

# Foreign Workers in Japan: Reality and Challenges

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## 1. Introduction: The Significance of Increased International Flow of People, Goods and Money

The number of foreigners living in Japan is still rather low when compared with other advanced countries. There were more than 1.97 million registered foreigners in Japan at the end of 2004, more than 1.55 percent of the total population (see Figure 1.), compared with the U.K.'s 3.8 percent, Germany's 8.9 percent and France's 6.3 percent.

**Figure 1. Trends in the Number of Registered Foreigners**

(as the end of each year)

	Total number	Rate of increase/ decrease compared to previous year	Quotient	Percentage of total population (%)
1978	766,894		100	0.67
1979	774,505	1.0	101	0.67
1980	782,910	1.1	102	0.67
1981	792,946	1.3	103	0.67
1982	802,477	1.2	105	0.68
1983	817,129	1.8	107	0.68
1984	840,885	2.9	110	0.70
1985	850,612	1.2	111	0.70
1986	867,237	2.0	113	0.71
1987	884,025	1.9	115	0.72
1988	941,005	6.4	123	0.77
1989	984,455	4.6	128	0.80
1990	1,075,317	9.2	140	0.87
1991	1,218,891	13.4	159	0.98
1992	1,281,644	5.1	167	1.03
1993	1,320,748	3.1	172	1.06
1994	1,354,011	2.5	177	1.08
1995	1,362,371	0.6	178	1.08
1996	1,415,136	3.9	185	1.12
1997	1,482,707	4.8	193	1.18
1998	1,512,116	2.0	197	1.20
1999	1,556,113	2.9	203	1.23
2000	1,686,444	8.4	220	1.33
2001	1,778,462	5.5	232	1.40
2002	1,851,758	4.1	241	1.45
2003	1,915,030	3.4	250	1.50
2004	1,973,747	3.1	100	1.55

**Source:** Immigration Bureau, the Ministry of Justice, Statistics on Foreign Residents (2004)

In the 21<sup>st</sup> century, the world is characterized by international flows of goods, money and people, and even Japan cannot exist outside this sphere, which is why the number of foreigners living in Japan increases. I would like to begin by discussing this point, then touch on the current situation surrounding the employment and housing conditions for foreigners, and conclude by putting forward specific arguments concerning future Japanese policies for receiving foreigners and the government's approach to these issues. Amid the liberalization of the international movement of people, due to the many security issues that have emerged in recent years requiring firm response such as terrorism caused by Islamic fundamentalists, etc., it has also become necessary for Japan to seriously discuss immigration policies. With these points in mind, I will explain my positions.

### **1.1 Development of the Debate Concerning Employment of Foreign Workers**

In Japan, serious debate on allowing foreigners into the country only commenced in the 1990s. Since then, amid the steadily strengthening trend in which people, goods and money move across national borders, it is becoming necessary to develop new government policies.

From an international perspective, in 2004 the EU was expanded from 15 to 25 member countries, and through FTAs (free trade agreements), EPAs (economic partnership agreements) and other similar measures the trend toward liberalization is being promoted among countries and regions. On the other hand, developments such as the September 11, 2001 terrorist attacks in the U.S. and the situation in Iraq since 2003 have produce stricter regulation of and impediments to the free international movement of people.

In Japan, opinions concerning admission of foreigners have changed in the following manner:

#### (1) Debate in the latter half of the 1980s

Until the first half of the 1990s, the predominant view — although it can't be said to have been the actual case — was that Japan would continue to suffer an absolute shortage of labor, and there were calls, particularly in economic circles, to bring in workers from Asian countries.<sup>1</sup> One positive

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proposal at the time called for bringing in foreign laborers for a few years from countries with differing income gaps and low technological levels, with the understanding that they would return to their home country after a few years. This was the so-called “rotation system.”

There are precedents for this system, and they show that the system does not work. Usually, workers allowed into a country for a fixed period are reluctant to return to their home countries at the end of the designated period. The best-known example is that of West Germany which began a policy of accepting foreign laborers in 1961. The rotation system — whereby workers from countries that had agreements with West Germany were allowed to work in West Germany for two to three years and then return home — did not function. Rather, the foreign workers, once accepted, chose to remain as permanent residents. It has been noted that even if they lost their jobs with the firms that had hired them (after the oil crises), they continued to do some sort of work to support their families and they remained, and still remain, on a permanent basis in a reunified Germany.<sup>2</sup> And this tendency foreshadowed the outcome of a very similar experience 20 years later in Japan, whereby foreigners who were allowed to stay for a fixed period of time have tended to stay permanently. (See the section on accepting people of Japanese ancestry below.)

However, the bursting of Japan’s so-called “economic bubble” in the 1990s rudely jerked Japan from the extreme of having a shortage of labor to the opposite situation of having excess labor. The contraction in hiring caused the unemployment rate to increase rapidly. As a result, young people were denied access to stable employment, so that the increased numbers of unemployed young people, and of people who have effectively dropped out of the job market, has become a very serious problem.

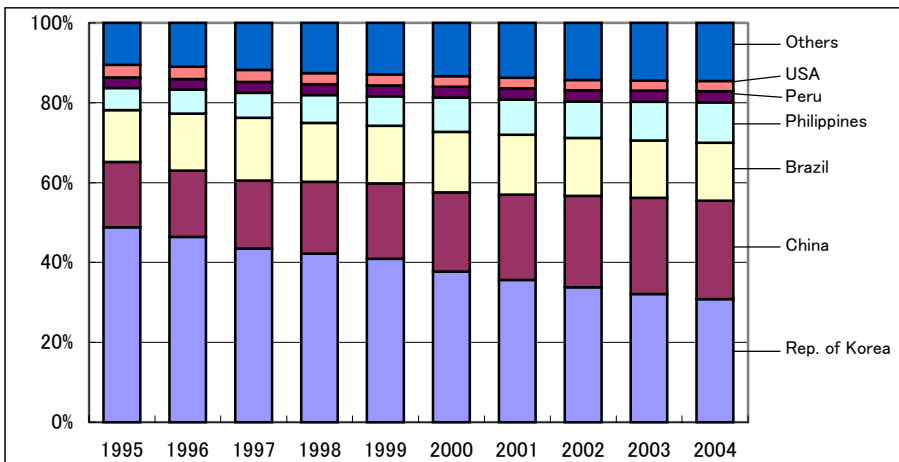
In this situation, rather than adopting government policies that relax acceptance of foreign workers, the basic governmental policy has been to actively promote acceptance of high-level personnel and workers in specialized/technical fields.<sup>3</sup>

## (2) Accepting people of Japanese ancestry

At the end of the 1980s, countries in South America experienced a protracted economic crisis, and in part because of the effects of

hyperinflation — as high as 2,000% per year — Brazilians and Peruvians of Japanese descent began to search for work outside their countries. Initially most were of the first generation, but eventually those in the second- and third-generation took to working outside the country as well. In Japan in 1994, there were 160,000 Japanese-Brazilians and 35,000 Japanese-Peruvians. Their numbers continued to grow throughout the economic downturn of the 1990s, so that by the end of 2003, there were 274,700 Japanese-Brazilians and 53,600 Japanese-Peruvians in Japan. (See Figure 2.) In tandem with this phenomenon, many problems arose — such as what type of job category should be open to them according to their status of residence, etc. — and remain unsolved.

**Figure 2. Transition of Composition Ratio According to Nationality (Place of Birth)**

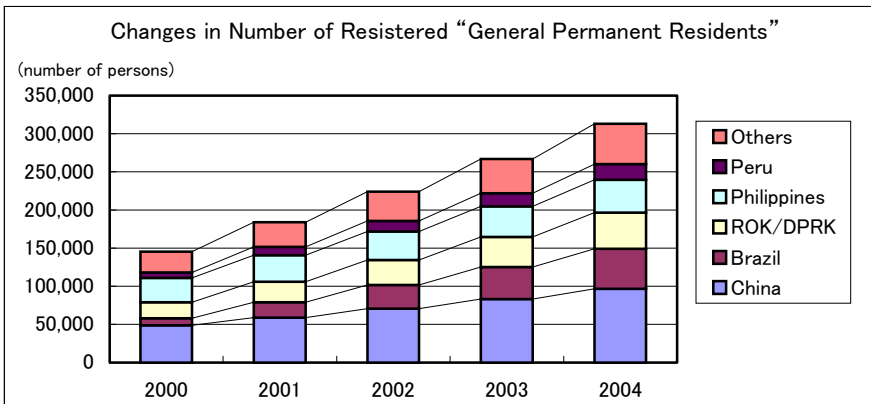


**Source:** Immigration Bureau, the Ministry of Justice, *Statistics on Foreign Residents* (at the end of each year), 2004.

For the first time since World War II, all job categories were opened to Brazilians and Peruvians of Japanese descent. Many decided not to come alone in an attempt to earn money for a short period of time, but rather to bring their families with them. Parents and brothers and sisters were also gradually brought to Japan to work — the so-called “chain migration” pattern. Amid this setting, many who initially intended to come for two or

three years to earn money found that they had no means to support themselves back in their home country, so the majority returned to Japan to stay here permanently. As a result, the number of people obtaining long-term resident visas or permanent residence is gradually increasing. (See Figure 3.)

**Figure 3. Trends of the Number of Permanent Residents by Nationality (Place of Birth)**



**Source:** Immigration Bureau, Ministry of Justice, *Statistics on Foreign Residents* (2004).

Accompanying this trend, as shall be explained in greater detail below, are a plethora of problems involving not only employment, work, health care and social security, but also — concerning their children’s education — rapidly increasing school dropouts and crimes committed by juveniles. On the other hand, there is increasing acceptance of foreigners in a half-baked manner that fails to take into account the daily reality of the lives of those who settle in Japan more or less permanently.

(3) Increase in illegal workers and the government’s response

Similar to all advanced countries, Japan has a problem with the huge number of foreigners who enter the country to work without being eligible for employment or a working visa, and who settle here without being protected under Japanese labor laws. A good number of these people have no choice but to stay in Japan, without protection of their human rights, and are unable to return to their home countries. Regardless of whether or not

they possess a visa that allows them to work, foreigners in Japan must be provided with certain minimum protection, such as protection under labor laws, personal liberty, and assurance of safety. However, diverse problems are cropping up regarding undocumented, illegally employed foreigners in this country. Because they are working illegally, most are willing to work long hours under conditions that Japanese would not tolerate, including in undesirable work environments doing hard labor while receiving relatively poor pay. (For example, even if the hourly wage is higher than that paid to part-time workers, they do not receive overtime pay and they remain outside the social insurance system, resulting in low real wages.) They frequently are victims of work accidents and do not apply for workers' compensation claims even though they might be eligible to receive benefits. Even if they did receive compensation, the rate would be low. These foreign workers who fall entirely outside the employment protection and social insurance schemes can be found in such diverse industries as manufacturing and the service sector, such as laundry and cleaning, foreign students working in restaurants, etc. At the extreme far edge of this gray zone are the growing numbers of cases in human trafficking as well as many other human rights issues and the related international organized crime networks, and crimes committed by foreigners in Japan (including crimes in which Japanese criminal organizations and foreigners collaborate). (See Figure 4.)

## **1.2 Recent Debates concerning Admission of Foreigners**

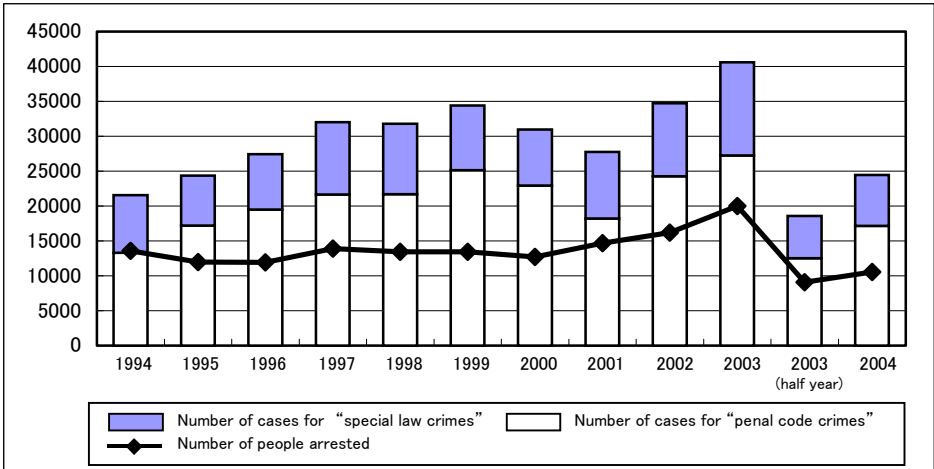
In addition, it is predicted that Japan faces a shrinking population. (See Figure 5.) Opinions are being advanced that Japan needs to bring in foreigners in order to stave off a downturn in the population, or that it is necessary to promote liberalization in immigration along with deregulating the movement of goods and capital.

Meanwhile, there is general acknowledgment that globalization — the free movement of capital, goods and people — is creating a new world system. In view of the situation surrounding Japan in Asia, as well as developments in the EU where a greater level of unification was achieved in May 2004, etc., it becomes apparent that Japan will face even greater difficulties if future policies are considered strictly from a domestic

perspective. Japan also, through bilateral or regional FTAs and EPAs with Singapore, the Philippines, Thailand, Mexico, etc., is concretizing ways to accept people while also implementing policies that simplify entry to Japan for people from South Korea, China, and other neighboring countries.

Below I shall discuss the central problematic points in these matters.

**Figure 4. Trends in Arrest of Foreigners**



Source: National Police Agency

**Figure 5. Transition of Total Japanese Population Estimates According to Age Bracket (Estimates of Population Accompanied by Movement)**

(Million)

Year	0-19 years old	20-64 years old	65- years old	75- years old	25-54 years old	15-64 years old	Total population
1995	28.573	78.607	18.268	7.170	53.283	87.165	125.439
2000	26.014	78.601	22.305	9.103	53.734	86.136	126.920
2005	24.440	77.251	26.397	11.918	50.850	83.902	128.087
2010	23.117	74.307	30.287	14.607	48.671	80.465	127.712
2015	21.627	69.279	34.796	16.728	46.889	75.206	125.702
2020	19.852	65.658	36.732	18.659	44.380	71.612	122.242
2025	17.683	63.251	36.703	21.226	41.190	68.567	117.637
2030	15.909	59.937	36.364	21.697	37.257	64.583	112.220

Source: Iwao Fujimasa, *Trend of Depopulation Society*

## **2. Elements Missing from Previous Discussions Regarding Admission of Foreign Workers**

Deficiencies still exist in the debate over admission of foreigners into Japan, particularly foreign workers. Let us turn now to an examination of these deficiencies.

### **2.1 Recent Arguments in Favor of Offsetting Population Downturn through Immigration**

First, it needs to be noted that a perspective that pays consideration to the admission of foreigners has been missing from long-term demographic changes and industrial structural forecasts in Japan.

The stance one takes concerning negative population growth determines the fundamental preconditions for accepting foreign laborers. Given the sort of ambiguous approach that has been typical in the past, to make the unsupported assertion that Japan's negative population growth can be offset through immigration which will supposedly provide the necessary future labor population and contribute to the economy is more a general expression of wishful thinking than anything else.

However, according to recent influential research,<sup>4</sup> this problem is seen as follows.

According to population estimates published by the Ministry of Internal Affairs and Communications, the population of Japan as of October 1, 2004 was 127,687,000 people, an increase of 67,000 over the previous year. The total population increase/decrease is calculated as "A" (the number of children born, minus the number of deaths) plus "B" (the number of immigrants minus the number of emigrants [the movement rate]). According to the October 1, 2004 data, compared with the same period the previous year, "A" increased by 102,000 and "B" saw a decrease of 35,000. Advanced countries have fairly constant death rates, so the birth rate (actually the correct term is "total fertility rate," but here we'll substitute the term "birth rate") and the movement rate become the determining factors. However, even if Japan's birth rate experienced an upturn, currently at 1.23, the maximum would be 1.8 at most. While the population is precipitously decreasing (2005-2030), the death rate will be high and the



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birth rate is not expected to increase very much. Also, even if 500,000 foreigners (the number mentioned by the United Nations State of World Population) were admitted to Japan each year, the population is not expected to increase. On the other hand, beyond 2030, as the population stabilizes, the influence of the birth rate on population structure is expected to be large, particularly the rate of aging. If the birth rate is 2.0, the aging rate is forecast to be 19 percent; if 1.65, then 26 percent; if 1.35, then 32.5 percent, and if 1.2, 37 percent. According to estimates, if present trends continue, the population will, as seen by age group, appear as shown in Figure 5.

For that reason, as is widely known, in the advanced countries, rather than attempting to promote immigration, higher priority has been, and is, placed on implementing policies to increase the birth rate.<sup>5</sup> The long-term ability of foreigners to stem the trend toward lower birth rates becomes clear by analyzing the experiences of Germany (and other countries). Even if the first generation has three or more children, the birth rate for the second generation becomes about the same as that of Germans. So even if the first generation is fruitful and multiplies, the economic effect is just about enough to cover the first generation's social security pension outlays. The costs of providing education and so forth for the second generation actually produce a minus for the economy.<sup>6</sup>

Accordingly, in Germany, despite facing a precipitous downturn in the birth rate and a fall in population similar to Japan's, even with regard to workers from the new EU member countries, immigration is initially prohibited for a period of three years (from May 2005), with extensions of two and three years, for a total of seven years.

Next, it is inevitable that Japan's future industrial structure will shift toward higher value added manufacturing, IT, etc., with mass production of items that can be made anywhere, and, due to international competitiveness, production will be shifted to Asia, eastern Europe and other places. It remains true that certain sections of the economy cannot be shifted overseas (such as agriculture, construction and many service industries), however, even in these areas international competition is forcing structural improvements to take place. And if that is the case, then it follows that the types of foreign workers required in Japan in the future must be in keeping

with these emerging economic realities.

## 2.2 Unskilled Foreign Workers in Japan

Since the 1990s Japan has allowed foreign workers into the country without limiting the kind of work they can do, typified by the Brazilians, Peruvians and others with Japanese ancestry (i.e., those who have their origins in Japan within the last two or three generations). I wish to emphasize that it is readily apparent that virtually no regulations were made for their entry.

Below is a list of the minimum conditions necessary to accept foreigners.

- (a) Preparation to enter the country with some knowledge pertaining to Japan, such as the language.
  - (b) Securing stable employment with companies that follow employment regulations — such as wages, working hours, safety, etc. — and ensure that the workers are enrolled in social insurance (health insurance, public pension insurance) and labor insurance plans (employment insurance, worker's accident insurance).
  - (c) Because it is impossible to prohibit workers from bringing their families to live with them, parents or guardians should fulfill their educational duties toward their children, especially those of mandatory school age, and national and local government assistance should be provided.
  - (d) Secure housing for both the individual and his/her family.
- Others.

However, the reality is that many foreigners, especially foreigners of Japanese descent, came to Japan to work without the above conditions being secured.

To put it another way, foreign workers were, for all intents and purposes, allowed into Japan without specifying what conditions were necessary.

Concerning these points, the following can be stated.

- (a) Lack of adequate Japanese language classes in one's native tongue and Japanese language education in Japan

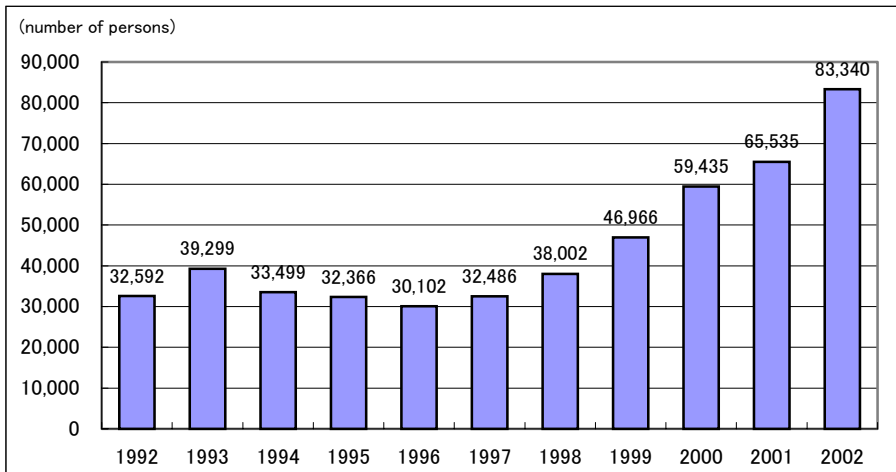
Both countries built through immigration, such as the U.S., Australia, Canada, etc., and those that accept foreign workers, such as Germany, the

U.K., France and others have certain requirements concerning minimum daily conversation skills in the official language of the country as a precondition to work and stay in that country.

In this regard, Japan lacks an adequate overseas network or system to facilitate the study of the Japanese language. As a result, there is no alternative but to allow people who want to study in Japan to enter the country and then learn the language. In this way, Japan has no choice but to admit foreigners from China and elsewhere as students enrolled in Japanese language schools. Most have no means of support, and since they are not receiving any sort of scholarships, it is necessary for them to get permission from the immigration bureau to work part-time (up to 28 hours per week). The number of those who had received permission to work part-time totaled more than 83,000, and if people who work without obtaining permission are included, the number is fairly large. (See Figure 6.)

**Figure 6. Trends in Foreign Students who Work Part-time. (unit: persons)**

About 80,000 foreign students worked part-time in 2002. (An increase of about 50,000 or 156% over 1992)



**Source:** Immigration Bureau, the Ministry of Justice.

**Note:** “Part-time work” refers to the number of foreign residents with a student visa who received “Permission to Engage in Activity other than that Permitted under the Status of Residence Previously Granted”.

Also, there are many people among second- and third-generation Brazilians, Peruvians, etc. of Japanese descent who are admitted into the country without conditions, and who can only speak their mother tongue and are unable to understand Japanese. The Japanese language ability of their children is again almost entirely insufficient to keep up with classes even if they attend elementary and junior high school. As a result, they tend to drop out and frequently commit petty crimes such as shoplifting around town. Their commission of crimes is out of proportion with their numbers, and is a problem. Of course, many local governments (cities where a large number of non-Japanese residents live) provide remedial Japanese language instruction to children of foreigners and/or educators able to communicate in the mother tongue of the children. However, many parents come here with the idea that they will only be here for a few years to earn money, and thus only a small percentage of their children have the ability to understand classes taught in Japanese. And yet, as their stay in Japan becomes longer, the children come to see Japan as the country where they will be living in the future. In January 2005, we performed a study at Kurihama Juvenile Training School, which seeks to reform juveniles placed there for crimes. There were nearly 30 Brazilian juveniles of Japanese descent incarcerated there, and all considered Japan to be the country where they should be living in the future, rather than their parents' home country of Brazil. Moreover, the primary reason they became involved with crime in the first place was their inability to communicate in Japanese. Both the juveniles themselves and the workers at the reformatory agreed that if they had been able to use the Japanese language and had been able to function normally in school and elsewhere, they would not have become involved in criminal activity. At this school, the important work of the reformatory employees concerning Brazilian-Japanese youth was to teach them the Japanese language.

There is also a German precedent for this situation, involving the repatriation to Germany of Aussiedler, so-called Eastern Europeans of German ancestry. Both parents and children among these ethnic Germans have insufficient German-speaking ability, and special measures are being implemented involving large budgets and/or the cooperation of volunteers and others to help them acquire German language ability.<sup>9</sup> In Japan, such

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measures are just beginning to get underway.

In implementing such remedial language training, the education of the parents' generation is even more insufficient, and it is necessary that the national as well as local governments prepare opportunities for foreigners to study the Japanese language. However, it is debatable whether or not Japanese descents and others who have come to Japan to earn money have the willingness and the time to take advantage of these opportunities. Many labor 10 hours per day, and they do not have enough free time to study the language on top of their already hard daily schedule.

However, when allowing foreigners into the country in the future, excluding a few specialized occupations that allows them to work in English or other languages, acquisition of the Japanese language should be a precondition and requirement for staying and working in Japan. The system established to provide intensive Japanese language training for nurses and careworkers from the Philippines after their arrival can be called a first step.

(b) Equal application of labor and social security laws to foreigners

Labor laws also apply equally to foreigners, especially the Labour Standards Law and the Trade Union Law. However, the current situation is that the employment methods used by many companies prevent foreign workers from receiving the benefits that these regulations provide.

In April 2004, Nippon Keidanren, the leading organization of employers, compiled a report promoting the acceptance of foreign workers as an appeal to the government and others.<sup>10</sup>

In this report, they argue that companies accepting foreigners must obey the Labour Standards Law, the Minimum Wages Law, the Industrial Safety and Health Law and related aspects of the labor law system just as when Japanese workers are employed.

However, as a result of the relaxation of regulations under the Worker Dispatching Law effective April 2004, excluding the construction and a few other industries, foreign workers can be employed in manufacturing, the service industries, and other fields. When manufacturers (frequently automobile and electrical equipment industries) hire foreign workers, in particular Japanese-Brazilian and Japanese-Peruvians from temp agencies,

they have an indirect responsibility to follow regulations laid out in the Labour Standards Law and to bear the costs of social insurance payments, even if the agency has direct responsibility under the Worker Dispatching Law, Labour Standards Law and employer responsibility under the Social Insurance Law (i.e., participation in health insurance and welfare pension insurance). However, in actual fact the workers are received under short-term two to three month contracts from the brokers who call themselves “worker dispatchers” (few are licensed under the Worker Dispatching Law). Legally speaking, this method of receiving workers is strictly prohibited under the labor laws, failing to fulfill the requirements of Article 4-3 of the Employment Security Law, and falls under the category of a worker supply business under Article 44 of the Employment Security Law. The large companies where the foreign laborers work (they call themselves “subcontractor”), have the position that the relationship with exploitative middleman brokers is none of their business. This is a serious problem which Nippon Keidanren, the Japan Trade Union Confederation (Rengo) and other organizations dealing with employer-worker relations need to draw attention to.

Accordingly, foreigners caught in this sort of a system continue to go from one job to the next without ever receiving health insurance, welfare pension insurance or employment insurance. Because they work at least two hours of overtime every day in an attempt to earn as much as possible in as short a time as possible so they can return to their home country, the children are left entirely on their own on work days. However, every two or three months they are fired by the company to which they were “dispatched” (actually, it is an illegal subcontracting relationship) and have no choice but to keep changing jobs. In other words, research shows that among Japanese descendents and other foreign workers, those who are unskilled have almost no direct employment, and are instead almost entirely indirectly employed.

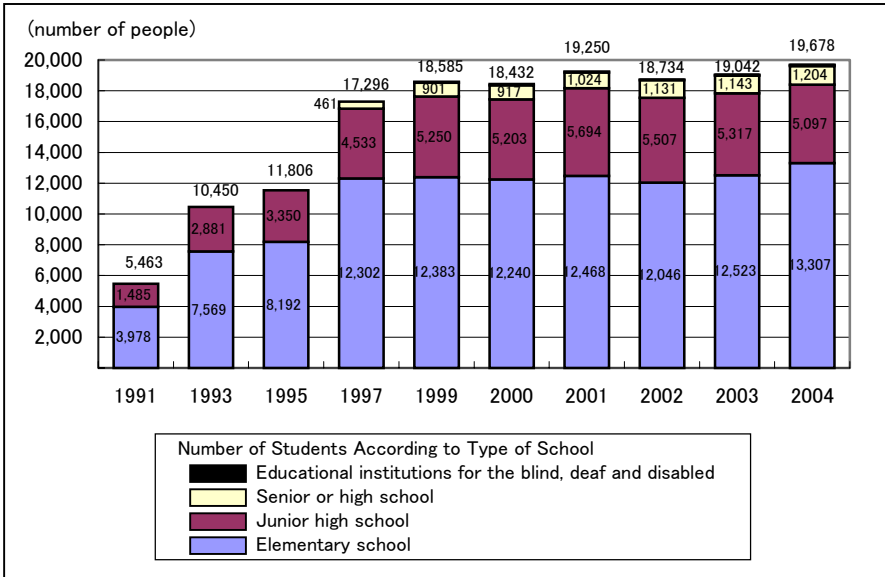
### (c) The children’s education

As stated above, the number of foreign children who require instruction in the Japanese language is gradually increasing despite the fact that there are fewer children of foreigners in Japan today. (See Figure 7.) The reason

for this is that although the number of children in non-Japanese families who have been residing in Japan since before World War II is decreasing similar to that for Japan as a whole, there is a growing number of children of Brazilians and Peruvians of Japanese descent who have recently settled here. In cities with higher than average concentrations of foreign residents, attention has been drawn to the problems of these children and the national and local governments have been asked to provide abundant support. The national government has responded by revising regulations on vocational technical schools — previously schools could not be licensed and eligible for public assistance unless they owned a campus and a school building. Now the national government provides direct and indirect assistance (e.g., assisting with half the salary of one instructor for every five foreign children).

**Figure 7. Trends in Foreign Students who Require Remedial Instruction in Japanese**

As of September 2004, there were about 19,000 foreign students enrolled in public elementary, junior high and high schools, in educational institutions for the blind, deaf and disabled, and in integrated junior and senior high schoolsystems. This figure has remained largely unchanged for several years. These 19,000 students attend a total of about 5,000 schools.



**Figure 8. Employment Status of Foreign Children (2004)**

City	Foreign children of school age (number of registered) A	Students B	Number enrolled in international schools C	Non-students A-(B+C) D	Rate of non-enrollment (%) $D \div A \times 100$	Remarks
Hamamatsu city	1,556	873	358	325	20.9	
Iwata city	270	118	91	61	22.6	
Kosai city	169	116	Unkown	*58	34.3	*includes foreigners enrolled in international schools
Fuji city	274	191	0	83	30.3	
Toyohashi city	1100	644	250	206	18.7	
Toyota city	819	431	236	*75	9.1	*Excludes people who returned to home country, relocated, etc.
Ogaki city	364	212	Unkown	*152	41.8	*Includes people enrolled in international schools
Kani city	258	91	74	93	36.0	
Minokamo city	238	110	74	54	22.7	
Yokkaichi city	461	274	109	78	16.9	
Suzuka city	497	167	50	280	56.3	
Ota city	502	233	91	178	35.5	
Oizumi Machi	646	313	109	224	34.7	
Ida city	195	149	0	46	23.6	

**Source:** Council for Cities of Non-Japanese Residents Related Reference Materials



Nevertheless, as seen in Figure 8., according to documents of the “Council for Cities of Non-Japanese Residents,” the attendance record of foreign children is atrocious. In most cities, between 20 percent and 40 percent do not attend school. The result, which is clear, is that they end up idly hanging around town, and in part due to the negative influence of their cohorts, they become involved in crime. This is the background behind the increase in juvenile criminals among Brazilians and Chinese. (See Figure 9.)

**Figure 9. The Number of Crimes and People Arrested of Foreigners Classified by Nationality (2004)**

Nationality	The number of crimes			The number of people arrested		
	Penal code crimes	Special law crimes	Total	Penal code crimes	Special law crimes	Total
China	5,891	2,782	8,673	2,173	2,447	4,620
Turky	5,580	71	5,651	303	726	1,029
Brazil	3,015	104	3,119	169	598	767
Re. of Korea	773	860	1,633	511	76	587
Philippines	176	657	833	28	336	364
Colombia	370	80	450	252	56	308
Vietnam	325	91	416	12	268	280
Thailand	26	372	398	176	102	278
Peru	229	129	358	28	209	237
Myanmar	14	274	288	47	163	210
Others	763	1,855	2,618	570	1,293	1,863
Total	17,162	7,275	24,437	4,269	6,274	10,543

Source: National Police Agency

The posture of parents who spend long hours laboring to earn money and are not concerned about their children’s education is, according to opinions heard from Brazil and elsewhere, is a pathetic contrast with the Japanese of an earlier era who emigrated to the New World amidst abject poverty and yet managed to build schools for their children, educate them, and turn out productive adults who gained important status within their new home countries in the Americas.<sup>11</sup>

### 3. Realities and Problems Surrounding Acceptance of Foreigners

According to estimates from the Ministry of Justice's Immigration Bureau, as of the end of 2003 there were more than 790,000 foreigners working in Japan.

Of these, Japanese descents and others (fixed domicile residents, spouses of Japanese, spouses of permanent residents, etc.) who have no employment restrictions number more than 230,000.

The conditions under which these people work is as follows.

- (a) They have short-term employment contracts (usually three months).
- (b) Rather than being directly hired by their workplace, they are indirectly hired, from outside subcontractors or temporary agencies.
- (c) The great majority are paid hourly wages, and unlike Japanese employees they receive almost no bonuses, retirement allowances, or other welfare benefits.
- (d) Non-participation in social insurance and employment insurance.
- (e) Can be dismissed at any time.

This sort of employment became possible because of the lax enforcement of Article 44 of the Employment Security Law prohibiting worker supply businesses, which was created to eliminate intermediary exploitation under Japanese employment laws. As a result, business subcontracting solely for the purpose of supplying labor has become common. (Under Article 4-1 of the Employment Security Law, this would constitute a worker supply business.)

Also, as part of the deregulation measures implemented from April 2004, excluding longshore, construction, and security industries, the Worker Dispatching Law now generally allows dispatching of workers to manufacturing and service industries, etc. Although it is obligatory that dispatchers' participate in social and labor insurance plans, with regard to foreigners, the supply of workers from subcontractors, which is not allowed by the Employment Security Law, continues unabated (fails to fulfill requirements of the Employment Security Law Enforcement Regulations Article 4-1, and therefore constitutes an illegal worker supply business). Of course they are not fulfilling their tax withholding obligations. If such

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forms of indirect employment are not eliminated, foreigners cannot be accepted into Japan.

In similar fashion, comparable problems also exist with the acceptance of foreigners under the technical intern training system, whereby the signing of a labor contract is obligatory.

In Germany, which may be considered a leader among countries in terms of accepting foreign workers, public prosecutors, police (Federal Ministry of the Interior), the Federal Ministry of Economics and Labor, and the national tax and financial authorities cooperate closely to continue cracking down under the “Labor Functions of Illegal Aliens.” However, they report that they have not been able to stop illegal immigration. It would seem fair to say that Japan does not have the level of coordinated government action that exists in Germany.

Whereas on the one hand there are problems on the receiving side as described above, problems on the part of the employed foreigners are also becoming apparent. Japanese descendents and other foreigners come to work in Japan for a few years to earn money. As a result — because they desire to accumulate as much money as possible in several years and return home — the reality is that they do not want to participate in social and employment insurance schemes in which, fundamentally, the employer and worker split the contribution 50-50. However, they, like everyone else, become ill and get hurt in accidents. So the question of coverage for them remains. There are limits to how far the national and local governments can look after the needs of such people. And not only that, but many show a tendency, over time, to settle in Japan. Many may be without a retirement pension in the future.

Additionally, the largest problem resulting from foreigners settling in Japan is the issue of their children. The reality concerning children of foreigners is that they are unable to keep up in Japanese schools, especially elementary and junior high school — mandatory in Japan — and for financial and other reasons they do not enter schools for foreigners either. It has been reported by the “Council for Cities of Non-Japanese Residents,” cities in which many foreigners live, that the dropout (non-schooling) rate among foreign children of mandatory education age ranges from around 10 percent to as high as more than 50 percent in some cities. Many have

insufficient Japanese language ability and end up not going to school because they cannot keep up with the curriculum.

Such children tend to wander idly around town, eventually ending up involved in juvenile crime. Even if these crimes are initially relatively minor offenses such as shoplifting, as they repeat offenses and become influenced by bad company, the likelihood of them committing serious offenses (such as burglaries) increases, as recent crime statistics reveal. However, according to the reformatory workers who are actually trying to help these juveniles straighten out, the biggest basic problem facing these youths is lack of communication, resulting from insufficient Japanese language skills. Accordingly, much time spent in reformatories is dedicated to Japanese language education. Moreover, most of these children intend to reside permanently in Japan, rather than in their parents' homeland. It needs to be kept in mind by any country that introduces manpower across cultural and linguistic borders that half-baked policies carry with them the danger of producing such children in the future.

In response to this state of affairs, recently the most aggressive response has come from the Ministry of Education, Culture, Sports, Science, and Technology, in the form of the easing of standards for establishing miscellaneous schools. Previously, schools needed to have a campus and own a building to qualify to be licensed, a requirement that was eliminated in June 2004. Now, at the discretion of local governments it is possible to be licensed as a miscellaneous school even with a leased building and campus. This measure makes it possible to receive local government assistance, student discounts on train passes, etc.

However, is it possible to demand a solution on the individual level to problems such as a lack of interest in a child's education on the part of those earning money in Japan? As mentioned above, since this is one of the three conditions for accepting foreigners in the country, it is necessary to very thoroughly confirm this when applying for a visa to enter Japan. In the future, while the national and local governments cooperate with both the sending country and local governments on the residential level, it is necessary to create a network that allows the children of foreigners to obtain not only mandatory education, but also secondary education.

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(f) Problems associated with temporary employment and housing

As explained above, because the employment of foreigners is unstable and they frequently change their workplace, they also have to change their place of residence. As a result, they do not change their foreign registration with the municipality of their new residence. This approach to receiving foreigners — whereby industries and corporations acquire only the labor needed, only when they need it, and then let the workers go as soon as they are no longer needed — is being called into question. The basic underlying problem is the same in Japan, Europe and the U.S.: the large numbers of foreign workers who have come into the country to earn money are at the bottom of the pecking order.<sup>12</sup>

Since foreigners have been accepted into the country, it is necessary to endeavor to assure them of employment for a fixed number of years. This is not just a problem of so-called manual (unskilled, semi-skilled) labor, but is also true for specialized, technical labor. The two- to three-year period of stay under the immigration law was extended to five years, and deregulation of labor contracts has also made three-year contracts possible under the Labour Standards Law (the 2003 revision, Article 14-1), (five years for workers with specialized knowledge, technology or experience). In consideration of this, foreign workers should be given assurance that they can work for a fixed period of time in Japan without worrying about job security. Furthermore, it is necessary to promote social security agreements (at present there are just a few, with Germany, the U.K., and the U.S., etc.) so that foreigners can participate just as Japanese do in the social insurance system and take back with them those rights (especially rights pertaining to public pensions) upon returning to their home countries.

#### **4. Urgently Needed Measures**

For such measures to become established as comprehensive government policy, there is a growing awareness that rather than committing such government policy concerns to a government-wide organization, it is necessary to establish an agency organizing national comprehensive government policy. In consideration of the precedent set by the German government official in charge of immigration issues (with the Chancellor's

direct advisory, investigative and authoritative functional rights), etc., there is an urgent need to establish an organization with these sorts of functions.

Also, personal exchanges with surrounding countries, especially those in Asia, continue to steadily grow, and to accommodate this trend it is necessary to expand visa exemptions and to ease visa issuance procedures. There is also a need to extend periods of stay after entering the country and greater transparency and deregulation concerning the requirements for settlement and permanent residence.

On the other hand, just as with the U.S., Western Europe and other advanced countries, the existence of overstays and other illegal foreigners results in a crime rate higher than among authorized residents. Illegal employment creates situations in which people work without the protection of labor laws and stimulates unfair competition among employers who seek to turn a profit by using cheap labor. From the perspective of protecting human rights as well, we must endeavor to put an end to illegal employment.

## **5. Japan in a World Facing the Globalization Era**

World trends in the 21<sup>st</sup> century require positioning Japan from a global perspective. In recent years, Asia has become the center of activity in the world, and this has resulted in a powerful influx of goods and money. The focus is on trends in China, with its population of 1.3 billion people.

In 2004, China received \$65 billion in investment from outside and its position as a manufacturing center is fast becoming unshakeable. It is forecast that before long China's export value will surpass that of Japan, currently ranked third in the world. For example, in manufacturing, there are now forecasts that "\$19 Chinese-made DVD players" will appear on the world market. Not only manufacturing, but also health, leisure, travel, education and other service industries are flourishing and attracting capital investment from outside the country. In terms of domestic stock as well, last year China, amid a reportedly vibrant economy, had foreign currency reserves totaling \$609 billion, second only to the U.S.

Space does not permit me to elaborate on China's people problems, but 10 million new laborers are being added each year to the work force

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supporting the economy. Amidst this, what will become of relations with Japan, Asia's most advanced country? It would seem that the key to Japan's future growth lies in whether Japan can establish superiority in sustaining and producing high value added manufacturing industries in an international division of labor with China.

Next, let us look at the condition of the recently expanded EU. EU unification under the Treaty of Rome (most recently amended in 2003) guaranteeing free movement within the region of goods, money and people, has almost entirely embraced the countries of what was formerly Western Europe, and now is spreading eastward. With the successful unification of the former Eastern European countries (Poland, Hungary, Czech Republic, Slovakia, Slovenia and the three Baltic states) under the control of the Soviet Union for 50 years during the East-West Cold War period, a flow from west toward the east is developing. Unification can be said to have given official approval to the de facto trend since the disintegration of the Soviet Union. This region too is on its way to becoming firmly established as a focal point of investment, global manufacturing and trade.

While supporting one wing of the emerging trends in the 21<sup>st</sup> century, to increase Japan's strength it is important to promote the acceptance of excellent human resources from overseas. Accordingly, there is an urgent need to establish pertinent government policies.<sup>13</sup>

## Notes:

<sup>1</sup> For an explanation of conditions at this time, please refer to Tezuka, Kazuaki, *Gaikokujin Rodosha* (Nihon Keizai Shimbun, Inc., 1989) and Tezuka, *Zoku Gaikokujin Rodosha* (Nihon Keizai Shimbun, Inc., 1991).

<sup>2</sup> Regarding the results of Germany's acceptance of foreign laborers, this sort of a conclusion had already been reached in 1973 when they newly admitted foreign residents. cf. Tezuka, *Gaikokujin Rodosha*, p.157ff. Furthermore, the government's decisive report on Germany's problems of foreign laborers was published under former Speaker of the German Parliament Rita Sysmuth, and this point is stressed throughout.

<sup>3</sup> This position is also maintained in the "9<sup>th</sup> Basic Employment Measures Plan" drafted in 1999 and the 2005 "Basic Plan for Immigration

Control.”

- <sup>4</sup> Fujimasa, Iwao, *Ajia Gijutsusha Ryutsu Kakumei no Jitsugen ni Chosen*, (FY2004 *Tabunka Kyosei wo Kangaeru*, Research Committee Report, Global Industrial and Social Progress Research Institute), p13ff.
- <sup>5</sup> Regarding each country’s approach to falling birthrates, see Tezuka, Kazuaki, et al., *Nenkin Seido ni okeru Shoshika e no Taiou ni Kansuru Kenkyu* (FY2004 Health, Labour, and Welfare Scientific Research Grant Summary Report). Furthermore, regarding the direction of Japan’s policies, see *White Paper: Annual Report on Health and Welfare 2004*, p144ff
- <sup>6</sup> Tezuka, Kazuaki, *Gaikokujin Rodosha Kenkyu* (Shinzansha, 2004) p118ff.
- <sup>7</sup> Regarding conditions subsequent to the addition of Poland, Hungary, and eight other countries to the EU, see Tezuka, Kazuaki, *EU Toho Kakudai no Mondaiten wo Polando ni Miru* (Economist, Feb. 15, 2005)
- <sup>8</sup> Regarding such shifts in manufacturing bases, see chapter 3 of the *White Paper on International Trade Japan*, 2004 edition.
- <sup>9</sup> Tezuka, Kazuaki, op. cit., ch. 4.
- <sup>10</sup> Nippon Keidanren, *Gaikokujin Ukeire Mondai ni Kansuru Teigen* (April 20, 2004). This report recommends considering how to handle foreign workers in non-specialized, non-technical fields; however, at present it is not clear whether economic circles are capable of the sort of stringent acceptance discussed in the text.
- <sup>11</sup> For details on this point, see Tezuka, Kazuaki, *Gaikokujin to Ho*, 3<sup>rd</sup> ed. (Yuhikaku, 2005), ch. 9.
- <sup>12</sup> Regarding the status of illegal workers recently in the United States, see Brian Grow, “Embracing Illegals” (*Business Week*, July 18, 2005), p38ff.
- <sup>13</sup> Regarding these points, see the Council on the Movement of People Across Borders report, *Henka suru Sekai ni Okeru Ryoji Kaikaku to Gaikokujin Mondai e no Arata na Torikumi* (October, 2004).