

Japan ---

Labor Review

Volume 2, Number 4, Autumn 2005

Special Edition

Foreign Workers

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The Winter 2006 issue of the Review will be a special edition devoted to **Labor and Management Dispute Resolution System.**

INTRODUCTION

Feature Articles: The Issue of Foreign Workers

Today, there are an estimated 2 million foreigners in Japan, of whom 800,000 are believed to be working. The combination of fewer children per family and a rapidly aging society in Japan is making the shrinking working population an imminent problem. Because of this, there is increasing talk about whether or not it is advisable to look to foreign labor as a means of maintaining, and if possible strengthening, the economic vitality of the nation.

However, the debate over the influx of foreign labor into Japan is no recent phenomenon. In the first half of the 1980s, there was a conspicuous increase in female immigrants from Southeast Asian countries – particularly the Philippines and Thailand – seeking jobs in service sectors such as the entertainment business. In addition, from the middle to the late 1980s, when the bubble economy boomed, the manufacturing and construction industries ran into serious manpower shortages and the possibility of employing foreign workers to make up for the shortfall began to be discussed in earnest.

Disagreements persisted between employers, who called for the acceptance of foreign labor as a means of helping the economy, and labor unions, who feared the negative impact such a move might have on domestic employment. One point of agreement that eventually emerged was that foreigners with technical or craft skills should be accepted while caution should be exercised in accepting unskilled workers. It was further agreed that foreign workers of Japanese ancestry, namely descendants of Japanese emigrants to South America, etc., could be accepted with few restrictions.

When the Japanese economy ran into a phase of protracted stagnation, an over-supply of labor replaced the shortage, and the arguments concerning the acceptance of foreign labor lost momentum. Since entering the new millennium, however, fear of a future labor shortage has surpassed that of

the 1980s, when the shortage was due to a greater demand for manpower. This time, the shortfall has come as a result of an anticipated drop in childbirths and the advancing age of the population. However, against the backdrop of China's rapid economic growth, workers have been increasingly employed on short-term contracts in factories as a flexible way to utilize human resources and strengthen Japan's industrial competitiveness. Foreigners with Japanese ancestry were seen as a valuable resource in meeting this demand.

It should be noted, however, that millions of foreign workers would have to be employed every year if the shortfall in the labor market due to the shrinkage of Japan's population is going to be made up solely by accepting foreign labor. Consequently, a consensus seems to have arisen in Japan that priority should be given to the utilization of women and the elderly, who are not counted among the working population at the moment, as well as young labor, among whom the unemployment rate remains high. Recently, caution has been increasingly voiced over the unconditional acceptance of foreign labor, partly due to concerns over an increase in crimes by foreign residents and a deterioration in public safety in Japan.

At the same time, however, many sectors of industry and small businesses cannot survive without employing foreign workers for simple jobs. In districts where such industries and enterprises are concentrated, many cities have communities of "settled" foreign residents rather than "migrant" workers. The indigenous citizens in these areas are faced with a challenge today – not tomorrow – of how to live together in harmony with these foreign residents as neighbors in the same community.

On the theme featured in this issue, we are privileged to have articles by experts who are well acquainted with the realities of individual work places and local communities. In these articles, the respective authors identify, from a detailed point of view, the problems involved and propose viewpoints from which solutions to the problems can be sought.

Mr. Makoto Ogawa, in his capacity as a policymaker on the employment

of foreign workers, describes the current situation in detail as well as the contents of relevant policies and future trends. His article points out that the issue of accepting foreign workers is not merely a matter of labor policy, but also has to be discussed in a comprehensive framework in the context of seeking a national consensus in such areas as education, public safety, industrial competitiveness and locally oriented policies.

Emeritus Yasuo Kuwahara, as a top expert among Japanese labor economists on the issue of foreign labor, places the issue of foreign residents in the context of postwar history and explains its contemporary significance. In his article, the author points out that the current policy on foreign residents still involves the negative byproducts of a vertically aligned public administration system that can only respond to problems on an ad hoc basis. He states the need to set up a government body with a unified authority over all foreigner-related measures – currently handled by many different ministries and agencies – and to establish a long-term vision regarding immigration policies.

Emeritus Kuwahara's proposition is echoed in the article of by Mr. Kazuaki Tezuka, a legal expert, who points out the need to set up a government body responsible for the formulation of a comprehensive national policy on the issue of foreign residents, and draws attention to a number of cases where early remedies are needed for specific legal problems. One is the isolation of many children of Japanese ancestry from the rest of the community, as they cannot speak Japanese and do not go to school. As they do not want to return to their native countries, this situation may result in a serious public safety problem in the future. In addition, some contractors rely on illegal labor agencies. Workers of Japanese ancestry are often employed through such unlawful brokers without any protection of their rights as workers.

Mr. Hiroaki Watanabe, an economist, reports on the management of immigrant workers through findings in a survey he made on contractors who employ many workers of Japanese ancestry. He outlines an emerging new situation, which is characterized by a shift in the pattern of recruitment

of such workers from approaches in their native countries to the use of a network within Japan, and by an increasing trend for recruiting female workers. At the same time, he also points out long-established tendencies of long overtime work, lack of opportunities for skill development and wage levels that pay little attention to individual workers' experience.

Finally, Mr. Naoto Omi identifies problems concerning foreign labor from the viewpoint of the labor union. He stresses the need for caution in easily accepting unskilled workers, and tidies up the points of discussion regarding the utilization of foreign labor in the field of medical and nursing care in the context of the aging population. The author draws attention to the need for not only regulation on entry, namely qualification for lawful immigration and visa status, as currently practiced, but also for the development of an adequate policy covering foreign workers "after they are accepted," based on the assumption that most of them want to settle down in Japan.

I hope that these features contribute to the reader's better understanding of the current status of foreign labor issues in Japan.

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Current Issues Concerning Foreign Workers in Japan

Makoto, Ogawa

Director, Foreign Workers' Affairs Division, Employment Security Bureau, the Ministry of Health, Labour and Welfare

Summary

With concerns being voiced about a possible structural shortage of labor in the future due to a declining fertility rate and ageing of society in recent years, there is heightening pressure on Japan at EPA, WTO and other international arenas to accept foreign workers. At the same time, issues concerning foreign workers have been drawing attention at home, where there are calls for acceptance of workers from abroad in the interest of further globalization of Japan. This article overviews the current situation, the opinions of various circles, general public opinion, and policy issues among other things concerning foreign workers in Japan.

1. Current State of Affairs of Labor Market in Japan

(1) Population Pattern; Lower Fertility rate and Ageing of Population in Japan

Due to a fall in the fertility rate, Japan is facing an accelerating decrease in the number of children and a rapid increase in the proportion of elderly people. According to a long-term projection conducted in January 2001 by the National Institute of Population and Social Security Research, the Japanese population will reach a peak in 2006, and subsequently enter a phase of decline. Accordingly, the proportion of elderly population (the ratio of people aged 65 and above to the population as a whole) is expected to rise from 25.2 percent in 2000 to 50.0 percent in 2030.

With ageing and the decrease in the number of children accelerating, questions related to the acceptance of workers from abroad are currently in the spotlight as a controversial issue in various circles.

(2) The Current Employment / Unemployment Situations

The employment situation in Japan is tending towards recovery at the moment, after passing through a worst situation in January 2002 when the

unemployment rate marked 5.5 percent: the rate was 4.4 percent as of May 2005. However, a high unemployment rate and a shortage of jobs affecting, in particular, young people have remained as serious social problems: currently, about three million persons are jobless; while 2.5 million young persons aged under 35, though not “unemployed,” did not have, as of 2000, stable jobs and were labeled as freeters; and there were 800,000 young NEET persons (neither in employment, education, nor training).

2. Basic Policy concerning the Acceptance of Foreign Workers

The basic policy concerning the acceptance of foreign workers was approved on August 13, 1999, in a Cabinet meeting. It declares that, “Under these circumstances, the government will more actively promote the acceptance of foreign workers in professional or technical fields from the standpoint of invigorating and internationalizing the country’s economy and society.

Concerning the acceptance of what are called unskilled workers, it can be expected to have a tremendous effect on the Japanese economy, society and national life, beginning with problems related to the domestic labor market. In addition, it would have a significant impact on both the foreign workers themselves and their countries. Therefore, the Government must cope with this issue with thorough deliberation based on a consensus among the Japanese people.”

Despite this official statement of policy, the scope of workers to be admitted is not necessarily fixed: the basic policy says that “The scope of accepting foreign workers as prescribed by the status of residence and their related examination criteria will be reviewed hereafter as well in accordance with changes in the Japanese economic and social situation, etc. However, when viewed as a country taking in foreign workers, Japan is in the vicinity of many countries with large populations and developing economies. Therefore, the fact that there exists enormous potential pressure for influx into Japan should be taken into consideration. It is for this reason that there is the need to study a way to accept foreign workers that will regulate the numbers of people entering the country precisely and dynamically in

accordance with the state of the domestic labor market, such as deterioration of the employment situation, while giving consideration to the impact on Japanese industry and national life and other factors.”

3. The Current Situations Affecting Foreign Workers in Japan

(1) Overview

In 2003, foreigners residing in Japan for the purpose of working in professional or technical fields¹ totaled 185,556; persons of Japanese descent², etc. 230,866; workers engaging in activity outside the scope is permitted³ (working activities with the permission of Ministry of Justice) 98,006; technical interns, etc.⁴ 53,503; and illegal residents 219,418.

(2) Foreign Workers in Specialized or Technical Fields

The number of foreign workers in professional and technical fields increased approximately by 90,000, or 110 percent, compared to the figure in 1992, 85,517. The number has increased steadily since 1992 except for 1995 when it dropped sharply. The drop is largely attributable to a drop of 18,852, compared to the previous year⁵, in the number of foreign workers with the residential status of “entertainer.”

Of foreign workers in these fields, the number of those who reside with

¹ The number of foreigners who reside in Japan with a status of residence that authorizes them to engage in work under the Immigration Control Act.

² This is the number of foreigners who are “permanent residents,” “spouses or children of Japanese nationals,” or “spouses or children of permanent residents,” and engage in work in Japan. The number of persons of Japanese descent who are in work is an estimate by the Ministry of Health, Labour, and Welfare.

³ Workers engaging in activity outside the scope is permitted are foreigners residing in Japan with the status of “overseas student” or others, and engaging in arubaito under special permission to engage in activities outside the scope of their status.

⁴ Technical interns, etc. means those who possess a residential status allowing them to engage in special activities or in work under a technical internship program, those who stay in Japan under the working holiday program and are probably engaged in work, and so on. The number of such technical interns, etc. is an estimate by the Ministry of Health, Labour and Welfare.

⁵ The question of foreign workers who first entered the country to engage in “entertainment” but in fact were engaged in activities outside the scope of their status was taken up in the Diet, and in June, 1996, the ministry ordinance on “entertainment” was revised.

permission to engage in entertainment activities is the largest, 64,642, followed by those qualifying as specialists in the humanities or international services at 44,943; and as engineers at 20,807. By origin, 88.7 percent of those engaging in entertainment activities are from Asia, 9.8 percent from Europe, and almost none from other regions. On the other hand, while people from Asia account for 42.6 percent of the “specialists in humanities or international services,” the proportion from North America is also high, at 27.1 percent. This is attributable to the fact that quite a few people from this region enter Japan as language teachers.

(3) Persons of Japanese Descent, etc.

The Immigration Control and Refugee Recognition Act was revised in 1989, and a status of residence for “long-term residents” was newly introduced. Since long-term residents are descendants of Japanese nationals, they are not subject to any restrictions on their activities in Japan. Hence, following the revision of the Act, an increasing number of persons of Japanese descent came to Japan and worked in the manufacturing sector, which was then suffering from a labor shortage. In 1990, 71,803 foreigners of Japanese origin worked in Japan, and in 2003, the figure increased to 230,866. However, it has leveled out since 1997, reasons being that the performance of the Japanese economy was not good, and that an increasing number of foreigners with the residential status of “spouses or children, etc. of Japanese nationals” and “long-term residents” shifted their status to “permanent residents.” In 1998, “permanent residents” of Brazilian and Peruvian nationals totaled 5,853, and in 2003, 58,984, showing an increase of 50,000 over the five years. Although most Latin Americans of Japanese origin first came to Japan as migrant workers, they are coming to stay longer in Japan in recent years. In terms of duration of stay, Japanese descendants who have stayed in Japan for 10 years or longer account for 28 percent; those for 7 years or longer but less than 10 years 21 percent: thus about half stay in Japan for 7 years or longer⁶.

In the meantime, 64.9 percent of such foreign workers of Japanese

⁶ From the Industrial Employment Stabilization Center of Japan, a “questionnaire survey to workers of Japanese descent,” 2002.

origin work for business establishments engaged in worker dispatch or contract business, showing a high proportion of persons in indirect employment (“the 2004 Report on the Employment of Foreign Nationals,” the Ministry of Health, Labor and Welfare).

(4) Technical Interns

A “Technical Internship Program” was established in April 1993 as a new form of mechanism for transferring technologies to developing and other foreign countries.

The program provides foreign interns who have entered Japan with a “training” residential status with opportunities to receive training for a certain period (normally 9 to 12 months); to have their “performances in training” assessed; and, if they have satisfied various requirements including the attainment of a certain standard in the internship program, to work under a labor contract and acquire technologies and skills through on-the-job training. The total duration of stay for training and technical internship is set at three years or less.

The number of technical interns totaled 5,054⁷ in 1993, and substantially increased to 53,503 by 2003. By industry, the textile and clothing manufacturing industry accept the largest number of technical interns, followed by manufacturers of machinery and other metal products.

(5) “College Students” and “Pre-College Students”

The number of college students⁸ and pre-college students⁹ residing in Japan has been increasing.

A majority of students classifiable into these categories are from China, the Republic of Korea, and other countries in Asia.

College students and pre-college students are entitled to work during the academic term for a maximum of 28 hours and 4 hours per week, per

⁷ The figure includes, apart from technical interns, those who are in work with the residential status of “working holiday” or other “special activities.”

⁸ “College Student” is a residential status for those receiving specialist education at universities, colleges or advanced vocational schools.

⁹ “Pre-college Student” is a residential residence for those receiving high school education or general education at high schools or vocational schools.

day, respectively, and for up to 8 hours per day during the summer holiday and other long-term vacations, provided they have acquired permission to engage in activities outside the normally permitted scope (engagement in “adult entertainment” is prohibited).

In 2003, a total of 98,006 overseas college and pre-college students obtained permission to engage in activities outside the scope permitted, an increase of 16.6 percent from the previous year.

According to a Report on the Employment of Foreign Nationals, 34.3 percent of foreign nationals residing in Japan with the status of “college student” or “pre-college student” and working with the appropriate permission worked in food and drink establishments or the accommodation industry, followed by 20.0 percent in the wholesale and retail industry; and 17.3 percent in the manufacturing industry.

A survey by the Immigration Bureau of the Ministry of Justice shows that, in 2003, overseas students with the status of “college students” or “pre-college students” who were permitted to shift to another status with entitlement to work totaled 3,778: by nationality, those from China (59.8 percent) and from South Korea (19.1 percent) accounted for nearly 80 percent of the whole. Major occupations of such ex-students included

Table 1. Trends in Country of Origin of Overseas College and Pre-College Students in Japan

Residential status		1999	2000	2001	2002	2003	(%)	Rate of change compared to end of previous year (%)
College		64,646	76,980	93,614	110,415	125,597	6.6	13.7
Student	China	35,879	45,321	59,079	73,795	87,091	69	18
	R.K.O. Korea	13,194	14,848	16,671	17,091	16,951	13.5	-0.8
	Malaysia	2,035	1,890	1,850	1,937	2,054	1.6	6.0
	Thailand	1,294	1,468	1,601	1,760	1,921	1.5	9.1
	Indonesia	1,312	1,448	1,511	1,607	1,662	1.3	3.4
	Others	10,932	12,005	12,902	14,225	15,918	12.7	11.9
Pre-college		34,541	37,781	41,766	47,198	50,473	2.6	6.9
Student	China	22,782	26,542	30,170	35,450	38,873	77	9.7
	R.K.O. Korea	7,776	7,432	7,587	7,236	6,560	13	9.3
	Sri Lanka	203	198	290	427	511	1	19.7
	Thailand	359	366	409	445	474	0.9	6.5
	Bangladesh	239	220	232	299	469	0.9	56.9
	Others	3,182	3,023	3,078	3,341	3,586	7.1	7.3

Source: “Statistics on Registered Foreign Nationals as of the End of 2003,” Ministry of Justice

“translation / interpretation” (23.7 percent), “technical development” (9.4 percent), “sales” (9.2 percent), and “education” (6.9 percent). By industry, 28.2 percent were employed in the manufacturing sector, followed by 19.8 percent in the “commercial and trading sector,” 13.6 percent in the “education sector,” and 11.0 percent in sectors “related to computers.”

(6) Public Views on Foreign Workers¹⁰

Where public opinion concerning the acceptance of foreign workers is concerned, a survey shows that those who replied “unskilled workers should be widely accepted without any particular condition” accounted for only 16.7 percent, while those who called for “acceptance with certain requirements”¹¹ accounted for 39.0 percent, and those who did not want to accept any foreign workers ” for 25.9 percent. Strict comparison of the survey results with those in the past cannot be made due to differences in the questions, but it should be noted that the proportion of those who replied that “foreign workers should not be accepted in the future either” increased from 14.1 percent in a survey conducted in 1990 to 25.9 percent in 2004. Among reasons for refusing acceptance, “fear of deterioration in public security” was chosen by 54.0 percent of respondents in 1990, 62.9 percent in 2000, and 74.1 percent in 2004: concern over public security has been getting stronger.

As for the debate concerning acceptance of foreign workers on account of a labor shortage, the survey showed that the proportion of respondents saying “it should be considered positively,” and “foreign workers should be accepted once female and elderly workers have been made full use of and efforts made in improving productivity” decreased from 17.1 percent to 15.3 percent, and from 53.2 percent to 45.0 percent, respectively, from the survey conducted in 2000. On the other hand, the proportion of those who replied that “foreign workers should not be accepted without careful thought” increased from 23.1 percent to 29.1 percent.

¹⁰ The survey is an “opinion survey concerning acceptance of foreign workers,” Cabinet Office, 2004.

¹¹ “Priority should be given to full use of females and the elderly and other Japanese labor. If labor is in short supply in some fields despite this, unskilled foreign workers will be accepted.”

The proportion of the Japanese who find illegal employment to be wrong is increasing – 32.1 percent in 1990, 49.2 percent in 2000, and 70.7 percent in 2004, while the proportion of those who believe that “it is wrong but cannot be helped” has been decreasing, from 55.0 percent in 1990 to 40.4 percent in 2000 and 24.5 percent in 2004.

As a whole, public opinion, partly reflecting the recent deterioration in the employment situation and security, has been becoming more cautious about acceptance of foreign workers and tougher on the illegal employment of foreign nationals.

(7) Industries with Foreign Workers

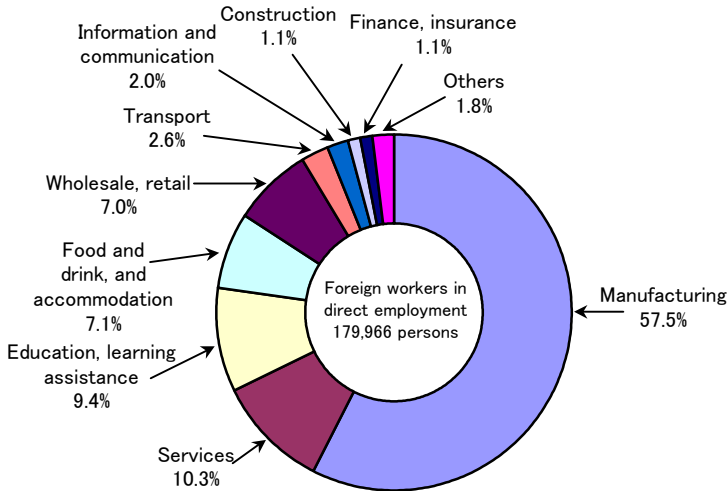
Since fiscal 1993, under a scheme called “Reports on the Employment of Foreign Nationals” laid down by the Ministry of Health, Labour and Welfare, business establishments have been asked to submit such reports annually. The scheme asks all establishments with 50 or more employees and certain establishments with 49 or less employees (selected in accordance with regional circumstances and administrative necessity) to make their reports to public employment security offices. In 2004, 312,402 foreign workers were in work at 24,678 business establishments. Of these, workers under direct employment contracts totaled 179,966 in 22,127 establishments, while those under indirect employment contracts totaled 132,436 in 5,135 establishments. The number of foreign workers per establishment is larger for establishments using direct employment than for those using indirect employment – 8.1 and 25.8, respectively.

The majority, 57.4 percent, of foreign nationals working under direct employment contracts work in the manufacturing sector, followed by the services (10.3 percent), education and learning assistance services (9.3 percent), food and drink establishments and accommodation services (7.1 percent), the wholesale and retail industry (7.0 percent). Compared to the results of a survey in 1994, the proportion in the manufacturing sector (63.7 percent) fell, while that of wholesale and retail shops and food and drink establishments increased (8.2 percent).

By region of origin, those from East Asia accounted for 38.4 percent, those from Latin America for 35.8 percent, and those from South-East Asia for 13.2 percent, people from these three regions accounting for a vast

Figure 1. Proportion of Foreign Workers, by Industry

(Direct employment)



majority. In fiscal 2004, the proportion of those from East Asia exceeded that from Latin America for the first time since fiscal 1993, when the survey commenced. While a majority of Latin American workers, 51.8 percent, work in the manufacturing sector, a relatively large proportion of those in food and drink establishments and accommodation services;

Table 2. Number of Foreign Workers, by Region of Origin and by Industry

(Units: Person, Ratio)

	Total		Manufacturing		Services		Food and drink, and Accommodation		Education and learning assistance		Wholesale and retail	
	Persons	Ratio	Persons	Ratio	Persons	Ratio	Persons	Ratio	Persons	Ratio	Persons	Ratio
Total	179,966	100.0%	103,234	100.0%	18,567	100.0%	12,723	100.0%	16,794	100.0%	12,592	100.0%
East Asia	69,078	38.4%	31,642	30.7%	6,738	36.3%	10,239	80.5%	5,093	30.3%	8,391	66.6%
Southeast Asia	23,770	13.2%	14,878	14.4%	2,643	14.2%	1,402	11.0%	621	3.7%	1,862	14.8%
Others in Asia	4,023	2.2%	1,374	1.3%	498	2.7%	516	4.1%	523	3.1%	385	3.1%
North America	8,588	4.8%	493	0.5%	978	5.3%	64	0.5%	5,190	30.9%	559	4.4%
Latin America	64,405	35.8%	53,496	51.8%	6,701	36.1%	273	2.1%	235	1.4%	598	4.7%
Of them, Japanese origin	57,301	31.9%	48,316	<90.3%>	5,852	<87.3%>	186	<68.1%>	55	<23.4%>	444	<74.2%>
Europe	6,785	3.8%	825	0.8%	683	3.7%	170	1.3%	3,443	20.5%	568	4.5%
Others	3,317	1.8%	526	0.5%	326	1.8%	59	0.5%	1,689	10.1%	229	1.8%

Note: Percentages in parentheses are the proportion of persons of Japanese descent to those from Latin America
Source: the Ministry of Health, Labour and Welfare

wholesale and retail; and the service industry is relatively high among workers from East Asia. On the other hand, 60.4 percent of foreigners from North America work in the education and learning assistance services.

(8) Illegal Foreign Residents

The number of illegal foreign residents totaled 219,418 (in a Ministry of Justice estimate, as of January, 2004) most of who seem to be in work illegally. The figure dropped from the peak recorded on May 1, 1993 (298,646) by 79,228 (- 26.5 percent), and has continued on a downward trend.

By gender, male foreigners illegally staying in Japan numbered 113,066 (51.5 percent) and females 106,352 (48.5 percent), the former marginally outnumbering the latter by 6,714. While the number of male foreigners illegally staying in Japan fell by 2,048 (- 1.8 percent) compared to the figure marked in the previous survey, the number of female illegal foreign residents increased by 914 (0.9 percent) over the same period.

By nationality, the number of persons from South Korea is the highest, 46,425, accounting for 21.2 percent of all foreigners illegally residing in Japan. This is followed by people from China, the Philippines, Thailand and Malaysia. Compared to the situation as of January 1, 2003, the number of those from China and the Philippines increased, while the number of those from the rest fell.

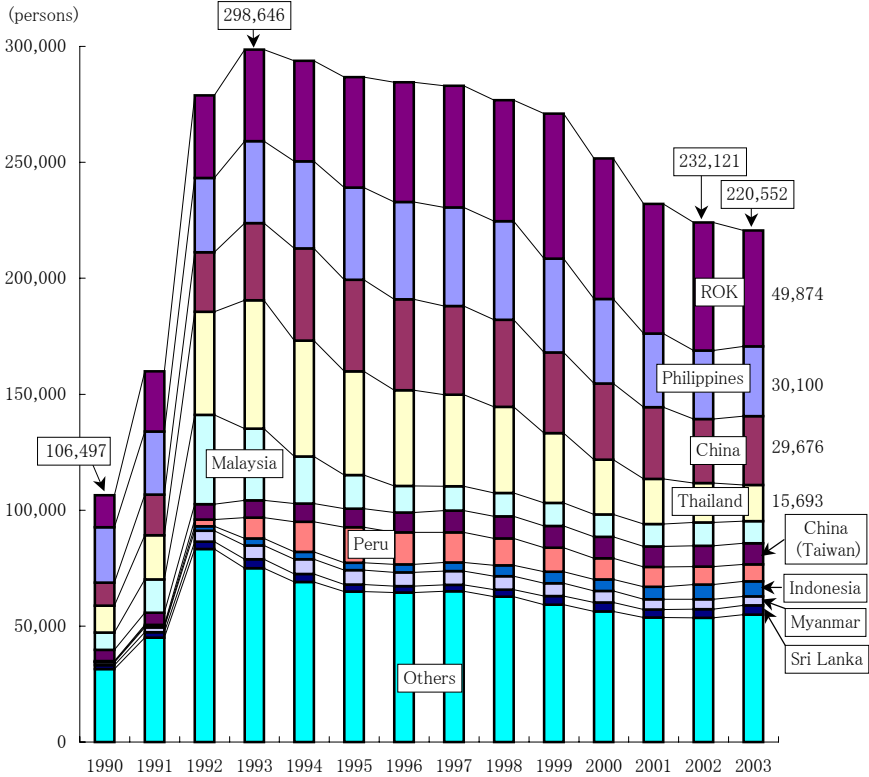
In 2004, 34,000 illegal foreign residents were deported from Japan. Of these, China, South Korea, the Philippines and other Asian countries accounted for the largest proportion. The majority of males were found to work as factory or construction workers, and the majority of females as hostesses in the entertainment businesses.

In terms of working period, foreign residents illegally working for “over 3 years” accounted for about half (47.8 percent); of these those working for “over five years” accounted for 30.6 percent. This proves that foreign residents illegally working in Japan tend to stay longer, and even settle down in Japan, a tendency particularly conspicuous among males.

In December 2003, the government, as a step to deal with the recent deterioration in public security, launched an “action plan” for realization of a society tough towards crime, aiming at halving the number of crimes

within five years.

Figure 2. Trend in No. of Illegal Foreign Residents, by Nationality (country of origin)



Source: Immigration Bureau, Ministry of Justice

4. Measures for Foreign Workers

(1) Employment Policies

The current measures for the employment of foreigners undertaken by the Ministry of Health, Labour and Welfare are classifiable into four aspects: (1) understanding the employment situation of foreign workers; (2) appropriate responses to foreign residents looking for jobs; (3) educating employers on such matters and giving them assistance in employment management, etc.; and (4) encouragement of appropriate employment, etc.

Schema of Employment Measures (for foreign workers)

- 1) Understanding of employment situation of foreign workers
 - * Reports on Employment of Foreign Nationals (A system whereby business establishments are asked to submit such reports annually)
- 2) Appropriate responses to foreign residents looking for jobs
 - * “Service Desks for Employment of Foreign Nationals” (stationed in 74 *Public Employment Security office*), providing counseling service concerning job searching and job introduction: Interpreters are available.
 - * “Service Center for Employment of Foreign Nationals” (in Tokyo and Osaka), providing placement service foreign nationals who are college students, or have special skills and knowledge, etc., with counseling / job introduction services, and job information
 - * “Service Center for Employment of People of Japanese Descent” (in Tokyo and Nagoya), providing people of Japanese descent with job counseling / introduction, and labor counseling services
 - * “Employment and Livelihood Counseling Center for People of Japanese Descent” (Tochigi, Gunma, Chiba, Shizuoka and Osaka prefectures), providing people of Japanese descent with job counseling, job introduction and labor counseling services (centers are stationed within employment security offices)
 - * Japan-Brazil Employment Service Center (in Sao Paolo, Brazil), offering job information and counseling service to people of Japanese descent wishing to work in Japan
 - * Encouragement of finding employment via employment guidance addressed to young people of Japanese descent neither in school nor in work
- 3) Educating Employers and giving them assistance in employment management, etc.
 - * Guidance to employers for the improvement of employment management
 - 1) Disseminating “Guidelines Concerning Employment and Labor Conditions of Foreign Workers”
 - 2) Giving collective guidance and information through seminars on employment management of foreign nationals
 - 3) Providing counseling and guidance by advisors of employment

management of foreign nationals in accordance with situation of individual business establishments

* “Employment of Foreigners Month” (June every year)

4) Encouragement of appropriate employment, etc.

* Encouragement of programs to establish routes for appropriate employment, whereby PR activities are conducted, to prevent illegal employment, concerning the policy of the Japanese government concerning the acceptance of foreign nationals by holding seminars in countries from which a large number of people come to Japan to engage in jobs illegally.

* Effective measures for illegal employment: cooperation with the related administrative organizations via a conference for illegal employment of foreign nationals, etc.

(1) Understanding of the employment situation affecting foreign workers is carried out through the above-mentioned Reports on Employment of Foreign Nationals submitted by the firms concerned. (2) In order to improve handling of foreign job seekers, service desks with interpreters have been set up at 74 public employment security offices in 30 prefectures where there are many foreign residents. (3) Concerning the education of business establishments in such questions and promotion of better assistance to employment management, etc., seminars are organized in connection with the “Employment of Foreigners Month” - June every year – and guidance is provided for companies by experts in the employment of foreign nationals. (4) Where the promotion of appropriate employment is concerned, liaison conferences are held with related ministries and agencies, and seminars are held in countries from which many foreign workers have come to Japan.

(2) Issues Related to Social Security

Where social security is concerned, international opinion favors its availability to any person regardless of nationality. Hence, in principle, foreign nationals residing in Japan are obliged to be covered by the relevant health insurance and the Employees’ Pension Plan, if they are employed workers, and the National Health Insurance and National Pension Plan, if

they are self-employed; in either case, they will be able to receive pension payments so long as they are qualified.

Since the pension scheme involves payments of disability and survivor pensions, it is said to be inappropriate to exclude foreign nationals staying in Japan for a short period from application of the pension schemes. On the other hand, foreigners who have been insured for six months or longer will be paid a lump-sum withdrawal refund when they return to their own countries. The lump-sum withdrawal refund is set at half the amount of pension premiums paid, but is limited to half the amount paid over a maximum of three years due to the special nature of the refund. At the same time, so-called “Social Security Agreements” have been concluded with various countries: Germany, the U.K., the U.S.A., R.O.K., France, and Belgium. These bilateral agreements are aimed at preventing the “double-payment” problem – that is, a situation where foreign workers are obliged to pay pension premiums both in Japan and their own countries – and linking the pension schemes of the two countries so that insured persons are given proper eligibility for pension payments by incorporating the period when the persons in question are insured in the other country into the period of payments for the insurance scheme in their own country.

As for the medical insurance system, it is considered unnecessary to set up a special system designed for foreign nationals, while efforts are required to promote participation in the existing system.

(3) Education

Foreign residents are not obliged to receive the compulsory education set in Japan. However, children from abroad are accepted, if so wished, at various levels of public compulsory schools. In this regard, care is taken to see that foreign children wishing to be schooled do not miss the opportunity by distributing notices from the relevant municipal education commission to their parents or guardians, and by treating foreign children who have entered public primary or junior high schools in the same way as Japanese pupils and students; that is, they are not charged for tuition and are provided with textbooks free of charge.

5. Debates Concerning Foreign Workers in Japan

Issues related to foreign workers have been subject to discussion at various places and in various organizations. This section will introduce some of the major debates.

(1) Council of Cities with Many Non-Japanese Residents

The inflow of persons of Japanese descent into Japan started to increase in 1990, and the number of those who have acquired permanent resident status has substantially increased in recent years. But at the same time, various problems have arisen concerning education and other issues in cities in which foreign nationals of Japanese origin concentrate.

To deal with these problems, 13 towns and cities with many such persons hold meetings of a “Council for Cities of Non-Japanese Residents” in order to compile suggestions. In its 2001 Hamamatsu Declaration and Proposals, the council made suggestions in various spheres as follows:

Education: the upgrading of teaching of Japanese language and other subjects at public primary and junior-high schools; and the provision of assistance to ensure that non-Japanese children receive proper education;

Social Security: revision of the medical insurance system; (conclusion of a social security agreement with foreign countries concerning the counting of the period of pension premium payments, and the establishment of a medical insurance system for non-Japanese); the improvement of labor conditions for foreign nationals (encouraging business establishments to participate in the social insurance scheme; the clarification of corporate accountability; the introduction, as a possibility in the future, of a permit system for contract agencies); others (improvement of services related to medical interpreters, and provision of medical and pharmaceutical information); and procedure for alien registration, etc.: the revision of the registration system itself.

In 2004, the Council adopted the “Toyota Declaration,” and submitted it to the relevant ministries and agencies. The declaration included various

suggestions, such as the establishment of education and working environments on the premise that foreign nationals would settle in Japan for a long term; assistance for foreign nationals in forming their own self-reliance organizations; the encouragement of the development of young people from abroad; and so on.

(2) Nippon Keidanren: Recommendations Concerning Acceptance of Foreign Workers (April 2004)

Nippon Keidanren (Japan Business Federation), the leading Japanese organization of employers, has proposed a comprehensive policy, with emphasis less on making up for the reduced total population of the Japanese, than on taking full advantage of the potentials of foreign nationals by improving each person's "value-added creative power." More specifically, the recommendations emphasized: "smooth acceptance of non-Japanese workers in professional or technological fields," "improvement in quality of students from abroad and their employment in Japan," "acceptance of non-Japanese workers in sectors that were expected to face labor shortages in the future," and so on.

Nippon Keidanren also suggested the setting-up of the post of "specially appointed minister in charge of non-Japanese workers," a "basic law concerning acceptance of non-Japanese," an "agency for non-Japanese residents," a "law concerning employment of non-Japanese," and so on.

(3) Rengo: Rengo's Views on Non-Japanese Workers (September 2004)

In September 2004, Rengo (Japanese Trade Union Confederation), the leading Japanese organization of labor unions, published its "Views on Non-Japanese Workers." In this, Rengo made suggestions concerning the immigration control scheme, the technical internship program, restrictions on foreign nationals illegally in work, and so on, stating as its basic stances: that "foreign workers with professional skills and knowledge should be positively accepted for the sake of encouraging legitimate employment, and a new residential status should be created on the assumption that an employment situation, whereby Japanese workers are able to get a job regardless of their age or gender, has been firmly established," and that "workers from abroad should be paid at least as much as the Japanese

engaging in the same job – in other words, that the principle of equal pay for equal work should be applied to everyone, regardless of his or her nationality or qualifications. At the same time, no discrimination whatsoever is acceptable from the viewpoint of observation of human rights,” but “unskilled workers should not be accepted indiscriminately, in that their acceptance may well have a negative impact on the employment situation, labor conditions and so on in the Japanese labor market. Such workers should be accepted only to the extent that the statuses of residence under the current immigration control system are observed.”

(4) Basic Plan for Immigration Control (Third Edition) (March 2005)

Every five years, the Minister of Justice lays down an immigration control policy. The latest plan states that, with the working-age population substantially decreasing, it is vital to actively encourage the acceptance of foreign workers in professional or technological fields; and their residence statuses and criteria for the issuance of entry permission related to work skills seen as professional or technological will be revised in response to changes in economic and social circumstances.

The plan also says that, with such a reduction in working-age population, the acceptance of foreign workers in fields which are currently considered to be neither professional nor technological will be realistically reconsidered, taking into account the necessity of maintaining the vitality of the Japanese economy and living standards, public’s views on foreign workers, and the economic and social climates in Japan. The plan emphasizes, in this regard, the necessity of considering not only which industrial sectors should be newly opened to foreign workers and requirements for acceptance such as Japanese language proficiency, but also the positive and negative impacts of acceptance on the domestic industry and the lives of Japanese citizens. Such underlying potential impacts have a bearing on, for example, public security, the domestic labor market, industrial development and structural changes in industry, social costs, and various other aspects.

(5) 2005 “Honebuto” Policy (Basic Policies for Economic and Fiscal Management and Structural Reform)

“Honebuto” policy (Basic Policies for Economic and Fiscal Management and Structural Reform) argues the importance of structural reform and possible courses which Japan should take in the future in the fields of economy, finance, administration, society, and others. The Prime Minister initially consults a committee whose answers are submitted to the Cabinet for approval. The latest policy approved in June 2005 by the Cabinet says: “the acceptance of qualified human resources needs to be made full use of, and should be encouraged. The possibility of accepting foreign workers falling into fields which are not currently considered to be professional or technological will be considered from a comprehensive viewpoint, taking into account its impact on the lives of Japanese citizens. At the same time, in order for foreign nationals working in Japan to demonstrate their full ability, opportunities for learning the Japanese language and encouraging personnel in their places of origin and developing appropriate living and working environments will be promoted.”

6. Economic Partnership Agreement

Currently, Japan is negotiating Economic Partnership Agreements with the Philippines, Malaysia, Thailand and other countries in Asia, some of which show interest in sending their labor to Japan, an issue which is under negotiation. Among these negotiations on economic partnership, the Japanese government in November 2004 basically agreed with the Philippines. The agreement indicated the intention of the Japanese government to accept nurses and care workers; this acceptance, as shown in the attached sheet, will require, among other things, that those who wish to come and work in Japan should obtain proper qualifications, and avoid having a negative impact on the Japanese labor market. A basic agreement on economic partnership was to be made in September 2005 with Thailand; where the acceptance of labor is concerned, the Japanese government has offered a policy of accepting workers from Thailand who are eligible under the existing system, but has shown no intention to extend the scope of

acceptance. A negotiation with Indonesia will be held in the future.

7. Future Prospects

A long-term projection carried out in 2002 estimates that the Japanese population, after reaching a peak in 2006, will subsequently shrink to about 100 million in 2050. The question is, with the population continuing to fall in future, how to approach the question of foreign workers in the mid- and long-term.

Were the reduction in population to be made up for by foreign nationals, it would be necessary to accept workers in their millions each year, which would have undoubtedly a considerable impact on situations in Japan. Hence, the question needs a public consensus; but so far as the results of recent public opinion polls show, a significant proportion of the people seem to have a negative attitude towards the acceptance of foreign workers. It is true that the domestic labor force is expected to shrink if the policy makers fail to make efforts, but the labor force will not diminish drastically in the coming 10 years or so provided steps are taken to enable young people, the elderly, and women to participate in labor markets more easily. With this in mind, it seems unlikely that unskilled labor from abroad will be accepted on a large scale for the time being.

Either way, the question of the acceptance of foreign labor is a crucial issue in national politics, so that it is necessary to discuss and examine the issue in a comprehensive, prudent manner in connection with social security, education, public safety, industrial competitiveness, regional policies, and so on. At the same time, since issues like the acceptance of foreign labor require a public consensus, any decision should not be made hastily; careful, consistent examinations will be needed in the future, too.

Migrant Workers in the Post-War History of Japan

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1. Introduction

Foreign Workers No Longer Uncommon

Foreign (immigrant) workers are a part of everyday life in present-day Japan. While issues involving foreign workers are, of course, often mentioned still in newspapers and TV programs, the heightened attention or excitement once seen in the 1980s is no longer to be seen among the Japanese people. On the contrary, players from abroad give outstanding performances in the professional baseball leagues, soccer J-league, and even the Japanese national sport, Sumo. There is no uncomfortable feeling between those foreign players and spectators in Japan. In fact, seeing soccer players who were once foreigners but are now naturalized earnestly singing “Kimigayo” (the national anthem) with a hand over their heart, I have somewhat mixed feelings, forgetting about the dispute over the national anthem in Japan⁽¹⁾. I wonder what kind of country Japan looks like to them.

What does, on the one hand, even the heightened, excessive interest in foreign workers observable between the late 1980s and the early 1990s, when the bubble boom collapsed, and, on the other, the suddenly receding interest in them afterwards imply? If the ebbing interest indicates that Japan’s globalization has reached the stage where the Japanese accept people from abroad without any discomfort, it is not particularly difficult to understand such changes of view. Indeed, the number of non-Japanese entering the country, a mere 18,000 or so in 1950, totaled about 6.76 million in 2004, and is expected to maintain its upward trend. The number of registered foreign residents at the end of 2003 totaled a record high of 1.92 million, accounting also for a record high of 1.5 percent of Japan’s total population (Immigration Bureau, the Ministry of Justice, 2005). The estimated number of foreign residents working in Japan (apart from permanent residents) is 800,000, a full 1.3 percent (discounting those

⁽¹⁾ Since “Kimigayo” suggests the maintenance of the imperial system, quite a few people make an objection to regarding it as Japan’s national anthem.

entitled to reside in Japan permanently) of the labor force. All these figures undoubtedly show that foreigners are being integrated into everyday life in Japan.

Rekindled Interest in Foreign Workers

But the reality perhaps is not so simple as it looks. Since the turn of the century, the interest in foreign workers has begun, if not so strongly as before, to grow again. What lies behind the rekindled interest in such workers? What is the current situation concerning the acceptance of foreign workers and their families? And how will the nature of the acceptance change in the foreseeable future? Since western countries have a long history of immigration and emigration, a large number of studies have been made on them and thus can suggest future prospects. In Japan's case, the history of such movement where Japanese emigration is concerned can be traced back to before World War II. However, this historical experience has faded away considerably by now. In order to discuss the interrelationship between Japan and foreign workers in the future it seems essential to clarify and examine its nature at least within the framework of the 60 years of the post-war history. (Here, migrants, migratory workers, foreign workers and various other terms are used interchangeably. However, this article does not differentiate these terms from one another unless otherwise specified, and follows the definition laid down by ILO (ILO, World Labor Report, p.99, 1984) that "persons, apart from refugees, travelers, pilgrims, and nomads, who have moved to countries of nationalities other than their own for the purpose in a broad sense of employment."

2. From a country of emigration to a country of immigration

The Period of Emigration to Other Countries

Japan's involvement with migration has been fairly complicated, even in the period after the war. In present-day Japan, a large number of foreigners classifiable as "foreign workers of Japanese descent" are in work. Their roots date back as far as the time before World War II. Japan has had a long history of sending people out abroad.

Looking at Brazil to which a large number of Japanese people emigrated, it was in 1908 that a first group of 781 people – 158 families and 10 individual emigrants – set off on the ship, “Kasato Maru,” from the port of Kobe, and arrived in the port of Santos in Brazil⁽²⁾. With the Japanese economy in a severe recession at the time, they saw no prospect of making a living at home, and decided to seek their future in the new world of Latin America.

In 1938, a Japanese novelist, Tatsuzo Ishikawa gave a vivid description of how the Japanese emigrants made up their mind to migrate to South America, how they lived in the hold of the ship for 50-odd days after the ship has departed Japan, and various other scenes, in a novel which won the first “Akutagawa Prize,” Japan’s most prestigious literary award. Determined never set foot on their native soil again, they exchange farewell cups of water with their families and relatives and leave the country.

This emigration continued after World War II. It was in 1973 that the last emigration vessel, “Nippon Maru” with 285 Japanese on board headed for Brazil, arriving in the port of Santos in March. This means that Japanese people continued to leave their own country to live in other countries until just before the first oil crisis.

The countries which those Japanese left for in the pre- and post-war periods include Canada, the United States (including Hawaii), Mexico, Colombia, Peru, Bolivia, Brazil, and Argentina.

From the latter half of the 1980s, there was a sudden increase in the number of foreigners of Japanese descent coming from Brazil, Peru and other countries to Japan to earn a living. This so-called “U-turn” phenomenon, with Japan’s record as an emigrant nation, forms an essential part of the question of foreign workers in Japan⁽³⁾. This unpredicted phenomenon happened as a result of coincidence of the dramatic development of the post-war Japanese economy and the sluggish and highly inflated economy in Latin American countries. Let us now have a brief look at these

⁽²⁾ See “Chronology of Migration to and from Brazil”
http://www.lib.city.wakayama.wakayama.jp/wkclib_doc/sub19.htm

⁽³⁾ A recent TV drama that described the 70 years of Japanese immigrants to Brazil (Haru o Natsu), Produced by NHK enterprise (scenario made by S. Hashida) has been accepted with great sympathy both in Japan Brazil. <http://www.nhk.or.jp/drama/harutonstsu/>

backgrounds in the following section.

Outbreak of the Oil Crisis

In autumn 1973, the first oil crisis broke out and took a heavy toll on the world economy. Lacking crude oil and other natural resources, Japan was universally seen as the developed nation with the weakest economic foundation. Despite this, Japan sturdily weathered the crisis, thus beginning to draw attention from the world. Yet although the Japanese economy in 1970 enjoyed a high economic growth and full employment, envied all over the world – a year-on-year increase of 10.3 percent in (real) GDP and a mere 1.1 percent unemployment rate over 1969 – the oil shock drove down its GDP growth rate in 1974 to -1.4 percent over the previous year. At the same time, the unemployment rate crept up to the two-percent mark in 1976 and stayed at that level during the 1980s.

Even so, Japan swiftly got through the crisis by energy conservation and rationalization, demonstrating an extremely sound economic performance compared to other developed nations. In order to discover the secret of this success, general attention was paid to the Japanese economy, its management, industrial relations and so on. Generally speaking, the 1980s seems to have been a good time for Japan, though the economy slowed down substantially compared to the high economic growth era.

The labor market in Japan registered almost full employment in the first half of the 1970s, with the unemployment rate around the one percent mark. The rate climbed to the two percent mark as the economy continued to stagnate for a while after the oil crisis. In the 1980s, labor supply and demand tightened, and in the latter half of the 1980s, the labor supply had a shortage unprecedented since the war, behind which doubtless lies the fact that the economy took on the aspect of a “bubble” due to inflated asset prices among other things. The Plaza Accord in 1985 accelerated appreciation of the yen further.

3. Foreign Workers Called “Newcomers”

Modern Version of the “Zipangu Myth”

In such economic circumstances, workers from countries in Southeast

Asia and Latin America came to converge on Japan. They were quite new for Japan, except for Korean and Chinese residents in Japan who came to and settled in the country due to compulsory recruitment or other reasons before and during the war (they are sometimes called “old comers” in contrast to “new comers,” foreign workers seen after the 1980s).

Behind this lies the fact that, as direct trade investment and other economic activities by Japan expanded, the presence of Japan began to make itself felt not only in the developed countries but also in the developing ones. Until then, Japan had been physically and psychologically remote for people in developing countries in Asia and other parts of the world. But the development of transportation and communications brought them opportunities to familiarize themselves with Japanese products and local companies affiliated to Japanese firms, narrowing the distance and rapidly making Japan familiar.

In the first half of the 1980s, social attention was attracted to what was called “Japayuki san,” a term describing young foreign women from the Philippines, Thailand and other countries in Southeast Asia working predominantly as entertainers in the “adult-entertainment” industry. Apart from this, word got about in some countries in East Asia that working in Japan for short periods would raise money sufficient to live off; the term “modern zipangu,” after Marco Pole, came on the scene. Looking back on things now, this all happened at the very early stage of the bubble economy in Japan.

The Bubble Economy and the Labor Shortage

In the mid-1980s, the labor shortage fast became a serious problem in the manufacturing and construction industries. Despite a daily wage which appeared to be extraordinarily high by the standards of the day, some kinds of jobs were no longer receiving attention from Japanese workers, in particular young workers. The mass media labeled a bunch of such jobs the “3k” jobs – kitsui (demanding), kitanai (dirty) and kiken (dangerous). The same social climate also encouraged young persons to shun the manufacturing industry. Cold-shouldered jobs, in many cases, were low-paid and unpopular with poor labor conditions. Some jobs were shunned,

despite surprisingly generous wages, simply because they did not look as “smart” as white-collar office work in, for example, the service sector.

The author remembers how, when he visited Shizuoka city for a survey, an employer in the construction business told him that his company did not have a sufficient workforce for a public undertaking it was engaged in and had accepted a construction worker commuting from Tokyo in order to meet the deadline. Surprisingly, the worker commuted everyday from Tokyo to Shizuoka, 200km away, by the bullet train. At the height of the bubble boom around 1990, university graduates were in high demand everywhere. In April when students had just moved up to the fourth, final year, they were promised jobs after graduation by a number of firms. There were some episodes where students were given an opportunity of a trip to Hawaii because they had promised to join the companies.

Increasing Dependence on Foreign Workers

Under these circumstances, employers desperate to secure labor began to resort to foreign workers. In particular, workers from Asian countries were flooded into jobs requiring hard manual work which could be handled by low-skilled workers – what is, somewhat oddly named “simple” labor – and were cold-shouldered by Japanese. A majority of them were from countries such as Pakistan, Bangladesh, and Iran which had hitherto been unfamiliar to Japan, although these were theoretically “Asian” countries.

Working in foreign countries where both the language and the customs are unfamiliar involves a certain degree of risks, so that at the first stage male workers came in without bringing their family members with them for work. From 1981 on when the economies of the oil-producing countries in the Middle East slowed down due to a drop in the oil price and a subsequent drop in revenues, workers there from Southeast Asian countries were dismissed and obliged to return home. The labor flow from Southeast Asia to the Middle East was disrupted, whereas Japan, South Korea, Taiwan and other countries and regions in East Asia were conveniently situated to absorb the surplus labor.

The large number of – then unfamiliar non-Japanese – people from Pakistan, Iran and various other countries who gathered in public parks at weekends in

Ueno, Shinjuku and other major districts in Tokyo grew increased attention from the Japanese media and public. It was believed that public parks were essential venues for them to exchange information concerning life and work in Japan – mobile telephones were not so common then as nowadays – and to make them feel relaxed for a while in a foreign country where they were unable to communicate with the people. It was also common to see foreign workers queuing in front of pay phones to make international calls to their families far away.

As the economic bubble intensified, the labor market tightened further, accelerating the flow of workers coming to Japan from these countries. They were the first body of illegal foreign residents who entered Japan mostly as tourists and stayed after the maximum permitted three months. Faced with the problem of foreign workers who opted for illegal stay and illegal employment, the Japanese government by spring 1992 suspended its visa exemption agreements with Pakistan, Bangladesh, and Iran.

While the Japanese government officially took the stance of avoiding acceptance of unskilled workers from abroad, always saying that “it would consider the matter carefully,” firms and industries which would not be able to survive without them obviously wanted foreign workers. (The government traditionally interprets “unskilled workers” as workers whose participation in the Japanese economy may have a negative impact on the economy and society.) As the types of occupations which Japanese workers were unwilling to take on were beginning to become clear, and such preferences had become institutionalized, as it were, there was no sign of a significant decrease in the number of illegal overstays and illegal employment even in the 1990s when the economy became sluggish.

4. Emergence of “Foreign Worker” Problems

Behind such a situation, an increase in the number of foreign residents working in Japan accompanied diversification of the problems involved: various such problems had arisen which were peculiar to the presence of foreign workers and unfamiliar to Japan.

In the latter half of the 1980s, news media stirred up the public opinion by using antiquated headlines such as “arrival of the second black ships”

and “opening-up or closing?”. It was the first time that the presence of foreign workers was regarded as a “problem,” something controversial. As the situation evolved, the nature of the “problems” also changed, but basically the focal point of the debates deployed in the latter half of the 1980s remains unchanged until recently.

Initially in the 1980s, foreign workers were seen as someone rare and temporary: people believed that they would return to their home countries if the economic cycle of Japan entered a downward trend. In other words, they were after all regarded as workers who would not settle in Japanese society, so little attention was paid to how the situation would change in the future.

Despite this general view of foreign workers, the author (Kuwahara, 1989) raised an alert concerning this view, suggesting the necessity for long-term, comprehensive measures to deal with foreign workers on the grounds that they would be good companions in future – which, after twenty-odd years, has turned out to be a reality. Eventually, many of them have settled in Japan and become, literally, good companions. Nevertheless, the question of how deep this companionship with foreign workers and their families runs remains uncertain, together with many other questions. Let us outline the main features of these questions.

Before taking a closer look at individual questions, let us examine the legal framework concerning the eligibility of foreign residents for employment. Non-Japanese residents are entitled to engage in working activities within the scope of residential statuses stipulated by the Immigration Control and Refugee Recognition Act, alias the Immigration Control Act. The residential statuses currently available include professor, artist, religious activities, journalist, investor/business manager, legal / accounting services, medical services, researchers, instructor, engineer, specialist in humanities / international services, intra-company transferee, entertainer, skilled labor, and specified activities (working holiday, technical internship). Foreigners of six statuses – cultural activities, temporary visitor, college student, pre-college student, trainee, and dependent – are not in principle authorized to engage in work. However, college and pre-college students from abroad are allowed to work, as “activities outside the scope permitted,” for a maximum of 28 hours per week provided they have obtained a permit from the Ministry of Justice. On the other hand, there is no

Table. Changes in Number of Foreign Workers in Japan (Estimated)

	1990	1995	1999	2000	2001	2002	2003
Persons of residential statuses issued for employment purposes	67,983	125,726	154,748	168,783	179,639	168,783	185,556
Technical interns, etc. (note 1)	3,260	6,558	19,634	29,749	37,831	46,455	55,048#
“Activities outside the scope permitted” by college and pre-college students (note 2)	10,935	32,366	38,003	39,435	65,535	83,340	98,006
Foreign workers of Japanese descent (note 3)	71,803	193,748	220,844	233,187	239,744	233,897	237,808#
Illegal Foreign Workers	Illegal residents	106,497	251,697	232,121	224,047	220,552	224,047
	Workers engaged in work outside officially permitted fields (note 4)						
Total (note 5)	260,000 + α	600,000 + α	670,000 + α	710,000 + α	740,000 + α	760,000 + α	800,000 + α

Source: Estimated by the Ministry of Health, Labour and Welfare based on sources of the Immigration Bureau, the Ministry of Justice.

Notes:

- (1) Technical interns, etc.” include foreigners on “working holidays”, housemaids of diplomats and so on.
- (2) College or pre-college students who work with a permit to engage in “activities outside the scope permitted” issued by local immigration bureaus.
- (3) Foreign workers of Japanese descent are defined as those who have the residential statuses of “spouses, etc. of Japanese nationals” or “long-term residents,” are freely organized to engage in activities in Japan, and seem to be in work.
- (4) It is difficult to estimate the number of foreigners engaged in work outside their officially permitted fields.
- (5) The figures do not include the number of foreigners having the residential status of “permanent residents.”

restriction concerning the activities in Japan of spouses of Japanese nationals and permanent residents, and of “foreigners accorded residential statuses in accordance with their position or ranks” such as the second and third generations of foreigners of Japanese descent, who are thus officially allowed to work as they wish (Ministry of Justice, 2004).

Increased Number of Illegally Overstaying Foreigners

Problems stemming from the presence of illegally overstaying foreigners and illegal foreign workers in qualifications are not necessarily unique to Japan, being shared by almost all countries which accept such foreigners. A dark shadow was also cast on problems of immigrant workers – predominantly illegal ones – by the referendums rejecting the EU Constitution in France and the Netherlands in summer 2005.

Since Japan, like the U.K., Australia, New Zealand and Taiwan, is not physically adjacent to the countries of its immigrant workers, some say that it is relatively easier to control immigration than in, say, the U.S.A. or EU countries. This is true in part, but the presence of a number of neighboring countries in Asia such as China, where there is an excess labor force, generates a considerably strong potential pressure on labor supply in Japan.

In the case of Japan, the problem lies in the fact that a large number of foreigners engage in activities (employment) different from those authorized under the residential statuses accorded them when they entered the country; where they overstay illegally, and become illegal workers.

As of January 1, 2005, the estimated number of foreigners residing in Japan illegally was approximately 210,000. In addition, the number of foreigners who have illegally landed or sneaked in and reside in Japan is estimated at some 30,000, making the total number of illegal foreign residents nearly 240,000.

Of these, the number of illegally overstaying foreigners decreased by 12,119 compared with the figure for January 1, 2004, or by 91,347 compared with 1993, when the number hit a record high of 298,646. The fall in the number implies that reinforced activities to detect illegal residents, together with various other comprehensive measures to deal with overstaying foreigners in pursuit of the governmental aim “to halve the number of illegally overstaying foreigners in five years starting in 2004 for the

purpose of restoring a safe, secure society,” have borne fruit to some extent.

Nevertheless, there is a view that all this official effort is not sufficient to check illegal employment, because of the presence of brokers for illegal foreign workers and the spread of overstaying foreigners to rural areas. This, together with an increase in the number of crimes allegedly committed by foreigners, has been recently fueling the sense of insecurity and anxiety among the Japanese people over foreigners illegally residing in the country.

Foreign Workers of Japanese Descent More Numerous than Expected

Since around the end of the 1980s, various types of foreign workers have come to be seen in Japan. One of their outstanding features is an increase in the number of foreign workers of Japanese descent (*Nikkeijin*) from Brazil, Peru and other countries of Latin America. This unexpected phenomenon emerged due to the combined reasons of an overheated Japanese economy on the one hand, and, on the other, economic recession and soaring inflation in Latin American countries in the 1980s.

The phenomenon abruptly intensified in June 1990 when the Immigration Control Act was revised: the revision, aimed at setting up new categories of foreign workers to rectify the existing law to meet the trend to increase globalization, has completely legalized the residence and employment of the second- and third generations of foreigners of Japanese descent and other non-Japanese nationals. The revision has also incorporated punitive clauses applicable to employers involved in illegal employment (with reference to similar regulations enforced in the U.S.A. and other countries, such as a penalty for employers who hire a foreign worker though they are aware of the illegality.) Although the actual effect of the adoption of the punitive clauses has remained unclear, there was a growing trend towards refraining from hiring foreign workers illegally and, instead, relying on persons of Japanese descent on the right side of the law. Since there is no restriction on the economic activities of foreigners of Japanese descent, an increasingly dominant proportion of firms were taking on foreign workers of Japanese descent in the field of “unskilled labor.”

Wondering about the possible risks of hiring foreigners illegally residing in Japan to remedy labor shortages, employers of ultra-small, small and medium-sized enterprises and subcontracting firms of large firms

began to pay attention to persons of Japanese descent who were free from any restriction on employment. People of Japanese origin coming to Japan are, in practice, of the first, second and third generations. Legally, the different generations are treated in different manners: people of the first generation with the Japanese nationality are Japanese nationals, thus are able to freely enter and work in Japan. In fact, the increase in “foreign workers of Japanese descent” at the initial stage represented Japanese people who came back home to work. The second generation people of Japanese descent, on the other hand, rarely have Japanese nationality; they stay in Japan to visit their relatives or reside as spouses of Japanese nationals; and get employed, on these pretexts, for these reasons. And people of the third generation are able to reside and work in Japan by obtaining the residential status of “long-term residents.”

Since it is legitimate for employers to take on these workers of Japanese origin, employers worrying about the penalties of illegal hiring, and relatively large-sized business establishments wanting to take on a large number of foreign workers, have increased the number of Japanese-descended workers taken on. However, because their residing and working in Japan are legitimate, their wage levels have become to exceed that of foreign workers overstaying in Japan. Consequently, the labor market of foreign workers has been subdivided into a market for workers of Japanese descent and another one for foreigners illegally overstaying in Japan, who are taken on by ultra-small, small and medium-sized firms which cannot afford the former type of foreign workers.

On the other hand, the number of ethnic Japanese living in Latin American countries is estimated at one million and several hundred thousand, which shows how limited is the number of such persons who are able to come to Japan to work. Attempts by persons from Peru and other countries to enter Japan with forged documents purporting Japanese descent have occurred frequently.

As a result, in the occupational sphere classified as “unskilled jobs,” foreign workers of Japanese descent and illegal workers make up, in practice, for shortages of Japanese, in particular young-Japanese workers. Hiroshi Okuda, chairman of the Japan Business Federation (Nippon Keidanren), stated (in a symposium held in December 2004 by the

Federation) that the governmental policy of “considering carefully the acceptance of unskilled workers” had already become a token acknowledgement far from the reality. Thus the leader of the nation’s employers has himself admitted that the policy of the government has lost touch with reality.

Undetected Arubaito by College and Pre-College Students

Working styles among foreign workers in Japan are becoming still further varied. Arubaito (came from Arbeit meaning “work” in German) working among college and pre-college students from abroad is one such style. Needless to say, not all college and pre-college foreign students stay on in Japan as foreign workers after graduation. However, the shortcomings of the educational system in Japan, income differentials between Japan and many other countries in Asia, and the slow reactions of the Japanese government, among other things, have led to an increase in dubious working styles.

Here “college students” are definable as foreigners studying mainly at universities or advanced vocational schools, whereas “pre-college students” are mainly those studying at high schools, Japanese language schools, or various other vocational schools. The former are entitled to engage in arubaito work while they are in education for a maximum of 28 hours per week, with no obligation to report to the local authorities. The latter are entitled to engage in arubaito work for a maximum of 20 hours per week but have to report to the local authorities. Thus, in practice, quite a large proportion of these college and pre-college students have arubaito work; it is not unusual for them to work longer hours than permitted, or to fail to report to the authorities.

Nevertheless, the Japanese government has neither taken particular action nor shown its positive intentions concerning compliance with the regulations on arubaito work. Rather, it seems, by taking an obscure attitude towards the issue, to give silent consent to the fact that labor shortages for peripheral jobs in the service and other sectors are filled by these overseas students. In fact, some overseas students look no different at all from “foreign workers.” Put differently, in not a few cases one cannot tell which was the primary purpose in coming to Japan – to study or to

engage in arubaito work. This question, in its relation to the most desirable educational system in Japan, requires proper examination.

The numbers of new entries under the residential statuses of “college student” and “pre-college student” have been steadfastly increasing in recent years, though they ended up with the first decline in 2004, while the number of foreign nationals registered under the statuses of “college student” and “pre-college students” marked record highs.

In the latter half of the 1980s, a spate of false enrolments of foreigners at Japanese language schools was found. The incidents highlighted the fact that some foreigners, nominally enrolled at Japanese language schools, engaged in work to raise money for tuition and living expenses. The entry of a large number of college students into Japan on the pretext of studying Japanese at schools, and the resulting confusion, led to various incidents in Japan, Shanghai and other places, which developed into diplomatic problems. The Japanese government took unexpected, severe action concerning the issuance of student visas, which superficially brought the issue under control. But later in the 1990s, in another development some Japanese language schools ended up in financial straits.

Industrial Training Program and Its Abuse

Another factor which has made the issue of foreign workers more complicated is the industrial training program. Some firms and industries have accepted foreign workers from countries in Asia under the name of “trainees” and made use of them as de-facto workers. The original purpose of the training program is to have them acquire skills and technology, and despite the similar nature of trainees’ activities to that of work, firms accepting trainees are not allowed under the system to pay any wage or other remuneration to trainees. Hence, trainees are paid allowances which are considerably lower than the wage level which should have been paid if they were actual workers.

The number of new entries and foreign nationals registered under the residential status “trainee” has been increasing consistently in recent years. In the meantime, the number of foreigners overstaying illegally who were once “trainees” – the number who have not returned to their countries after completion of the training program – has also been increasing.

Despite various criticisms, the number of firms which could not manage their businesses satisfactorily without foreign workers increased, too. A revision was made to the industrial training program so as to reflect the wishes of such firms; those accepting trainees were now required to spend more than one third of the time on “lectures” and to pay remuneration for “labor” during the time spent on “work” in the program.

In 1991, to assist private firms to provide training programs for foreigners, a third sector organization was established under the joint control of the former Ministry of Labour (currently, the Ministry of Health, Labour and Welfare) and four other ministries. In April 1993, this organization, the Japan International Training Cooperation Organization (JITCO), took the lead in launching a technical internship program designed to deflect the criticism that the controversial training program had been used to allow firms to use trainees as low-paid workers. Under the newly established internship program, foreigners are allowed to work (including work as, in practice, “unskilled labor”) for a maximum of three years under the residential status of “special activities,” if their skill levels have achieved a certain standard for a certain period after completion of the internship program. The internship program thus is a device to maintain the official policy of not accepting unskilled labor from abroad, while letting foreigners, in practice, work as such.

Once the internship program came into force, it immediately exposed its defects, though these had already been anticipated at the time when adoption of the program was considered. Some employers began to use trainees at factories and other production sites simply by paying “training allowances.” Trainees on their side cannot make their wishes clear to their employers, fearing the effect on their treatment in future. Foreigners who have come to Japan to participate in the training and internship programs, and their countries as a whole, see them as a route to employment in Japan. This is proved by surveys carried out abroad which suggest that the programs are considered to be a mere excuse for Japan to accept unskilled labor. As a result, the programs, opening up a loophole for unskilled labor from abroad, are liable to abuse. The Japanese government attempts to check such abuse within the operational framework of the programs, but this seems to be impossible. The Japan Business Federation and other

employers, on the other hand, aware of the presence of the above-mentioned institutional problems, see it as difficult to reform programs which are already established at a deep level.

Many users of the training program are small and medium-sized firms which are incapable of providing satisfactory training programs by themselves but are faced with serious labor shortages, whereas the foreign workers involved are keenly eager to work in Japan. Under such circumstances, technical interns are accepted in a wide range of industries such as fishery processing, textiles, metal processing, and agriculture.

In order to keep the programs running in the interests of technological assistance to developing countries, it will be necessary to revise the current situation based on compromise between training and employment, which is vulnerable to abuse, clearly separate the two factors as different schemes, and reorganize the programs with increased transparency.

Slow Increase in the Number of Workers in Specialized and Technological Fields

The number of new entries of foreigners with the official documents required for entry who legally entered Japan and applied for residential status with work permission (apart from “diplomat” and “government business”) totaled 158,877 in 2004, and the number of registered foreigners who have followed the foregoing process was 185,556 as of the end of 2003; both figures have been increasing in recent years. Since around 1990, when direct investment in Japan started to surge, an increasing number of foreign executives and workers in managerial posts have arrived in Japan. What is more, in fields where the worldwide struggle for talent is intensifying, Japan is exposed to competition with the U.S.A. and the nations of Western Europe, thus attracting fewer talented workers partly because it is not an English-speaking country. Despite the officially stated readiness of the Japanese government to accept workers in specialized and technological fields, the number of those who actually come to Japan has not increased so much as expected.

In recent years, worldwide demand for highly skilled workforce, particularly those in information technology have greatly increased, Firms move or expand some of their operations and jobs to overseas locutions,

which are referred to as off-shoring. Often, jobs are transferred to India, China and others via Internet. It is not certain at the present stage how far the new pattern will change the nature of immigrants and foreign workers in the future.

The acceptance of highly specialized, skilled foreign workers represents a pivotal issue for advanced countries. It is highly likely, thanks to rapid progress in Internet technology, that outsourcing may become more common in the field of engineering requiring sophisticated technologies.

Where the acceptance of nurses and caregivers from abroad is concerned, – a primary issue in negotiations over economic partnership agreements (EPAs) with Southeast Asian countries – Japan seems too conservative. Burdens are apparently heavy in the medical and nursing care services, and it is obvious that the situation will become serious sooner or later with the ageing population. In the meantime, working abroad is attracting nowadays nurses in the Philippines and elsewhere, leading to a considerable deterioration in the quality of medical and nursing specialists in their own countries. This suggests that, unless the relationship between parties involved is carefully laid down, it is likely that the welfare standards in those countries will deteriorate, even if the nurses and other workers who go abroad are themselves able to enjoy higher income levels. It will be necessary to construct, with mutual cooperation, a mechanism of “skill circulation,” whereby the experience of immigrant workers in foreign countries can contribute to the healthy development of their own countries.

5. Future Tasks

More than 20 years have passed since the number of what are called newcomers in Japanese society started to increase. During these years, there has been no particular discussion of the issue from the long-term perspective, but the actual situation forged over the years has become an accomplished fact; an increasing number of foreigners have settled here, and various difficult problems have arisen. There are still quite a few employers who treat foreign workers as a control valve for the domestic labor market, believing that they can cut or increase their workforce from abroad freely in response to business fluctuations. At the same time, there

are many firms and industries by now which rely heavily on foreign workers and could not survive if they returned home. Faced with the rapid lowering of the birthrate and ageing of the population, together with the mass retirement of the post-war baby boom generation, calls are intensifying again for the acceptance of foreign workers. However, discussions in many cases differ little from those of the latter half of the 1980s.

For example, in the latter half of the 1980s when the number of such workers began to increase, the shortcomings of the “vertically-divided administrative systems” affecting the acceptance of foreign workers were already acknowledged and the need for measures which would incorporate the “social dimension” was being stressed (Hanami and Kuwahara [1989] and [1993]), but nothing has been discussed at the governmental level. Finally, the Japan Business Federation included the issue in its proposals for a “Third Basic Plan for Immigration Control.” Taking into account that most of the problems concerning foreign nationals in present-day Japan have arisen in areas outside the scope of immigration control, it is undoubtedly necessary to create a comprehensive administrative unit to integrate a series of measures taken by various, mutually-independent ministries and agencies.

The majority of the media still adopt for the tone that Japan should be “internationalized” or “open its doors” to the world, yet the grounds for their claims are not necessarily clear. Sometimes the term “internationalization” is used in reality to merely express the interests of employers and others concerned. Some point out that the proportion of foreign residents to the whole population is not as high as in western countries. However, compared to western countries with long histories of immigration, it is a mere 20 years since foreign workers called “newcomers” became a common sight in Japan. It is somewhat too early to demand Japan open up its doors more widely simply on the grounds that the proportion of foreigners in Japan is lower than the several to 10 percent of countries of Western Europe, with their long experience. The number of foreigners settling in Japan has been steadily growing, so that the proportion of non-Japanese to the population, assuming that the trend continues, will no doubt reach the level of today’s European countries in the near future. The

real problem lies somewhere utterly different.

The problem is the fact that it is almost impossible for the Japanese to see what the government's policy for foreign workers and immigrants is aiming at. In particular, the policy lacks a comprehensive vision based on a long-term viewpoint. One cannot even tell who, in the government, is responsible for drawing up measures. The government should seek for consistency and transparency in its measures, as well as the establishment of one single responsible administrative body, taking into account the steady increase in foreigners settling in Japan. There is an urgent need to consider basic policies, and the main issues to be considered will be suggested in the following sections.

How to Deal with the Increased in Foreigners Settling in Japan

First, the number of foreign workers who have settled in Japan has been steadily increasing, thus can be clearly seen in trends in the number of registered foreigners. As a result, foreign workers and their family members are no longer stared at with curiosity, and have started to live in various widely spaced areas of Japan. At the same time, as is typical among Japanese-descended Brazilians, many foreigners have gathered in particular areas or communities. In such areas, there are quite a few automobile, electrical and other manufacturing sites, where the number of foreign workers, mainly contract foreign workers, has continued to increase, so that now they are essential workforce. Some workers have brought over their families, the tendency to settle in Japan strengthening. As more and more foreigners have settled in Japan, more tasks to be solved have come to the fore, not only concerning employment but concerning housing, education, medical services, social security, and relations with neighboring Japanese citizens also. So far, in areas with many foreign residents, local authorities and citizens have taken initiatives in dealing with these. Although the government officially claimed that it did not allow in foreign workers in the field of unskilled labor, individual areas and communities have, in practice, been obliged to accept and deal with unskilled foreign workers. And with no fundamental measures taken, problems have become increasingly difficult. Six prefectures and 15 cities and towns, including Shizuoka, Aichi, Mie, Gifu, Gunma, and Nagano prefectures, have therefore established a

the Council for Cities with Non-Japanese Residents, exchanging information and discussing various measures to tackle shared tasks. The Council held its first conference in Hamamatsu, Shizuoka prefecture, and had three conferences by 2004. The participation in the council of the Japan Business Federation, an employers' organization, is ideal in considering specific questions concerning foreign workers.

Problems affecting labor issues referred to at recent conferences include the failure to improve the working environment: for instance, non-participation in the social insurance scheme despite the increased number of foreigners settling in Japan. The council has presented to the government a number of requests including (i) effective implementation of the revised Worker Dispatch Law; (ii) improvement of vocational training activities addressed to foreigners of Japanese descent; and (iii) faster implementation of steps to encourage longer-staying foreigners to participate in the social insurance scheme.

One crucial task is to discuss further the settlement of foreigners. Among illegal foreign residents in Japan, some have stayed long enough to, marry Japanese citizens, have children born in Japan, or receive education in Japan, etc. Because of such changes, an increasing number of foreigners have become so deeply rooted in Japanese society that they find it, in practice, difficult to return to their home countries. The same problem is shared by *Nikkeijin* and other foreigners legally entering and residing in Japan.

The Ministry of Justice has recently announced a number of special cases where illegal foreign residents can be given an official residential permit, but still “settlement with no future prospect” has continued. More specifically, in 2003 the ministry gave nearly 10,000 illegal foreign residents the legal status of “special permits of residence” before, in practice, deporting them.

This problem necessarily requires discussion in relation to the graying of society and the declining birthrate. Japan's total population is expected to start falling after reaching a peak in 2006, which poses questions about the handling of foreign workers and the administration of immigrant control.

The United Nations Population Division has suggested the idea of “replacement migration,” but this was merely a provisional conjecture;

what kind of policies will Japan in fact follow in response to the rapid graying of its population? What options will be available for Japan in dealing with the labor shortage, the ageing of the labor force and other problems? Little discussion at the level of the ordinary citizens has taken place so far, but time is passing and considerations of, and responses to, the problems lag farther and farther behind.

Policy towards Illegal Foreign Residents and Traffic in Human Beings

Although the number of foreigners overstaying illegally is now below the level marked at its peak, it is still large and causes various problems in various fields. Crimes committed by foreigners in recent years, which have increased considerably in number, involve in many cases foreigners illegally overstaying in Japan. The government is aiming at halving the number by 2008, but is vague about the relationship between this objective and its overall, long-term standpoint on foreign workers. The number of forged or altered documents concerning immigration control discovered has been increasing as a whole, and it also seems that, due to the involvement of domestic and overseas traffickers in illegal immigrants, the methods of trafficking are becoming nastier and more sophisticated.

Meanwhile, trafficking in women and children has been attracting worldwide attention, and on July 12, 2005, a revised Criminal Law and Immigration Control Act were put into effect. The many cases of trafficking involved a number of brokers both at home and abroad. In 2004, the number of trafficking cases detected by the National Police Agency totaled 79.

To avoid creating invisible boundaries⁽³⁾

One question which those who have studied and researched issues related to foreign workers from the very first stage have had in mind constantly is what is the meaning of “true acceptance of foreign workers”? Surveys of regions where a large number of foreigners reside make one realize that a wall has been imperceptibly built up between their communities and the neighboring Japanese society. In the 1980s, the fact that the number

⁽⁴⁾ Some descriptions in this statement overlap parts of Kuwahara (2004).

of foreigners living nearby had increased drew attention from local communities and authorities. At the time there was certainly communication between the two parties, though they were still groping for ways of achieving it. But nowadays, as the number of foreign workers has inevitably increased so that local firms and industries can survive, more Japanese people seem to be unwilling to get involved with such workers. Partly due to the shortcomings of the alien registration system, local governments do not realize how many foreigners reside within their jurisdictions. Local governments with a large number of foreigners have made various efforts to achieve co-existence with local people, but many of them feel their hands tied in filling the gap between reality and the schemes and steps available to them. As time has passed, a kind of enclave isolated by invisible walls from the local population has come into existence.

Quite a few foreigners who are dispatched by agencies to workplaces have no particular communication with Japanese people, having contact only with their fellows, and an everyday life consisting of shuttling between their apartments and workplaces. There are foreign families who have been in Japan for several years, but have neither socialized with Japanese people nor sent their children to local primary school. They have been busy making ends meet, with no particular outside support, while time has been going by.

While some borders – for example, in the newly expanded EU – are disappearing due to globalization, “unseen borders” are being built within the boundaries of individual countries. These invisible barriers are forms of social discrimination or the isolation of specific races or nationalities, and are sometimes created deliberately for political purposes. Yet it is not solely the countries having immigrants, or their people, are responsible for these barriers, since it is natural for people of the same country to stick together. It is easy to talk theoretically about “social integration” or “co-existence,” but realizing them is full of difficulties. What should be done to prevent the building “invisible boundaries?” We are still in the trial-and-error stage in seeking for answers to these questions. What is true “globalization”? We must first begin by looking into our own hearts. The essential things are: steady efforts to strengthen dialogue and communication at the level of individual local communities; reorganize the points for discussion at the

national level; and revise and clarify policies in accordance with the reworked discussion. It may be no exaggeration to say that Japan's future will depend on such efforts.

References

- Hanami, Tadashi and Kuwahara Yasuo (ed.) "Asu no Rin-jin: Gaikoku-jin Rodo-sha" (Our Future Companions – Foreign Workers). Toyo Keizai Shimpo-sha, 1989.
- . "Anata no Rin-jin: Gaikoku-jin Rodo-sha" (Your Companions – Foreign Workers). Toyo Keizai Shimpo-sha, 1993.
- Immigration Bureau, Ministry of Justice. (ed.) "Shutsu-nyukoku Kanri, 2004" (Immigration Control, 2004). Ainet, 2004.
- Immigration Bureau, Ministry of Justice. "Dai-3-ji Shutsu Nyukoku Kanri Kihon Keikaku" (Third Basic Plan for Immigration Control), March, 2005.
- Ishikawa, Tatsuzo. "Sou Bou", Shincho-sha, 1935.
- Kajita, Takamichi, Tanno Kiyoto, Higuchi Naoto. "Kao no Mienai Teijyu-ka: Nikkei Brazil-jin to Kokka, Sijo, Imin-network" (Faceless Settlers: Brazilians of Japanese Descent and State, the Market and the Immigrant Network). Nagoya University Press, 2005.
- Kuwahara, Yasuo. "Kokkyo wo Koeru Rodo-sha" (Workers across National Borders), Iwanami Shoten, 1991.
- . "Mieru Kokkyo / Mienai Kokkyo" (Visible Borders, Invisible Borders) in "Nihon Rodo Kenkyu Zasshi, No. 531, October 2004.
- Japan Business Federation. "Gaikoku-jin Ukeire Mondai ni kansuru Teigen" (Recommendations on Accepting Non-Japanese Workers), April 14, 2004.
- "Chronology of Migration to and from Brazil"
http://www.lib.city.wakayama.wakayama.jp/wkclib_doc/sub19.htm
 Website of the Immigration Bureau, Ministry of Justice. (Partial Amendment of the Immigration Control and Refugee Recognition Act, enacted on July 12, 2005).
<http://www.moj.go.jp/NYUKAN/nyukan39.html>

In the 21st 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.¹ One positive

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.² 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.³

(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

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

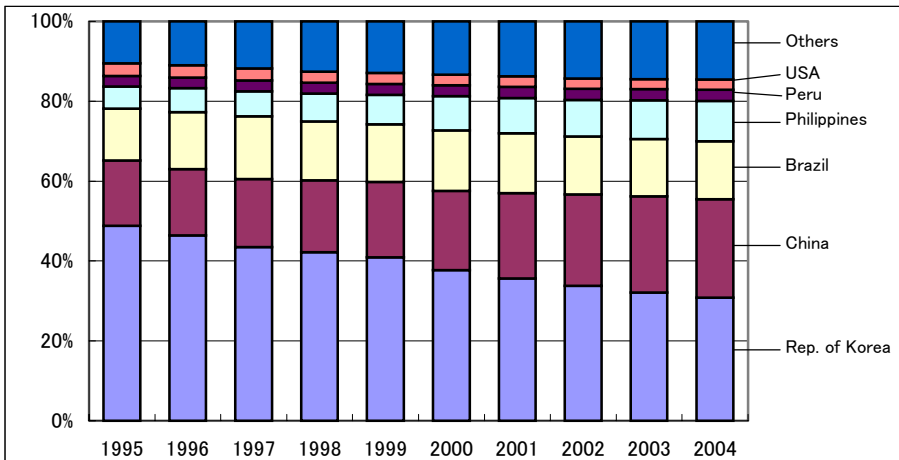
(as the end of each year)

	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)

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)

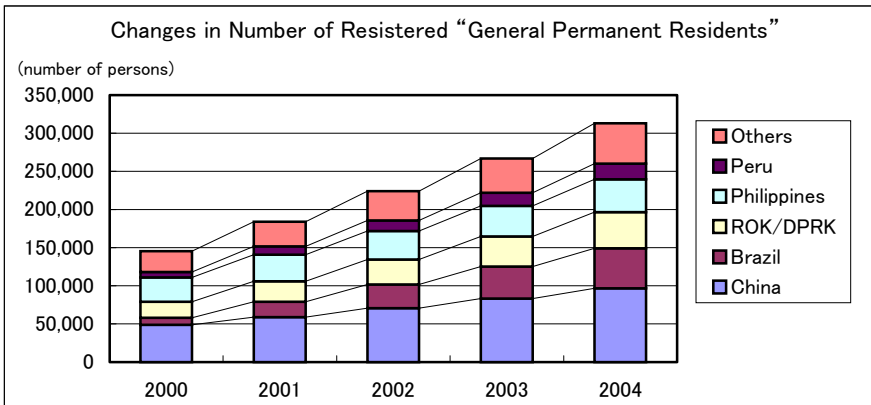


Source: Immigration Bureau, the Ministry of Justice, *Statistics on Foreign Residents* (at the end of each year), 2004.

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

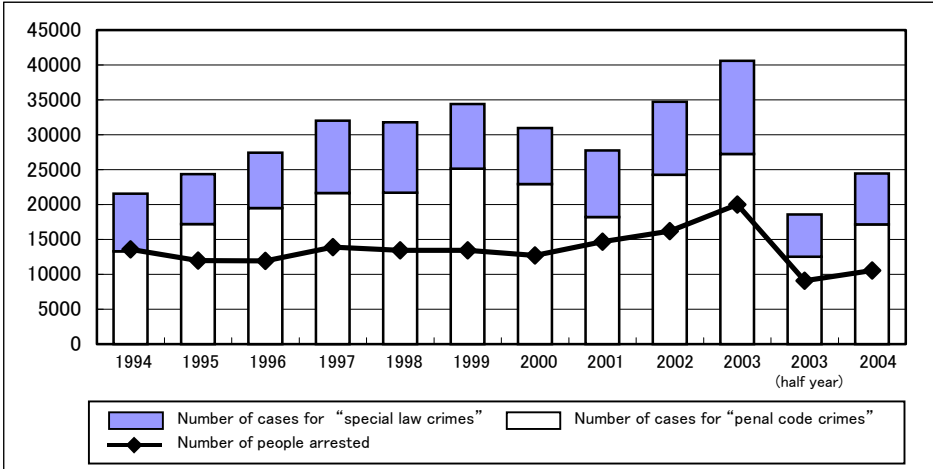
In addition, it is predicted that Japan faces a shrinking population. (See Figure 5.) Opinions are being advanced that Japan needs to bring in foreigners in order to stave off a downturn in the population, or that it is necessary to promote liberalization in immigration along with deregulating the movement 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,⁴ 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

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.⁵ 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.⁶

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

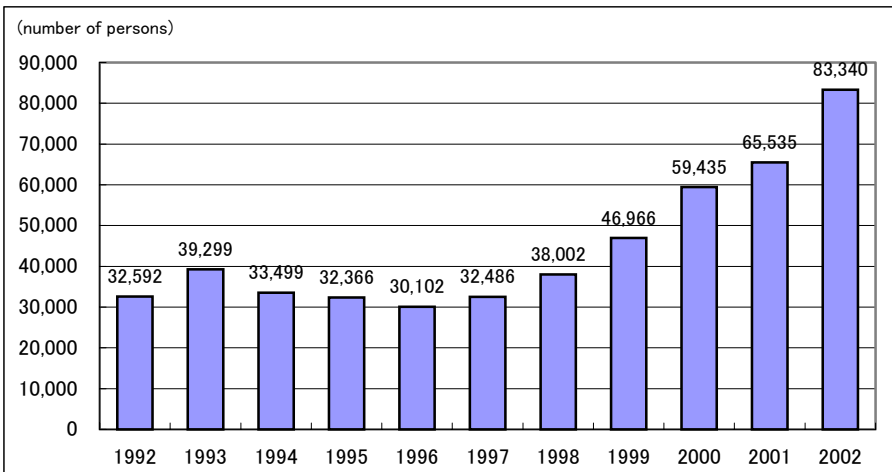
Both countries built through immigration, such as the U.S., Australia, Canada, etc., and those that accept foreign workers, such as Germany, the

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.⁹ In Japan, such

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.¹⁰

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.

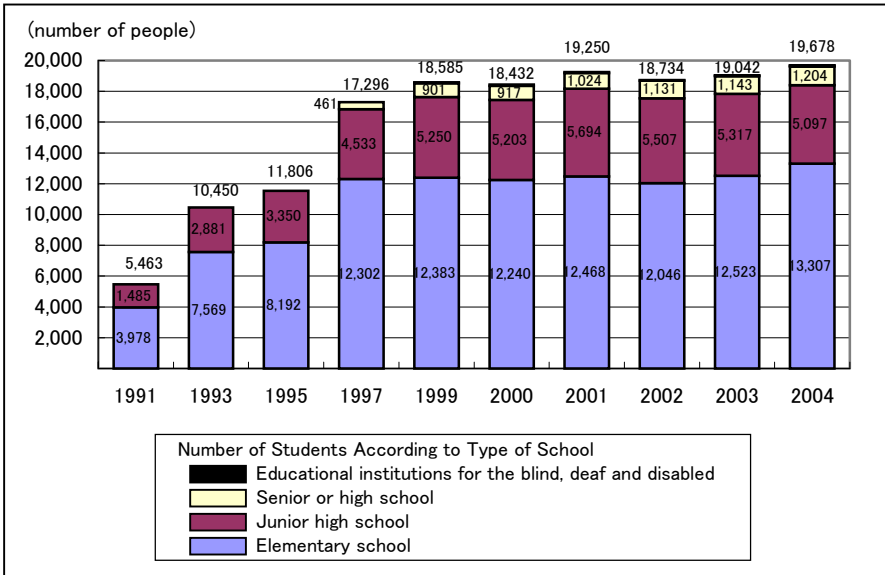


Figure 8. Employment Status of Foreign Children (2004)

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.¹¹

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

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.

(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.¹²

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 21st 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

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 21st 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.¹³

Notes:

¹ 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).

² 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.

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

Control.”

- ⁴ 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.
- ⁵ 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
- ⁶ Tezuka, Kazuaki, *Gaikokujin Rodosha Kenkyu* (Shinzansha, 2004) p118ff.
- ⁷ 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)
- ⁸ Regarding such shifts in manufacturing bases, see chapter 3 of the *White Paper on International Trade Japan*, 2004 edition.
- ⁹ Tezuka, Kazuaki, op. cit., ch. 4.
- ¹⁰ 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.
- ¹¹ For details on this point, see Tezuka, Kazuaki, *Gaikokujin to Ho*, 3rd ed. (Yuhikaku, 2005), ch. 9.
- ¹² Regarding the status of illegal workers recently in the United States, see Brian Grow, “Embracing Illegals” (*Business Week*, July 18, 2005), p38ff.
- ¹³ 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).

Human Resource Management for Nikkei Workers and the Increase of Indirect Employment

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1. Introduction

This article focuses on human resource management for foreign workers, particularly those of Japanese descent (*Nikkei*), who are indirectly employed. It is well known that the majority of the *Nikkei* workers are employed indirectly. It is said that 70-80% or more of them are indirectly employed, but the truth is that we do not know the actual figure. There have been studies examining the *Nikkei* workers because of their tendency to engage primarily in indirect employment.

This article will examine human resource management for *Nikkei* workers while being attentive to the fact that indirect employment has recently been increasing in the manufacturing sector.

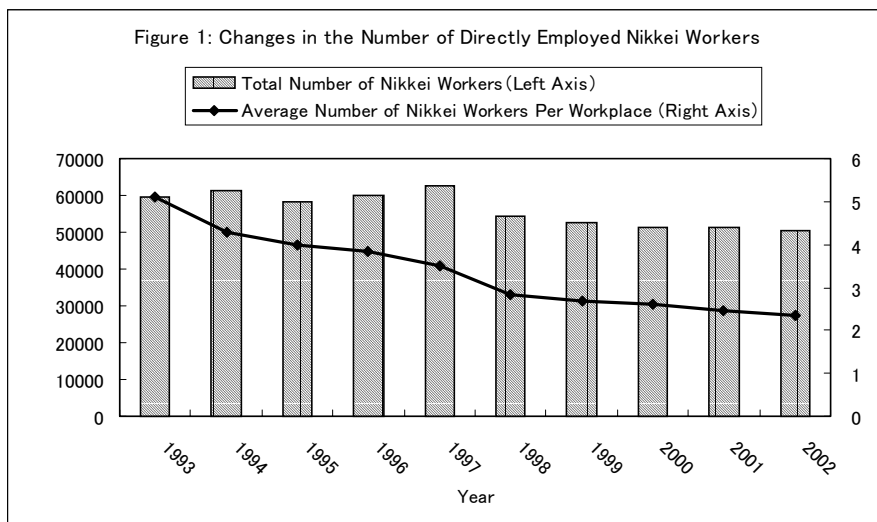
2. Changes in the Number of Nikkei Workers and Issues Addressed in This Article

(1) Changes in the Number of Nikkei Workers

We can trace changes in the number of *Nikkei* workers in *The Immigration Control Statistics (Shutsunyukoku Kanri Tokei)* of the Ministry of Justice. However, it does not provide sufficient information concerning which sectors *Nikkei* workers work in or what types of work they are doing.

In contrast, such information can be obtained from *The Report on Situations of Employment of Foreign Nationals (Gaikokujin Koyo Jyokyo Hokoku)* compiled by the Ministry of Welfare, Health and Labour to some degree.¹ This report has such data as gender, occupation, place of origin, visa status, and number of accessions/separations per year with respect to indirectly-employed foreign workers. According to this report, the number of directly employed *Nikkei* workers in Japan was approximately 59,400 in 1993. The figure dropped in 2002 to 50,400 after reaching the peak in 1997 at approximately 62,600 (however, it should be noted that the number of

surveyed workplaces is not the same each year)². The average number of *Nikkei* workers per workplace has been steadily declining from 5.11 persons per workplace in 1993 to 2.35 persons per workplace in 2002 (Figure 1).



Source: Compiled from The Ministry of Welfare, Health, and Labour, *The Report on Situations of Employment of Foreign Nationals (Gaikokujin Koyo Jyokyo Hokoku)*

As for the sectorial distribution of directly-employed *Nikkei* workers, the transport machines and equipments manufacturing, food manufacturing, and transport-related service sectors have been consistently using a large number of *Nikkei* workers. In certain years, a high proportion of *Nikkei* workers are employed by rubber products manufacturing companies, postal services, government-managed financial institutions, securities and commodity futures trading companies, cooperatives, and other corporate services, but this is probably a reflection of the survey’s inconsistency in target selection.

The report has statistical data on indirectly-employed foreign workers, whom this article is mainly concerned with, in “The Number of Foreign Workers Working at Companies.” Unfortunately, however, the report does not indicate how many of them are actually *Nikkei* even though it shows the number of foreign workers by gender.³

(2) Review of the Existing Studies and Issues Addressed in This Article

There is a substantial body of works on the problem of foreign workers in Japan. Kajita (2002) makes the following points in his comprehensive survey of the existing studies.⁴ First, one of the characteristic features of Japan's policy on admission of foreign workers is its orientation toward admission through the "backdoor" in addition to the "front door." This is exemplified by its admission of Nikkei workers and introduction of trainee and guest worker programs. Secondly, the foreign workers in Japan can be divided into the so-called "old-comers" and "newcomers." The latter is often divided further into immigrants from Asian nations staying and working illegally and Nikkei immigrants whose entry and employment have been legal since the immigration law revision. However, it is difficult to group these foreign workers into any fixed categories. Thirdly, Nikkei workers indirectly employed by contract companies (and worker dispatching companies) far outnumber directly-employed Nikkei workers. The existence of these workers is serving as one of the ways in which companies make employment adjustments. Traditionally, Nikkei workers concentrated in manufacturing jobs in particular geographical areas, but the prolonged recession is causing them to disperse into diverse areas and sectors. Finally, foreign workers employed after finishing university (or graduate school) in Japan are smoothly adapting to life in Japan. On the other hand, a "dual structure" separating these foreign workers and the rest is emerging.

It has been commonly assumed that Nikkei workers will be able to secure direct employment in the long run even though they might find themselves in the condition of indirect employment in the short run. In actuality, the number of those who work under the condition of indirect employment never goes down, and even those who once held direct employment are finding themselves in the condition of indirect employment. Taking into this fact into consideration, this article seeks to address the following questions. First, why are the majority of Nikkei workers being indirectly employed even though there are no legal restrictions on employment of Nikkei workers? Second, how do Nikkei workers relate to the increase of indirect employment in the past decade or so? This article seeks to address these questions by examining human resource management for Nikkei workers at contract companies.

Efforts have been made to promote skill training and development even for indirectly-employed workers. Is the trend taking place also among companies utilizing a large number of *Nikkei* workers? Or does the trend not apply to *Nikkei* workers? If *Nikkei* workers are not receiving training, what consequences might such lack of training generate? Considering its link with the stratification of foreign workers in the labor market, will not such lack of training help the stratification rigidify?⁵ The article also will address these questions as they relate to human resource management at contract companies.

According to the existing studies, the time when *Nikkei* workers started to work in Japan can be traced back to the 1980s.⁶ *Nikkei* workers who had entered Japan to visit their families and relatives gradually began to transform into “*dekasegi* (migrant workers).” With the 1990 revision of the immigration control act, it became possible for *Nikkei* workers to switch their residence/visa status to such ones as “Spouse or Child of Japanese Citizen” and “Long-term Resident” after entering Japan with a “Temporary Visitor” visa. According to Iguchi (2001), the prolonged recession has caused several changes in the behaviors of *Nikkei* workers such as an increase of “repeaters”, those who invite family members to Japan, those who relocate their primary domiciles to Japan.

Inagami (1992) has constructed a model describing the labor market for foreign workers and characteristics of contract companies. In constructing the model, he has examined sizes (number of employees and yearly turnover), sectors, and business types of contract companies and also looked at *Nikkei* workers who can legally work and Asian workers who are employed illegally at times.⁷ According to Inagami, the labor market for *Nikkei* workers is expanding mainly among parts manufacturing companies and primary subcontractors. This is a highly fluid market in which workers move frequently among jobs at an average hourly wage of 1,500 yen or more through intermediaries such as worker dispatching companies and labor brokers. The market for Asian workers has a two-tier structure. Those in the top tier work at mid-sized companies and secondary subcontractors doing processing and assembling works at an average hourly wage of 1,000 yen or so. Those in the bottom tier work at small-sized companies and secondary subcontractors processing raw materials for other manufacturers.

Workers in both the Asian and Nikkei labor markets frequently move among jobs via brokers and networks based on kinships and birthplaces. Inagami refers to this as a “loose dual structure.”

In the analysis of the labor market for foreign workers, residence/visa status is considered as an important factor determining the size of employer, form of employment, and work conditions for foreign workers.⁸ Taking this point into consideration, Shimodaira (1999) argues that immigration/visa status (legal or illegal), time of entry (newcomer or old-comer), gender (male or female), and strength of ethnic networks are factors that determine statuses of foreign workers in the labor market. He has constructed a model of the manual labor market for foreign workers and reexamined the existing researches.⁹

Kuwahara (2001) offers a cross-national study comparing foreign workers in Hamamatsu and San Diego.¹⁰ According to this study, about 60% of the foreign workers working in the Hamamatsu area are Nikkei, and a half of them are Nikkei Brazilians. According to Kuwahara, their periods of stay in Japan are becoming longer and longer, and one quarter of them are likely to continue maintaining some sort of connections with Japan. It has found out that nearly 10% of those who are moving back and forth between Japan and their home countries now are considering about settling in Japan eventually.

What have the existing researches found concerning the issues addressed in the present article? Let us review the existing researches on employment of Nikkei workers first and then those on the increase of atypical workers.

According to Sano (1996 and 2003), there is a possibility that four types of employment for foreign, particularly Nikkei, workers might coexist in one company. Workers of the first type are Nikkei workers directly employed by the company. Workers of this type have the same status as Japanese employees. Workers of the second type are directly employed, but their positions are comparable to Japanese *shokutaku* (employees re-hired after reaching the retirement age), part-time workers, *arubaito* (casual workers), *kikanko* (temporary workers), and seasonal workers. Workers of the third type are not directly employed by the company but contracted by a contract company to work at the company as *shagaiko* (outside workers).

Workers of the fourth type are those dispatched to the company by worker dispatching agencies. The second and the third are the most predominant of the four types of employment.

Let's review the existing studies on the increase of atypical workers (contract workers in our present discussion) then. Kamata (2001) examines actual conditions surrounding atypical employment with a focus on labor problems in contract labor.¹¹ Utilizing data from questionnaires and interviews, it addresses the question from a variety of angles including legal, institutional, and empirical ones. According to this study, contract companies recruit *Nikkei* workers by multiple channels: direct recruitment in home countries, indirect recruitment through travel agencies, and use of advertisement media. It points out that contract companies employ *Nikkei* workers for the purpose of securing human resources for the so-called Three-K¹² jobs rather than reducing personnel costs and require *Nikkei* workers to sign up for overseas travel insurance.

Sato et al. ed. (2001) has examined the electronics industry and found out that work contracting at production sites has been rapidly increasing since the late 1990s as companies try to curb human resource management costs, particularly labor costs such as social insurance costs, and be able to respond to production reductions quickly.¹³

Chuma (2003) examines factors causing contract workers at production sites to replace regular and part-time workers and constitute the mainstay of the atypical workers at production sites.¹⁴ On the demand side, Chuma notes that companies are trying to maintain employment flexibility and disperse business risks. On the supply side, Chuma points out that there was room for *freeters* (young people working only as part-time or temporary workers) to be utilized. Regular employees are divided into those who engage in relatively simple tasks and those who specialize in identifying and solving problems as product/production cycles are becoming increasingly highly technical, complex, and systematic. Such bifurcation is taking place among contract workers as well as a result of the reduction of products cycles, increase in the time-to-market demand, and spread of product modulation resulting from improvement of product and production skills¹⁵.

According to Muramatsu (2004), the spread of atypical employment

can allow companies to take future downside risks into consideration and protect employment of regular employees. The spread of atypical employment is caused mainly by companies seeking to reduce labor costs or turn them into variable costs. Muramatsu discusses the issue of atypical workers and skill development at the workplace. In the case of contract workers, contract companies are required to provide introductory training, but contract workers are not necessarily receiving a sufficient level of training, and this is causing workflow disruptions at some workplaces. Muramatsu suggests that the contract period for contract work should be extended to three years because what is important for both atypical workers and production sites is maintaining stability and continuity in workflows. He argues that such extension will allow work orders and instructions to be implemented smoothly and help workers to develop skills. This in turn, he argues, will contribute to stabilization of employment.¹⁶

Tanno (1999) has examined what role work contracting plays in Japan's industrial society, how Nikkei Brazilians work in Japanese industries, and how they relate to Japanese migrant, seasonal, and fixed-term workers by drawing upon survey results.¹⁷ More recently, Tanno (2002) is arguing that "strategic complementarity" is at work in the recent increase of contract-company-related indirect employment, which many Nikkei workers engage in.¹⁸ According to Tanno, it is not that companies have been seeking to hire Nikkei workers per se. Rather, the number of Nikkei workers has increased as a result of an increase in the use of contract companies. More and more companies have decided to use contract companies because others are doing it, and this has led to an increase and diversification of workplaces hiring Nikkei workers. The expansion of employment of Nikkei workers is in turn diversifying and stratifying the Nikkei immigrant community.

3. Survey Method and Questions

I have conducted a survey targeting contract companies in order to examine the issues raised in the previous section. The survey targeted contract companies in two prefectures.

The survey was conducted between October and December of 2003, and the questionnaire was sent to personnel managers including executive

officers (at some companies, *Nikkei* workers were interviewed).

The questionnaire sought responses on the following issues:

- 1) Characteristics of the company (sector type, number of regular employees, and number of non-regular employees such as part-time and casual workers)
- 2) *Nikkei* workers currently employed by the company (their number, gender distribution, age distribution, academic background, professional background, present occupation, position, form of employment, and residence/visa status)
- 3) Recruitment (methods for obtaining human resources information, methods for recruiting, and standards for hiring)
- 4) Human resource management (training and skill development, wages, working hours, and work system)
- 5) Living and family (housing, daily life, health insurance and pension, support for working in Japan, and communications-related assistance)

4. Overview of Results of the Survey: Human Resource Management of *Nikkei* Workers in Work Contracting

(1) Characteristics of the Surveyed Companies

A. Overview of the Companies

The surveyed companies have diverse backgrounds. There are companies which had subcontracted manufacturing works before switching to work contracting as a result of using *Nikkei* Brazilians. There are also those which have been in the work contracting business from the onset. Needless to say, these companies engage primarily in work contracting and outsourcing. There are companies which are engaging in worker dispatching (of registration-based type) in addition to work contracting. However, the reality seems to be that “only 15 or 16 out of approximately 400 of those registered as dispatched workers are actually working as dispatched workers”, and it is appropriate to consider these companies as engaging primarily in work contracting.

When asked about their business performances, many companies responded that they are short-staffed. There are responses such as “we are

sometimes unable to respond to demands from client companies” and “some client companies are waitlisted.” The high demand is due to the boom in production of electronics and electronics parts (such as digital home electronics, mobile phones, and copy/printers) and automobile manufacturing. However, even contract companies specializing in the auto industry show varying performances depending on which companies are their clients. Companies commonly responded that it is difficult to maintain profitability because unit contract prices are decreasing.

B. Number of Employees and Their Characteristics

The surveyed companies are of varying sizes ranging from one with over two hundred employees to one with one thousand and several hundred employees.

Contract companies are grouped into those mainly relying on Japanese workers, those relying on foreign workers including Nikkei workers, and those using both. What is notable about the surveyed companies is that most of their production-site workers are Nikkei workers. Respondents pointed out that the majority of contract companies rely on either Japanese workers or Nikkei workers only. One respondent explained the reason for this as “because human resource management is easier when using workers with similar attributes.”¹⁹

Employees at the surveyed companies can be divided into management staff and contract workers who work at production sites. A contract company typically has 10 to 50 Japanese and Nikkei management staff members. Japanese management staff members are executive officers, middle managers, and sales personnel. In contrast, many Nikkei management staff members are either “interpreters” or bus drivers who drive workers to work. Nikkei executive officers and middle managers do exist, but they are rare exceptions. Of course, there are Japanese management staff members serving as interpreters or bus drivers because they speak some Portuguese. Most Nikkei workers, other than those who work as management staff members, work at production sites.

C. Characteristics of the Client Companies

Most of the surveyed companies’ clients are found in the auto parts

manufacturing industry and electronics parts/boards industry. The surveyed companies rely on one of the two sectors for more than 50% of their clients. There was a company which responded that “auto parts manufacturers constitute 75% of our client base while auto-related companies constitute more than 90% our sales base.” Clients are found in other sectors such as the food (production of boxed lunches sold at convenience stores, for example), mold, storage and distribution, and linen industries.

A contract company can maintain a client base among companies engaging in similar types of work by specializing in either the auto industry or the electronics parts/boards industry. The downside of this strategy is that the company can lose contracts if its specialized sector as a whole suffers a downturn. In such event, the company will let go a great number of employees including *Nikkei* workers (this issue will be discussed later). Depending on which sector it specializes in, a contract company can experience seasonal fluctuations in the amount of work. For example, farming machines are not manufactured consistently throughout the year. The production volume reaches its peak during the fall and February/March and goes down to a half of the peak level during the rest of the year. The number of contract workers fluctuates along with the production volume.

Many of contract companies’ clients are subcontractors. Many subcontractors use work contracting regardless of whether they are in primary, secondary, or tertiary subcontracting. However the majority of contract workers working at primary subcontractors are Japanese. The proportion of Japanese contract workers decreases among secondary subcontractors and even more among tertiary subcontractors. Inversely, the proportion of *Nikkei* workers increases among secondary and tertiary subcontractors.

In most cases, a contract company first concludes an initial contract covering a period of 2-3 months with a client company. The company will conclude a six-month or one-year contract if no trouble is experienced during the initial contract. The length of contract is affected by the client’s business performance. It can be also affected by how the company follows up when its contract workers quit or do not perform at an expected level and how well contract workers provided by the company are performing.

(2) Employment of Nikkei Immigrants

A. Methods for Recruiting

There are several ways for contract companies to recruit Nikkei workers. One way is to recruit them in their home countries by transmitting descriptions of jobs required by their client companies to local intermediaries.²⁰ The majority of these intermediaries are “travel agencies” or local recruitment agencies. Typically, a contract company follows the following steps in recruiting Nikkei workers in their home countries. First, local travel agencies and recruitment agencies provide the contract company with information on available human resources. Based on the provided information, the contract company selects candidates and contact appropriate local intermediaries.

Surveyed contract companies responded that they have experienced a number of minor troubles with local intermediaries. Local intermediaries would mislead contract workers into believing that they would be working at internationally recognized major companies when recruiting them. In reality, they would be working at secondary and tertiary subcontracting companies. This has been a persistent problem for some time. One respondent suggested that “local travel agencies send workers to Japan without caring too much about details probably because they are simply preoccupied with gathering up many workers.” Moreover, “rake-offs” by local intermediaries have been an unending problem, and less and less contract companies are relying on local intermediaries now.

It used to be common for contract companies to recruit Nikkei workers overseas through brokers overseas or in Japan. However, the use of brokers is becoming less frequent because they charge high fees and have caused troubles similar to the ones described above. It is becoming increasingly common for contract companies to directly recruit Nikkei workers who are residing in Japan, and the spread of direct recruiting is reducing the number of overseas and Japanese brokers.

Respondents pointed out other factors contributing to the increase of direct recruitment by contract companies. It has become possible for contract companies to recruit Nikkei Brazilian workers in a more cost-effective fashion by utilizing print media such as Portuguese newspapers published in Japan. Networks among Nikkei Brazilians have developed, and this is

allowing more and more *Nikkei* Brazilians to apply for jobs directly by word of mouth.

Contract companies still tend to recruit non-Brazilian *Nikkei* such as Filipino *Nikkei* locally by using local agents or sending hiring personnel to their home countries to conduct job interviews because they are yet to develop their own ethnic networks and media such as newspapers within Japan. They rely on methods that are similar to those used for Brazilian *Nikkei* before. Sometimes, contract companies absorb directly-employed *Nikkei* workers after they are dismissed by their original employers, and this is another channel for recruiting *Nikkei* workers.

B. Hiring Standards

The recruiting process for *Nikkei* workers starts with assessment of application documents including resume and work history regardless of whether recruitment is done in Japan or overseas. In many cases, however, it is difficult to make hiring decisions solely on information on educational background or work history provided in application documents. Companies review application documents only for reference at best.

However, contract companies have no choice but to base their hiring decisions on information provided in application documents when recruiting *Nikkei* workers through local agencies overseas. In such cases, contract companies oftentimes would realize they made wrong decisions after their *Nikkei* arrive and start to work. This is one of the reasons why more and more contract companies are replacing recruitment through local agencies with direct recruitment.

When recruiting and hiring *Nikkei* workers in Japan, many contract companies determine job assignments for new recruits based not only on assessment of application documents but also on results of job interview, Japanese language test, work skills test, and eyesight test. Some of the major home electronics companies conduct their own work skills tests when utilizing new *Nikkei* contract workers.

Contract companies prefer *Nikkei* workers to be able to speak Japanese, but surveyed contract companies responded that only less than 10% of the newly arriving *Nikkei* workers could understand some Japanese. One company reported that it will hire *Nikkei* workers who cannot speak

Japanese if interpreters and other Nikkei workers can help facilitate communications with them.”

(3) Nikkei Workers Who Are Currently Working

A. Number and Characteristics

The number of employees varies by company, but 80-90% of their contract workers are Nikkei. One company reported that its work contracting operation is supported by Nikkei workers 100%.

Nikkei Brazilians are the largest group who constitute 60%- over 90% of the entire Nikkei population. There are those from nine other countries including the Philippines, Peru, Thailand, Indonesia, Argentine, and Bolivia. The number of Nikkei Filipinos has been on the rise recently.

The number of Nikkei contract workers fluctuates. The fluctuations can be divided into a few categories. One is daily fluctuation. The number of Nikkei contract workers fluctuates when Nikkei workers fail to adapt to their work or move to better paying jobs. In such case, contract companies will assign new Nikkei workers as replacements in order to maintain contract agreements. However, not all Nikkei workers switch jobs to get more pays.

The buffering role of downsizing is often discussed as a factor contributing to the increase in indirect employment. The second type of fluctuation is related to this. When client companies terminate contracts because of changes in their business performances and production plans, contract companies are compelled to terminate contracts with their Nikkei workers. Contracts between contract companies and client companies normally cover a period of 2-3 months or 6 months. The number of contract workers fluctuates at varying degrees at different contract companies according to sector and size of their client companies.

There were such responses as “we are currently hiring about 650 Nikkei Brazilians but were hiring only 160 in 1995/1996”, “we once had over 2,000 Nikkei workers in the entire company, but their number went down to 1,100-1,200 during the IT Recession”, and “the number of our Nikkei contract workers peaked in 2,000 at 1,600 and currently is staying at 1,200.” The number of Nikkei workers a contract company hires fluctuates greatly depending on business performance of its client companies.²¹

Contract companies might be required by some of their client companies to adjust the number of contract workers on a weekly basis, and they might have to adjust a hundred or more workers, a figure equaling or surpassing the total number of workers hired by one company. When making such adjustment, contract companies do so collectively by dividing up the number of workers to be reduced. By the same token, when a client company wants to increase contract workers, they respond to the request collectively.

Adjusted workers will stand by until their contract companies find new client companies. In most cases, such standby period does not exceed several days. If the standby period exceeds this, it is likely that *Nikkei* workers will find new jobs and switch to them. Consequently, it is important for contract companies to find new jobs as soon as possible. No salaries are paid during the standby period.²²

B. Gender

An increase of women has been pointed out as a notable recent trend in the characteristics of *Nikkei* workers. There was a company which responded that “the proportion of women has been increasing every year, and the ratio between men and women was reversed two years ago. Presently, the ratio is 55% women and 45% men.”

One reason for the change in the gender composition is related to the sectorial composition of client companies. Sales of digital home electronics, cellular phones, and printer-scanner-fax-copy combo units are going up in the past several years. The demand for female workers at contract companies whose clients are electronics and electronics parts companies is rapidly increasing.

If, on the other hand, a contract company has its client base in the auto manufacturing sector, its workers will be predominantly male because of the nature of work involved. Food manufacturing, storage and distribution, and delivery companies rarely specify the gender of contract workers. However, unit contract prices for these companies will be relatively low, and this depresses wages of contract workers. Therefore, male workers will not stay for long if they are assigned to such companies. By default, it is only female workers who stay at such work places.

C. Age

Ages of Nikkei workers are wide-ranging (10s to 50s). Many of the relatively old Nikkei workers are veterans with a career of 10 years or more. It is rare for older workers to be hired as new recruits. The core of new recruits is Nikkei workers in their twenties and thirties. This is because client companies demand contract workers to be under 30 and contract companies set the age limit at mid-30s when recruiting and hiring Nikkei workers.

Respondents cited the following reasons for targeting relatively young workers. Young workers are capable of learning their work quickly. They are more physically fit and hence preferable as their working hours tend to be long. In contrast, older workers tend to come to Japan with their families, and this will require contract companies to provide assistance for their families.

D. Educational and Professional Backgrounds

Nikkei workers at contract companies come from diverse educational backgrounds ranging from junior high school to master's degree. There are some who have attended university, but respondents reported that their prevailing impression is that junior high school graduates and senior high school graduates are the largest group constituting 30-40%. According to one respondent, education does not affect how Nikkei workers work. "client companies only want workers who can function as a member of the production site and do not care about such things as educational or professional backgrounds." Contract companies have to respond to such need.

Work history does not affect how Nikkei workers work either. The same goes for non-Brazilian Nikkei as well. When directly recruiting Nikkei workers in Japan, contract companies give weight to their work history in Japan.

"Long-term Resident" and "Spouse or Child of Japanese Citizen" are common resident/visa statuses, and a significant number of Nikkei workers are obtaining the right of permanent residence.

F. Employment Contracts

Most contract companies offer fixed-term contracts. Durations of employment contracts are adjusted to those of contracts between client companies and contract companies. They are two-months, three-months, or six-months long in most cases. This is because contract companies will find themselves unable to respond to requests from client companies to adjust the number of workers if contract periods are set too long. Employment contracts are automatically renewed if there is no trouble. Contracts are usually renewed several times, and *Nikkei* workers work for the same contract companies for 2-3 years on average after their arrival in Japan. Some of the *Nikkei* workers might quit and return to their home countries and then come back to Japan again. About 40-50 % of such workers will return to the same companies again (there was one company that reported the figure is over 60%).

G. Status (Position and Title)

The majority of the *Nikkei* workers work production lines. One of the distinctive features of human resource management for *Nikkei* workers at contracting companies is that status distinctions are not made based on length of service, age, education, and work history. One company responded that such policy was rooted in the following experience: “We once had a position of production-site manager, but those who became managers left one after another. We found out that workers began to act arrogantly once they became managers, and this disrupted the order among *Nikkei* workers. We decided to abolish the position after that.” Such case is experienced by every company to a varying degree. The only exception was one company which responded that the company “promotes talented workers to production-line leaders,” but the majority does not make any differentiations. In most cases, therefore, *Nikkei* workers are left out of promotion systems at contract companies.

Many companies employ *Nikkei* workers as trainees for the first 2 or 3 months after initial contracts are concluded. Even during such training period, workers are paid the same amount of wages as regular contract workers (this point is discussed later).

There are *Nikkei* who work as “interpreters.”²³ Tasks of “interpreters”

cover wide-ranging aspects of Nikkei workers' professional and daily lives such as recruitment, hiring, training, human resource management, visa-related paper work, housing, and support for family members. Interpreters are "accorded with certain respect" by workers at production sites.

(4) Human Resource Management

A. Work Orders

Contract companies station employees at client companies to give work orders and instructions when assigning a large number of Nikkei workers. In most cases, contract companies assign Japanese employees or interpreters for such task. As mentioned, some companies tried to designate Nikkei workers as production-line leaders based on length of service, skill level, and Japanese language skills to give orders to other Nikkei workers, but this did not work in most cases.

Client companies might require only a couple of contract workers. Since contract companies cannot afford to station full-time staff at individual client companies in such cases, they dispatch Japanese employees to round client companies and give orders to their contract workers.

B. Transition from Hiring to Assignment

Contract companies make decisions about where newly hired contract workers will be assigned by considering primarily requests from client companies. They also take into consideration contract workers' preferences, professional experience in Japan, results of work skills test, and Japanese language skills. Requests concerning overtime are more commonly heard. One recent trend among female workers is that there are those who request to be assigned to companies which provide excellent work environments.

Some client companies conduct their own work skills tests for new Nikkei workers.

C. Training and Skill Development: Few Opportunities for Training and Skill Development

After their job assignments are decided, Nikkei workers receive preparatory training from Japanese employees and Nikkei interpreters.

Nikkei workers engage mainly in repetitive tasks. A preparatory training typically lasts half a day or so and centers on instruction on assigned works and training in machine operation. Nikkei workers are assisted by Japanese employees, Nikkei interpreters, and more experienced Nikkei workers on their first day and beyond.

Most Nikkei workers would respond that they would be able to handle their assigned works after trying their works for a few hours or so. Surveyed companies stated that they could determine if workers can indeed handle their jobs by observing their performance for a week or so. Once a contract company determines that a given contract worker is not capable of handling the assigned job, it will reassign the worker to a different job even during a trial period.

Contract companies take past work experience into consideration in deciding job assignments for Nikkei workers with work experience in Japan. Contract companies will make an effort to assign these Nikkei workers to the same types of job they had in the past, but such jobs are not always available. In such case, they will assign them to positions involving similar tasks

Little training or skill development is provided after job assignments are made. One contract company stated that it has facilities for training workers on welding or forklift operation. However, these are not actually utilized due to “time constraints.” The company responded that “we probably will need to carry out skill training given that it might improve retention (of Nikkei workers).”

Respondents stated that they assign workers with long work experience in Japan and relatively high skill levels to client companies requiring multiple-skilled workers such as auto companies.²⁴

D. Unit Contract Prices and Wages of Nikkei Workers

As mentioned, contract companies are performing so well that some of them are finding themselves short-handed and unable to keep up with requests from their client companies. However, despite the high demand for contract workers, the profitability of work contracting continues to be tenuous because unit prices have been going down. During the era of the bubble economy, contract companies accepted orders at asking price, and

unit prices were more than 2,000 yen/hour producing a rough profit margin of 40%.

At present, unit prices vary by region and client, but they have gone down on average (1,500-1,800 yen/hour for men and 1,200-1,300 yen/hour for women). Yet, labor costs have remained unchanged since the bubble economy era staying at 1,300 yen/hour for men and about 900 yen/hour for women, and this pushes down rough profits. Presently, rough profit margins are 20-25% for men and 25-30% for women.

Unit prices are 1,700-2,000 yen/hour when client companies are primary subcontractors. Unit prices are 1,500-1,800 yen/hour for secondary subcontractors and 1,200-1,500 yen/hour for tertiary subcontractors.

Moreover, unit prices vary by sector. Auto companies have the highest average unit price, followed by electronics parts companies. Food manufacturing companies have a relatively low average unit price.

Hourly unit contract prices of male Japanese workers are 400-500 yen higher than those of male Nikkei workers, and hourly labor costs of male Japanese workers are 50-100 yen higher than those of male Nikkei workers. Hourly unit contract prices of female Japanese workers are 100-300 yen higher than those of female Nikkei workers. Labor costs of female Japanese workers are 50 yen higher than those of female Nikkei workers. The gap between Nikkei workers and Japanese workers has not changed for some time.

It is said that Nikkei workers have a low social insurance and national pension subscription rate. When Nikkei workers subscribe to the national pension scheme or social insurance scheme, how much of their income do premium payments take up? Ozaki (2005) has conducted a simulation using a hypothetical case in order to investigate why Nikkei workers try to avoid paying social insurance and national pension premiums.²⁵ Ozaki's simulation is premised on a case of a forty-one year-old male Nikkei Brazilian worker who works as a contract worker in the transport machines/equipments manufacturing industry. Social insurance and national insurance premiums of workers vary by wage level and geographical area. The simulation is based on a premise that the worker's contract company employs him 8 hours a day and 22 days a month. At the contract company, the average contract unit price is 1,700 yen, and the average labor cost is

1,305 yen. For the purpose of simplifying the simulation, it is supposed that the worker does not have any dependent family members, receive bonuses, and do overtime. The Nikkei worker in the simulation is paid 229,680 yen per month and 2,756,160 yen per year.

If the company deducts the employer's share of the worker's social insurance premiums from his wages, the worker will have a take-home pay of 2,042,568 yen/year (967 yen/hour). If the company pays the employer's share by using its rough profits, the worker will take home 2,401,685 yen/year (1,137yen/hour). If the worker participates only in the national health insurance scheme, he will take home 2,572, 660 yen/year (1,218 yen/hour). If the worker participates in the national pension scheme and the national health insurance scheme, he will take home 2,413,060 yen/year (1,143 yen/hour).

10 to 20 percent of income is a considerably heavy burden for Nikkei workers considering their purpose of working in Japan. According to the survey, however, there has been an increase in those who participate at least in the national health insurance scheme as more and more Nikkei workers settle in and bring their family members to Japan.

E. Working Hours

Working hours of contract workers can vary depending on client companies. In particular, the closing time can vary widely. A contract worker might finish at 1-2 PM sometimes and at 10-11PM in other times. Especially at auto factories, workers will not find out whether they will be required to do overtime until the evening.

On average, Nikkei contract workers do about 30-50 hours of overtime per month. There is even a company which stated "doing 100-130 hours of overtime per month is not unusual." Good business performances of client companies are one factor contributing to the long working hours. Another factor is the fact that client companies and contract companies set the amount of contracted work by multiplying the number of workers by working hours. Respondents made such comments as "we would like to secure at least 200 hours/month or, if possible, 250 hours/month from a contract worker" and "unit prices in the food industry are low, but we constantly receive orders for 300 hours/month."

The behavioral pattern of the suppliers (Nikkei workers) to “leave jobs when there is little overtime” should be noted too. The long working hours of Nikkei workers can be attributed to their tendency to take on a lot of overtime in order to earn as much money as possible in a short period of time. However, there has been a change in this tendency as female Nikkei workers and Nikkei workers with families increase their presence.

F. Long-term Commitment and Adaptation

There has been a perception that Nikkei workers do not have an inclination to make long-term commitments to particular companies. “They will move to new jobs if they are paid just 10 yen more” has been a common cliché. Is this really the case? The survey did confirm that there are Nikkei workers who support such cliché. However, it can be argued that the existence of such workers is blown out of proportion. This in turn has contributed to the view that the Nikkei workers as a whole have a tendency to leave jobs easily.

Several factors are contributing to Nikkei workers’ tendency to leave jobs. One of them is attributed to the demand side. There was a time when contract companies tried to hire more Nikkei workers by lowering unit prices in order to respond to demands from client companies. An increase in the number of contract companies also exacerbated the trend. However, the labor demand has dampened due to the prolonged recession and trend toward international division of labor, and the number of contract companies has been reduced as a result of competition. Consequently, respondents reported that the turnover rate has become lower than before.

There is also a supply-side factor which is attributed to Nikkei workers. In the past, it was typical for Nikkei workers to return to their home countries after earning as much money as possible in a short period of time, and this contributed to the high turnover rate.²⁶

According to the survey, the number of those who continuously work at a single company only has been on the rise in recent years.²⁷ Nikkei workers are becoming more oriented toward making a long-term commitment to a single company only. Many companies responded that only 20-30% of their workers have a tendency to leave jobs while the rest

are staying on a long-term basis. In the past, the majority of *Nikkei* workers used to follow the “*dekasegi*” pattern – they would work for contract companies for a couple of years to save up money, go back to Brazil, and return to Japan again later. As more and more *Nikkei* workers chose to stay in Japan on a long-term basis and settle in Japan, it is becoming increasingly common for them to stay at the one same contract company.

Of course, there are still those with a tendency to switch jobs. These workers tend to have a relatively high level of Japanese language skills. Because they can speak Japanese to some degree, they are able to find works outside the networks among *Nikkei* immigrants. The fact that Japanese employers prefer workers who speak Japanese makes it easier for these workers to find work. However, they will move to new contract companies for higher wages before being able to master their work. Consequently, they will find their jobs uninteresting and move on to the next jobs. *Nikkei* workers who repeat this cycle form a highly mobile segment of the *Nikkei* labor force.

H. Standby Period

When their contracts with client companies expire or their contract workers could not handle assignments, contract companies put *Nikkei* workers on standby – until new assignments are found. The length of a standby period depends on the client company’s business performance, but short ones can be over after one day, and even longer ones last only for 7-10 days.

The brevity of standby periods is attributable to the existence of the highly mobile segment of the *Nikkei* labor force. When a *Nikkei* worker quits his assigned job, his contract company will have to find a replacement as soon as possible. If the replacement is not forthcoming, the contract company will end up making a breach of a contract. It is necessary for the contract company to secure at least as many backup workers as workers assigned to a given client company.

During standby period, *Nikkei* workers will not have any income since they are not working. Even so, they will be able stay in their apartments as their companies cannot force them out. A substantial number of *Nikkei* workers will find new jobs on their own and leave their contract companies

when their standby periods become too long.

5. Summary of Results of the Survey

We have been looking at results of the survey on contract companies using Nikkei workers. The main findings are summarized and outlined below:

- 1) It seems that contract companies are bifurcating into those specializing in Nikkei workers and those specializing in Japanese workers. This is because human resource management becomes easier for contract companies if they employ workers with similar characteristics rather than those with different ones. There is a supply-side element contributing to such bifurcation as well. Nikkei workers can receive support at companies specializing in Nikkei workers even if they cannot speak Japanese.
- 2) At contract companies employing a large number of Nikkei workers, employees are grouped into management staff and production-site workers. Management staff includes “interpreters” who play critical roles in human resource management for Nikkei workers as well as daily lives of Nikkei workers.
- 3) Contract companies with Nikkei workers have their main client base among auto and electronics parts companies. Their client base also includes food manufacturing, storage and distribution, and linen companies and foundries. Their client companies in the auto and electronics parts sectors are mostly secondary and tertiary subcontractors. Primary subcontractors use contract companies specializing in Japanese workers. Clients of contract companies relying on Nikkei workers tend to be secondary and tertiary subcontractors.
- 4) Recruitment of Nikkei workers in their home countries is becoming less common, and direct recruitment of Nikkei workers in Japan has become the predominant mode of recruitment. The shift has taken place because contract companies can recruit a necessary number of contract workers by posting classified ads in Portuguese newspapers

in Japan, and networks among Nikkei workers have developed. In addition, there are cases in which directly employed Nikkei workers are hired by contract companies after they are released as a result of employment adjustment.

- 5) Hiring decisions for Nikkei workers are made based on application documents, work history, interviews, work skills test results, and Japanese language skills. Naturally, being able to handle assigned tasks is the most essential qualification. Non-Brazilian Nikkei such as Nikkei Filipinos are still recruited predominantly through local agents in their home countries.
- 6) The number of Nikkei workers at contract companies fluctuates widely. Fluctuations are attributed to movements of Nikkei workers and how contracts are concluded with client companies.
- 7) Those in the twenties and thirties constitute the predominant age group. Moreover, there have been changes in the composition of Nikkei workers such as an increase in women. One demand-side factor contributing to these changes is an increase in orders from electronics parts companies. On the supply side, an increase in the number of those who come to Japan with their families can be pointed out as a contributing factor. In addition, the fact that female workers generate more rough profits than male workers is a contributing factor attributed to contract companies.
- 8) There are few opportunities for skill training and development. Other than a few hours of introductory session, there are few opportunities for training for Nikkei workers. There are Nikkei workers who obtain professional certificates on their own, but such cases are rare.
- 9) Human resource management for Nikkei workers is characterized by its flat structure. That is, wages of workers are determined on an hourly basis, and length of service is not taken into consideration. Nikkei contract workers will never be promoted to production-site managers even if they develop experience. Employees stationed at client companies give orders and instructions to Nikkei contract workers when a large number of Nikkei contract workers are assigned. When there are only a small number of contract workers, contract companies dispatch employees to round client companies

and give orders. The mostly repetitive nature of Nikkei workers' work can be seen as a factor contributing to such policy.

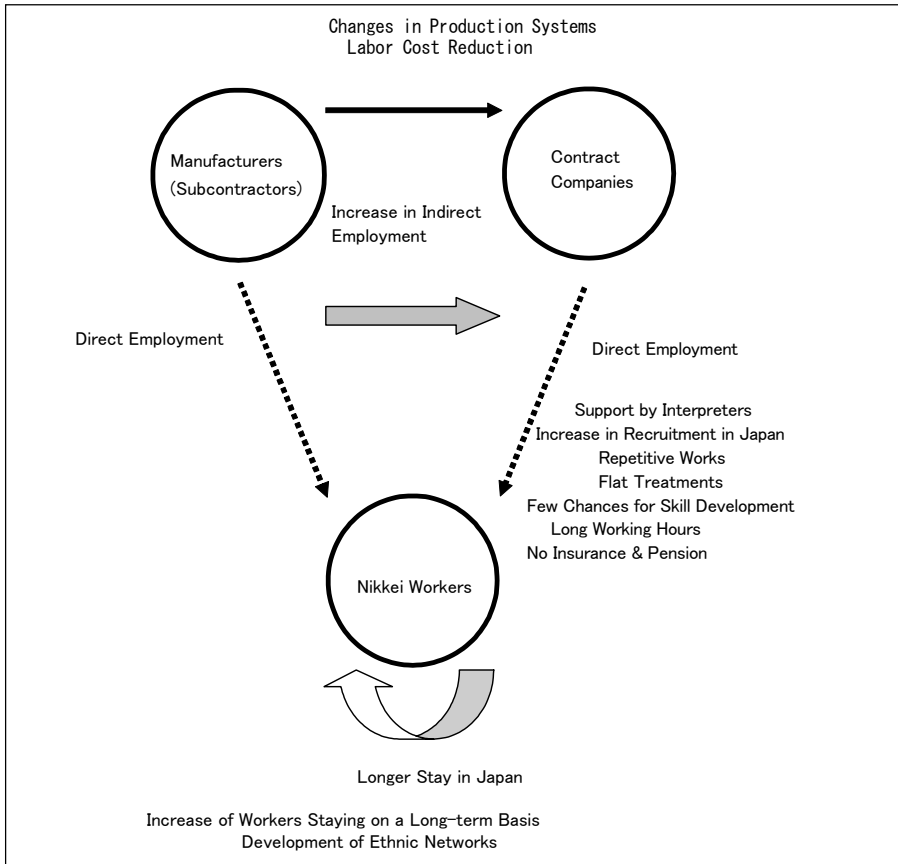
- 10) Nikkei workers do lots of overtime. For some of them, it is not unusual to do more than 100 hours/month of overtime. The behavioral pattern of Nikkei workers to earn as much money as possible in a short span of time is one supply-side factor contributing to this. One contributing factor attributed to contract companies is the fact that contract companies seek client companies that offer longer contract hours because the amount of contracted work is set by multiplying the number of workers by work hours.
- 11) Nikkei workers who choose to settle in Japan are increasing. More and more Nikkei workers are staying at a single company only as the number of female workers and Nikkei workers with families increase and support mechanisms for accepting Nikkei workers are improved at the areas with a high concentration of Nikkei workers. On the other hand, Nikkei workers who move from one job to another in search of higher wages still continue to exist.

The findings above can be conceptualized into the diagram below:

Why are the majority of Nikkei workers employed indirectly even though there is no legal restriction on their employment? How do Nikkei workers relate to the increase of indirect employment? Do contract companies with a large number of Nikkei workers actively provide skill development and training?

Sano (2003) examines mechanisms of Nikkei workers' employment. According to him, workers of the *dekasegi* type are found predominantly among male workers.²⁸ These workers typically work for two years mostly at manufacturing jobs and then return home. The survey identified new patterns such as an increase of female workers and shift toward long-term commitment. However, what has not changed is that form of employment (indirect employment), rather than abilities of individual workers, determines work conditions of Nikkei workers. Looking from the perspective of client companies using contract companies, they are utilizing not Nikkei workers per se but rather labor contracting. Hence, as pointed

Figure 2: Employment System of Nikkei Workers



out by Tanno, what is happening should be understood not as a rise in the demand for Nikkei contract workers per se but rather an increase in the demand for indirect employment or labor contracting, and this in turn is pushing up the demand for Nikkei contract workers. Labor costs of Nikkei workers are slightly lower compared to Japanese workers. For the purpose of cost reduction, there is a considerable merit to using Nikkei workers who are indirectly employed.

In the area of human resource management for Nikkei workers at contract companies, the existence of “interpreters” is a factor contributing to the concentration of Nikkei workers into indirect employment. When Nikkei workers are employed directly, Japanese personnel staff will take

care of issues related to their employment and daily life. In such case, miscommunications and misunderstanding between Nikkei workers and Japanese personnel staff can easily occur. In contrast, Nikkei workers will receive support from “interpreters” ranging from work instructions and advice on daily life when they are employed by contract companies. Nikkei workers who are interviewed for the survey pointed out that “interpreters” help them feel at ease because most interpreters are Nikkei themselves, understand challenges they face in their professional and personal lives in Japan, and provide meticulous assistance.

Japan accepts Nikkei workers as legal immigrants, but Kurata (2003) points out that the following five policy issues for Nikkei immigrants admitted into Japan have to be addressed:²⁹

- 1) Monitoring of work conditions (to check if Nikkei workers are not placed into the bottom of the hierarchy in the labor market)
- 2) Improving the quality of labor through vocational training and career development
- 3) Guaranteeing social security rights of Nikkei workers and arranging institutional adjustments between Japan and their home countries as necessary
- 4) Assisting Nikkei workers in adapting to the life in Japan
- 5) Taking measures to encourage Nikkei workers who have been working in Japan for a long period of time to settle in Japan

With respect to the first issue, whether Nikkei workers are forming the bottom tier of the labor market is debatable. But it is still possible to consider them as settling into a specific category in the labor market called “indirect employment.” As for the second issue, it is difficult to believe that a sufficient level of vocational training and career development support are being provided, and therefore, it is difficult to argue that the quality of labor is being improved. Save for a handful of exceptions, most Nikkei workers engage in repetitive tasks. As for the third issue, subscription of the national pension and health insurance schemes is yet to become widespread among Nikkei workers. With respect to the fourth and fifth, necessary measures are finally being taken at the areas with a high concentration of

Nikkei immigrants.

It is necessary to treat direct employment and indirect employment separately as suggested by Sano and Tanno. Moreover, a polarization is taking place between Japanese contract workers and foreign contract workers working for contract companies. Japanese contract workers work for major contract companies whose client companies are primary subcontractors and receive higher wages than Nikkei workers. Many Nikkei workers work for contract companies, but they are assigned to companies in secondary and tertiary subcontractors. These Nikkei workers can be divided into Nikkei Brazilians and Nikkei Asians. The former group is large. It has become more common for contract companies to directly recruit and hire them in Japan. Support mechanisms for them are being improved at the areas with a high concentration of Nikkei immigrants. The latter group is a relatively small, and their workplaces are primarily small and mid-size contract companies and small businesses.

Below this group of Nikkei Asian workers, there is perhaps an unstable group of workers working at small business as Inagami's diagram suggests.

Of course, the survey targeted only a limited number of subjects. This is merely a tentative hypothesis, and we should be careful about constructing a model based only on this survey. We should continue to modify the model as more data are accumulated.

[References]

- Iguchi, Yasushi. *Gaikokujin Rodosha Shinjidai (New Era of Foreign Workers)*, Chikuma Shobo, 2001.
- Inagami, Takeshi. "Keiei Senryaku, Gaikokujin Rodo Shijo, Jinteki Shigen Kanri (Management Strategy, the Labor Market for Foreign Workers, and Human Resource Management)" in Inagami Takeshi, Kuwahara Yasuo, and Kokumin Kinyu Koko Sogo Kenkyujyo, *Gaikokujin Rodosha wo Senryokuka suru Chusho Kigyo*, Chusho Kigyo Research Center, 1992.
- Ozaki, Masatoshi. "Ijyu Rodosha to Shakai Hoshō – Nikkei Burajirujin ni taisuru Hoshō no Genjyō to Kadai (Social Security for Immigrant Workers: Issues and Present Situations concerning Social Security for

- Nikkei Brazilians,” Tokyo Daigaku Daigakuin Hogaku Seijigaku Kenkyuka Hikakuho Kokusai Center, *Nichi Bu Hikakuho Oyobi Zainichi Burajirujin Shurosha ni kansru Shinpojiumu Hokokushu*, pp.49-58, 2003.
- Kajita, Takamichi. “Nihon no Gaikokujin Rodosha Seisaku (Policy on Foreign Workers in Japan)” in Kajita Takamichi and Miyajima Takashi eds., *Kokusaika suru Nihon Shakai*, Tokyo Daigaku Shuppankai, 2002.
- Kamata, Koichi. *Keiyaku Rodo no Kenkyu(Study of Contract Labor)*, Taga Shuppan, 2001.
- Kuwahara, Yasuo ed. *Gurobaru Jidai no Gaikokujin Rodosha (Foreign Workers in the Global Age)*, Toyo Keizai Shinposha, 2002.
- Kurata, Yoshiki. “Senmonteki Gijyutsuteki Rodosha no Ukeire (Admission of Professional and Skilled Workers)” in Yorimitsu Masatoshi ed., *Kokusaika suru Nihon no Rodo Shijo*, Toyo Keizai Shinposha, 2003.
- Kobayashi, Yoshinobu. “Ukeoi Rodosha no Kyuzo to Rodo Kumiai no Taio (Rapid Increase of Contract Workers and Response of Labor Unions,” *Nihon Rodo Kenkyu Zasshi* No.505, pp. 49-55, 2002.
- Sato, Hiroki and Denki Soken ed.. *IT Jidai no Koyo System (Employment System in the IT Age)*, Nihon Hyoronsha, 2001.
- Sano, Tetsu. *Worker no Kokusai Kanryu (International Circulation of Workers)*, Nihon Rodo Kenkyu Kiko, Ch.3, 1997.
- Sano, Tetsu. Gaikojin Rodosha no Koyo ni Kansuru Panel Data no Bunseki (Analysis of Panel Data on Employment of Foreign Workers), *Hitotsubashi Daigaku Keizai Kenkyujo Discussion Peper* No.94, 2002. (*Hitotsubashi Univ. Institute of Economic Research Discussion Paper No. 94, 2002*)
- “Nikkeijin Rodosha no Shugyo Koyo Kozo (Work and Employment Structure of Nikkei Workers,” in Yorimitsu Masatoshi ed., *Kokusaika suru Nihon no Rodo Shijo*, Toyo Keizai Shinposha, 2003.
- Shimodaira, Yoshihiro. “Gaikokujin Rodosha (Foreign Workers)” in Inagami Tsuyoshi and Kawakita Takashi eds., *Koza Shakaigaku 6 Rodo*, Tokyo Daigaku Shuppankai, 1999.
- Suzuki, Eriko. *Nihon ni okeru Tabunka Shugi no Jitsugen ni mukete Part 1(Toward Realization of Multiculturalism in Japan, Part 1)*, Fujita Mirai Keiei Kenkyujo, 2001.

- Tanno, Kiyoto. "Zainichi Burajirujin no Rodo Shijo (the Labor Market for Brazilians in Japan)," *Ohara Shakai Mondai Kenkyujyo Zasshi* No.487, pp.21-40, 1999.
- "Gaikokujin Rodo Shijo no Bunki no Ronri (Logic behind the Bifurcation of the Labor Market for Foreign Workers)," Kajita Takamichi and Miyajima Takashi eds., *Kokusaika suru Nihon Shakai*, Tokyo Daigaku Shuppankai, 2002.
- Chuma, Hiroyuki. "Konai Ukeoiko Katsuyo no Jittai to Bunseki (Use of Production-site Work Contracting: Present Conditions and Analysis)" in Sato Hiroki and Denki Soken ed., *IT Jidai no Koyo Shisutemu*, Nihon Hyoronsha, 2001.
- Chuma, Hiroyuki. "Rodo Shijyo ni Okeru Nikyoku Bunka Keiko: Konai Ukeoiko Kyuzo no Jirei kara (Trend toward Polarization in the Labor Market: A Case of the Rapid Increase of Contract Workers)," *Financial Review* No.67, pp.57-74, 2003.
- Nihon Rodo Kenkyu Kiko. *Seisan Bungyo Kozo to Rodo Shijo no Kaisosei – Kaden Sangyo hen (Structure of Division of Labor and Stratification of the Labor Market: The Home Electronics Industry)*, 1992a.
- *Seisan Bungyo Kozo to Rodo Shijo no Kaisosei – Jidosha Sangyo hen (Structure of Division of Labor and Stratification of the Labor Market: The Auto Industry)*, 1992b.
- Nihon Rodo Kenkyu Kiko ed. *Readings Nihon no Rodo 9 Rodo no Kokusaika (Readings on Labor in Japan 9: Internationalization of Labor)*, Nihon Rodo Kenkyu Kiko, 1997.
- Muramatsu, Kuramitsu. "Jidosha Sangyo ni okeru Hitenkeika to Shokuba Unei (Spread of Atypical Employment and Workplace Management in the Auto Industry)," Koyo Noryoku Kaihatsu Kiko and Zaidan Hojin Kansai Shakai Keizai Kenkyujyo, *Koyo to Shitsugyo ni Kansuru Chosa Kenkyu Hokokusho II*, pp. 179-192, 2004.
- Watanabe, Hiroaki. "Gaikokujin Koyo Jyokyo Hokoku no Panel Data Bunseki (Panel Data Analysis on *The Report on Situations of Employment of Foreign Nationals*)" (mimeo)

NOTES:

- ¹ *The Report on Situations of Employment of Foreign Nationals (Gaikokujin Koyo Jyokyo Hokoku)* has been conducted every June since 1993 targeting companies employing foreign workers. The questionnaire is distributed and collected by public employment security offices across the nation. Since the survey is not mandatory, it has not targeted the same companies consistently every year. Moreover, its targets are not necessarily representative of the whole. Sano (2002) discusses features of *The Report on Situations of Employment of Foreign Nationals*. Sano's article is the first study which took data on a given prefecture between 1997 and 2001 from *The Report on Situations of Employment of Foreign Nationals* and turned it into panel data for analysis. Watanabe (2004) reexamined data on every prefecture between 1993 and 2002 and turned it into panel data.
- ² The method for calculating the number of Nikkei workers in *The Report on Situations of Employment of Foreign Nationals* changed in 1997. Before 1997, the number of Nikkei workers was extracted from "The Number of Regular Workers" in "The Number of Foreign Workers by Purpose." Since 1998, the number of Nikkei workers has been extracted from the number of "South and Central Americans" in "The Number of Foreign Workers by Home Country." In addition, "Spouse or Child of Japanese Citizen etc., Spouse or Child of Permanent Resident etc, and Long-term Resident" in "The Number of Foreign Workers by Visa Status" might contain Nikkei workers.
- ³ My previously published article selected those companies which responded "Yes" to the question "Are you engaged primarily in worker dispatching or worker contracting?" in the 2002 survey. It compiled panel data on 96 companies engaging in worker dispatching and work contracting going back to 1993. The total number of workers at these companies has been fluctuating between thirty and several thousands and forty thousands. The average number of workers per company is approximately 400.

Over 70% of the workers are production-line workers. Over 70% of them are *Nikkei* immigrants. Over 70% hold a resident/visa status such as “Spouse or Child of Japanese Citizen etc., Spouse or Child of Permanent Resident etc, or Long-term Resident” The companies have very high turnover rates. The number of accessions is comparable to that of separations each year. This is perhaps due to how contract periods are determined as discussed in the present article.

- 4 See Kajita (2002). Chapter 1 and 3 of the Japan Institute of Labour (1997) review the studies on foreign workers and international movement of labor forces produced before the mid-1990s.
- 5 Japan has a policy of actively accepting foreign workers with professional and technical skills.
- 6 Chapter 2 of Iguchi (2001) is a concise and clear review of the history of how *Nikkei* workers have come to work in Japan.
- 7 See Chapter 3 of Inagami (1992).
- 8 Suzuki (2001) provides an effective review of the relationship between foreign workers and immigration control policy.
- 9 See Shimodaira (1999), particularly Figure 2 (page 244).
- 10 See Kuwabara ed. (2002).
- 11 See Section 2, Chapter 5 of Kamata (2001).
- 12 “3K”: It points out that contract companies employ *Nikkei* workers for the purpose of securing human resources for the so-called three-K jobs, jobs that are *kiken* (dangerous), *kitanai* (dirty), and *kitusi* (hard) and which Japanese workers avoid, rather than reducing personnel costs and require *Nikkei* workers to sign up for overseas travel insurance.
- 13 See Sato and Denki Soken ed. (2001). On the electronics industry at the present moment, see Kobayashi (2002). See Nihon Rodo Kenkyu K:KJ (1992a) (1992b) concerning the production structure.
- 14 See Chuma (2003). and Chuma (2001).
- 15 It appears that Chuma analyzed mostly major contract companies. It should be kept in mind that most major companies employ only

a small number of foreign and Nikkei workers. For example, a major contract company with approximately 7,400 employees (with approximately 1,100 regular employees) responded that it has fewer than 10 foreign and Nikkei workers. There are companies which employ both Japanese and foreign workers (Nikkei workers included), but the contract companies targeted for the survey and discussed in this article are those employing mostly Nikkei workers. Concerning the “polarization” between Japanese and Nikkei workers, Footnote 1 of Tanno (1999) is useful.

¹⁶ See Muramatsu (2004).

¹⁷ See the aforementioned article by Tanno.

¹⁸ See Tanno (2002)

¹⁹ Although they were not included in the survey, some companies reported that they started to use either only Japanese or Nikkei workers after experiencing troubles between Japanese and Nikkei workers over tasks and work conditions when they had been employing both.

²⁰ This issue is not discussed in detail here as it has been discussed widely elsewhere. See the aforementioned article by Sano, for example.

²¹ Respondents reported that extensive adjustments are not causing problems because they have relatively short contracts with Nikkei workers.

²² Even during the standby period, contract companies cannot force Nikkei workers to move out of company-owned apartments.

²³ Most interpreters are Nikkei, but some of them are Japanese who can understand Spanish and Portuguese. The survey was able to collect responses from “interpreters” although their number was limited. Their profile is the following. They came to Japan in the early 1990s and worked at “production sites” at several companies before being hired as “interpreters” by their present companies. In some cases, contract companies specially recruit “interpreters.” In other cases, they handpick competent production-site workers with Japanese language skills as “interpreters.” Interpreters handle such diverse tasks as giving work instructions and

assisting Nikkei workers with daily life (opening bank accounts, going to the hospital, helping with paper works at municipal governments, and even mediation between Nikkei workers and the police in some cases) in addition to interpreting. Therefore, being able to speak Japanese alone is not sufficient to serve as an interpreter. Interpreters receive the same treatment as Japanese employees.

²⁴ One company responded that it has developed a simple multiple-skill development worksheet in order to respond to requests from auto companies requiring multiple-skilled workers.

²⁵ Ozaki (2003).

²⁶ In the past, it was common for Nikkei workers to build a house and start a business in their home country with the money earned in Japan. However, only a handful of them were able to enjoy success in their business ventures, and the majority of them failed. According to the interviews conducted along with the survey of contract companies, most of the Nikkei Brazilians who failed had no previous experience in business management. Consequently they encountered troubles related to business contracts and labor relations. Moreover, it is common for them to lose their savings made in Japan as a result of theft. At one contract companies, 5% of the Nikkei workers reported that they had lost their savings made in Japan as a result of theft.

²⁷ Several reasons are suggested by the survey as to why they have come to work for the same companies continuously. First, there are no jobs in their home countries. Second, many of them are now coming to Japan with their families and finding it hard to move around like they used to when they came to Japan alone. Third, it has become easier to get the right of permanent residence due to the relaxation of regulations. Finally, the Japanese government has improved housing for foreign workers, and the number of stores catering to foreign workers including grocers has increased.

²⁸ See the aforementioned article by Sano. Sano discusses Nikkei workers' ideas about "*dekasegi*" and situations surrounding

Nikkei workers in Japan and their home countries. These issues are not discussed in the present essay.

- ²⁹ Kurata makes this point in his chapter on professional and skilled workers, but I decided to cite his work here because it can apply to the foreign workers admitted into Japan as a whole.

Problems of Foreign Worker Policy in Japan – From the Labor Union Viewpoint

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1. Introduction

As of June 1, 2003, according to a survey of the Ministry of Health, Labour and Welfare, a total of 274,145 foreign nationals were working in Japan under contracts of direct employment (i.e., directly hired by their employers) or indirect employment (i.e., working for business establishments as dispatched or contract workers). Since the figure in 1994 was 130,030, it had more than doubled in less than ten years.

Where the acceptance of foreign labor in Japan is concerned, some have called for positive acceptance, while others have been cautious, the question has been discussed for many years. In the 1970s, when labor was in great demand as the economy was growing, the Japanese government did not relax its position of “allowing only foreign nationals with special skills not in the possession of Japanese nationals to enter the country.”

Later in the late 1980s, when the economy was in a “bubbly” boom, the issue became controversial, causing a stronger clash of opinions: a call for positive acceptance of foreign workers to alleviate the labor shortage caused by an increase in labor demand, and the opinion which gave priority to crack down on the increasing number of illegal workers. In this regard, the labor unions have taken a stand against acceptance of foreign workers simply as a remedy for the labor shortage, placing priority, rather, on improvement in the work environments of female, elderly and other vulnerable workers.

In 1990, the Immigration Control and Refugee Recognition Act (hereinafter referred to as “the Immigration Control Act”) was revised, expanding the types of status of residence for persons of Japanese descent, and opening the door more widely to foreign nationals who worked with their special technologies, skills and knowledge. Along with this revision, abetting illegal employment was ruled as a crime, as a means of halting the spread of foreign nationals illegally working in Japan. Around the time

immediately following the revision of the Immigration Control Act, the Japanese economy plunged into a prolonged recession and deflation, and debates over the question of foreign workers simmered down. If foreign labor had been actively let into the Japanese labor market in the 1980s as the corporate side insisted, the prolonged recession occurring afterwards would have generated mass unemployment among non-Japanese residing in Japan.

In recent years, debate over the issue has been stirred up again: as the problem of a lower birthrate and the graying of society has come to a fore, and the population is tending to shrink, the management side is again beginning to suggest promotion of positive acceptance of foreign workers. This movement now coincides with a focus on the issue in the negotiations for FTA and EPA which the Japanese government is having with ASEAN countries.

“Movement of people” essentially differs from “movement of goods,” the reason being that the former may cause a wide range of problems, from the minor conflicts in everyday life likely to arise in contacts between people from different cultures, to problems concerning the protection of human rights, and even problems bearing on quintessential question of race and nationhood.

This paper will present my views on the newly arisen question of foreign workers, from the viewpoint of a trade union officer.

2. Various Types of Non-Japanese Workers in Japan, and their Attributes

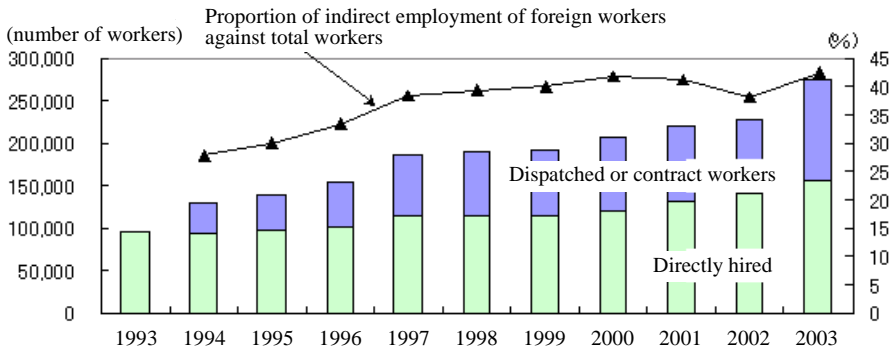
(1) An Increase in the Proportion of Indirect Employment

A noticeable feature of recent trends involving foreign workers in Japan is an increase in the proportion of those who work under indirect employment contracts. As shown in Table 1, the proportion is tending to increase, accounting for 42.6 percent of foreign workers as a whole in 2003.

Dispatch, contract and other types of indirect employment are somewhat problematic, not just the case of foreign labor: since firms in many cases take advantage of dispatch and contract workers in the interests

of cuts in labor costs, wages for such workers are kept at a low level; moreover, firms are likely to fail to enroll the workers in proper social insurance schemes, and the workers themselves have insufficient opportunities for education and training to improve their skills and ability. While foreign workers in indirect employment are hired under more or less the same conditions as similar Japanese workers, and are seldom prone to racial discrimination, the working environment remains unstable.

Table 1. Number of Foreign Workers under Direct and Indirect Employment Contracts, And Trends in the Proportion of Indirect Employment



Source: the Ministry of Health, Labour and Welfare

(2) Foreign Workers in Specialized or Technical Fields

In the ninth Basic Employment Measures Plan (approved in 1999 by the Cabinet), the Japanese government showed the nation's basic approach to the acceptance of foreign workers and its intention to positively accept foreign workers in specialized or technical fields. However, the acceptance of such workers has not made much progress in practice, the reason being that large firms, in the face of the prolonged recession after the burst of the bubble economy, streamlined the number of their white-collar workers, and consequently refrained from hiring foreign workers.

Among recent trends, the IT industry has shown a growing interest in making use of foreign engineers. However, the larger proportion of foreign IT engineers at private firms in Japan consists of people from China, most of whom, it seems, first came to Japan to study at university, then joined companies in the IT industry as newly-hired university graduates after

graduation. Thus, the recent trend in this industry is not a consequence of the official policy of accepting foreign specialists but simply attributable to an increase in the number of students from China.

(3) People of Japanese Descent

The number of foreigners of Japanese descent residing in Japan totaled 72,000 in 1990, but increased sharply to 239,700 by 2001: the increase was attributable to a revision of the Immigration Control Act in 1990, whereby people of Japanese origin were given a residential status with no limitation on their activities in Japan. While the revision of the Act boosted the number of people of Japanese descent, a majority of them in practice work as unskilled workers.

Many descendants of Japanese emigrants come to Japan to work on a temporary basis, and tend to move back and forth between their own countries and Japan, rather than settling in Japan permanently. Many of such immigrant workers are males of the second generation and work in the manufacturing sector, and their eagerness to work in Japan is affected by changes in economic factors. And the largest proportion of foreigners of Japanese descent works in Japan under indirect employment contracts.

(4) Foreign Trainees and Technical Interns

The Industrial Training Program for Non-Japanese was established in 1981 for the purposes of “international transfer of skills, technology and knowledge,” and “contribution to the development of human resources, playing a central role in the economic development of developing countries.” The requirements for the acceptance of trainees under the program were relaxed in the latter half of the 1980s when labor was in short supply, and in 1990 when the Immigration Control Act was revised, increasing the number of trainees, mainly among small and medium-sized enterprises which had difficulty in dealing with the labor shortage. Trainees are regarded as a vital workforce in terms of both quality and quantity in firms which undertake the training program. By country, 78.2 percent, of technical interns are from China, followed by 8.8 percent from Indonesia, and 6.5 percent from Vietnam. By industry, 37.8 percent of interns are found in the textile and clothing industry, followed by 21.1 percent in

manufacturers of machinery and other metal products, and 11.9 percent in manufactures of food products. (Figures 2-1 and –2)

In reality, the industrial training and technical internship programs are used for an utterly different purpose from what they are aimed at, that is, “human resource development” and “technological transfer,” and thus can be regarded as contradictory to the immigration policy under which the acceptance of unskilled foreign workers has been prohibited.

Figure 2-1. Proportion of Technical Interns, by Country of Origin

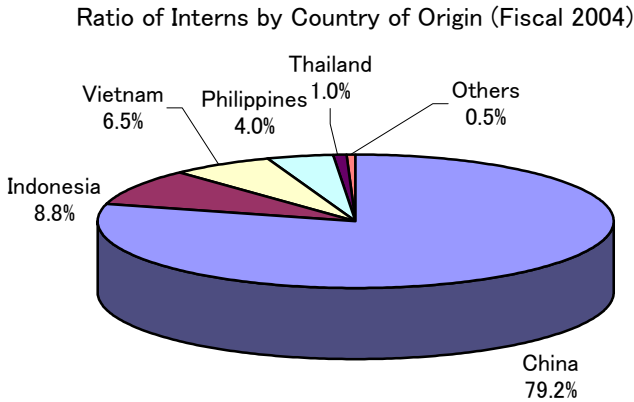
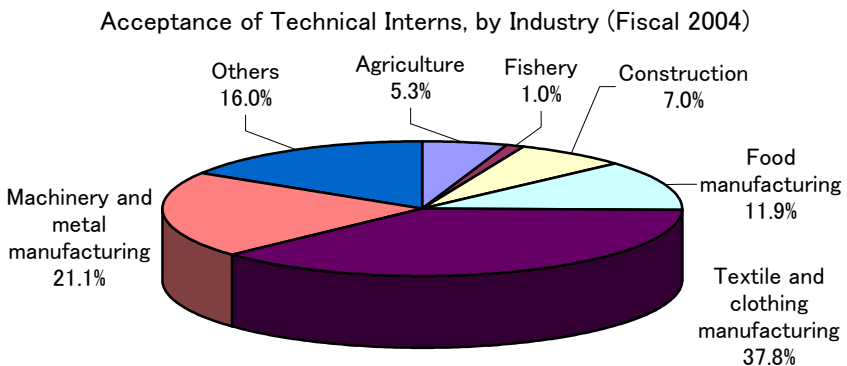


Figure 2-2. Acceptance of Technical Interns, by Industry (Fiscal 2004)



Source: Survey results of the Japan International Training Cooperation Organization

(5) Foreign Residents Illegally in Work

The number of foreign residents illegally working in Japan doubled from 110,000 in 1990 to 220,000 in 2002. At one time in the latter half of the 1980s when the Japanese economy was booming, the increase in the number of illegal foreign workers became a serious social problem. Behind this lies the fact that labor was in short supply in Japan. The shortage was serious among firms and industries where, simple and repetitive or late night work was needed and, in particular, among small and medium-sized enterprises, so that some firms were obliged to hire foreign workers who had no residential status in order to secure a certain amount of labor and maintain their production level. Subsequently, the Japanese economy shrank, and the number of foreigners illegally in work decreased accordingly, while there have been signs that some of these workers are beginning to settle indefinitely.

Although the Japanese government has in fact taken measures against illegal employment of foreigners, the activities of foreigners, once they have entered Japan, are likely to be beyond the reach of the administration: problems are arising in a broad spectrum – the abuse of labor by Japanese employers (low wages, and poor labor and living conditions); non-participation in the public health insurance scheme; disadvantageous treatment concerning industrial accidents; problems related to education for persons of the next generation; and various other problems.

At the same time, the number of crimes allegedly committed by foreigners and the number apprehended, though these have no direct connection with the increase in the number of foreigners illegally in work, have also been increasing, the latter having reached approximately 20,000 cases in 2003. Most of these criminal offences are minor ones such as the unauthorized use of abandoned bicycles, but still the number of murders, thefts and other felonious crimes has been increasing, too.

3. EPA and Issues concerning Foreign Labor

(1) Intensifying Negotiations over FTA and EPA

In Japan, there has been lively discussion concerning free-trade agreements (FTA) and economic partnership agreements (EPA). FTA is a

bilateral or inter-regional agreement whereby participating countries mutually do away with customs duties, quantitative trade restriction and other trade barriers, and enjoy the benefits of freer trade. On the other hand, EPA is a pact aimed at an economic cooperation between the countries involved via harmonizing various economic systems concerning services, investment, intellectual property rights, and so on, as well as a mutual reduction in tariff rates. Cooperation under the agreement also includes personnel (labor) exchanges.

An increasing number of countries have concluded free-trade and economic partnership pacts since 1990, but countries in East Asia lagged far behind. Currently, however, some – particularly the ASEAN countries, which have been promoting the ASEAN Free Trade Area (AFTA) – have belatedly begun to move ahead towards conclusion of free trade pacts between other ASEAN countries, Japan, China, the Republic of Korea, Australia, and New Zealand.

The Japanese government on its side, having confirmed the policy detailed below at a meeting of Cabinet members concerned on promotion of economic partnership on December 21, 2004, has proceeded with negotiations with EPA as the focus of its strategy:

- (1) Economic Partnership Agreements (EPAs), against the background of growing economic globalization, contribute to the development of Japan's foreign economic relations as well as the attainment of its economic interests as a mechanism complementing the multilateral free trade system centering on the WTO. Simultaneously, EPAs facilitate promotion of structural reform in Japan and its partners.
- (2) These EPAs contribute to the creation of international environment further beneficial to our country from the politically and diplomatically strategic points by, among other things, fostering the establishment of an East Asian community.
- (3) Having concluded an EPA with Singapore and another with Mexico, our country has reached agreement in principle on the major elements of an EPA with the Philippines. Negotiations with Thailand, Malaysia and the Republic of Korea are currently in progress. Furthermore, it has been agreed that negotiations with ASEAN as a whole will be initiated next year. These efforts are designed to realize our policy to promote

economic partnerships with East Asia as its focus, and the Government will do its utmost to conclude such EPAs as soon as possible.

(The rest is omitted.)

The EPA policy of the Japanese government described above was adopted together with an attached document entitled “criteria in choosing potential FTA partner countries and regions; which makes the following statement concerning labor mobility:

Whether or not it will substantially expand and facilitate exports of industrial, agricultural, forestry and fishery products, trade in services, and investment, through the liberalization of trade in goods and services and of investment; whether or not it will improve the business environment for Japanese companies operating in the other countries/regions, through reconciliation of various economic systems such as protection of intellectual property rights, as well as through facilitation of movement of natural persons.

Whether or not it will further promote acceptance of professional or technical workers, thereby stimulating Japan’s economy and society and promoting its further internationalization.

In EPA negotiations, particular care must be taken concerning personal mobility, in that it requires, unlike mobility of goods and services, sufficient consideration of its impact on the domestic labor market; human rights and basic labor rights; and relationship with local communities, not to mention labor costs related issues.

(2) Impact on domestic industries and market

The promotion of EPAs may well expand imports and thus oblige some firms and industries to withdraw from their markets. Generally speaking, it is necessary to synchronize the promotion of agreements on EPAs with structural reform in the country concerned and consideration of future ways of strengthening the country’s competitiveness. However, the certain time about ten years, for the structural reform necessary for the conclusion of EPAs should be provided.

Another element to which attention has to be paid is employment issues. No economic partnership should be agreed if it is likely to cause unnecessary

confusion in the Japanese labor market.

While some hold that now it is unavoidable to open up some markets under the protection of official regulations, notably markets related to the agricultural sphere, and to undertake structural reforms in such markets including “personnel mobility,” Agricultural issues are essentially different of labor issues. Economic partnership has to be discussed and agreed upon with particular partners, so that there may be inevitably some pressure towards relaxation of regulations in these markets if the other side sees it as mutually beneficial and calls for it. Nevertheless, EPA is not something Japan should pursue to the extent of deviating from its own rules and principles.

The author has no intention at all of rejecting deregulation where labor market is concerned, but feels a strong objection to the idea of accepting unskilled foreign workers, since the impacts of accepting highly specialized workers and unskilled workers on the Japanese labor market will be utterly different.

(3) Call for labor participation in medical and nursing care services in Japan

Thailand and the Philippines, both currently in negotiations over EPAs, have expressed strong requests for Japan to accept their workers in the medical and nursing care services, and the responses of the Japanese government is paid attention.

The Thai government is requesting the Japanese side to open up the door for Thai baby sitters; and domestic and other unskilled workers; (Thai-style) massage practitioners; barbers and hairdressers; and other workers who have completed the relevant tests of skill in Thailand. It is assumed that such Thai workers intend to earn a considerable amount in Japan; acquire skills and knowledge in serving for Japanese customers while they are in Japan; and, after returning home, start to work again for Japanese who live in or visit Thailand.

The Philippine government, on the other hand, asks Japan to authorize nurses and nursing care workers, as well as baby sitters and other unskilled workers to be allowed to enter and work in Japan. Such Filipino workers’ strongest wish, apparently, is to raise money in Japan to transmit back to

their own country.

There is also a call for mutual approval of qualifications related to medical and welfare services. Behind the request lies the fact that while, in the United States, quite a few Filipino nurses have obtained U.S. qualifications and work in the States, they find it difficult to obtain Japanese qualifications due to the language barrier.

- 1) Work qualifications in the medical and nursing care services in Japan, and the present state of affairs
 - (i) Medical services

In order to become a medical doctor or nurse in Japan, it is necessary to take national examinations for the relevant profession, and also, in order to take the examinations, to graduate, in principle, from a Japanese university (medical department) or nursing school. Non-Japanese are not, in general, allowed to work as professionals, even if they have acquired the official qualifications, but are permitted, under regulations of the Immigration Control and Refugee Recognition Act, to stay in Japan as trainees for four years in the case of nurses and six years in the case of medical doctors. (They are also entitled to receive wages.)

Those who have graduated from schools or universities at the equivalent level may be eligible for taking the national examinations provided they have been approved by the minister of health, labor and welfare, though the approval also requires the possession of the “permanent resident status” in Japan.

In Japan, approximately 290,000 medical doctors engage in medical services, but since a disproportionate number of doctors are concentrated in larger hospitals in large cities, hospitals in rural areas and those of small and medium size have difficulty in securing the necessary number of doctors. The shortage of doctors is also serious in remote areas.

On the other hand, only some 610,000 nurses are in work, and most private hospitals suffer from a chronic shortage. Although about 2,020,000 people are qualified as nurses, the proportion of those who take advantage of the qualification is conspicuously low due to the facts that, for example, the majority are women, and that labor conditions are quite severe.

The number of foreigners residing in Japan who are qualified to engage

in “medical” services totals 114 (of whom 104 workers are from countries in Asia). Non-Japanese doctors who are authorized to engage in clinical training and those from France, the U.K., and Singapore who have passed a special examination in accordance with the official reciprocal agreements to accept doctors are authorized to provide medical services to non-Japanese in Japan.

(ii) Nursing care services

Job types for nursing caregivers are in practice classifiable into nursing care workers, visiting caregivers Grades 1 – 3 (i.e., “home helpers”), and so on. Nursing care workers are an officially qualified profession, and must either pass a national qualification examination or take the necessary subjects at training institutions designated by the minister of health, labor and welfare. Persons who have graduated from a high school specializing in welfare or had three years of experience in the field are eligible to take the national examination. There is no such national qualification, on the other hand, for home helpers (Grades 1 – 3), and persons who have completed a training program in specified training institutions are allowed to work as such. Currently, non-Japanese are not entitled to work as care workers in Japan.

The number of care workers has been steadily increasing since 2000 when the public care insurance system was adopted, but still the impression of labor shortage in the industry persists, while some questions, such as improvement in the quality of workers, remain unsolved. Certified nursing care workers, totaling approximately 300,000, play a central role in nursing facilities, while about 26,000 qualified care workers work as visiting caregivers (about 15,000 of them on a full-time basis). Where home helpers (grades 1 – 3) are concerned, of approximately 2 million helpers (accumulated total) who have completed training courses, a mere 240,000 or so are in fact in work (about 30,000 of them on a full-time basis), highlighting a low employment rate as a serious problem. Behind the low rate seem to lie the facts that wages and other labor conditions are still inadequate; and that females, who account for a considerably large proportion of home helpers, tend to prefer part-time employment.

At present, a majority of visiting caregivers are Grade 2 home helpers,

but because there is an increasing demand among users and nursing care businesses for better-quality caregivers, the central role in future is likely to be taken by qualified nursing care workers rather than home helpers.

(Note 1: the numbers of workers in medical and nursing care services are as of October 2002.)

2) Conflicting views within the Japanese government concerning the acceptance of foreign workers in the medical and nursing care services

The question of whether workers should be accepted from abroad in the medical and nursing care services is controversial even within the Japanese government; this is a reflection of the absence of a consensus on the issue in Japan as a whole.

(1) The Ministry of Health, Labour and Welfare

The Ninth Basic Employment Measures Plan approved on August 13, 1999, at a Cabinet meeting says (i) that the acceptance of foreign workers in specialized or technological fields will be actively encouraged; and (ii) that the acceptance of unskilled labor should be considered with great care in that it would have a substantial impact on the labor market in Japan, as well as on the economy, society and people's livelihood, not to mention the countries of origin and the foreign workers themselves. The same basic approach is applied to workers in the field of medical and nursing care services.

In this field, those who possess official Japanese qualifications (doctors and nurses in the medical service, and certified nursing care workers in the nursing care services) are officially considered to be workers in "specialized or technological fields," and the government's stance is to promote their acceptance positively.

The current system, however, allows non-Japanese with official qualifications as nurses or doctors in their own countries to stay in Japan only for four or six years, respectively, and does not give the residential status to care workers, so that the government is planning to reconsider these regulations.

Even so, the Japanese government takes a negative stand on the mutual approval of such qualifications which the other countries of the EPA

negotiations are calling for. The Japanese stance is based on the view that workers in the fields of medicine and nursing care are not only involved directly in the physical and mental welfare of patients and persons under nursing care, but are also required to work together with fellow workers as a team, so that workers in these fields must essentially have high communication skills and official qualifications effective in the country where they engage in their duties; and that, in fact, no nation except for special cases such as those of the EU has agreed with others on mutual approval of the medical and welfare qualifications of the other side.

Where so-called unskilled workers with no specialized skills, there is worry that their acceptance should further deprive young and elderly Japanese people of their already scanty job opportunities, not to mention possible problems concerning employment management and public security.

With regard to medical and nursing care services in Japan, the Ministry of Health, Labour and Welfare takes the position that Japan is not prepared to accept home helpers from abroad for the time being, on the grounds that they are considered to be unskilled workers who fall outside the category of workers in specialized or technological fields.

(2) The Ministry of Economy, Trade and Industry

In April 2002, Mr. Hiranuma, the then minister of economy, trade and industry, suggested in a meeting of the Council on Economic and Fiscal Policy that Japan should consider the possibility of expanding the scope of medical activities by non-Japanese doctors. He claimed, more specifically, that a system of supplying and rules concerning medical services should be improved, such as for example, allowing non-Japanese doctors to engage in medical treatment of those of the same nationalities.

Meanwhile, the 2003 White Paper on International Trade emphasizes that the development of an environment where non-Japanese have proper access to medical services will facilitate the direct domestic investment, and serve as a key device in promoting acceptance of foreign workers in specialized and technological fields and increasing the number of tourists from abroad. Further expansion of the scope of medical activities by non-Japanese doctors will contribute to the development.

(3) The Council for Regulatory Reform

The Council incorporated several measures affecting the issue in its “Third Report Regarding Promotion of Regulatory Reform” published on December 22, 2003: (i) that restriction on the working activities of foreign residents who have acquired official certifications in the medical field in Japan should be gradually relaxed – they should be allowed, for example, to work for an extended period regardless of the area or facilities of their workplaces; (ii) that restrictions should be gradually relaxed so as to enable nursing care workers, massage practitioners and acupressure therapists from abroad to engage in their professions provided they have acquired the relevant national certifications in Japan; and (iii) that steps should be taken so that highly qualified personnel in the medical field, such as those who have been educated and qualified as doctors, nurses or other professionals in other countries, will be given certification to engage in medical practice on a continuous basis in Japan if they so wish and have passed the relevant national qualifying examination for the qualification even if they do not have the permanent residential status.

4. Rengo’s Views on Foreign Workers

Rengo (Japanese Trade Union Confederation), Japan’s nationwide organization of labor unions, confirmed its “short-term view on the question of foreign workers in Japan” at its 14th Central Executive Committee Meeting (held in October, 2004). It can be summarized as follows:

- (i) On one hand, the human rights of all foreign workers residing in Japan, with or without special qualifications, should be respected; on the other hand, their basic labor rights; wage levels, working hours, and other labor conditions equal to those of Japanese workers; and occupational safety and labor insurance, should be guaranteed. At the same time, harmonious coexistence with foreigners should be pursued so as to ensure that any foreigner has access to housing, public facilities and other social infrastructures.
- (ii) The acceptance of foreign workers should be confined to occupations requiring specialized knowledge, skills and technologies, and carried

out, in principle, in ways maintaining a balance with the employment of Japanese workers and the public consensus. In the meantime, in order to safeguard employment situation and labor conditions in Japan, adequate and equal conditions with the Japanese should be precondition for employment of foreign workers.

- (iii) In relation to FTA and EPA, with occupations such as doctors, nurses, and nursing care workers which only workers with official Japanese qualification can take on, equivalent qualifications in their own countries will not be approved on a reciprocal basis: foreigners will be asked to acquire Japanese qualifications. Where no certification system is established in Japan, such as in the case of home helpers, workers should not be accepted from abroad since it is difficult to differentiate them from so-called unskilled workers.

5. Japan-Philippines and Japan-Thai Agreements on Economic Partnership

In November 2004, the Japanese government reached an economic partnership agreement with the Philippines. The agreement states that Japan will accept Filipino nurses and caregivers, but they will be required, apart from certification at home, to obtain a Japanese certificate, too, during the period of training (three years for nurses and four years for caregivers). In August 2005, it also saw a basic agreement on economic partnership with the Thai government, whereby Japan will accept Thai nursing care workers provided they have obtained the official Japanese certification. Once they have been qualified under the Japanese system, they will be eligible for extension of their period of stay in Japan; this is likely to increase the number of foreign workers in the field of nursing care services in the future. The acceptance of workers from abroad is likely to have a noticeable impact on nursing care services in Japan, as well as on the work environment for caregivers.

6. Views on Future Steps

(1) Defects seen in the existing policy for foreign workers

So far, the Japanese government has directed its attention only to policies

related to “entry,” such as entry requirements and the nature of residential statuses.

The requirements for foreigners to enter and reside in Japan were relaxed considerably when the Immigration Control Act was revised. However, the current policy is not sufficient to obtain a picture of the working activities of foreigners once they have entered the country, and quite a few aspects of their working activities remain obscure. The efforts of the central government are not necessarily enough, while the impression is that local governments have solved problems in a somewhat ad hoc manner every time one arises.

Various problems are surfacing as foreign workers begin to settle in Japan for longer periods. At the same time, due to the sluggish economy, foreign workers, like Japanese ones, suffer from unemployment problems, and methods of illegal employment are becoming more dubious and sophisticated.

(2) Signs of expansion and facilitation of acceptance

With globalization and the progress of information technology, labor is actively migrating globally, with countries competing internationally to get hold of workers with advanced capabilities in specialized and technological fields.

Individual countries approve official certification in specialized fields on a basis of mutual agreements. The United States has concluded reciprocal agreements on various certifications with English-speaking countries with relatively high economic standards, showing particular eagerness to do so in fields such as accounting, architecture, and engineering, where it demonstrates a strong global competitiveness. In EU countries, on the other hand, an EU Directive was given consistency in 2002 and a new directive aimed at a more automatic, flexible system of mutual authorization was proposed. In the sphere of education on industrial technologies, the mutual authorization of certificates has made relatively good progress in various countries.

In 2001, Japan concluded agreements of mutual recognition concerning examinations for IT engineers. In the case of India, with which Japan concluded the agreement first, the number of Indians registered as having

“technological” qualifications in 2001 increased by 53 percent from the previous year.

On the other hand, there are signs of changes in the flow of workers: some countries in Asia which have long sent out their workers are now beginning to accept workers in specialized and technological fields.

In Japan, there is concern over a labor shortage due to the drop in birthrate and the graying of society; not a few private firms are calling for the deregulation of the acceptance of foreign workers with specialized and technological ability.

(3) Views concerning social and economic impact

It is not possible to understand issues concerning foreign workers solely from the quantitative perspective of employment: careful consideration should be given to the social and economic impact before making decisions on whether or not more foreigners should be accepted. Major points to consider are as follows:

Establishing direction and consistency in the mid- and long-term measures Japan undertakes in relation to industry in general, and to the declining birthrate and the aging of society:

Placing priority on domestic labor market policy, and prevention of a negative impact on domestic industries and labor market;

Consensus over who will bear social security, housing, education and various other social costs arising when foreign workers flow in;

Understanding by Japanese communities concerning the problems of living and coexisting with non-Japanese within the same society; and

Paying attention to the human rights, culture, religion, and everyday customs of non-Japanese.

In Japan, because of the vertically divided administrative functions of the government, issues related to foreign workers are handled by a number of different ministries: the Ministry of Justice is responsible for immigration control; the Ministry of Health, Labour and Welfare for employment policy and social safety nets; the Ministry of Economy, Trade and Industry for industrial policy and trade negotiations; and the National Police Agency for criminal offences. This causes a failure in close cooperation among ministries and agencies. On the other hand, various problems created

because of the presence of foreign residents are dealt with by municipal governments in an ad hoc manner. The government needs to cooperate internally on the points outlined above.

(4) Importance of “post-acceptance” policy

As stated above, policies for foreign workers have focused on “entry” issues such as entry requirements and the nature of residential statuses. However, in the future, it will be necessary to pay more attention to policies on issues arising after acceptance. First of all, the necessity will arise to strengthen supervision of labor conditions for various types of foreign workers: problems of illegal employment; poor labor conditions which illegal foreign workers are obliged to accept; and the situation affecting foreign trainees and interns who are taken advantage of as unskilled workers with low wages. At the same time, there are quite a few workers in specialized and technical fields who are hoping to build up clear visions of their own careers as professionals. If Japan wishes to encourage high quality non-Japanese professionals to settle in Japanese firms and society, it should bear in mind the development of the vocational ability and career formation of those workers beyond the sphere of individual companies.

Meanwhile, it is necessary to highlight various other issues apart from those directly related to employment: how to incorporate foreign workers in the pension, medical and other social security systems; and how to help, not just the workers themselves, but their families, too, to adapt to life in Japan and bring up their children successfully.

How Social Dialogue Works to Protect Workers and Their Companies in Time of Restructuring in Japan

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Introduction: Nature and Main Points of This Paper

This paper aims to find hypothesis, using case studies, to shed light on the “role of labor unions in the process of business revitalization,” and in particular, the role of social dialogue¹ (dialogue between employers and workers).

The paper first presents the definition of “business revitalization” used here, and then gives an outline of the means resorted to in business revitalization in Japan. Among these, it will pay special attention to the presence of signs that “social dialogue” is being institutionalized within the framework of legislation related to revitalization of bankrupt companies.

Next, based on the findings of the case studies, this paper analyses the role of the labor unions in the process of business revitalization. From this, it presents a hypothesis that the unions will play a specific role in promoting business revitalization provided certain conditions are satisfied, such as “the competence of the labor unions (ability of union executives to assess business management, centripetal force for union members)” and “good faith of the business managers.”

1. What is Business Revitalization?

In this paper, “business revitalization” is definable as the recovery of competitiveness of a firm saddled with excessive debts by: placing competitive divisions at the center of the firm; reviewing its business strategies; and reorganizing business divisions. This differs from the conventional notion of “revitalization of bankrupted firms” in the sense that its strategy involves letting competitive divisions survive as independent

¹ ILO defines “social dialogues” as “all types of negotiation, consultation or simply exchange of information between, or among, representatives of governments, employers and workers, on issues of common interest relating to economic and social policy.”

companies by spinning them off from the main company.

It is only in the past several years that the term “business revitalization” has been frequently heard in Japan. With the economy in prolonged recession after the burst of the bubble boom, and having gotten rid of non-performing loans of financial institutions—the villains of the “lost decade”—the practice of revitalizing business divisions has gradually become established in Japan. That is, measures have been taken, with the help of development of various forms of legal infrastructure described later, to recover debts as much as possible by “reviving businesses,” rather than discarding borrowers with loans, which are highly likely to be unrecoverable.

From a broader point of view, business revitalization can be regarded as a series of steps, and not just for financial institutions to maximize the amount of debts recovered. These steps can also prevent entities (human capital, tangible assets, intangible assets, etc.) lumped together under the name “businesses” which can create socially useful value added, from disappearing or breaking up due to bankruptcy, and to remove factors that could hinder the demonstration of potentials for such value added. In this sense, business revitalization can be seen as not only a device to rescue stakeholders in bankrupted firms, but also as an act beneficial to the economy and society as a whole.

2. Activities of the Public and Private Sectors in Encouraging Business Revitalization

Business revitalization is a kind of a social involvement that has an impact beyond the personal interests of stakeholders directly related to the business in question. In light of this, the public and private sectors reached a consensus in the 1990s, when corporate performance deteriorated in the process of cleaning up bad loans, to cooperate in developing legal and various other systems to encourage business revitalization. As a result, the government, the private sector, or both in collaboration began to actively engage in the various measures outlined below.

2.1 Activities of Public and Private Sectors in Promoting Business Revitalization

Activities of the government and the private sector for the promotion of business revitalization extend over a wide range of fields. The following are the major activities:

(1) Development of a legal system relating to revitalizing-type bankruptcies

In April 2000, a Civil Rehabilitation Law was enacted in order to provide a legal framework enabling small and medium-sized enterprises to rehabilitate their businesses, and serve as a way of handling revitalizing-type bankruptcies that is fair and honest to creditors and other stakeholders, while also swift and functional. In the four years since its enactment, firms which have called for application of the law total 3,350, proving that the law has played a substantial role in prompting revitalization of firms with excessive debts.

At the same time, in order to allow large-scale, publicly traded companies to rehabilitate themselves swiftly and smoothly, the existing Corporate Reorganization Law was thoroughly revised and came into effect in April 2003.

(2) Establishment of the Industrial Revitalization Corporation Japan

In April 2003, the government and the private sector, cooperating in respect of human resources, funds, and expertise, established an Industrial Revitalization Corporation Japan (IRCJ). The corporation supervises firms in restoring their business competitiveness and profitability, providing them with financial assistance in purchase of debts from financial institutions, finance, and capital injection, and to reconstruct the management strategies and the organizations themselves by cutting to the heart of the business vision. The assistance is directed, among all firms categorized by financial institutions as firms with bad loans, to firms saddled with excessive debts despite having valuable management resources.

(3) Emergence of Investment Funds and Other Developments of Private Sector

Investment funds are a mechanism whereby funds provided by

investors are invested in firms, the profit accruing from business activities being distributed in turn to the investors. Of such funds, “business revitalization funds” are aimed at investing in ailing or failed firms, and seeking profits through turnaround management. In Japan, such funds were established for the first time in 1997, followed by various other kinds of funds thanks to the participation of domestic financial institutions, non-Japanese funds, governmental financial institutions, local municipalities, regional banks, etc.. Due to the practical difficulty of finding firms worth investing in, not all funds are necessarily being actively used. Yet, investment funds—in particular, a small number of leading funds, serve as crucial source of financial resources and expertise for business revitalization.

2.2 Future Prospect of Business Revitalization

In its fiscal 2005 Annual Report on the Japanese Economy and Public Finance, the government expressed its view that non-performing loans had been disposed of to a large extent, and that the problem of such loans affecting major banking institutions had been rectified, so that uncertainty about the financial system had been dispelled. The number of corporate bankruptcies, which had hovered at a high level, started to decline after peaking in 2002, with steady progress in writing-off of bad loans.

In future, however, it will still be necessary to incorporate business revitalization into the cycle of economic activities so as to make effective use of management resources even where the business environment is changing at an accelerating pace. To this end, it is likely that business revitalization will be promoted, while the focus shifts to preventative measures against bankruptcies of firms in rural areas, and of small and medium-sized enterprises.

3. Institutionalization of “Social Dialogue” in the Process of Business Revitalization

As seen above, various systems have been developed to boost business revitalization, among them the enactment of the Civil Rehabilitation Law, the revision of the Corporate Reorganization Law, and the establishment of

the Industrial Revitalization Corporation Japan (IRCJ). Noteworthy among them are the signs of institutionalizing “social dialogue” in the forms of the strengthening of the right of representatives of workers to express their opinions and the newly established obligation of employers to hold discussions with workers’ representatives.

3.1 Contents of Institutionalized Social Dialogue

(i) Reinforcement of workers’ involvement in the Civil Rehabilitation Law and the Corporate Reorganization Law

The Civil Rehabilitation Law requires judicial courts, as described below in details, to hear opinions from either labor union organized by a majority of the workers when such a labor union exists or a person representing a majority of the workers where no such labor union exists, as well as to notify them from time to time during the process of rehabilitation:

- Courts shall hear opinions from labor unions, etc. (unions representing a majority of the workers or a person representing a majority of the workers) concerning the authorization of transfer of operations and decisions on approval or otherwise of a rehabilitation plan;
- Courts shall notify labor unions of the date of creditors’ meetings;
- Labor unions, etc. may express their opinions at meetings to report on the asset position;
- Courts shall seek the opinions of the unions on proposed rehabilitation plans;
- Labor unions, etc. shall be notified of decisions concerning approval or otherwise of rehabilitation plans; and
- Creditors, etc. shall seek the opinions of labor unions when requesting a simplified rehabilitation procedure.

The foregoing regulations were incorporated in the Corporate Reorganization Law when it was revised in 2003. At the same time, another regulation was adopted that “opinions of labor unions and so on (unions representing a majority of workers or representatives of the majority of workers) shall be heard in decisions concerning whether the request for the rehabilitation procedure should be rejected, or whether the procedure should commence.”

Once the request for civil corporate reorganization procedure has been brought to court, the court or persons designated by the court (assignees, supervisors, or preservation administrators) assume responsibility for the business operations of the firm in question. Here, the assignees or other designated persons are under supervision of the court in executing the legal bankruptcy procedure, and may be dismissed by the court should there be any grave reason to do so. In this sense, the court is regarded as the counterpart of the labor union in labor-management relations during the process of legal bankruptcy; thus expressing of opinions by the union to the court can be counted as a function of social dialogue.

(ii) The Industrial Revitalization Corporation Japan (IRCJ)

On the grounds that business revitalization with the assistance of the IRCJ is likely to have a substantial impact on the employment and labor conditions of workers at the firm in question, employees' organizations made a strong request at the time when the law concerning the Industrial Revitalization Corporation was being drawn up. They requested that care be taken concerning the possible impact on employees during the process of revitalization and reorganization; and that discussion should be held with labor unions, etc.

Consequently, the Diet revised the legislation and passed resolutions accompanying enactment of the law, so that it became obligatory to give consideration to employment issues and to hold consultations with workers during the process of business revitalization. As for consultations with the workers, Clause 4, Article 22 of the Law concerning the Industrial Revitalization Corporation Japan stipulates that "the Corporation must, in deciding whether or not it should assist revitalization, pay attention to state of consultations with workers concerning the rehabilitation plan for the business which has made a request as laid down in Clause 1".

In response to the requirements of the said article, "criteria for decisions on assistance" were incorporated in "criteria for assistance by the Industrial Revitalization Corporation Japan" (Notification No. 1, Cabinet Office, Ministry of Finance and Ministry of Economy, Trade and Industry) which the IRCJ is supposed to comply with in deciding whether it should provide assistance. The criteria for decisions on assistance call on applicant

employers to hold, or plan to hold, consultations with the labor unions, etc. concerning the contents of the business rehabilitation plan. At the same time, “criteria for decisions on purchase” were laid down, stating that “in cases where the employer in question had not held consultations with the labor unions, etc. concerning the contents of the business rehabilitation plan by the time a decision was made concerning assistance, that the said consultations shall have been held since”. This guarantees that discussions with labor unions will, in fact, be held.

On top of these, prior to enactment of the legislation, an additional resolution was made in the Diet, in committees of both the Houses of Representatives and Councilors stating that “the wisdom of representatives of both employer and employees should be reflected in the operation of the Industrial Revitalization Committee.” Thus, the door is open for the unions to associate themselves with decisions made by companies under revitalization assistance.

3.2 Why Has Social Dialogue Been Institutionalized?

Why, in the course of development of the foregoing systems to encourage business revitalization, did social dialogue come to be embodied in the process?

Looking at the process whereby the Civil Rehabilitation Law was enacted, the essence of the law was in practice virtually determined by a council of the government (the Bankruptcy Law Subcommittee, the Legislative Council of the Ministry of Justice). The Council comprised representatives of employers, financial institutions and various other circles, as well as a member designated by Rengo as representatives of the unions. The proposed legislation drafted by the bureau in charge, which served as the starting point of discussions in the council, had already included a provision concerning the involvement of the unions, of which the committee members representing the unions stated their high appreciation². In discussions about revisions of the Corporate Reorganization Law in the council, too, the union representative expressed their approval for the

² See discussion concerning stipulations of the Civil Rehabilitation Law in the Bankruptcy Law Subcommittee of the Legislative Council of the Ministry of Justice.

arrangement whereby similar regulations to those of the Civil Rehabilitation Law had already been incorporated in the proposed legislation by the bureau in charge³. These background circumstances suggest that the provisions reinforcing the involvement of the unions were drafted by the administration and smoothly gained a favorable consensus in the Council before it was enacted in the Diet.

On the other hand, with the Law concerning the Industrial Revitalization Corporation Japan, the call to pay attention to the progress of discussions with the unions was incorporated via revision of the law and through Diet resolutions accompanying enactment of the law in such a manner that reflected the wishes of employees' organizations as described above.

What made it possible for the administrations and others concerned to reach consensus in the course of the enactment of laws related to business revitalization? This stemmed partly, of course, from demands from the employees' side, but at the same time, it seems that those involved in the legislation had shared the views outlined below concerning the desirable form of involvement of workers in the process of business revitalization.

These views are:(i) that it is difficult for businesses to continue their operations unless the unions and so on cooperate with the firms in revitalizing their businesses⁴; (ii) that care must be taken about possible disadvantages, such as downsizing and deterioration of labor conditions, which might arise as negative outcomes of business revitalization; (iii) that information from labor unions, etc. which are familiar with the internal situations in the firms would be of importance for the courts in making decisions⁵; and (iv) that the past involvement of labor unions in business revitalization has been of great value.

Since factors (i)-(iii) are cited by legislative sources and in the legislative intent and are also easily understandable, this paper will concentrate on consideration of factor (iv).

Factors (i)-(iii) necessarily derive from the relationship between workers and firms. It is not difficult to assume that the attitude of the

³ See the minutes of the fifth meeting on June 22, 2001 and the 14th meeting on June 14, 2002, of the Bankruptcy Law Subcommittee of the Legislative Council.

⁴ Miyama et al. [2003], p. 34.

⁵ Miyama et al. [2003], p. 34.

unions in past cases of bankruptcy was rightly taken into account when those concerned decided to create a mechanism to involve representatives of the workers in the process of business revitalization. Much here is attributable to the fact that, in recent years, labor unions have behaved in a cooperative way, rather than in a hostile way, so as to harmonize interests of labor and management and in achieving turnaround of bankrupted firms.

What is more, the new provisions concerning the procedures for involvement of labor unions in the revised legislation were incorporated as embodiment of the practices of courts to hear opinions from employees under the provision of the pre-revised Corporate Reorganization Law; it was something made newly obligatory by the revised legislation.

In other words, adoption of such provisions was a consequence of recognition by courts, based on experience of the effectiveness of social dialogue.

In a similar fashion, in the decision-making concerning the development of the regulations under the Law concerning the Industrial Revitalization Corporation Japan, it seems likely that accumulated observations of union behaviors were taken into account.

3.3 Effectiveness of the Social Dialogue System Adopted

The social dialogue system seen above would not be sufficient if it were a mere device for hearing opinions from the unions, which would produce calls for labor-management consultation to be made obligatory⁶.

On the other hand, the official involvement of the unions is a mere “hearing of opinions” under the regulation, but there is a view that the actual involvement of labor unions is embodied in the fact that judicial courts will reject a corporate or civil rehabilitation plan as unacceptable if it is opposed by the representatives of workers concerned as a whole⁷.

Some firms going bankrupt do not disclose any of the relevant information to their workers. Thus, the latest development of the legal system represents great progress in securing the involvement of workers from time to time in the process of bankruptcy procedures, and this

⁶ Kezuka [2003], etc.

⁷ See the minutes of the 11th meeting on May 21, 1999, of the Bankruptcy Law Subcommittee of the Legislative Council.

undoubtedly serves as underlying support for social dialogue. This view can be justified by Rengo's high opinion of the recent revision of the law.

However, both Corporate and Civil Rehabilitation Laws leave a substantial portion of their actual enforcement to the discretion of the court, and thus it is difficult to judge by looking at the wording of the law whether or not the system adopted is in fact effective. Future tasks will be to consider how the various provisions of the law are applied to actual situations; how effective the law is; and whether it is necessary to widen the scope of the involvement of workers' representatives.

In the meantime, concerning revitalization cases entrusted to the IRCJ, although regulations officially ensure the implementation of labor-management consultation, it is still necessary to conduct follow-up of individual cases to enable examination of the effectiveness of the regulations.

4. Role of Labor Unions in the Business Rehabilitation Process – Based on Case Studies

The previous section has been devoted to the legal system, but legal regulations in general present no more than the minimum rules. However, business revitalization as experienced in Japan suggests that the influence of social dialogue and the role of the unions as a driving power in business revitalization could become far greater than is assumed within the framework of the legal arrangement.

With this in mind, this section examines the actual participation of unions in the process of business revitalization on the basis of the findings of case studies.

4.1 Special Features of the Cases Surveyed

The survey was aimed at 10 firms which applied a legal bankruptcy procedure (either Corporate or Civil Rehabilitation Law) to reduce excessive debts, tackled rebuilding of the firms through, for example, increasing profitability, and had a certain prospect of succeeding in liquidation of debts followed by business revitalization⁸. One firm surveyed called for the

⁸ For the findings of the hearing survey aimed at affiliated company unions of UI Zensen Domei, see Honda [2005]. The findings of the survey aimed at JAM affiliated unions will be published as a report by the Japan Institute for Labor Policy and Training.

legal bankruptcy procedure in 1997 and the remaining nine firms from 2000 to 2003. The firms surveyed belong either to “distribution and services” or to “metals, machinery, parts manufacture”; firms in the former category had from 300 to over 10,000 employees (including part-time workers) and those in the latter from 50 to 150 employees.

Where their industrial relations are concerned, all the labor unions of the firms surveyed were affiliates of either UI Zensen Domei (the Japanese Federation of Textile, Chemical, Food, Commercial, Service and General Workers’ Unions) or JAM (the Japanese Association of Metal, Machinery, and Manufacturing Workers). Both of these are industry unions well known for their assistance to firms going bankrupt, so that the firms surveyed received considerable support from their affiliating industry unions in rehabilitating their businesses.

In light of these circumstances, the facts gathered in this survey do not project a typical outlook on business revitalization in Japan, but rather a group of successful cases in which company unions committed themselves to the revitalization with enthusiastic support from their superior organizations—the industry unions.

4.2 Role of Labor Unions as Observed in the Case-study Firms

(i) Promotion of Early Start of Business Revitalization

It is said that success in business revitalization requires action as soon as possible, before firms have plunged into excessive debt or seen their business value diminished. For this, it is essential to accelerate the disclosure of corporate information and construct a mechanism whereby as many signals as possible transmitted from outside the firms can be effectively passed on to the business managers. Many believe in taking advantage of external directors or auditors as a source of such signals, but the unions stand in a suitable position to “effectively pass on to business managers as many signals transmitted from outside as possible.” Some labor unions are themselves aware of their function in monitoring management, and industrial unions, in some cases, continuously provide their affiliated company unions with opportunities to acquire business analyses so as to reinforce their function in monitoring management.

Among the firms studied, a general trend is that, as their business

performances worsen before applying for legal bankruptcy, they initially proposed to the labor union rationalization plans including downsizing and downgrading of labor conditions for the sake of the improvement of balance sheet. The labor unions, judging from such proposals and various information coming in from business partners or other outside sources, then detected a likely managerial crisis.

In some cases surveyed the labor unions, which were more concerned than the management, urged the latter to draw up a rehabilitation plan, or made counteroffers to cut wages for the sake of overall cost reduction. The survey also found one labor union that warned the managers that it would go on strike to call for their resignation if they remained reluctant to carry out legal bankruptcy.

To take early action for business revitalization is in fact reasonable for the survival of business activities, but offers few motivations to managers who would be forced out of office if legal bankruptcy were called for. In particular, proprietor-managers have a strong inclination to avoid bankruptcy in any form because it will deprive them not only of the post of manager but also of most of their assets. Viewed in this light, it is not particularly surprising that labor unions, which are able to weigh the interests of the stakeholders objectively, trigger the legal bankruptcy at an early stage instead of the managers.

(ii) Commitment to Securing Sponsors

With the revitalization schemes surveyed, the larger firms revitalized their businesses strongly assisted by new sponsors, whereas the small and medium-sized firms do so by their own efforts without any sponsorship, because no potential sponsor wished to sponsor them

The firms surveyed can be classifiable into three types in terms of their labor unions' involvement in securing sponsors: "labor union not involved in selecting sponsors"; "labor unions posed to the assignees, etc. conditions for the selection of sponsors"; and "industry union cooperated in selecting sponsors."

The selection of sponsors is a delicate task for management in some ways, and it may not always be desirable to get the labor unions involved. Even so, since the revitalization strategy depends on who sponsors it most

strongly, thus affecting the interests of the employees, it seems rather necessary to provide labor unions with the opportunity to express their opinions concerning conditions for the selection.

On the other hand, industrial unions played decisive roles in getting sponsors in some of the cases surveyed. Such cases may be somewhat exceptional, but are not all that rare when one considers the large networks normally available to them.

(iii) Replacing or Complementing the Management Function

Confusion within the managing body following bankruptcy or the resignation of managers can often paralyze the command structure of the firm. It also frequently happens that business activities become chaotic before a new regime responsible for revitalization can be established, which has created irreparable obstacles to revitalization (deterioration of assets, loss of business partners, outflow of employees, defamation of corporate image, etc.).

It was observed in some cases that the union, taking advantage of its unique network spread across the firm, made up for the roles which the management should have played, organizing the workplaces instead of the management while the company was in a confused situation.

To take superstores as an example, one big question is how to keep business operations in individual branches in progress, amidst the confusion immediately following bankruptcy. Decisions made at this stage on how to hold on to customers and trade partners, and how to maintain the morale of employees, may well have a substantial impact on the possibility of rehabilitation in future. Among the cases surveyed, there were some labor unions which, with the full-scale help of their industry unions, responded by maintaining the supply of products, calling on business partners to continue the relationship, and giving explanations to customers. Since it is crucial to take immediate action in such cases, the presence of industry unions that had accumulated experience in handling bankruptcies in the same industrial sector proved to be of great importance.

In another case in the category of small and medium-sized enterprises in the manufacturing sector, the firm faced extreme funding difficulties due to a substantial drop in orders after the announcement of the bankruptcy. Its

company labor union then proposed from its side that wages should be cut by 20 percent to secure working capital; examined daily cash flow management based on the accounting documents provided by the company; and called on employees in charge of sales and production to collect accounts receivable and to observe the delivery deadlines strictly. Regional divisions of the industry union to which this union belongs are staffed with experts in business analysis, and it was the availability of the full-scale assistance of the industry union that made it possible for the company union to participate in management operations to such an extent.

Apart from these activities conducted on an everyday basis, another function carried out by labor unions in place of or to complement the activities of the management was to exert influence on financial institutions and other creditors, business partners, clients and customers, administrative agencies and others concerned. Where these are concerned, it seems that the commitment of the labor union has made it easier to obtain favorable responses, as they are representative of workers who are in a predicament because of the bankruptcy, rather than of the management that is responsible for bankruptcy. Moreover, the industrial unions took advantage of their various networks to cooperate with financial institutions and administrative organs.

(iv) Understanding Employees' Position and the Points Which They Can Count On

While a bold renovation of management strategies is essential for business revitalization, whether or not the planned strategy can be put into practice depends, after all, on the actual people working for the company in question. In many cases, in the course of a bankrupted firm's realizing revitalization, some workers are dismissed, while new workers are hired as strategically needed. Despite this, such personnel shuffling is only partial from the viewpoint of the company as a whole: a majority of employees continue working as before even after the bankruptcy. Put differently, the same body of employees as is responsible in part for the failure of the firm serves as a driving force for revitalization.

As for the state of mind of the employees involved, mixed feelings can be observed: negative feelings as members of a bankrupted company; a

determination to stay with the firm while many colleagues are giving it up as hopeless and leaving; the sense of crisis shared with other remaining colleagues in the face of the bankruptcy; a sense of guilt for the trouble the firm has caused business partners and clients; and hope for and worries about the new management regime. Although both firm and employees are theoretically obliged to tackle business revitalization, not all the employees are necessarily determined to do so proactively.

While the burden on employees increases in the quest for early improvement in corporate profitability, persons in managerial posts and the corporate manager themselves are preoccupied with business performance, and so often fail to pay the same attention to the psychology of employees as they normally do while business is on track. In this respect, too, labor unions might play an effective role insofar as: they act as a medium for communication between employees and the management; they examine the feasibility of the revitalization strategy from a viewpoint taking into account the mentality of employees; and they monitor the progress of the revitalization activities and changes in the morale of employees.

In the cases surveyed, the means of communication between labor unions and union members include meetings at workplaces, questionnaires to union members, thorough discussion, telephone counseling, and having union executives present in workplaces. By such means, labor unions actively pass on information from the management side to union members; absorb and dispel doubts, worries and concerns among members; persuade members not to quit the company; forge a consensus towards revitalization; heighten morale among members; gather various ideas for improvement in profitability; and so on.

(v) Coordination with Firms over the Settlement of Workers' Claims

In some firms surveyed, workers' claims arose due to the non-payment of wages and retirement allowances on the account of the bankruptcies, but most of them had already been settled. The bankruptcy law stipulates that such claims should be given priority in the settlement to other claims; and where the cases surveyed are concerned, the legal system to protect workers seems to have been effective to some extent.

However, views differ among law practitioners on priority in the

settlement of some claims (f.e. in-house savings deposits) as observed in one case where labor unions could play a role in persuading the court by giving an explanation of the background, nature and other elements of the claim.

On the other hand, in general, when a bankrupted firm is reluctant to settle workers' claims voluntarily, they may need to call for forcible execution of their rights. In such a case, essential corporate assets will be seized as sources for settlement of the workers' claim, so that the firm may face difficulty in continuing its business activities. Faced with this possible result, workers and labor unions are required to make a choice between "survival of the firm to safeguard employment" and "protection of workers' claims."

Traditionally, in a labor problem due to corporate bankruptcy, priority has been given to the protection of the workers' claims, but now that a growing proportion of bankrupted firms aim at revitalization, workers have no choice but to compromise to some extent if they are eying the possibility of maintaining their jobs through business revitalization⁹. It would seem that honest and sincere labor-management discussions would be still more important as a prerequisite for such a compromise.

(vi) Coordination with Firms over Reorganization of Employment and Labor Conditions

Reduction of labor costs, a crucial task for successful business revitalization, is carried out through labor cuts and a downgrading of wages and other labor conditions.

Quite a few firms going bankrupt shed their workforce substantially before applying for the legislative bankruptcy procedure, around the time when, their business performance deteriorates, and after the application has been made. Here, the actual steps taken in cutting the labor force take various forms—voluntary retirement, dismissal, attrition, outsourcing, termination of continued renewal of contracts for part-time and other non-regular workers, employment transfer accompanying the business transfer, and so on. Measures affecting labor conditions, too, take varied

⁹ Kezuka [2003].

forms, from the halting of pay hikes to cuts in wages and bonus payments, reductions in various allowances, extension of working hours, and cuts in mandatory retirement allowances.

A general impression obtained from the firms surveyed is that it is not so difficult for labor and management to reach a consensus on employment adjustment and wage cuts provided: that enough information concerning business situation is disclosed to the labor unions; that management approaches to labor-management discussions in a faithful manner; and that the management has already made various efforts at cost reduction prior to cuts in labor costs. The subsequent employment adjustment measures taken after reaching a consensus are, in general, calls for efforts to “minimize the number of workers who leave the firm,” “resort to voluntary retirement, rather than dismissal of specific workers by designation”, “add something extra to retirement allowances,” and “help employees to get re-employed.” As for the downgrading of labor conditions, the next step is negotiations to seek labor-management consensus taking into account possible effects of the decline in labor conditions on the livelihood of union members and their working morale.

Within the process of legal bankruptcy, the unions are obliged to give priority to the revitalization of their companies so as to secure existing jobs as a whole. However, though they are aware that jobs will not necessarily be maintained fully in the bankrupted firms, such realistic perceptions seem to appease the resistance of the labor unions to labor cuts and the decline in labor conditions. The labor unions are also aware that they must show that employees are paying a price, in order to encourage cooperation in the form of debt waivers from financial institutions or trading companies.

Incidentally, among the firms surveyed, there is one case where a labor union raised an objection to and prevented the execution of employment adjustment. In this case, the labor union, while fully aware of the necessity for cuts in labor costs, insisted that employment should be maintained on the grounds that human resources are essential to the revitalization of the firm, and proposed that cuts in labor costs should be realized through a substantial wage reduction, to which the management side agreed. This case suggests that business revitalization is perhaps more likely to be eventually successful if the union’s rejection of the strategies proposed by

the firm derives from a clear-sighted grasp of business strategies.

4.3 Efforts of Industrial Labor Unions towards Business Revitalization: the Cases of UI Zensen Domei and JAM

Most company unions are suddenly faced with the bankruptcy of their firm without any foreknowledge and experience in handling corporate bankruptcy. It is not difficult to imagine a situation, where, even if they have a strong wish to make the business revitalization successful, they have difficulty in responding appropriately at the appropriate time with no knowledge of legal issues or corporate financing.

The industrial labor unions, superior to the company unions, play a considerable role in assisting company unions in the following ways: Since they have accumulated knowledge through experiencing a large number of bankruptcies in the past, they are able to handle legal procedures smoothly; to make reasonable and practical judgments in labor-management negotiations; to take measures to secure corporate assets and prevent corporate value from deteriorating after firms have applied for legal bankruptcy procedures; and to give appropriate guidance at the actual job sites.

Among those surveyed were cases where the industrial labor unions, taking advantage of their network, achieved significant results in negotiating with financial institutions concerning receivables, and in seeking sponsorship.

Of a total of several dozen industrial unions in Japan, three are outstanding for their activities in assisting companies going bankrupt: UI Zensen Domei, JAM and NUGW (the National Union of General Workers) which is a general union based on individual membership. All three unions are alike in having as affiliates many company unions of small and medium-sized enterprises. The following section will discuss special features of the activities of UI Zensen Domei and JAM.

(i) Efforts by UI Zensen Domei¹⁰

In response to corporate bankruptcy and other means of rationalization (e.g., labor shedding), UI Zensen Domei takes action as described below:

- Information concerning, for example, the name and industry of the entity subject to the rationalization, the nature of the rationalization, the number of workers affected, and the progress and results of the rationalization, is shared within the organization, and the accumulated expertise is compiled in a “handbook on rationalizing measures.” The handbook is organized in a practical, detailed manner, based on three principles: “establishment of the practice of prior consultation and strengthening of the function of the mass rally (discussion by all union members),” “prevention of downgrading of labor conditions and protest against the intensification of labor” and “securing of full employment and the right to study.” It cites related legislations and countermeasures for each type of rationalizing scheme such as personnel relocation, layoff, voluntary retirement, company liquidation, bankruptcy, and so on.
- When a subordinate union receives a plan for rationalization from the employer, a committee for rationalizing measures comprising members from the headquarters, subcommittee, branch, and company union is established forthwith to deal with the rationalization of the company in question. When the necessity arises, committee members participate in negotiations with the company.
- The information concerning rationalization projects in progress is under strict control. On the other hand, once the projects have come into the open, Zensen Domei begins taking full advantage of its position as an industrial union in organizing across various industries. For example, in the case of a retail business, it calls, using ties among affiliated unions, for the postponing of collection of accounts receivable while the revitalization procedure is in progress, and the continued supply of products to business trading companies.

¹⁰ UI Zensen Domei (the Japanese Federation of Textile, Chemical, Food, Commercial, Service and General Workers’ Unions) is an industry union comprising 1,958 company unions belonging mainly to the textile, clothes, chemical, food, distribution and service industries, with a total of approximately 830,000 memberships.

This series of these actions suggests that the industry union, while dealing systematically with the issue, also takes as many steps as possible for the purpose of letting business activities continue, not just for the purpose of protecting the workers.

Incidentally, the number of “bankruptcies” (legal bankruptcy) affecting labor unions affiliated to UI Zensen Domei totaled nine in fiscal 1993, seven in fiscal 1994, five in fiscal 1995, four in fiscal 1996, 13 in fiscal 1997, 12 in fiscal 1998, eight in fiscal 1999, 20 in fiscal 2000, 15 in fiscal 2001, 36 in fiscal 2002, 15 in fiscal 2003, and 21 in fiscal 2004.

(ii) Efforts by JAM (the Japan Association of Metal, Machinery and Manufacturing Workers)¹¹

JAM deals with bankruptcies and rationalizing measures of firms in accordance with the following policies:

- To further emphasize not permitting ill-considered job cuts by concluding a collective agreement aiming at reinforcing the rights of labor unions and establishing the rule of prior consultation system.
- To prevent firms from resorting to employment rationalization, and to strengthen the corporate financial foundations by strict monitoring of corporate management on a daily basis.
- In dealing with proposals presented by firms in accordance with the “JAM guidelines for employment measures”, to strengthen the system of collaboration and mutual assistance among company unions, regional branches and the headquarters.

The number of firms applying for legal bankruptcy that affected JAM-affiliated labor unions totaled five in 2000, 15 in 2001, 26 in 2002, and 14 in 2003.

¹¹ About 2,400 company unions in the machinery, electrical, automobile, wheeled vehicle, precision apparatus, aluminum sash, cast and iron production, steel, home appliances and other industries affiliated to JAM (The Japan Association of Metal, Machinery and Manufacturing Workers). The uniqueness of JAM is that its affiliates include unions of small and medium-sized firms; unions with 100 or less members account for 60 percent, and those with 30 or less members account for one fourth of the affiliates of JAM as a whole.

5. Promotion of “Social Dialogue” in the Business Revitalization Process: “Competence of Labor Unions” and “Good Faith of Employers” as Key Factors for Successful Social Dialogue

All the firms surveyed here are successful cases of business revitalization in the sense that they wiped out excessive debts through legal bankruptcy, and achieved a prospect of restoring profitability in business activities. However, the survey does not yield a general conclusion that the processes of these individual business revitalizations and the ways of the unions’ involvement in the processes were the best possible choices. For instance, some of the firms surveyed could have achieved business revitalization at an earlier stage with smaller costs if labor and management had engaged in dialogues more effectively at an earlier stage.

On the other hand, in looking at the overall picture of business revitalization, it is inappropriate to focus exclusively on labor-management relations as determinants of the success or otherwise of revitalization. Rather, success or failure, and the nature of the revitalization depend, quite naturally, on other factors such as the ability of the employers themselves, the state of the economy as a whole, the market position of the goods or services which the business in question produces, and its relationship with financial institutions. In this sense, it is extremely difficult to isolate labor-management relations from that of all these factors in business revitalization and empirically investigate their impact.

This section accordingly, by way of conclusion, examines mechanisms enabling the labor unions to contribute to business revitalization, and factors and conditions necessary for them to function, bearing the case studies described above in mind, and interposing theoretical considerations.

5.1 Why Can Labor Unions Contribute to Business Revitalization?

A firm seeking revitalization by way of legal bankruptcy has various stakeholders—not just the employer, employees, and the company union but also shareholders, creditors, new sponsors, business traders, and clients and customers. Among these, the grounds for thinking that labor unions, in particular, can be instrumental in business revitalization seem to be their

specific, unique attributes and the interests that motivate them to participate in revitalization. In other words, the grounds for such contributions seem to be derived from the inherent potentialities and motivations of the unions.

Unique characteristics of labor unions unobservable in other stakeholders include the facts that they are entities continuing to exist before and after legal bankruptcy, and that they have, extending across the whole firm, a command structure independent of the organizational structure.

Among the interests motivating the unions in getting involved in business revitalization, the most prominent lies in securing the interests of union members (safeguarding jobs and labor conditions, guaranteeing payment for workers' claims, etc.). Apart from this, however, labor unions seem to place great importance on the securing of a voice in the revitalization process, both during and after, since it is deeply involved with their own *raison d'etre*.

Thus, the unions deal with business revitalization in the pursuit of these objectives and taking advantage of their own special attributes.

Among the interests that the unions pursue, the interest of union members—the economic interest—will in general be better realized if the business in question is successfully revitalized, rather than otherwise. This creates an essential incentive for unions to work on business revitalization. However, if some of the unions' interests are in a “trade-off” relationship to each other, as for example in the relationship between job security and the securing of labor conditions seen in the previous section, the choice of priority may differ between labor and management. Where this is the case, labor and management need to discuss and forge a consensus.

At the same time, whether or not labor and management sufficiently share information, and have had proper discussion, may affect the receptivity of workers concerning decisions on job security and labor conditions, and the morale of workers, and relationship of mutual trust with the companies, more strongly than the results of discussion *per se*. Taking all this into account, it is clear that the pursuit of the interest in “securing of a voice” by unions and the realization of social dialogue will lead to a better relationship between labor and management, and is likely to bring desirable consequences for the business revitalization.

5.2 Requirements for Allowing Labor Unions to Contribute to Business Revitalization

As seen above, labor unions are agents that, because of their nature and vested interests, can contribute to business revitalization structurally. However, faced with bankruptcy of the company, the company union does not always play a positive role in business revitalization, in reality. Although in theory it is agreed that such a union still has the potential for contributing to revitalization observed in the previous section, in practice there seem to be certain requirements for materializing that potential.

The first requirement is intrinsic competence of the unions (ability of union executives in judging corporate management, centripetal and persuasive power in respect of union members). Assistance given by the industrial unions to company unions can be also regarded as part of the unions' competence.

The second requirement is good faith on the other side—the employers, sponsors, assignees, supervisors, judicial courts, etc.—in showing understanding towards the unions and pursuing dialogue with unions sincerely and faithfully.

It is not difficult to imagine that, unless these requirements are satisfied, the contribution of the unions to business revitalization will be null or even negative. Such situations occur, for example, when the unions, because of the lack of ability in judging business management or the shortage of information provided by the management, insist on employment and labor conditions incompatible with business revitalization. They may also occur, even when the unions choose to adopt cooperative measures, due to the unions' insufficient centripetal power over their members which hinders them from implementing measures as planned.

Again, if the management side shows insufficient respect for, or no understanding of the unions, they may well become hostile to the extent of overwhelming their sense of judgment based on economic reasoning, so that the labor-management relationship could actually jeopardize business revitalization.

Conclusions: Academic and Political Tasks for the Future

- ◆ Studies on industrial relations and the actual picture of employment

management in the process of business revitalization

A gradually increasing number of studies, case studies from the viewpoint of management, have been made on business revitalization, but few studies have so far paid attention to labor and employment in the context of business revitalization. In addition, since business revitalization from now on will draw constant attention as a research theme, it will be important to continue shedding academic light on labor-management relations and the situation affecting human resource management while business revitalization is in progress.

- ◆ Assistance to labor unions engaging in business revitalization, and to employees of firms with no company unions

The survey has covered firms with their own company unions only. In addition, all were unions affiliated to industry labor unions, from which they received assistance when the companies went bankrupt.

However, the fact found in the survey that the greater the assistance given by industry union to company union, the better the results produced, begs the question of how firms with no company labor unions secure the commitment of employees to the process of business revitalization. Now that the unionization rate is down to below 20 percent among Japanese firms, it is necessary to design a system and establish practices that assume the absence of labor unions. In the meantime, the collection and provision of information concerning cases of business revitalization is likely to help firms with no company labor unions and company unions with no assistance from industry unions to tackle business revitalization.

References

Honda, Norie. *Jinzai / Koyo no Menkara Mita Jigyo Saisei – 5sha no Jirei Kenkyu kara (Business Revitalization from the Viewpoint of Human Resources and Employment: Based on Case Studies of Five Firms)*, JILPT Research Report, No. 30, the Japan Institute for Labor Policy and Training, 2005.

<http://www.jil.go.jp/institute/reports/2005/030.html> (in Japanese)

Kezuka, Katsutoshi. *Tosan wo Meguru Rodo Mondai to Tosan Rodo-ho no*

Kadai (Labor Issues Arising from Bankruptcy, and Tasks for Bankruptcy and Labor Law), *Nihon Rodo Kenkyu Zasshi* (the Japanese Journal of Labor Studies) Vol. 511, January 2003.

Miyama, Takuya. *Atarashii Kaisha Kosei Ho* (New Corporate Reorganization Law), Kinzai Institute for Financial Affairs, Inc., 2003.

Ogino, Hiroshi. *Keiei Kiki ni okeru Rodo Kumiai no Kinou* (Function of Labor Unions in the Case of Management Crisis), Corporate Governance and Employees, written and edited by Takeshi Inagami and Rengo-Soken, Toyo Keizai Shinpo-Sha, 2004

Suzuki, Fujikazu. *Risutora no motode Yuragu Kigyo Shakai to Rodo Kumiai no Kadai* (Upsetting Company Union under Restructuring and their Challenge) , Corporate Governance and Employees, written and edited by Takeshi Inagami and Rengo-Soken, Toyo Keizai Shinpo-Sha, 2004

JILPT Research Activities

Plans of Research Projects in FY 2005

The JILPT is carrying out nine research projects during the period of three and a half years from October 2003 to March 2007. The plans of the research projects for fiscal year 2005 are as shown below.

- Geo-structural analysis of unemployment

In this research, we analyze the factors that create regional divergences in employment and unemployment and propose effective industrial policy measures and other measures for improving labor market conditions based on the unique characteristics of each region.

In fiscal year 2005, we will conduct case studies of regions identified as, through data analysis, having had significant job creation, of major Special Zones for Structural Reform, and of regional communities that have succeeded in inducing firms to relocate in their regions, in order to elucidate which regional factors and policies led to job creation. In our investigation and research, we will integrate data analysis research and case-study research and work towards preparing the final report.

- Restructuring of the system determining working conditions

In this research, we examine the progress of individualization and diversification, analyze the related issues, consider the frameworks and rules for determining working conditions against the backdrop of the progress of individualization and diversification, and make the necessary policy proposals.

In fiscal year 2005, we will examine and analyze major countries' trends of the labor-related changes and legal systems (the relation between groups and individuals in the labor field, the situation and procedures of labor laws, etc.) and the state of and role played by Japanese labor unions and labor-management consultation. We will also work towards preparing the final report considering the research results achieved by fiscal year 2004.

- Desirable employment strategy in Japan

In this research, we analyze the employment strategies of the OECD,

the EU, and the OECD and EU countries, how the employment strategies are reflected in each country's policy management, how the strategies are implemented, and the policy effects. Based on the analysis, we examine the labor market structure, social background, and employment-related legal systems in the context of drawing up an employment strategy in our country and propose model plans.

In fiscal year 2005, we will continue from fiscal year 2004 to organize our ideas towards the proposal of the model employment strategy plans in Japan (preparation of the final report). We will also conduct research on specific related items where necessary.

- Environment containing employment and safety nets which would make possible diverse working styles

In this research, we examine the state of today's diverse working styles and consider the working environment that makes diverse working styles possible and the safety net provided by the application of labor-related laws, in light also of the situation in other countries. Through this, we contribute to the Health, labor, and welfare policies mainly from the viewpoint of labor laws.

In fiscal year 2005, we will, following the item-by-item analysis of fiscal year 2004 and before, do comprehensive analysis on diversification of working and employment styles. At the same time, we will identify related issues and work towards preparing the final report.

- Comprehensive analysis of corporate business strategies and personnel treatment systems, etc.

In this research, we comprehensively analyze Japanese firms' management strategy and personnel treatment systems, which are in the process of a significant change. Through our analysis, we raise issues related to future corporate management and labor.

In fiscal year 2005, we will analyze the data obtained from questionnaire surveys, conducted in fiscal year 2004, on firms and workers. At the same time, we will conduct an investigation and analysis on the "workplace," as an intermediate analytical unit between the firm and the worker. We propose internationally competitive human resources management mechanisms that

are desirable for both the labor and management. Finally, we will work towards preparing the final report in light also of the research results achieved by fiscal year 2004.

- Desirable infrastructure development for the labor market regarding vocational ability development

In this research, we investigate on the state of vocational ability assessment, education and training, career consulting, job information systems, etc. in major foreign countries and Japan, and propose the direction that our country should be taking.

In fiscal year 2005, we will examine the current state of the supply of vocational education and training as well as identify the issues related to lifelong vocational development and career formation. We will then conduct a questionnaire survey on the demand side of vocational training to clarify, identify, and analyze the current state of vocational development, needs for vocational development, and the issues. We will also work towards preparing the final report, which would also include the research results achieved by fiscal year 2004.

- Establishment of a social system which would harmonize private and occupational life

In this research, we deal with employment policy and a wide range of fields that are closely related to employment policy, such as education, childcare, and nursing care, in order to propose social systems and the necessary employment policy for allowing individuals to balance between work, family responsibilities, and self-cultivation.

In fiscal year 2005, we will conduct a national questionnaire survey and analysis to elucidate the current state of and issues related to work-life balance in each stage of people's lives. Incorporating also the research results achieved by fiscal year 2004, we will work towards the final report, which will identify the issues related to social systems that will enable people to achieve work-life balance.

- Development of an integrated occupational information database

In this research, we indicate the policy implications of the requirements

for introducing a comprehensive job information database in Japan, examining precedents in foreign countries, and develop prototypes and an operational model.

In fiscal year 2005, we will improve both the system and the contents through trial operation of the first prototype model in the public job security office and then develop the second prototype model for public showing during fiscal year 2006. In addition, we will develop a wide range of job information contents for loading into the system and continue to collect and organize job information.

- Support for the re-employment of middle-aged and older workers who have lost their jobs

In this research, we utilize a wide range of methods and technology, such as encounter groups and cyber counseling on the Internet, to help middle-age and senior unemployed people and others who find it difficult to be re-employed. We also develop new counseling techniques and systems.

In fiscal year 2005, we will create a prototype of an inventory for assisting in self-understanding. We will also develop a prototype of the Career Insight (provisional title) career guidance system for middle-aged and senior citizens. Furthermore, we will use the tools for recording and analyzing the words spoken during career counseling in order to examine career counseling models for middle-aged and senior job seekers.

Research Report

The findings of research activities undertaken by the JILPT are compiled into Research Reports (in Japanese). Below is a list of the reports published from May to July 2005. The complete text in Japanese of these reports can be accessed from the JILPT website. We are currently working on uploading abstract of the reports in English onto the JILPT website as well.

No. 32: *CSR Management and Employment: In the Case of Employment of the Challenged* (May 2005)

No. 33: *Changing Human Resources Management, Governance, and Management Strategies* (June 2005)

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- No. 34: *Balanced Treatment of Part-Time workers and Full-Time Regular Employees: In the Case of Labor and Management of General Supermarkets* (June 2005)
- No. 35: *The Current State of and Issues Related to Youth Employment Assistance: Developments in Youth Assistance in Britain and Analysis of Japanese Youth* (June 2005)
- No. 37: *Case Study on Management of Paid Job-Placement Services for White-Collar Workers and Employees of Paid Job-Placement Services* (July 2005)

*JILPT website: URL: <http://www.jil.go.jp/english/index.html>

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