

**PROBLEMS OF FOREIGN WORKERS IN  
JAPAN: POST WORLD WAR II**

*Dissertation submitted to the Jawaharlal Nehru University  
in partial fulfilment of the requirements  
for the award of the degree of*

**MASTER OF PHILOSOPHY**

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**CERTIFICATE**

This is to certify that the dissertation entitled “**Problems of Foreign Workers in Japan: Post World War II**” submitted by **Prashant Kumar Prasad**, in partial fulfillment of the requirements for the award of the degree of **MASTER OF PHILOSOPHY**, has not been previously submitted for any degree of this or any other university. This work is the result of his own research and to the best of my knowledge no part of it has earlier comprised any monograph, dissertation or book.

We recommend that this dissertation may be placed before the examiners for evaluation.

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*Dedicated*  
*to*  
*Maa, Papa and Sony*

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## Preface

According to a report of the Health, Labour and Welfare Ministry released in December 2001, the number of foreign workers in Japan as of June 1, 2001, was 221807. This number was up by 7.1% compared to the previous year. The report also stated that this figure marks a ninth consecutive annual rise.<sup>1</sup> This influx of foreign workers in Japan has indeed posed a difficult challenge for Japan. There are several factors, which have contributed to this problem. Firstly, Japan is a fast ageing society. The fact that Japan has the longest life span (approximately 80 years) in the world and low birth rate for many years, partially explains the intensity of the problem. In 1970, Japan was registered in the United Nations' official list of 'old societies'. By 2015, one-fourth of Japan's population will comprise of senior citizens. Secondly, Japan is an economic power with its citizen enjoying the benefits of economic prosperity. Japan is also a country with a 100% literacy. Educated citizens enjoying comparative affluence understandably avoid work, which in Japan are known as '3D / 3K' (dirty, difficult and dangerous) works. Thirdly, after World War II and especially after 1980s, Japan emerged as an economic power. Japan's success in economic sphere was like a miracle for many developing countries of the world. Suddenly Japan became a popular destination for many workers from all over the world. This was especially notable after the 1980s. South Asian and South East Asian workers migrated to Japan in large number. Recently, the number of Latin American workers of Japanese descent migrating to Japan has increased considerably. Migration on such a magnitude has become a cause of concern for Japan. Japan, a homogenous society is proud of its culture, social norms etc. Presence of a large number of foreigners

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<sup>1</sup> The Japan Times (Tokyo), Jan 5, 2002.

Japanese feel has a negative impact on their society. Undoubtedly, illegal foreign workers in particular, are also involved in various crimes. Many scholars in general have been discussing the problem and its social, political and economic implications. On the other hand, human activists are concerned about the rights of the foreign workers. The United Nations and International Labor Organization have made many legal provisions to safeguard the interest and rights of foreign workers in all over the world. Japan is one of the signatory countries of those provisions. Are illegal foreign workers entitled to some rights? What is their status in Japan? What kind of treatment is meted out to them in Japan ? These are some of the questions which I shall try to address to in this study.

I got an opportunity to go for field work to Tokyo and other parts of Japan as an ICCR research fellow under the Okita Shiburo Fellowship Scheme (2001-2003). During my field work I used interview method to accumulate primary information on this subject. My field work experience has been incorporated in the dissertation. Thus, in my study, I shall attempt to study the problems of foreign workers in Japan, especially, the illegal workers after Second World War.

In the first chapter, “Foreign Workers in Japan: Historical Background”, I am dealing with the nature of Japan’s interaction with foreigners since Tokugawa Period.

Second chapter is about “ Foreign Workers in Japan: Nature of Their Problems”.

Third chapter deals with the “Foreign Workers and Crime in Japan”. Japanese are very much concerned with foreign workers growing involvement in crimes, which they feel, add to the insecurity in their society. Why and to what extent foreigners are involved in criminal activities in

Japan is the subject matter of this chapter. Along with this issue, I am also dealing with the involvement of female foreign workers in sex and entertainment industry in Japan. Therefore, this chapter mainly focuses on socio-economic problems.

In the fourth chapter, “Protecting the Rights of Foreign Workers in Japan: Legal Provisions”, I am trying to deal with the existing human rights laws in the world, Japan’s domestic laws related to them and other factors.

The final chapter is “Summary and Conclusion”.



## **Chapter 1**

### **Foreign Workers in Japan: Historical Background**

The problem of "foreign labour" is fast emerging as one of the most difficult challenges facing contemporary Japan. This issue seems to be serious in the sense that it has economic, political and social dimensions and implications. It also encompasses problem of international migration, human rights and diplomatic relations. The United Nations and International Labour Organisation have adopted charters to ensure the basic human rights of foreign workers. Despite this, problem confronting foreign worker is still very acute all over the world. Many countries have signed these agreements to ensure their basic human rights. This issue, thus, is not only related to Japan but it is equally concerned to other countries and organizations as well.

In Japan, there are two categories of foreign workers -legal and illegal according to the Immigration Control Act of 1989, which became effective in 1990. The number of illegal workers is greater than the legal workers in Japan. This is mainly due to increasing labour shortages and high wages. A large section of the legal workers are employed in unskilled work which is prohibited by the law or jobs which the Japanese themselves avoid doing. According to a recent estimate, there are currently more than

6,00,000 unskilled foreign workers in Japan.<sup>1</sup> The reasons why these workers come to Japan and work in extremely poor conditions and the problems, which they confront during their stay in Japan, will be focus of this study.

There have been both immigrants and emigrants entering Japan since a very long time. However, the problem has become more serious since the 1980s when Japan witnessed a heavy influx of foreign workers<sup>2</sup>. A brief mention of foreigners in Japan in the early period would help in understanding Japanese attitude towards foreign workers in their country.

### **Tokugawa Period (1603-1868)**

This period is known for Japan's seclusion and sustained peace. Tokugawa rulers aim was to eliminate or at least limit influence from the west. Despite all their efforts, contact with the Dutch at Nagasaki continued. Dutch studies were introduced in the school curriculum. In 1673, the shogun's commissioner in Nagasaki ordered several young samurai to study with Dutch teachers. During the last phase of the Tokugawa period the Japanese employed about 200 language and technical advisors. The first foreign technical missions were made up of Dutch instructors who were active in naval affairs during the periods 1854-1857

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<sup>1</sup> Hiroshi Komai, *Migrant workers in Japan*, (Kegan Paul International Limited, London and New York, 1995), p.1.

<sup>2</sup> Yoko Sellek, *Migrant Labour in Japan*, (Palgrave, New York, 2001), p.15.

and 1957-1959. Second lot of foreigners who entered Japan comprised mainly engineers and doctors. The French constituted the largest percentage of hired foreigners prior to the Meiji Restoration. About 84 Frenchmen were employed by the Edo rulers.<sup>3</sup>

In fact many of these foreign employees during this period were sponsored by their respective nations. They were also closely associated with the unequal treaties, extra-territoriality and exclusive trade arrangements between Japan and their respective countries. Foreigners were mostly concentrated in Yokohama, Osaka, Nagasaki, Hyogo (now Kobe) and Edo.<sup>4</sup>

### **Meiji Period (1868-1912)**

In the beginning of the Meiji period, the leadership of Japan emphasized upon a policy of modernization along western lines. It is quite clear from the expression *Wakon Yosai* (Japanese spirit, Western learning). This idea was adopted in the early years of Meiji period. Many foreigners were hired to introduce western knowledge and technology to Japan. They were called *Yatoi*.<sup>5</sup> Several thousand foreign teachers, technologists and advisors were employed by the Japanese rulers to realize the idea of *Wakon*

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<sup>3</sup> A. W. Burks, ed. *The Modernizers - Overseas Students, Foreign Employees and Meiji Japan*, (Westview Press/Boulder and London, 1985), p.189.

<sup>4</sup> Ibid., p.190.

<sup>5</sup> Yoko Sellek, *Migrant Labour in Japan*, (Palgrave, New York, 2001), p.18.

*Yosai*. The Meiji government was eager to catch up fast with the west in order to protect itself from potential economic and political exploitation. The primary function of the foreign employees was to assist Japan in its quest for modernity and equality with western nations.<sup>6</sup>

In April 1868, the young Emperor Meiji promulgated the Charter Oath, which declared, "Knowledge shall be sought throughout the world". A large number of Japanese students were sent abroad to study and foreigners were invited to Japan to teach subjects like military science, engineering, foreign affairs, agriculture, surveying and medicine. These *Oyatoi gaikokujin* together with many foreigners played a significant role in the rapid transformation of Japan from feudal backwardness into a world power in a very short period.<sup>7</sup>

According to an estimate, on the eve of Meiji transformation in 1868, Japan was more than 98% deficient in machine technology in comparison to the leading industrial nations of the west at that time. In bureaucratic sophistication and skill, it was 70% (approx.) on a par with the west at that time. The borrowing took place in several forms. They took the help of translations for collecting information. The Meiji rulers wanted to replace employed foreigners by trained Japanese. Foreigners from different

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<sup>6</sup> *Kodansha Encyclopedia of Japan*, (Kodansha Ltd., Tokyo, 1983) p.310.

<sup>7</sup> *Ibid.*, p.310.

countries were present in Japan during the Meiji period. About 50% of the total were Chinese labourers (they were called 'coolies'). Almost all the foreign employers (including day labourers) were teachers or were appointed by Meiji government as advisors, and administrative professionals. During the period 1870-1885, the "Public Work Ministry" hired 60% (approx.) of all the foreigners. There were approximately 8,000 employed foreigners in any given year during the Meiji period (1874-1875). This was the peak period for employment of foreigners. In each of these years, more than 800 new foreign workers were employed. 1877-78 was the year of first slump when the average number of foreign workers was only 500-600. Hazel Jones, in his book "Live Machines", opines that foreigners provided the Meiji government over 9,500 man-years of service. The British contributed maximum (4,300 plus man years); the French were in second position (1,500 plus man years) and Germans and Americans were also significant in their contribution (1,200 + each). He says that the role of the hired foreigners was symbiotic, not parasitic. The Americans served the Hokkaido Colonization Commission and were engaged in surveying, mining, railway construction, soil sampling, dairy husbandry, fruit and grain improvement.<sup>8</sup>

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<sup>8</sup> A. W. Burks, ed., *The Modernizers - Overseas Students, Foreign Employees and Meiji Japan*, (Westview press/Boulder and London, 1985), p.192-94.

Most of the foreign employees came from Great Britain, France, the United States and Germany. Fewer came from Austria, Belgium, China, Italy, the Netherlands, Portugal, Russia and Switzerland. There is no exact number of foreigners hired by the government, it is clear that teachers and engineers made up a majority.<sup>9</sup> Burks also supports this fact in his edited book "The Modernizers-Overseas Students, Foreign Employees and Meiji Japan". He is of the view that ten to twenty Dutch technicians continued in the Japanese official service until about 1876.

The British employees in large number were engaged in public works engineering: railroads, telegraph lines, lighthouses and harbour construction. Anatomy, surgery and some aspects of medical treatment were important part of Dutch learning during Tokugawa period. Thus, these foreign employees educated the Japanese in their respective fields of expertise.<sup>10</sup>

Western ideas, methods and materials were absorbed by Japan during the Meiji period. The entire expense of the foreigners stay in Japan was borne by the Japanese government. This was not the first time that Japan willingly learnt from foreigners. Traditionally, Japanese have been amenable to borrowing foreign ideas useful to them and adapting them to

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<sup>9</sup> *Kodansha Encyclopedia of Japan*, (Kodansha Ltd. Tokyo, 1983) p.311.

<sup>10</sup> Roberts S. Schwantes, "Foreign Employees in the Development of Japan", A. W. Burks, ed., *The Modernizers - Overseas Students, Foreign Employees and Meiji Japan*, (Westview Press/Boulder and London, 1985), p.210-11.

their own unique environment. The examples are numerous which include the importation of the Chinese writing system, the acceptance of Buddhist and Confucian thought from India and China and the widespread interest in the western medicine introduced by the Dutch.<sup>11</sup>

### **Foreigners in Japan: Inter-war Period**

World War I gave a tremendous boost to Japanese industry and the demand for industrial labourers accelerated rapidly. The war boom encouraged the development of new industries to compensate for the loss of manufactured goods, which could no longer be imported from Europe. It also stimulated production in established industries such as coal mining, cotton spinning and silk manufacturing. Much of this industrial expansion was dependent upon the availability of cheap labour. A large percentage of cheap labour came from rural areas of Japan. But the industrial expansion was so rapid that the supply of local labour in many areas was soon exhausted. A large number of Koreans were brought to Japan to fulfill this requirement after the annexation of Korea by Japan in 1910.<sup>12</sup>

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<sup>11</sup> *Kodansha Encyclopedia of Japan*, (Kodansha Ltd, Tokyo, 1983), p.311.

<sup>12</sup> Yoko Sellek, *Migrant Labour in Japan*, (Palgrave, New York, 2001), p.18.

## **First Stage (1970-1986) Migration of Female Foreign Workers in Japan:**

From 1952 when Japan regained its sovereignty till 1970 there was no heavy influx of foreign workers in Japan. The Migration of foreign workers to Japan was more visible from the late 1970s. They were mainly from South East Asia (Thailand and Philippines) and East Asia (South Korea, Taiwan). This was mainly because there was a demand for women in sex and entertainment industry. This period also saw an increase in the number of private agents and labour brokers who operated both in Japan and the countries from where workers were brought to Japan. Till 1985 out of the total more than 90% of foreign workers apprehended were women.<sup>13</sup>

## **Second Stage (1986-1990) witnessed an increase in influx of male foreign workers in Japan**

It was in 1988 that for the first time the number of male illegal foreign workers surpassed that of females. Since 1988, the gender ratio has not changed significantly with males accounting for 70 to 75% of the total illegal foreign worker population.<sup>14</sup>

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<sup>13</sup> Ibid., p.37.

<sup>14</sup> Ibid., p.38.



### **Third Stage: Revised Immigration Control Act:**

The new law, "the immigration control and refugee recognition law" passed by the Diet on December 8, 1989, which became effective on June 1, 1990, is a revision of a 1981 law which was a revision of an earlier law. The amendment increased the number of job categories for which foreign workers could be employed. Period of stay was limited to three years. The jobs available to foreigners were that of lawyers, investment bankers and medical personnel. The law sought to restrict and control the inflow of unskilled and semiskilled workers. For the first time the law-imposed sanctions on those employing and contracting illegal workers. There are three categories of jobs for which foreigners are eligible to work in Japan and they are as follows: -

- (i) The first category covers diplomats, artists, religious personnel and journalists.
- (ii) The second category gives details of professional and technical experts like engineers and highly skilled workers who can work in Japan.
- (iii) The last category describes very specific forms of expertise. Temporary visitors, students and family visitors are all prohibited from working.

There is a provision of criminal penalties on those found to be indulging or facilitating illegal employment. Work visas are not given in those areas and employment, which violate the immigration law.<sup>15</sup>

### **Legal /Skilled Foreign Workers**

In the 1980s, as Japan made rapid economic progress, it attracted more and more foreigners. Foreigners are employed in sectors like banking, investment, corporate management, language training, engineering etc., which required high level skill or proper training. However, many of these workers faced discrimination at the place of their work. Often they are not given equal wages. Their position in the system is usually lower than their Japanese co-workers. Generally they are not placed in higher positions. Apart from this they do not actively participate in the decision making process.

### **Illegal/Unskilled Foreign Workers**

It is believed that the number of illegal foreign workers is greater than the number of legal foreign workers in Japan. As mentioned earlier according to an estimate currently more than 6,00,000 laborer are living and working in Japan.<sup>16</sup> The Ministry of Justice, Japan Immigration

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<sup>15</sup> Ibid., p38.

<sup>16</sup> Hiroshi Komai, *Migrant workers in Japan* (Kegan paul Intenrnational Limited, London and New York 1995), p.1.

Bureau, in its Annual Immigration statistics reports that there were 1,434 apprehended illegal migrant workers in 1981, which increased to 40,535 in 1998.<sup>17</sup>

The illegal workers are mainly employed in construction, manufacturing and service industries such as waiters, hostesses etc. The condition in their workplace is very pathetic. They are confronted with numerous problems. According to a Labor Ministry study, they receive at least 60% less wages than their Japanese co-workers for the same work. Working condition provided to them is not very good. This is mainly because their status is illegal and they have fear of deportation by the authorities, prevents them from filing any complaint. They are unable to demand full compensation and better working condition, medical benefits etc. They have to face hardships and insecurity in day-to-day lives.

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<sup>17</sup> Yoko Sellek, *Migrant Labour in Japan*, (Palgrave, New York, 2001), p.32.

## Chapter 2

### Foreign Workers in Japan: Nature of Their Problems

#### The Number (Background)

During the World War II, problems of foreign workers in Japan were not as severe as they are today. The continuous influx of foreign workers in post World War II Japan is a matter of serious concern for a homogeneous society like Japan. According to the Ministry of Justice reports, the number of illegal aliens in Japan was more than 28,000 at the end of 1986, 1,00,000 at the end of 1989 and 2,78,872 in May 1992.<sup>1</sup>

According to a report the total number of foreigners who entered Japan for employment purposes under the residence status categories provided in the revised immigration control Act (1990-98) was 29,27,578 (approximately) in 1990, which increased to 36,67,813 in 1998.<sup>2</sup> In 1989, for the first time, the media gave headline coverage to the influx of boat people. From late May to September 1989, more than 2950 refugees landed in Japan, that is, more than 10 times the number of arrivals during all of 1988. It was found in an investigation that less than half were political

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<sup>1</sup> Kazuaki Tezuka, "The foreign Worker Problem in Japan", *Japanese Economic Studies*, vol 21, no.1, Fall 1992, p.3.

<sup>2</sup> Yoko Sellek, *Migrant Labour in Japan*, (Palgrave, New York, 2001), p.29.

refugees from Vietnam and the rest were the citizens of China. Tokyo and Osaka in particular have seen an increase in the number of foreigners over the year.<sup>3</sup> The number of foreign workers in Japan has increased phenomenally in recent years. Annually about three million foreigners enter Japan and most of them are tourists and other short-stay visitors, a large number of them often over stay. They visit for employment purpose and only a small proportion come to Japan and they are basically legal foreign workers.<sup>4</sup>

The arrival of unskilled worker from developing Asian countries has become a serious issue in recent times.<sup>5</sup> One can find a non-Japanese everywhere in Japan. In 1965 there were 8,50,000 registered aliens in Japan, an increase of 1,00,000 over 1975 and an increase of 1,80,000 over 1965. Their number for business purposes (corporate managers and others) rose 1.7 times, from 3494 in 1974 to 5,943 in 1984. The number of skilled workers (cooks and others) rose 2.1 times over the same period from 660 to 1,366. The number of international marriages (Japanese -non-Japanese) was 12,000 in 1985, double the figure for 1975 and three times that for 1965. The number of foreign students in Japan increased 18,000 in 1966,

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<sup>3</sup> Watanabe Toshio, "A Flawed Approach to Foreign Labour", *Japan Echo*, (Tokyo), vol.17, no.1, Spring 1990, p.45.

<sup>4</sup> Haruo Shimada, *Japan's Guest Workers, Issues and Public Policies*, (University of Tokyo Press, 1994), p.15.

<sup>5</sup> Sugiyama Mitsunobu, "Should Foreign Workers Be Welcomed?" *Japan Quarterly*, (Tokyo), Vol. 35, no.3, July - Sept 1988, p.260.

3.3 times more than the figure of 1975. All these data seem to indicate that Japan has large number of foreign workers.<sup>6</sup>

It has been noticed that in recent times, rapid economic growth and declining fertility have led to considerable demand for migrant labour in countries like Japan, Hong Kong, Taiwan, Singapore and Brunei. On the other side, countries like South Korea, Malaysia and Thailand are experiencing both emigration and immigration. As mentioned earlier in 1980s, Japan recorded heavy influx of female migrants from Pakistan, the Philippines, Bangladesh and Korea to work as dancers, waitresses and hostesses. Men followed them from the same countries who worked generally illegally as factory or construction workers.<sup>7</sup>

Between 1980-85, immigration from Asia, increased from 640637 to 1168254 but the rate of increase varied from one country to another country. It was higher for the poorer and less for the stable countries. Huge influx came from Thailand and the Philippines. The number of immigration from Thailand increased from 17,884 to 44,123 and on the other side immigrants from Philippines increased from 27,902 to 65,529. Immigrants from Taiwan increased from 2,35,549 to 3,56,934 and from Korea the number increased from 2,12,973 to 2,96,708. The ratio of female

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<sup>6</sup> Takeuchi Hirotaka, "Immigration Reform for an open society", *Japan Echo*, (Tokyo), Vol 14, No 4, Winter 1987, pp 19-20.

<sup>7</sup> Stephen Castles and Mark J. Miller, *The Age of Migration, International Population Movements in the Modern World*, (The MacMillan Press Limited, Hongkong 1993), p. 159

to male immigrants was almost constant in most age groups. Influx of women from the Philippines and Taiwan aged 15-34, those from Latin America aged 15-34, surpassed the number of men in the same age group.<sup>8</sup>

Between 1976-1989, the number of people entering Japan for employment purposes increased from 20,000 to 70,000 a year.<sup>9</sup> The number of foreigners entering Japan for employment purposes under the residence categories provided in the revised Immigration control Act (1990-98) was 2,927,578 in 1990, which increased to 3,667,813 in 1998. Under this category the total number of employed people (Professors, Artist, Religious Activists, Journalist, Investor, Business manager, Legal workers, Medical employee, Researchers, Instructors, Engineers etc.) was 94,868 in 1990, which increased to 1,01,891 in 1998.<sup>10</sup>

### **Rapid Increase of Trainees and Students**

There is a particular type of residence status, which allows foreigners to work in Japan under certain conditions. This category includes trainees, pre-college students and college students. But they do not possess high-level skill necessary to enter the country. Apart from this they are not engaged in any specific type of job, since they are mostly

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<sup>8</sup> Iyori Naoko, "The Traffic in Japayuki-San", *Japan Quarterly*, (Tokyo), Vol 34, No.1, Jan-Mar 1987, p-4.

<sup>9</sup> Haruo Shimada, n.4, p.15.

<sup>10</sup> Yoko Sellek, *Migrant Labour in Japan* (Palgrave, New York, 2001), p.29.

untrained.<sup>11</sup> The number of residing college students was 9528 in 1990, which increased to 13478 in 1998. The number of pre college foreign students was 20851 in 1990, which increased to 14540 in 1998 under this category. The status of residence for trainees shows that in 1990 their number was 37566, which increased to 49,797 in 1998. Maximum number of trainees was coming from China (1982-1217; 1998-22,372). Large number of trainees was also coming from Thailand, S. Korea, Malaysia, Philippines and Indonesia.<sup>12</sup> While studying in Japan, college or pre college students were allowed to work part time for upto four hours a day but there is a problem in the system itself. Many students who arrive in Japan on the pre-text of studying end up working virtually full time.<sup>13</sup>

### **Latin American Workers of Japanese Descent in Japan**

The revised Immigration Control Law of June 1990, allows foreigners of Japanese origin to seek work in Japan. Many Japanese workers in 18<sup>th</sup> and 19<sup>th</sup> century had migrated to South America and other places. The status of these workers is different from the residence status of other foreign workers in Japan. They can work legally without having specialized skills or knowledge for the required job. After the revision of the law, their number has increased sharply in recent years. The number of

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<sup>11</sup> Hiroshi Komei, "The Road to Permanent Residence by Foreign Workers," *Akashi Shoten*, 1993, Chapter 3, as quoted in Shimada, (1994), p 21.

<sup>12</sup> *Ibid.*, p.29.

<sup>13</sup> Haruo Shimada, n.4, p.21.



such type of workers was 8450 in 1998, which increased to 148700 in 1991.<sup>14</sup>

During my stay in Japan (14-30 June) I came in contact with Md. Kaif, (not original name) a Bangladeshi, who is working in construction industry in Tokyo, told me that the condition and job opportunities of illegal foreigner workers have been affected phenomenally by the huge influx of Latin American workers of Japanese descent in recent years. These Latin American workers of Japanese descent charge very minimal amount 700-800 Yen per hour, which is much lower than other foreign workers who generally charge 1200-1300 Yen per hour. Therefore, other foreign workers remain jobless most of the time. I met few Latin American workers of Japanese descent in places like Gyotoku, Minami Gyotoku and Kawasaki.

Like Latin American people of Japanese descent, Nepalese are also going to Japan in large numbers in recent years and work for lesser wages. This in turn creates problems for other foreign workers who generally charge more. They are mostly employed in the service sectors. A good number of Nepalese are working in restaurants at Roppongi and other places. I met few of them having Indian cook visa.

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<sup>14</sup> Ministry of Foreign Affairs, as quoted, in *ibid.*, p.23.

## **Korean Residents in Japan**

The first generation of Korean residents in Japan were forcibly brought to Japan to work in factories during Japanese rule over Korea from 1910- 1945. Today, the third, fourth and fifth generation of Koreans live in Japan. The majority of these ethnic Korean people do not have Japanese nationality due to constitutional restrictions. Under Japanese law, a child can only acquire Japanese nationality at birth if one parent is Japanese and the child is registered as having a Japanese surname. A child can have dual nationality if one of the parents is not a Japanese but most choose one or the other nationality upon attaining majority at the age of 20. Children born in Japan to parents who are not Japanese are not entitled to Japanese nationality.<sup>15</sup> There were about 2.3 million Koreans living in Japan at the close of World War II. But at the end of 1997, there were approximately 1.5 million registered non-Japanese people living in Japan of whom about 645,000 had legally declared themselves "Korean". Most of these people though born and brought up in Japan but like all other non-Japanese residents in Japan, are deprived of some rights like voting. Maximum number of Koreans concentrated in Ikuno (in Osaka prefecture) and

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<sup>15</sup> Johanne Leveille, and Martin Nuttall, "Being Korean in Japan", *Japan Quarterly*, (Tokyo), vol.45, No. 4, Oct-Dec. 1998, p.84.

Kawasaki (in Kanagawa prefecture).<sup>16</sup> I met a few Koreans in Kawasaki who work in construction and manufacturing sectors.

There is a long history of discriminatory behaviour against Koreans in Japan. Until 1992, they had to carry an 'alien registration card' and be fingerprinted when the card was renewed. They also face problems in seeking employment. They are generally employed at lower level and as casual workers in pachinko parlor, owners of Kimchi shops or Korean restaurants, shoe factories and other private jobs. Ethnic Koreans are generally not employed in Japanese companies.<sup>17</sup> I saw many *pachinko parlors* in Tokyo especially in Roppongi, Kawasaki and Monjen Nakacho, which were owned by Koreans.

### **Increase in Number of Legal Registered Foreign Workers in Japan**

In 1986 the number of legal registered foreign workers was 8,67,237, which increased to 15,12,116 in 1998. The percentage of Korean legal registered workers was 78.2% of the total, which reduced to 42.2% in 1998. On the other hand, Chinese (1986-9.7%; 1998-18%), Filipino (1986-2.2%; 1998-7.0%), Brazilian (1986-0.2%, 1998-14.7%), Peruvian (1986-

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<sup>16</sup> Ibid., p.83.

<sup>17</sup> Ibid., p.85.

0.1%, 1998-2.7%). American (1986-3.5%, 1998-2.8%) population of this work category increased substantially over the years.<sup>18</sup>

### **Illegal Foreign Workers in Japan**

Besides legal workers, illegal workers are also employed in various sectors in Japan. They are heavily employed in manufacturing industries, construction industries, service industries and other areas. However, there is no way of knowing the exact number of these workers. One can estimate their number by the annual number of infringements of the immigration law. Since the Immigration Law of 1990 prohibits illegal or unskilled work, they do not expose themselves. Larger numbers of foreign workers are found to be engaged in activities, which their status does not permit. Strict implementation of the revised immigration Control Law in June 1990 has led to a number of arrests of illegal residents by immigration authorities. Despite this, the number of people arrested is only a small percentage of the total number residing in the country. The immigration authorities and police are not wholly successful in preventing illegal workers from overstaying. In July 1990, 1,06,000 were found working illegally which increased to 1,60,000 in May 1991 and 2,16,000 in Nov. 1991, 2,80,000 in April 1992 and over 2,90,000 in Nov. 1992.<sup>19</sup>

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<sup>18</sup> Ministry of Justice, Immigration Bureau, quoted in Japan Immigration Association (1995), p.8; 1999, p.8.

<sup>19</sup> The Ministry of Labour Japan estimates as of 1991.

Apprehended illegal foreign workers, by length of stay (all categories) in Japan (1991-98) were total 32,908 in 1991, which increased to 40,535 in 1998.<sup>20</sup>

Most of the illegal foreign workers come from Korea, China, Malaysia, Thailand and Philippines. Maximum number of these illegal foreign workers stays in Japan for over 5 years. Their number was a mere 257 in 1991, which increased to maximum 10428 in 1998. Whereas the number of illegal foreign workers staying for less than 6 months was maximum 12733 in 1991 which reduced to 5697 in 1998.<sup>21</sup>

### **Illegal Workers: Nature of Employment**

The external labor market includes part time workers, seasonal workers and temporary workers. Foreign workers appear on the external labor market. Commonly these foreign workers are hired in jobs that the citizens of Japan dislike. Most of the Japanese well-educated young people do not want to join '3D' '3K' jobs - Dirty (*Kitanai*), Dangerous (*Kiken*) and Difficult (*Kitsui*). These workers lack technical skills, incentives, and promotions and pay increases, good working condition and job security. They are called

<sup>20</sup> Ministry of Justice, Immigration Bureau, quoted in Japan Immigration Association (1995a, p.35; 1996a, p.38; 1997a, p.58, 1998a p.60, 1999a, p.56), quoted in Yoko Sellek, (2001), p.105

<sup>21</sup> Ibid, p.105



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"adjustment values of the business fluctuations". We know that the policies of the Japanese government do not allow the utilization of foreign workers for unskilled job categories. Currently the areas where such type of work is absorbed are construction work, factory work, miscellaneous work, service work such as waiters and hostesses. Their number has been increasing rapidly despite the fact that work visas are not given in these areas and employment is considered a violation of the Immigration law of 1989 (became effective in 1990). The employers say that no Japanese manpower is available even if they wanted to hire Japanese and this is the reason why foreign workers are increasing in these areas.<sup>22</sup>

**Regions of the Country Where Foreign Workers are found: -**

The maximum number of illegal workers is concentrated in Tokyo and regions like Saitama, Kangawa, Chiba and Osaka where the manufacturing industries are mainly concentrated. This sector absorbs good number of industrial labour force.<sup>23</sup> I came in contact with few illegal workers in places like Gyotoku, Roppongi and Asakusa during my fieldwork.

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<sup>22</sup> Kazuaki Tezuka, n. 1, p.25.

<sup>23</sup> Haruo Shimada, n. 4, p.38.

### **Adjustment Problems and Ethnic Discrimination:**

Most Koreans and Chinese residents of Japan and many other foreigners who were born and raised in Japan are native speakers of Japanese language and feel more at home in Japan than those who come to Japan as adolescent or adults. Lack of communication skill in Japanese is one of the biggest obstacles in this regard.<sup>24</sup> In Japan, lineage or race is regarded as the primary determinant of being Japanese. Only those born Japanese can be regarded as Japanese. It is basically for this reason that Koreans and Chinese and other permanent residents are not fully incorporated into the Japanese society. The Japanese collective identity puts relatively strong emphasis on the maintenance of cultural uniformity, the importance of the group and an ethnic harmony. Often all these factors are regarded as contributing factors to Japan's post war economic success. Apart from this Japanese are fearful of any immigration policy that would dilute their homogeneity, collective spirit and group harmony.<sup>25</sup>

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<sup>24</sup> *Kodansha Encyclopedia of Japan*, (Kodansha Limited Tokyo, 1983) P. 313.

<sup>25</sup> Yoko Sellek, *Migrant Labor in Japan*, (Palgrave, New York 2001). P.223

## **Marriage Between Japanese and Foreigners:**

The marriage between Japanese and foreigners do take place. But the immigration officials have not always granted visas to people in these situations and there have been many cases of married people, some even with children, being deported. Foreigners lose their residency status when they are divorced. Divorce rates for marriages between Filipinos and Japanese men are about 70%. Since many of divorced people are dependent on their jobs in Japan for their livelihood they face numerous problems when they return to their respective countries. Besides these, foreigners married to Japanese in case of a divorce are faced with the prospect of returning alone to their home country or taking their children with them.<sup>26</sup>

I met Tejvir Singh,(not original name) an Indian, who is married to a Japanese and now working in construction industry in Tokyo. He told me that he does not have citizenship of Japan and he has to extend his visa from time to time. Foreigners do marry Japanese girl to get permission to stay in Japan. But they never get citizenship. Japanese law is very strict in this regard. He was

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<sup>26</sup> Hiroshi Komai, *Migrant Workers in Japan*, (Kegan Paul International Limited, London and New York 1995), p.256.



having problem regarding extension of visa for further stay. Apart from this, salary of a foreigner married to a Japanese girl goes to her after marriage. Therefore, many divorce cases do take place after few years of marriage. Many Pakistanis and Bangladeshis divorced their Japanese wives due to financial problems and dependence in later years of married life. After divorce, a foreigner does not have any right over his children. In case his wife makes any complaint, he has to leave the country immediately. The same information I got from Shiraj Khan (not original name), a Pakistani, now working in Moti Restaurant, Roppongi.

From the Meiji period (1868-1912) until after world war-II Japanese law did not recognize marriage between Japanese and foreigners. With the amendment of the nationality law in 1950 Japanese women were no longer compelled to change their nationality when marrying a foreigner. But still these Japanese women married to foreigner faced a lot of discrimination. The child of a Japanese man married to a foreigner automatically assumed Japanese nationality but could not adopt mother's nationality in some cases, while the child of a Japanese woman and a non Japanese was obliged to assume the father's nationality or in some cases become stateless.

Another problem was sexual inequality in terms of naturalization for spouses of Japanese nationals. While the foreign husband of a Japanese woman was required to reside continuously in Japan for at least five years, the foreign wife of a Japanese man had no residency requirements at all and could apply for naturalization at the time of marriage. This discrimination made it extremely difficult for the family of a Japanese woman married to a non-Japanese to reside in Japan. The 1984 amendment of the nationality law finally rectified these disparities. This amendment allowed children of non-Japanese fathers and Japanese mothers born after the law took effect in January 1985 to assume Japanese nationality automatically. Children under 20 years of age who had adopted their father's nationality or were stateless were permitted to switch to Japanese nationality under certain conditions. The law also introduced a system whereby children of Japanese and non-Japanese can choose their nationality on reaching a certain age.

Although these amendments represent a big step forward for the children of international marriages, non-Japanese spouses still face great obstacles. For example, under the Japanese immigration control law, the longest period for which non-Japanese spouses of Japanese nationals can receive permission to reside is three years after which the permit must be renewed. Apart from the

inconvenience involved the necessity of renewal implies the possibility of refusal and breeds feelings of insecurity. Moreover, the revised nationality law only outlines the minimum conditions for naturalization, so that it is extremely difficult to ascertain the bases on which naturalization may be refused.

The right to acquire permanent residence status and eventually citizenship in the country of one's spouse is a basic human right and a general rule in the international community.<sup>27</sup>

### **International Movement of Labour**

To define or understand international migration a number of explanatory models have been proposed by a number of scholars. Some emphasize "push" factors from the sending countries while others give emphasis on "pull" factors from the receiving ones. Some scholars look at individual motivations whereas others look at the structures within which people make their decisions regarding migration. The following are the main theories of international migration:

- (a) Neoclassical Economic Theory: - This theory considers differences in the supply and demand for labour in sending

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<sup>27</sup> Takeuchi Hirotsuka, "Immigration Reform for an open society," *Japan Echo*, (Tokyo), vol 14, no.4, Winter 1987, p.23.

and receiving countries and sees workers moving in response to higher wage rates. Workers are seen as moving to maximize the returns on their "human capital". This theory suggests that globalisation will eventually reduce migration.

- (b) New economics of migration - According to this theory migration arises not from individual choice but decision-making by groups, usually families or households. Sending one or more member overseas not only increases the immediate group income but it also diversifies its sources of earnings. It gives some kind of insurance too.
- (c) Dual Labour Market Theory: This theory does not consider migration as some intermediate phase. Migration, according to this theory, has become a permanent and necessary feature of modern industrial societies. Capitalism will always need people who are willing to work in unpleasant conditions and who will accept precarious employment.
- (d) World system Theory - This theory is the synthesis of all the above theories. This theory is a description of how flows of capital, goods and labor fit together and are interlinked.

In addition to these theories, which suggest why migration takes place various other mechanisms have been proposed to explain the volume and character of flows of workers to other countries. Most of these theories are complementary even if they operate at different levels.<sup>28</sup>

T.Morita (1987) analyses factors that promote international movement of labor in his book "International Movement of Labor". He analyses the problem from the economic point of view. He tries to explain the international movement of labor as a component of the system of labor supplies responding to the global and historical development of capitalism.

These are some specific factors that promote international movement of labor. The following three factors are suggested by 1988 version of the overseas labor white paper.<sup>29</sup>

1. There is extreme disparity in population movements and imbalance between supply and demand of labor among countries.

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<sup>28</sup> Peter Stalker, *Workers without Frontiers, The Impact of Globalisation on International Migration*, (Lynne Rienner Publishers, Inc., USA, 2000), pp.131-32.

<sup>29</sup> Kazuaki Tezuka, n.1, p.28.

2. The second factor is related to the extreme disparity in economic development, particularly income levels among various countries.
3. The third factor is related to the existence of institutional mechanisms that promote international movements of labor.

These are some 'pull factors' in this regard.

There is huge income disparity between Japan and other Asian Countries. Japan's GNP is higher than most of the countries in Asia. This income disparity plays an important role in migration. Apart from this it is important to take into account the population disparity between Japan and other countries to understand the movement of labor.

There are two types of 'push countries' in this regard. Korea, China, Taiwan and India generally send college graduates and professionals. On the other side, Philippines, Thailand and Bangladesh generally send unskilled workers. Thus these 'Pull and Push factors' and their inter-relationships regulate the whole system.<sup>30</sup>

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<sup>30</sup> Haruo Shimada, n.4, p.38.

### **Factors Determining the Influx of Foreign Workers in Japan: -**

Foreign workers are drawn into Japan mainly because of strong domestic demand for foreign labor.

This is largely determined by these factors:

- a) The overall demand for labor is determined by the growth of Japanese economy. The influx of foreign workers picked up speed in the mid 1980s reflecting the extraordinary growth of the Japanese economy in the second half of the decade. During this period, which continued till 1990s, propelled by the expansion, which is called "the bubble economy".
- b) Wage level is the second factor determining the demand for foreign labor. The value of Yen had risen approximately 100% against the American Dollar in September 1985. The salaries offered in Japan were thus very attractive to foreigners, even though they were much less compared to the salary offered to a Japanese for the same job.
- c) Nature of the demand for labor is another determining factor. As mentioned earlier the illegal foreign workers in large number are employed in construction and manufacturing works and they are playing important role in productive

workforce. They are, however, engaged in jobs, which are not acceptable to Japanese.<sup>31</sup>

Consequently the demand for foreign labor is determined by various factors like-the total volume of labor demand, economic development of a country, the poor economic conditions, poverty etc. in their own country compelling the workers to migrate to other countries to seek livelihood.

Apart from this, these countries' income level (GNP) is much lower than Japan and thus a widening economic differential exists between them. Thus higher salaries and better life-style is strong incentive for workers to go to Japan. Another remarkable point to be noted is that the foreigners who come to Japan are prepared to take risk in order to uplift their economic standard. They are highly ambitious and energetic people. Consequently it is both demand and supply, which have encouraged workers to go to Japan.

#### **Merits of International Movement of Labour: -**

There are some advantages of international movement of labour such as: -

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<sup>31</sup> Ibid., p.33.



- a) It can improve the quality of labor force through migration distribution of labour takes place. Japan is facing ageing population problem and labour shortages in many fields, which is likely to become more acute in the next two decades. On the other hand, some of the developing countries are facing the problem of over population and unemployment. Therefore a redistribution of population can solve some problems.
  
- b) It can activate the labor force of a recipient country. Cultural assimilation and cultural pluralism can improve the efficiency of the labour class. USA is an example of this phenomenon.
  
- c) Accepting foreign labour can become a powerful form of people centric economic aid. Those people who work abroad send money to their country and help to strengthen the economy of their country. Not only this, they acquire technology where they work and thus work as an agent of technology transfer.
  
- d) It promotes the economic development also. In the process of movement of labor from one country to another, economic

resources are used more efficiently. Transfer of income and technology further promote economic development.

- e) International movement of labour further strengthens mutual ties, understanding, security etc. between the sender and recipient country of labor. In this way conformations become disadvantageous for these countries.<sup>32</sup>

### **Illegal Labour and Its Impact on Japanese Society:**

International movement of labor has some disadvantages as well. The benefit inherent in the movement of labor is seldom fully realised. Movement of labor from one country to another often creates numerous problems that have undesirable social, political, economic and international consequences. For example:

- i) Exploitation of illegal foreign workers is almost certain.
- ii) Employment of illegal foreigners for lower salaries in Japan leads to denial of job to those Japanese who are prepared to do the job. Also the availability of cheap labour in the form of illegal foreign workers has a

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<sup>32</sup> Haruo Shimada, "The Employment of Foreign Labour in Japan", *Annals of the American Academy of Political and Social Sciences*, (Philadelphia, Pennsylvania) vol. 513, Jan 1991, p.121

negative effect on wages and employment conditions for the Japanese marginal workers.

- iii) The availability of foreign labor could hinder the modernization of low wage, labour intensive industries. Labour shortages are the most effective pressure for industrial modernization.
- iv) There is another possibility of dual employment structure. If the discrimination persists for a long period of time against foreign workers, the result will be the formation of a dual labor market structure.
- v) If the influx of illegal foreign workers continues without any restrictions, increase in the number of ghettos is likely in the future. This in turn gives rise to various social problems.
- vi) Since foreign workers are generally exploited and denied other benefits like medical security and pension benefits etc the chances of having accused of exploitation of workers is possible.

## Chapter 3

### Foreign Workers and Crime in Japan

There is a section of Japanese, which is not in favor of too many foreigners entering Japan. The opposition is mainly due to the involvement of foreigners in crimes like drug trafficking, robbery etc.<sup>1</sup> as it is apparent from the White Paper on Police 1995 which states that:

"A surge in crimes by foreign visitors to Japan and the presence of a large number of foreigners illegally staying in this country are a matter of serious concern in terms of public security. The police therefore intend to crackdown thoroughly on crimes involving foreigners illegally staying and to control crimes that directly threaten the security of the nation." (National Police Agency, 1995, p.2)

In 1994, it was reported that the total number of foreign visitors arrested for various crimes like robbery, arson, rape, homicide was 230 and 63.9% of these people were illegal workers in Japan. An increase of 13.1% was recorded from the previous year.

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<sup>1</sup> Richard Friman H., "Immigrants and drugs in Contemporary Japan." *Asian Survey*, (Berkeley), vol-36, no.10, Oct 1996, P-964.

The number of foreigners in Japan arrested in 1994 for drug related crimes were 804 and 47.6% of these were illegal residents. There was 25.6% increase from previous year. According to the paper an estimated 30% of the foreigners staying in Japan are illegal. The number of illegal foreigners involved in felonies and drug related offence is quite high. This has become a matter of great concern since it has an impact on Japan's public order'. (National Police Agency, 1995, pp 127-8). The 1998 white paper of the National Police Agency shows the number of crimes committed by foreign visitors reached 21,670 in that year which represented 11.1% increase on the previous year. The total number of arrested foreign visitors decreased to 5432, which represented 9.8% decrease on the previous year. It shows that the same offenders are involved in more organized crimes (according to The Editorial Section of *Kakusai Jinryu* 1998a, p.8). It is quite clear from the crime statistics that the majority of crimes committed by illegal foreign workers is often non-violent and often related to their illegal status. One of the basic crimes of illegal foreign workers is that their stay in Japan itself is illegal. Further to continue their stay they are involved in forgery of passports and travel documents, falsifying personal matters, smuggling the workers group for employment and other related crimes.

Foreigners who are involved in robbery, burglary, shoplifting and credit fraud have been described 'hit-and-run-offenders'. It is reported that these 'hit-and-run' offenders are those, whose stay in Japan is short. Many of these visitors are said to be the members of organized criminal gangs. These gangs operate for a short time and do not intend to work illegally for a prolonged period in Japan. Their crime is mainly recorded in the white paper on police, which shows a dramatic increase of such instances in recent years.

Role of the media is very crucial in this regard. Media in Japan generally highlights the crimes committed by foreigners. These media-hyped offences play an important-role in formulating public opinion regarding foreigners in Japan. Due to this, police too is compelled to intensify its search for foreigners involved in crimes. This number is recorded in the crime statistics and the general public opinion about foreigners becomes rather low. It has been noticed by the authorities that after the revision of the Immigration Control Act in 1990, number of offences for which a foreigner can be charged has increased. There is discrimination in terms of sentence-suspension rate between Japanese citizens and foreigners. Foreigners face heavy and harsh sentences for minor crimes compared to that of Japanese citizens. When a Japanese criminal is judged, reformatory measures are taken into account along with their rehabilitation in

order to make them a responsible social human being. But the case is somewhat different for foreigners. Protection of Japanese 'peaceful' society becomes the only motive when foreigners are judged and therefore punishment meted out to them is harsh.

It is also found that internationally organized criminal gangs are targeting Japan for several activities like drug trafficking, firearms, money laundering, prostitution and organized pick pocketing. Illegal foreign workers become easy target of these gangs. Chinese and Korean gangs have been found more active particularly in smuggling since 1996.

Due to the increasing number of such crimes, Immigrations control Act was revised on 11 May 1998 and penal codes against smugglers and those who give them shelter were introduced.<sup>2</sup> But the Japanese government's attitude is quite ambiguous according to one of the Korean whom I interviewed. He has been working in a pachinko parlor at Monzen Nakacho for five years. He told me that in most of the cases Japanese government do not strictly interrogate the offenders. They hardly make any enquiry about tax payment, passport and validity of the visa. Therefore, there's a fault in the system itself, which ultimately encourages the offenders.

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<sup>2</sup> Yoko Sellek, *Migrant Labour in Japan*, (Palgrave, New York 2001), pp.208-15.

## **(B) Problems related to Female Foreign Workers in Japan**

During the 1970s a large number of female foreign workers were coming from East Asia and South - East Asia to work in the entertainment industry in Japan. Media in Japan called them *Japayuki-San* (Miss going -to-Japan). Young innocent women from poor countries were going to Japan to work mainly in small bars as hostesses and prostitutes in sex industry. They are mainly controlled and directed by criminal syndicates. They treat these women like prisoners from the moment they enter the country.

Women from Philippines and Thailand were the first to enter Japan and they were employed in bars, clubs, parlours of Major cities. 'Yakuza' name of Japan's organized crime syndicate had established their network for importing prostitutes into Japan during 1980s. Members of the 'Yakuza' offered them lucrative career opportunities in Japan as singers, hostesses or waitresses but ultimately were forced to work as prostitutes. Their economic and social condition is really pathetic. They face a lot of atrocities, sexual abuse, assaults and even murder. They cannot get police protection either.<sup>3</sup>

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<sup>3</sup> Kevin Yamaga Karns, "Pressing Japan, Illegal Foreign Workers and International Human Rights Law and the Role of Cultural Relativism", *Texas International Law Journal*, (Austin), vol.30, no.3, Summer 1995, p.562.



## Trends

- i) Generally males migrate first and females follow them as dependents. But in Japan to begin with female foreign workers arrived in larger number than men. In 1988, for the first time the number of male illegal workers surpassed their number. Gender ratio now is 70:30.

These young women are generally between the age group of 20 and 30. But between the age group of 15-20, their number is higher than males of the same country.

- ii) It has been reported by the immigration authorities and white paper on Police that Thai women are involved with criminal syndicates along with their males. They mainly work in late night restaurants and bars and allegedly involved in organized crime. It has been reported that about 51.2% of these Thai women have some connection with organised crime in Japan. (Japan Immigration Association, 1998a, p.65)<sup>4</sup>

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<sup>4</sup> Yoko Sellek, *Migrant labour in Japan*. (Palgrave, New York, 2001), pp 160-61.

- **Why most of the women workers come from Thailand and the Philippines**

- a) The sociological explanation is that these two countries have matriarchal social structure and due to this, generally women are expected to manage the expenses of their family. Therefore migration is very common in these countries. Women tend to engage in entrepreneurial activities to earn more for family's daily expenses.<sup>5</sup>
- b) Thailand and Philippines have promoted sex industry in their country to enhance mass tourism. As a result, the term 'sex-tourism' evolved and flourished due to low price of sexual services, ready supply of female workers and above all official support. Since Japanese men were the major customers of their sex-tourism and due to this demand for Asian women in Japan increased. The whole network is quite institutionalized.<sup>6</sup>

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<sup>5</sup> Ibid., p.163.

<sup>6</sup> K. Morita, ed. *International Labour Migration and Foreign Migrant Workers*, (Tokyo: Dobunkan, 1994), p.342.

## **Female Foreign Workers and Sex Industry**

It is said that sex and entertainment industry in Japan has always been lucrative. "Anti Prostitution Law" of 1956 prohibits licensed prostitution in Japan. But a lenient attitude towards prostitution has long existed in Japan. This industry has enormous job potential and therefore a strong demand for young and fresh women has always existed. Earlier hostesses working in bars and nightclubs were usually single Japanese women. However now with opportunity to study and get regular decent job they are not drawn towards this profession. Mostly are employed in offices, factories and businesses and other sectors. Asian women have filled the gap.<sup>7</sup>

## **Inflow of Female Migrant workers and International Migration**

Apart from this, government of Japan is also responsible for sad state of affairs. Japan's immigration policy of 1990 prohibits working of unskilled workers. In other countries, women from Philippines are employed as domestic servants and nursing but in Japan they are employed in entertainment and sex industry since alternative job opportunities are not readily available to them.<sup>8</sup>

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<sup>7</sup> Yoko Sellek, *Migrant Labour in Japan*, (Palgrave, New York, 2001), p 168.

<sup>8</sup> T. Kajita, *Foreign Workers and Japan*, (NHK Books 698, Tokyo, 1994), p-140.

The above view is well supported by writers like Iyori Naoko, a well known Japanese scholar. He is of the view that till 1930s, many Japanese women were compelled to leave the country due to poverty. These women were compelled to look for livelihood in China, Malay Peninsula, Indonesia and even faraway Africa. They were called *Karayuki-san* or those who go to China (i.e. abroad). However, after Japan attained economic strength the situation has been reverse. Now women from Philippines, Thailand, Taiwan, South Korea and Latin America come to Japan. They are called *Japayuki-San* (those who go to Japan). Ministry of Justice reports huge influx of *Japayuki-San* in recent times.<sup>9</sup>

Iyori Naoko talks about the recruitment system. In Thailand, recruiters are Thai people of Chinese decent. They sell the young women to Japanese brokers. In Philippines, local recruiters are from Japan. These recruiters invest money for procuring false passports, plane tickets, clothes and other charges and this amount the women repay after start working in Japan. In most cases, links with local police ensure that they will not be prosecuted. Promoters in Japan work in close connection with the recruiters.<sup>10</sup>

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<sup>9</sup> Iyori Naoko, "The Traffic in Japayuki-San", *Japan Quarterly*, (Tokyo) vol. 34, no.1, Jan-Mar 1987, p.84.

<sup>10</sup> Ibid., p.85.

Mitsunobu, a famous Japanese social scientist, is of the view that a couple of years ago, media highlighted the plight of Southeast Asian prostitutes. They were working in nightclubs and entertainment districts in and around Tokyo. They were forced into prostitution by the smugglers and *Yakuzas*.<sup>11</sup>

An Indian, whom I interviewed now working in Siddiqui restaurant at Roppongi, gave me valuable information about sex and entertainment industry in Japan. He told me that there are many businessmen from Nigeria and other African countries who operate these night clubs in different names under Yakuza's protection. These *Yakuzas* control the whole system and even police do not interfere in their business. There are many female workers from Czech Republic, Hungary, Romania, Russia, Philippines, Thailand and Korea in this sector. I talked to one such female sex worker from Hungary, who told me that the female workers initially come to Japan for a short period but they continue to stay on illegally. Since the businessmen who own these pubs and clubs pay their taxes, the administration does not interfere in their business. Businessmen also are obliged to pay a certain amount of their earnings from female sex workers to *Yakuzas*. Without the Yakuza's support and protection they cannot run their business on their own. Roppongi, Todaimae, Ibaraki are some of the areas where this business is flourishing. Government's attitude is quite ambiguous in this regard.

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<sup>11</sup> Sugiyama Mitsunobu, "Should Foreign Workers Be Welcomed?", *Japan quarterly*, (Tokyo) vol. 35, no.3, July - Sept 1988, p.260.

## Chapter 4

### Protecting the Rights of Foreign Workers in Japan: Legal Provisions

As mentioned in the earlier chapters the flow of illegal migrant workers in Japan has constantly been on the increase. This development has given rise to numerous problems. Problems confronting the legal workers are a little different in nature from those confronting the illegal workers. Besides this the presence of foreigners in Japan creates problems for the Japanese government and people. Japan is very much concerned about its culture and society being affected by the presence of foreign workers. Japan remained almost secluded during Tokugawa period (1603-1868). Apart from this Japan's social structure is different in the sense that it is almost a homogeneous society.<sup>1</sup> Fears of social tension, discord, social and economic upheaval in the society have led some to argue that Japan should close the doors tight and exclude foreign labor completely. However, Japan, as a member of the International Community cannot shut its doors completely to foreigners. Moreover, labor has been drawn into Japan only because there is a demand for it.

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<sup>1</sup> Haruo Shimada, *Japan Guest Workers Issues and Public Policies*, (Univ. of Tokyo Press, Tokyo 1994), pp.147-54.

## **Legal Status**

In the present scenario as discussed in the earlier chapter, foreign workers in Japan are facing a number of problems. The conditions in which they live and work in Japan are not very congenial. They are compelled to work without any protection of their basic human rights and are easily vulnerable to discrimination and disadvantage in daily work. The one question, which arises, is that are there laws to protect the illegal foreign workers? Secondly, if there are laws how are they useful in protecting the basic human rights of these workers. Does the law legislate so far only talk of punishing them?

## **Illegal Migrant Workers Under Existing International Human Rights Law**

“International Covenant on civil and Political Rights” (ICCPR) and the “International Covenant on Economic, Social and Cultural Right” (ICESCR) codify the “Universal Declaration of Human Rights” (UDHR) and set the standards for basic human rights. Article 26 of ICCPR states that all persons are equal before the law without- discrimination of any kind based on race, color, sex or other status. It also talks about the right to legal recognition. The right to a remedy for violation of legally granted rights, security of the person and so on. Despite this, the ICCPR maintains explicit distinctions in many areas between citizens and outsiders as well as between

legal and illegal outsiders and does not in fact protect all of these people equally. The ICESCR is generally even less favorable to outsiders than is the ICCPR because of the nature of the rights granted. The examples from the ICCPR and ICESCR thus illustrate the typical exclusion of illegal foreign workers from fundamental rights and freedom under existing international law, maintaining their status as persons outside the protection of the law.<sup>2</sup>

### **The Convention on Migrant Workers**

The international labour organization and United Nation's General Assembly's declaration have recognized the need for the protection of the basic human rights of migrant labor and illegal migrants both. In the 1974 convention of the ILO,<sup>3</sup> greater emphasis was given to the damaging social consequences of the illegal migration and included illegal foreign workers within its protective provisions. Similarly the UN. declaration on the Human Rights of individuals who are not citizens of the countries in which they live<sup>4</sup> clearly talk about the rights of "any individual who is not a national of the state in which he or she is present". It is only a declaration and therefore non-binding.

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<sup>2</sup> Kevin Yamaga Karns, "Pressing Japan: Illegal Foreign Workers Under International Human Rights Law and the Role of Cultural Relativism", *Texas International Law Journal(Austin)* vol.30, no.3, Summer 1995, p.564.

<sup>3</sup> Convention concerning Migrations in Abusive conditions and the promotions of equality of Opportunity and Treatment of Migrant workers, June 24, 1974, 1120, UNTS, 323, as quoted in *ibid*, p.565.

<sup>4</sup> G.A. Res. 144, UN GAOR, 40<sup>th</sup> Sess, Supp. No. 53, at 252 UN Doc. A/40/53 (1985) (Hereinafter Declaration) as quoted in *Ibid*, p.565.



International Convention on the Protections of the form of the "International Convention on the Protection of the Rights of All Migrant workers and their Families" brought about the most significant break through in the protection and recognition of illegal foreign workers rights.<sup>5</sup> It was infact called for by the General Assembly in 1979 and adopted in 1990. This convention is the outcome of the report of the UN sub commission on the prevention of discrimination and protection of minorities entitled "Exploitation of Labour Through Illicit and Clandestine Trafficking". This convention has granted many rights and protections to migrant workers and their families, including domestic privacy, equality with citizens before the courts, respect of cultural identifies and procedural rights in deportation and detention. This convention also talks about the measures to end secret migration and the employment of irregular migrants. The convention states that "workers who are non-documented or in an irregular situation are frequently employed under less favourable conditions of work than other workers. The human problems involved in migration are even more serious in the case of irregular migration".

The convention also talks about the rights of illegal foreign workers in depth. States may discriminate against them in various ways for example with regard to family unity, freedom of movement, public participation,

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<sup>5</sup> International Convention on the Protection of the rights of All Migrant Workers and their families, opened for signature Dec. 18, 1990, Annex to Un Doc A/45/158 (191) (hereinafter convention) as quoted in *ibid.* p.566.

services rendered by the states freedom to join trade union and employment protections.

Haruo Shimada, a well known social scientist is of the view that the convention seems to be inadequate in the sense that it provides neither a grant of amnesty to protect these labourers from deportation or exercising their rights, nor any recognition of the need to make the nature and extent of these rights known to the workers themselves. He says that in the case of Japan, it is futile to expect illegal migrants to exercise rights of which they are unaware or to enforce such rights once they have been deported. Shimada again opines that these foreign workers should be given the right of subsistence because this is the basic human right. They must be given social security including workers' accident compensation, medical insurance and pensions. United Nations and International Labour Organisations have adopted important measures to safeguard the interest of these foreign workers. The ILO, which was established in 1919, has made conventions and recommendations to secure their right of resistance. ILO's conventions include the conventions on the Equal Treatment of Nationals and Foreigners with regard to Worker's Accident compensation (Convention 19, 1925). The convention on the establishment of an International system for preserving the Rights of Immigrants based on disability, old age, widows and orphans insurance (convention 48, 1935), the convention on the equal Treatment of Nationals and Foreigners with regard to social security (Convention 118,

1962), and the convention on the Establishment of an International system to preserve social security rights (Convention 157, 1982). Japan has not ratified any of these conventions except number 19. Convention 48 was the first comprehensive convention protecting the rights of immigrant workers and it was adopted in 1935. Convention 118 was the replacement of convention 48 and it was adopted after Second World War, which demanded reciprocal treatment for all foreigners whose own countries had ratified the convention, except refugees and people with no nationality.<sup>6</sup>

In 1948, the United Nations Universal Declaration of Human Rights was adopted which states that all people, as members of a society should have the right to social security. There should be no discrimination on the basis of their national origin. In 1966, United Nations adopted two legally binding international human rights agreements – Agreement A and B. Agreement A is related to social rights and Agreement B is related to right to liberty. Here it is important to note that Agreement A was ratified by Japan in 1979. By the end of 1994, 92 nations had ratified this Agreement. This Agreement urges all signatory nations to ensure that the rights are granted without any discrimination to individuals based on their origin. United Nations in 1976, adopted a treaty on the status of Refugees, which was ratified by Japan in 1982. According to this treaty, foreigners and native citizens must be treated equally in terms of income support and social

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<sup>6</sup> Shimada n.1, pp.157-58.

security. Japan adopted laws and brought significant changes to make the treaty effective. Due to all these significant measures taken by ILO and UN, the international community seriously established international standards for all foreign workers without any discrimination on the basis of state of their origin. These standards are being accepted by international community all over the world.<sup>7</sup>

### **Domestic Legislation**

As mentioned earlier, in 1990, the Ministry of Justice enacted the new Immigration control and refugee recognition Law and reaffirmed the traditional law on unskilled foreign labor. Another amendment to the 1990 law imposes criminal sanctions- three years imprisonment and/or a ¥2 Million fine on those encouraging illegal employment. This measure includes employers as well as brokers. Under existing law, government officials at all levels are obliged to report to the Immigration Control Board (ICB) about the presence of deportable outsiders.<sup>8</sup>

### **Foreign Workers Rights: Japan's Constitution**

There is no clear-cut definition of the status of foreign workers in Japanese constitution consequently whether provisions in the UN covenant

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<sup>7</sup> Ibid., p.159.

<sup>8</sup> Kevin Yamaga-Karns, "Pressing Japan: Illegal Foreign Workers Under International Human Rights Law and the Role of Cultural Relativism", *Texas International Law Journal*, (Austin) vol. 30 no.3, 1995, Summer, 1995, pp.563-4.

is applicable to them is a matter of confusion, debate and interpretation only. This can be understood by one example. There is a chapter “Rights and Duties of the People” and under this chapter, there is provision of right to equality (Article 14) and right to subsistence (Article 25). But there is a debate and confusion about the applicability of these rights and duties – does the articles cover the foreigners or is it only for Japanese citizens.

Apart from this interpretation, following are the basic human rights granted only to the Japanese

Article 15 – voting rights

Article 25 – right to subsistence

Article 26 – Right to education

Article 27 – Right to work

Whereas, the other rights are equally granted to the foreigners, these are:

Article 13 – Respect for the individual

Article 14 – the Principle of Equality

Article 16 – the Right of Petition

Article 18 – Prohibition of bondage and involuntary servitude

Article 19 – Freedom of thought and conscience

Article 20 – Freedom of Religious Belief

Article 21 – Freedom of Assembly, Marriage and expression and the Protection of the privacy of communication.

Article 22 – Freedom to reside where one chooses and change one's occupation.

Article 23 – Academic Freedom

Article 24 – Dignity of the individual in family Relations and Equality of the sexes.

Article 28 – Workers' Rights to organise and Bargain Collectively

Article 29 – the Right to own or hold property.

Article 31-40 – Restrictions on the state's Right to Imprison, Try and Punish People.

Haruo Shimada is of the view that the foreign workers should be granted rights similar to the Japanese citizens ie those rights stated in Article 15,25,26 and 27.<sup>9</sup> For example:

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<sup>9</sup> Ibid., pp.162-63.

(1) Workers' Accident Compensation is one of the most basic rights that must be guaranteed to all workers. In Japan too relating to this matter laws do exist.

Accident Compensation Insurance Applied to Foreign Workers in Japan is as follows:

This insurance scheme gives benefit in the event of injury, disability, disease or death of a worker resulting from on the job cause or commutation. The law is applicable to all the workers engaged in work without any discrimination on the basis of their country of origin and legality and illegality of their work. These are the benefits paid by this scheme:

- (a) Medical care (compensation) Benefit: paid for on-the-job injury or sickness.
- (b) Temporary Disability (Compensation) Benefit – paid from the fourth day for days on which no wage can be earned because of temporary inability to work.
- (c) Injury and sickness (compensation) Pension: It is given when workers do not recover from on the job injury or sickness even after one year.
- (d) Disability (compensation) Benefit: It is given in certain cases of disability.

- (e) Surviving Family (Compensation) Benefit, Funeral Expenses: It is given to a surviving family of a worker who has died of any on-the-job cause and funeral expenses are given to the person holding the funeral.
- (f) Care (compensation) Benefit: It is given in the event of constant or occasional caring to all grade 1 persons under disability (compensation) pension or injury and sickness (compensation) pension and some grade 2 persons (only for mentally and nervous disability or breast and abdomen internal organs disability).<sup>10</sup>

The law does not make any discrimination between a citizen and a foreigner; even illegal workers are entitled to some benefits. But there are a number of inherent problems in actually implementing the system, for example:

- i. Most of the legal foreign workers injured at work are often compelled to return home. At this stage even they face many problem due to many procedures related to applications, billing and payments.
- ii. In case of the illegal workers who suffer injury they do not demand compensation due to fear of deportation by the authorities. After the revision of immigration law of 1990 the illegal worker are still more

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<sup>10</sup> *Q&A, about working in Japan*, The Ministry of Labour, (Japan, n.d.), p.40.



frightened to demand their compensation due to them. The new law is rather harsh. Working illegally is criminal offence.<sup>11</sup>

I met an Iranian, during my fieldwork in Tokyo. He has been working in service sector for three years. He told me that legal foreign workers do get accident benefits. About 70% of the financial assistance is given by medical board. They're insured for 30% only. But illegal foreign workers do not have such facilities. Therefore, they have to face severe problems in case of accidents; apart from this, their employers are charged heavy penalty for employing them.

(2) Compensation for unemployment and income support: The problem of social security benefits is another big problem especially when an individual is unemployed. When a worker is unemployed the employment insurance scheme gives benefits or when a worker is enrolled in educational training. The aim is to provide workers' with some basic support to enable him/her to survive in adverse situations. Foreign nationals working in Japan too are covered by this scheme without any discrimination of nationality.<sup>12</sup>

The qualified and legal foreign workers in Japan can avail the benefits in principle but in reality the situation is quite different. Benefits are given only to Koreans who are permanent residents and the dependants of

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<sup>11</sup> Shimada, n.l, p.164

<sup>12</sup> Q&A, About Working in Japan, "The Ministry of Labour, (Japan, n.d), p.41.

Japanese citizens. All other unemployed foreign workers are compelled to leave the country.<sup>13</sup>

Japanese citizens are also covered under the livelihood protection law. This facility was extended to foreign nationals under the old livelihood protection Act of 1946. However, now this facility is incorporated in Article 25 of the Japan's constitution (i.e. right to subsistence) and is applicable to Japanese citizens only. However, foreigners and to some extent illegal foreign workers can avail child benefits, disability benefits, mental infirmity benefits and old age pensions too. Foreigners are now entitled to receive child benefits because of Japan's ratification of the 1979 International Agreement on Human Rights and its signing of the 1982 Treaty on the status of Refugees. But the right to subsistence (Article 25 of the constitution) does not apply to foreigners.<sup>14</sup>

(3) Medical facilities/benefits/security is another important necessity for human beings.

The system of Employees' Health Insurance covers all those workers who are employed regularly at business establishments without any

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<sup>13</sup> Ministry of Labour, Employment Security Bureau, ed., "A Manual of foreign Labour Problems", Labour Administration Research Institute, 1991, as quoted in Shimada Haruo, "Japan's Guest Workers", Issues and Public Policies, University of Tokyo Press, 1994, p.165.

<sup>14</sup> Shimada, n.l, p.165.

discrimination on the basis of their nationality, salary, age etc. This system secure livelihoods in the case of sickness injury childbirth or death.<sup>15</sup>

The system covers all the Japanese people. A larger number of legal foreign workers contribute to health insurance taken out by their employers and receive equal benefits as Japanese people. However, this insurance scheme does not cover the illegal foreign workers.

According to Yoko Sellek, a famous sociologist and Japanologist, there are two kinds of public health insurance programmes in Japan- *Kokumin Kenko hoken* (national health insurance) and *Kenko hoken* (health insurance or private corporate health insurance). There is no bar regarding nationality for these programmes. People who join these schemes pay only 10-30% of their medical expenses. The cost of hospitalisation is not included in it. The national insurance programme is basically for self employed people and for those people who are on pensions or for anyone who cannot be covered by insurance schemes for company employees of public servants. The enrolled people – individual and family are charged 30% of the medical fees. Till 1981, foreigners due to the nationality clause were not allowed to enrol in this scheme even though earlier between 1938 –1958, this programme was open to foreigners.<sup>16</sup>

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<sup>15</sup> *Q&A, About Working in Japan*, The Ministry of Labour, (Japan, n.d.), pp.42-43.

<sup>16</sup> Yoko Sellek, *Migrant Labour in Japan*, (Palgrave, New York, 2001), p.144.

Reports reveal that since 1990 these foreigners who have overstayed when sick avoid hospitals due to fear of expenses and also due to the fear of being detected. Consequently often due to improper use of medicine lack of Japanese communication skill and last minute treatment worsens their illness. The illegal workers are more prone to sickness since a large percentage of them are involved in '3D' (dirty, difficult and dangerous) jobs . All these factors make their condition more pathetic and inhumane. Due to the expensive medical care in Japan many of them are unable to pay their medical bill. Until very recently the ministry of Health and Welfare has not provided any solution to this problem.<sup>17</sup>

The Iranian also informed me though the legal foreign workers receive medical benefits only 70-80 percent of them are really availing this benefit. The others do not avail mainly because they have problem in understanding provisions written in Japanese language. Apart from this, the cost of medicines and other charges are too expensive to bear for them. Medical benefits are generally self-financing. The illegal foreign workers do not receive such benefits and therefore their condition becomes critical during illness and injuries.

(4) Educational right: This is another very important human right but constitutionally again this is applicable to Japanese citizens only. There are

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<sup>17</sup> Ibid., p.148.

several schools for foreigners catering to their requirement. However, for illegal worker regular schools are quite out of reach. Many of them attend the numerous language schools to enable them to stay on in Japan. Some of them manage students visa as well. Besides knowledge of Japanese is also very essential. Nevertheless, illegal foreign workers should be given basic essential education in order to make them functional members of society.<sup>18</sup>

The same respondent replied me that a Japanese child gets almost free education upto higher secondary level but this facility is not given to the children of foreign workers. They have to spend heavy amount for the same. Thus, there is discrimination between them in this regard. —

(5) Housing right:

The search for housing in Japan often poses a greater challenge than looking for a job. The problem is more severe for foreigners especially whose stay is not legal. Many real estate agencies simply do not entertain Asian foreigners. Public housing is basically available only to permanent residents who also face discrimination.<sup>19</sup>

I met a Chinese, and asked him about housing rights. He replied me that apart from medical and other insecurity, the foreign workers are facing

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<sup>18</sup> Shimada, n.1, p.167.

<sup>19</sup> Hiroshi Komai, *Migrant Workers in Japan*, (Kegan paul International Limited, UK, 1995), pp.140-41.

the problem of housing in Japan. The Japanese are quite reluctant to rent out their houses to Asian foreign workers. Insufficient equipment is another big problem.

(6) Pension rights: There are two types of pension schemes in Japan: *Kokumin Nenkin* and *Kosei Nenkin*. The *Kokumin Nenkin* programme is open for those people who come under national health insurance scheme. This scheme is administered by local authority with some funding provided by the national government. A person who comes under 20-59-year category and has an address in Japan may join the programme. In the case of *Kosei Nenkin*, enrolment criteria are below 65 year. Apart from this one should be employed by companies that subscribe to the health insurance scheme. Both the schemes are applicable to foreign residents but lack popularity. It was possible to apply for national health insurance and *Kokumin Nenkin* separately in the case of *Kokumin Nenkin* until 1995. But in the case of *Kosei Nenkin* until very recently foreigners could not be given full benefit from joining the pension scheme.<sup>20</sup>

Apart from this, many foreigners face difficulties in receiving pensions. Often the treatment given to them is unfair. For receiving old age pension one should be enrolled within the system for at least 25 years. Most foreigner cannot fulfil this criteria since their stay in Japan is for a short

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<sup>20</sup> Yoko Sellek, *Migrant Labour in Japan*, (Palgrave, New York, 2001), p.152.

period . Most of the time they do not join any scheme since the chances of their money being refunded are slim.<sup>21</sup>

Some scholars are of the opinion that this problem could be resolved by international agreements for mutual fulfilment of pension claims between Japan and other countries. Many countries have taken such steps with other countries but Japan has yet to take such steps. This problem acts as a major disincentive to all legal and trained foreign workers to remain in Japan for a prolonged period.

(7) Rights of voting:

Only Japanese citizens are entitled to vote in local and national elections. It is only very recently that Korean and other permanent residents have been granted the right to vote in local elections, other foreigners have been denied this right. As a result foreigners who work in Japan contribute to their economy but are deprived of having a say in the governance of the country. Sweden and Netherlands are the only two countries in the world who have granted voting rights to foreign workers employed in their country. Nevertheless, some restrictions have been imposed upon them. Germany too is planning to adopt some such policy. In Japan, some local

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<sup>21</sup> Shimada, n.1, pp.169-70. -

authorities favour the idea of granting such rights to foreign workers at least in local elections.<sup>22</sup>

There are other two important rights which I have not mentioned which give an opportunity to a foreign worker to live in with dignity i.e. – the freedom to choose one’s occupation and the right not to be discriminated against in employment. These rights, however, are and can be mainly applicable to the citizens or those who are on working visa. Undoubtedly legislative and policy reforms are necessary to solve the problem of foreigners working in Japan. However, in addition to this the attitude of Japanese is also to be taken into consideration.

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<sup>22</sup> Ibid., pp.170-71.



## Summary and Conclusion

The period starting from the early 1950s until the mid 1980s was the period of Japan's economic boom. This period, however, did not witness recruitment of a large number of foreign workers as it happened in Western Europe. Since the 1960s, Japanese companies have managed to raise labor productivity by improving manufacturing techniques and by increasing direct investment in Southeast and East Asia in particular. The employment of labour abroad became a substitute for the importation of foreign labour. Japanese companies generated huge trade surpluses, which helped Japan achieve a high percapita GNP in the world. Due to this remarkable success since the mid 1980s, Japan has attracted the attention of foreign workers from throughout Asia, who are looking out for employment and decent living.

Other factors responsible for this transformation are - demographic forces, i.e., reduced fertility rates and rapid population ageing. Gradually there was also shortage of indigenous labour in certain industries caused partly by the changing lifestyle of young Japanese and their rejection to take '3D' (dirty, dangerous and difficult) jobs and finally the appreciation of the yen. Apart from these factors, the global activities of Japanese enterprizes have contributed to the formation of networks facilitating the movement of people as well as capital.

The issue of foreign workers in Japan is not new. Before World War II, Japan brought foreign workers from the Korean Peninsula, which it had colonized. They were eventually incorporated into the bottom strata of society as *Zainichi*' Koreans and Chinese. The harbinger of the present situation was the flow of trainees into Japan during the late 1960s and early 1970s. If in the 1970s it was foreign female workers who came to Japan in large number to work in the sex and entertainment industry 1980s saw a huge inflow of foreign male workers. They came to work as manual laborers in the manufacturing and construction industries. Recently students at Japanese language schools have joined the ranks of foreign labourers especially in service industry. Since the beginning of the 1990s a huge inflow of Latin Americans of Japanese decent mainly from Brazil is seen.

Japan remained an isolated society for many years especially between 1603-1868. If Japan wants to play a significant role in the world, it is very difficult to neglect the rights of foreign workers. Japan is considered an economic power and in the era of globalization it cannot isolate itself from outside world.

The areas in which a large number of foreign labour were employed was in the medium and small sized companies. These companies suffered from chronic labor shortages in industries such as construction, manufacturing, service and entertainment.

In order to curb employment of illegal foreign workers, the Immigration Control Act was revised in 1990. Strict action was to be taken against employers who knowingly hired illegal foreign workers as well as against labour brokers who recruited them for Japanese companies. It may not be incorrect to say that the government itself has imported unskilled foreign labor to sort out its domestic labor problem by using informal 'side-doors' mechanism.

The system of foreign 'trainees'- which is supposed to contribute to the economic expansion of developing countries - has been used as a pretext to import labourers to the unskilled job sectors. The most important element of Japan's side-door mechanisms for labor importation is the policy of admitting South-American Japanese descendants to come to Japan to work on an unlimited basis under the 'Revised Immigration Control Act'. In this sense, foreign trainees, pre-college students, entertainers and *Nikkeijin* have been used as substitutes for illegal foreign workers. Although the government has 'officially' forbidden the entry of illegal foreign workers, in reality it has 'unofficially' admitted a stream of foreign unskilled labor.<sup>1</sup>

Today's global labor market largely determines the flow of people despite the strict rules of government regarding immigration. In a growing global economy when the whole world is moving towards greater economic

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<sup>1</sup> Yoko Sellek, *Migrant Labor in Japan*, (Plagrave New York, 2001), p. 221.

integration and cultural exchange, it is impossible to separate the free flow of people from the free flow of capital, goods and ideas all over the world. It is very much possible that as a part of the economic and financial globalization processes, flows of highly skilled workers employed in the international trade and investment sectors will also serve to encourage flows of less skilled workers. Despite the Japanese government's attempts during the recession, the development of ethnic networks and ethnic entrepreneurship has continued. In the present circumstances it is very difficult to control effectively the influx of foreign workers in Japan.

Unlike political, social and civil rights which are based on the distinction between national and foreigner, human rights are not dependent on nationality and all residents whether citizens or not, can claim their human rights. International human rights are 'today a force that can undermine the exclusive authority of the state over its national and thereby contribute to transforming the interstate system and international legal order'. Japan's image is not very good in terms of the application of human rights. There are increasing number of cases where foreign residents in Japan including illegal stayers, have petitioned the government on the basis of international human rights codes.<sup>2</sup>

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<sup>2</sup> Ibid, p. 229.

Some possible solutions to these problems have been suggested by Haruo Shimada, a social scientist and Japanese scholar:

- (i) Foreign nationals with advanced knowledge and skill should be welcomed to Japan. The current Immigration control law in principal aims at keeping out foreign workers who may compete directly with Japanese workers.
- (ii) The use of illegal workers for '3D' jobs should be stopped. Labor shortages in such areas are in fact beneficial as a means of stimulating improvement in job content and employment conditions.
- (iii) Work and learn program should be set up to offer foreigners a chance to acquire skills and knowledge while working in Japan.
- (iv) The proper solution to Japan's domestic labor shortage lies in the restructuring of employment patterns to take advantage of under utilized labor resources including older people, women and worker of economically deprived regions in Japan.
- (v) Jobs for nation's citizens should be provided within that country. If Japan has an obligation to contribute to the employment of people in neighboring countries, that contribution should be made through activities that lead to the growth of job opportunities within those

countries, such as importing their goods, investing in their industries and providing them with economic assistance.

The creation of work and learn program as proposed by Haruo Shimada, involves three phases: -

- (a) The Immigration control law should be partially amended to make working and learning a residence status category along with training.
- (b) Large scale training centres should be set up in Japan and abroad to teach the Japanese language and basic skills. A working knowledge of Japanese is an essential prerequisite for trainees. These centers could be established and operated with funds mainly from the government's official development and budget.
- (c) A co-ordinating agency should be established to examine applicant's qualifications, select and place trainees and administer various aspects of the plan.<sup>3</sup>

Hiroshi Komai, a famous Japanese sociologist has suggested three types of policy proposals. The first composed of 'urgent proposals', ought to be implemented immediately, the second a 'middle term program' and the third a 'long term plan'.

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<sup>3</sup> Haruo Shimada, "The Employment of Foreign Labor in Japan," *Annals of American Academy of Political and Social Sciences*(Philadelphia,Pennsylvania) vol 513, January 1991, pp.117-29.

In the immediate term plan he talks about the protection of the human rights of the 6,00,000 or more foreign workers now living in Japan. Apart from this he says that municipal government should strengthen their systems to deal with foreign workers. He also suggests the review of the revised Immigration Act, of trainee category, review of immigration policy, which is extremely harsh to foreigners. He is in favour of offering Japanese language education to third world countries. There are some NGOs which are working to safeguard the interest of foreign nationals in Japan. These NGOs include 'Kalabaw no Kai' in Yokohama, 'ALS no kai' in Nagoya, and the 'HELP women's shelter' and 'CALL Network' in Tokyo. These organizations should be given rights and institutional status.

It is very difficult to expel the people working who are illegal residents. It is almost impossible to stop the further flow of such people in the country. The influx of legal foreign workers will certainly increase in coming years. Trying to stop this flow will surely enhance human rights violations against illegal or undocumented workers in Japan.

Under medium term plan,

- (i) illegal residents in Japan should be granted amnesty. A large number of such people have already lived in Japan for many years and they have continued to live and work under the threat of discovery. Deportation would have severe consequences for them. There should

not be any limitation on the employment or residency of people who are granted amnesty, Japan followed the policy of 'monoethnicism' for many years and therefore discriminated against and drove away foreigners. The long-term settlers like resident Koreans and Chinese as well as Ainu people should be incorporated into Japanese society. It will transform Japanese society into a multicultural society.

(ii) Japan should sign the "International convention on the Elimination of all forms of Racial Discrimination". This treaty prohibits employments and housing discrimination as well as racial hatred and violence. In Japan particularly housing discrimination against foreign workers is increasing day by day and therefore it should be properly addressed. This treaty along with the "Convention on the Elimination of All Forms of Discrimination Against Women" and the "Convention on the Rights of the Child" is one of the pillars of human rights protection. It has the greatest number of signatories of all the human rights treaties.

(iii) Japan should sign the "International Convention on the protection of the Rights of All Migrant Workers and Members of Their Families." This treaty is concerned with labor conditions, social security and cultural autonomy and gives attention to the needs of undocumented workers and their families.



(iv) The Contents of alien registration must be simplified. They should not carry this card all the time. The re-entry permit system must be reviewed. Foreigners should have opportunities to work as public servants. Voting and election rights should be granted at the local government level at least. They should be permitted to become members of local welfare commissions, boards of education and commissions for the protection of fundamental human rights and should be granted the right to make resident petitions also.

(v) Korean residents of Japan for over three generations be eligible for citizenship.

(vi) The schools founded by ethnic groups (like Koreans) should be promoted. Therefore ethnic education should be given to the children of foreigners.

There should be global accords on the international migration of peoples.<sup>4</sup> If Japan continues to neglect their basic rights, it could be accused of international exploitation of labor and that will seriously hamper its image and interest all over the world.

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<sup>4</sup> Hiroshi Kamai, *Migrant Workers in Japan*, (Kegan Paul International Limited, London and New York, 1995), pp 253-62.

Table 1 List of Status of Residence

◎ Which are given based on the contents of respective activity

\* Working is permitted within the range specified in the respective status of residence

○ Immigration Control and Refugee Recognition Act - Annexed Table 1 (1)

- Diplomat (e.g. diplomats)
- Official (e.g. staff of international organizations)
- Professor (e.g. university professors)
- Artist (e.g. musicians, painters, authors)
- Religious Activities (e.g. members of religious organizations)
- Journalist (e.g. foreign press agency journalists, photographers)

○ Immigration Control and Refugee Recognition Act - Annexed Table 1 (2)

- Investor/Business Manager (e.g. directors of overseas companies)
- Legal/Accounting Services (e.g. lawyers, public certified accountants)
- Medical Services (e.g. doctors, dentists)
- Researcher (e.g. research workers)
- Instructor (e.g. high school language teachers)
- Engineer (e.g. system engineers)
- Specialist in Humanities/International Services (e.g. interpreters, designers, in-house language teachers)
- Intra-company Transferee (same as the preceding two)
- Entertainer (e.g. dancers, actors, singers, professional athletes)
- Skilled Labour (e.g. foreign cuisine chefs, sports instructors, precious metal craftsmen)

\* Working not permitted

○ Immigration Control and Refugee Recognition Act - Annexed Table 1 (3)

- Cultural Activities
- Temporary Visitor

○ Immigration Control and Refugee Recognition Act - Annexed Table 1 (4)

- College Student
- Pre-college Student
- Trainee
- Dependent

\* Working may be possible depending on the contents of individual permits

○ Immigration Control and Refugee Recognition Act - Annexed Table 1 (5)

- Designated Activities (e.g. working holiday maker, trainee under the Technical Intern Training Programme)

◎ Which are based on personal relationship or status

\* No restriction on working

○ Immigration Control and Refugee Recognition Act - Annexed Table 2

- Permanent Resident
- Spouse or Child of Japanese National
- Spouse or Child of Permanent Resident
- Long Term Resident (e.g. 3rd generation Japanese)

(Note) Even if working is not permitted under the status of residence (e.g. College Student and Pre-college Student), working may be allowed within the range of an extra-status of residence activity permit if this has been obtained.

Q and A About Working in Japan, The Ministry of Labor, Japan  
Aug, 2000, p. -4-

Table 2 List of Status of Residence and Period of Stay

Immigration Control and Refugee Recognition Act - Annexed Table 1

(1)

Status of residence	Activities authorized to engage in	Period of stay
Diplomat	Activities on the part of constituent members of diplomatic missions or consular offices of foreign governments hosted by the Government of Japan; activities on the part of those who are provided with similar privileges and/or immunities as is given to diplomatic mission in accordance with treaty or international customary practices; and activities on the part of their family members belonging to the same household.	The duration of activities (diplomatic activities)
Official	Activities on the part of those who engage in official business of foreign governments or international organizations recognized by the government of Japan; and activities on the part of their family members belonging to the same household (excluding the activities described in this table's "Diplomat" column).	The duration of activities (official activities)
Professor	Activities for research, direction of research or education at colleges, equivalent educational institutions or "Kôtôsenmon-gakkô".	3 years or 1 year
Artist	Activities for the arts that provide income, including music, the fine arts, literature, etc. (excluding the activities described in the "Entertainer" column of Table (2)).	3 years or 1 year
Religious Activities	Missionary and other religious activities conducted by foreign religionists dispatched by foreign religious organizations.	3 years or 1 year
Journalist	News coverage and other journalistic activities conducted on the basis of a contract with foreign journalistic organizations.	3 years or 1 year

(2)

Status of residence	Activities authorized to engage in	Period of stay
Investor/Business Manager	Activities to commence the operation of international trade or other business, to invest in international trade or other business and to operate or manage that business, or to operate or manage international trade or other business on behalf of the foreign nationals (including the foreign corporations; hereinafter in this section foreign national is to include foreign corporation) who have begun such an operation or have invested in such a business (excluding the activities to engage in the operation or management in the business which are not allowed without the legal	3 years or 1 year

	qualifications described in this table's "Legal/Accounting Services" column).	
Legal/Accounting Services	Activities to engage in legal or accounting business, which is required to be carried out by attorneys recognized as foreign law specialists under foreign lawyers' law ("GaikokuhōJimubengoshi"), certified public accountants recognized as accountants practicing foreign accounting under the Accountant Law ("Gaikokukōnin-kaikeshi") or those with other legal qualifications.	3 years or 1 year
Medical Services	Activities to engage in medical treatment service which is required to be undertaken by physicians, dentists or those with other legal qualifications.	3 years or 1 year
Researcher	Activities to engage in research on the basis of a contract with public or private organizations in Japan (excluding the activities described in the Professor column of Table (1)).	3 years or 1 year
Instructor	Activities to engage in language instruction and other education at elementary schools, junior high schools, high schools, schools for the blind, handicapped children's schools, advanced vocational schools ("Senshūgakkō"), vocational schools ("Kakushugakkō") or the other educational institutions equivalent to vocational schools in facilities and curriculum.	3 years or 1 year
Engineer	Activities to engage in service, which requires technology and/or knowledge pertinent to physical science, engineering or other natural science fields, on the basis of a contract with public or private organizations in Japan (excluding the activities under "Professor" column of Table (1) and excluding the activities described in the "Investor/Business Manager", "Medical Services", "Researcher", "Instructor", "Intra-company Transferee" and "Entertainer" columns of this Table).	3 years or 1 year
Specialist in Humanities/ International Services	Activities to engage in service, which requires knowledge pertinent to jurisprudence, economics, sociology or other human science fields or to engage in service which requires specific ways of thought or sensitivity based on the experience with foreign culture, based on a contract with public or private organizations in Japan (excluding the activities described in the "Professor", "Artist" and "Journalist" columns of Table (1) and excluding the activities described in the "Investor/Business Manager", "Legal/Accounting Services", "Medical Services", "Researcher", "Instructor", "Intra-company Transferee" and "Entertainer" columns of this Table).	3 years or 1 year
Intra-company Transferee	Activities on the part of personnel who are transferred to business offices in Japan for a limited period of time from business offices which are established in foreign countries by public or private	3 years or 1 year

	organizations which have head offices, branch offices or other business offices in Japan and who engages at these business offices in the activities described in the "Engineer" or "Specialist in Humanities/International Services" column of this table.	
Entertainer	Activities to engage in theatrical performances, musical performances, sports or any other show business (excluding the activities described in the "Investor/Business Manager" column of this table).	1 year, 6 months or 3 months
Skilled Labour	Activities to engage in service, which requires industrial techniques or skills belonging to special fields on the basis of a contract with public or private organizations in Japan.	3 years or 1 year

(3)

Status of residence	Activities authorized to engage in	Period of stay
Cultural Activities	Academic or artistic activities that provide no income, or activities for the purpose of pursuing specific studies on Japanese culture or arts, or activities for the purpose of learning and acquiring Japanese culture or arts under the guidance of experts (excluding the activities described in the columns from "College Student" to "Trainee" in Table (4)).	1 year or 6 months
Temporary Visitor	Sightseeing, recreation, sports, visiting relatives, going on inspection tours, participating in lectures or meetings, business contact or other similar activities during a short period of stay in Japan.	90 days or 15 days

(4)

Status of residence	Activities authorized to engage in	Period of stay
College Student	Activities to receive education at colleges or equivalent educational institutions, specialized courses of study at advanced vocational schools ("Senshūgakkō"), educational institutions designated for preparing persons who have completed 12 years of education at schools in foreign countries to enter college, or "Kôtōsenmongakkō".	2 years or 1 year
Pre-college Student	Activities to receive education at high schools, high school courses of schools for the blind or of handicapped children's schools, higher or general courses of advanced vocational schools ("Senshūgakkō), or vocational schools ("Kakushugakkō") (excluding the educational institution described in the "College Student" column of this table) or the other educational institutions	1 year or 6 months

	which are equivalent to vocational schools in facilities and curriculum.	
Trainee	Activities to learn and acquire the technology, skills or knowledge at public or private organizations in Japan (excluding the activities described in the "College Student" and "Pre-college Student" columns of this table).	1 year or 6 months
Dependent	Daily activities on the part of the spouse or unmarried minor child of those who stay in Japan with the status of residence mentioned in Tables (1), (2) or (3) (excluding "Diplomat", "Official" and "Temporary Visitor") or of those who stay with the status of residence of "College", "Pre-college" or "Trainee" in this table.	3 years, 2 years, 1 year, 6 months, or 3 months

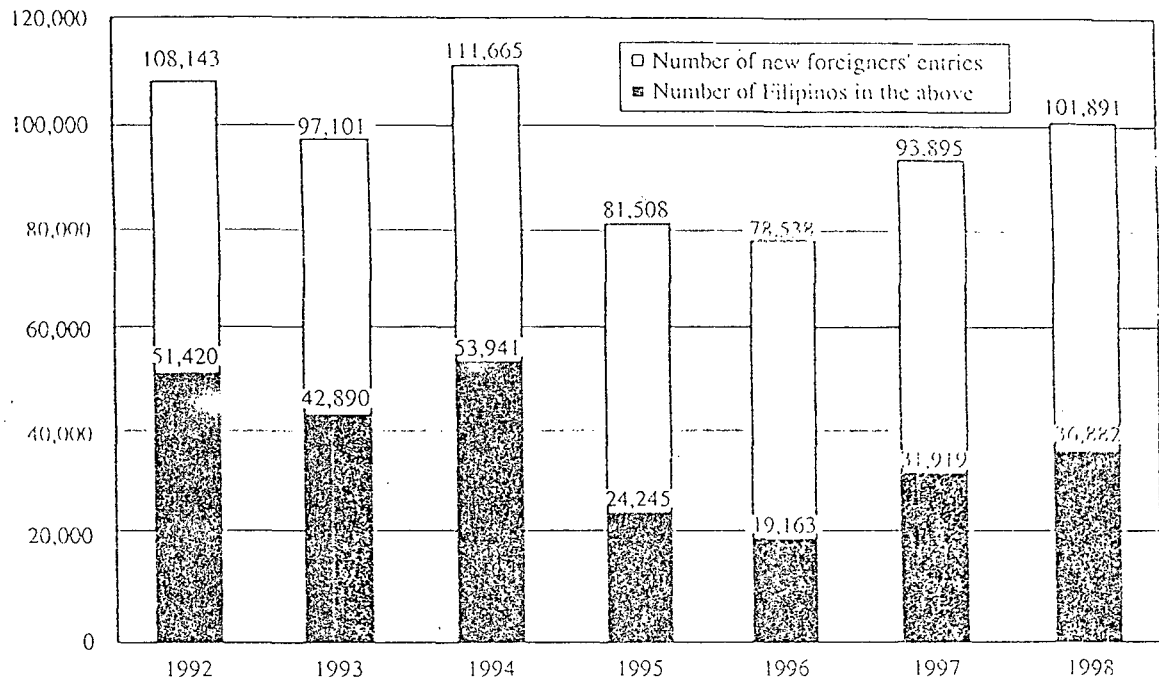
(5)

Status of residence	Activities authorized to engage in	Period of stay
Designated Activities	Activities which are specifically designated by the Minister of Justice for foreign individuals.	<ol style="list-style-type: none"> <li>1. 3 years, 1 year, or 6 months for persons designated under activities described in the Notification of Designated Activities</li> <li>2. A period of less than 1 year designated by the Minister of Justice with respect to individual foreign nationals designated under activities other than those in 1. above</li> </ol>

Immigration Control and Refugee Recognition Act - Annexed Table 2

Status of residence	Personal relationship or status within Japan	Period of stay
Permanent Resident	Persons granted permanent residence by the Minister of Justice.	Indefinite
Spouse or Child of Japanese National	Spouses of Japanese nationals, children adopted in accordance with the provisions of Article 817-2 of the Civil Code (Law No. 89 of 1896), or children born to Japanese nationals.	3 years or 1 year
Spouse or Child of Permanent Resident	Spouses of those who have Permanent Resident status or those who are Special Permanent Residents as described in the Special Law on Immigration Control, including those who have renounced their nationality due to a peace treaty (hereinafter abbreviated to "Special Permanent Residents, etc."), or children born to Permanent or Special Permanent Residents, etc. who have continued to stay in Japan thereafter.	3 years or 1 year
Long-Term Resident	Persons who are authorised to reside in Japan for a fixed term of residence designated by the Minister of Justice in consideration of special circumstances.	<ol style="list-style-type: none"> <li>1. 3 years or 1 year for persons recognised as having the status described in the Notification of Long-Term Resident</li> <li>2. A period of less than 3 years designated by the Minister of Justice with respect to individual foreigners other than those in 1. above</li> </ol>

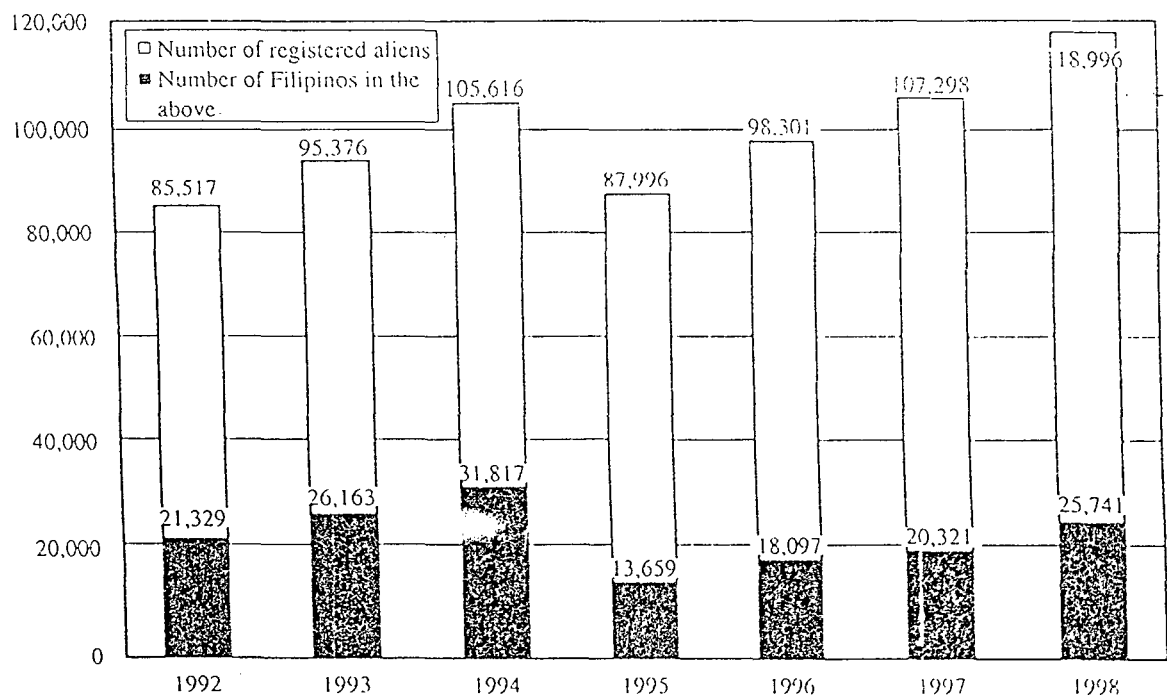
Fig. 1 Trends in Numbers of Foreign Nationals Newly Entering Japan for Employment Purposes



Source: "Annual Report of Statistics on Legal Migrants", Ministry of Justice

Note: Of the 27 statuses of residence, the following 14 types are for employment purposes: Professor, Artist, Religious Activities, Journalist, Investor/Business Manager, Legal/Accounting Services, Medical Services, Researcher, Instructor, Engineer, Specialist in Humanities/International Services, Intra-company Transferee, Entertainer, Skilled Labour.

Fig. 2 Numbers of Foreign Residents for Employment Purposes



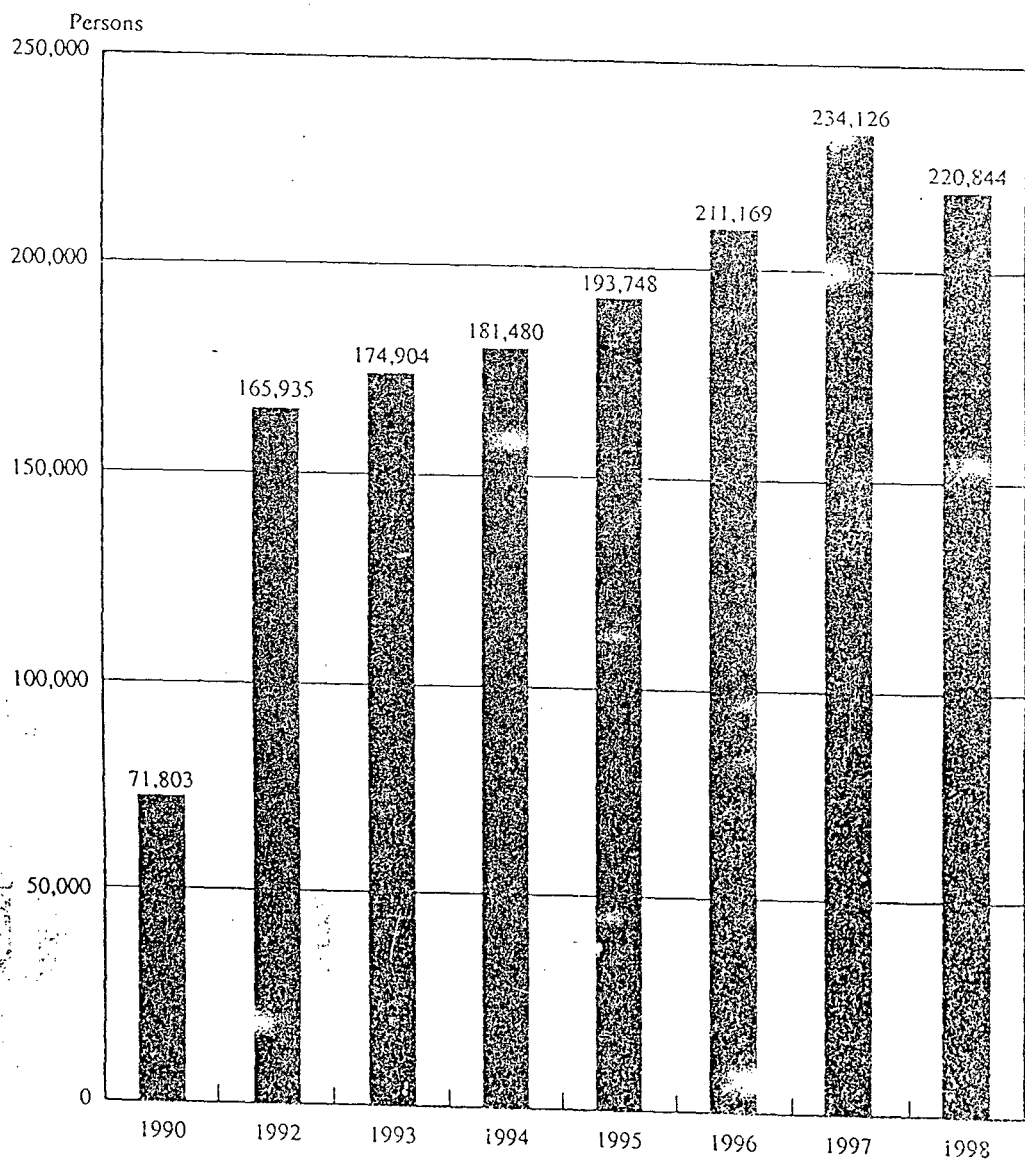
Source: "Resident Alien Statistics", Ministry of Justice



### Trends in Japanese-related workers, etc.

The number of Japanese-related workers etc. (foreign workers under the status of residence of "Long-Term Resident", "Spouse or Child of Japanese National", and "Spouse or Child of Permanent Resident", whose working activities are not restricted by the Immigration Act) had continued to increase, following a sharp rise triggered by an amendment to the Immigration Act until it showed a decrease in 1998. They numbered around 220,844 at the end of 1998 (estimate by the Ministry of Labour), increasing some 3.1 times since 1990 (Fig. 3). Of these, workers from five South American countries which have particularly large populations of ethnic Japanese (Brazil, Peru, Argentina, Paraguay, and Bolivia) numbered around 167,028 at the end of 1998 (estimate by the Ministry of Labour), increasing about 4-fold since 1990.

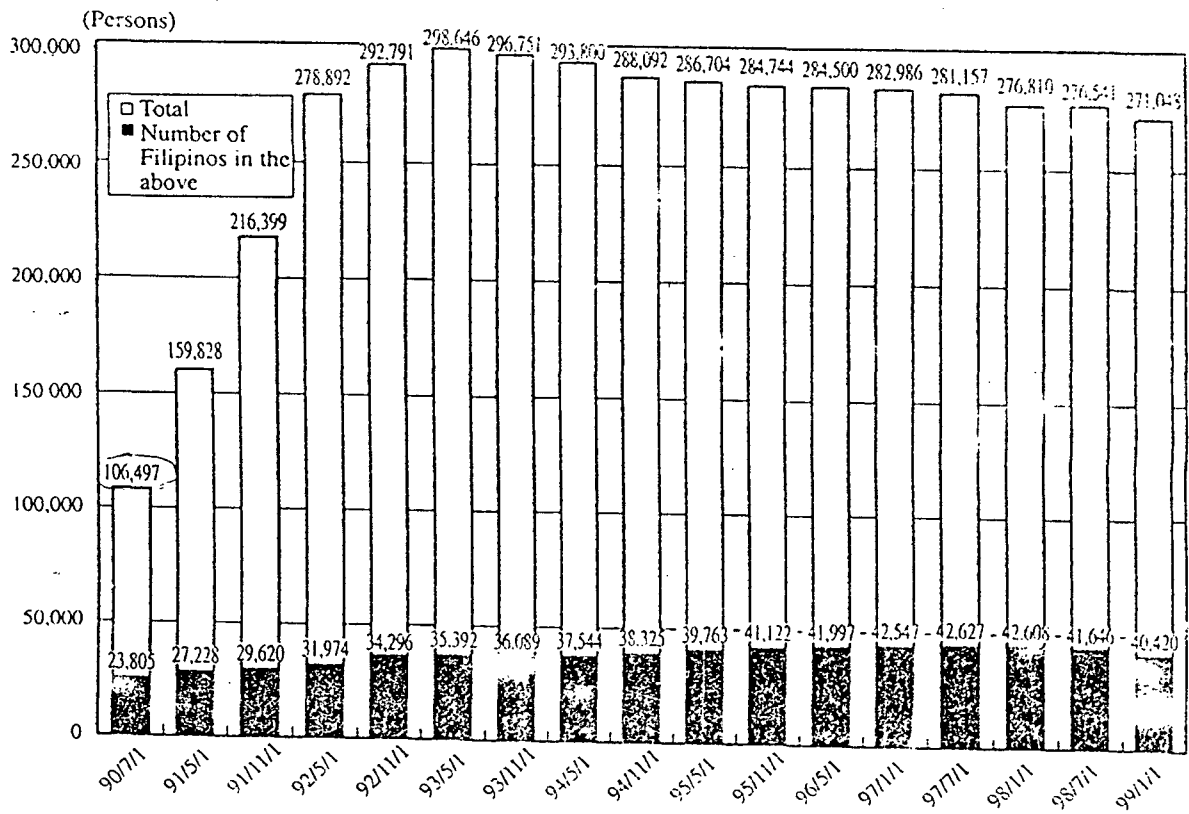
Fig. 3 Trends in Numbers of Japanese-Related Workers, etc.



(Note 1) Japanese-related workers, etc. = the estimated number of foreign nationals working in Japan under the status of residence of "Long Term Resident", "Spouse or Child of Japanese National", and "Spouse or Child of Permanent Resident".

(Note 2) Estimated by the Ministry of Labour on the basis of data from the Immigration Bureau of the Ministry of Justice

Fig. 4 Trends in Numbers of Unlawful Residents:



Source: Immigration Bureau, Ministry of Justice

Table 3. Trends in Numbers of Foreign Nationals Staying Illegally by Nationality (Place of Origin) and Gender (1/2)

March 1998, Immigration Bureau, Ministry of Justice

Survey Date	1.7.90	1.5.91	1.11.91	1.5.92	1.11.92	1.5.93	1.11.93	1.5.94	1.11.94	1.5.95	1.11.95
Nationality (Place of Origin)											
Total	106,497	159,828	216,399	278,892	292,791	298,646	296,751	293,800	288,092	286,704	284,744
Males	66,851	106,518	145,700	190,996	193,059	192,114	186,146	180,060	172,516	168,532	164,154
Females	39,646	53,310	70,699	87,896	99,732	106,532	110,605	113,740	115,576	118,172	120,590
South Korea	13,876	25,848	30,976	35,687	37,491	39,455	41,024	43,369	44,916	47,544	49,530
Males	8,793	17,977	20,469	22,312	21,406	20,998	20,324	20,801	20,501	21,662	21,995
Females	5,083	7,871	10,507	13,375	16,085	18,457	20,700	22,568	24,415	25,882	27,535
Philippines	23,805	27,228	29,620	31,974	34,296	35,392	36,089	37,544	38,325	39,763	41,122
Males	10,761	12,905	13,850	14,935	15,778	15,861	15,795	15,933	15,997	16,056	16,086
Females	13,044	14,323	15,770	17,039	18,518	19,531	20,294	21,611	22,328	23,707	25,036
China	10,039	17,535	21,649	25,737	29,091	33,312	36,297	39,738	39,552	39,511	38,464
Males	7,655	13,836	16,624	19,266	21,198	23,630	25,375	27,152	26,598	26,013	24,983
Females	2,384	3,699	5,025	6,471	7,893	9,682	10,922	12,586	12,954	13,498	13,481
Thailand	11,523	19,093	32,751	44,354	53,219	55,383	53,845	49,992	46,964	44,794	43,014
Males	4,062	6,767	13,780	20,022	24,463	25,624	24,759	22,611	21,059	19,866	18,844
Females	7,461	12,326	18,971	24,332	28,756	29,759	29,086	27,381	25,905	24,928	24,170
Peru	242	487	1,017	2,783	6,241	9,038	11,659	12,918	14,312	15,301	14,693
Males	172	339	646	1,904	4,441	6,469	8,182	8,869	9,474	10,066	9,592
Females	70	148	371	879	1,800	2,569	3,477	4,049	4,838	5,235	5,101
Malaysia	7,550	14,413	25,379	38,529	34,529	30,840	25,653	20,313	17,240	14,511	13,460
Males	5,023	10,099	18,466	27,832	24,150	21,250	17,222	13,266	10,975	8,942	8,119
Females	2,527	4,314	6,913	10,697	10,379	9,590	8,431	7,047	6,265	5,569	5,341
Taiwan	4,775	5,241	5,897	6,729	7,283	7,457	7,677	7,871	7,906	7,974	8,210
Males	2,080	2,356	2,790	3,427	3,757	3,867	3,976	4,032	4,017	3,987	4,055
Females	2,695	2,885	3,107	3,302	3,526	3,590	3,701	3,839	3,889	3,987	4,155
Iran	764	10,915	21,719	40,001	32,994	28,437	23,867	20,757	18,009	16,252	14,638
Males	645	10,578	21,114	38,898	32,086	27,630	23,176	20,151	17,469	15,762	14,200
Females	119	337	605	1,103	908	807	691	606	540	490	429
Burma	1,234	2,061	3,425	4,704	5,425	6,019	6,341	6,391	6,335	6,189	6,022
Males	1,041	1,676	2,712	3,661	4,149	4,511	4,686	4,664	4,590	4,442	4,300
Females	193	385	713	1,043	1,276	1,508	1,655	1,727	1,745	1,747	1,713
Bangladesh	7,195	7,498	7,807	8,103	8,161	8,069	7,931	7,565	7,295	7,084	6,836
Males	7,130	7,429	7,725	8,003	8,047	7,940	7,787	7,411	7,129	6,910	6,642
Females	65	69	82	100	114	129	144	154	166	174	194
Pakistan	7,939	7,864	7,923	8,001	8,056	7,733	7,414	6,921	6,517	6,100	5,865
Males	7,867	7,731	7,786	7,862	7,896	7,562	7,238	6,735	6,325	5,915	5,680
Females	122	133	137	139	160	171	176	186	192	185	176
Others	17,505	21,645	28,236	32,290	36,005	37,511	38,954	40,421	40,721	41,681	42,890
Males	11,622	14,825	19,738	22,874	25,688	26,772	27,626	28,435	28,382	28,911	29,631
Females	5,883	6,820	8,498	9,416	10,317	10,739	11,328	11,986	12,339	12,770	13,259

(Note) The number of illegal aliens shown in this Table is the estimated total number of illegal aliens. It does not necessarily reflect the actual numbers of illegal aliens, since the figures have been obtained by processing immigration records, emigration records, and others submitted by foreigners. The same applies to the Table below.

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Table 3. Trends in Numbers of Foreign Nationals Staying Illegally by Nationality (Place of Origin) and Gender (2/2)

March 1998, Immigration Bureau, Ministry of Justice

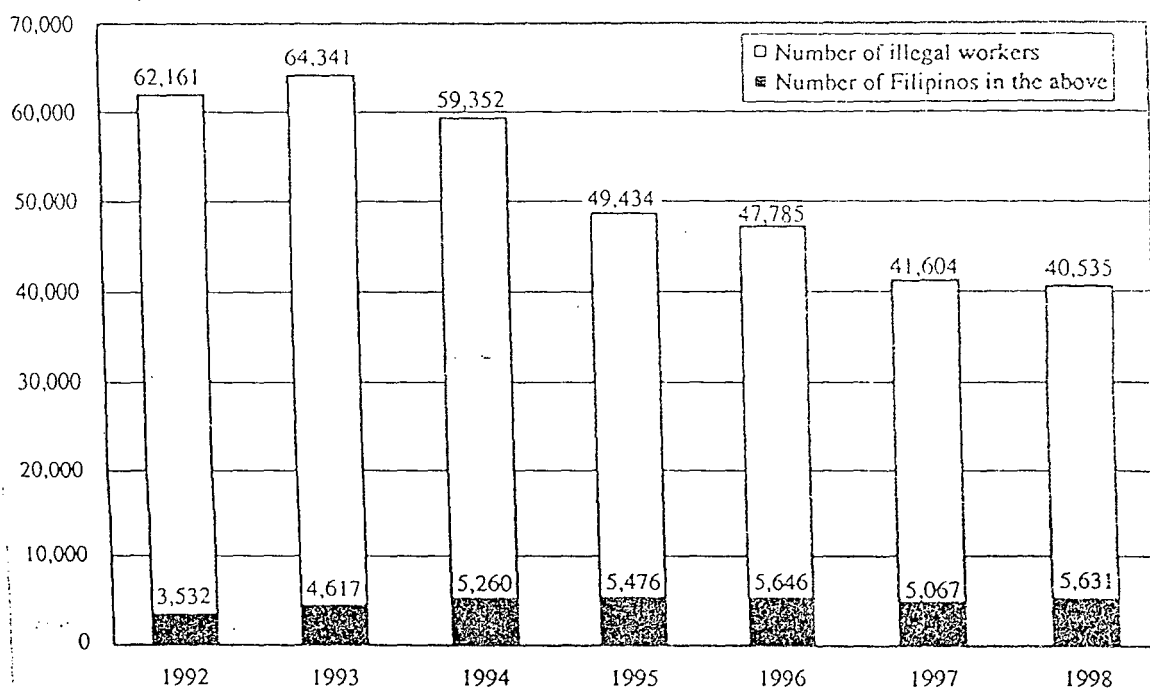
Survey Date	1.6.96	1.1.97	1.7.97	1.1.98	1.7.98	1.1.99	Change compared to 1.1.98 (%)
Nationality (Place of Origin)							
Total	284,500	282,986	281,157	276,810	276,541	271,048	-2.1
Males	160,836	155,939	153,055	149,828	148,858	145,225	-3.1
Females	123,664	127,047	128,102	126,982	127,683	125,823	-0.9
South Korea	51,580	52,387	52,854	52,123	59,160	62,577	20.1
Males	22,549	21,669	21,479	20,792	23,839	24,434	17.5
Females	29,031	30,718	31,375	31,331	35,321	38,143	21.7
Philippines	41,997	42,547	42,627	42,608	41,646	40,420	-5.1
Males	16,081	15,818	15,586	15,489	15,162	14,722	-5.0
Females	25,916	26,729	27,041	27,119	26,484	25,698	-5.2
China	39,140	38,296	38,957	37,590	35,558	34,800	-7.4
Males	24,789	23,762	23,729	22,778	21,494	20,748	-8.9
Females	14,351	14,534	15,228	14,812	14,064	14,052	-5.1
Thailand	41,280	39,513	38,191	37,046	35,138	30,065	-18.8
Males	17,811	16,839	16,053	15,542	14,885	13,552	-12.8
Females	23,469	22,674	22,138	21,504	20,253	16,513	-23.2
Peru	13,836	12,942	12,073	11,606	11,052	10,320	-11.1
Males	9,067	8,513	7,978	7,721	7,368	6,885	-10.8
Females	4,769	4,429	4,095	3,885	3,684	3,435	-11.6
Malaysia	11,525	10,390	10,296	10,141	10,143	9,989	-1.5
Males	6,537	5,589	5,518	5,340	5,332	5,195	-2.7
Females	4,988	4,801	4,778	4,801	4,811	4,794	-0.1
Taiwan	8,502	9,409	9,403	9,430	9,364	9,437	0.1
Males	4,128	4,328	4,333	4,346	4,338	4,394	1.1
Females	4,374	5,081	5,070	5,084	5,026	5,043	-0.8
Iran	13,241	11,303	10,153	9,186	8,121	7,304	-20.5
Males	12,853	10,964	9,828	8,883	7,825	7,024	-20.9
Females	388	339	325	303	296	280	-7.6
Burma	5,885	5,900	5,957	5,829	5,650	5,487	-5.9
Males	4,188	4,188	4,236	4,133	3,990	3,870	-6.4
Females	1,697	1,712	1,721	1,696	1,660	1,617	-4.7
Bangladesh	6,500	6,197	5,864	5,581	5,278	4,936	-11.6
Males	6,278	5,951	5,620	5,326	5,016	4,685	-12.0
Females	222	246	244	255	262	251	-1.6
Pakistan	5,478	5,157	4,766	4,688	4,490	4,307	-8.1
Males	5,294	4,968	4,589	4,505	4,336	4,156	-7.7
Females	184	189	177	183	154	151	-17.5
Others	45,536	48,945	50,016	50,982	50,941	51,406	0.8
Males	31,261	33,350	34,106	34,973	35,273	35,560	1.7
Females	14,275	15,595	15,910	16,009	15,668	15,846	-1.0

Number of prosecutions for illegal work offences

In 1998, 48,493 foreign nationals were subjected to deportation procedures following violations of the Immigration Act. In terms of the offences committed, cases of illegal residence were the most numerous with 39,835, followed by illegal entry with 7,472. The former was down 3.1% compared to the previous year, while the latter was up by 5%. In terms of nationality, those who entered illegally originated most frequently from China, the Philippines, and Thailand, in that order.

Of the foreign nationals subjected to deportation procedures following violations of the Immigration Act, illegal workers numbered 40,535, accounting for 83.6% of Immigration Act offenders. This reveals that most of the latter are involved in illegal working (Fig. 5). In terms of nationality, the number of Philippine nationals remains more or less unchanged. Viewing the type of work undertaken while working illegally, for men the largest proportion was taken up by construction work and factory work, while for the majority of women it was hostess/soliciting (Fig. 6).

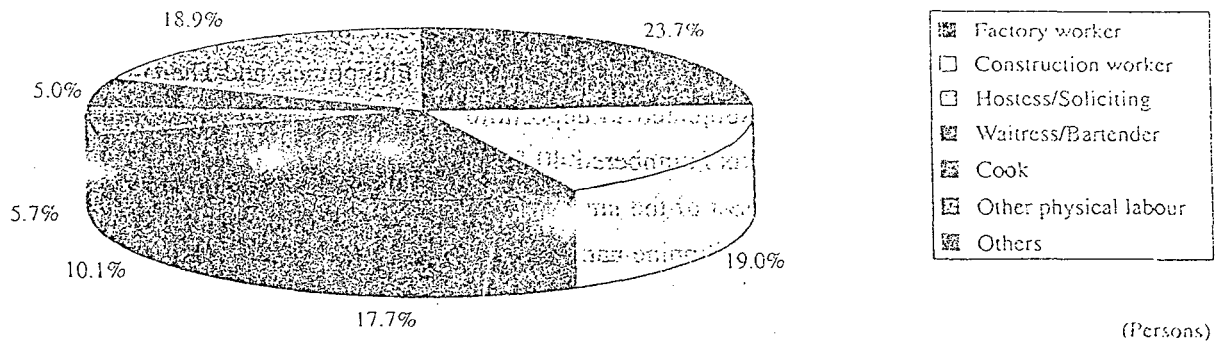
Fig. 5 Trends in Numbers of Immigration Control and Refugee Recognition Act Offences Involving Illegal Workers



Source: Ministry of Justice

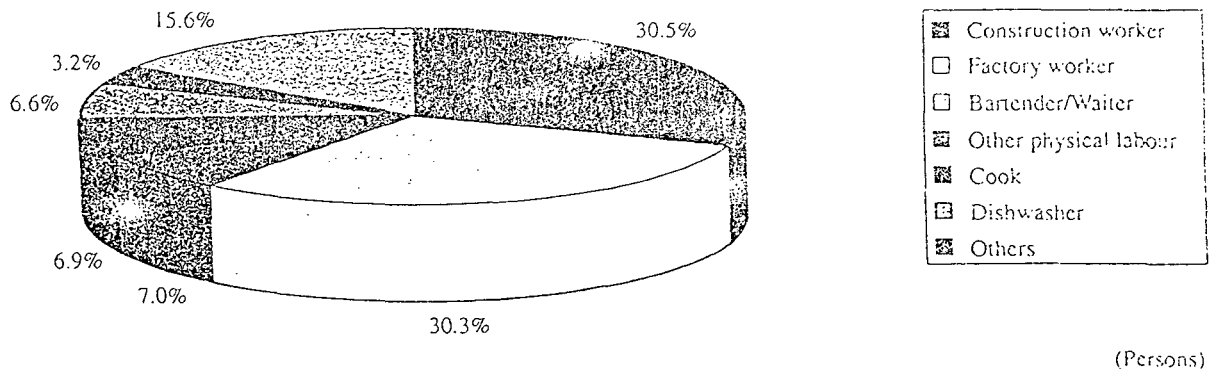
Fig. 6 Composition of Illegal Workers by Work Content (1998)

(1) All



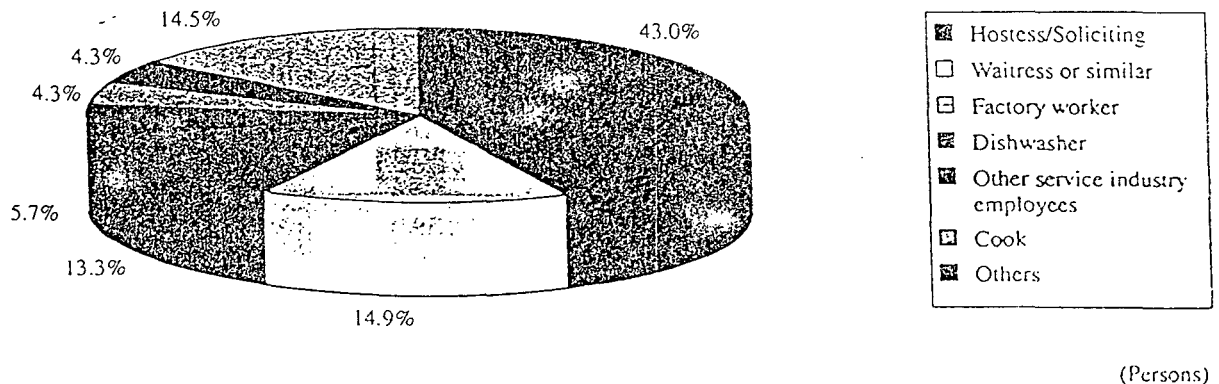
Type of work	Factory worker	Construction worker	Hostess/Soliciting	Waitress/Bartender	Cook	Other physical labour	Others	Total
All	9,602	7,695	7,186	4,080	2,301	2,009	7,662	40,535

(2) Men



Type of work	Construction worker	Factory worker	Bartender/Waiter	Other physical labour	Cook	Dishwasher	Others	Total
Men	7,568	7,514	1,731	1,701	1,631	805	3,858	24,808

(3) Women



Type of work	Hostess/Soliciting	Waitress or similar	Factory worker	Dishwasher	Other service industry employees	Cook	Others	Total
Women	6,762	2,349	2,088	892	684	670	2,282	15,727

(Source: Immigration Bureau, Ministry of Justice)

**Table 4: Number of Business Establishments Employing Foreign Nationals/Number of Foreign Workers**

(1) Number of business establishments employing foreign nationals, by industrial sector and business scale  
(unit: establishments)

	1997			1998		
	Total	Direct employment	Indirect employment	Total	Direct employment	Indirect employment
Total	17,859	15,702	3,529	19,204	16,948	3,729
Construction	894	862	66	898	877	53
Manufacturing	9,977	8,136	2,797	10,793	8,884	2,958
Transport/Communication	653	591	105	701	637	104
Wholesale/Retail, Restaurants	2,072	2,018	146	2,265	2,207	164
Services	3,909	3,752	381	4,135	3,950	409
Others	354	343	34	412	393	41
1-4 employees	147	133	21	247	241	12
5-29 employees	1,947	1,779	268	2,296	2,160	241
30-49 employees	2,290	2,024	410	2,537	2,232	467
50-99 employees	4,531	3,934	911	4,833	4,179	1,000
100-299 employees	5,536	4,738	1,227	5,778	4,954	1,318
300-499 employees	1,384	1,227	295	1,418	1,252	312
500-999 employees	1,119	1,008	248	1,130	1,016	219
1,000 or more employees	905	859	149	965	914	160

(Note) Business establishments under "Indirect employment" include those that employ workers under "Direct employment" as well as under "Indirect employment".

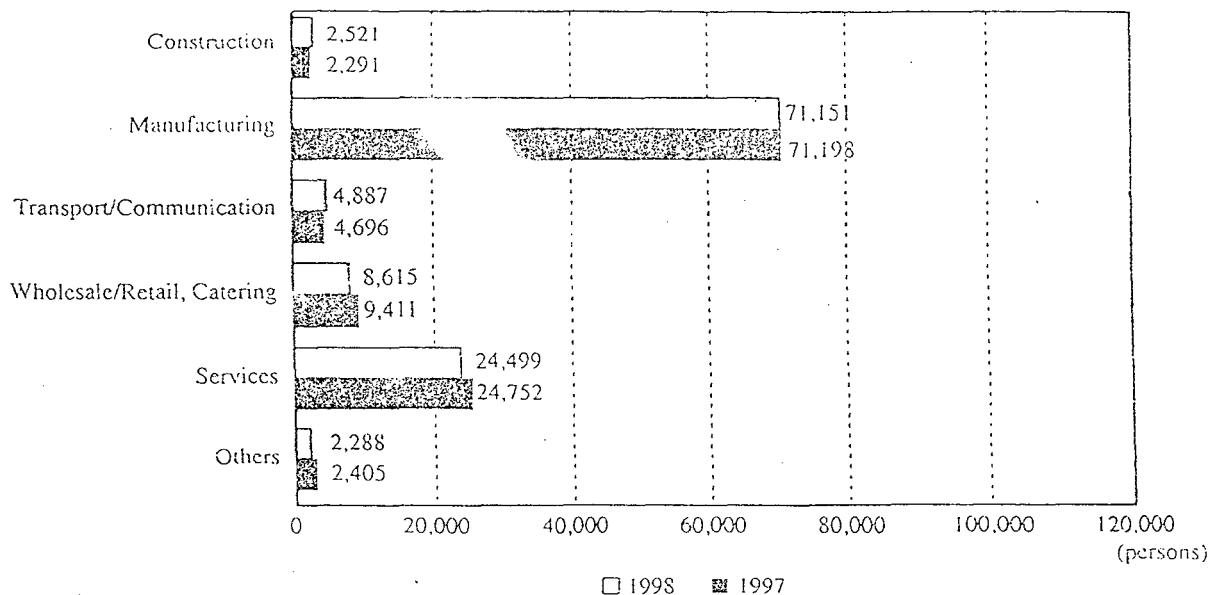
(2) Numbers of foreign workers by industrial sector and business scale

(unit: persons)

	1997			1998		
	Total	Direct employment	Indirect employment	Total	Direct employment	Indirect employment
Total	185,214	113,961	71,253	189,814	114,753	75,061
Construction	2,840	2,521	319	2,563	2,291	272
Manufacturing	135,501	71,151	64,350	139,456	71,198	68,258
Transport/Communication	7,712	4,887	2,825	6,880	4,696	2,184
Wholesale/Retail, Restaurants	9,683	8,615	1,068	10,912	9,411	1,501
Services	26,894	24,499	2,395	27,212	24,752	2,460
Others	2,584	2,288	296	2,791	2,405	386
1-4 employees	323	199	124	460	395	65
5-29 employees	7,328	5,670	1,658	8,093	6,549	1,544
30-49 employees	10,527	7,201	3,326	12,007	8,466	3,541
50-99 employees	29,605	20,209	9,396	31,516	20,868	10,648
100-299 employees	64,234	39,190	25,044	68,756	41,193	27,563
300-499 employees	26,780	16,621	10,159	23,409	13,368	10,041
500-999 employees	24,177	13,414	10,763	25,191	14,177	11,014
1,000 or more employees	22,240	11,457	10,783	20,382	9,737	10,645

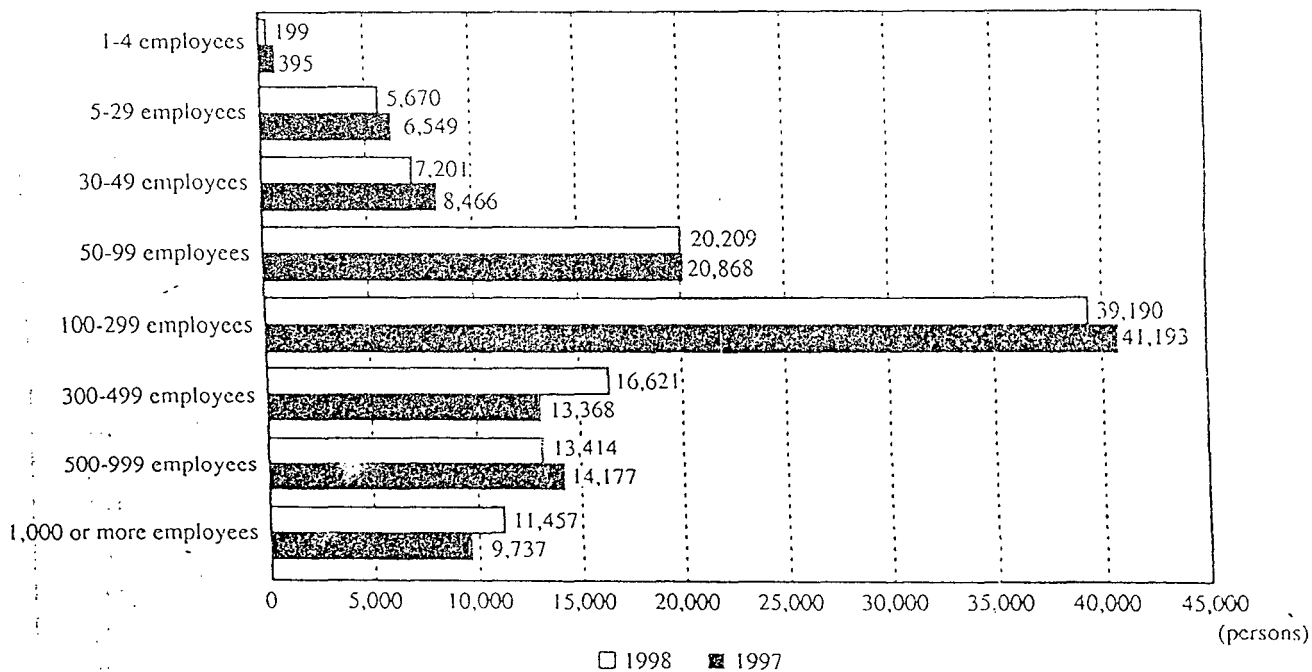
Source: "Report on the employment of foreigners", Ministry of Labour

Fig. 7 Comparison of Numbers of Foreign Workers by Industrial Sector (Direct Employment)



Source: "Report on the Employment of Foreigners", Ministry of Labour

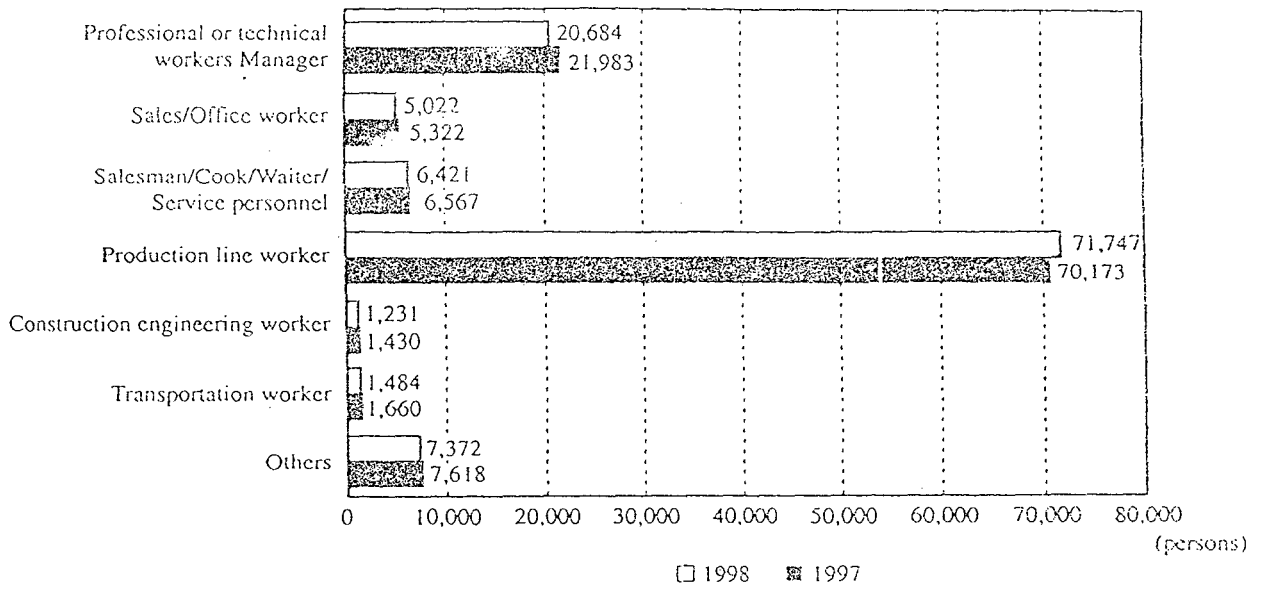
Fig. 8 Comparison of Numbers of Foreign Workers by Scale of Business (Direct Employment)



Source: "Report on the Employment of Foreigners", Ministry of Labour

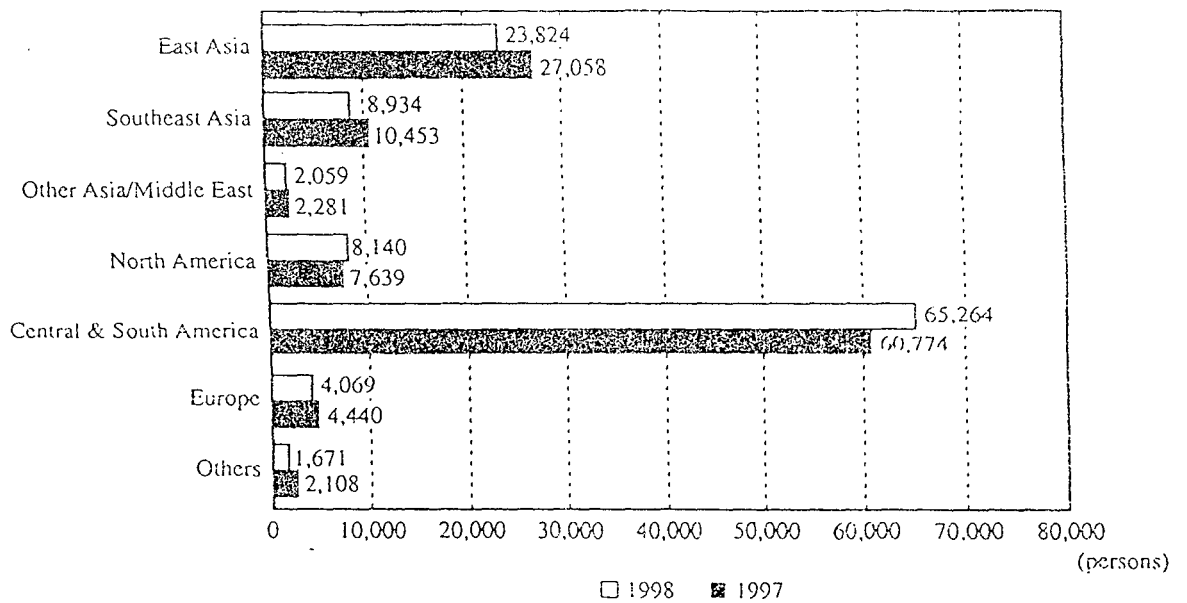


Fig. 9 Comparison of Numbers of Foreign Workers by Type of Work (Direct Employment)



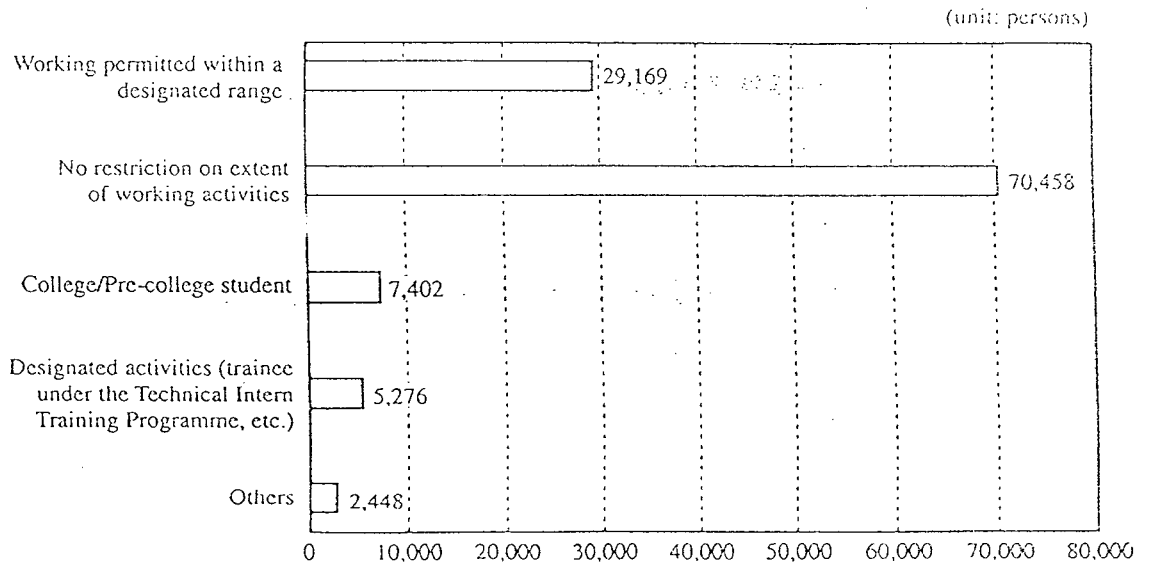
Source: "Report on the Employment of Foreigners", Ministry of Labour

Fig. 10 Comparison of Numbers of Foreign Workers by Region of Origin (Direct Employment)



Source: "Report on the Employment of Foreigners", Ministry of Labour

Fig. 11 Number of Foreign Workers by Status of Residence (Direct Employment)



Source: "Report on the Employment of Foreigners", Ministry of Labour

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