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When migrants became denizens: understanding Japan as a reactive immigration country

Abstract: On the surface, Japan continues to be a non-immigration country. Economic migrants are never admitted as permanent residents at the point of initial entry and rarely viewed as immigrants any time afterward. At the same time, however, Japanese immigration policy has become markedly settlement oriented since the mid-2000s. The government has managed to cobble together a series of initiatives the total of which now has the appearance of an integration policy mostly targeting co-ethnic migrants, so-called *nikkeijin*. The country has also introduced a new points-based system which confers immigration privileges, such as family sponsorship and expedited access to permanent residence, on highly skilled migrants. By pointing at these policy examples, I demonstrate that Japan has become a *de facto* immigration country where some migrants are denizens or expected to become so. The present aim, then, is to explain why and how this shift has occurred despite the stasis which characterizes the policy façade. I argue that these changes are best understood as reactive and incremental adjustments to unexpected outcomes of earlier policy decisions on the admission of both unskilled and highly skilled workers as temporary migrants.

Keywords: immigration management, *nikkeijin*, migrants, highly skilled migrants, denizenship

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1 Introduction

“How would you feel if some strange foreigner [*wake no wakaranai gaikokujin*] lived next to you?”¹ According to *Asahi Shinbun* (2002), a center-left newspaper

¹ All direct quotes from Japanese sources have been translated by the present author unless stated otherwise.

commanding national readership, this was a rhetorical question an Immigration Bureau official in 2002 posed to the mayors of local authorities who were demanding the central government to reform the pre-existing system of immigration administration. Assuming that the anecdote is true, I cannot help but wonder what this bureaucrat would think of her or his country today. A decade after the reported exchange took place, the ubiquity of migrants has become both a fact and an aspiration in the proverbial non-immigration country. There are factory cities where migrant children struggling to integrate into the public school system form banal social scenery. In the capital's business districts it is difficult not to run into professional expats, of whom the Japanese government obviously cannot get enough.

In the present paper, I ask why Japanese immigration policy has become settlement-oriented despite continuing to be based on the principle of non-immigration. Put differently, my aim is to create a general narrative to understand and reconcile the growing dissonance between the static veneer and the changing substance of immigration management in Japan. The question is all the more interesting since the trend applies to migrants at the two opposing ends of the legal labor market, that is, unskilled and highly skilled workers.

In order to answer this question, I rely on Hammar's (1990) idea of denizenship. In short, the denizen is a foreign national who resides in the destination country as a permanent resident and analytically occupies an intermediate status between the temporary migrant and the naturalized citizen. The denizen is endowed with a full range of social and civil rights to which the temporary migrant does not have access. However, the denizen has limited political rights, as these accompany only formal citizenship acquired through naturalization. The denizen is also different from the immigrant. Following some political theorists concerned with normative issues emerging from international migration (Carens 2005; Kymlicka 2001; Miller 2008), I treat the immigrant as a migrant who is admitted with the expectation that she or he will settle permanently in the destination country and will become a naturalized citizen in due course. In contrast, the denizen does not achieve full membership in the national community.

Employing the concept of denizenship allows me to be specific about the nature of migrant settlement in Japan. Strictly speaking, immigrants in the sense just defined do not exist in the country. Instead, it is denizens who are increasingly becoming the targets of immigration management. In a stylized binary, unskilled workers and their families are commonly associated with negative public policy problems, while highly skilled workers and their families are seen as positive public policy gains. In both cases, settlement-oriented measures short of naturalization have developed as the Japanese government

was forced to make incremental adjustments to unexpected outcomes of earlier policy decisions which had treated unskilled and highly skilled migrants alike as temporary workers only. I argue that Japan has become a *de facto* immigration country of denizens by following a general pattern of policy evolution characterized by reactive feedback rather than purposive linearity.

2 Migrants as denizens

Japan became a new immigration country in the 1980s when the arrival of migrant workers first came to be a salient phenomenon.² To be sure, there had been a steady stream of illegal migrants from the Korean peninsula throughout the post-war decades (Morris-Suzuki 2010). However, this particular pattern of movement was more or less a remnant of colonial migration. By contrast, the new migratory flow was largely economic in nature. Owing to favorable labor market conditions and the strong yen at the time, various groups of foreign workers made for Japan. These included the so-called entertainers, that is, female bar hostesses from Southeast Asia, bogus international students from East Asia, and male manual workers from South Asia and Iran. They entered the country to engage in unskilled employment, which was, and still is, banned by the Immigration Control and Refugee Recognition Act (*Shutsunyūkoku kanri oyobi nanmin nintei hō*, hereafter the Immigration Control Act) (Komai 1995; Liu-Farrer 2011; Morita and Sassen 1994; Sellek 1996, 2001).

During the 1980s there were active policy discussions on immigration management within and outside the central government (see Akashi 2010; Chiavacci 2012). For the purpose of the present paper, it suffices to say that those in favor of the status quo of zero unskilled labor migration prevailed over those who pushed for immigration expansion. In 1988, the Ministry of Labour clarified its position in the Sixth Basic Plan for Employment Management (*Dai 6ji koyō taisaku kihon keikaku*) by stating that only skilled migration should be permitted (MOL 1988). The point was reiterated at the Cabinet-level when the Council for Inter-Ministerial Communications on the Foreign Worker Problem (*Gaikokujin rōdōsha mondai kankei shōchō renraku kaigi*, hereafter the Communications Council), which was created in 1988 to deal with growing illegal migration, made a government-wide decision to continue barring the admission

² I use the term “new immigration country” in order to contrast Japan with “old immigration countries” in Western Europe, such as Germany, where labor migration took place in the decades following the Second World War.

of unskilled workers (*Asahi Shinbun* 1989). Hence, the 1989 amendment of the Immigration Control Act introduced a new punitive measure which made the abetting of illegal employment by employers and job brokers an immigration law violation.

Since the legal amendment, Japan has continued to be a non-immigration country at least putatively. Migrants are neither admitted as permanent residents at the point of entry nor encouraged to become Japanese citizens through naturalization. The Nationality Act (*Kokuseki hō*) does not contain a *jus soli* provision and prohibits dual nationality.³ Laws and measures related to migrants are still commonly called *gaikokujin seisaku* ('foreigner policy') as opposed to *imin seisaku* ('immigration policy'). A governmental organization which holistically oversees immigration admission and immigrant integration remains absent. In the meantime, some have voiced their support of immigration expansion. Notably, a report unveiled by then Prime Minister Keizo Obuchi and his personal advisory board in 2000 and a proposal by a group of Liberal Democratic Party (LDP) members in 2008 urged the government to turn Japan into a full-fledged immigration country (LDPAD 2008; PMC 2000). However, such policy recommendations which position permanent immigration as a long-term measure to mitigate the impending demographic crisis have been politely ignored or roundly criticized.

Underneath this façade of stability, Japan's immigration policy is fraught with contradictions. Since the legal amendment in 1989, pre-existing immigration loopholes have been extended while new ones have been added. These include migration channels to admit entertainers, technical trainees and interns, and co-ethnic migrants (hereafter *nikkeijin*) (Mori 1997; Tsuda and Cornelius 2004). As a result, the number of registered foreigners, defined as foreign nationals who legally reside in Japan for 90 days or more, has approximately doubled since 1990 (see Figure 1). Although the number has been declining since 2008, presumably due to the Lehman shock and the 3/11 triple disaster, Japan still has over two million foreign residents constituting 1.6% of the national population. To be sure, the percentage is miniscule compared to that in other advanced economies (OECD 2012). However, the speed at which the foreign population has grown is paradoxical given the government's continued claim of being a non-immigration country.

More importantly, the recent migration flow has produced a substantial level of migrant settlement. Of all the visa categories, five grant an immigration status which is not tied to employment, education, or training. These are the

³ See Kondo (2001) for a summary of citizenship rules in Japan.

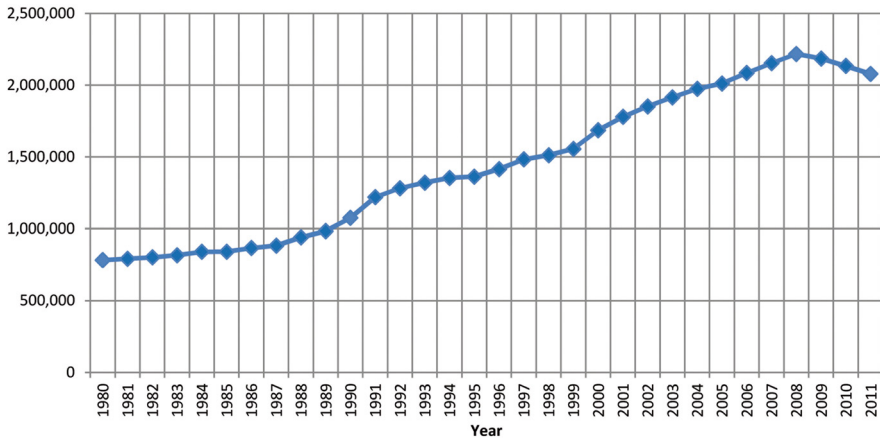


Figure 1: Number of registered foreign residents. Sources: MOJ (1992, 1998, 2001, 2012a).

special permanent resident visa for former colonial migrants and their descendants (hereafter *zainichi* foreign residents), the permanent resident visa for migrants who are not *zainichi* foreign residents, the long-term visa for *nikkeijin* and other miscellaneous migrant groups, the family visa for spouses and dependents of Japanese nationals, and the family visa for spouses and dependents of permanent residents. Those who reside in Japan on one of these visas are normally considered migrants who have a special connection to Japan by the Japanese government and have a stable immigration status. I use the number of these visa holders as a proxy for settled migrants in the discussion below.

In the past ten years, the proportion of settled migrants has roughly stayed the same (see Column 8 in Table 1). In order to contextualize this, however, one must remember that the number of special permanent residents has been decreasing due to naturalization and old age mortality. This means that the shortfall of *zainichi* foreign residents has been made up by other migrants. A steady increase in the proportion of settled migrants excluding special permanent residents corroborates this point (see column 9 in Table 1). Today, almost 48% of foreign residents are non-*zainichi* settled migrants. Furthermore, denizenship, rather than naturalization, is the predominant mode of settlement. Table 2 compares the number of new permanent residents with that of new naturalized citizens from the past ten years. In every single year, new permanent residents outnumbered new naturalized citizens. According to Chung (2010: 695), permanent residency “[a]mong a wide spectrum of immigrants and local officials alike [...] is treated as the final step of immigrant settlement” and “has become the norm despite closed-door immigration policies.”

Table 1: Number of registered foreign residents by visa type.

| Year | 1. Special permanent residents | 2. Permanent residents | 3. Long-term residents | 4. Families of Japanese nationals | 5. Families of permanent residents | 6. Other* | 7. Total | 8. Percentage of 1-5* | 9. Percentage of 2-5.* |
|------|--------------------------------|------------------------|------------------------|-----------------------------------|------------------------------------|-----------|-----------|-----------------------|------------------------|
| 2003 | 475,952 | 267,011 | 245,147 | 262,778 | 8,519 | 655,623 | 1,915,030 | 65.8 % | 40.9 % |
| 2004 | 465,619 | 312,964 | 250,734 | 257,292 | 9,417 | 677,721 | 1,973,747 | 65.7 % | 42.1 % |
| 2005 | 451,909 | 349,804 | 265,639 | 259,656 | 11,066 | 673,481 | 2,011,555 | 66.5 % | 44.1 % |
| 2006 | 443,044 | 394,477 | 268,836 | 260,955 | 12,897 | 704,710 | 2,084,919 | 66.2 % | 44.9 % |
| 2007 | 430,229 | 439,757 | 268,604 | 256,980 | 15,365 | 742,038 | 2,152,973 | 65.5 % | 45.6 % |
| 2008 | 420,305 | 492,056 | 258,498 | 245,497 | 17,839 | 783,231 | 2,217,426 | 64.7 % | 45.7 % |
| 2009 | 409,565 | 533,472 | 221,771 | 221,923 | 19,570 | 779,820 | 2,186,121 | 64.3 % | 45.6 % |
| 2010 | 399,106 | 565,089 | 194,602 | 196,248 | 20,251 | 758,855 | 2,134,151 | 64.4 % | 45.7 % |
| 2011 | 389,085 | 598,440 | 177,983 | 181,617 | 21,647 | 709,736 | 2,078,508 | 65.9 % | 47.1 % |
| 2012 | 381,364 | 624,501 | 165,001 | 162,332 | 22,946 | 677,512 | 2,033,656 | 66.7 % | 47.9 % |

* Author's calculation. Sources: MOJ (2007, 2012b, 2013)

Table 2: Number of naturalized citizens and permanent residents.*

| Year | New naturalized citizens | New permanent residents (net figure) |
|------|--------------------------|---|
| 2003 | 17,633 | 43,136 |
| 2004 | 16,336 | 45,953 |
| 2005 | 15,251 | 36,840 |
| 2006 | 14,108 | 44,673 |
| 2007 | 14,680 | 45,280 |
| 2008 | 13,218 | 52,299 |
| 2009 | 14,785 | 41,416 |
| 2010 | 13,072 | 31,617 |
| 2011 | 10,359 | 33,351 |
| 2012 | 10,622 | 26,061 |

* The number of naturalized citizens is that of successful naturalization applicants. The number of new permanent residents is a net figure, that is, the difference in cumulative numbers of permanent residents between two consecutive years. Because presumably some of them die and others emigrate, the number is not strictly the same as that of successful permanent resident applicants. *Sources:* MOJ (2006a, 2007, 2012b, n.d.b)

3 Unskilled migrants as denizens

3.1 Earlier policy decisions

The immigration reform debate in the late 1980s did not result in official liberalization of unskilled labor migration, but the Japanese government created an immigration loophole for co-ethnic migrants (Akashi 2010; Sellek 2001). As part of the 1989 amendment of the Immigration Control Act, a new visa category for long-term residents was introduced to secure the legal status of Indochinese refugees. Shortly before the amendment came into effect in 1990, the Ministry of Justice circulated an official gazette stipulating visa criteria which bore no relation to the admission of refugees. Up to third-generation *nikkeijin* and their spouses and dependents irrespective of ethnic origin gained access to the visa, which could be issued for up to three years and renewed indefinitely without employment restrictions.

Kondo (2009) briefly summarizes three competing explanations for the admission of *nikkeijin* and their families. First, the establishment of the co-ethnic migration channel was an attempt by the government to maintain ethnic kinship with Japanese emigrants and their descendants abroad and to give them an opportunity to visit the country of their forebears. This was the government's official explanation. Second, the preferential treatment of *nikkeijin* was a labor

market measure to procure unskilled workers without disturbing the country's purported ethno-cultural homogeneity. This is the explanation Kondo himself endorses. Third, the granting of the long-term resident visa was a way to balance the immigration status of *nikkeijin* and that of *zainichi* foreign residents, of the Japanese diaspora overseas and the permanent foreign community in Japan. Whatever the case was, a simple fact remains. *Nikkeijin* and their families have become a mainstay of the unskilled labor market and a visible presence in society at large.

The introduction of the long-term resident visa increased the number of *nikkeijin* and their families. Figure 2 shows the number of foreigners entering Japan on this visa, including both new and repeated entrants, from 1990 to 2005. The number sometimes fluctuated, presumably due to exogenous economic factors, but generally followed an expansionary trend. Similarly, the number of registered foreign residents with the long-term resident visa continuously increased except for a very slight dip in 2002 (see Figure 3). The visa, however, is also granted to other miscellaneous groups of migrants, such as refugees, regularized illegal migrants, and divorced foreign parents with child custody. Therefore, one cannot simply equate the number of *nikkeijin* and their families with the number of long-term visa holders. Figure 4 instead shows the number of entrants, once again including both new and repeated entrants, from Brazil and Peru where most *nikkeijin* originate. Brazilian entrants jumped from 29,241 to 67,303 and Peruvian entrants from 6,084 to 11,478 between 1989 and 1990. It is safe to assume that the increase was a response to the introduction of the new visa category.

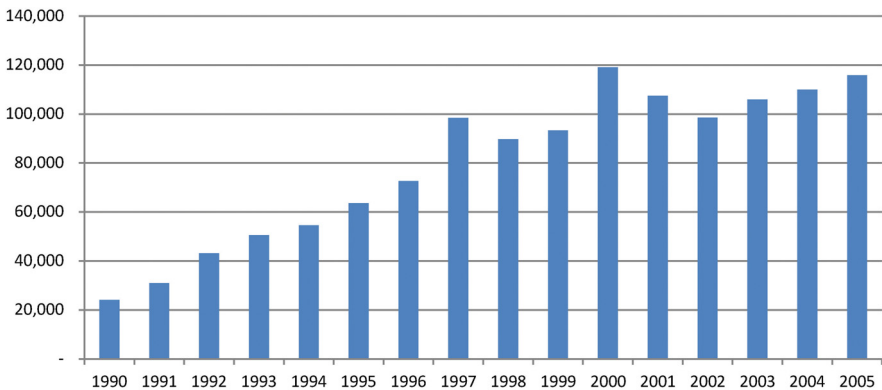


Figure 2: Number of entrants on the long-term resident visa. Source: MOJ (2008b).

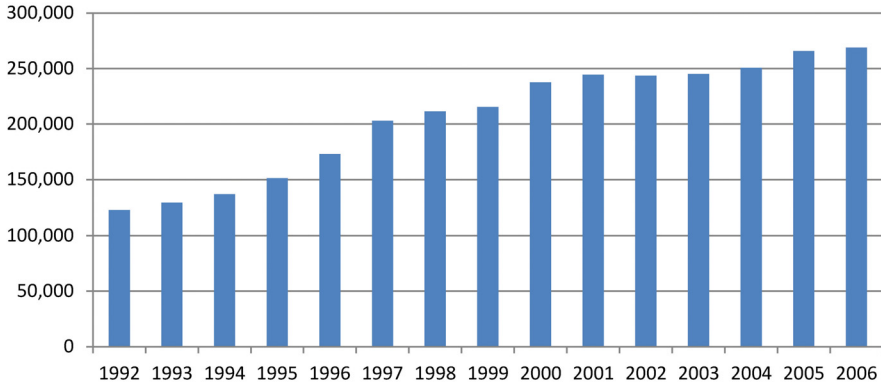


Figure 3: Number of foreign residents on the long-term resident visa. Sources: MOJ (1998, 2001, 2006a).

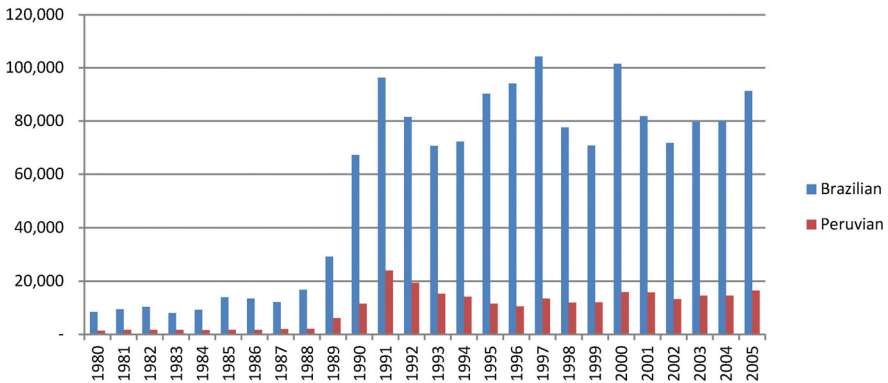


Figure 4: Number of Brazilian and Peruvian entrants. Source: MOJ (2008a).

3.2 Unexpected outcomes

The Japanese government revised immigration admission rules to procure migrant workers but quickly encountered unexpected problems. A misalignment appeared between the existing institution of social welfare and the behavior of *nikkeijin* workers. In Japan, there are two main types of public old-age pension schemes.⁴ The Welfare Pension (*kōsei nenkin*) is a company-based scheme for full-time workers, and contributions are made by both the employer and the

⁴ See Neary (2002: Ch. 12) for a summary of the Japanese social welfare system.

employee. The pension scheme is tied to a health insurance scheme called the National Health Insurance (*kenkō hoken*), and employee contributions for the pension and health insurance schemes are automatically and jointly deducted from the employee's salary. On the other hand, the National Pension (*kokumin nenkin*) and the National Health Insurance (*kokumin kenkō hoken*) are insurance schemes for those who do not qualify for the company-based scheme and are operated by local authorities. In the early 1990s, the two schemes were not tied to each other, thus making it possible to take out the health insurance without taking out the old age pension plan.

Nikkeijin migrant workers did just that. In order to draw income from the Welfare Pension, the beneficiary has to have a work history of 25 years and be at least 65 years old. Without a definite plan to immigrate to Japan permanently, many *nikkeijin* chose to enroll in the National Health Insurance so that they did not have to contribute toward an old pension plan from which they might never benefit (Sellek 2001). The insurance preference of *nikkeijin* coincided with that of employers who wanted to keep non-wage labor costs low (*Nihon Keizai Shinbun* 1990). This created financial problems for local authorities with a large number of *nikkeijin* residents because the National Health Insurance has a lower premium and does not collect employer contributions. The Japanese social insurance system lacked incentives for migrant workers to enroll in the less fiscally burdensome, packaged scheme operated at the firm-level.

In response to the problem, the Ministry of Welfare introduced a lump sum payment for departing migrant workers to compensate for the loss of their pension contributions and made the joint registration for the National Health Insurance and the National Pension mandatory (Gurowitz 2006; Sellek 2001). Concurrently, some local authorities instructed *nikkeijin* to enroll in the company-based social insurance scheme. However, many *nikkeijin* were dispatched workers and were directly employed by job agencies which did not always operate an insurance scheme. A survey conducted by Hamamatsu City, an industrial city in Shizuoka Prefecture, for example, showed that more than half of *nikkeijin* respondents lacked health insurance coverage (*Asahi Shinbun* 2000). Almost half of the uninsured respondents cited refusal by their job agencies as the primary reason.

It turned out that the problem of social insurance administration was part of a much larger unexpected challenge, that is, the settlement of *nikkeijin* and their families. Toward the end of the 1990s, the media were reporting stories of communal discord, such as a fatal case of gang violence between Japanese and Brazilian youths (*Asahi Shinbun* 1997) and a xenophobic intimidation by a Japanese far-right group and juvenile delinquents at a public housing estate where many *nikkeijin* lived (*Asahi Shinbun* 1999). Social exclusion also surfaced

in a less noisy way although its damage was grave all the same. Stuck in a transnational limbo, many *nikkeijin* children were kept at home without receiving education in their mother tongue or in Japanese. For example, a survey conducted in Toyota City in Aichi Prefecture showed that approximately 40% of foreign children were not in school (*Asahi Shinbun* 2001b).

The settlement and social integration of migrants was a localized challenge which confronted particular local authorities in industrial areas where *nikkeijin* were employed as factory workers. Finally, such local authorities coalesced into a united political force. In 2001, Hamamatsu City and 12 other local authorities established the Council of Local Authorities with a Large Number of Foreigners (*Gaikokujin shūjū toshi kaigi*, hereafter the Local Authorities Council) in order to facilitate horizontal knowledge sharing and to lobby the central government for greater involvement (*Asahi Shinbun* 2001a). At the time of establishment, the Local Authorities Council adopted the Hamamatsu Declaration (*Hamamatsu sengen*, hereafter the Declaration) which outlined the main policy demands.

The Declaration touched upon three key issues (CLALNF 2001). First, the Local Authorities Council urged the national and prefectural governments to give special support for migrant children's education. Second, they wanted the health insurance system to be reformed. Third, a review of the Alien Registration System was demanded. Under the Alien Registration Act (*Gaikokujin tōroku hō*), local authorities collected basic personal information, such as name and home address, from foreign residents on behalf of the Ministry of Justice whose primary concern was, and still is, immigration control. This information was then utilized by local authorities to provide social services and collect taxes. The system, however, was not designed for the purpose of local governance and created inefficiency. For instance, a local authority could not legally close down the file of a foreign resident who was known to have moved out of the municipality until the individual registered with another local authority. Without accurate information on foreign residents, some local authorities struggled to undertake routine administrative tasks. The problem was exacerbated by the fact that many *nikkeijin* were dispatched workers who frequently changed jobs and locations of residence. The opening vignette in the present paper centered on this very issue.

3.3 Reactive and incremental adjustments

The mayors of the member municipalities took the Declaration to the key central ministries and the Diet immediately after the inception of the Local Authorities Council and continued their lobbying activities thereafter (CLALNF 2012).

In 2006, the Ministry of Internal Affairs and Communications circulated the Plan for the Promotion of Multicultural Co-Existence in Local Communities (*Chiki ni okeru tabunka kyōsei suishin puran*, hereafter the Multicultural Co-Existence Plan) (MIAC 2006) to local authorities throughout Japan. At the same time, the report based on which the Multicultural Co-Existence Plan was drawn up was introduced to the Council on Economic and Fiscal Policy (*Keizai zaisei shimon kaigi*), which at the time was a powerful supra-ministerial policy-making organ directly accountable to the prime minister (Yamawaki 2009).⁵ This created impetus to establish the first cross-ministerial immigrant integration policy. By the end of the year, the aforementioned Communications Council published the General Policy for “Foreigners as Persons Who Live” (*“Seikatsusha to shite no gaikokujin” ni kan suru sōgōteki taiōsaku*, hereafter the General Policy) (CICFWP 2006).

Japan’s integration policy developed even further in an unexpected way. Toward the end of 2008, the country too was engulfed in the global economic crisis. Many of them being dispatched workers, *nikkeijin* were disproportionately affected by what came to be known as the Lehman shock (Roberts 2012). The Cabinet hurriedly created the Office for the Promotion of Measures for Foreign Residents (*Teijū gaikokujin shisaku suishinshitsu*, hereafter the Foreign Residents Office) (Cabinet Office 2009) and announced emergency measures which built on the General Policy (Cabinet Secretariat 2009). One of the measures was a publicly funded scheme to repatriate unemployed *nikkeijin* and their families by giving them a lump sum payment and barring their re-entry for an unspecified period of time.⁶ The initiative caused an international controversy epitomized by a *New York Times* (2009) article entitled “Japan pays foreigners to go home.” At the same time, however, the country’s integration policy did move forward in response to the emergency situation. The repatriation scheme was voluntary and was only one part of a host of support measures which covered education, re-employment, housing, crime and disaster management, and multilingual administrative services. More importantly, the Foreign Residents Office has outlived its initial mission and is now a permanently standing office overseeing the integration of *nikkeijin* and their families.

Unlike the above policy changes, reforming the Alien Registration Act was going to be a more serious undertaking with potential legal implications. In

⁵ See Uchiyama (2010) for the strengthened role of the Council on Economic and Fiscal Policy during the tenure of then Prime Minister Junichiro Koizumi.

⁶ This was later verbally clarified in the Diet to be three years. However, it was not until four and a half years later, or 15 October 2013 to be precise, that the ban was lifted for those who can show proof of a one-year employment contract (Cabinet Office et al. 2013).

2005 and 2006, the Local Authorities Council submitted formal regulatory change requests to the Council for the Promotion of Regulatory Reform, which was the government's key deregulatory organ at the time (CPRR 2005b, 2006b). As a result, the council recommended the reform in its reports to the Cabinet (CPRR 2005a, 2006a), and a major legal amendment followed. In 2009, the Alien Registration Act was abrogated, and the Immigration Control Act and the Basic Resident Registry Act (*Jūmin kihon daichō hō*) were simultaneously revised. When the amendment came into effect in 2012, the information on foreign residents was incorporated into the Basic Resident Registry (*jūmin kihon daichō*) which had long existed to manage the information on Japanese residents. Furthermore, foreigners' failure to register the correct address was linked to a possible revocation of their immigration status in order to secure compliance.

In hindsight, Japanese co-ethnic migration policy had a contradictory beginning. On one hand, *nikkeijin* were facilely admitted as temporary workers without much forward planning. On the other hand, the visa was indefinitely renewable and allowed for family migration. It would have been anomalous had its introduction not led to migrant settlement. Inevitability unsurprisingly prevailed over the lack of foresight, and yet bureaucrats in the capital, being far removed from the provincial reality, continued to ignore the development. In the meantime, local authorities bore the brunt of the policy void. The establishment of the Local Authorities Council in 2001 was a desperate cry for help which eventually succeeded in effecting policy changes in a bottom-up manner. Japan's integration policy was first established in 2006 and gradually thickened thereafter as new measures were layered on top of old ones. The administrative integration of foreign residents was complete when the major immigration law reform incorporated their information into the Basic Resident Registry.

What exactly is the nature of Japan's integration policy then? To start with, it is not an immigrant integration policy in a strict sense because *nikkeijin*, or all foreigners in Japan for that matter, are not admitted as immigrants. Although migrant workers are not barred from applying for naturalization, they are not encouraged to do so either. Instead, what one witnesses today is a denizen integration policy which treats *nikkeijin* as members of society. The new attitude is manifest in the language used in the emerging policies. The Multicultural Co-Existence Plan referred to migrants as "foreign residents" (*gai-kokujin jūmin*) and "members of local society" (*chiiki shakai no kōseiin*) (MIAC 2006: 1). The first government-wide integration policy was explicitly designed for *seikatsusha to shite no gaikokujin* (lit. 'foreigners as persons who live') (CICFWP 2006). The Japanese name of the Foreign Residents Office actually uses the expression "settled foreigners" (*teijū gaikokujin*), although the govern-

ment has officially translated it as “foreign residents.” However exclusionary it may be from the standpoint of citizenship acquisition, the discursive invention of denizenship emphasizes the migrants’ rooted and lived existence. Nothing of this was captured by the old 1980s epithet of *gaikokujin rōdōsha* [foreign workers].

4 Highly skilled migrants as denizens

4.1 Earlier policy decisions

As part of the 1989 amendment of the Immigration Control Act, the Japanese government rationalized the administrative management of skilled labor migration by creating new visa categories and a pre-clearance procedure for visa applications (Fuess 2003). This was not a passionate gesture to entice prospective immigrants. Rather, the government maintained a relatively placid attitude toward skilled migrants for most of the 1990s by permitting their temporary admission but not actively encouraging it. In contrast, the government became noticeably fretful in the 2000s. Japan too had to join the intensifying international competition among advanced economies for highly skilled workers, particularly those specialized in science and technology (OECD 2001).

The harbinger of change appeared in 1999 when the Economic Planning Agency and the Ministry of Labour re-stated the Japanese government’s position on immigration admission but with a greater emphasis on the need for skilled migration (EPA 1999; MOL 1999). Following this, the Ministry of Justice showed its active engagement in securing the key human resources, especially in the field of IT, in the Second Basic Plan for Immigration Control (*Dai 2 ji shutsunyūkoku kanri kihon keikaku*) (MOJ 2000). In fact, words were preceded by deeds for the ministry had already relaxed application criteria for the humanities/international services visa and the research visa before the plan was published (MOJ 2003).

Sustained pressure to relax visa criteria for skilled migrants emanated from deregulatory bodies in the central government. In 2001 the Council for the Promotion of Regulatory Reform recommended reviewing admission rules for IT engineers in order to hasten Japan’s transition into a digital era (CPRR 2001). Around the same time, the newly established IT Strategy Headquarters (*IT sōgō senryaku honbu*) announced to recruit “30,000 outstanding foreign experts by 2005” (ITSH 2001, original translation). In the following year, the Ministry of Justice responded by allowing engineering visa applicants with a recognized IT

qualification to work in Japan without having a university degree or a ten-year work experience (MOJ 2007).

Another important source of change came from the Headquarters for the Promotion of Special Zones for Structural Reform (*Kōzō kaikaku tokubetsu kuiki suishin honbu*), which was established in 2002 to implement the eponymous Act (*Kōzō kaikaku tokubetsu kuiki hō*, hereafter the Structural Reform Act). Under the newly introduced law, local authorities were allowed to apply for legal exemptions in the pervasive spirit of neoliberalism at the time. Exemptions which were deemed successful were rolled out nationally. In some such Special Zones, the Ministry of Justice issued the designated activity visa, which is more flexible than ordinary work visas, to foreign researchers and IT engineers and exceptionally extended their visa expiration period from three years to five years. The locally circumscribed initiatives became nation-wide programs with the amendment of the Immigration Control Act in 2006 (MOJ 2006b).

4.2 Unexpected outcomes

The number of skilled workers did increase between 1999 and 2005. For the present purpose, I define skilled workers as those who are admitted into Japan on one of the work visas, including professorship, arts, journalism, investment/business management, law/accounting, medical services, research, education, engineering, humanities/international services, intra-company transfer and skilled labor, but excluding entertainment. Using this definition, the number of skilled workers increased by 45.4% from 88,467 in 1999 to 139,501 in 2005 (see Table 3). Unsurprisingly the visa category which experienced the biggest growth was engineering (85.4%), followed by humanities/international service (74.0%). Both visa categories had gone through the Justice Ministry's rule changes as explained above.

Despite the overall increase, there were some visible policy failures. The research visa, for which the application criteria had also been relaxed, recorded a decrease by 13.9%. More crucially, merely 12,513 more persons had the engineering visa in 2005 than in 2000, meaning that the government abysmally failed to reach the 30,000 recruitment target set in 2001. It is important to note that the granting of special conditions under the government's deregulatory scheme did not compensate for the shortfall in recruitment through the regular route of immigration admission. Only 27 designated activity visas were issued to IT engineers and 481 to researchers and their families in Special Zones before March 2005 (MOJ 2005).

Table 3: Number of skilled workers.

| | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | Variance* (%) |
|---------------------------|--------|--------|---------|---------|---------|---------|---------|---------------|
| Professorship | 5,879 | 6,744 | 7,196 | 7,751 | 8,037 | 8,153 | 8,406 | 43.0 |
| Arts | 351 | 363 | 381 | 397 | 386 | 401 | 448 | 27.6 |
| Journalism | 361 | 349 | 348 | 351 | 294 | 292 | 280 | -22.4 |
| Investment/management | 5,440 | 5,694 | 5,906 | 5,956 | 6,135 | 6,396 | 6,743 | 24.0 |
| Law/accounting | 77 | 95 | 99 | 111 | 122 | 125 | 126 | 63.6 |
| Medical services | 114 | 95 | 95 | 114 | 110 | 117 | 146 | 28.1 |
| Research | 2,896 | 2,934 | 3,141 | 3,369 | 2,770 | 2,548 | 2,494 | -13.9 |
| Education | 8,079 | 8,375 | 9,068 | 9,715 | 9,390 | 9,393 | 9,449 | 17.0 |
| Engineering | 15,668 | 16,531 | 19,439 | 20,717 | 20,807 | 23,210 | 29,044 | 85.4 |
| Humanities/int'l services | 31,766 | 34,739 | 40,861 | 44,496 | 44,943 | 47,682 | 55,276 | 74.0 |
| Intra-company transfer | 7,377 | 8,657 | 9,913 | 10,923 | 10,605 | 10,993 | 11,977 | 62.4 |
| Skilled labor | 10,459 | 11,349 | 11,927 | 12,522 | 12,583 | 13,373 | 15,112 | 44.5 |
| Total | 88,467 | 95,925 | 108,374 | 116,422 | 116,182 | 122,683 | 139,501 | 45.4 |

* Author's calculation. Sources: MOJ (2003, 2008c).

Tampering with visa criteria alone could not sufficiently increase the number of globally coveted knowledge workers. Their post-arrival assistance had to be revamped to make Japan an attractive destination. The point was raised by the Council on Economic and Fiscal Policy which, in 2002, recommended improving “the admission procedures, working conditions, education, training and housing, amongst other things, for technical workers in strategic areas” (CEFP 2002). The Ministry of Economy, Trade and Industry advocated a similarly holistic approach in the International Trade White Paper (*Tsūshō hakusho*) (METI 2003). The ministry highlighted the need to get rid of archaic corporate management practices, build international schools for migrant children, and arrange housing and medical facilities for non-Japanese speakers.

The proposals by the Council on Economic and Fiscal Policy and the Ministry of Economy, Trade and Industry, though sensible, still implicitly viewed highly skilled workers as temporary workers who do not need to be integrated into Japanese society in the long-term. On the other hand, a policy proposal by the leading business lobbying organization *Keidanren* (2004) emphasized the need to facilitate the settlement (*teijū*) of highly skilled workers, thus treating them as prospective permanent residents. Citing the United Kingdom’s highly skilled migrant program, the organization urged the government to adopt a Japanese-style green card system and asserted that “the facilitation of settlement [of highly skilled migrants] has already become a big, world-wide trend” (Keidanren 2004: Section 4(2)6).

As a matter of fact, eventual settlement was already being offered as an immigration incentive in limited cases under the Structural Reform Act. The Immigration Control Act required the permanent residence applicant to have lived in Japan continuously for at least ten years in principle, but the Ministry of Justice had been making occasional exceptions by issuing the visa after five years. In 2002, Kobe City made a regulatory exemption request to curtail the residence criterion to two years (HPSZSR 2002b). As a compromise, the Ministry of Justice shortened it to three years (HPSZSR 2002a). In contrast, the ministry turned down a related suggestion made by Hyogo Prefecture to make public the guidelines used to assess permanent residence applications (HPSZSR 2003). The ministry argued that the permanent resident visa, due to its nature, must be issued with care and required a case-by-case assessment.

4.3 Reactive and incremental adjustments

Compared to the way in which application criteria for some work visas were amended, the granting of permanent residence status was not accompanied by

the same enthusiasm. It seemed as though the Ministry of Justice was comparatively reluctant to trade discretionary power for administrative transparency when it concerned the settlement, as opposed to temporary employment, of foreigners. This secretive attitude was soon reproached by the Council for the Promotion of Regulatory Reform. The Ministry of Justice was ordered to publicize anonymous examples of successful and unsuccessful cases and clarify the assessment guidelines (CPRR 2003, 2004). Consequently, the Ministry of Justice uploaded on its website fast-track guidelines and example applications made by those deemed to have made an exceptional contribution to Japan (MOJ n.d.c, 2006c). The general guidelines were publicized in a similar manner (MOJ n.d.a).

As the Japanese government's interest in recruiting highly skilled migrants intensified throughout the latter half of the 2000s, their permanent settlement became an explicit policy goal. In 2007, the Council for the Asian Gateway Initiative, which was established to facilitate economic and cultural exchange between Japan and neighboring countries during the first tenure of Prime Minister Shinzo Abe, published an alarming report. The council warned that Japan was "being left out" of the global competition and stated that the government ought to "[c]hange the basic position toward highly competent human resources from acceptance-oriented to acquisition-oriented, and view them as people absolutely welcome rather than admissible people" (CAGI 2007: 44, original translation). Echoing this point, the Council on Economic and Fiscal Policy promised to create a new council to deliberate policies on highly skilled migration specifically (CEFP 2008).

The Council for the Promotion of the Admission of High-Level Human Resources (*Kōdo jinzai ukeire suishin kaigi*) was established under the direct supervision of the Cabinet Secretariat. The deliberation did not produce a numerical admission target as envisioned by the Council on Economic and Fiscal Policy. However, the final report published in 2009 included an innovative measure which was to introduce a points-based admission system for granting immigration privileges to highly skilled migrants (CAHHR 2009). The idea was later endorsed by the Fifth Advisory Committee on Immigration Control Policy (*Dai 5ji shutsunyūkoku kanri seisaku kondankai*) reporting directly to the Justice Minister (FACICP 2010) and by the Ministry of Justice in the Fourth Basic Plan for Immigration Control (*Dai 4ji shutsunyūkoku kanri kihon keikaku*) (MOJ 2010).

Japan's very first points-based admission system for highly skilled migrants was thus implemented in May 2012. Migrants working in the areas of research, technology and investment, and business management are assessed on the basis of education, work experience, income, age, and other miscellaneous factors, such as Japanese language proficiency (IB n.d.b). Applicants who manage to score 70 points or more are qualified for the scheme. Among the privileges

they receive are the permission to engage in multiple remunerative activities, full-time work permits for spouses, and immigration sponsorship for parents, parents-in-law, and domestic workers (IB n.d.a). A privilege that is most pertinent to the present paper is expedited access to permanent residence. All highly skilled migrants are eligible to apply for the status after five years and automatically receive an invitation to do so after four and a half years.

Fearful of becoming a global laggard or embarrassed of being one already, Japan now uses permanent settlement as a bait to entice highly skilled migrants. When the global competition for coveted human resources was taking shape, the central government's deregulatory instruments, namely, the Council for the Promotion of Regulatory Reform and the Structural Reform Act, opened up new policy paths in the early 2000s. The Ministry of Justice, which had already relaxed some application criteria for the humanities/international services visa and the research visa, made a further modification to the engineering visa. The overall number of skilled workers did grow, but the government was not able to meet the recruitment target for IT engineers. Realizing that making work visas more accessible was not enough to win highly skilled migrants, *Keidanren* urged the government to facilitate their settlement. Although the Ministry of Justice seemed reluctant to let go of some of its discretionary power, it finally publicized the guidelines for issuing the permanent resident visa, once again under the instruction of the Council for the Promotion of Regulatory Reform. With the establishment of the highly skilled migrant program, permanent settlement became a routinely offered incentive for immigration.

To summarize, Japan's highly skilled migration policy is a denizen policy. Although naturalization is not barred, what is offered as a reward for immigration, that is, permanent residence, is short of full citizenship. At the same time, it also differs from the denizen integration policy targeting the *nikkeijin* population. Highly skilled migrants are rarely referred to as settled migrants or *seikatsusha* and are not subject to the same kind of official paternalism. Highly skilled migrants are not required to demonstrate their worthiness as members of Japanese society outside of the economic sphere or to attenuate their foreign credential. On the contrary, not only public institutions but also private enterprises are supposed to make adjustments to accommodate them. Highly skilled migrants are the prized denizens whom Japan cannot do without.

5 Conclusion

By way of conclusion, I now return to my main question. How can one reconcile the apparent dissonance between the static veneer and the changing substance

of Japanese immigration policy? Immigration management has been an iterative journey. Japan became a *de facto* immigration country back in 1990. At that time, however, immigration was supposed to be temporary. This policy principle endured even when the global competition for highly skilled workers led Japan to reconstitute its complacent attitude toward skilled labor migrants. They too were admitted as temporary migrants, who were expected to make their economic contribution and go back home afterward.

Although the government had no concrete plans of turning Japan into an immigration country, unskilled temporary migrants became uninvited denizens. That was the moment when Japan became a different kind of *de facto* immigration country, one where migrants lived as denizens, and these denizens eventually had to be integrated into local communities, if only to pre-empt further social cacophony. On the other hand, highly skilled migrants turned out to be reluctant guests for whom the government had to roll out the velvet carpet all the way leading up to denizenship as the ultimate enticement.

In short, both unskilled migrants and highly skilled migrants became the targets of immigration management as the government made reactive and incremental adjustments to correct policy failures resulting from earlier decisions to admit them as temporary migrants. Today, denizenship of economic migrants has become the norm. Perhaps, treating them as denizens was the only corrective strategy available without dismantling the *de jure* façade of being a non-immigration country. In any case, Japan is a different kind of immigration country today compared to what it was two decades ago.

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