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## Japan's Model of Immigration Without Immigrants

ERIN AERAN CHUNG

On November 27, 2018, the Diet, Japan's parliament, passed an unprecedented bill to open the country's borders to as many as 345,000 workers in the agriculture, construction, shipbuilding, hospitality, and nursing sectors over a five-year period. The measure, which was introduced by the ruling Liberal Democratic Party (LDP) and took effect in April 2019, has generated considerable controversy. This is the first time in postwar Japan's history that the country's borders are officially open to unskilled foreign labor.

Although Japan has used *de facto* guest-worker policies to fill labor shortages since the 1980s, the state has neither recognized migrants formally as workers nor acknowledged the existence of any guest-worker program. In keeping with this history, the administration of Prime Minister Shinzo Abe has made clear that it does not consider migrant workers to be immigrants, and insists that the new plan is not equivalent to a full-fledged immigration policy.

Some observers nonetheless have suggested that the 2018 law represents a radical shift away from Japan's restrictive immigration policies. However, the parameters of the guest-worker system are consistent with the incremental steps that Japan has taken over the years to satisfy demand for labor with low-skilled migrant labor schemes. Although it has endured chronic labor shortages since the 1980s and now faces an impending demographic crisis, Japan was, until now, the only advanced industrial democracy that had kept its borders officially closed to unskilled foreign labor since the end of World War II.

Since 2005, Japan has competed with a handful of other Asian countries—including Singapore, South Korea, and Taiwan—for the less than desirable distinction of having the world's fastest-aging population, lowest birthrate, and most rapidly shrinking workforce. In a 2001 report on replacement migration, the United Nations Population Division estimated that Japan would have to admit approximately 647,000 immigrants annually in order to alleviate labor shortages and the fiscal burdens imposed by its booming number of elderly citizens.

The number of foreign nationals in Japan has grown in recent years—from 850,000 in 1985 to over 2.7 million last year—but they still make up only about 2 percent of the total population, despite the record pace at which the population is shrinking. Japan's ratio of foreigners to natives is significantly lower than the average range of 8 to 25 percent in Western European countries.

Japan experienced labor shortages at earlier stages of its industrial development, but it was able to meet demand by tapping domestic sources of underutilized labor, such as rural workers and women. By the 1980s, however, domestic sources of unskilled labor were largely depleted. Rather than import foreign workers who might destabilize what politicians and pundits across the political spectrum described as Japan's “uniquely homogeneous society,” the government opted for piecemeal solutions that would temporarily meet domestic needs for labor while maintaining official closed-door policies.

### OPENING LOOPHOLES

A revision of the Immigration Control and Refugee Recognition Act in 1990 opened up two legal loopholes for *de facto* guest-worker policies. One provision created a skills-training program for

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ERIN AERAN CHUNG is an associate professor of East Asian politics and co-director of the Racism, Immigration, and Citizenship Program at Johns Hopkins University.

“trainees” and “interns” from other Asian countries. Another established visa policies that offered unrestricted entry and employment rights in Japan for ethnic Japanese immigrants seeking to return to their ancestral homeland from overseas, mostly in Brazil and Peru.

The industrial trainee program allows employers to recruit migrant laborers—usually from other Asian countries such as China, South Korea, and Vietnam—who are not officially recognized as workers. The Immigration Control Act defines “trainees” as those who undertake activities to learn and acquire technology, skills, or knowledge at public and private organizations in Japan. Under this broad definition, people who entered Japan in the early 1990s with the one-year trainee visa were eligible only for a “trainee allowance,” which was unregulated and usually well below the minimum wage—as low as 100 yen (less than one dollar) per hour, according to an April 2005 report in the *Mainichi Shimbun*. They were not protected by labor laws, making them vulnerable to industrial accidents, unpaid wages, and abusive employers.

Several subsequent revisions sought to improve these conditions. They included extensions of trainee visas and government guidelines prohibiting employers from engaging in abusive practices. Landmark court decisions in 1993 affirmed trainees’ rights to industrial-accident compensation, back wages, and severance pay. But trainees continued to suffer poor working conditions. The program also contributed to the growth of the undocumented migrant population, as increasing numbers of trainees overstayed their visas and some sought unauthorized employment in higher-paying jobs.

In response to reports of endemic abuse, the Japan International Training Cooperation Organization, the government body tasked with supervising the trainee scheme, established the Technical Intern Training Program in 1993. It made trainees eligible for a “designated activities” visa that allowed them to extend their stay in Japan for up to three years, as long as they had an employment contract.

Among the expanded visa categories created by the 1990 legislation is the long-term residency (*teiju*) visa specifically for ethnic Japanese immigrants (popularly called *Nikkei*) whose parents or grandparents came from Japan. Its stated purpose

is to encourage them to learn Japanese, explore their cultural heritage, and visit their relatives. This became one of a handful of visa categories that provided unrestricted entry and employment rights in Japan. The *Nikkei* visas were much more generous than those issued to industrial trainees, which did not allow workers to change employers, restricted residence in Japan to a maximum of three years, and were contingent on continued employment by the sponsoring company.

The vast majority of *teiju* visa holders were recruited from Brazil and Peru to work for small- and medium-sized firms in the construction and manufacturing sectors. Already in 1991, Brazilians were the third-largest foreign national group in Japan, following Koreans and Chinese. By 2008, the combined Brazilian and Peruvian population in Japan had grown more than fivefold since the 1990 reform, to over 365,000.

## UNANTICIPATED COMPLICATIONS

These two legal loopholes were established to address concerns that foreign workers from Asian countries would seek to settle permanently in Japan, just as Turkish and Yugoslav guest workers had done in Germany. To prevent that from happening, foreign workers would be

subject to close monitoring, short-term visas, and employment restrictions. Proponents of the long-term residency visa, meanwhile, maintained that *Nikkei* migrant workers, who were at least partly Japanese by blood, would cause minimal disruption to social stability. And they would contribute to labor-starved industries, making it unnecessary to officially open Japan’s borders to foreign labor.

By the late 1990s, it became clear that most *Nikkei* immigrants would not automatically assimilate into Japanese society simply because they were co-ethnics. Studies conducted by the Ministry of Justice found that *Nikkei* exhibited low rates of Japanese language literacy and faced many of the same problems as other non-Japanese foreigners. The studies also concluded that the long-term settlement of *Nikkei* immigrants could contribute to social instability, citing their reliance on social welfare during periods of cyclical unemployment and their children’s low rate of school enrollment.

During the global downturn following the 2008 financial crisis, companies in Japan’s automobile, machinery, and information-technology indus-

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tries, which employed many *Nikkei*, laid off large numbers of contract workers. By the beginning of 2009, the unemployment rate among Brazilian and Peruvian workers in Japan (most of whom are ethnic Japanese) had risen as high as 40 percent. Unlike industrial trainees and technical interns, co-ethnic migrant workers were not obligated to leave Japan upon the termination of their employment. They were entitled to long-term residency and access to social welfare benefits.

Rather than roll back their blood-based rights, Justice Ministry officials sought to persuade *Nikkei* migrants to leave Japan with a “pay-to-go” program announced in April 2009. Modeled on return-migration policies in Europe, the program offered ethnic Japanese workers from Brazil and Peru a one-time payment of 300,000 yen (the equivalent of about \$3,000 at the time), plus 200,000 yen for each dependent, in exchange for their voluntary repatriation and on the condition that they would be ineligible for the same long-term visa for at least three years. The program has had its intended effect. Since 2009, the population of Brazilians and Peruvians in Japan has declined by more than 30 percent.

Meanwhile, despite perennial complaints about labor abuses, the trainee program proved effective in directing workers toward struggling small- and medium-sized businesses, making an especially notable impact in rural areas. Rather than abolish what conservative and liberal policy makers alike deemed an exploitative system, the Diet passed revisions to the Technical Intern Training Program in 2009. These streamlined the two-step trainee-to-intern sequence so that employers could recruit technical interns directly, bypassing the previous requirement that they hire industrial trainees first.

In 2016, the Diet approved further revisions that strengthened labor protections for trainees and technical interns while increasing the maximum stay from three to five years. Starting in 2015, the Ministry of Justice expanded quotas for particular categories of trainees, especially construction workers needed to help prepare for the 2020 Summer Olympics in Tokyo. The 2018 law establishing an official guest-worker program has not been accompanied by legislative moves to abolish the trainee program, suggesting that the former is meant to complement rather than replace the latter (unlike a South Korean guest-worker program established in 2006, which replaced an industrial trainee program).

## SIGNS OF CHANGE

Is Japan a latecomer to immigration that will, in due course, converge with other industrial democracies by liberalizing its immigration policies? Or do the trajectories of other countries that are reluctant to accept immigration provide a roadmap for Japan?

As in Europe in the 1960s and 1970s, migrant workers in Japan are not recognized as potential citizens or permanent settlers by either the government or the public. Japan's lingering reluctance to open its borders to the extent necessary to alleviate labor shortages and demographic deficits suggests that policy makers are still willing to forego the significant economic gains that increased migration could bring, if that is the price to be paid to avoid the social instability they fear will result from the permanent settlement of migrants largely from the global South.

But there are signs that Japan is changing. A *Nikkei*/TV Tokyo poll conducted in October 2018 found that 54 percent of Japanese voters supported Abe's plan to admit more foreign workers to alleviate the country's labor shortages. Another poll taken at the same time by the *Yomiuri Shimbun* newspaper found that 51 percent were in favor of admitting more unskilled foreign workers, while 43 percent supported official recognition of “immigration” to Japan. The popularity of recently emerging multiracial public figures, such as the tennis star Naomi Osaka and the 2015 Miss Universe Japan, Ariana Miyamoto, also suggests that the public has grown increasingly tolerant of diversity.

In explaining what many characterized as convergence toward increasingly liberal immigration policies and expanded rights for immigrants from the early 1970s until the populist backlash against immigration in the United States and Europe of the past decade, comparative studies of international migration and citizenship have focused on the influence of domestic political elites and international norms or pressures. Scholars who emphasize the latter contend that greater acceptance of global human rights norms and the growth of institutions promoting them were pushing industrial democracies on the whole toward liberal citizenship and immigration policies characterized by relatively open borders, access to citizenship status, and generous rights for resident foreigners—until the early twenty-first century. But some studies of immigration reform in Europe and North America focused on domestic drivers such

as left-leaning parties, activist courts, and bureaucrats who have expanded rights for noncitizens in response to domestic legal rulings.

If international norms and pressure pushed Western democracies to liberalize their immigration and citizenship policies in the past, those forces have had an uneven and indeterminate impact on East Asian democracies (and in the current political climate, their influence may often seem doubtful around the globe). Japan's ratification of international conventions has led directly or indirectly to some reforms of policies pertaining to rights and citizenship. For example, in 1985, in accordance with international human rights norms, the Nationality Act was amended to allow individuals to acquire Japanese citizenship through either parent, not just the father.

In some areas, including social welfare benefits and access to public sector jobs, foreign residents have gained rights that surpass those prescribed in international human rights treaties. But in other areas, Japan has remained immune to international pressure. It continues to hold one of the worst records in the industrialized world for accepting refugees. Reforms reflecting international norms have thus been applied unevenly to different groups within Japan and inconsistently across policy domains, and they have not resulted in liberalization of immigration policies.

Most reforms to Japan's policies have reflected the government's aim of better controlling immigration, particularly the irregular kind, rather than incorporating immigrants into Japanese society. Political elites have prioritized social stability over liberal democratic principles in immigration policy. Reforms have been implemented only after considerable pressure from internal grassroots movements and international NGOs. In most cases, courts, legislatures, and political parties have responded grudgingly to grassroots demands.

Because Japan officially maintained closed-door policies throughout the 1980s and 1990s, immigrants within its borders for the most part had to return to their home countries or face expulsion. Immigration policy reform and patterns of immigrant incorporation were not the products of deliberate decision making by the state to liberalize policies according to international norms or to manage the permanent settlement of immigrants.

## POSTWAR HOMOGENIZATION

The notion that recent developments reflect Japan's convergence with Western liberal democra-

cies on a path toward a liberal migration regime is based on the erroneous assumption that immigration is a new phenomenon in Japan. In fact, as a former imperial power that received its largest inflow of migrants before 1945, Japan was grappling with the challenge of incorporating newcomers well before its European counterparts encountered large-scale immigration. But neither the Japanese government nor most members of the public ever acknowledged the presence of immigrants. Rather, they have been referred to as colonial subjects, Zainichi Koreans, Chinese, foreign residents—and now, migrant workers.

Japan's immigration history as a former imperial power, coupled with its policies toward the population resulting from that legacy, have produced a number of anomalies. To begin with, former colonial subjects and their native-born descendants living in Japan still constitute one of the largest groups of foreign residents, even after the considerable growth of the immigrant community since the late 1980s. For that reason, Japan has the distinction of being the only advanced industrial democracy with a sixth-generation immigrant problem. Japan also has one of the lowest naturalization rates among industrial democracies, with less than one percent of the foreign population gaining citizenship each year.

By the end of World War II, more than two million colonial subjects, primarily from the Korean Peninsula and Formosa (as Taiwan was then known), were residing in Japan. Unlike European imperial powers that had far-flung colonies, Japan colonized nearby territories. That allowed for large numbers of migrants from those lands to enter the metropole in the early stages of colonization. In the later stages, it facilitated the forced recruitment of colonial subjects as laborers and soldiers. Approximately two-thirds of this population was repatriated during the process of decolonization.

With the help of the American occupation authorities, Japan implemented strict immigration and border controls modeled on the US Johnson-Reed Immigration Act of 1924, which set quotas based on country of origin. Irregular immigration to Japan nevertheless became a major problem in the years after the war, fueled largely by former repatriates to the Korean Peninsula who fled instability following Korea's liberation from Japan in 1945 and chaos during the Korean War from 1950 to 1953. By the end of the US occupation in 1952, approximately 700,000 foreigners, mostly former colonial subjects, resided in Japan.

Whereas prewar Japanese state ideology had included ethnically diverse colonial subjects as part of the imperial “family nation,” the postwar discourse on Japanese national identity excluded them by basing citizenship on the principle of consanguinity. They were reclassified as aliens, while only those who were ethnically Japanese were declared citizens. These postwar citizenship policies—modeled on Germany’s—effectively removed former colonial subjects from the body politic. This marked Japan’s transition from a multiethnic empire to a procedurally democratic but ethnically homogeneous nation.

Postwar Japan’s policies regarding foreign residents were thus based on an American-style immigration model and a German-style citizenship model—a combination that resulted in strict border controls, immigration quotas, and descent-based citizenship policies. But Japan went a few steps farther by closing the country’s borders to unskilled foreign labor, not introducing any exceptions to citizenship based on descent (such as granting citizenship automatically to third-generation residents), and requiring both native-born descendants of immigrants and co-ethnic newcomers to undergo a formal naturalization process to gain citizenship.

### NONCITIZEN RIGHTS

One of the distinguishing characteristics of Japan’s migration regime is the sequence by which its policies and programs took effect: efforts to incorporate immigrants into Japanese society, carried out largely by civil society actors and local governments, preceded immigration policy reform. That is, immigrant incorporation programs were implemented at the local level even before national-level policy makers and bureaucrats formally acknowledged the existence of immigrants within Japan’s borders.

Postwar Japan’s citizenship and immigration policies alone did not determine the anomalous status of long-term resident aliens. On the contrary, Japan’s sixth-generation immigrant problem reflects the strategic interaction between government policies and the objectives of generations of activists among Koreans in Japan—or “Zainichi Koreans,” as many in the community of former colonial subjects and their descendants call themselves. These activists have aimed to leverage their status as “foreign-

resident citizens” (*gaikokujin shimin*) of Japan to gain political visibility and power.

Unlike most historically disenfranchised communities elsewhere, instead of seeking naturalization and becoming a small section of the voting population, social movements led by Zainichi Koreans since the late 1960s have focused on their positions as permanent, contributing members of their local communities, deserving of rights equal to those enjoyed by Japanese nationals. This strategy gave birth to a noncitizen civil rights movement. At its heart was the struggle to remove the fundamental barriers that Korean residents faced in their daily lives, but without changing their legal status as foreign nationals.

Foreign residents in Japan routinely faced discrimination in employment, housing, education, and health care until the late 1970s. By the early 1980s, however, their formal legal status and rights were on par with those of immigrants in other advanced industrial democracies. In a series of struggles starting in the late 1960s, they gained

social welfare benefits, access to public-sector employment, and in some localities, the inclusion of ethnic or “multicultural” education in public school curricula, as well as the repeal of a requirement that they register their fingerprints with the government. Zainichi Koreans and

their advocates then turned their efforts to securing local voting rights, as growing numbers of new immigrants from all over the globe began to settle in communities throughout Japan.

In the absence of national programs and policies for new immigrants, institutions previously used to incorporate Zainichi Koreans in Japanese society took on the mission of incorporating new immigrants in their local communities. Instead of confronting an insular society wholly unprepared for large-scale immigration, new immigrants were assisted by hundreds of civil society organizations that offered services, support, and advocacy specifically for foreign residents.

Immigrants with secure legal status benefited from earlier gains by Zainichi Koreans that made foreign residents eligible for a range of social welfare benefits and legal protections. But the existing services and programs had been created for permanently settled, highly assimilated, and in many cases native-born but noncitizen residents, not for recently arrived migrant workers. As a result, the

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priorities of pro-immigrant advocacy groups were often determined by long-settled migrants whose interests did not necessarily align with those of the newer arrivals. For example, some civil society groups and local communities have focused their energies on campaigning for local voting rights for foreign residents. That may be a low priority for recent immigrants who lack Japanese-language fluency and are struggling just to get basic information about schools, hospitals, and health insurance.

The ideas that emerged from earlier Zainichi Korean social movements continue to shape how activists, and even some local governments, approach political empowerment for foreign residents in the Korean and non-Korean foreign-resident communities. Instead of guiding new immigrants on the path to naturalization, local institutions and civil society organizations have emphasized their rights as foreign residents and encouraged them to participate in the public sphere as noncitizen members of their local communities by joining activities such as neighborhood revitalization campaigns and cultural exchange programs.

### LEADING THE WAY?

As recent developments in the United States and Europe show, immigration has lost none of its power to provoke a range of nationalistic responses. They may take the form of xenophobic demands to expel all foreigners, alarmist perceptions that immigrants from diverse ethnocultural backgrounds pose a threat to social stability and national security, or simply an effort to distinguish “us” from “them.” Recent immigration in Japan has been met with the full gamut of these responses. As a result of the more virulent strains, Japan has earned a reputation for being a society that is hostile to immigrants.

Advocates of Japan’s “closed-door” (*sakoku*) policy argue that opening its doors to foreigners would result in unmanageable psychological and biological chaos. In recent years, politicians and the popular press have sensationalized stories about foreigners and the growing crime rate, conflating visa overstayers, violent criminals, and post-9/11 terrorists. These stories have been picked up and amplified in Internet chat rooms and forums, spurring the development of what the media calls the *netto uyoku* (Internet far right). The largest Internet forum in Japan, 2channel, has

become a platform for anonymous posts expressing anti-Korean, anti-Chinese, and generally anti-foreign sentiment.

There has also been an increase in vocal anti-immigrant sentiment in the public sphere—targeting Koreans in particular—through such organizations as the Zaitoku-kai, a “citizens group” that opposes what it calls “special rights for Koreans in Japan.” During marches through neighborhoods with high concentrations of Korean residents, members of the Zaitoku-kai have waved the Rising Sun war flag of Imperial Japan, shouting slogans such as “Kill Korean residents” and calling them “cockroaches.”

But there are key differences between what is occurring in Japan and in European countries with respect to anti-immigrant movements and right-wing politics. First, the return of the conservative LDP to power in 2012—the party has ruled Japan since 1955 with only two brief interruptions in 1993–94 and 2009–12—did not resemble the rise of far-right parties in Europe. What might be

called “fringe” parties, such as the neoconservative Nippon Ishin No Kai (Japan Restoration Party), have emerged in Japan, but their popularity has proved short-lived. Second, the political establishment in Japan has not served as an instrument

through which rightist groups can articulate anti-immigrant ideologies.

By contrast, in European countries that have witnessed the rise of the far right, such as Italy, Austria, and Hungary, elected leaders and political parties in power have articulated explicit anti-immigrant ideologies. This difference may be largely attributable to the fact that far-right parties in Europe were elected on anti-immigration platforms, whereas the LDP returned to power with a mandate to oversee an economic recovery. And it was the LDP, not the more centrist opposition parties, that introduced the recent legislation to allow unskilled labor immigration for the first time since World War II.

That is perhaps the most significant difference: unlike European countries, Japan kept its borders closed to unskilled immigrants even as the working-age population steadily declined (the government forecasts it will be just over 50 percent of the total population by 2050). In Japan, anti-immigrant (and especially anti-Korean) sentiment is not a backlash against open immigra-

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tion policies; it is a reflection of the unresolved contradictions that stem from prewar policies. Japan stands out among advanced industrial democracies not for a shift to the right on immigration, but for the remarkable stability of its restrictive immigration and citizenship policies.

Far from lagging decades behind Western democracies on the path toward becoming a liberal migration state, Japan has been on a different trajectory altogether. Its approach increasingly resembles the Singaporean and Gulf state models that treat unskilled foreign workers as permanently deportable populations whose access to rights is tied to their utilitarian functions, rather than what might be expected in a mature democracy.

The new guest-worker law is one of a series of short-term measures to fill labor shortages since the 1960s, but it does not represent the liberalization of Japan's immigration policy. By creating yet another set of visa categories that prioritize some foreign workers over others, this system is likely to harden the hierarchies of noncitizens in Japan, which now range from permanent residents with quasi-dual-citizenship rights to industrial trainees who are not recognized as workers. As so-called traditional nations of immigrants such as the United States enact increasingly restrictive measures to curb both unauthorized and legal immigration, Japan's model of immigration control may soon become the norm. ■