993: 449

scholars<sup>165</sup> point out, the prevalence of Nihonjinron as the mainstream narrative that cast Japan as an ethnically homogeneous and socially cohesive nation was in fact something that worked in absolute favor of the people in power. And, in truth, many of the Nihonjinron writers were from Japan’s elite social class, comprising business people, professionals, and journalists who became famous by virtue of their “uniquely Japanese” writings.<sup>166</sup> In this way, it may be said that, as a genre, Nihonjinron writings essentially prescribed the value orientations and lifestyles of the Japanese elites as the benchmark for the entire Japanese society.

Accordingly, the monoethnic narratives and the all too often prescriptive natural proclivities for social hierarchies and group-oriented cultures and the tendency to be orderly, nature-respecting, peace-loving and conflict-avoiding helped Japan’s political class to “blur the lines of class cleavages and downplay potential class conflicts.”<sup>167</sup> Precisely in this fashion, the “sanitized image” of Japan, enabled by the Nihonjinron discourse, had allowed Japan’s political leaders to easily avoid acknowledging many of the country’s socio-economic problems, whether it be crime, poverty, corruption or discrimination.<sup>168</sup> A well-recounted incident from the late 1970s may help demonstrate how prevalent this kind of attitude was among the country’s leadership. Back when Japan had not ratified the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and the International Covenant on Civil and Political Rights (ICCPR), the Japanese delegation initially told the UN committee in 1979 that the kinds of racism and racial discrimination defined in the treaties do not exist in Japan and, for this reason, there was nothing that could be done to improve access to social and political rights among Japan’s ethnic minorities.<sup>169</sup> To put it into context, the statement was made at the time when Japan-born Koreans—among many other ethnic minorities in Japan—were still treated as aliens, subject to deportation and required by the Alien Registration Act to show up before the Immigration authorities periodically for fingerprinting in a manner not unlike procedures applicable to criminals.<sup>170</sup>

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<sup>165</sup> Ibid, Burgess, 2004; Ando, 2010

<sup>166</sup> Sugimoto, 1999: 92; Ando, 2010: 34

<sup>167</sup> Sugimoto, 1999: 87

<sup>168</sup> Ibid: 88

<sup>169</sup> Mentioned in Yamamoto, 2015 and Rabson, 2012: 7

<sup>170</sup> Taguchi, 1984: 703

Hence, with narratives emphasizing ethnic homogeneity and cultural uniqueness deployed as psychological bulwark to emerge from the debris of war, Japan saw a way of thinking developed. The new attitude would glorify attributes believed to demonstrate unique Japaneseeness and repudiate characteristics not in alignment with the narratives purporting Japan's exceptional qualities. Unfortunately, the resulting exclusivism has meant that the majority of the Japanese public assumes that most foreigners will never be able to comprehend Japanese culture and cannot be expected to act and behave like native Japanese.<sup>171</sup> Not surprisingly, this assumption soon turned into an intolerant attitude toward foreigners. The national identity forged with the idea of monoethnicity came to form what is seen as a legitimate policy rationale for limiting access to rights among 'old-timer foreigners' who had been residing in Japan and restricting entry for 'newcomer foreigners' hoping to enter Japan. As a monoracial country, the presence and, heaven forbid, influx of foreigners threatened to erode both the prescribed social harmony and perceived social integrity, and consequently the very foundation of Japan's safe, pleasant, comfortable and unique society.

## Filling Labor Shortages in the Era of Denial

By the beginning of the 1980s, Japan's labor demand for low-paid, low-skilled workers came back and indeed surpassed the pre-recession level. Unlike the previous decades, however, Japan's rural and traditional labor reserves had already been depleted. Rural dekasegi workers laboring for additional wages during the off-season were no longer traveling en masse to industrial towns. On the one hand, there was no longer the need for them to do so as industrialization and urbanization had been expanding to Japan's countryside and outlying areas. So, finding jobs in their own towns and cities was easy. On the other hand, children of the dekasegi workers also gained new and improved access to education, thus becoming more qualified than their parents to achieve upward mobility in the labor market and find employment with better wages and better social standing as white-collar workers. Accordingly, while the labor supply of better educated, white-collar office workers was growing, the labor supply of Japanese

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<sup>171</sup> Sugimoto, 1999; Ando, 2010: 35

workers willing to work in low-skilled, poorly paid jobs only dwindled, thus continuing on the downward trend that began in the 1960s.

As had always been the case in Japan since the 1960s, the low-paid 3K labor shortage was felt most severely among Japan's small businesses and medium-sized enterprises. In contrast, Japan's biggest companies, with more financial resources, had always been able to afford new solutions to their labor needs, not only in terms of attracting workers from other companies and mechanization, but also in terms of moving their production abroad where new sources of cheap manufacturing labor were available in abundance. With the Plaza Accord signed in 1985<sup>172</sup>, and, consequently, the rapid appreciation of the Japanese Yen, Japanese companies developed the ability to invest and move their production facilities abroad, especially in Southeast Asia. During the period that followed, Japan witnessed a surge in the outflow of foreign direct investment (FDI) to these Asian economies. According to the World Bank database,<sup>173</sup> the outflow of Japan FDI in 1985 was 6.44 billion USD. In 1986, the number jumped more than two-fold, to 14.4 billion USD. And by 1990, Japan's outflow of FDI rose to 50.77 billion USD. The significant increase in the country's FDI outflow also symbolized the moment when Japan's biggest companies began to export their labor shortages overseas, since with every new plant and factory built abroad, Japan's multinational companies could easily meet their labor needs with an abundant supply of cheap, local workers.

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<sup>172</sup> In the simplest terms, the Plaza Accord was a foreign exchange market intervention. The agreement was signed at the Plaza Hotel in New York on 22 September 1985. As an official agreement among then the five largest industrialized economies, known as the Group of Five or G5, consisting of France, Germany, Japan, the United States and the United Kingdom, its main purpose was to correct trade imbalances between the United States and its trade partners by allowing the U.S. dollar to depreciate against other currencies such as the Japanese Yen and the German Deutsche mark. While the Plaza Accord did not significantly correct the trade imbalances between Japan and the United States as some of its creators had hoped for, the rapid appreciation of the Japanese Yen that followed (from an average of 235 Yen to the U.S. dollar in 1985 to 167 Yen to the U.S. dollar in 1986, for instance) had the effect of convincing many major Japanese companies in Japan to move their production overseas in search of cheaper manufacturing abroad, inducing massive outflows of foreign direct investments from Japan into many Asian economies, especially the NIEs or the Newly Industrialized Economies (South Korea, Taiwan, Hong Kong) and the ASEAN 4 (Singapore, Indonesia, Malaysia, and Thailand). For more information, see "Chapter 9 Trade, Foreign Direct Investment, and Openness" in *Asia's Journey to Prosperity: Policy, Market, and Technology Over 50 Years*, by the Asian Development Bank (January 2020). See also Frankel, 2015 and Akrasenee & Prasert, 2003.

<sup>173</sup> The World Bank (Data) "Foreign direct investment, net outflows - Japan" (Balance of Payment, current US\$) Retrieved from <https://data.worldbank.org/indicator/BM.KLT.DINV.CD.WD?locations=JP>

For smaller businesses in Japan, especially small and medium-sized enterprises (SMEs) that comprised lower links in Japan’s “Keiretsu” (系列), the country’s hallmark sophisticated supply chain system, the same recourse, i.e., relocation to developing countries, typically was not affordable.<sup>174</sup> It was precisely in this context that, by the mid 1980s, Japan began to see an upsurge in the number of visa overstayers. According to Sassen (1994), the number of immigration-related apprehensions rose from 2,536 in 1980 to 10,573 by 1986 and then to 35,903 by 1991. Clearly, the real figure of overstayers would probably be much higher. In fact, an estimate, based on the comparison between the number of apprehensions as well as figures on entry and exit, suggests that by 1991, there may have been more than 300,000 illegal immigrants in Japan working at construction sites, manufacturing plants, bars, and restaurants, etc.,<sup>175</sup> and living in low-cost housing converted from the same facilities used previously by rural Japanese *dekasegi* workers.<sup>176</sup>

Sassen (1994) points out that Japan’s postwar economic success story, its foreign direct investment, official development assistance (ODA) as well as exports of consumer products, fashion, cultures and lifestyles have all helped Japan to establish a strong and positive presence in many Asian countries.<sup>177</sup> In turn, Japan’s image as a rich, developed country became synonymous with wealth and opportunities and served as a powerful pull factor for jobseekers across less developed countries. As Lie (1994) puts in perspective, Japan’s GNP in 1990 was 23,810 USD, whereas for Bangladesh, as an example, it was 180 USD. The 125 times difference of this economic indicator alone points to a shocking reality where a Bangladeshi working in Japan could earn in a day what he or she would have to spend months trying to earn back home.<sup>178</sup>

Accordingly, with the Japanese labor market having evolved into a two-tiered hiring structure—with the first tier being regular and often permanent positions, with the second tier consisting of irregular and temporary workers, i.e., short-term contracted workers, seasonal migrants, part-time workers and day laborers, who could be dismissed

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<sup>174</sup> Tsuda, 1999: 694

<sup>175</sup> Sassen, 1994: 71; Kharel, 2016

<sup>176</sup> Lie, 1994: 6

<sup>177</sup> Sassen, 1994: 63-65

<sup>178</sup> Lie, 1994: 7

as the company adjusted to its business cycles—foreign workers, albeit illegal, appeared as the only realistic and financially viable option in the labor market where the stock of native temporary workers had already been depleted.<sup>179</sup> In this connection, foreign nationals, especially those from Bangladesh, Pakistan, Iran and Malaysia, etc., with which Japan had visa exemption agreements, would come to find second-tier work in Japan’s SMEs. Typically, they would pay labor brokers in Japan, many of which had ties to major Yakuza crime syndicates, to have their place of employment, flight tickets as well as fake visa and other necessary travel documents arranged.<sup>180</sup> In this way, the “fake tourists” could start working in factories and construction sites as soon as they arrived in Japan.<sup>181</sup> This continuous and rather obvious presence of illegal foreign workers in the latter half of 1980s led to an argument that the illegal workers did not end up working in Japan simply because they ‘slipped through’ Japan’s strict immigration control. Most observers seem to agree that they were essentially allowed to be in Japan as a short-term, necessary solution to Japan’s manpower scarcity. And in this sense, it is argued that the Japanese government was essentially allowing a “back door” low-skilled labor migration, by turning a blind eye to the entry of the otherwise clearly-not-a-tourist visitors.

Additionally, the enormous economic gaps between Japan and the country of origin were the same factor that brought many women from the Philippines, Thailand, Korea and Malaysia<sup>182</sup> to work—some by choice and others by force—as “entertainers” in Japan’s “entertainment industry.”<sup>183</sup> Originally created to allow foreigners to work as dancers, musicians, artists, sportspersons, and other related jobs in the entertainment businesses, the “entertainer” visa, in practice, turned into a de facto channel for bringing foreign women to work in Japan’s sex industry.<sup>184</sup> Being one of the largest groups of foreigners with a legal status to work in Japan during the period between 1979 and 2005, the number of registered entries with the “entertainers” status of residence in total was as high as 1,917,063.<sup>185</sup> Nevertheless, similar to the situation of low-skilled workers,

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<sup>179</sup> Tsuda, 1999: 695

<sup>180</sup> Lie, 1994: 6; Friman, 1996: 969

<sup>181</sup> Kharel, 2016

<sup>182</sup> Foote, 1993: 728; Liu-Farrer, 2020: 45; Kondo, 2002:8

<sup>183</sup> See “Japan cracks down on trade in sex workers” *The Guardian*. 11 March 2005

<sup>184</sup> Liu-Farrer, 2020: 45; Lie, 1994: 4

<sup>185</sup> Ibid

the actual number of foreign women engaged in Japan's euphemistic "entertainment" businesses is believed to be much higher, if taking into account the potential number of irregulars who entered Japan as tourists and overstayed their welcome as "entertainers."

As the number of illegal foreign workers, whose migration pattern had become closely associated with Japan's underworld, continued unabated, their presence in the public eye also came to be increasingly associated with drugs, crimes and other illegal activities. By the late 1980s, unskilled, male, illegal workers and visa overstayers were seen as a crime threat in Japan.<sup>186</sup> Friman (1996) argues that this had to do in large part with the fact that most of the media headlines and official government publications made use of statistics that cited illegal foreign workers as primary perpetrators without differentiating between skilled and low-skilled, or legal and illegal workers. Furthermore, since crimes committed by foreigners were more visible—as most would take place in public, rather than in protected establishments,<sup>187</sup> it became easy to exaggerate the foreigners' crimes to fit certain narratives. Thus, with these depictions becoming more prominent in mainstream media, the tides of unarticulated tolerance completely turned. The presence of illegal foreign workers—or any foreign worker for that matter—would henceforward become problematized as a primary threat to Japanese society.<sup>188</sup>

## Population Aging as Japan's New Socioeconomic Reality

Before discussing the specific measures which the Japanese government used for bringing in foreign labor to a society that embraces the notion of ethnic homogeneity and has become antipathetic to immigration, it is crucial to briefly discuss Japan's "aging population." The new socioeconomic reality, which began to transpire in the late 1980s, had the effect of intensifying Japan's labor shortages, becoming one of the key reasons that made the use of legal *tatemae* to bring in cheap foreign labor all the more necessary.

Starting from the high-growth period in the 1960s, Japan began to experience the onsets of an aging population, namely **low fertility rates** and **declining mortality**.

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<sup>186</sup> Friman, 1996: 971

<sup>187</sup> Ibid: 975

<sup>188</sup> Lie, 1994:7

According to the Annual Report on the Declining Birthrate 2019 by the Cabinet Office,<sup>189</sup> Japan's total fertility rate (TFR) when the postwar constitution came into effect in 1947 was 4.3 births per woman. The highest number of births ever recorded in the postwar years, however, was in 1949, at 2,696,638 live births, or the TFR rate at 4.32 births per woman. During the same period, Japan's life expectancy was 50.1 for men and 54.0 for women, while the median age of the population was 22 years.

The situation began to change during the high economic growth period. In 1960, the TFR had dropped to 2.0 births per woman, a significant decrease, considering that the drop took place in just a little over a decade. Japan's TFR would hover around 2.1 births per woman—the replacement rate—for some years, before a superstition resulted in a sudden plunge to 1.58 births per woman<sup>190</sup> in 1966, which in Japan's traditional calendar was considered the year of "Hinoe Uma" (丙午), or the year of the fire horse. It was believed that a woman born in this year would have a bad personality and kill her husband, and as sex detection during pregnancy was not yet available, couples worrying that daughters born in this year would not fare well in the future marriage market decided not to have children altogether.<sup>191</sup>

The superstition-driven decline in the TFR, however, proved not to be a false alarm after all. As Japan achieved economic growth and prosperity, future-conscious Japanese couples continued to make careful family-planning decisions. Accordingly, after a brief rise in the TFR during 1971-1974, which more or less accounted for the earlier decision among Japanese couples to postpone pregnancy, Japan's TFR reverted to the previous downward trend. In 1989, the continuous decline in Japan's fertility rate culminated in the so-called "1.57 Shock", which marked the lowest ever birth rate that could not be explained by any other superstition, apart from the real and soon-to-be consequential demographic changes.

From this point on, Japan's TFR has never recovered to the replacement level, but continued to drop and eventually reached another lowest point in 2005, at 1.26

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<sup>189</sup> Cabinet Office, Government of Japan; See "Annual Report on the Declining Birthrate 2019 (Summary). Available at <https://www8.cao.go.jp/shoushi/shoushika/whitepaper/measures/english/w-2019/pdf/gaiyoh.pdf>

<sup>190</sup> Ibid; Tsuya, 2006: 2-3

<sup>191</sup> Aoki, 2012:104, 109; Suzuki & Kashiwase, 2019

births per woman.<sup>192</sup> And although the Japanese government has implemented a variety of measures to raise the fertility rate since the early 1990s, for example, the “Angel Plan” (1994), the “New Angel Plan” (1999), the “Plus One Policy” (2009), etc., which aim to boost the birth rate by making the society as a whole more conducive to burden-sharing in childrearing and household duties,<sup>193</sup> Japan’s TFR has so far only slightly improved. Even with a lump-sum payment for the birth of each child (出産育児一時金 *shussan ikuji ichijikin*) and maternity leave allowance (出産手当金 *shussan teatekin*), provided regardless of one’s health insurance coverage, together with “small bribes”, or financial assistance commonly offered by local governments to expecting couples,<sup>194</sup> Japan’s TFR in the 21<sup>st</sup> century has consistently remained below 1.5 births per woman.<sup>195</sup>

As for the other side of the population aging equation, the declining mortality, it is clear that in a direct contrast to what was happening with the TFR, Japan’s postwar economic boom, the increase in national and personal income as well as the significant improvement in living standards have contributed directly to a rapid increase in the life expectancy of the Japanese population.<sup>196</sup> Compared to the year 1950, when the life expectancy at birth was 59.57 years for men and 62.97 years for women, Japan’s life expectancy at birth rose to 75.92 years old for men and 81.90 years old for women in forty years. The upward trend has continued. According to the most recent MHLW statistics, the life expectancy at birth for the Japanese population in 2019 has now risen to 81.41 years for men and 87.45 years for women.<sup>197</sup> Accordingly, the percentage of persons aged 65 years old and over accounted for more than 28.8% of the population in 2020,<sup>198</sup> keeping Japan, according to the UN’s definition, at the forefront of the world’s super-aged societies. The same statistics also project (based on projections as of 2017)

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<sup>192</sup> Cabinet Office, Government of Japan; See “Annual Report on the Declining Birthrate 2019 (Summary). Available at <https://www8.cao.go.jp/shoushi/shoushika/whitepaper/measures/english/w-2019/pdf/gaiyoh.pdf>

<sup>193</sup> Bloom et al, 2018

<sup>194</sup> See “People in Japan are being paid to have babies, and it seems to be working” *Business Insider* 4 June 2016. and “Tokyo’s latest plan to boost birth rate: Pay people 100,000 yen per baby they give birth to” *Japan Today*. 21 January 2021.

<sup>195</sup> See “Vital Statistics”, Ministry of Health, Labor, and Welfare. Available at <https://www.mhlw.go.jp/english/database/db-hw/vs01.html>

<sup>196</sup> Aoki, 2012: 104

<sup>197</sup> See “Statistical Handbook of Japan, 2021” Available at <https://www.stat.go.jp/english/data/handbook/pdf/2021all.pdf#page=23>

<sup>198</sup> Ibid

that the proportion of the elderly will rise to 38.1% by 2060, which will translate into a population shrinkage from 125.70 million in 2020 to 92.84 million in 2060.<sup>199</sup>

Suffice to say, the demographic transition has reverberated through the entire Japanese economy—especially in the labor market. Since an aging society inevitably means a shrinkage of the working-age population (commonly defined as 15-64 years old), more adults in Japan are reaching their retirement age with fewer children born to replace them. As the basic macroeconomic theories would suggest, Japan's dwindling workforce is expected to have the effect of lowering production and reducing innovation. The resulting stagnated economy and lowered national income on top of a substantial increase in public health spending will likely put a strain on the public finances and dampen Japan's prospect of future economic growth.<sup>200</sup> The economic reasoning has indeed led to a view that sees Japan's economic stagnation, the so-called "Lost Decade(s)", typically counted from the asset bubble burst in 1991 to 2003—or, for some people, up to the present day since the economic stagnation has never quite recovered, as a symptom of problems brought about by the demographic transition.<sup>201</sup>

Against this backdrop, international migration appears as a policy response that could help slow both the population aging and the resulting economic decline. Indeed, the suggestion has been voiced repeatedly at the international level. A UN report released in 2000, "Replacement Migration: Is it A Solution to Declining and Aging Populations?"<sup>202</sup>, for example, estimated the magnitude of international migration that Japan would need to maintain its population and the dynamics of its economic growth in different scenarios. If Japan, for instance, wished to maintain the maximum population of 127.5 million, which Japan was then projected to reach in 2005, the report suggested that Japan would need 17 million immigrants in total, averaging 381,000 immigrants every year between 2005 and 2050. On the other hand, if Japan wished to keep the size of its working-age population at the 1995 level—at 87.2 million, Japan would need to admit 33.5 million immigrants in total between 1995 and 2050, or

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<sup>199</sup> Ibid

<sup>200</sup> Bloom et al., 2018

<sup>201</sup> Aoki, 2012: 103; See also "How Japan's aging population is shrinking its GDP" *The Financial Times* 16 May 2018.

<sup>202</sup> See "Replacement Migration: Is it A Solution to Declining and Aging Populations" *UN DESA* (March, 2000) Available at [https://www.un.org/development/desa/pd/sites/www.un.org.development.desa.pd/files/unpd-egm\\_200010\\_un\\_2001\\_replacementmigration.pdf](https://www.un.org/development/desa/pd/sites/www.un.org.development.desa.pd/files/unpd-egm_200010_un_2001_replacementmigration.pdf); Pp. 49-54

about 609,000 migrants per year. Last but not least, should Japan wish to maintain the 1995 ratio between the working-age population and the elderly population, which was at 4.8, Japan would need to admit a total of 553 million immigrants from 1995 to 2050, or 10 million migrants on average every year. The suggested magnitude of immigration as put forward by the UN report was strictly a politics-free calculation—something which was certainly not achievable be it in Japan or in any other country. Nevertheless, the UN report pointed out serious ramifications for Japan's new socioeconomic reality and signaled how the population decline in absence of migration could become catastrophic.<sup>203</sup>

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<sup>203</sup> Ibid; UN DESA, 2000; Robers, 2013: 203

## Part V.

### Euphemisms and Japan's Side Door Labor Migration Policy

#### Aligning Social Cohesion with the New Socioeconomic Reality ?

Although it has been clear to any employer and business owner in Japan for many decades now that international migration and foreign workers employment would need to become one of the policies that aim at mitigating widespread labor shortages, making revisions to the country's strict immigration laws to reflect the new socioeconomic reality was not politically acceptable for Japan's immigration authorities, nor for the general public. During the late 1980s, the public opinion in Japan was overwhelmingly of the view that the values of monoethnic Japan are not consistent with immigration. Moreover, with the local media incessantly problematizing migrants, illegal workers and visa overstayers from Korea, China, the Philippines, Thailand, Malaysia, Pakistan and Bangladesh, etc. in Japan and simultaneously feeding a diet of prejudices to the general public on the settlement "problems" of Turks in West Germany, North Africans in France and West Indians in Britain<sup>204</sup>, the Japanese people came to loathe the thought of their country accepting more foreign workers—not to mention the idea that Japan would one day become a multiracial and multicultural society.

Given the labor shortages that transpired as a result of Japan's rapid economic growth and its demographic transition, the period toward the end of the 1980s therefore was characterized by a long and acrimonious debate on whether Japan should officially accept foreign workers.<sup>205</sup> As put forward by Lie (1994), the public and bureaucratic discussions on this issue at the time brought to mind a historical event that took place centuries earlier, when the arrival of Commodore Perry and his black ships in 1853 forced the Japanese ruling class to decide on whether they should "open" the country (Kaikoku (開国)) or keep it "closed" (Sakoku (鎖国)).<sup>206</sup>

As a representative of the modern day Kaikoku view, in accordance with its mandate, the Ministry of Labor proposed several solutions to the current illegal foreign workers problem. Referring to policies overseas, the ministry proposed, for example, the

<sup>204</sup> See "Needed but not wanted" *The Economist*. 12 August 1989

<sup>205</sup> Sassen, 1994: 70

<sup>206</sup> Lie, 1994: 8

creation of new visa categories for low-skilled workers<sup>207</sup> and the use of an employment permit to require prospective employers to obtain an employment permit before attempting to find and hire a foreign worker.<sup>208</sup> All of the proposed policies, however, were fiercely<sup>209</sup> objected to by the Ministry of Justice—perhaps most articulate as the present-day Sakoku faction. The key arguments used to dismiss these proposals went along the lines of the ideas expressed in the **Six Basic Employment Measures Plan**, which was adopted in 1988. The plan essentially divided foreign workers into two categories: professional and technical workers and unskilled workers. It also established that the immigration of workers in professional and technical fields should be allowed to Japan as much as possible, whereas the acceptance of unskilled workers should only be permitted after careful consultation and consideration.<sup>210</sup> Presumably, the foregoing principle rests on the idea that unskilled foreign workers would undermine social cohesion and maintenance of Japan's social order, exactly as purported by Nihonjinron writings that see Japan as a unique, monoethnic and harmonious society, and equating the presence of foreigners, especially unskilled foreign workers from less developed regions to the antithesis of the cherished uniqueness, thus Japan's strength and stability.

As one of the most vocal advocates for Japan to remain off-limits to foreign migrant workers, Japanese intellectual Kanji Nishio, for example, argued that admitting foreign workers would lead to social disintegration, as their presence would undermine Japan's well-functioning schools and other social institutions. In one of his most famous books, “Closed Country to Labor: Foreign Workers Will Destroy Japan” (「労働鎖国」のすすめ : 外国人労働者が日本を滅ぼす), Nishio contended that the question of

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<sup>207</sup> Strausz, 2021: 257

<sup>208</sup> Hamaguchi, 2019

<sup>209</sup> Ibid

<sup>210</sup> JILPT, 2016: 63. The contrasting foreign workers employment principles are often worded as follows: “*From the point of view of vitalizing Japan’s economy and strengthening international competitiveness, accepting and providing retention support for foreign nationals with advanced abilities and qualities is important, and, therefore, efforts will be made by the entire government in promoting improvement of living and working environment for them.*” Since Japan maintains an official policy of not accepting low-skilled foreign workers, they are typically not mentioned in the official documents. The selective attitude is nevertheless implied with wording such as the following: “*The range of acceptance of foreign workers is determined in comprehensive consideration of the effects on Japanese industry and public welfare under the Immigration Control and Refugee Recognition Act and expansion of the range of acceptance requires national debate with consideration given to the effects on the labor market, medical care, social security, education, local communities, and people’s lives, including public safety. etc.*” For more information, see the Annual Health, Labour and Welfare Report 2015, Section 05 Employment Measures. Available at <https://www.mhlw.go.jp/english/wp/wp-hw9/dl/05e.pdf>

whether Japan should be opened or remain closed for foreign laborers is not so much of an economic problem, but one of “cultural defense.”<sup>211</sup>

What looks like a compromise between the Kaikoku and Sakoku factions was nevertheless reached in 1989, when the Japanese government revised the Immigration Control and Refugee Recognition Act (ICRRA) and created new visa categories that did not exactly permit low-skilled foreign workers to come to Japan, but nevertheless allowed foreigners, who would initially come to Japan for purposes *other than* work, to eventually work in Japan’s business sectors facing the most critical manpower shortages. In this sense, the revised ICRRA appeared as a compromise that achieved the key objectives for both the Kaikoku faction and Sakoku policy supporters.

On the surface, the revised ICRRA affirmed the Sakoku faction’s opinions that low-skilled foreign workers should never be permitted for work and/or admitted into Japan in large numbers. The revised law also prohibited employers from illegally hiring foreigners for work that they are not permitted to do under their residence status. It also stipulated that violators of the law would be subject to heavy penalties and hefty fines.<sup>212</sup> At its core, however, the revised ICRRA incorporated many elements of the typically restrictive low-skilled foreign workers employment policies. According to Yamanaka (2008), Japan sent delegations of government officials and researchers from affiliated institutes to several European countries to investigate and identify foreign workers employment policies that not only address economic necessities, but also accommodate the public’s concerns over the question of social (dis)integration. As it happened, the answer to all of the questions was to be found in Germany. To the Japanese delegates, the German model of “Differential Exclusion”, where migrant workers were allowed to work, without being granted access to the host country’s welfare system, citizenship and political participation, appeared as the best fit. Although the revised ICRRA was not exactly a replica of the German policy, the German example nevertheless provided a legitimizing consideration for operating a covert foreign workers employment policy, while ensuring that the country would have to bear only the minimum social costs.

Accordingly, it appears that the most important aspect of the revised ICRRA was not the strict(er) enforcement against illegal hiring of foreign workers, but the

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<sup>211</sup> Nishio, 1989 as reported in Lie, 1994: 8

<sup>212</sup> Foote, 1993; Yamanaka, 2008

creation of two new visa categories, namely the “**Long-term Resident**” and “**Technical Trainee**” as well as “**Technical Intern**” residence statuses. As would soon become clear, these new visa categories would function, in all but name, as a government-sanctioned “side door”<sup>213</sup> for bringing to Japan the much needed low-skilled foreign workers.

## Nikkeijin: “Long-term Residents” and Ethnic Repatriates

After the revised ICERRA took effect in 1990, the Ministry of Justice announced a new interpretation that the “long-term resident” visa category would be granted to persons of Japanese descent but with no Japanese citizenship, up to the third generation.<sup>214</sup> Collectively, the ethnic Japanese are referred to as Nikkeijin (日系人). And their mass arrival in Japan after the 1989 revision of the immigration law constituted a “reverse migration.”

The Nikkeijin were descendants of approximately 800,000 Japanese who migrated overseas in search of employment and better economic opportunities in North and South America, Asia and the Pacific as well as in Russia, after Japan opened its borders and waves of emigration started in 1868.<sup>215</sup> As Japanese migrants settled outside Japan, many Japanese communities were established in different parts of the world. In the Americas alone, the numbers of Nikkeijin at the beginning of the 1990s were estimated to be 670,000 in the U.S., 530,000 in Brazil and about 50,000 in Peru. With several smaller Nikkeijin communities scattered across the continent, the number of ethnic Japanese in the Americas at this time totaled about 1.4 million.<sup>216</sup>

The initial official explanation from the government in granting Nikkeijin long-term resident visa status went along the lines of “providing the persons of Japanese descent the opportunity to visit their relatives in Japan.”<sup>217</sup> From this point on, the number of Nikkeijin in Japan skyrocketed. In 1988, there were roughly 8,450

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<sup>213</sup> Tsuda, 1999, 688; Kondo, 2000; Kondo, 2002; Hamaguchi, 2019:2; Kondo: 2020; Liu-Farrer, 2020: 44

<sup>214</sup> Foote, 1993: 734; Tsuda, 1999: 688

<sup>215</sup> See “Brief Historical Overview of Japanese Emigration, 1868-1998.” Available at <http://www.discovernikkei.org/en/journal/2014/2/28/historical-overview/>

<sup>216</sup> Yamanaka, 2008: 188

<sup>217</sup> Kondo, 2002

Nikkeijin.<sup>218</sup> By 1991—just one year after the new law entered into force, the number of Nikkeijin jumped to almost 148,000 for those coming from Brazil and 31,000 for those coming from Peru, the two biggest countries of origin for the ethnic repatriates.<sup>219</sup>

Officially, the long-term resident status is a temporary visa for a duration of six months to three years. However, once granted, the visa holder can renew the residence status for an unlimited amount of time. This means that the visa holder can continue to stay in Japan indefinitely—eventually to the point of becoming a de facto permanent resident. And because the foreigners who have been granted this residence status are not subject to any employment limitation, they are free to engage in any kind of work. Employers in sectors that had been facing labor shortages, therefore, rushed to find and hire Nikkeijin workers, evidently propelling the new entrants with the status of a legal migrant to a privileged position in Japan’s foreign labor market.

In a way, the Japanese government’s decision to admit Nikkeijin, Japan’s ethnic returnees, mirrored Germany’s immigration policy of the same era that admitted a total of 2.7 million “Aussiedlers”, and later on, the “Spataussiedlers”, or ethnic German returnees from the former Soviet Union, between 1988 and 1998.<sup>220</sup> As Ortloff & Frey (2007) explain, the nationality laws in both Japan and Germany subscribe to the same notion of *jus sanguinis*, or the principle that one’s nationality is to be determined on the basis of blood relations, therefore by one’s biological parents. Consequently, this made admitting ethnic repatriates, whose ancestors had left their country of origin years ago, an obvious conclusion, while granting citizenship to non-ethnic populations—Turks in Germany and Koreans in Japan—who, despite being born and/or having lived most of their lives in the two respective countries, were regarded as foreigners—unthinkable, if not impossible.<sup>221</sup> Yet, the underlying assumption that ethnicity should make for easy integration would be proven wrong soon enough. Language acquisition, or perhaps more precisely, the lack thereof, became the ground upon which the Aussiedlers and the Spataussiedlers in Germany and, as will be discussed later, the Nikkeijin in Japan, were segregated and increasingly discriminated against by the ‘real’ native populations.<sup>222</sup>

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<sup>218</sup> Friman, 1996: 969

<sup>219</sup> Lie, 1994

<sup>220</sup> Ortloff & Frey, 2007: 447-451;

<sup>221</sup> Ibid; 447

<sup>222</sup> Ibid; 448

According to Liu-Farrer (2020), the migration structure for Brazilian Nikkeijin consisted of travel agencies in Brazil and temporary work agencies in Japan. The travel agencies in Brazil would act as recruiters, presenting interested Nikkeijins a long list of job openings in different areas across Japan—the majority of which were concentrated in the manufacturing sites of Aichi, Shizuoka, Kanagawa, Saitama and Gunma prefectures. Once the potential workers agreed on a job offer, the travel agencies would proceed to prepare necessary immigration documents, including the Nikkeijin workers' proof of blood relations to Japanese (grand)parents.<sup>223</sup> At the same time, the temporary workers agencies in Japan would make arrangements for the workers' placement and housing, as well as other essential supports such as language assistance and transportation. In general, the costs of such arrangements ranged between 2,000 and 4,000 USD.<sup>224</sup> Oftentimes, the amount did not need to be paid in advance, but instead would be payable over a period of six months to the brokers, who would keep the Nikkeijin's passport as a security deposit until the costs of the employment arrangements were paid in full.<sup>225</sup>

In any event, the unabated labor demands in Japan, the rather well-structured transnational migration network, and, to a certain extent, the home countries' economic and sociopolitical systems and, arising therefrom, the "firmly entrenched economic and cultural pessimism"<sup>226</sup> as well as individualism and desire for autonomy,<sup>227</sup> helped foster and sustain economic migration cultures that continued to lead—if not lure—Nikkeijin sojourners to undertake the journey to earn big money on the other side of the globe.<sup>228</sup> Accordingly, the thrilling stories of great wealth that could be earned quickly led to a rapid increase in the number of Nikkeijin throughout the 1990s. As one of the largest Nikkeijin populations in Japan, the number of Brazilian Nikkeijin shot up to 254,394 by 2000. Likewise, as the next major group of Nikkeijin, the Japanese-Peruvian residents also rose to almost 50,000 by the end of 2000.<sup>229</sup> It is important to point out, however,

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<sup>223</sup> Liu-Farrer, 2020: 46

<sup>224</sup> Green, 2010: 519

<sup>225</sup> Ibid

<sup>226</sup> Tsuda, 1999: 701-704

<sup>227</sup> According to Green, 2010, Brazilian family dynamics and the "suffocating nature of kinship ties and family obligations" convinced many Nikkeijin to leave home in Brazil and sojourn in Japan as a non-confrontational way to be away from their parents in the family-oriented society.

<sup>228</sup> Liu-Farrer, 2020: 27; Green, 2010: 526

<sup>229</sup> Kondo, 2002: 8

that the numerical incongruity indicates a high probability that many of those who came to Japan as Nikkeijin relied on false documentation and fake proof of Japanese ancestry produced by fraudulent document makers in cooperation with travel agencies and professional people-smuggling rings.<sup>230</sup>

## Nikkeijin: The ‘Troubling’ Underlying Assumptions<sup>231</sup>

It is also important to point out that many of the Nikkeijin did not migrate out of economic desperation. As Tsuda (1999) notes, many of the migrants were essentially “opportunity migrants”; they intended to come to Japan for a short duration to save up some money and improve their economic status at home.<sup>232</sup> As discussed earlier, this “dekasegi mentality”,<sup>233</sup> a/k/a sojourning without the intention to stay long-term and settle, was exactly the kind of attitude that both the Kaikoku and Sakoku sides of the foreign workers discussion would be able to live with—as reflected in the following statements made by two officials at Japan’s Ministry of Foreign Affairs:

Most of the *Nikkeijin* are living very good lives in South America. [...] In contrast, immigrants from Asia are much poorer and won’t return home. In fact, they may end up residing in Japan by calling over their families and having children [...] but for *Nikkeijin*, I believe that when they have saved money, they will return.<sup>234</sup>

The descendants of those who have succeeded in the country where they settled, and because of their success in the country where they settled, there is little likelihood that [the *Nikkeijin*] will be settled in Japan—that is the difference between them and other Asians.<sup>235</sup>

Apart from this perceived “temporariness” of the Nikkeijin workers, the other

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<sup>230</sup> Cornelius, 1994: 3 and Endnote no.2, p.32

<sup>231</sup> Adopted from Foote, 1993: 741-743

<sup>232</sup> Tsuda, 1999: 689

<sup>233</sup> Ibid

<sup>234</sup> A statement made by an official at the Ministry of Foreign Affairs, quoted in Tsuda, 1999: 688

<sup>235</sup> A statement made by a planning officer, also from the Ministry of Foreign Affairs, quoted in Strausz 2021: 12 (Original quote from Hirowatari, Seigo. 1998. "Foreign Workers and Immigration Policy." in The Political Economy of Japanese Society, edited by J. Banno, 81-106.)

equally important consideration that went into the revision of the ICRRRA and the decision to open Japan's borders to the Nikkeijin was the perception that Nikkeijin are less threatening since they are ethnically similar to native Japanese. Precisely because of the ethnic affinity, it was also assumed that the Nikkeijin would be able to assimilate and act in the Japanese ways more readily than people of other races.<sup>236</sup> As such, there would be a minimum social cost, so policymakers as well as the Japanese society as a whole would not need to pay much attention to the Nikkeijin's assimilation or try to come up with appropriate social integration measures.<sup>237</sup> The following quote from an employer illustrates this prevalent ethnocentric attitude:

We have both Nikkeijin and non-Nikkeijin workers at our firm, but we notice that the Nikkeijin have a better work ethic. Those with Japanese blood are more diligent. They think more like the Japanese and are easier to relate to. The *nisei* (2nd generation) are the most orderly and punctual because their parents are Japanese. As you get further away in terms of generation, they become more Brazilian and don't work as seriously. They quit their jobs if the salary is better elsewhere because they care more about economic benefit than human relations. But they are still better than complete foreigners, who have no *ninjo* (Japanese human feeling).<sup>238</sup>

Despite the fact that most Nikkeijin were relatively well educated and came from middle-class backgrounds, the potential earnings in Japan for Nikkeijin, even if they ended up working as low-skilled factory workers, were five to ten times higher than the money they would have earned back home as white-collar workers.<sup>239</sup> According to a 1992 survey by JICA, the average earning of South American Nikkeijin in Japan was 3,355 USD per month for men and 2,044 USD per month for women. By contrast, the earnings for Nikkeijin in Brazil, as quoted by the Sao Paulo Humanities Research

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<sup>236</sup> Ishii, 2005: 268; Foote, 1993: 741-743

<sup>237</sup> According to Dr. Gabriele Vogt, Professor of Japanese Studies at Ludwig Maximilian University Munich and Mr. Taro Kano, then an LDP Diet member and the former Vice Minister of Justice in their interviews featured in a joint German-Japanese documentary film "Sour Strawberry" shot in Tokyo in March 2008. More information on the documentary is available at the resources page of the U.S. Department of State Trafficking in Persons Report Heroes' website: <http://www.tipheroes.org/resources/ipei-torii/sour-strawberries-documentary-japan-dec-3-2008/>

<sup>238</sup> A statement made by an employer, quoted in Tsuda, 1999: 697

<sup>239</sup> Tsuda, 2000: 55; Liu-Farrer, 2020: 46

Center during the same period, was less than 800 USD on average.<sup>240</sup> Thus, instead of being the “Land of the Ancestors”, Japan was perceived among the Brazilian Nikkeijin more as the “Land of Yen.”<sup>241</sup> Naturally, the common goal for Nikkeijin heading toward the Japanese archipelago—at least initially—was to make the maximum amount of money as quickly as possible.<sup>242</sup>

Arriving in Japan with this earnest desire for money making, the Nikkeijin immediately became the sought-after foreign workers. Their intention to earn as much money as soon as possible meant that they were willing to put in longer hours, work overtime, agree to night shifts and perform almost any task as assigned by their Japanese employers. Since Nikkeijin’s single-minded approach to work was in a perfect alignment with the profit-making logic of the employers, the Nikkeijin workers soon obtained an advantageous and privileged position in Japan’s blue-collar labor market. Consequently, the Japanese foreign labor market became ethnically stratified, with the Nikkeijin becoming the first to be hired and last to be fired, and also gaining privileged access to the best jobs and highest wages.<sup>243</sup> The perception that the Nikkeijin work more dedicatedly also reinforced the narrative of monoethnicity and the assumption among the Japanese public that because of shared ancestry, the Nikkeijin are more capable and, therefore, better workers than people of other ethnicities.<sup>244</sup>

What most people seemed to fail to notice—or perhaps intentionally ignored, however, was the fact that the Nikkeijin were *the only* group of foreign workers who could be hired legally.<sup>245</sup> Despite the fact that they were also key components of Japan’s foreign labor force, the Chinese, Koreans, Bangladeshi, Iranians, etc., did not have the same legal access to employment. Yet, this does not negate the fact that due to the economic reality of the day, many SMEs were in even greater need of foreign labor.<sup>246</sup> However, since they were not as financially resourceful as Japan’s bigger companies, they could not afford to hire the Nikkeijin, who, because of their proper documentation, meant fewer hassles down the line, and thereby received higher wages. Thus, as it

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<sup>240</sup> Tsuda, 1999: 63

<sup>241</sup> Liu-Farrer, 2020: 27

<sup>242</sup> Ibid; Tsuda, 1999: 696

<sup>243</sup> Tsuda, 1999: 698

<sup>244</sup> Ibid

<sup>245</sup> Cornelius, 1994: 6

<sup>246</sup> Ibid: 699

happened, the smaller firms' demand for low-skilled workers and their inability to pay competitive wages for the Nikkeijin acted as a pull factor that kept bringing in illegal foreign workers.<sup>247</sup> Because the illegal foreign workers did not have the same legal access to Japan's labor market as the Nikkeijin, they were condemned to the worst jobs and had to make do with the worst wages. On the whole, this inherently unequal structure perpetuated the narratives of ethnic superiority and race-based preferences and kept the legally restrictive foreign labor market ethnically stratified.

## Nikkeijin: Assumptions vs. The Reality

Despite having a privileged position in Japan's foreign labor market, on the social side of their migration experiences, the Nikkeijin were greeted with a cold reception by local Japanese, who regarded Nikkeijin as inferior to the true Japanese.<sup>248</sup> This ethnic rejection in the ancestral homeland resulted, for the most part, from the fact that although they looked Japanese—well, *were* ethnically Japanese—many Nikkeijin did not speak the local tongue or understand it well enough to discern Japanese cryptic social cues and cultural expectations.<sup>249</sup> Experiences of cultural faux pas would often result in tensions between the local and ethnic Japanese. Eventually these negative feelings would develop into discriminatory exclusion against the Nikkeijin, resulting in them no longer be seen as Japanese, but as immigrants from the undeveloped world.<sup>250</sup>

For the Nikkeijin who, back in their home country, were essentially regarded as the nation's socioeconomic upper class,<sup>251</sup> the disdain and ethnic rejection experienced in Japan as they failed to appear culturally and socioeconomically Japanese compelled many Nikkeijin to abandon completely their “Japaneseness”, and redefine their identity on similarly jingoistic terms as Brazilians, etc.<sup>252</sup> As Nikkeijin distanced themselves from the Japanese by behaving conspicuously as Brazilian—perhaps akin to playing the “Gaijin card” in today's terms—the transmitted message was clear: Brazilian Nikkeijin

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<sup>247</sup> Sassen, 1994: 69

<sup>248</sup> Lie, 1994: 9; Yamanaka, 2008: 189

<sup>249</sup> Foote, 1993: 743

<sup>250</sup> Ishii, 2005; Tsuda, 2000: 56

<sup>251</sup> Ibid

<sup>252</sup> Ishii, 2005: 269

are not Japanese and so they should not be expected to understand the Japanese way or behave like the Japanese. As recounted in Tsuda (2000), many Brazilian Nikkeijin actually began to see themselves as Brazilian for the first time and ever-so-consciously try to assert their Brazilianness by, e.g., participating in samba and other Brazilian rituals and performances, etc. after coming to Japan. In the words of a Brazilian Nikkeijin:

We came to Japan in search of money but found our Brazilianness instead. In Brazil, we were proud of being Japanese and always talked about how we were different and better than other Brazilians, but in Japan, we have become Brazilian *nationalistas* [nationalists].<sup>253</sup>

In this manner, the Brazilian Nikkeijin’s “Resistance” or “Counter” identities<sup>254</sup> fly in the face of the underlying ethnocentric assumptions that blood ties are sacred and that racial affinity makes for swift cultural assimilation and ensures social cohesion—a key argument upon which the revised immigration policy was founded.

Likewise, the assumption of Nikkeijin’s “temporariness” has proven to be on the same shaky foundation. Since many of the Nikkeijin came to Japan by means of labor intermediaries and agreed to have their monthly earnings deducted as payment for introduction fees and airfares, they soon found out that becoming rich instantaneously was not as easy as it sounded. The monthly broker deductions on top of high costs of living and frequent economic downturns throughout the 1990s meant that the initial scheme to get rich quickly was nothing but a pipe dream for most.<sup>255</sup>

In this connection, many Nikkeijin had to reckon with the fact that their time in Japan would have to be extended longer than originally intended. Feeling homesick and experiencing “saudade”, their reputed “single minded dedication” to earn money soon evaporated, as they shifted their attention to socialization and recreational activities in order to make their rather isolated lives in Japan more bearable. According to Tsuda (1999), the Nikkeijin’s shift to a more social and relaxed lifestyle, i.e., more social and recreational consumption, essentially made it even harder for the Nikkeijin to save up the money to meet their original targets. In this way, the Nikkeijin had become “socially

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<sup>253</sup> Tsuda, 2000: 56

<sup>254</sup> Ibid

<sup>255</sup> Tsuda, 1999: 704

sidetracked.”<sup>256</sup> Their lessened emphasis on earning money and, understandably, more relaxed and laid-back lifestyle, and, later on, the decision to join the extended sojourning by members of their family<sup>257</sup> meant that the Nikkeijin’s time in Japan would no longer have a specific end date, but became something akin to settlement, as the return to their home country had been put off ‘indefinitely.’

Furthermore, as articulated by Liu-Farrer (2020), the fact that most Nikkeijin were channeled directly from their home country to Japan’s factory floor—usually as “just-in-time” labor—also meant that once the Nikkeijin came to be in Japan, they would become socioeconomically immobile, unable to move up the corporate ladder, but confined to an employment condition best characterized by permanent insecurity. What’s more, the fact that most Nikkeijin were unable to increase their earnings over time, combined with the lack of cultural knowledge and language proficiency, and the resulting social isolation, conditioned them to extended social immobility.<sup>258</sup> In this way, as Tsuda (2000) also argues, the assumed temporariness of the Nikkeijin—whether the government’s or the Nikkeijin’s own assumption—was the primary reason for their structural embeddedness. The mechanisms of the Nikkeijin migration process resulted in their becoming a rather permanent feature of the Japanese labor market.<sup>259</sup> Although the Global Financial Crisis in 2007 – 2008 had the effect of returning some of the laid-off Nikkeijin to their home countries—specifically by the Japanese government paying 300,000 JPY for Nikkeijin individuals and 200,000 JPY for their dependents<sup>260</sup> to leave Japan under the condition that they would not re-enter under the same visa for a minimum of three years,<sup>261</sup> the majority of the Nikkeijin sojourners who came to

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<sup>256</sup> Ibid: 706

<sup>257</sup> Ibid: 707

<sup>258</sup> Liu-Farrer, 2020: 78-80

<sup>259</sup> Ibid: 706 - 707

<sup>260</sup> Roberts, 2013: 205; Makoto, 2018: 362

<sup>261</sup> Sharpe, 2010: 358; Makoto, 2018: 362; Strausz, 2021: 263; Mondwurf, 2021 And according to Roberts (2013), the “Council for the Promotion of Measures for Foreign Residents” was established on January 9, 2009 under the Taro Aso Cabinet to specifically deal with various issues concerning the Nikkeijin, i.e., education and vocational trainings and employment assistance, housing and voluntary repatriation in the aftermath of the Global Financial Crisis and the resulting mass lay-offs that affected as many as 50% of the Nikkeijin population. By July 16, 2009, 7,491 people had already applied for the voluntary repatriation scheme which offered financial assistance. Initially, it was stipulated that those who chose to repatriate with the financial assistance could never return to Japan on the same long-term resident status. This resulted in a sort of public backlash and the condition was revised in May to a three-year waiting period, before the assisted repatriates can return to Japan for the same residence status. By the time the program concluded on March 31, 2010, about 20,000 Nikkeijin had chosen to return to

Japan during the 1990s have continued to stay.<sup>262</sup>

## Replacing the Nikkeijin by expanding the TITP

In any case, long before the Global Financial Crisis in 2007 - 2008, the fact that most Nikkeijin were, after all, temporary workers, who could be hired and fired as the company adjusted to business cycles, had meant that they could also become vulnerable to layoffs and unemployment despite occupying a relatively privileged position in the Japanese foreign labor market.<sup>263</sup> In fact, from the 1990s onward, as Japanese companies decided to keep their business competitive by moving their manufacturing abroad to take advantage of the abundant supply of cheaper labor overseas, gradually most Nikkeijin came to find themselves in much the same shoes with other migrants. As most manufacturing jobs that would still be based in Japan were usually those of smaller firms which could not afford moving overseas, the wages offered to the Nikkeijin became generally not much different from the wages offered to other foreign workers. Fierce business competition also made these domestic firms quite vulnerable to economic cycles and volatility in the demand for their products. And because most of these firms had no other financial recourse, they often resorted to firing workers in order to keep their businesses afloat.

To keep themselves employed and their families fed, many Nikkeijin ended up living a life of constant relocation. After getting laid off or dismissed, they would move from one industrial town to another to find new employment. These choices, which were made as a matter of economic necessity, however, fed into a perception that the Nikkeijin lack stable employment.<sup>264</sup> And because diminished earnings and recurring unemployment also meant that they would become qualified to receive unemployment benefits and other state-sponsored support, the Nikkeijin, as a side-door foreign labor

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their countries of origin, the majority of whom were Brazilians (92.5%), followed by Peruvians (4.2%) and others (3.3%). According to Makoto (2018) and Mondwurf (2021), the total number of Nikkeijin reached the peak in 2007, at 316,967. It declined to 230,552 in 2010 and then to 191,362 in 2017.

<sup>262</sup> Liu-Farrer, 2020: 47; Moodwurf, 2021; Makoto, 2018: 362

<sup>263</sup> Tian, 2019: 1504

<sup>264</sup> Ibid

policy, eventually came to be seen as “counterproductive”<sup>265</sup>, and, soon enough, also an unnecessary drain on the public coffers in a country facing unprecedently large social welfare expenses as a result of its rapidly aging population.

On top of it all, the Nikkeijin’s frequent relocation also came at the expense of their children’s education, Japanese language proficiency and, ultimately, the prospect of the Nikkeijin’s successful integration into Japanese society. As the majority of the Nikkeijin who came to Japan became eligible for permanent residency in the 2000s, thus acquiring a much more secure status within the Japanese society, some policymakers ultimately concluded that the acceptance, the employment, and now the settlement of the Nikkeijin constituted a policy failure.<sup>266</sup> With the same line of reasoning used in the case of illegal migrants in the late 1980s, the Nikkeijin, their inability to speak Japanese, their lack of, or failure to pay for health insurance and contribute to social security funds, and various issues concerning their children’s education soon came to be equated with prospects of crime, increase in public expenditures, and, therefore, a threat towards social stability.<sup>267</sup> As Roberts (2013), points out, these conclusions were made with a dose of ignorance. Many of these ‘problems’ were caused in part by a dearth of government policy that could have provided social, economic, and linguistic support to help the Nikkeijin assimilate.<sup>268</sup>

What subsequently transpired, therefore, was only to be expected. On the policy level, the unexpected social costs and the prospect of Nikkeijin settlement had resulted in the ethnic repatriates no longer being considered the preferred migrants. Likewise, on the factory floors, the presence of “technical trainees” and “technical interns” (discussed in more detail in the next section) gradually meant that the Japanese employers had another legal migrant option. As most technical trainees and interns were initially allowed in for up to two years<sup>269</sup> and their “training” and “internship” were not recognized as an employment relationship, they were not covered under Japan’s labor laws, nor entitled to compensation and other employment protection measures. Consequently, from the employers’ point of view, the foreigners under the technical

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<sup>265</sup> Ibid

<sup>266</sup> Ibid

<sup>267</sup> Ibid; Roberts, 2013: 207

<sup>268</sup> Ibid

<sup>269</sup> Foote, 1993: 733

intern training program, or TITP, became synonymous with *legal* and much more cost-effective options for foreign labor. What's more, the explicitly short-term and timebound nature of the TITP also convinced policymakers to expand the program, as the foreign nationals under the TITP carried a much lower prospect of permanent settlement in Japan.<sup>270</sup> As argued by Ippei Torii of the Solidarity Network with Migrants Japan: SMJ (移住連 *Ijūren*)—an NGO known internationally for advocating the rights and dignity of migrant workers in the country, the TITP and its expansion during the 2000s was actually a bid to replace the relatively more socially expensive Nikkeijin labor as much as possible.<sup>271</sup>

Accordingly, as of June 2021, the total number of foreign residents in Japan under “long-term resident” status—or the Nikkeijin, stood at 199,288.<sup>272</sup> At its peak in 2007—just before the Global Financial Crisis that cost many Nikkeijin their jobs in the Japanese automobile and auto parts industries, the total number of Nikkeijin was 316,967. The current number clearly shows that not many new Nikkeijin have been coming to Japan in recent years. By contrast, the number of foreign residents under the TITP has continuously been on the rise. Back in 2011, the number of foreign residents under the TITP stood at 130,116. As of June 2021, the total number had increased to 354,104, meaning the TITP accounts for 12.5% of the 2,823,565 foreign residents in Japan.<sup>273</sup>

## TITP as Official Development Assistance Program...?

On 17 January 2022, the Fukuyama Union Tanpopo (福山ユニオンたんぽぽ), a labor union based in Fukuyama, Hiroshima Prefecture, revealed in a news conference that a 41-year-old Vietnamese man, who came to Japan under the TITP in 2019 and received his TITP placement at a construction company in Okayama Prefecture, had

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<sup>270</sup> Tian, 2019: 1507; Roberts, 2018: 96

<sup>271</sup> Roberts, 2013: 96

<sup>272</sup> Immigration Service Agency of Japan. “Initiatives to Accept New Foreign Nationals and for the Realization of Society of Harmonious Coexistence” (Revised in April, 2022)

<sup>273</sup> Ibid

been physically abused by his Japanese colleagues for two years.<sup>274</sup> A video clip filmed in 2020 shows the man being hit with a broom while on the back of a truck. Another clip shows him getting kicked on the left side of his chest by his co-workers who are wearing hard, protective footwear. The third and last clip shows him getting beaten and yelled at repeatedly while riding in the front seat of a car—all for failing to respond to his coworkers' questions in Japanese.

According to the union, the foreign worker had tried to report the incidents to the company. He was, however, told to pretend that the injuries he suffered were the result of his falling down the stairs. In June 2021, the construction worker had tried to reach out to the organization overseeing the TITP. But with one of his videos being apparently filmed after the notification attempt, it appeared that nothing much was done by any outside party to rectify the situation. The man's plight thus continued for quite some time and only came to light after he was introduced to and got in touch with the Hiroshima-based union, which shared the three videos with the Japanese media, and in so doing, showed the general public yet another instance of abuses and sufferings that have become all too familiar among Japan's foreign "technical interns."

One of the main reasons the 41-year-old worker tried to endure the physical and mental abuses for as long as he did had to do with the fact that he still owed most of the money he had to borrow to finance his journey to Japan. Indeed, at the time of the news conference, the outstanding amount of his debt was about 1 million yen (8,710 USD). Since he had left his wife and daughter in Vietnam, he was afraid that he would be sent back prematurely, thus bringing to his family debts instead of cash, as he would no longer be able to work and earn money in Japan.

According to an explanation offered by Japan International Trainee & Skilled Worker Cooperation Organization (JITCO), an incorporated foundation established in 1991 to oversee and implement the TITP, the program constitutes one element of Japan's official development assistance, aiming at:

[transferring] skills, technologies, or knowledge accumulated in

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<sup>274</sup> See "Vietnamese trainee endured 2 years of physical abuse" *The Asahi* 18 January 2022; "Vietnamese man punched, beaten, kicked and insulted as an intern in Japan" *The Straits Times*. 29 January 2022; and "Unbearable hours, threats of being fired: The abuse of migrant interns in Japan" *France 24: The Observer*. 15 April 2022.

Japan to developing and other regions and [promoting] international cooperation by contributing to the development of human resources who can play roles in the economic development of other developing regions.<sup>275</sup>

However, with incidents such as that of the 41-year-old Vietnamese man happening all too often to foreign technical interns in Japan and the fact that more than half the interns end up in micro enterprises and family-owned businesses in labor-intensive sectors<sup>276</sup>, the lofty objectives of the program have become something rather hard to swallow.

To go back to the origins of the program, the TITP has its roots in the training and education programs for overseas employees that started in the late 1960s by Japanese companies with overseas operations. Although the TITP became a formal program somewhat later than the Nikkeijin program, the TITP is similar to the Nikkeijin category in the sense that it resulted from a compromise<sup>277</sup> that was reached essentially between bureaucrats advocating two opposing stances of “opening the door” vs. “keeping the door closed” to foreign laborers. Hence, despite the ‘tatemae’ wording of making contribution to the international economic community via human resources development and skills transfer, many observers<sup>278</sup> maintain that it is likely that the architects of the TITP understood from the very beginning that the TITP would function as a guest workers program.

In terms of the legal basis, the TITP was first implemented based on the **1989 amendments to the ICRAA**.<sup>279</sup> As mentioned earlier, the program was only officially established in 1993. Originally, the program was divided into two parts and would last a total of two years. During the first eight months of the program, the trainees would engage in “training.” Then, for the remaining period, the trainees would change their status of residence to ‘interns’ and participate in a “technical internship.”<sup>280</sup> In 1997, the period of training was extended from a maximum of two years to three years, whereas

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<sup>275</sup> See “What is the Technical Intern Training Program?” JITCO. Available at <https://www.jitco.or.jp/en/regulation/index.html>

<sup>276</sup> Ratanayake et al, 2016; Foote, 1993: 733

<sup>277</sup> Friman, 1996: 969; Lie, 1994: 3; Hamaguchi, 2019:2

<sup>278</sup> Vogt, 2007; Roberts, 2018; Tian, 2019; Strausz. 2021

<sup>279</sup> Hamaguchi, 2019: 2

<sup>280</sup> Ibid; Kondo, 2020

the approved occupations also expanded from 17 to 71 occupations for technical interns in their second or third year of the program.<sup>281</sup> As soon became clear, however, there was not much difference between what the trainees had to do during the training and the internship periods. It did not matter whether one's status was trainee or intern, all participants under the TITP were essentially assigned to work and/or perform similar work tasks. Nevertheless, as 'trainees', the participants were not initially recognized as workers, nor entitled to labor rights protection. As such, they were especially vulnerable to labor abuses and exploitations.

The situation began to change in the 2000s, when a series of court judgements began to recognize trainees as workers.<sup>282</sup> These court rulings, together with increasing domestic and international criticisms against the abuse-prone structure of the TITP, culminated in **2009 amendments to the ICRRRA**. Those amendments established "technical intern" as a new status of residence applicable to the participants for the entire three-year period under the program. Additionally, the new amendments recognize activities other than classroom-based learning as 'labor', which means that the interns engaging in such activities are now considered as being under an employment relationship, and thus eligible for protection under Japan's Labor Standards Act (労働基準法; *rōdō-kijun hō*). The 2009 amendments also formalized the role of brokers and labor intermediaries, which by then had come to play a key role in matching foreign labor demands and foreign labor supplies, by including them in the TITP as 'supervising organizations'.<sup>283</sup>

As labor violations and human rights abuses continued under the TITP and the situation of labor shortages in Japan persisted, the government appointed a committee of experts to review the TITP and related legal violations in order to propose potential solutions. Based on the committee's findings and report, in 2016 the government enacted the **Act Concerning the Proper Implementation of the Technical Internship of Foreigners and Protection of Technical Interns** (Technical Internship Act). Based on this Act, several changes were made to the TITP. Most notably were (i) a two-year extension after the interns have completed their initial

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<sup>281</sup> Ratanayake et al, 2016: 7

<sup>282</sup> Ibid

<sup>283</sup> Ibid: 3; Ratanayake et al, 2016: 10

three-year term and have returned to their home country for a specified period; (ii) a new requirement for supervising organizations to obtain a license before engaging in the recruitment and placement of interns and a stipulation of the conditions upon which the license can be revoked; and (iii) a stricter legal obligation for firms, farms, factories and any other entity engaging in the TITP to be registered and have their technical internship plan approved prior to and evaluated after the internship. Interestingly, the supervising and implementing organizations evaluated as ‘excellent’ will be able to **increase** the training periods and the number of foreign technical interns.

As for the job categories, as of November 2019, 145 operations in 81 job categories under 7 industries are permitted under the TITP.<sup>284</sup> In **agriculture**, the types of work permitted include fruit growing, vegetable growing, collecting chicken eggs, pig farming etc. In **fishery**, foreign interns can find themselves working in scallop and oyster farming and essentially on almost all types of fishing boats. In **construction**, a wide range of occupations—as many as 33—are permitted. Interns coming to Japan may find themselves doing all sorts of tasks, from drilling operations, metal works, tiling, roofing, plastering, scaffolding and equipment installation. In **food manufacturing**, foreign interns can find work in all kinds of meat processing factories, be it poultry, beef, pork, fish and seafoods, or any other extract products. As for the **textile industry**, the work that the foreign interns can and often do includes spinning, dyeing, knitting, cloth sewing, etc. Under the **machinery and metals sector**, the work includes iron casting, die casting, metal forging, machine inspection and maintenance. And last but not least, in the **others** category, occupations that foreign technical interns can perform range widely, including furniture making, plastic molding, metal painting, welding, box making, industrial wrapping and packaging, automobile repair and maintenance, and building cleaning. Several revisions and cabinet decisions from November 2017 onward have added care work, linen supply, precast concrete manufacturing and airport ground handling to the permitted occupations under this last, miscellaneous TITP category.<sup>285</sup>

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<sup>284</sup> See “Job categories eligible when interns shift to Technical Intern Training (ii) (145 Operations in 81 Job categories as of November 8, 2019” *JITCO*. Available at [https://www.jitco.or.jp/en/\\_files/titp.pdf](https://www.jitco.or.jp/en/_files/titp.pdf)

<sup>285</sup> See Relationship between Technical Intern Training (ii) Jobs and Specified Skilled Worker (i) Fields (industrial fields) in “Initiatives to Accept Foreign Nationals and for the Realization of Society of Harmonious Coexistence” (Revised July 2022) *Immigration Service Agency of Japan, Ministry of Justice*. Available at <https://www.moj.go.jp/isa/content/930004452.pdf>

In terms of nationality, in the first fifteen years after the program was established in 1993, the majority of the interns came from China. According to data from Japan's Ministry of Justice,<sup>286</sup> the situation began to change in 2013, when the number of Chinese technical interns dropped for the first time, from 111,440 in 2012 to 107,182 in 2013. In contrast, the number of technical interns coming from Vietnam has risen steadily. Eventually, in 2016, at 88,221, the number of technical interns from Vietnam surpassed the number of those coming from China, which had by then dropped to 80,858. Given the specific time when this decline started to occur, it can be reasonably assumed that China's economic development, accompanied by better employment opportunities, is a primary reason why Chinese nationals no longer needed to migrate overseas for work.<sup>287</sup>

Thereafter, the total number of technical interns from Vietnam continued to rise rapidly. As of 2019, the number of technical interns from Vietnam was 218,727. This was followed by China at 82,370, the Philippines at 35,874, Indonesia at 35,404, and Thailand at 11,325.<sup>288</sup> The rest of the foreign interns—about 28,000—come from various countries, including India, Bangladesh, Pakistan, Sri Lanka, Nepal, Myanmar, Lao PDR, Cambodia, Uzbekistan, and Mongolia.<sup>289</sup> Once they were in Japan, the majority of the interns would find their placements in Aichi, Gifu, Ibaraki, Hiroshima, Shizuoka, and Chiba Prefectures, which are home to world-famous Japanese automobile companies such as Toyota, Mitsubishi, Honda, Nissan, and Mazda, and other large companies in other key industries, such as chemicals production, steel and plastics production, food products and food processing, and the shipping industry.<sup>290</sup> As noted earlier, the interns are often placed in SMEs and micro businesses, which are usually the companies all the way down in the supply chain, producing equipment and spare parts for large multinational corporations.<sup>291</sup> In this sense, the work tasks, working

<sup>286</sup> See Section: Trends in the Number of Technical Intern Training by Nationality in "New Technical Intern Training Program" (April, 2017). *Immigration Bureau, Ministry of Justice and the Human Resources Development Bureau, Ministry of Health, Labour and Welfare*. See also, the data on the nationality of foreign technical interns from the Ministry of Justice as compiled by Tran (2020) on page 3 titled Figure 1: Composition of technical trainees (by nationality) 2011-2020.

<sup>287</sup> Ratnayake et al, 2016

<sup>288</sup> Tran, 2020: 11

<sup>289</sup> See "Sending Countries and Sending Organizations" JITCO. Available at <https://www.jitco.or.jp/en/regulation/send/>

<sup>290</sup> Ratanayake et al, 2016

<sup>291</sup> Ibid

conditions, business compliance and monitoring of the micro firms are not exactly on a par with Japan's larger companies.

Officially, the first-year interns with the status “Technical Intern Training (i)” are not eligible to perform many of the occupations described above until they have passed a “basic trade skill test” at the end of their first year and have obtained the residence status of “Technical Intern Training (ii).” Likewise, in order to extend the internship for another two-year period, the interns pass another skill test at the end of their third year. And in order to upgrade their status to “Technical Intern Training (iii)”, they need to return temporarily to their home country before they can come back to Japan for another two-year “training” period.

As many scholars, international organizations and NGOs have pointed out, the work done by the foreign interns in any of the categories are not so much different from one another. In most cases, the place of work also does not change. The technical interns, while being legally recognized as workers, are bound to a specific employer and can hardly switch their firms until their program ends. As will be discussed in detail later, this particular condition of the TITP has rendered the program a hotbed for human rights violations, with working conditions akin to forced labor and modern-day slavery. The interns’ inability to change their employer has consequently become the starting point for any attempt to explain why most interns—such as the Vietnamese man described at the start of this section—endure abuse for as long as they do; why as many as 9,052 interns, in 2018<sup>292</sup>, for example, would rather risk everything by escaping; and, most lamentably, why, in recent years, some foreign interns would rather end it all by choosing to take their own lives.<sup>293</sup>

## **TITP: Why are we “calling a crow white”?**

Back in 2017, Yoshio Kimura, then Vice Minister of Health, Labor, and Welfare

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<sup>292</sup> See “Japan introduces tougher penalties for foreign intern disappearances” *Kyodo News*. 12 November 2019.

<sup>293</sup> See “69 foreign trainees died including 6 suicides from 2015 through 2017” *The Mainichi*. 6 December 2018; “69 foreign technical interns die in Japan between 2015 and 2017” *Kyodo News*. 6 December 2018, and “Vietnamese interns, students die in succession in Japan” *Vietnam Net Global*. 16 October 2018

and the head of the governing LDP's labor committee, told the New York Times that as a system, the TITP is like "calling a crow white,"<sup>294</sup> since what Japan is doing under the program is importing labor. The details as previously mentioned also make it clear that there is a tacit understanding among the parties involved, whether in Japan or in the countries of origin, that the technical interns are, in all but name, foreign workers. And despite Japan's insistence that the TITP forms a major part of its official development assistance policy, the Japanese employers, the interns themselves, and the countries of origins' governments—all seem to understand perfectly that the TITP is, by no means, an actual skill training and skill transferring opportunity.

Indeed, according to Siu and Koo (2022), some countries of origin make it very clear that they see the TITP as a labor migration scheme, therefore a money-making opportunity for their country and their nationals. The same study shows, for example, that in Vietnam, sending people to Japan under the TITP actually forms part of the government's employment promotion and poverty reduction strategy.<sup>295</sup> Likewise, in the case of China, although the skills development aspect of the TITP is mentioned in policy papers, in reality, no skills transfer is expected. This is evident from the fact that there is absolutely no policy structure to try to absorb the 'skills' that the interns have supposedly learned and accumulated in Japan.<sup>296</sup> And as Chinese interns interviewed in the study pointed out, advanced technical skills learned in Japan are often useless at home anyway. This is because the automated system and advanced technology used in Japan and those currently in use in China and the majority of the companies in which the interns would end up tend to be dramatically different. Hence, even if the interns do learn how to use advanced technology and operate sophisticated machines in Japan, once they come home, it is practically difficult for them to put the skills into good use.<sup>297</sup>

Likewise, from the perspectives of the technical interns themselves, what they hope to gain from going to Japan under the program generally has nothing to do with skills transfer, or technological knowledge acquisition. According to interviews carried out in the studies by Nawawi (2010), Ratanayake et al (2016), Ratanayake & De Silva

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<sup>294</sup> See "Japan Limited Immigration; Now It's Short of Workers" *The New York Times*. 7 February, 2017.

<sup>295</sup> Siu and Koo,2022; 16

<sup>296</sup> Siu and Koo,2022; 17

<sup>297</sup> Ratanayake et al, 2016; Siu & Koo, 2022: 14; Nawawi, 2010: 49; Chonlawan & Pongsapitak, 2022: 385

(2018), Siu & Koo (2022), and Chonlawan and Pongsapitak (2022), the interns, regardless of their nationality, see the TITP as a chance to earn quick money and/or save up for future investments or business endeavors.<sup>298</sup> To a lesser extent, some interns also see it as a chance to live and work in Japan and/or overseas,<sup>299</sup> an opportunity to improve their Japanese language skills,<sup>300</sup> and a chance to gain a deeper understanding of the Japanese society and its culture<sup>301</sup> and familiarize themselves with corporate Japan and the Japanese work ethics and concepts,<sup>302</sup> such as the concept of “Kaizen” (改善), or continuous improvement, or the 5S principles (Sort, Set in Order, Shine, Standardize, Sustain), and so forth.

As reported by the abovementioned studies, the Japanese employers also do not seem to think that they are engaging in any skill transfer activities. Even if the interns joined the TITP in the hope that they would be able to learn skills that could be used to improve their occupational mobility and contribute to their countries’ development, they would find out soon enough that this is not exactly the case.

According to Siu & Koo (2022), some Chinese technical interns whom they interviewed had been studying in vocational school prior to coming to Japan. By joining the TITP right after their graduation, they had hoped that they would be able to learn about Japanese automation and related advanced technologies. Once they arrived in Japan, however, they found themselves in rundown factories, often with rudimentary production lines. For those who were lucky enough to be assigned to factories with some automated machinery, the automation and technology used there were also often much less advanced than what they had used as vocational students back in China.<sup>303</sup>

Nawawi (2010) and Ratnayake et al (2016) further observe elements of racial discrimination of the TITP at the firm level. Most notably, they note how the majority of tasks related to the use of advanced machinery and technologies are to be carried out exclusively by Japanese workers. In contrast, foreign technical interns would be assigned to perform manual, mundane, and unproductive tasks in the most labor-intensive parts

<sup>298</sup> Nawawi, 2010: 46; Ratnayake & De Silva, 2018: 6-7 Chonlawan & Pongsapitak, 2022:384; Siu & Koo, 2022: 9,15

<sup>299</sup> Ratnayake et al, 2016; Ratnayake & De Silva, 2018: 6-7; Chonlawan & Pongsapitak, 2022; 392

<sup>300</sup> Siu and Kiu, 2022: 18

<sup>301</sup> Ratnayake et al, 2016; Chonlawan & Pongsapitak, 2022

<sup>302</sup> Ratnayake et al, 2016; Ratnayake & De Silva, 2018: 6-7; Siu and Koo, 2022: 14

<sup>303</sup> Siu and Koo, 2022: 13

of the operation, i.e., cutting, packing, lifting, sorting, painting, etc. As such, it was practically impossible for the foreign technical interns to learn, develop new skills or come across any new advanced technology.<sup>304</sup>

Accordingly, as discussed above, it is quite clear that in actual practice, the TITP is not considered by anyone involved as a skills transfer program, whether it is the countries of origin, the foreign technical interns, or the Japanese employers. This brings us to the question, as phrased by Mr. Kimura of the LDP earlier, on what use there is for Japan to keep calling a crow white—calling the foreigners working in Japan’s SMEs and microbusinesses as interns and not foreign workers?

Again, according to Ippei Torii of the Solidarity Network with Migrants Japan, or SMJ, calling the foreign interns “interns” helps the Japanese state to uphold the facade of being an ethnically homogenous and socially cohesive nation.<sup>305</sup> Equally important, the nomenclature is consistent with the policy position put forward in the politically charged terrain of the late 1980s that Japan does not accept unskilled foreign workers.

Roberts (2018) focuses more specifically on the politics of naming in Japan. She demonstrates how strategic naming has always been an important way the Japanese state regulates foreigners’ entrance and exit. As the Japanese immigration regime is based on status of residence, strategic naming also regulates what the foreigners are allowed to do while in Japan, the amount of money they can earn and the extent to which their movement will be circumscribed.<sup>306</sup>

Interestingly, Roberts also notes how the Japanese state has throughout avoided using the term ‘*imin*’ (移民), or immigrants. The specific wordings used when it comes to the policy concerning foreigners who are coming to Japan to work and reside for a specified period have always been “acceptance of foreigners (外国人の受け入れ; *gaikokujin no ukeire*), and never once “acceptance of immigrants” (移民の受け入れ; *imin no ukeire*).<sup>307</sup> In this way, the prescribed temporariness of the foreigners’ time in Japan comes across very clearly.

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<sup>304</sup> Nawawi, 2010: 49; Ratnayake et al, 2016

<sup>305</sup> Interview with Ippei Torii, featured in a joint German-Japanese documentary “Sound Strawberry” (2008). Available at <https://www.youtube.com/watch?v=zn1qXI9ZZT4&t=133s> See also, Tian, 2019

<sup>306</sup> Roberts, 2018: 89-90

<sup>307</sup> Ibid

The crafty nomenclature of “technical interns” instead of “foreign workers” or “migrant workers” thus renders Japan’s de facto guest workers program consistent with the idea of ethnic homogeneity and politically viable, as it sidesteps potential resistance from hardline Sakoku and anti-immigration voters.<sup>308</sup> Perhaps even more importantly, by framing foreign workers as “technical interns” who, by definition, (i) come to Japan to learn advanced technical skills, and (ii) are expected to apply ‘the skills learned in Japan’ to contribute to the development of their home countries, the policy adds yet another layer of assurance to the general public that the interns’ presence in Japan will only be temporary. At the same time, the development assistance premise surrounding their arrival can also lend another justification that will come in handy when the Japanese state wishes to send the interns back to their home country immediately after their “training period” is over.<sup>309</sup>

## TITP: At the Heart of the Problems

The mismatch between actual objectives of the TITP and the expectations of what the program is among different stakeholders has resulted in a mixed basket of outcomes. As partially touched upon earlier, the TITP has come to be closely associated with labor abuses and exploitation, namely poor working and living conditions, illegal deduction of wages, wage nonpayment and wage underpayment, forced and illegal repatriation, social isolation, passport or identity document confiscation, as well as physical and sexual harassment, etc.

In terms of poor working and living conditions, some interns have mentioned how they are forced to live and work in harsh environments, such as extreme heat in the summer and frigid winters without any heating devices.<sup>310</sup> What’s more, language barriers and the interns’ relative lack of freedom of movement, i.e., the interns’ being tied to one firm and their three-year stay in Japan being limited to their factory and their

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<sup>308</sup> See “How Japan’s labor trainee program hurts relations with Vietnam” *The Diplomat*. 8 October 2020

<sup>309</sup> Strausz. 2021: 257

<sup>310</sup> Nawawi, 2010; “Spotlight: Lies and abuses - untold truths of Japan’s interns training program” *Xinhua News Agency*. 21 February 2017.

dormitory, means that the interns are highly isolated from the Japanese public.<sup>311</sup> According to a mental health study by Arita et al (2022), the relative isolation and the perception among the interns that they are isolated and without any social support significantly affects their mental wellbeing and the ability to perform their work assignments.<sup>312</sup>

Furthermore, as noted by Roberts (2018), the interns' inability to understand cautions and instructions in Japanese when operating machinery or working in a construction site can also make these assignments particularly dangerous for them.<sup>313</sup> Another very problematic issue is extremely long working hours. Many interns have reported that when their company's business was doing well, they would be forced to work overtime. But instead of getting paid the legal overtime wages, they would be paid just half the legal amount.<sup>314</sup> On the other hand, some interns reported suddenly finding themselves dismissed, or worse, forced to repatriate 'due to their own misconduct,' when the business was not doing well and their employers unilaterally decided that the interns were now too expensive to keep.<sup>315</sup>

Some NGOs and observers of the TITP also note how the interns and Japanese workers are usually treated differently. The interns are generally seen as second-class workers.<sup>316</sup> They do not receive the same work benefits, paid holidays, or bonuses.<sup>317</sup> And in both care work and construction sectors, many interns have reported on how they would be placed at the bottom of status hierarchies. Most interns seem to agree that they would usually be assigned to the most difficult or the most dangerous jobs within their firm.<sup>318</sup> Oftentimes, the interns' second-class status can also mean outright racism and discrimination. Some interns reported, for example, on how the native coworkers would throw still-lit cigarette butts at their face, or talk to them using expletives only.<sup>319</sup>

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<sup>311</sup> Ratnayake et al, 2016

<sup>312</sup> Arita et al, 2022: 10-12

<sup>313</sup> Roberts, 2018: 95; Cholawan & Pongsapitak, 2022

<sup>314</sup> See "Abuse of Chinese trainees rampant in Japan" *China Daily (Europe)* 16 February 2017.

<sup>315</sup> Tran, 2020: 2; See "Labor-Japan: Foreign Workers & 39 Grievances Erupt at Rally" *Interpress Service*. 9 March 2008.

<sup>316</sup> Interview with Ippei Torii, featured in a joint German-Japanese documentary "Sound Strawberry" (2008). Available at <https://www.youtube.com/watch?v=zn1qXI9ZZT4&t=133s>

<sup>317</sup> Ibid

<sup>318</sup> Yoshida, 2021: 75; "Japan Limited Immigration; Now It's Short of Workers" *The New York Times*. 10 February 2017.

<sup>319</sup> See "MOLHR signs up for another controversial employment program in Japan" *The Bhutanese*. 31

A key reason that may explain the proliferation of these problems, according to Yoshida (2021), lies in the Japanese-style “paternalistic labor management.” This is the same concept that some scholars have credited as a contributing factor to Japan’s postwar economic miracle. According to Yoshida, however, the paternalistic labor management is closely tied to the idea of gratitude and indebtedness, and is based on the traditional concept of 恩情 *onjō*, or kind-heartedness, with *on* (恩) meaning *kindness* and *jō* (情) meaning *feeling* or *emotion*.<sup>320</sup>

Yoshida argues that the concept is embedded and strengthened within the structure of the TTIP. Insofar as the foreign interns are coming to Japan as ‘interns’, and not as ‘workers’, what often gets emphasized in the relationship between the interns, and their employers, are, therefore, the *on* (恩) that the interns have received from their employers. This then would translate into the expectation for the interns’ gratitude and indebtedness—usually at the expense of human rights and labor rights considerations.<sup>321</sup> The rationale here is that the ‘interns’ are being ‘trained’ by their Japanese employers to become proper ‘workers’ in the future, therefore, they are expected to be grateful for the opportunity and to try to repay their debts by working hard for their employers.

In this way, the interns’ status as people being in the process of ‘training’ becomes the basis for the expectation that the interns would dedicate themselves to work, which, as Yoshida points out, might as well be put another way as the expectation for the interns to be ‘docile and silent workers.’<sup>322</sup> With this thinking, the interns are also to ‘know better’ than to become a nuisance to their host, the local community and the larger society<sup>323</sup> by complaining about their poor working conditions or speaking out about abusive employment situations in which they may find themselves. In the same vein, there are also the expectations that the interns must not backstab their ‘kind-hearted’ employers<sup>324</sup> by running away, and that they should not protest violations to their rights by making it public, as this may cause their Japanese employers to be blacklisted by the government and prohibited from hiring interns in the future.

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August 2019.

<sup>320</sup> Yoshida, 2021: 76

<sup>321</sup> Ibid: 84

<sup>322</sup> Ibid: 73

<sup>323</sup> Ibid: 83

<sup>324</sup> Ibid: 85

As a case in point, a New York Times article in February 2017<sup>325</sup>, for example, reported how a small garment factory in Gifu prefecture had been hiring interns from China for more than 15 years. For the factory owner, the Chinese interns and the lower wages they received were the only way the factory could compete with foreign factories. According to the garment factory owner, the Chinese interns had demanded more overtime work. He told them, however, that if it were to pay them overtime wages, the business would not be profitable. This was how the employer and the interns came to an arrangement that the interns would be working overtime for less.

Toward the end of the three-year contract, however, some of the interns started to demand back pay. Despite the fact that the wages he was paying were illegal, the factory owner said that he felt betrayed by the interns' request. Granted that everything he said about the arrangements was true and his feelings were understandable, this story nevertheless goes to show how, as a system, the emphasis within the structure of the TITP is placed on the interns' ability to accept the employment conditions as is and to endure. Accordingly, an argument can be made that the TITP as a system is basically keeping Japan's microbusinesses alive by letting them exploit foreign workers.

A report released by the MHLW in 2017<sup>326</sup> shows that of all 5,173 workplaces inspected across the country in the prior year, 3,695 of them, or more than 70%, were found to be in violation of Japan's labor laws. The most frequently violated issues were illegal and unpaid overtime, wage underpayment, wage nonpayment, and delay in payment of wages. For many foreign interns, the wage issues are actually at the heart of the problem. This is because for many interns, their decision to come to Japan was shaped more or less by the Japanese wages—or, perhaps more precisely, the promise that they would be able to earn a lot more money in Japan than in their home country.

Accordingly, many interns agreed to pay a large sum of money to brokers for their traveling expenses and related fees, essentially debt-financing their journey to Japan.<sup>327</sup> A study by the Immigration Services Agency of Japan, released in July 2022, similarly

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<sup>325</sup> See "Japan Limited Immigration; Now It's Short of Workers" *The New York Times*. 10 February 2017.

<sup>326</sup> See "Abuse of Chinese trainees rampant in Japan" *China Daily (Europe)*. 16 February 2017 and "Spotlight: Lies and abuses - untold truths of Japan's interns training program" *Xinhua News Agency*. 21 February 2017.

<sup>327</sup> Ratanayake and De Silva, 2018: 10-11

found that more than half of interns arrive in Japan with a huge debt.<sup>328</sup> The debt amount is highest among Vietnamese interns. On average, they have paid about 670,000 JPY (or about 5,000 USD) to labor intermediaries in Vietnam, usually on the promise that they would be able to earn a lot more in Japan—with the most often cited amount being 150,000 JPY (1,125 USD) per month. Most interns therefore expected that they would be able to pay back all of the debt by the end of the first year.

According to Chonlawan and Pongsapitak (2022), however, the interns' salary actually depends heavily on their status of residence, i.e., whether they are trainees (during their first year) or interns, the organization that helped them to come to Japan, as well as the industry and the company in which they end up.<sup>329</sup> Accordingly, the wages the trainees and/or interns receive are usually not as high as the amount they were promised when recruited. And even in the case that it is, the wages that the foreigners receive are still very low by Japan's wage standards, especially if one takes into account the high cost of living in Japan.<sup>330</sup> Thus, given the amount of money the interns hope to earn, the amount of money they need to remit home, and the amount of money they need to pay back for the loans they took out to fund their TITP participation, most interns survive in Japan on a very tight budget.<sup>331</sup>

Accordingly, when interns found themselves working punishing hours only to receive just half of the amount they were promised,<sup>332</sup> many interns felt that they did not really have a choice but to escape and become illegal workers—if they could find an employer who would give them more than what they were receiving under the program, as the alternative was themselves being sued or the family's asset(s) used as collateral for the loans getting seized.<sup>333</sup> The desperation helps explain why the number of absconding interns has continued to rise. In 2015, it was reported that almost 6,000 interns went 'missing.'<sup>334</sup> Thereafter, the number rose continuously and shot up to a record number

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<sup>328</sup> See "Study: More than half of foreign trainees arrive in Japan with debt" *Asahi Shimbun*. 27 July 2022.

<sup>329</sup> Chonlawan & Pongsapitak, 2022: 383

<sup>330</sup> Nawawi, 2010: 45

<sup>331</sup> Tran, 2020: 2, 6

<sup>332</sup> See "Labor-Japan: Foreign Workers & 39 Grievances Erupt at Rally" *Interpress Service*. 9 March 2008 and "Fears of exploitation as Japan prepares to admit foreign workers" *The Guardian*. 21 January 2019

<sup>333</sup> Tran, 2020, 5

<sup>334</sup> See "Spotlight: Lies and abuses - untold truths of Japan's interns training program" *Xinhua News Agency*. 21 February 2017

of 9,052 in 2018.<sup>335</sup> The pandemic which started in 2020, however, appears to have dissuaded some interns from making drastic decisions. As such, for 2021, the number of absconding interns went slightly against the trend of the previous years, dropping to 7,167.<sup>336</sup>

## TITP: Time to abolish the system?

Due to various problems arising out of the TITP, Japan has long been criticized internationally for continuing to operate the program. Since 2007, the U.S. Department of State has pointed out in its annual Trafficking in Persons (TIP) report that there is widespread abuse and exploitation of foreign workers coming to Japan under the TITP. The report repeatedly notes how the technical interns continue to experience conditions of forced labor, for example, confiscation of passports and other documents and control of movement of the interns in order to prevent their escape or their coming into contact with persons outside the program. The same report also notes that some interns have to sign contracts that mandate confiscation of their pledged property should they prematurely leave the program.<sup>337</sup>

In its latest volume, TIP Report 2022, which was released in July 2022, the report finds that the practice of charging exorbitant fees and the resulting debt-based coercion continue to persist, and concludes that the Japanese government's overreliance on the Memorandum of Cooperation (MOC) with governments in the countries of origin as the primary tool to regulate exploitative recruitment practices and prevent trafficking crimes has been its main shortfall.<sup>338</sup> Importantly, the report also notes that there has been "a continued lack of political will" to address all forms of trafficking and prosecute traffickers with sufficiently stringent penalties. On the whole, the latest TIP report deems the current government efforts as not being enough of a deterrent to prevent trafficking and conditions of forced labor within the TITP.<sup>339</sup>

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<sup>335</sup> See "Japan introduces tougher penalties for foreign intern disappearances" *Kyodo News*. 12 November 2019.

<sup>336</sup> See "Study: More than half of foreign trainees arrive in Japan with debt" *Asahi Shimbun*. 27 July 2022.

<sup>337</sup> U.S. Department of State, TIP Report 2016: 218

<sup>338</sup> U.S. Department of State, TIP Report 2022: 313

<sup>339</sup> Ibid

Similarly, several UN human rights committees have long expressed concerns regarding the TITP. In 2014, the UN Human Rights Committee (UNHRC), which monitors the implementation of the International Covenant on Civil and Political Rights (ICCPR), noted that despite legislative amendments to extend labor rights protection to foreign interns, sexual abuse, labor-related deaths and conditions of forced labor continue to persist within the TITP. The committee urged the government to increase its efforts for on-site inspection, appropriately prosecute and sanction labor trafficking cases, and consider replacing the TITP with a new scheme that genuinely focuses on capacity building for developing countries, as opposed to a program that claims to be an official development assistance (ODA) program but is actually a systematic attempt to recruit low-paid foreign labor.<sup>340</sup> Likewise, the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) also expressed its concerns. In 2016, the committee found that women and girls coming to Japan under the TITP continue to be subjected to forced labor and sexual exploitation. Accordingly, it urged the Japanese government to intensify its monitoring efforts and increase its labor inspection capacity in order to prevent sex trafficking and sexual exploitation among migrant women.<sup>341</sup>

Against these continuous international criticisms, many people have been calling for the government to scrap the TITP. As forefront migrant workers' rights activists, Ippei Torii of the Solidarity Network with Migrants Japan and Shōichi Ibusaki, member of the Dani Tokyo Bar Association, both of whom were chosen by the U.S. Department of State as its "heroes in the fight against human trafficking", in 2013 and in 2021, respectively, have been calling on the Japanese government to put an end to the TITP.<sup>342</sup> There is also an agreement in academia, among progressive political factions as well as in the business community, that the TITP should, at the very least, undergo significant

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<sup>340</sup> See "Concluding observations on the sixth periodic report of Japan" *UN Human Rights Committee*. (20 August 2014). Available at [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/JPN/CO/6&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/JPN/CO/6&Lang=En)

<sup>341</sup> See ""Concluding observations on the combined seventh and eighth periodic reports of Japan. *Committee on the Elimination of Discrimination against Women (CEDAW)*. (7 March 2016). Available at <https://www.mofa.go.jp/files/100171077.pdf>

<sup>342</sup> See "30 Years of backing distressed foreigners in Japan (Pt.2): US honors grassroots action" *The Mainichi*. 17 April 2021 and "US human trafficking report honors Japanese lawyer for protecting foreign Workers" *The Mainichi*. 3 July 2021.

reform. Regardless of their affiliations, all of the critics appear to be of the same opinion that, as a system, the TITP has failed to function, whether nominally or practically, as an ODA program and as a foreign labor policy. The rationales often given can be summarized as follows:

First, it is argued that the TITP should be abolished for the sake of justice alone. People who hold this view maintain that the TITP as a system is very prone to labor abuses and violations. And in light of the human sufferings caused by, under, or in relation to the program, there is simply no sufficiently good reason why the Japanese government should continue to run the program and allow perpetuation of the exploitation.<sup>343</sup>

The second argument relates to the official justification of the TITP as a skill transfer opportunity. The main argument here is that it is simply ludicrous to attempt to justify ‘care work’ as a skill that needs transferring to countries like the Philippines, Indonesia, and Vietnam, where the populations are relatively young and most likely will not see the need for a large number of care workers any time soon.<sup>344</sup> Similarly, it is hard to justify why anyone would travel to another country just to learn how to clean and prepare scallops or learn how to shuck oysters by hand, as many interns who end up in Aomori or Hiroshima do.

Thirdly, if one drops the pretense of skills transfer and evaluates the TITP as a foreign labor policy, then, clearly, the program has also failed to function adequately as a solution to Japan’s labor shortages.<sup>345</sup> Strausz (2021) referred to a 2018 survey that was conducted on 39,195 firms in 43 countries. It shows that 89% of firms in Japan still have trouble filling jobs.<sup>346</sup> And according to labor market data by the MHLW, released in July 2022, Japan’s most recent job-to-applicant ratio was 1.27, or 127 job openings for every 100 job seekers.<sup>347</sup> Granted that this is an improvement compared to the previous years, the number indicates that labor shortages continue to be a serious problem in Japan. Apparently, more can still be done to alleviate the labor shortages.

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<sup>343</sup> Kondo, 2002: 13; Kondo, 2020: 78; and “How Japan’s labor trainee program hurts relations with Vietnam” *The Diplomat*. 8 October 2020

<sup>344</sup> Kondo, 2020; Strausz, 2021: 264

<sup>345</sup> Chonlawan & Pongsapitak, 2022

<sup>346</sup> Strausz, 2021: 264

<sup>347</sup> See “Japan’s June job availability improves for 6th straight month” *The Mainichi*. 29 July 2022

The fourth key argument assesses the TITP from an international development perspective. It argues that, contrary to the stated goals, the TITP in practice does not appear to be attempting to contribute to international development. This argument directs our attention to the fact that the countries with the highest numbers of TITP participants since its very inception are China, Vietnam, the Philippines, Indonesia, and Thailand. The fact that all of these countries have strong economic, trade, and investment ties with Japan tells a different story, namely, that international development efforts from Japan are not actually going to where they are actually needed the most. In other words, if the TITP is an actual ODA program, it is rather startling that there have been very few interns coming from much less developed parts of the world such as South Asia or Africa. The transfer of knowledge, skills, and advanced technologies from Japan, which constitute the original stated objectives of the TITP, would have made a difference and generated the highest return on investment in terms of changing the development trajectory of countries in these regions. Thus, with the main eligibility criteria for the ‘skills transfer’ under the TITP being the countries’ trade ties and economic relationships with Japan, rather than a genuine need for advanced skills and technologies,<sup>348</sup> this situation provides further evidence that the TITP is, and, perhaps, can only ever be, an employment program for bringing into Japan the much needed foreign workers.

Last but not least, the fifth argument rests on the well-known ineffectiveness of JITCO. Supporters of this argument—SMJ being one of the most vocal—argue that a key weakness of the TITP comes from the fact that JITCO’s oversight of the TITP practically relies on the voluntary cooperation of supervising organizations. Despite the fact that JITCO is the designated auditing authority on the proper implementation of the TITP, the organization does not have any legal authority to enforce its decisions. Furthermore, the day-to-day operations of JITCO rely on service fees it collects from supervising organizations and implementing organizations. On this specific point, SMJ argues that JITCO has a vested interest in not unearthing problems within the TITP, lest it risk eliminating its ‘customer base’ and source of revenues.<sup>349</sup>

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<sup>348</sup> Ratnayake et al, 2016

<sup>349</sup> IHRB, 2017: 18-20

For all of the above reasons and the many divergences of the actual situation from the program objectives, various stakeholders and observers posit that the TITP should be terminated. Despite its guise, the TITP cannot be seen as anything else other than an abuse-prone and deeply flawed foreign labor employment policy. Similarly, the Japanese government, by letting the TITP continue, cannot be considered as anything else but an enabler of widespread labor exploitation.

## **International Students: A much less conspicuous side door policy**

Another side door to bringing foreign labor to Japan, according to Professor Gracia Liu-Farrer of Waseda University in Tokyo, is international education.<sup>350</sup> Under Japan's immigration law, international students in Japan are allowed to work up to 28 hours per week. In light of the relatively high cost of living in Japan, many international students do spend non-class hours working in restaurants, izakayas, supermarkets, convenience stores, and other establishments, etc. to earn additional income and cover their costs of living.<sup>351</sup> The amount of money that can be earned from these part-time jobs, when compared to the typical wages in the international students' home countries, can quickly turn these students' "side jobs" into lucrative economic opportunities. The money-making motif can often become so strong that some economically-minded students resolved to "eat bitterness"<sup>352</sup>, or dedicate all of their waking hours to working non-stop on different part-time jobs so as to earn as much money as possible—often by skipping school entirely in the process. In this manner, Japan's international education industry, which continues to bring international students to Japan, has effectively transformed into an education-migration industry, supplying low-skilled international student-workers to the low-wage sectors of the Japanese labor market.<sup>353</sup>

Liu-Farrer and Tran (2019) argue that the only reason this education-migration industry emerged and became a permanent feature of Japan's low-skilled labor market is precisely because the Japanese government was reluctant to open the door for foreign

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<sup>350</sup> Liu-Farrer, 2009: 199; Liu-Farrer & Tran, 2019; Liu-Farrer, 2020

<sup>351</sup> Strausz, 2021: 263

<sup>352</sup> Liu-Farrer, 2009: 187

<sup>353</sup> Liu-Farrer & Tran, 2019: 2, 7

labor.<sup>354</sup> Accordingly, when Prime Minister Nakasone announced, in 1983, the “plan to accept 100,000 foreign students before the beginning of the 21st century” as part of his internationalization policy<sup>355</sup>, the interplay between the everyday reality of severe and widespread labor shortages in Japan, the Japanese government’s restrictive immigration policy, and the simple logic of business survival turned foreign students almost instantly into a convenient and legal option for cheap foreign labor. This led some observers to argue that Japan’s education-migration industry is essentially “a derivative of Japan’s restrictive immigration policy.”<sup>356</sup>

In response to the international education plan under Prime Minister Nakasone’s internationalization policy, the Japanese government began to simplify the application procedures and dropped several requirements, such as language proficiency and age limits for student visa applicants.<sup>357</sup> And because the term ‘international students’ in Japan can mean both students pursuing a university degree and short-term language students, a large number of Japanese language schools and study abroad agencies, seeking to capitalize on the lower academic entry thresholds for language students, opened for business and started bringing in language students to Japan almost overnight.<sup>358</sup>

The enthusiasm on the ground had a lot to do with one significant policy shift in China. A year after Prime Minister Nakasone’s announcement of the internationalization policy and the international education initiative, the Chinese government issued the “Temporary Decisions about Self-financed Education Abroad”, which allowed Chinese students to study overseas if they could secure a source of funding or a scholarship to do so.<sup>359</sup> This decision came at a time when a long tradition of Chinese students coming to study in Japan, which began after the end of the Sino-Japanese War in 1896, had been halted for decades after the end of the Second World War. It was only after China and Japan reestablished a diplomatic relationship in 1972 that the Chinese government sent new batches of Chinese students to study in

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<sup>354</sup> Ibid 1-2

<sup>355</sup> Ibid 4; Liu-Farrer, 2009: 184; Makoto, 2018

<sup>356</sup> Liu-Farrer & Tran, 2019: 2, 11

<sup>357</sup> Liu-Farrer, 2009: 184

<sup>358</sup> Ibid; Makoto, 2018

<sup>359</sup> Liu-Farrer, 2009: 184

Japan. And after the two countries started official educational programs in 1979, Japan was once again on the radar for Chinese students looking to pursue higher education overseas.<sup>360</sup>

According to Liu-Farrer (2009), the large and continuous flows of students from China to Japan during the 1980s can only be explained by making reference to China's Cultural Revolution, which was launched in 1966 and lasted until Mao Zedong's death in 1976. During this violent and chaotic decade, most of China's higher educational institutions were practically destroyed. So when the Chinese government reinstated university entrance examinations, only a small portion of high school students were able to enter Chinese universities. Other students wishing to pursue higher education and obtain academic credentials, who were not able to gain entry to their local universities, had no choice but to look elsewhere for the same academic opportunity. As one of China's closest neighbors, Japan came to be seen as one of the most culturally and linguistically viable options.

A large number of students from China thus began to arrive in Japan from the mid 1980s. According to Liu-Farrer and Tran (2019), during the period between 1984 to 2015, Japan accepted more than 1.3 million international students.<sup>361</sup> Nevertheless, as mentioned earlier, because the application criteria and procedural hurdles for student visas were generally lower among language students, the majority of the arriving foreign students in Japan were language students, as opposed to degree-pursuing students. As most of the incoming international students started doing *arubaito* or part-time jobs soon after arriving in Japan, the students eventually became synonymous with cheap labor. The particular niche of Japan's education industry thus transformed into budding education-migration businesses. With more international students coming to Japan in this specific manner, Japanese language schools and study abroad agencies sprang up across the country. By and large, the process of language schools and study abroad agencies bringing students to Japan and the subsequent flow of the students to fill low-wage part-time jobs eventually morphed Japan's education-migration industry into a government-sanctioned side-door policy for foreign labor importation.<sup>362</sup>

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<sup>360</sup> Ibid

<sup>361</sup> Liu-Farrer & Tran: 4

<sup>362</sup> Liu-Farrer, 2009: 181; Liu-Farrer & Tran, 2019: 3

## Foreign Students: Blurring the Line Between Students and Workers

Focusing specifically on the students coming from China between the 1980s and the 2000s, Liu-Farrer (2009) explained how Japan's education-migration industry created three different groups of unskilled Chinese student laborers. The first group is those who were generally referred to as "*pa fen*", or "the coin-rakers." These were the non-academically inclined students for whom coming to study in Japan was just a ticket for the opportunity to earn as much money overseas as possible.

In contrast, the second group consisted of the typical academically intended students. Importantly, Liu-Farrer notes that the students usually came to Japan as language students first, but with the intention to study at a higher education institution later. To be sure, some students continued to be academically inclined and focused exclusively on their studies, while others aimed to maintain strong academic records and engage in part-time work during their free time as a way to finance their international education and cover their costs of living in Japan. Nevertheless, there were also another group of students, who, because of their financial needs, took on a lot more part-time work and ended up with tight part-time schedules and barely had any time to study in the process. During the course of their time in Japan, this group of students became less academically intended and less academically competitive. Most of these students ended up having to go to expensive private colleges or universities, where financial assistance was almost non-existent. By going to such universities, the foreign students had to rely even more on part-time jobs to finance their studies and cover their costs of living. Some foreign students simply had no choice but to continue leading a double life of student and low-wage worker.<sup>363</sup>

The third and final group, comprised of members from each of the two former groups, were student visa overstayers. Most of the students in this group no longer participated in any academic process and came to lead their lives in Japan solely as low-wage workers. Some of the students never meant to live this way, but ended up doing so after dropping out of school, partly because their university tuition became too expensive to cover with just the money they were able to earn from doing part-time

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<sup>363</sup> Liu-Farrer, 2009: 190

work.<sup>364</sup> Other students ended up in the position of becoming illegal workers for the very same reason as some of those who came to Japan as technical interns: their journey to Japan was financed by debts, and, in order to pay back those debts, they spent most of their time trying to earn money instead of pursuing academic goals.

The line between language students and foreign workers thus became blurred. The fact that some labor brokers were partnered with language schools and study abroad agencies and vice versa also meant that owners of factories, of restaurants, or any other business facing worker shortages would, at times, come to the language institutes directly to recruit students as their part-time workers.<sup>365</sup>

In any event, a dramatic shift in the nationality of the foreign language students occurred in the early 2010s. Similar to the case of technical interns under the TITP, the level of economic development in China at this point meant that there was much less need for Chinese students to look overseas for higher education or for the opportunity to earn lump sum money abroad. The Great East Japan Earthquake in March 2011 further convinced many would-be international students to explore options other than Japan. Thus, following the disaster, fewer students were coming to Japan from China.

To keep their businesses going, these language schools and education agencies turned their attention to other potential countries, particularly Vietnam. From this point onwards, the number of Vietnamese students coming to Japan, which was 1,864 in 2011, rose rapidly, reaching 23,018 just four years later, in 2015. By 2016, Vietnam surpassed all other countries by becoming the top sending country of international language students to Japan.<sup>366</sup>

Liu-Farrer and Tran (2010) argue that the dramatic rise in the number of Vietnamese students coming to Japan in the aftermath of the 2011 earthquake was due in no small part to aggressive recruitment strategies by language schools, agencies, and education-migration brokers. These actors typically alluded to the ‘success stories’ of people earning a lot of money doing part-time jobs while studying in Japan to entice

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<sup>364</sup> Ibid: 191, 199; Liu-Farrer, 2020: 65

<sup>365</sup> Discussed in a 2017 NHK documentary titled “Cornered International Students: The Stories behind sudden increase of Vietnamese crimes”, mentioned in Liu-Farrer & Tran, 2019: 10

<sup>366</sup> Ibid; Liu-Farrer, 2020: 48

potential students,<sup>367</sup> and, in so doing, capitalized on the less stringent visa and academic entry requirements for the international language learners.<sup>368</sup>

The same authors further noted that the recruitment process in many countries of origin has become quite elaborate and well-structured. In Vietnam, as an example, prospective students wanting to come to Japan can visit study abroad agencies to obtain advice on language courses and language institutes in Japan. Interestingly, these agencies also offer orientation programs in which participants can obtain Japanese language skills assessment, and, based on their assessed language proficiency, obtain tailored advice on the types of part-time work for which they should consider applying after arriving in Japan.<sup>369</sup> During the orientation, prospective students also have the opportunity to attend mock interviews, which also function as a screening tool for the study abroad agencies sending eligible students to partnered language schools. In return, the agencies would receive kickbacks, based on the number of international language students funneled to the language schools, thus earning from both sides of the borders in the process.<sup>370</sup>

Perhaps the most essential part of the business in their role as overseas education intermediaries is the assistance on the prospective students' visa application process. It is important to note that many of the prospective language students are enticed by the prospect/promise of being able to earn quick money; hence, they consider going to Japan as an economic opportunity rather than a chance to improve their language skills. Since many of these students are poor and do not have the means to go to Japan by themselves, they rely on the agencies to help 'package' them and make sure that all their visa application documents are in order. Again, according to Liu-Farrer & Tran (2019), the 'packaging services' offered by some of the study abroad agencies are surprisingly comprehensive. They can range from providing advice on obtaining bank statements to demonstrate the financial ability to study in Japan or loaning money for a fee to help clients fulfill the financial conditions, to outright forgery of the required documents.<sup>371</sup>

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<sup>367</sup> Liu-Farrer & Tran, 2019: 6

<sup>368</sup> Liu-Farrer, 2020

<sup>369</sup> Liu-Farrer & Tran, 2019: 5

<sup>370</sup> Ibid: 10

<sup>371</sup> Ibid: 10

In this sense, it may be argued that the financial requirements in the visa process seem to have the opposite effect of what was originally intended. Instead of increasing transparency, it actually elevates the roles of intermediaries and increases fabrications.<sup>372</sup> As visa processes become more complex, the belief and perception that the agencies and brokers are adept at navigating bureaucratic procedures has been monetized, enabling these actors to charge exorbitant service fees. Hence, in a sequence of events mirroring the experiences of technical interns, much of the language students' migration to Japan has ended up becoming primarily debt-financed, and the students themselves have debt-trapped and subsequently debt-coerced—often to the point of convincing them to take the drastic measure of becoming illegal workers in order to pay off the debt.

As a side-door policy for low-wage, low-skilled labor, degree-pursuing foreign students are nevertheless different from the Nikkeijin and the technical interns in one very important aspect: their upward mobility. Despite the fact that these students spent part of their school years working in the low-wage, low-skilled jobs, once they manage to obtain a university degree, they would be able to seek full-time formal employment in the high-wage and high-skilled sectors of the labor market.

Because of their inherent mobility, the foreign students' part-time job experiences in restaurants, supermarkets, convenience stores, etc., would often turn into assets and a labor market advantage later on. This is because, by doing the part-time work while in school, the foreign students were able to improve their language skills. And by working and constantly interacting with native Japanese, the foreign students could also gain a deeper understanding of cultural knowledge and various social rules in a work environment.<sup>373</sup> Consequently, with their university degree elevating them to the esteemed status of skilled workers or 'talents'<sup>374</sup>, the language proficiency and accumulated social capital often make it easier for them to enter and move up the corporate ladder and better integrate themselves into Japanese society.

Furthermore, the fact that they are foreigners means that they are bilingual and bicultural—an important and valuable trait in the globalized economy dominated by multinational companies. Oftentimes, the familiarity with the language and culture of

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<sup>372</sup> Ibid: 11

<sup>373</sup> Ibid: 7; Liu-Farrer, 2009: 185

<sup>374</sup> Roberts, 2018: 92

Japan and their home country becomes an important consideration, if and when the companies in which they work need to appoint ‘overseas representatives’ or ‘overseas branch managers.’<sup>375</sup> In this way, the former foreign students’ experiences in the lower end of the Japanese labor market can become a contributing factor to the former foreign students’ career advancement in the high-skilled sector of the labor market, something which may not transpire as easily in the case of the Nikkeijn and technical interns.

## **Refugees and Illegal Workers: A Side Door-derived Back Door Policy**

This last section on Japan’s de facto channel for foreign labor import concerns refugees, or more precisely, asylum seekers applying for and/or awaiting decision for recognition of refugee status in Japan. The section also discusses other illegal workers who first came to Japan legally, but due to circumstances surrounding their lives in Japan, have lost their legal status and have stayed on in Japan as illegal workers, including visa overstayers, absconding interns, former foreign students, etc. Similar to the previous section on foreign students, a key observation is that illegal and undocumented foreign workers are essentially derivatives of Japan’s ethnonationalist narratives and restrictive immigration policy.

Arguably as a consequence of the Indo-China refugee crisis which broke out after the ‘Fall of Saigon’ in 1975 and resulted in millions of people fleeing and seeking asylum in Japan and other neighboring countries, the Japanese government became a state party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol after its ratification of the instruments on 3 October 1981 and 1 January 1982, respectively.<sup>376</sup> The government acceded to the ratified Convention and Protocol in practice through amendments made to the 1951 Immigration Control Order, which later became the Immigration Control and Refugee Recognition Act (ICRRA). The law entered into force in 1982 and established Japan’s refugee recognition system.<sup>377</sup>

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<sup>375</sup> Liu-Farrer, 2009: 196

<sup>376</sup> UNHCR, “States Parties to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol”; Japan ratified the Convention on 3 October 1981 and accessed to the Protocol several months later, on 1 January 1982; See Burgess, 2020 for the argument that the ratification is part of a government response to the Indochina refugee crisis and the arrival of the boat people in 1978.

<sup>377</sup> MOFA, Japan; “Foreign Policy: Refugee” Available at <https://www.mofa.go.jp/policy/refugee/japan.html>

Four full decades have since passed. Yet Japan's refugee recognition system has been consistently restrictive and its refugee acceptance rate astoundingly low. According to the UNHCR, Japan, as of December 2020, hosts a total of 25,800 refugees and humanitarian status holders. Of this number, people who have been legally recognized as refugees accounted for only 1,390.<sup>378</sup> In other words, Japan's restrictive immigration policy boils down to an annual refugee acceptance rate that is generally lower than 1%.<sup>379</sup> In 2020, for example, Japan recognized only 47 refugees, from a total of 3,936 applicants. Interestingly, this was actually an increase from the previous years.<sup>380</sup> As for 2021, according to the latest statistics, announced by the Ministry of Justice in May 2022, Japan granted refugee status to 74 persons from 2,413 applicants seeking asylum. Again, quite remarkably, this was the highest number of refugees ever recognized in a year since Japan's refugee recognition system was established in 1982.<sup>381</sup>

Japan's low refugee acceptance rate is astonishing, especially if one considers the fact that Japan is the third largest economy in the world and consistently one of the UNHCR's largest government donors and private donation contributors.<sup>382</sup> If one compares Japan to other countries with the same level of socio-economic development and comparable annual UNHCR contributions, it is perhaps not surprising that Japan has long been a target of international criticism for not shouldering the same responsibilities. For example, in 2019, Japan accepted a baffling number of just 44 refugees, while Germany accepted 53,973; the United States 44,614; France 30,051; Canada 27,168; and Britain 16,516.<sup>383</sup> An argument is therefore often made that Japan has been using its hefty check to the UNHCR to evade criticism on its stand-offishness when it comes to refugee resettlement and international responsibility sharing.<sup>384</sup> When asked by reporters after his address at the United Nations General Assembly in 2015 on

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<sup>378</sup> UNHRC, Factsheet: Japan (June 2021). Available at <https://reporting.unhcr.org/sites/default/files/JAPAN%20Fact%20Sheet-June%202021.pdf>

<sup>379</sup> Kato & Liu-Farrer, 2022, 193

<sup>380</sup> See "Japan accepts 47 Refugees in 2020 as Applicants fall by 60% Due to Pandemic" *Nippon.com* 30 April 2021 and "A Belarusian Olympic Athlete Found Protection in Japan. Most Refugees Do Not". *TIME*. 5 August 2021

<sup>381</sup> See "Japan accepted 74 refugees in 2021, highest on record" *Kyodo News*. 13 May 2022.

<sup>382</sup> UNHRC, Factsheet: Japan (June 2021). Available at <https://reporting.unhcr.org/sites/default/files/JAPAN%20Fact%20Sheet-June%202021.pdf>

<sup>383</sup> See "Japan accepts 47 Refugees in 2020 as Applicants fall by 60% Due to Pandemic" *Nippon.com* 30 April 2021; based on the data from the NPO Japan Association for Refugees.

<sup>384</sup> See "Japan Mulls Closing Another Door to Refugees" *Foreign Policy*. 23 March 2021.

whether Japan would be accepting any refugees from Syria, Prime Minister Shinzo Abe said that Japan has its own priorities and will need to work on improving the living conditions of its people, women, and the elderly and on improving the birth rate among the population first before accepting any refugees or immigrants.<sup>385</sup>

The extremely conservative attitude in Japan's refugee recognition has resulted in abuses of the system. And unfortunately, the abuses end up feeding and strengthening the narrative of "fake refugees", which makes Japan's stance toward accepting refugees even more careful and much less generous. Toshirō Ino, a LDP representative, made a startling admission during a Judicial Affairs Committee session on April 21, 2021, that back when he was Parliamentary Vice Minister of Justice and had to oversee the refugee recognition process, he had a hard time believing that the explanations or claims made in the refugee applications were true, and so he refused them.<sup>386</sup> As this statement shows, Japan's refugee recognition process is highly discretionary, and therefore can be extremely political and arbitrary.

The basis for Ino's cautiousness against 'fake refugees' is of some relevance to low-skilled foreign workers in Japan and worth examining. Before January 2018, specifically because of the widely known slow process, asylum seekers in Japan could obtain permission to work for up to six months under a 'designated activity' visa after they had submitted a refugee recognition application. Should the application be rejected, the applicant could and often would file an administrative appeal, thereby prolonging their stay, and the period they are allowed to work in Japan in the process.

As a state party to the 1951 Refugee Convention and its 1967 Protocol, Japan also needs to observe the core principle of *non-refoulement*, which forbids it from forcing the asylum seekers already in its territory to return to a country where they can be tortured, persecuted or subjected to inhumane treatment or other life-threatening harms.<sup>387</sup> Accordingly, in the event that the refugee recognition application was again rejected and the asylum seekers lost their status to stay legally, Japan's immigration

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<sup>385</sup> See "Abe says Japan must solve its own problems before accepting any Syrian refugees" *Reuters*. 30 September 2015; Roberts, 2018: 93

<sup>386</sup> See "Rejection of refugee application in Japan for not being 'convincing' shows system faults" *The Mainichi*. 12 May 2021.

<sup>387</sup> OHCHR, "The principle of non-refoulement under international human rights law" Available at <https://www.ohchr.org/sites/default/files/Documents/Issues/Migration/GlobalCompactMigration/ThePrincipleNon-RefoulementUnderInternationalHumanRightsLaw.pdf>

authorities could not deport them. Many asylum seekers, whose status, at this point, became that of illegal aliens, ended up in a state of limbo,<sup>388</sup> usually at one of Japan's detention centers notorious for unhygienic and inhumane conditions.<sup>389</sup> As for asylum seekers who had somehow escaped the authorities and were able to find employment, they would usually stay on in Japan as illegal workers. In this specific manner, Kato & Liu-Farrer (2022) argue that Japan's slow and inefficient refugee recognition system effectively turned into "a de facto apparatus to produce a new type of unauthorized migrants"<sup>390</sup>, and, in the process, the regulation which allowed them to work for six-months before eventually losing their legal status, opened "a new side door for foreign labor."<sup>391</sup>

Specifically with respect to the side door function of the refugee recognition process, what usually happened was that a labor broker would first obtain a temporary visitor visa for migrants to come to Japan. Once the migrants arrived, the brokers would help them apply for refugee recognition as well as for the six-month work permit while awaiting the decision. Oftentimes, the applicants would be housed by the labor brokers in an accommodation built specifically for such a purpose. The labor brokers would therefore be able to earn money both from the broker fees, i.e., from bringing in and funneling the refugee-workers to local employers, and monthly, from the provided accommodation.<sup>392</sup>

The same legal loophole was also used by other migrants who were already in Japan, especially those who would soon lose their legal status, such as absconding technical interns and international students in the hope that they might be able to continue working and staying in Japan for as long as possible.<sup>393</sup> Undoubtedly, most applications did not meet with success. It nevertheless goes to show the lengths that some—be it migrants, brokers, or employers—would go to exploit legal loopholes in order to circumvent the immigration restrictions against importing foreign labor.

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<sup>388</sup> Kato & Liu-Farrer, 2022: 194

<sup>389</sup> See "Japan is shaken after a detainee, wasting away, dies alone in her cell" *The New York Times*. 10 August 2021

<sup>390</sup> Kato & Liu-Farrer, 2022: 194

<sup>391</sup> Ibid: 193

<sup>392</sup> Ibid

<sup>393</sup> Ibid; See "International Student Migrant Workers - Fake Refugees" *Fukuoka Now*. Available at <https://www.fukuoka-now.com/en/news/fake-refugees/>

Recognizing this type of abuse of the system, the Ministry of Justice instituted, in 2018, a pre-screening process for all refugee applicants, by categorizing them into A, B, C, and D categories. Under this system, only those who are in Category A are eligible to obtain and extend work permit and residence status. As a result of the categorization, the number of ‘illegal aliens’ and/or asylum seekers stuck in the purgatory state of not being able to return, while also not being allowed to stay, rose significantly. In January 2018, the number was 2,286. A year later, this increased almost two-fold, to 4,224.<sup>394</sup>

In contrast, the illegal aliens derived specifically from the refugee recognition process, who had escaped authorities and did not end up in a detention center, usually wound up in a similar place of employment as other illegal migrants and undocumented workers. In a way, the fact that illegal migrants and undocumented workers continue to find employment despite, or maybe precisely because of their illegal status, is indicative of how unauthorized foreign labor has always been a key source of labor supply in Japan’s economy ever since widespread labor shortages materialized in the postwar years of Japan’s economic miracle. The prevalence of illegal workers came to be the case and indeed continues to persist even today, largely because Japan has always maintained the official stance of not admitting low-skilled foreign labor, in spite of the undeniable reality that these workers have always been what the economy most needs.

Moreover, Japan maintains the policy of granting no amnesty. The “Special Permanent Resident” or SPR status, granted to the *Zainichi*, or Korean residents of Japan who became alien residents overnight as a result of an unexpected redefinition of Japanese nationality in postwar Japan, is perhaps the closest Japan would ever come to immigration pardoning. Accordingly, for all other illegal migrants in Japan, there is simply no pathway toward legality. What usually happens for any migrant who has become illegal is choosing between self-initiated, and often self-funded, voluntary return or deportation by the immigration authorities if and when the migrant is arrested.

According to Yamanaka (2008), when asked at an international conference in 2007 on whether Japan would be willing to grant amnesty to unauthorized migrants in the country, which was about 170,000 at the time, Tarō Kōno, then an LDP member of

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<sup>394</sup> Kato & Liu-Farrer, 2022: 194

parliament, immediately rejected any such possibility. He reasoned that “Japan is not a country of immigration”, and also “does not want to attract more illegal migrants by granting amnesty to illegal workers.” He explained that because the illegal workers have violated Japan’s immigration law, the government will not condone their wrongdoing by giving them amnesty. Accordingly, should the migrant wish to work in Japan, there is no other way for the migrant but to return to their home country and re-enter Japan with a proper work visa.

According to Kato & Liu-Farrer (2022), Japan’s restrictive immigration regime reflects the country’s “attempt to refashion its nationhood in ethno-nationalist image after losing its empire at the end of WWII.”<sup>395</sup> At the same time, it ignores the reality of labor shortages across businesses and industrial sectors. In a rather counterproductive fashion, the restrictiveness has thus created “a powerful institutional mechanism that produces and perpetuates unauthorized foreign workers in the country.”<sup>396</sup>

On multiple occasions, Liu-Farrer, in particular, has argued that the presence of illegal migrant workers in Japan actually serves both economic purposes and political functions.<sup>397</sup> Economically speaking, unauthorized foreign workers are indispensable. The Pakistani and Bangladeshi workers, who made up the majority of undocumented migrants between the 1980s and the early 2000s, for example, filled jobs in smaller companies and specific labor market niches, perhaps best characterized by having the worst 3K jobs possible. With restrictive immigration rules and the number of foreign workers coming through legal side-door channels far lower than what the economy demanded, it was entirely possible that were it not for the unauthorized migrants, there would be no other workers—be it domestic or foreign—who would have been willing to do these menial jobs and sustain the businesses in the outlying but nonetheless important segments of the Japanese economy.<sup>398</sup>

In this particular sense, it is thus not surprising that even today some employers continue to have a preference for illegal migrants. Mr. Morimoto, a small farm owner

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<sup>395</sup> Kato & Liu-Farrer, 2022: 188

<sup>396</sup> Ibid: 183

<sup>397</sup> Liu-Farrer, 2009; Liu-Farrer, 2020

<sup>398</sup> Ibid: 189; Liu-Farrer, 2009: 192

mentioned in Kato & Liu-Farrer (2022)<sup>399</sup>, for instance, indicates how he and small farmers like him actually prefer unauthorized migrants. He reasoned that, compared to the legal foreign worker options such as technical interns or specified skilled workers, unauthorized workers are not only cheaper, but the hiring process for these workers is also relatively straightforward, with much less complexity and bureaucratic labyrinth.<sup>400</sup> This type of business rationale helps explain the presence of illegal workers in Japan and why some technical interns who have ‘disappeared’ from their program continue to find employment with small farmers and business owners.

Last but not least, the presence of unauthorized foreign laborers also serves an important political purpose. Illegal migrants, whether in Japan or in any other country, have always been a useful political scapegoat, easy to condemn, ostracize and criminalize. In Japan’s case, the migrants’ presence as the illegitimate others also makes them easily a convenient target for the Japanese state to justify its exercise of power in the name of preserving the public order, preventing harms and thwarting public security threats for the benefits of the general population.<sup>401</sup> The making of illegal migrants, regardless of the origin of their illegality, into a political scapegoat, contributes directly toward reinforcing Japan’s ethnocentric identity and perpetuating the image of Japan as a homogeneous country, thereby a peaceful and orderly society that needs to be protected, exactly as cast by and for the benefits of the society’s elites and people in power.

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<sup>399</sup> Kato & Liu-Farrer, 2022: 189-191

<sup>400</sup> Ibid: 190

<sup>401</sup> Ibid: 183

## Part VI. Specified Skilled Workers: The Unattainable “Front Door” Ticket?

### **SSW: “THIS IS NOT AN IMMIGRATION POLICY”**

In the early hours of 8 December 2018, the upper house of the National Diet of Japan passed a controversial amendment to the country’s immigration law, which is the legal basis for Japan’s first *official* foreign workers employment system, known as the Specified Skilled Workers system. The controversies surrounding the bill revolved around the argument that the bill was rushed out with no due regard to instituting appropriate measures for social inclusion, rights protection, and other necessary support for foreign workers who would be coming to Japan under the new visa category.<sup>402</sup>

Specifically, the opposition, led by the Constitutional Democratic Party of Japan, or the CDP, argued that the bill was half-baked, vague and hastily drawn up.<sup>403</sup> Moreover, they posited that the new law, which delegates the oversight and implementation details for specific industries to ordinances issued by relevant ministries, essentially bypasses any deliberations and contentions by the legislative branch, giving the administration free rein in deciding many important issues concerning the new foreign workers system.<sup>404</sup> Furthermore, the opposition contended that the existing TITP system is problematic enough and the Abe administration, in designing and implementing a new immigration system on top of it without learning from the mistakes and rectifying the problems of the TITP first, was extremely arrogant and shortsighted.<sup>405</sup>

In contrast, the LDP justified its decision to move forward with the revision, with its two-thirds majority, by arguing that if the revision was delayed and failed to enter into force by April 2019, many technical interns in Japan would be forced to go back to

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<sup>402</sup> See “Japan passes controversial new immigration bill to attract foreign workers” *The Washington Post*. 7 December 2018 and “Is Japan ready to welcome immigrants?” *The Diplomat*. 22 January 2020.

<sup>403</sup> Ibid and “Lower house passes bill to accept more foreign workers” *The Mainichi*. 27 November 2018; and Burgess, 2020: 9

<sup>404</sup> See “Editorial: Gov’t glossing over role of legislative branch in foreign workers bill” *The Mainichi*. 27 November 2018.

<sup>405</sup> See “Editorial: Further discussion required on bill to accept more foreign workers” *The Mainichi*. 28 November 2018.

their countries, affecting many business operators who intended to continue hiring the foreign workers.<sup>406</sup> This assumption was based on a clause in the new amendment which allows interns who have completed their fifth year training to automatically upgrade to the new Specified Skilled Worker status. However, it must be pointed out that the end of the technical internship which the LDP alluded to was not exactly an unforeseeable event, but entirely an anticipated, normal completion of the program. The stated LDP rationale was clearly not the whole story. How then can we explain the LDP's push for the legislation?

The Tokyo Summer Olympics 2020, together with its many huge construction projects and the anticipated explosion in the number of tourists, etc., appeared as one of the most likely explanations. Two years living with the pandemic may have made this somewhat hard to imagine, but in the period leading up to the Olympics, all discussion was premised on the assumption that a large number of foreign visitors would be coming to Japan—as many as 33 million, according to a 2015 projection in a paper published by the Bank of Japan.<sup>407</sup> One of the key concerns then was that Japan's critical shortages of manpower whether before, during, or after the Games could cripple this dream, which many people saw as a once-in-a-lifetime opportunity to revitalize the economy of the superaged nation.<sup>408</sup>

With such high stakes and the fear that Japan's labor shortages would hamstring the Games, the Japanese government not only extended, in 2016, the total amount of time each technical intern under the TITP could stay in Japan—from three years to five years with a temporary return to the intern's home country in between.<sup>409</sup> It also pushed for the new “Specified Skilled Workers I” and “Specified Skilled Workers II” (SSW I & II) residence statuses, with the aim to allow a total of 345,150 foreign nationals to come to work in Japan in 14 industries that were facing critical labor shortages.

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<sup>406</sup> See “Lower house passes bill to accept more foreign workers” *The Mainichi*. 27 November 2018; “Editorial: Further discussion required on bill to accept more foreign workers” *The Mainichi*. 28 November 2018.

<sup>407</sup> See “Tokyo Olympics to Boost Growth, Worsen worker shortage” *The Wall Street Journal*. 27 December 2015

<sup>408</sup> Ibid; “Shrinking Japan: Foreign workers counted for Olympic, reconstruction projects” *The Mainichi*. 13 November 2018.; and “Tokyo Olympic costs jump amid construction labor shortage” *Financial Times*. 29 July 2014.

<sup>409</sup> Liu-Farrer, 2020

In fact, the maximum numbers of workers allowed in each category are telling. Apart from care workers, for which the quota was set at 60,000 and which forms a vital part of the government's response to the growing nursing care needs among Japan's rapidly aging population, the second and third largest numbers of the new SSW workers were the food service industry, set at 53,000 workers, and the construction industry, set at 40,000 workers.<sup>410</sup> These quotas clearly had to do with preparations for the mega sporting event scheduled for the summer of 2020.

For many observers, the introduction of the SSW I and II statuses of residence constitutes a major transition.<sup>411</sup> The new visa categories mark the first time postwar Japan officially has welcomed foreign workers, allowing them to come into the country through the “front door,” i.e., as “foreign workers”, and not under some other pretext, such as “long-term residents”, or “technical interns.”

While some observers consider the new foreign workers scheme a positive change, and a de facto shift in Japan’s conservative immigration stance, the program is portrayed and emphasized in Japan merely as a scheme for *temporary* labor migration. Prime Minister Abe, for one, was adamant in maintaining that the SSW system is not a conventional immigration policy. He explained that the program does not aim to admit immigrants into Japan.<sup>412</sup> The program also does not allow the foreign workers to be accompanied by family members, or to be on a fast track to obtain permanent residency. For Prime Minister Abe and his party, the LDP, the SSW system is simply borrowing foreign workers for a fixed term strictly to bolster growth and support the Japanese economy.<sup>413</sup>

Many scholars indeed agree with Prime Minister Abe’s position. Burgess (2020), for one, argues that the SSW system “is not that groundbreaking.”<sup>414</sup> He elaborates on how the new scheme remains consistent with its predecessors and contends that this is evident from how the government avoids using the terms “immigration” and

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<sup>410</sup> Immigration Services Agency of Japan. (2019). “A New Status of Residence “Specified Skilled Worker” has been created. Pamphlet.

<sup>411</sup> Liu-Farrer, 2020; “In major shift, Japan looks to allow more foreign workers to stay indefinitely” *The Japan Times*. 18 November 2021.

<sup>412</sup> Ibid; Kondo, 2019: 2; Kondo, 2020: 78; Burgess, 2020: 7; Strausz, 2021: 259; and “The Changing face of Japan: labor shortage opens doors to immigrant workers” *The Guardian*. 8 November 2018.

<sup>413</sup> Liu-Farrer, 2020

<sup>414</sup> Burgess, 2020: 1

“integration.”<sup>415</sup> Clearly, the expectation here is that the foreign workers shall come to labor in Japan only for a period of time and eventually leave.<sup>416</sup> According to Burgess, this demonstrates that the monoethnic identity and ethnonationalist narratives that see Japan as a homogeneous nation, and, therefore, are inconsistent with the ideas of immigrants and settlers, are “alive and well.” For Burgess, the only thing that has changed with the SSW is the dropping of the pretense—the long-held facade that Japan does not accept blue-collar workers.<sup>417</sup> In this sense, Burgess argues that the SSW Type I is merely a formalization of the TITP, which has long been a side door for foreign worker importation. In his view, the SSW Type II, on the other hand, is also a formalization of the long-term resident visa which has been used to admit the Nikkeijin, Japan’s ethnic repatriates.<sup>418</sup>

In the same way, Oishi (2020) points to another change which also occurred as the SSW system was formulated: the redefinition of ‘skilled migrants’ in 2018. This development was closely related to the SSW system.<sup>419</sup> The definition of “skills” was broadened, as reflected especially in the wording by the Council on Economic and Fiscal Policy, which was chaired by Prime Minister Abe, that the SSW system aims to admit “work-ready foreign workers who possess *a certain degree of* expertise and techniques.” This phraseology allowed the Abe government to be linguistically coherent with Japan’s official policy stance from the late 1980s that the country only accepts skilled workers. Furthermore, by phrasing the SSW as a skilled workers scheme, the policy appears more acceptable and consistent with the narratives of Japan’s ethnic homogeneity, which tend to equate the presence of low-skilled/unskilled foreigners to a drain on public welfare or as a crime threat to public security. In this way, the stretchability in the socially constructed definition of “skills” provides important room to maneuver for the Japanese government, acclimating its political needs to the country’s changing socio-economic realities.

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<sup>415</sup> Kondo, 2020

<sup>416</sup> Strausz, 2021: 259

<sup>417</sup> Ibid: 10

<sup>418</sup> Ibid: 8-9

<sup>419</sup> Oishi, 2020: 2255 - 2259

## SSW: The “Front Door” Hurdles

Even prior to the Covid-19 pandemic and the subsequent international border restrictions, the number of foreign workers coming to Japan under the SSW system after the law became effective in April 2019 had been much lower than the targets. During the first year alone, the total number of SSW foreign workers went completely against the official expectation. Specifically, while the government expected that there could be as many as 47,550 SSW workers in the 2019 fiscal year, only 616 foreign workers were registered under the SSW system as of October 2019.<sup>420</sup> In the months that followed, the number continued to be disappointingly low, increasing only slightly to just 3,987 workers by the end of March 2020<sup>421</sup>, a mere 8% of the fiscal year’s target. With the arrival of the novel coronavirus as a global pandemic, followed by the Japanese government’s decision to close off its international borders later in the same month, it was clear that the SSW scheme would be completely derailed. Achieving the targeted number of SSW workers, which was set at 345,150 by the end of the 2023 fiscal year, also became much less likely.

What was also clear from the beginning, with or without the pandemic, is that by framing the new policy as an employment scheme for foreign **skilled** labor, it follows that the Japanese government needs to prove that the foreign workers arriving in Japan possess the required skills. Compared to its previous de facto foreign workers employment schemes, most centrally the TITP, or foreign workers employment schemes of other countries, such as Taiwan, South Korea, and Singapore, the SSW application process has become much more complicated and the required screening also takes much more time. Kondo (2020) notes that the program requirements for applicants to prove their ‘possession of considerable technical skills and knowledge and Japanese language proficiency’ have rendered the entry barriers exceedingly high and, consequently, migrating to Japan as foreign workers in Japan has become less attractive. This can put the new policy at risk of becoming something that only works on paper.<sup>422</sup>

<sup>420</sup> See “Japan’s new skilled foreign labor acceptance system off to sluggish start” *The Mainichi*. 29 October 2019.

<sup>421</sup> See “Editorial: Japan must address inconsistencies with new working visa system” *The Mainichi*. 12 December 2019; “Japan’s new working visa falls far short of expectations in first year” *Kyodo News*. 29 May 2020. Kondo, 2020: 74; The number cited is from quarterly SSW statistics by the Immigration Service Agency of Japan. Available at <https://www.moj.go.jp/isa/content/930005720.pdf>

<sup>422</sup> Kondo, 2020: 78

According to the official SSW program requirements, foreign nationals who wish to work in Japan under the new SSW status are required to take both skills and language exams. The skills exams are conducted in Japanese, using Computer-Based Testing or CBT. In other words, SSW applicants are required to show their ‘possession of skills’, ironically, using a computer, or, in some cases, pen and paper if the computer testing environment is not available.<sup>423</sup> As for the Japanese language proficiency test, the applicants can choose to take and obtain the A2 level on the newly established (in April 2019) Japan Foundation Test for Basic Japanese, or JFT-Basic, or take and obtain the level of N4 or higher on the Japanese Language Proficiency Test, or the JLPT. The key criterion is that the applicants must demonstrate, through the language exam, the ability to engage in conversation and handle their daily life in Japan without difficulties.<sup>424</sup> Contrastingly, foreign technical interns who have completed their fifth year of working in Japan under the Technical Intern (i), (ii), and (iii) residence statuses are exempt from both the skills test and the language exam.

As noted earlier, everything seems viable and would appear to work well on paper. In reality, however, the organization of both the skills exam and language proficiency test were delayed significantly. As of November 2019, the skills exam was conducted for only 8 out of the 14 skill categories.<sup>425</sup> One explanation for this has to do with the delay in the signing of the Memorandum of Cooperation (MOC) between Japan and countries of origin. Such bilateral agreement is important for Japan in that it would allow the Japanese government to conduct the skills and language exams in the countries of origin and, by doing so, collect the information on the skills qualifications of prospective foreign workers directly. It is envisioned that by doing so, the roles of brokers and other labor intermediaries, a key reason for debt-coercion and the resulting situations of forced labor among Japan’s foreign workers, would be minimized.<sup>426</sup>

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<sup>423</sup> PR Office, Government of Japan. “Specified Skilled Worker”: New Status of Residence. Available at [https://www.gov-online.go.jp/eng/publicity/book/hlj/html/202003/202003\\_09\\_en.html](https://www.gov-online.go.jp/eng/publicity/book/hlj/html/202003/202003_09_en.html)

<sup>424</sup> Ibid

<sup>425</sup> See “Editorial: Japan must address inconsistencies with new working visa system” *The Mainichi*. 12 December 2019.

<sup>426</sup> See “Japan’s new skilled foreign labor acceptance system off to sluggish start” *The Mainichi*. 29 October 2019. Also, according to personal interviews with officials overseeing the MOC signing process and the management of overseas Thai workers in Japan, the main functions of the MOC include making it possible for Japan to organize skills exam and qualification via its chosen agencies in the countries of origin, and in so doing minimizing the role of labor intermediaries and preventing a

However, with the exception of the Philippines (19 March 2019), Cambodia (25 March 2019), Nepal (25 March 2019), Myanmar (28 March 2019), and Mongolia (17 April 2019), Japan was only able to sign the MOCs with other countries, namely Sri Lanka, Indonesia, Vietnam, Bangladesh, Pakistan, Thailand, and India,<sup>427</sup> after the new law had already become effective in April 2019. The Japanese government, therefore, was not able to organize the required skills tests in many of the source countries during the first fiscal year. For example, in Vietnam, the source country for the majority of foreign workers in Japan, the MOC was only signed by the two governments at the end of May 2019. This meant that for the majority of the year, no skills test was held in the country.<sup>428</sup> As a result of this limitation, the Japanese government had made some arrangements to allow prospective workers to enter Japan as temporary visitors for the purpose of taking the required exams, starting in April 2020. But as it happened, Japan's borders were closed before such foreign visitors could come to Japan for the assessment of their skills and language qualifications.

As of this writing, two years have passed. Although a number of border restrictions still remain, many of the border restrictions previously imposed by Japan and countries of origin have become more relaxed. According to the latest statistics by the Immigration Service Agency of Japan, at the end of March 2022, the number of SSW workers stood at 64,730.<sup>429</sup> Nevertheless, it should be noted that as many as one fourth of the workers are previous technical interns who have completed their fifth year in Japan and automatically changed their residence status to that of specified skilled workers.<sup>430</sup> Although this was only to be expected, the numbers make it clear that the original target of 345,150 by the end of the 2023 fiscal year (March, 2023) will not be achieved by then, or anytime soon thereafter.

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situation of debt bondage among incoming foreign workers. In Thailand's case, the purposes are reflected in Article 1 and Article 5 of the MOC.(Date of interview: 7 July, 2022).

<sup>427</sup> For these countries, the MOCs were signed on the following dates: Sri Lanka on 19 June 2019, Indonesia on 25 June 2019, Vietnam on 20 May 2019 (in Vietnam) and also on 16 May 2019 in Tokyo, Bangladesh on 27 August 2019, Pakistan on 23 December 2019, Thailand on 4 February 2020, and the latest country, India on 18 January 2021.

<sup>428</sup> Ibid

<sup>429</sup> Immigration Service Agency of Japan. "Number of specified skilled workers, March 2022" Available at <https://www.moj.go.jp/isa/content/001348990.pdf>

<sup>430</sup> See "Japan sees 6-fold rise in number of foreign workers on new skills visa" *The Asahi Shimbun*. 26 May 2021.

Even with the pandemic largely out of the way, some observers have noted that many bottlenecks surrounding the implementation of the SSW policy still exist. For one, the test dates and test centers available in sending countries continue to be of limited availability. Furthermore, the test center(s) is usually located in the capital of the sending country. This can pose considerable difficulty for the majority of test takers, who do not reside in that area and thus often must travel across the country to reach the test venue, thus adding another layer of challenge for financially constrained workers contemplating the best option among the countries to which they can migrate for work. In addition, the Japanese yen has depreciated considerably in recent years and the typical wage for foreign workers working in Japan, which according to a recent survey by MHLW is approximately 150,000 (1,370 USD) per month<sup>431</sup>, is also not as high as it used to be, especially when compared to the amount the foreign workers could otherwise have earned, be it in their own country or in another country of destination. Hence, by adding skill qualifications and language requirements, the entry ticket can become too much of a hurdle, making Japan a much less attractive option for prospective foreign workers.

Last but not least, by implementing the new foreign workers employment system while keeping the TITP in place, the two systems end up competing with one another. On the one hand, since the labor intermediaries do not play a key role in the new system, and therefore are not able to reap much benefit from it, they push even harder to recruit new workers to send to Japan under the TITP system. Not surprisingly, this comes at the expense of the name recognition and the annual target for SSW workers.<sup>432</sup> At the same time, employers in Japan have also reported that they do not understand the merits of the new SSW system. Many of these employers, therefore, expressed their intention to continue to bring in the needed foreign labor through the more familiar TITP.<sup>433</sup>

To conclude, while the SSW system is a positive development, considering that the program is formulated as a foreign workers employment program and recognizes the foreign workers as workers, there appear to be various bottlenecks and weaknesses when

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<sup>431</sup> See "News Navigator: What is the current situation for foreign technical interns in Japan?" *Mainichi*. 16 March 2021.

<sup>432</sup> According to personal interviews with officials at the Ministry of Labor, Thailand on 7 July 2021

<sup>433</sup> See "Editorial: Japan must address inconsistencies with new working visa system" *The Mainichi*. 12 December 2019.

it comes to the actual implementation of the program, thus hampering prospects for its long term success. Despite the SSW being Japan's 'front door' channel for foreign labor importation, the political need to reconcile the program—at least nominally—with the still-popular narratives of Japan's monoethnicity have nevertheless rendered the SSW program in practice considerably more complicated than it should have been. With the number of foreign workers coming to Japan under the SSW being consistently much lower than the official targets, it remains to be seen, in light of the rapid aging of Japan's superaged population and the continuous shrinking of the Japanese labor force, if, when, and how the Japanese government will make any adjustments to the overall policy once the labor demands within the Japanese economy recover to the pre-pandemic level.

## Part VII. Conclusion

This research paper has demonstrated how narratives of Japan's monoethnicity, or *Tan'itsu minzoku* (单一民族), are at the heart of Japan's foreign labor policymaking. At the same time, it also shows that the idea and identity of Japan as a monoethnic country is socially constructed, emerging during the age of the Japanese empire but only rising to prominence in the aftermath of World War II as Japan reconstructed its war-ravaged society and economy and redefined itself as a peace-loving nation.

To recap, the idea of ethnic homogeneity started to take hold in the period of high-speed economic growth (1960s - 1970s), partly because Japan's economic miracle was powered by the country's abundant domestic labor supply, which came about as a result of postwar reallocation of labor supply from the country's agricultural sector to its budding and booming new industries. Hence, contrary to other economies in Europe, Japan's rebirth and its postwar economic upswing did not have to rely on importation of foreign labor. This, in turn, helped nurture among the Japanese populace a sense of ethnic homogeneity and the uniqueness of the Japanese people, and, perhaps inevitably, also evolved into the notion of ethnic superiority and the tendency to resist immigration.

Nevertheless, starting from the early 1970s, Japan's monoethnic identity and the narratives celebrating all things 'uniquely Japanese', advanced and popularized both in Japan and abroad by *Nihonjinron* (日本人論) writings, resulted in political constraints. When it became clear that Japan's domestic labor supply had dissipated and widespread labor shortages would now command the attention of the country's policymakers, their political survival, premised on the need to be consistent with the prominent political narratives, limited their political maneuverability. In other words, despite the fact that Japan needed foreign workers, the social and political atmosphere of the day would not permit the government to accept any.

But as soon became clear, economic reality is a powerful force that defies any social narratives or esteemed image that any country would like to see or maintain about itself. Accordingly, from the late 1970s, Japan began to see illegal foreign workers in the

extremely labor-intensive parts of its economy. And by the mid 1980s, Japan reached a point where the government ended up operating what many close observers of Japan characterize as a “back door foreign labor policy”, through which Japan essentially accepted foreign workers who entered under various labels other than ‘foreign workers.’

The influx of illegal foreign workers, however, was closely tied to crime syndicates and human trafficking rings, whether operated in Japan or internationally. This soon led to widespread problematization of undocumented foreign workers in the late 1980s, and, later on, intense debates on whether Japan should officially open its borders to accept foreign workers. As it turned out, the prevalent narratives and political climate of the day did not permit the government to officially open its borders to foreign labor. The need to reconcile the country’s economic and political realities eventually necessitated the use of legal euphemisms, in which foreign workers were referred to under other names, as “side door” measures to allow in foreign labor.

Relying on several ethnicity-based assumptions, the government established a new residence status called “long-term resident” to admit the Nikkeijin, or Japan’s ethnic repatriates mostly from South American countries, who were channeled directly to the factory floors in Japan’s booming manufacturing industries. Later on, as many of the ethnic assumptions about the Nikkeijin were proven wrong, the “Technical Intern Training Program”, or TITP, another side door that was officially established in 1993, became the preferred channel for foreign labor importation. Simultaneously, foreign students, asylum seekers and illegal workers also emerged as alternative sources—albeit to a much lesser extent—for cheap foreign labor supply as industries and businesses in Japan scrambled to find workers amidst severe and widespread labor shortages.

Most recently, the new statuses of residence called “Specified Skilled Workers”, which became effective in April 2019, partly in anticipation of the Tokyo Summer Olympics in 2020, hold the promise of helping Japan solve its present and future labor challenges. While the program is seen by some observers as a clear sign that Japan has finally relinquished the long-cherished notion of ethnic homogeneity and has adjusted, in actual practice, to the reality of its severe labor shortages, others regard it as not being so much of a groundbreaking shift. For one, the latter group argues that the SSW program requirements for applicants to pass skills and language proficiency exams

demonstrate yet another instance of the Japanese government's attempting to reconcile the economic needs for foreign workers with the political narratives and a national identity that still embrace the notion of ethnic homogeneity.

Earlier this year, the government-affiliated JICA Ogata Sadako Research Institute published a report on a joint study conducted with several private think tanks. The key message of the report is that in order for Japan to achieve its GDP targets and sustain its economic growth trajectory in the years to come, the government will need to quadruple the number of foreign workers in the country (to 6.74 million by 2040).<sup>434</sup> This number was calculated taking into account the current industry-wide efforts and investments to automate the most labor-intensive parts of the economy as well as the policy initiatives that aim to encourage women and the elderly to participate and/or remain in the labor force. The report also notes that global competition for foreign labor is set to become even more intense in the coming years. Accordingly, the question that Japan must focus on now is not how Japan should accept workers, but instead on how Japan can become and remain an attractive option. Equally importantly, at the local level, the question should be how Japan can improve its institutional environment and provide necessary social support for foreign workers, ensuring that they are considered and treated as part of the local community, and not just temporary visitors.

Realistically speaking, the goal of Japan becoming more inclusive, more diverse, more multiracial and more multicultural still has far to go. Nevertheless, it is clear that, sooner or later, Japan will have to make the choice on the price it will have to pay: its monoethnic identity vs. the continued prosperity of the nation.

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<sup>434</sup> See "Toward an Inclusive Society Where Diverse People, Regardless of Their Nationality, Can Thrive Together: Research Outcomes Discussed at a Symposium on Foreign Worker Acceptance" (2022, June 10). *JICA Ogata Research Institute*.

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