

変化する国家の役割

——日本の移民政策を事例として——

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What Is Expected of the State? Immigration Policy in Japan

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Obirin University, *Obirin Review of International Studies*, No. 15, 2003

桜美林大学『国際学レビュー』第15号（2003年）

Summary

グローバル化が喧伝される中、国境を越えたヒトの移動も活発化しているが、国家、特に先進諸国家はモノや資本の移動と比べ、一般に移民や難民の流入を歓迎していない。他方国家は、高度な技術をもった労働者を国内のみならず国外からも惹きつけることで、自国経済の成長を支えることを求められている。

このような世界規模での変化の中、従来の国民国家に課された役割とは異なる役割が、現在の国家には期待されていると考えられる。先進諸国においてはいずれも、移民・難民に関わる問題が、政治および社会における最重要課題の一つと見なされている。

日本の場合、欧米諸国に比べれば移民問題の政治化の度合いは弱く、移民に関わる様々な課題について、外国人集住地域では地方政治レベルでの議論が活発となっているものの、全国レベルでの議論は未だ成熟していない。この小論では、かかる日本の状況を整理し、国家の移民政策がどのような指針に基づいているのか、もしくはその指針がどのように変化してきているのかを追う。日本の状況を考察するにあたり、諸外国との比較も有用であるが、かつて移民送出国であったが今では逆に移民流入が大きな社会政治問題となっている西ヨーロッパ諸国との比較が、アメリカ、オーストラリアといったいわゆる伝統的な移民国家との比較よりも、国家に対する期待について考察するのに興味深い分析が可能であろう。

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Considering how much capital as well as goods and services move across borders, it is only natural that people also move internationally. Such massive flow of everything is often summarized as globalization, and states are expected to adapt themselves to the phenomena. The increasing number and role of various actors imply that the role of the state has been through significant change. Immigration policy is one area in which the post-industrial states face a new challenge. While those countries are eager to stave off the in-flow of mass immigration, they also need to be attractive to skilled-labor, especially in high-technology fields. Competing in the global economy, the role of the state needs to be adjusted from the one in the traditional nation-state system.

In dealing with this globalization, states do not as readily welcome 'foreign people' as foreign capital or goods. It is only a certain type of foreigners states want, but even then it is not clear whether the states want them permanently.

Under such circumstances, what role is expected from the state? What do people require of the state? All the post-industrial nation-states now face the problems deriving from the immigration. Some people want their state to get rid of foreigners who might take their jobs away, or 'sponge off' the benefits from the social welfare system. Others want the state to promote more liberalized immigration policy so that they can amend the labor shortage in certain sections of the economy, or with some humanitarian reasons.

In most of the developed countries, the immigration is one of the most important items on the political and social agenda. The immigration issue can be treated from various angles: sociologists tend to perceive the issue as the question of how immigrants are treated in the foreign society and how the receiving society deals with them; economists see the immigration from the labor perspective; political scientists, the last to arrive at the scene, wonder what the immigration means to the state system that they have taken for granted for a long time. (Hollifield, 2000).

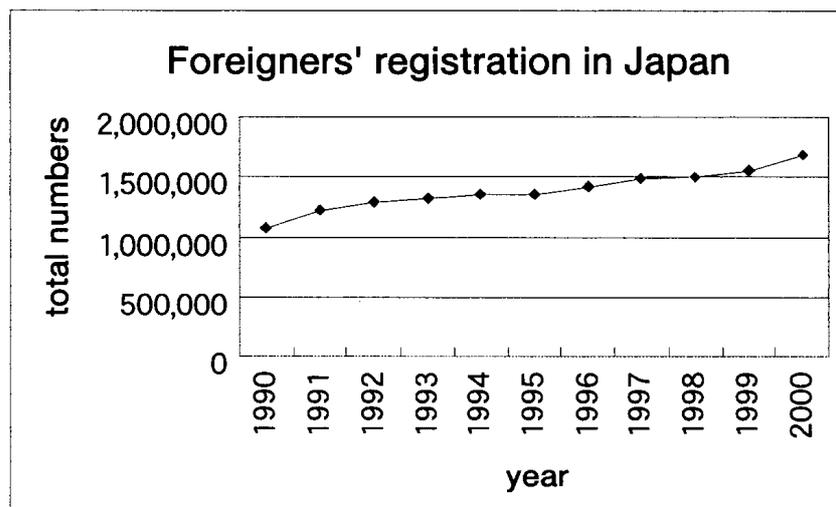
When one considers the impact of immigration on the nation-state

system, the system we have been used to and have taken for granted for many centuries, arguments often center around the questions of citizenship (immigration integration), irregular immigrants and asylum-seekers (immigration control) (Joppke, 1999). In Japan, on the other hand, arguments about immigration are still relatively new. Thus there is no clear understanding what are important problems the state, local governments or NGOs must face in terms of immigration. This paper attempts to clarify how immigration is perceived and treated in Japan as compared to European countries, which are historically non-immigrant states. Because the past determines the principles by which the state treats actual as well as potential immigrants in the future¹⁾, comparison with Europe might show more parallels with the Japanese case than comparison with, for example, the United States.

The first two sections examine how immigration is perceived in Japan. At the moment, the number of immigrants in Japan is not as “threatening” as it is in other developed countries ; as a result the issue has not become a serious political problem. The low profile of the immigration issue can be attributed to the state's strict attitude towards immigration. On the other hand, there is demand for foreign labor, so the fourth section examines this aspect of immigration, which is most popular in immigration debates. The change in immigration policy in the 1990s reveals a necessary compromise the government must make. Similar to the phenomena in Europe, Japan already had a significant number of foreign residents before the current flow picked up in the 1980s. It is questionable whether issues surrounding the new arrivals whose nationalities 'purposes' and length of stay vary substantially, can be discussed in the same context as that of those old-comers, most of whom are Koreans. Yet the experiences of the old-comers provide meaningful precedents. The low level of politicization has so far limited the state activities, whereas the increasing number of foreign residents in limited local areas has led the local governments to deal with various issues surrounding immigrants.

The Current Situation

First, it is necessary to state the current situation of Japan in terms of immigration. The immigration issue is much less salient in Japan than in other post-industrial states. Simply stated, the relatively small number of immigrants explains the lack of urgency regarding this issue. Foreign residents comprised only 1.3 per cent of the population in 2000, with the total figure of 1,686,444 (Ministry of Justice). In addition to this number, the government estimates that there are approximately 250,000 irregular immigrants (including those whose visas have expired and those who were smuggled in) in Japan. The proportion of foreign residents among the total population is much lower in Japan than in France (6.4 per cent), Germany (8.2 per cent), Switzerland (16.3 per cent), or Sweden (5.6 per cent) (Brettell and Hollifield, 2000: 1). Furthermore, as is discussed later, Japanese government has maintained a very restrictive naturalization policy and strict application of *jus sanguinis*. Therefore, immigrants and their descendents appear more distinctly in the statistics than in the countries of *jus soli*, such as France and Great Britain.²⁾



Source: Ministry of Justice, 2001

Nevertheless, immigration has become increasingly important on the agenda for the Japanese government as well as the society in the

past several decades. This is due to the continuing growth in numbers despite the recession. The rise in the number of immigrants first occurred because of the economic boom in the mid- to late 1980s, at the time of severe labor shortage. Now, on the contrary, there has been only negative news and records in the Japanese economy since the burst of the bubble economy in the early 1990s. And yet the flow of immigrants, though it may have slowed down, has not stopped. Furthermore, the increase in the number of irregular immigrants is a serious concern for the government and has caused a xenophobic reaction in the public. The record high number of arrests, 1407 of irregular immigrants in 2001 (*Asahi Shimbun*, 5 February 2002, p.31), reflects a further tightened immigration control by the government.

Looking at categorization of immigrants by nationalities, regional ties are cited as an important factor in the flow of migration: immigrants in the developed countries consist of various nationals, but there are significant majorities among them, such as Turks in Germany, North Africans in France, and Indians and Pakistanis in Britain. In Japan's case, the concentration of East and Southeast Asians is conspicuous. Its post-war economic growth relied on the Asian market as well as direct investment through which Japanese manufacturers could cut production costs (Sato, 1998: 17-25). Sassen (1988) points out the correlation between investment and migration. Alternatively, the notion that if the home countries of those migrants develop their economies, there will be less pressure on the potential migrants to immigrate to developed countries, encourages the developed states to support the economic development of the migrant-sender states.

Low Level of Politicization

Considering the small number and proportion of immigrants, Japan obviously is less concerned about them than West European states, thus the government has much less political pressure in Japan. In a narrow administrative sense, Japan does not have an immigration policy, since it does not officially expect foreigners to come to stay in Japan

permanently. That is, Japan does not have a policy to accept a planned number of immigrants per year, unlike the United States, Canada or Australia. Standing on this 'no immigrants' principle, the Japanese government focuses on immigration and emigration *control*. The title of the Japanese law that is the core of Japanese immigration policy indicates such nature: *Syutsunyu-koku kanri oyobi nanmin nintei ho* (the Immigration Control and Refugee Recognition Act of 1951, revised in 1990). Although the official translation in English includes the word 'immigration', the original Japanese title does not. Such an attitude is not unique, however. It is similar to that of Western European states, when in the 1960s those states invited foreign laborers without thinking that they might stay; for example, Germany has held that it is not a country of immigration, despite the fact that post-WWII Germany is one of the largest immigrant receiving countries in the world (Joppke, 1999: 62). The reality has already forced European states to equip themselves with an immigration integration policy, instead of trying to seal the border for potential immigrants. Nevertheless, European debates (also debates in the United States and Australia) center around the issue of control (Harris, 2002; Brochmann and Hammar, 1999). In this sense, the emphasis on immigration control is a common feature among governments of developed states in a globalized world.

While certain aspects are similar between Japan and European states, one primary difference stands out: namely, the political temperature of the immigration issue. The immigration issue still has a relatively low profile in Japanese politics. In stark contrast, immigration has been the most important issue on the political platform in recent elections in Western Europe. In those elections, right wing parties which exhibited an anti-immigrants sentiment gained considerably. Denmark had a national election in November 2001, which witnessed a radical political shift to the right and the sharp rise of the far-right Danish People's Party, pushing it to be the third biggest party of the country. The DPP had been a clear winner in the election 3 years earlier as well. Austria shocked other members of the European Union with the election result in 1999, which brought the anti-immigrant Jorg Haider to power. In

Belgium's case, the victory of Flemish nationalists signified that the anti-immigration sentiment is closely related to the rivalries between domestic ethnic/linguistic groups. Away from Europe, Australia made international news when the Australian government received strong support from its people, when it firmly refused the Norwegian ship to port with South Asian refugees on board.³⁾

So far the Japanese government has never been exposed to such strong anti-immigration political pressure. Therefore, theoretically speaking, the government has more room to handle immigration issues with more liberal policies, if it so chooses. As discussed in the last section, there are international regimes and other non-state actors that encourage states to liberalize their attitude towards migration. Nevertheless, the Japanese government maintains a highly restrictive policy.

Government's Focus on Restriction

As mentioned earlier, immigration control is the task on which the Japanese government focuses its effort. The restrictionist policy is clearly seen in the number of asylum-seekers accepted in Japan: 77 Afghan refugees, for example, applied between January to November 2001, but only one person has thus far been given asylum (*Asahi Shimbun*, 22 January 2001). Many of those who are refused asylum bring their cases to the Japanese court, but the court ruling often favors the state, rejecting the claims of the refugees.⁴⁾ In 2000, the Ministry of Justice gave asylum to 22 people out of 185 applications, while 31 people were given special permissions to stay without asylum.

By comparison in Europe, the UK received 76,000 applications for asylum in 2000, which was a 7 per cent increase from the previous year. Out of 110,000 "initial decision" on applications, 32,000 were granted either refugee status or "exceptional leave" to stay (*Financial Times*, 14 February 2001). The difference in total numbers of applications may make a direct comparison between Japan and Europe difficult. The Japanese Ministry of Justice provided comparative figures: Japan

accepted 14 per cent of the asylum applications in 2000, whereas the rate was 38 per cent in the United States, 25 per cent in Britain, 19 per cent in France and 11 per cent in Germany.

Apart from the refugee policy (Japan ratified the Geneva Convention on the Legal Status of Refugees in 1981), Japan is rather reluctant to accept economic migrants. Japan has not ratified the following ILO treaties: Migration for Employment Convention (Revised) of 1952; Equality of Treatment (Social Security) Convention of 1964; and another UN Convention, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

This attitude of the government is a reflection of the xenophobic attitude of the society. The Economic Planning Agency found that in 1999, 80 per cent of the population opposed an increase in immigrants (quoted in Harris, 2001: 51).⁵⁾ Considering that ideologies have significant influence on the shape of the nation-state, Japan utilized the myth of the imperial lineage in nation-building. Sociologists point out that this ideology contributed to general discrimination against foreigners in modern Japan (for example, Komai, 1994). Examples of xenophobia can be found in current public figures; Tokyo governor, Ishihara Shintaro, claims that the increase of foreigners directly results in the increase in crimes. He also indicated his belief that foreigners by definition are problematic, when he asked for help from the Self-Defense Forces in case of emergency, including riots caused by 'third country nationals'.

To the likes of Ishihara, China looms as a big threat: 1.4 billion people, together with sporadic news reports of smugglers of Chinese immigrants, provoke the imagination of Japanese people. In news reports on crimes, if the suspects are foreigners, this fact is always mentioned, which often gives the audience the impression that crimes by foreigners are on a sharper rise compared to crimes committed by Japanese.⁶⁾

Yet there is wide recognition that a certain level of immigration is inevitable. The next section examines pro-immigration arguments and policy change.

Immigrants as Labor Force

While immigrants are not limited to “foreign workers” and there are other categories of people such as students, repatriates and their families, their existence as a labor force is the most concerning aspect of immigration in receiving countries. In this sense, immigration policy is treated as part of labor policy. Due to this economic emphasis, it is not only the Ministry of Justice, but also the Ministry of Health, Labor and Welfare (MHLW), and the former Economic Planning Agency (now under the Cabinet Office) that deal with the immigration issue. The Japanese government launched a significant change in immigration policy since 1990 in order to respond to the question of socio-economic growth in Japan's rapidly aging society: the government began to encourage (though implicitly) certain types of immigration.

During the post-WWII era, the Japanese government maintained a “no unskilled labor” policy, but in the 1980s it became clear that introducing foreign labor was unavoidable since the potential workforce for manufacturing and service sectors could not be fulfilled by the agricultural population in the country-side. Yet in the face of this crisis, the government held the “no unskilled labor” immigration policy unchanged, which led to a massive flow of irregular immigrants.

In March 2000 the United Nations Population Division produced a report entitled ‘replacement migration’ (<http://www.un.org/esa/population/unpop.htm>). The report defined the term as “the international migration that would be needed to offset declines in the size of the population, the declines in the population of working age, as well as to offset the overall aging of a population.” According to this report, to maintain the population at the peak (127.5 million in 2005) till 2050, Japan would need 310,000 immigrants per year on average. In order to maintain the working age population (age 15 to 64) to 1995 levels, 610,000 per year would be necessary. If Japan wants to maintain the potential support ratio (the number of persons of working age per older person) to 1995 levels, more than 10 million immigrants per year would be needed (Kohno, 2000). Although it is not practical to accept 300,000

foreigners, not to mention 10 million, every year for the next five decades, the shortage of labor and the shrinking population is a hard fact that Japan is facing together with most of the European states.⁷⁾ Like other policy-making process, client politics take place in immigration policy: employers wanting cheap labor pressure the government to allow foreign labor to enter (Joppke, 1999).

The inevitability of immigration can be seen from another angle. There is an argument that the way to stop immigration is to raise unemployment (Harris, 2002: 56). The last decade has seen Japan struggling economically, and the number of immigrants decreased. However, with the historic high rate of unemployment (that is 4 to 5 per cent in Japan in a stark contrast to European standard), immigrants still come to Japan.⁸⁾ This is due to the demarcation of job markets.

In addition to the actual decline of population, young Japanese tend to avoid so-called 3K jobs (*kitsui* demanding; *kitanai* dirty; *kiken* dangerous), which is also seen in other developed countries. On one hand, the government was aware of the necessity to fill non-skilled jobs with foreign workers. On the other hand, the government was reluctant to introduce an immigration policy that would have a significant social and cultural impact. The compromise between these two was the Reformed Immigration Act of 1990 which gives priority to those who have Japanese ancestors, most of whom are from Latin America. This policy demonstrates that the government continues to emphasize ethnic homogeneity of Japan, which is in turn considered to minimize 'the risk of diluting the "cultural integrity" of Japan' (Brody, 2002: 3).⁹⁾

Nevertheless, those ethnic Japanese (*nikkei-jin*) face an enormous challenge to be integrated into Japanese society.¹⁰⁾ Language barriers and cultural differences often isolate them from the wider community where they live.

Another way in which the government attempted to fulfill the demand for low-or non-skilled labor was to expand the trainees program. Officially speaking, the government trainees program is meant to support developing countries by training their personnel. But the main purpose of the program is to provide small- and medium-scale

industries with affordable labor. Thus, the trainees program is recognized as a 'side-door' for immigrants to enter Japan, in comparison with 'back-door' (irregular immigrants) and 'front-door' (*nikkei-jin* preference and skilled labor) immigrants. This 'side-door' policy clearly indicates that the government encourages non-skilled labor for a short period of stay (2 years). Legally speaking, those trainees are not treated as workers even though practically speaking they are. Therefore, regular protections for workers do not apply to them. There are many cases of serious infringements of the trainees' rights, including fraud and violations of human rights (*Asahi Shimbun*, 6 June 2002, p.15).

Because agriculture is one of the sectors that demand cheap labor, both in Europe and the United States it is supplied with foreign workers. In Japan, the Basic Plan for Immigration Control (the second edition) of 2000 expanded the categories of trainees in the field of agriculture. This Plan spread foreign residents in wider areas where there were previously almost no foreigners. The agricultural sector, which comprises only 1.8 per cent of the GDP in 1998, also approaches the problem from a different angle: the fundamental problem in agricultural communities is that there are too few young women to reproduce the agricultural population. Therefore, instead of seeking seasonal workers, those communities endeavor to recruit brides, mostly from Southeast Asia. Naturally, such women were expected to stay, whereas their prospect was not shared by foreign workers in manufacturing and service sectors in big cities. At the same time, there are incidents which reveal that foreign labor is essential for agriculture and farms often could not do without it (Suenaga, 1999). Still, the proportion of foreigners working in the agricultural sector is very low: among legal foreign workers, 0.3 per cent are hired in the agricultural sector (MHLW, 2001).

Aside from the demand for non-skilled labor, Japanese government is keenly aware of the demand for skilled labor as well. The government has shown its intention to expand citizenship to these new immigrants, which is an astonishing change of attitude. The same Basic Plan

indicates that the procedures for naturalization (*kika*) and permanent residency should be simplified for the qualified foreign residents, i.e. those with professional skills.

Demand for skilled workers is not a unique experience in contemporary Japan.¹¹⁾ In the 1990s, the IT boom in the United States triggered an international hunt for skilled workers. Many countries, including Canada, South Korea, the Netherlands, Ireland, New Zealand, Singapore and Norway, participate in this competition over recruiting skilled workers (Harris, 2002: 98-104). It is in this area that contemporary states play an important role, facing the challenge of immigration: the states differentiate categories of workers and attempt to attract skilled workers. It has become an important responsibility for the state to provide skilled workers for their domestic industries and multinational corporations that operate within their borders.¹²⁾ However, the proportion of skilled workers among registered foreign residents in Japan is quite low; 4.5 per cent in 2000 (Ministry of Justice, 2001).¹³⁾

Examples of this competition for skilled workers are found in the increase of the issuance of H1B visas in the United States,¹⁴⁾ the introduction of a green card system in Germany, and the relaxation of UK immigration policy to allow new graduates to acquire work permits without having two years' postgraduate experience (*Financial Times*, 29 September 2000). Japanese government also declared the necessity to recruit foreign IT workers in order to cope with the severe shortage. Economic Planning Agency (EPA) also acknowledges a category of workers between professionals and non-skilled laborers (EPA, 1999b).

In Japan, the encouragement of immigration, even though only to a limited category of immigrants, is a significant change of policy. The EPA (1999a) has indicated its intent to accept foreigners into Japanese society by widening the possibility for those resident foreigners to acquire permanent resident status and citizenship. Nation-wide debate has not taken place, whether Japan will become a 'country of immigration'. Yet at least some part of the government recognizes the inevitability of accepting foreigners in order to sustain the country's wealth. At the same time, however, the same EPA report says that it

is not recommended to set up an annual immigration quota like traditional immigrant states (such as the United States and Australia). The report also suggests the strengthening of immigration control in order to adjust immigration to the labor market, showing the government's dilemma in accepting immigrants.

Those who suggest that Japan should accept more foreigners with high-skills emphasize the economic demand for those immigrants, whereas how those immigrants settle in Japan in the long term is a different story. In this aspect, there is an important element that plays a role to immigrants' lives in Japan. The next section turns to this issue.

The Colonial Past

While arguments on immigration are relatively new, and immigration since the 1980s has not been highly politicized, immigration as a phenomenon is not a new experience for Japan; so-called old-comers have been an important political and social issue in the post-WWII era. They are mostly Koreans who came to Japan before the end of World War II and their descendants. They comprise roughly one-third of the total foreign nationals residing in Japan. Issues surrounding these Koreans, called *zainichi*, are major subject of study in Japan, and it is questionable whether *zainichi* people's rights and problems should be discussed (or watered down) in the same context as new comers, considering the historical background.¹⁵⁾ Although the Japanese government's attitude and responsibility towards *zainichi* is a significant issue, I limit the argument to a consideration of how the government treated the old-comers on the problems that new-comers are facing.

This colonial legacy dominated the post-war Japanese immigration policy to a certain extent. In relation to the Korean population, especially those from North Korea, the Japanese attitude to immigration remains considerably influenced by the cold-war mentality. Since the establishment of the communist regime in North Korea, Japan has been concerned with infiltrators. As a result, the government's focus

regarding immigration was how to prevent non-friendly foreigners from getting access to political rights in Japan, which led to the immigration policy that is inadequate in protecting immigrant rights and prioritizes 'state sovereignty' over human rights considerations (Kitamura, 1993).

The experiences of old-comer Koreans have a significant meaning in the social and political arena. Their struggle for various rights initiated the argument for the rights of immigrants. Provision of citizenship was a crucial debate, especially during the Cold War era. Kashiwazaki (2000), for example, critically analyzed the citizenship policy of Japan in terms of denying full citizenship to long-term foreign residents including old-comers.

The Cold War had different implication in European immigration policies. Nigel Harris describes the cold-war implication in international immigration as follows: 'Refugee policy had been created by the Western powers simply as a reproach to the old Soviet Union and its allies during the Cold War' (Harris, 2001). However, Japan had a different stance in this respect and did not fully comply with the international norm of the refugee policy. The number of refugees Japan has accepted remain very low compared with other developed countries and those refugees were mostly limited to the Indochinese during the 1980s.¹⁶⁾

One of the few issues taken up in national politics is the discussion of voting rights of permanent residents at local elections. The most active lobbying group for this issue is that of old-comer Koreans. The governing party, the Liberal Democratic Party, debated whether to give permanent foreign residents the right to vote in local elections (*Financial Times*, 28 September 2000), but the conservative factions were strongly against the plan. One of their coalition partners, the Clean Government Party (*Komei-to*), has been the most active political party to promote voting rights for foreign nationals at the local level. In November 2001, however, the lack of debate in the Diet resulted in postponement of the issue.

The historical factor of colonialism in immigration policy can be also found in Britain's case, although in a different form. While '[T]he legacy of empire has afflicted British immigration policy with the enduring

curse of racial discrimination' (Joppke, 1999: 101), the people from former colonies such as India, Pakistan, and the Caribbean are fully recognized as British citizens in terms of political and social right.¹⁷⁾

Another comparison can be made in the acceptance of 'returnees' who are in the same ethnic group as the people in the host country. As mentioned above, Japanese descendants from Latin America are legally accepted, but they face great difficulties in integrating into Japanese society with linguistic and cultural barriers. Similar problems are also shared by the returnees from China, who are orphans left in China at the end of WWII, and their families (Komai, 1999: 99-104). In contrast, British descendants from the Old and New Commonwealths are considered to be of 'British stock', and have little or no difficulty in being accepted (Joppke, 1999).

Regarding the government's view towards these immigrants, Japan emphasizes ethnicity in keeping the society culturally harmonious, which can be seen in the UK as well. At the same time, however, the Japanese government is slow to accommodate the needs of those ethnic Japanese immigrants with different cultural background. The next section looks into the roles of various actors in meeting immigrants' needs and protecting their rights.

The Role of the State vs. The Role of Non-state Actors

It is often pointed out that state sovereignty is under serious challenge in the face of globalization, but states seem to be, as described in earlier sections, determined to maintain strict immigration control, which 'is a prime expression of the sovereignty of states' (Joppke, 1999: 17). International laws recognize state sovereignty to pick and choose who can enter and stay within its territory and who cannot.

To the extent that Harris emphasizes immigration control, he considers the role of the state to be formidable (Harris, 2002). The immigration policy as an expression of state activity, however, is different from output of the policy shown in the actual immigration

situation. This gap is seen in the increase in the number of 'unwanted' immigrants.

On the other hand, some consider that state is still too powerful for the sake of immigrants' rights. Human rights protection for immigrants, whether regular or irregular, are treated in the way that they conflict with the territorial sovereignty of states, and even in the International Convention the former is substantially restricted in consideration of the latter (Bosniak, 1991).

Considering the collision between state sovereignty and human rights, how far does the state responsibility stretch in order to protect the rights of foreign workers? Among foreign workers are trainees, students and irregular immigrants, who have even less protection than regular foreign workers (e.g. *nikkei-jin*). When these immigrants are exploited by their employers or by the brokers who introduce them to the work, whom can they turn to?

Brubaker (1992) admits that it is already a European norm that actual, not potential immigrants in their countries often have 'a secure residence status and broad economic and social rights that differ only at the margins from those of citizens' (p. 181).¹⁸⁾ But arguments in Japan have not reached this level: the Japanese government does not recognize such rights and privileges of foreigners. The national health insurance system, for example, is combined with the pension scheme, thus it is not beneficial to those foreigners who intend to go back to their home country eventually. As a result, many foreign workers are not covered by insurance, thus out of reach of social safety net.

In Brubaker's view, the nation-state is still the only viable form of political organization in the contemporary world. However, if the nation-state does not provide a satisfactory framework to immigrants, who are increasing in number even though currently 'only' 1 per cent of the total population, it is necessary to turn one's eyes somewhere else. As Joppke describes, 'nation-states are necessarily exclusionary and undemocratic to the outside' (Joppke, 1999: 2).

International regimes and NGOs are possible alternative frameworks for providing immigrants with some protection. Also within the state

framework is local government which has an active role in integrating immigrants into the local community. Joppke (1999), using the cases of Germany, the United Kingdom and the United States, delineates immigration integration from immigration control in his analysis of the nature and the role of states facing massive flow of immigrants. Following this distinction, in Japan's case, the state focuses rather exclusively on immigration control, whereas immigration integration is mostly left to the hands of local governments and NGOs (Komai, 1999).

NGOs to support immigrants are located in the areas where there is a concentration of foreign residents. According to the register of non-profit organizations compiled by the Cabinet Office, many of such organizations are engaged in Japanese language training for foreigners. On the other hand, there are only a few organizations to which immigrants can turn when they face legal, social or economic problems.

Local governments are often more active than the central government in immigration integration. It is because immigrants concentrate in limited areas, that is, big cities like Tokyo and Osaka, and areas of manufacturing industries. Local governments of these areas tackle immigration issues related to the lives of immigrants and their relationship with the local community. A conference has been launched among the heads of local governments with large foreign populations (*Nihon Keizai Shimbun*, 20 October 2001). These leaders expressed frustration at the limitation of their capabilities and requested for state action to support the immigrant integration in the area of health insurance and education.

Some local governments that promote political participation of foreign nationals at the local level. Nearly one third of local governments have already expressed their allegiance to the plan to give permanent foreign residents voting rights at their assemblies. (*Sankei Shimbun*, 4 October 2000).

As for international regimes, many recognize the increasing control held by international regimes over matters that used to be considered as regulated exclusively by nation states (for example, Strange, 1996; Sassen, 1996). Regarding immigrants, Soysal (1994) argues that

international regimes for human rights are now quite effective in protecting the rights of those who are not sufficiently covered by nation-states. In her view, human-rights protection is now included as one of the significant roles of the state due to the pressure from international conventions. In Japan's case, Kitamura (1993) claims that whether Japan ratifies it or not, the International Convention for the Protection of the Rights of Migrant Workers and Their Families of 1990 has an impact on the Japanese government. The International Covenant on Civil and Political Rights, the International Covenant on Economic, Social, and Cultural Rights, both of which Japan acceded to in 1979, and the Convention relating to the Status of Refugees that Japan ratified in 1981, all require that 'resident aliens be treated equally with citizens of the country in the areas of social security and welfare' (Kashiwazaki, 2000: 450). Whether Japan's response to those international obligations is adequate, is questionable.

Conclusion

State sovereignty still controls who is and can become a formal member of the society. On the other hand, 'Xenophobia was now becoming economically disastrous in the new world order' (Harris, 2002: 100). In these respects, situations in Europe and Japan are quite similar.

In Japan's case, the basic principle of the state remains in 'not a country of immigration.' But with socio-economic calculation for the future, it is inevitable that some immigration will be allowed, thus forcing the state to compromise. Consequently, the state displays ambivalent attitude towards immigration: only certain types of immigrants are wanted and other types are not. To put it differently, there are two different domestic pressures; some, including employers, need more skilled and non-skilled labor, and pressure the government to accept more foreigners¹⁹⁾; others want the government to block an excessive flow of migrants which may destabilize the society.

While the economic argument is clearly pro-immigration, the

question of 'public security' pulls the debate back the other way (Koshiro, 1998). 'Whatever the conclusions of economic analyses of accepting immigrant workers, there is concern about the social costs of such an inflow' (Koshiro, 1998: 167). This indicates the level of difficulty in facing the immigration issue. The clear necessity of immigration due to the labor shortage in the rapidly (or already) aging society and the shrinking population is currently not severe enough for the people to feel comfortable with more foreigners. Those who are concerned with the social cost of accommodating foreign workers tend to see them only as a labor force, not as consumers or community members. The Ministry of Labor calculated the cost and benefit of immigrants into public finance. The result suggests that it is only in the first few years during which immigrants contribute more than their cost to public finance. The longer they live in Japan, the cost of education for their children, health, and retirement surpass the benefit they bring. This gives an incentive to the government to promote short-term labor import rather than long-term immigration. Such an attitude is, however, severely criticized: Komai (1990) condemns such a policy as ethically wrong that deprives the prime work force for a few years from developing countries and avoids paying the cost.

The Japanese government needs to consider the integration of immigrants as part of an immigration policy, but the focus on control remains strong. Economic necessity influenced the government to change its immigration policy direction in 1990. Further change in the immigration policy is requested from international as well as domestic circles in order to meet the norm of human rights protection. It remains to be seen whether the Japanese government will respond to such pressure with concrete actions.

Notes

- 1) Brubaker (1992) discusses the correlation between immigration integration policy and the citizenship regime type, that is determined by the historical process of nation-building.

- 2) Although Britain partially abolished jus soli, the large number of British citizens with former colonial background (Indians, Pakistanis, Caribbeans, etc.) is discussed in the context of immigration debate.
- 3) This attitude, blaming foreign workers for taking away the natives jobs, reminds me of the European and American blame pasted on to the Japanese products such as automobiles and VCRs in the 1980s. It used to be goods that were invading the nation, but these days human beings are a more serious threat.
- 4) It is reported that one judge at Tokyo District Court has a strong inclination to favor the plaintiffs when the state is the defendant. Thus far, an Ethiopian and an Afghan whose application for asylum had been refused, won their appeal with this judge. *Sentaku*, February 2002, p. 114.
- 5) There is, however, quite an opposite poll result: *Asahi Shimbun* (newspaper) reported that 64 per cent people are willing to admit non-skilled labor. See *Asahi Shimbun*, 9 November 2000.
- 6) See Yamawaki, Kondo and Kashiwazaki (2001).
- 7) An alternative source of labor is women, whose work force is under-utilized. Some argue either immigrants or women option, that is, those who are more reluctant to open up vacancies for one tends to support opting for the other. On the other hand, the social conservatives, who are often xenophobic, prefer neither option. They are threatened with the idea that women leave their home to work outside, claiming that it would destabilize the families, the most fundamental social institution, thus destroy the harmonious society. They do not like to support working mothers; instead they want women to concentrate on child-rearing. Needless to say, their vision is so myopic that it does not offer any practical solution to the existing and future problem of labor shortage. Ministry of Health, Labor and Welfare (MHLW), together with the Cabinet Office, has launched a project called creation of the society in which men and women cooperate. Even bureaucrats who work for this project have only a vague idea what they are trying to do.
- 8) Immigrants working in the manual labor and service sectors are also extremely vulnerable during recession, losing jobs without any compensation. The buffer function that immigrant workers bear is criticized. See, for example, Komai (1999).
- 9) The preference of the same ethnic group in immigration is found in the German case, too. For the comparative study between Japanese and German immigration policy, see Berger (1998).
- 10) There are various studies on *Nikkei-jin*, including Brody (2002), Kawamura (2000), and Komai (1999).
- 11) During Meiji period (late 19th century), the Japanese government hired westerners to introduce modern technologies and systems in various fields such as manufacturing, agriculture and education. They were called oyatoi gaikokujin (hired foreigners), and the term is referred to in current arguments, making historical comparison. See, for example, Oyatoi gaikokujin Project *Sapio*, 14 June 2000, pp. 24-35.
- 12) Multinational corporations often locate their Asian IT centers in Singapore, not in Tokyo, and they are now increasingly outsourcing the software services to India. IT consulting services usually follow MNCs, particularly in financial services, whereas Japan currently faces the danger of financial melt-down.

- 13) In the list of visa categories, I counted the following as skilled immigrants: professor, instructor, intra-firm transferee, technology, and specialist in humanities/ international services.
- 14) The United States increased the number of H1B visas to 195,000 per year from 2001 for 3 years (*Financial Times*, 3 October 2000).
- 15) The facts that they live in Japan for generations, that many of the first generation were forced to migrate, that they were arbitrarily stripped off their civil rights when Japan ended the colonization, these facts, it can be argued, make it necessary to differentiate the arguments on *zainichi* issues from the arguments of immigration as a whole.
- 16) It was 1978 when the first Indochinese refugee was accepted in order to settle in Japan (Yamawaki, Kondo, and Kashiwazaki, 2001). Also, for the recent attitude of the Japanese government towards refugees, see former section Governments focus on restriction.
- 17) For the British case, I also referred to Wakamatsu (1995).
- 18) On the other hand, even the basic human rights of potential immigrants are compromised against state sovereignty, and states are desperate to cut off the flow. For example, the British government is trying hard to stop the refugees in Sangatte, France, from entering the UK through the Eurotunnel.
- 19) For example, see an interview to the president of Japan Federation of Employers Associations, Tadashi Okuno. *Nihon Keizai Shimbun*, 2 June 2001.

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