

DISSERTATION

EFFECTS OF LABOR IMMIGRATION POLICIES  
ON INDONESIAN MIGRANT WORKERS  
IN JAPAN AND SOUTH KOREA

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## ABSTRACT

The purpose of this study is to explain the different living conditions of Indonesian workers in Japan and Korea. In this study, I try to answer a broad question of why migrant workers experience different living conditions in different destination countries. Qualitative research methods were used to answer these broad questions. To explain labor immigration policies of Japan and Korea, I reviewed previous related studies and conducted interviews with various actors who are interested in labor immigration policy. I also went for field study and visited Indonesian migrant workers to grasp how the Indonesian worker communities were affected by the host countries' immigration policies. This study argues that labor immigration policy is the product of domestic politics under certain institutional constraints. It illustrates the influence of politics and the complex institutional process leading to labor immigration policy. This study found that the government, business organizations, civil society, trade unions, local governments, and public opinion have strongly influenced the political processes of labor immigration in Japan and Korea. In Japan, the government, business organizations, labor unions, and the people shared similar anxiety toward labor migration, especially toward unskilled migrants. The dominant view on foreign workers in Japan is the fear (real or imagined) that foreign workers may threaten domestic security and disrupt social life of Japanese people. These circumstances have resulted in Japan being more realistic with restrictive labor immigration policy. Meanwhile, the dominant view on foreign workers in Korea is that foreign workers are regarded as economic necessity rather than security threat. Civil society, labor unions, business organizations and the Korean people are supportive of the acceptance of foreign workers because foreign workers are considered to be beneficial and therefore, Korea is more liberal with a welcoming labor immigration policy. The labor immigration policy outcomes, restrictive in Japan and welcoming in Korea, then shape the living conditions of Indonesian migrant workers in the respective countries. This research found that Indonesian workers in Japan are prone towards abuse due to its structure that relies heavily on private sector to recruit workers. Moreover, the lack of reliable complaint mechanisms and an impartial agency to tackle labor disputes has worsened the working situation of trainees under TITP. Meanwhile, in Korea, the implementation of Employment Permit System (EPS) has improved working conditions of legal EPS workers yet marginalized undocumented migrant workers. This research also found Indonesian migrant workers relied heavily on the service provided by brokers. While legal EPS workers are utilizing brokers to avoid the situation of being illegal, undocumented workers are utilizing brokers to look for a new job and to settle labor related issues such as unpaid wages with previous employers. Moreover, the inconsistencies in law enforcement combined with abundant working opportunities have caused many Indonesian migrant workers to become trapped in a never-ending cycle as migrant workers. They are encouraged to work in Korea for a long period illegally by overstaying their visa, or legally by re-applying as EPS workers. Indonesian migrant workers are also at risk of suffering loneliness and frustrations due to living far from their loved ones and the prohibition of family reunion rights. At the end of this study, author suggests five policy recommendations both for Japan and Korea; 1. Policy consistency; 2. Strengthening institutional roles; 3. Strengthening law enforcement; 4. Enhancing cultural understanding and 5. Providing limited family reunion rights. I hope this study represents a modest contribution towards a win-win situation between the host country and migrant workers--human resources for the economic resilience of the host country and the well-being of migrant workers.

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## **CHAPTER 1**

### **INTRODUCTION**

#### Statement of the Problem and Purpose

The purpose of this study is to explain the different living conditions of Indonesian workers in Japan and Korea. In this study, I am seeking an answer to the broad question of why migrant workers experience different living conditions in different destination countries. In order to answer this question, I will show that labor immigration policy in the host countries is the most important factor that shapes the different living conditions of Indonesian migrant workers in Japan and Korea. Naturally, this leads to more questions: Why are the policies different in the two countries? Furthermore, what other factors could explain the difference?

I will show that labor immigration policy is the product of domestic politics under certain institutional constraints. This study illustrates the complex process leading to labor immigration policy, especially relating to the immigration of migrant workers. The policy outcomes will then shape the living conditions of migrant workers in their destination country. This study aims to provide a modest contribution to the pursuit of a win-win situation for both the host country and the migrant workers; this approach to human resources could support the economic resilience of the host country as well as the well-being of the migrant workers.

#### Definitions

Before I begin this study, I would like to clarify the following definitions of terms used in the study.

### *Labor Immigration Policy*

The concept of immigration policy in this study broadly follows Hammar's definition of immigration policy which includes two main aspects of immigration: 1) immigration control policy, meaning admission schemes that regulate and control the inflows and outflows of migrant workers; 2) immigration policies, namely the conditions provided to the migrants, including the treatment and rights of migrant workers in host countries, and the delivery of social and advocacy services. (Hammar, 1985, p. 7-9)

In this study, I examine the labor immigration policies of Japan and South Korea, (hereafter called Korea). Therefore, I specifically look at the governments' admission programs for accepting low-skilled migrant workers, namely the Technical Intern Training Program (TITP) in Japan, and the Employment Permit System (EPS) in South Korea, because these programs are the official programs that allow low-skilled Indonesian workers to work legally.

### *Migrant Workers*

In this study, I follow the definition of migrant workers provided by the United Nations International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families (UN Convention):

Migrant worker refers to a person who is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.

I intentionally use this definition because it is universally accepted and Indonesia is a party to the Convention. Japan and Korea are not party to the convention; migrant workers are referred to as foreign workers in their official documents. Indonesian migrant workers in this context are those who are recruited under the program of TITP in Japan and the EPS in Korea.

### *Trainees*

In this study, I use the word “trainees” to refer to participants in the “Training System,” both in Japan and Korea. Particularly for Japan, the word “trainees” in this study addresses both “trainees” or “*kenshusei*” (the residence status of first-year trainees in the pre-2010 system), and those who hold the status of “designated activities,” or *gino-jishusei*” (the residence status of second and third-year trainees in the pre-2010 system and the first, second and third years in the 2010 system).

## Literature Review

### *Indonesian Migrant Workers*

International labor migration has emerged as a critical policy issue of our times. International labor migration has enormous implications for growth and development both for sending and receiving countries. Every year, millions of people cross national borders in search of greater human betterment for themselves and their families. According to the United Nations, more than 215 million people live outside their countries of birth; this figure is equivalent to 3% of world population. People aspire for a productive experience through labor migration such as better employment opportunities and wages than in their home countries. Meanwhile, receiving countries aspire for a work force that may cover the labor shortage problem and serve as a force for growth and development.

Indonesia is one of the biggest sending countries in Asia, along with the Philippines, India, Thailand, Bangladesh and Sri Lanka. Common destinations for Indonesian migrant workers are the countries of South-East Asia, East Asia and the Middle East, with Malaysia and Saudi Arabia as the top destinations. With estimated 6.5 million Indonesian migrant workers in 2012, around 2 million work in Malaysia and 1.5 million in Saudi Arabia. The sending of Indonesian migrant workers started in the 1970s after the oil-boom in the Middle

East with the openings of various domestic works opportunities. Indonesian migrant workers start to migrate to other South-east Asia and East-Asian countries in 1990s after the opening of work opportunities by the receiving government. However, the legal basis for the employment and protection of the Indonesian migrant workers only started in 2004 under the Law number 39/2004 regarding the placement and protection of Indonesian migrant workers abroad. The government created a new agency called National Agency for Placement and Protection of Indonesian Workers (BNP2TKI) to operate the placement and protection of Indonesian migrant workers abroad.

According to data from 2012, remittances from Indonesian migrant workers amounted to 7.2 billion USD (World Bank, 2013), from around 6.5 million migrant workers. Indonesia is the third largest recipient in Southeast Asia after the Philippines (24.45 billion USD) and Vietnam (10 billion USD). The remittance figure was equal to about 1 percent of Indonesian gross domestic product. However, the figures might underestimate the amount of remittances, considering that many migrant workers accumulate the wages to bring their incomes home in cash, or send the money through other informal channels. Migrant workers therefore play a significant role in the Indonesian economy and society.

Considering the contribution of Indonesian migrant workers remittances, it is not a surprise that Indonesia call these migrant workers as “economic heroes” (*pahlawan devisa*). Indonesia has witnessed the feminization of labor migration where women are the majority of migrant workers that emigrate from Indonesia. Approximately 69 per cent (BNP2TKI, 2012) of Indonesian migrant workers are women, and majority of them take up domestic works in the receiving countries.

Given these facts, the existing study of Indonesian migrant workers that have mostly focused on the feminization of Indonesian women migrant workers (Silvey, 2006; Subaidi and Ismail, 2013) in top destinations, Malaysia and Saudi Arabia, as specific receiving



countries of Indonesian migrant workers (Silvey, 2006; Leng, Yeoh and Shuib, 2012, Subaidi and Ismail, 2013 ).

This study therefore aimed to fill the gap in the available literature. This study specifically looks in to the migration of Indonesian workers to East Asia countries, particularly to Japan and South Korea with the hope that this study will contribute to the existing literature of Indonesian migrant workers.

### *Labor Migration in International Relations Perspectives*

Why do migrant workers experience different living conditions in different destination countries? This study argues that the labor immigration policy of the receiving government is the most important factor that explains the difference. The state plays a key role in managing migration and determining the treatment and rights of migrants. Policymakers in the host country can shape their policy objectives as well as their policy tools based on the alternatives offered to them by different International Relations (IR) theories. Therefore, the purpose of this section is to delineate the major approaches in IR theory in order to help us understand the factors that influence politicians' decisions in immigration policy.

This study argues that combining constructivist and domestic politics approach contributes more to our understanding of immigration policies. This study illustrates that labor immigration policy is the product of domestic politics under certain institutional constraints. When policymakers decide on their immigration policy, they consider various issues, and various actors have different opinions in these issues. The differences in the views and interests of various state and non-state actors would constrain the choices available to policy makers.

## *Realism*

Mearsheimer finds that there are five realist assumptions about the international system. The first is that states function in a system where there is no hierarchy or order. As states have no central ruling body above them, they are inherently sovereign. Second, realism assumes each state has the ability to defend itself through some “offensive military capability.” Third, realists believe that no state can be fully trusted in its intentions toward other states. States must address each other with a certain amount of distrust as a form of protection. The fourth assumption is that the basic motive of states is survival, which is facilitated through the enforcement of sovereignty. The final assumption is that states act rationally and think strategically about how to survive in an international system. (Mearsheimer, 1994, p. 10)

Realism focuses on the high politics of national security. Building on this foundation, policies are determined as a response to structures in the international system, ensuring a state’s survival against any kind of threat. Realist views of security have been shaped by conceptions of what it means to be secure, how migration might affect security, and how migration will challenge the state. Realists argue that non-state actors, including migrants, are seen as potential threats to national security. Realists argue that migration is no longer a matter of low politics and must be considered as high politics. For instance, Myron Weiner argued “migration and refugee issues, no longer the sole concern of ministries of labor or immigration, are now matters of high international politics, engaging the attention of heads of states, cabinets, and key ministries involved in defense, internal security, and external relations.”

Migrant workers are considered a threat to national security in at least three ways: 1) migrant workers could decrease the sovereignty of a state; (Weiner, 2006, p. 90-91)<sup>1</sup> 2)

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<sup>1</sup> For instance, Myron Weiner argued that “the free movement of people from the global demand for labor decreases the sovereignty of states and is therefore unacceptable.”

migrant workers may bring economic disadvantage to the citizens of the state (Borjas, 2006, p. 323-324);<sup>2</sup> and 3) migrant workers may destabilize a nation through the introduction of new cultures. See, for instance, Huntington (2004) and Weiner (1985).

For the purpose of achieving the goal of national security, the state pursues its national interests by restricting the migration of labor. For instance, the state might accept foreign workers on a temporary basis to prevent permanent settlement. Therefore, foreign workers are granted temporary visas on the principle of preventing settlement and withholding family reunification rights. After 9/11, immigration policy is becoming more restricted as the state sometimes links migration with crimes committed by foreigners and terrorism.

### *Liberalism*

According to the tenets of liberalism, the universal condition of world politics is globalization. States are, and always have been, embedded in a globalized world that encourages people, goods and capital to move across borders. Liberalist approaches toward immigration policy are dominated by economic factors. Liberal states are more welcoming to immigrants because of the pressures of the labor market. Castles observes that international migration is an essential part of globalization and that if governments welcome the mobility of capital, commodities, and ideas, they are unlikely to succeed in restricting the mobility of people (Castles, 1998, p. 182).

Because migrant workers are indispensable to national economics as a useful production factor, the liberalist believes that migrant workers must have equal rights regardless of their legal status. However, liberalism failed to answer the question of why, for

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<sup>2</sup> Borjas argued that migrants may bring economic disadvantage by placing an unfair burden on the public purse and migrants may participate in labor that is substituting rather than complementing native labor. This situation threatens poorer nationals, who must compete with migrant workers for jobs.

instance, some liberal democratic countries invite only members of their own diaspora and discriminate against other immigrants.

Furthermore, liberalism supports the international regime. However, there has been little evidence that states will give in to international regimes that will limit their sovereign right to control their borders. Cornelius et al. examine the applicability of the institutional model to immigration policies. They conclude that supranational organizations and international regimes usually have had little impact on immigration policies of individual countries, with the partial exception of the EU and the refugee regime (Cornelius, Martin, & Hollifield, 1994). There is significant resistance on the part of receiving governments toward any kind of binding multilateral agreements on migration. For instance, only labor-sending countries signed and ratified the United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. This is mainly because there has been little incentive for receiving countries to participate in any binding forms of transnational migration policy negotiation in ways that might impact their control over their national policies.

### *Constructivism*

Constructivists believe that reality is constructed through human activity. For constructivists, IR is constituted by ideas not material forces, and is a set of ideas, a body of thought, and a system of norms, created by particular people in particular places; it is an intersubjective creation, a system that can be changed by new ideas.

One proponent of constructivism, Alexander Wendt, argues that International Relations, “is not a given, but constructed.” He emphasizes “the impact of ideas and identities, how they are created, how they evolve and shape the way states respond to a situation.” According to Wendt, identities indicate “who or what actors are” and are “not developed, sustained or transformed,” whereas interests refer to “what actors want.” He claims that

“interactions shape identities.” Wendt believes that anarchy is socially constructed by individual states, based on their “identities” and how they create their own security dilemmas (Wendt, 1992, p. 391-425).

In constructivist perspectives, therefore, images of migrant workers exist in different levels of construction. If the state associates them with security, they become a threat (Buzan, 1991; Buzan, Waever, & Wilde, 1998).<sup>3</sup> If the state associates them with the economy, they become beneficial production factors. And if the state perceives migrant workers as human beings with an identity, the state may become concerned with the protection of their human rights (McSweeney, 1999).<sup>4</sup>

Realist and liberalist approaches to IR are insufficient to explain different national policy outcomes in labor immigration. Compared to the two approaches of IR, constructivist perspectives therefore help us to understand different labor immigration policy outcomes such as rigid control, positive introduction or concerns about human rights. However, constructivist approaches are insufficient to explain why different countries create different labor immigration policies. Therefore, we need to look at domestic politics approach to grasp the different factors and actors involved in labor immigration policy-making.

### *Domestic Politics*

A closer look at a country’s domestic politics will help us understand why different countries create different labor immigration policies. Countries tend to consider domestic pressures more than foreign pressures, because immigration impacts not only the economy,

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<sup>3</sup> Copenhagen School of Constructivism scholars, including Barry Buzan, advocate approaching security from all angles, including the social aspects of security and how people or societies construct or “securitize” threats. The notion of “societal security,” advocated by IR constructivists, has ultimately become an inseparable element of “national security.”

<sup>4</sup> Bill McSweeney believes the concept of societal security is overly subjectivist. The expansion of security threats per se, in his opinion, may pull the security agenda into a politically dangerous direction. If security is tied to a concern with identity, and based on subjective judgment, then any xenophobic vision of what is to be secured and from what seems politically acceptable. Therefore, to protect the security of migrants, he advocates that migration should remain outside the security agenda.

but also the sovereignty, culture, and politics of a country. The proponents of domestic politics approaches to IR theory include Peter J. Katzenstein and Robert O. Keohane.

Katzenstein emphasizes the divergence in strategies of foreign economic policy of the advanced industrial states, which he explains as “due principally to differences in domestic structure.” (Katzenstein, 1978, p. 297) The domestic structures include bureaucrats and their politics, major interest groups, and political action groups. Katzenstein further argues that countries need wealth to sustain whatever they do, including the promotion of their security concerns. To get wealth, they make choices about how to interact with the world economy: these choices include how open or closed their economies should be, how to manage economic competition, and how to strengthen their economies internally.

Keohane and Milner argue that we can no longer understand domestic politics without comprehending the linkage between national economies and the world economy. They assess how “internationalization” affects the policy preferences of various actors and has produced changes in domestic coalitions, policies, and institutions in different ways in different countries.<sup>5</sup> In theorizing how international changes affect domestic politics, they identify two key factors: the interests of actors, and the structure of domestic institutions. Variations in these factors help to explain why states respond differently to the same external environment. The domestic politics approach, therefore, helps us to understand important economic and social factors that shape immigration policies. It illustrates the influence of politics and shows us the complex institutional process leading to immigration policy, especially policy concerning the immigration of migrant workers.

This study argues that combining constructivist and domestic politics approach contributes more to our understanding of immigration policies. This study illustrates that

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<sup>5</sup> Keohane and Milner refer to “internationalization” as processes generated by underlying shifts in transaction costs that produce observable flows of goods, services and capital. For further reference, see Keohane & Milner (1996, p. 3-24)

labor immigration policy is the product of domestic politics under certain institutional constraints. When policymakers decide on their immigration policy, they consider various issues, and various actors have different opinions in these issues. The differences in the views and interests of various state and non-state actors would constrain the choices available to policy makers. Therefore, labor immigration policies may not represent government values, but rather reflect policies that will best achieve their fundamental goal. The labor immigration policy outcomes will then shape the living conditions of migrant workers in their receiving country.

In order to comprehend IR approaches toward migrant workers and their labor immigration policy outcomes, please refer to the table below.

Table.1. IR approaches toward migrant workers and policy outcomes

	Realism	Liberalism	Constructivism	Domestic Politics
Level of explanation	International system	Global economy	State identity	Intra-state
Migrant workers	Threat to national security	Useful production factor	Inter-subjectively defined as threat, benefit, or human	Different views / interests on migrant workers
Labor immigration policies	Rejection or rigid control	Positive introduction	Rigid control, positive introduction or concerns about human rights	Result of politics under certain institutional constraints

## Methodology

This study is exploratory in nature and is based on a qualitative research method. To explain the labor immigration policies of Japan and Korea, I reviewed previous relevant studies, including reports and publications produced by the governments of Japan and Korea. I also conducted interviews with officials involved in policy making. This study will also recognize the opinions of various interest groups, including civil society or the business society, that are interested in immigration policy.

In order to grasp how Indonesian workers' communities were affected by their host country's immigration policies, author conducted participatory research. Participatory research is a method by which researchers observe people while joining their activities to understand how people live their lives. Author conducted field study in the destination areas of Indonesian low-skilled workers in Japan and Korea.

The field study in Japan was carried out in September 2009 – November 2011. Author conducted face-to-face interviews with embassy officials, politicians and civil societies. Author visited Indonesian workers Tokyo, Nagoya, Hamamatsu, Shizuoka, Ibaraki, and Osaka during the weekends. Author participated in migrant workers activities in order to observe, and listen to their stories in a non-directed way. Author also conducted face-to-face, in-depth interviews towards selected migrant workers.

The field study in South Korea was conducted for 6 months from February – August 2010. During the weekdays author stay in Seoul and conducted face-to-face interviews with embassy officials, government officials from Korea Immigration Service, Ministry of Employment and Labor, HRD Korea and a police officer and an official who work in Ansan City. Author also interviews academician, civil societies, pastors and migrants labor union (Migrants Trade Union) in weekdays. Author also took Korean language courses for half day during the weekdays. Author stayed in the dormitory of migrant workers in Ansan city and



participated Indonesian workers' activities during the weekends. In-depth and candid interviews with migrant workers are carried out during the field study.

Author also conducted interview with former migrant worker in September 2010 in Jakarta Indonesia. The selection of places of field study and interviewees are based on the multi-layered consultations with embassy officials, Korean government officials, civil societies, labor unions, migrant workers, as well as with former migrant workers and Indonesian community members.

Interviews with policy makers, civil societies and labor unions were conducted in English, Japanese language and Korean language. Author was assisted by an interpreter to conduct interviews in Japanese and Korean language. All interviews with policy-makers, civil societies and labor unions were recorded with an audio recorder and written in field notes.

Interviews with migrant workers and former migrant workers are conducted in Bahasa Indonesia. Interviews with migrant workers and former migrant workers were recorded with an audio recorded and written in field notes. Author made the transcription of audio record that was conducted in English and Bahasa Indonesia. Transcriptions of interviews in Japanese and Korean language were made with the assistance of interpreters. Author analyse the data by combining data from transcription and field notes.

### Outline of Study

This study is divided into seven chapters as follows. Chapter 1 lays out the foundation of the study, including the statement of the problem, the purpose of the study, definitions, literature review, methodology, and organization. In Chapter 2 I discuss the demography, working life, private lives, including social life and organizations, religious life, and pattern of remittance of Indonesian migrant workers in Japan and Korea. Chapter 3 presents the

debate surrounding the admission of migrant workers in Japan and Korea. In Chapter 4 I discuss the labor immigration policy regimes in Japan and Korea. In this chapter, I specifically discuss the official admission schemes for Indonesian workers to work legally in Japan (both the old and new Training Programs) and Korea (Employment Permit System). Chapter 5 identifies the potential and actual implications stemming from labor immigration policies on Indonesian migrant workers in Japan, and Chapter 6 will address those areas for workers in Korea. Finally, Chapter 7 provides the concluding remarks of this study and summarizes all the conclusions from each chapter in the study. This chapter also aims to propose a feasible policy that would benefit both the host country and the migrant workers in Japan and Korea.

## **CHAPTER 2**

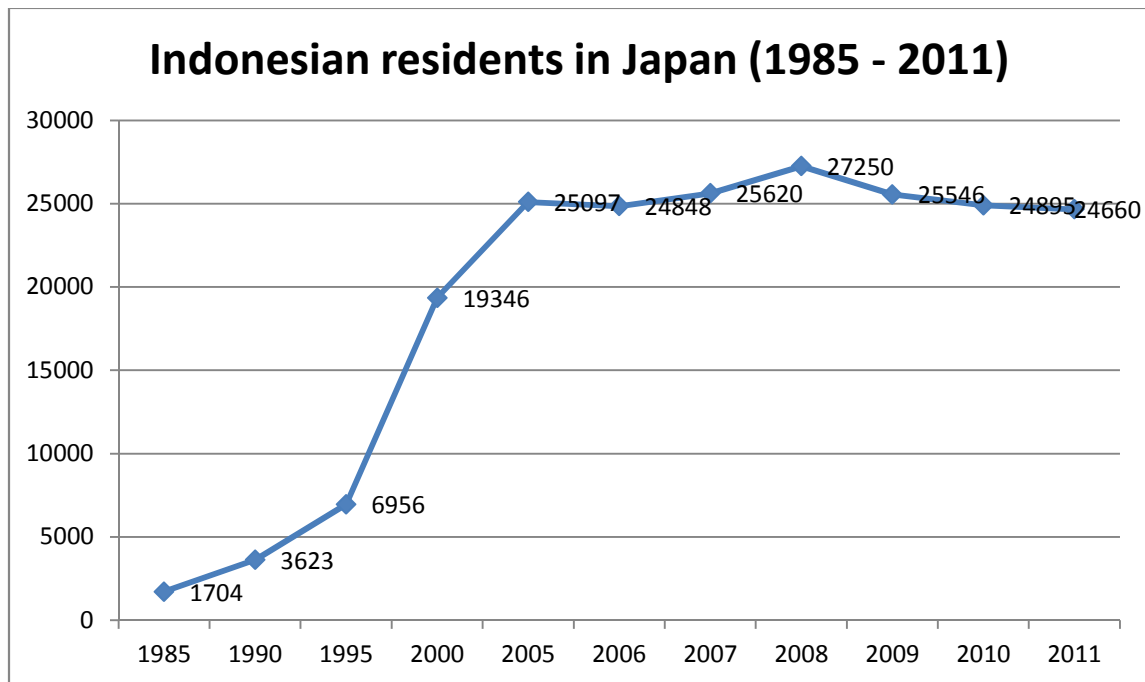
### **THE LIFE OF INDONESIAN MIGRANT WORKERS IN JAPAN AND SOUTH KOREA**

#### Introduction

In this chapter the life of Indonesian migrant workers and Indonesian communities in Japan and Korea is discussed. This chapter will discuss the demography, working life, private lives, including social life and organizations, religious life, and pattern of remittance of Indonesian migrant workers in Japan and Korea.

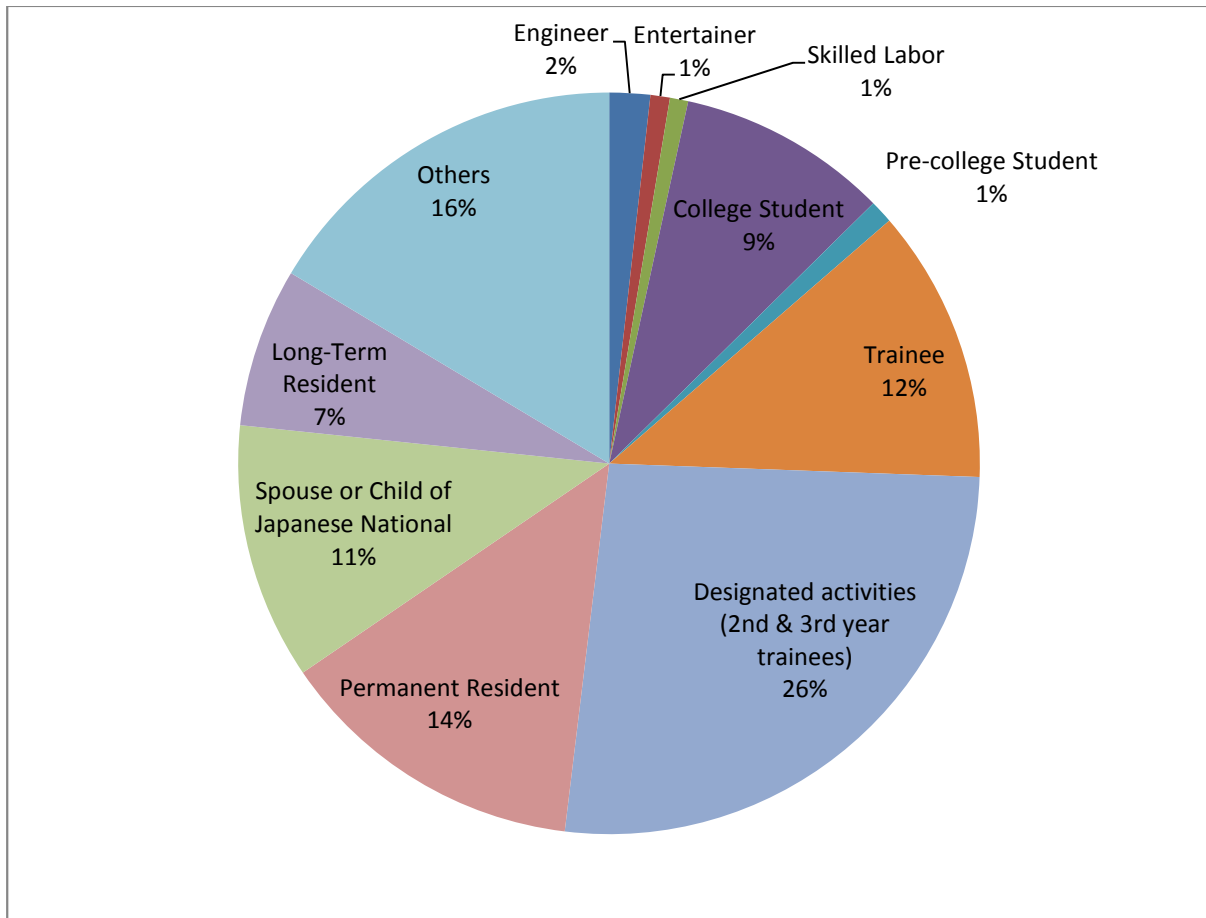
#### Indonesian Migrant Workers in Japan

The number of Indonesians in Japan has increased significantly since the 1980s. The opportunity to work in Japan has significantly contributed to Japan's increased number of Indonesian residents. The migration of Indonesian workers to Japan started in 1982 when the Japanese government began accepting trainees along with an increasing amount of Japanese investment in Indonesia. The number of Indonesian residents spiked significantly during the period between 1995 and 2005.



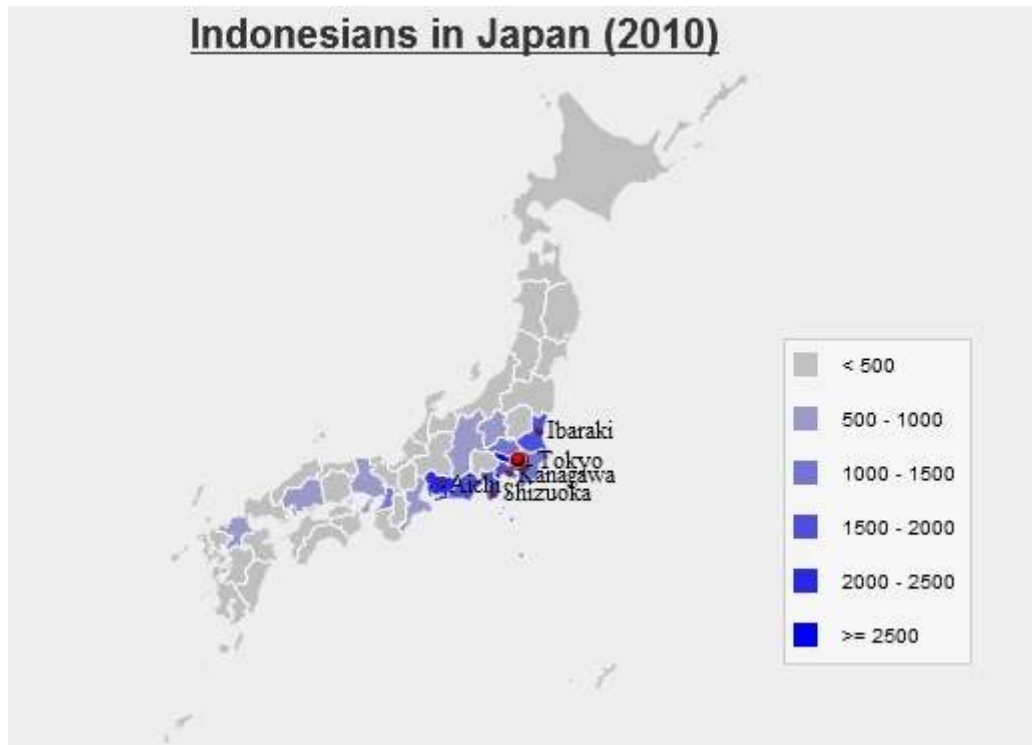
*Figure 1.* Indonesian residents in Japan, 1985 – 2011 (Source: Ministry of Justice)

Indonesians came to Japan for several purposes. Based on statistics from the Ministry of Justice, in 2009 there were around 25,000 registered Indonesians residing in Japan. Some 10 % of Indonesians in Japan are students, 11% are the spouse or child of Japanese nationals, and some 21% are long-term permanent residents. Among those who came to work, most of them came as trainees (38%), while others worked in Japan as engineers (2%), entertainers (1%), or as skilled laborers (1%). Indonesians mostly reside in Tokyo-to, Aichi-ken, Ibaraki-ken, Shizuoka-ken, and Kanagawa-ken (Ministry of Justice, n.d.).



*Figure 2.* Status of registered Indonesian residents in Japan in 2009

(Source: Ministry of Justice)



*Figure 3.* Location of Indonesian residents in Japan. (2010)

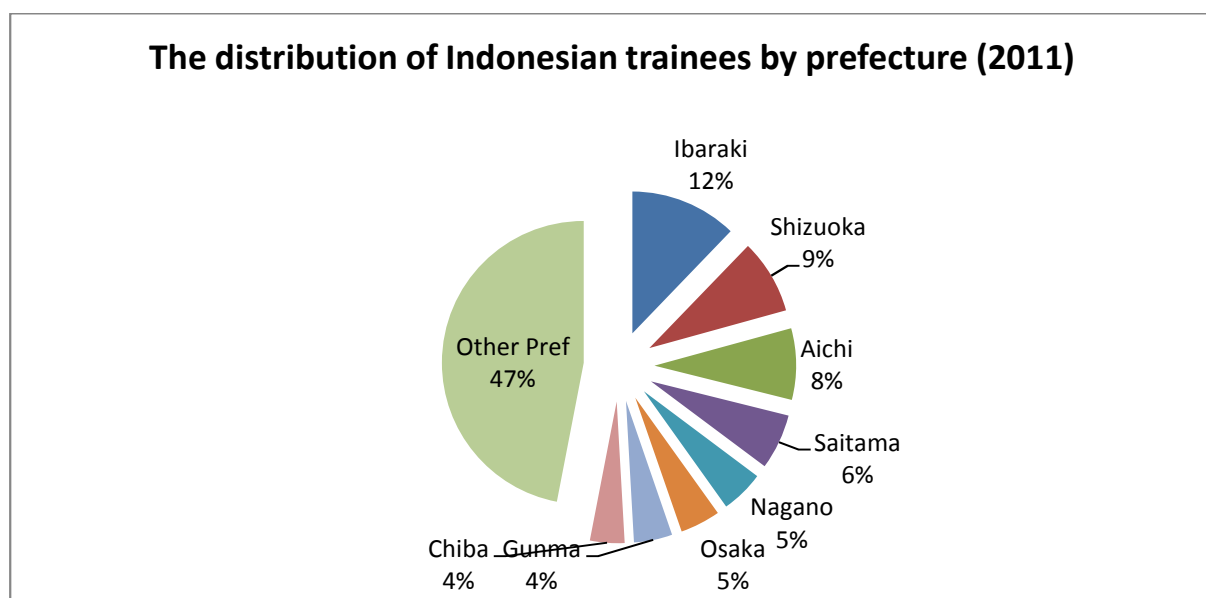
Source: e-Stat, portal site of official statistics of Japan<sup>6</sup>

This dissertation is particularly interested in discussing the life of Indonesian trainees. Indonesia has been an important supplier of foreign trainees to Japan since the Japanese government amended the Immigration Control Act and created the new visa category of “Trainees” in 1992. The deployment of Indonesian trainees in Japan began in 1993 after the signing of the record of discussion of JITCO and the creation of the Indonesian Department of Training and Productivity Development, and the Ministry of Manpower and Transmigration, in 1992. The opening of opportunities to work as trainees has attracted Indonesian young work force to work in Japan and hence increased the number of Indonesian residents in Japan.

<sup>6</sup> Data for this figure is downloaded <http://www.e-stat.go.jp/SG1/estat/List.do?lid=000001111139>

## Working Life of Indonesian Trainees in Japan

There are various private institutions that recruit Indonesian trainees under the Industrial Training Program, including the Association for International Manpower Development of Medium and Small Enterprises Japan (IMM Japan) and Vuteq. The largest trainee-recruiting organization is IMM Japan, which contributes around 1,600 trainees a year (Goto, 2008). Ibaraki-ken, Shizuoka-ken, Aichi-ken, Saitama-ken, Nagano-ken, Osaka-ken, Gunma-ken, and Chiba-ken are the main destinations of Indonesian trainees.



*Figure 4.* The distribution of Indonesian trainees by prefecture.

(Source: JITCO's white paper, 2012)

According to the program guidelines published by JITCO, trainees shall work a maximum of eight hours per day and forty hours per week. Their wages are equivalent to the minimum wage for Japanese workers and they are eligible for extra wages if they work overtime. Further, they must have at least one day off per week or four days off in a four-week period. Since the revision of the Training and Technical Internship Program in 2010, JITCO assigns a recruiting company to provide trainees with social workers when they face a problem or labor disputes.

The author conducted participatory research by visiting the workplace and joining trainees' activities in Ibaraki Prefecture, Shizuoka Prefecture, Aichi Prefecture and Osaka Prefecture, between 2009 and 2011. These trainees are recruited from the vocational high schools in Indonesia. The author also conducted unstructured interviews with thirty-eight Indonesian trainees. Twenty-eight of these trainees were male, and they are working in manufacturing fields such as electrical equipment assembly, metal and plastic products manufacturing, transport machinery and tool manufacturing, and computer assembly. Ten trainees interviewed for this research were female, and they work in agriculture, fisheries, and a curtain factory.

Trainees that were interviewed came to Japan because they were attracted by the "high salary" and wished to acquire some skills to advance their future career. First-year trainees receive an allowance ranging from 50,000 to 80,000 yen (500-800 USD) per month in year 2009-2010, while second and third-year trainees receive 60,000 to 100,000 yen (600-1000 USD) per month after tax and housing deductions. This amount is relatively high compared to the minimum wages in Indonesia that range from 7,000 to 14,000 yen (70-140 USD) per month.

According to Okushima,

Indonesian workers are in general preferred by Japanese employers because of their docility, eagerness and patience in carrying out hard work. Additionally, it costs less to recruit Southeast Asian workers than to hire other nationals, and Indonesian workers are willing to accept jobs whose conditions may be unacceptable to other migrant workers like the South American *nikkeijin* (Okushima, 2005, p. 1-47).

Okushima's argument seems to be relevant in some cases. For instance, when the author visited an automotive spare-parts factory in Hamamatsu, in 2009, there were many signs and notices in the worksite of the factory written in Portuguese. These signs and notices



were there because the factory used to employ Brazilian *nikkeijin*. However, according to Ega, an Indonesian third-year trainee who works in the factory, the employer stopped employing *Nikkeijin* after 2008 and replaced them with sixty trainees from Central Java and Yogyakarta's province of Indonesia (interview, 2009). Adi, who was a trainee between 1998 and 2001, and who currently works in the factory as a supervisor of Indonesian trainees, told the author that there are two major reasons why their *shacho* (employer) stopped recruiting *nikkeijin* in *gemba* (factory/ work site): first, the *nikkeijin* are paid at the same rate as their Japanese workers, and second, *nikkeijin* drink a lot and therefore some of the *nikkeijin* workers did not perform well (interview, December 3, 2009).



Figure 5. Some signs in the *Gemba* written in Portuguese



Figure 6. One Indonesian Trainee in *Gemba*

One of the roles of the employer is to assist their workers with housing. In Japan, real estate agents and owners of rental houses usually ask their renters to designate a guarantor. Hence, it is usually the employers who sign the contracts for them. In some cases, employers also purchase old apartments and charge the trainees a very cheap room rent. However, the author found that some trainees, especially those who work in the farming and fishery industries, must live with their employer or be lodged near the employer's house.



*Figure 7.* Dormitory for Indonesian Trainees in Hamamatsu

### Private Life of Indonesian Trainees

#### *Organizations and social life*

Based on my observations, Indonesian trainees tend to make friends only at their workplace (same factory & dormitory), same city, (e.g. Hamamatsu). The relationship between Indonesian first-year trainees and second and third-year interns follows the Japanese senior (*senpai*) and junior (*kohai*) system. In this regard, senior will become the mentor for their junior. When the first-year trainees arrive, their senior will help to teach them about work skills and daily life needs such as arranging mobile phone or internet contracts. Moreover, trainees' social lives are often dependent on fellow Indonesians who have been already living in Japan.

Currently, there are three kinds of organizations of Indonesian low-skilled workers in Japan; they are region based kinship (*paguyuban*), football based association, and a nationwide Indonesian trainees association in Japan called IPTIJ (Indonesian Trainee Fraternity in Japan). Members of these organizations rarely have offline meetings. They only hold offline meetings during long holidays, such as Golden Week<sup>7</sup> and winter holiday (*fuyu yasumi*). The lack of offline meetings is a result of how widespread Indonesian trainees are in Japan and the differences in work holidays. Moreover, the lack of public space that can accommodate meetings contributes to the difficulty of arranging an offline meeting. Below, the author will list the Indonesian low-skilled workers organizations in Japan:

*Paguyuban* (region-based kinship)

Wherever they go, Indonesian migrant workers segregate themselves based on place of origin or ethnic group. Members of Indonesian diaspora communities establish *paguyuban* (the Javanese word for “informal group”), meaning organizations based on ethnic lines or places of origin that are organized for fellowship, protection, and the promotion of their interests overseas or in the *rantau*.<sup>8</sup> *Paguyuban* provide solidarity and community to help other members that face daily difficulties and homesickness during the *merantau* period.

Currently, there are two Indonesian *paguyuban* in Japan, namely *Paguyuban Pasundan Jepang* (PPJ) from the province of West Java, and *Kawanua Jepang* from Minahasa, North Sulawesi. PPJ was established informally on October 12, 2003, in Anjo-shi, Aichi Prefecture, and this association was officially endorsed by the Indonesian Embassy in December 2008. PPJ was founded by Indonesian trainees and former trainees who work in factories supplying components for the automobile industry in Aichi Prefecture (Interview,

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<sup>7</sup> a week of national holiday in Japan usually begins at the end of April until the beginning of May

<sup>8</sup> The term *rantau* (noun) in general means the destination where you seek temporary employment, while *merantau* (verb) in general means a temporary movement for the purpose of seeking employment, including inter-island and overseas.

2009). Meanwhile, *Kawanua Jepang* consists of Indonesian *nikkeijin* that mostly work in Oarai, Ibaraki Prefecture.

According to Jajat A. S., the chairman of PPJ, there were some Indonesian *paguyuban* in 2005. Those *paguyuban* were Makassar Paguyuban (South Sulawesi), Balinese *Paguyuban* (Bali), and Batak *Paguyuban* (North Sumatera). Because of periodic membership turnover, it is hard for a *paguyuban* to survive in Japan as the trainee members are only bound to stay in Japan for three years. To cope with such a problem, PPJ has applied a policy of inclusive membership. In this regard, PPJ opens its membership to not only trainees but also other Indonesians who stay in Japan using various kinds of visas.



*Figure.8.* Farewell party for the 3<sup>rd</sup>-year Trainees in Toyota City, Aichi.

### *Football-Based Association*

There are two major organizations in this category. They are Baraya Viking Japan (BVJ) and Arema Japan. BVJ and Arema Japan's main purpose is to share an online discussion of football. Baraya Viking Japan serves as the fan base of Persib, a football club

from Bandung, West Java. Meanwhile, Arema Japan is a fan base for Arema Malang, a football club from Malang, East Java. Compared to Arema Japan, Baraya Viking Japan is more active in organizing events and programs. This is mainly because BVJ activities are fully supported and endorsed by *Paguyuban Pasundan Jepang* (PPJ), whose members are Indonesians who are from the province of West Java. Currently, BVJ has eight branches and they are BVJ Kanto, BVJ Shizuoka, BVJ Gigashi (Gifu, Nagoya and Shiga), BVJ Mie, BVJ Osaka, BVJ Okayama, BVJ Hiroshima and BVJ Kyushu.

Apart from football discussions, BVJ also organizes public sermons (*tabligh akbar*) by inviting a religious cleric (*ustadz*) during the Ramadhan fasting month. Their annual summit is usually celebrated during winter holiday (*fuyu yasumi*), and every year on January 1 they celebrate BVJ's anniversary by inviting local bands and musicians from West Java to perform in Japan. The organization's anniversary has been celebrated in Osaka (2011), Tokyo (2012), and Shizuoka (2013).



*Figure.9.* Members of Baraya Viking Japan in Festival Indonesia, Roppongi, 2012.

(Photo by BVJ Japan)

### *IPTIJ*

IPTIJ is an organization that aims to organize Indonesian trainees from all over Japan with religion as the platform. Unlike Viking Persib Japan and Arema Japan, which are purely the initiative of the trainees, Indonesian students were crucial in the early inception of IPTIJ.

IPTIJ was “born” in Mosque Otsuka, Tokyo, in 2005. IPTIJ was organized because some Indonesian students were concerned that some of their fellow Indonesian trainees would “adapt” the “Japanese habit” of drinking alcohol, which is forbidden in Islam. IPTIJ membership then spread to Nagoya, with the assistance of Indonesian students and members of UMIN (Ukhuwah Muslim Indonesia di Nagoya/Association of Indonesian Muslim in Nagoya) (E. Susilo, personal communication, January 2, 2010). The students assisted the trainees with training and workshops. With IPTIJ, the students hoped that the trainees could improve their organizational skill and the organization could become a forum where trainees can share their experiences.

Currently, IPTIJ organizes online meetings every Monday night and Friday night for online *Pengajian* (Al Qur’an recital) and online sermon and lectures. IPTIJ also organizes online entrepreneurship workshops and computer courses. IPTIJ usually only organizes an offline meeting once a year for their annual summit during *fuyu yasumi*, in which members cast their votes for the new leadership of the organization. In order to reach trainees who cannot come to the offline meeting, this event is broadcast online through the internet.



Figure 10. Annual Summit of IPTIJ in Hamamatsu broadcasted online, January 1, 2011

*Religious Life*



*Figure 11.* Islamic Center Hamamatsu in Mohamadi Mosque.

Indonesian residents in Japan are mostly Muslims, although there is a small minority who are Christians. Christianity is the faith mostly embraced by Indonesian *nikkeijin* who originate from the ethnic Minahasa that are concentrated in Oarai, Ibaraki. Indonesian Muslims have spread across Japan. Because mosques are not widely available like they are in Indonesia, many Indonesians join local Islamic associations that organize religious activities with Muslim members from different countries.

On the surface, Muslims can practice their religious life without barriers in Japan. However, in practice, Indonesian Muslims face surveillance from authorities and some Indonesian workers face objections from their employer to pray during their working time. Indonesian Muslims have organized fund-raising efforts to build an Indonesian Mosque in Meguro, Tokyo. As the fund-raising activities are still in progress, Indonesian Muslims are making use of *Balai Indonesia*, located in the Indonesian School in Meguro, to practice their religious activities.<sup>9</sup> Every year the Indonesian Embassy, in coordination with the Indonesian

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<sup>9</sup> The growing activities of Indonesian Muslims in Indonesian School have brought Indonesian School under the surveillance of Japanese Police. Every Friday and Eidul Fitri, Indonesian Muslims notice at least two policemen watching the sermon and prayers organized in the Indonesian School. Moreover, Indonesian School is listed as the formal address of Indonesian Students Association in Japan (ISAJ); ISAJ is included in the database of the counterterrorism unit of the Tokyo Metropolitan Police Department's Public Security Bureau, as revealed in 2010.

Muslim Association in Japan, organizes at least four major religious events that gather a large number of Indonesians in *Balai Indonesia*. The four events are Ramadhan (fasting month), Eidul Fitri Festival, Eidul Adha Festival, and the *tabligh akbar* (public sermon) organized during the winter holiday and Golden Week holidays. In order to reach Indonesian Muslims, including Indonesian trainees, the events are broadcasted on the Internet.



*Figure 12.* Balai Indonesia During Eidul Fitri Prayer that marks the end of Ramadhan  
(Photo by Indonesian Embassy)

Indonesian trainees often organize smaller meetings, such as bible recital and religious gathering in the factory dormitories or in the apartment where fellow Indonesian citizens with permanent or semi-permanent visas reside. However, trainees sometimes face limitations in practicing their religion life. In 2006, the owner of a sewing factory in eastern Japan was punished after the firm required an Indonesian Muslim trainee to sign a note promising to forgo praying five times a day and Ramadhan fasting as a condition of her employment (Yomiuri Shimbun, December 4, 2006). Edi Susilo, chairman of IPTIJ, stated that sometimes the lack of understanding from their boss (*shacho*) with regards to their religious life has made many trainees find it difficult to practice their religion. For instance, it is difficult for male trainees to ask for a break to pray during the working hours and it is difficult for them to take leave for religious purposes if the religious activities are not



conducted on Sundays or holidays (E. Susilo, personal communication, January 2, 2010). Adi, one of the Indonesian trainees from Fujisawa, Kanagawa Prefecture, told the author that, “if today is not Sunday, I may not be able to come (to pray) today” (Adi, personal communication, November 6, 2011).

### *Methods of Remittance*

Indonesian migrant workers face difficulties remitting their money through formal channels, and this situation has involved them in informal remittance and illegal banks. A study by ADB (2006) indicates that in Japan, “Indonesians tend to send remittances through unlicensed or unregulated operations, such as friends, acquaintances, or other travelers.” The study shows that 67 out of 129 respondents chose to send money through “friends” rather than banks, post offices or money transfer outfits. Meanwhile, only 17 out of 115 Filipino respondents chose to send money informally, while the rest of the Filipinos sent money through formal channels. Indonesians claimed that fees and foreign exchange rate commissions were key factors.

There are several factors considered by Indonesian workers when they remit money to Indonesia, including cost, delivery time, and exchange rate. Another important factor that the author observed is the practicality and familiarity of the workers. Sending money through a formal system (such as a bank) in Japan could be very costly (2,500 to 9,000 yen or 25 to 90 USD, depending on the amount and the bank), take too much time (two to seven days, depending on the networks connecting the sending bank to the recipient bank), and feature a low exchange rate.

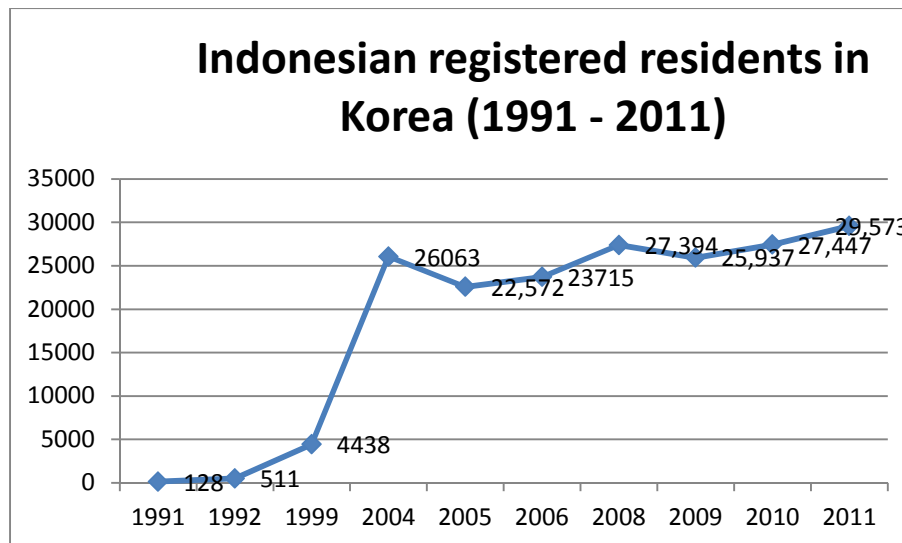
Indonesians choose to consign their money through friends or other familiar networks when they need to remit the money. The act of consigning money or goods in Indonesian terms is called “titip.” Many Indonesian workers turn to informal channels to remit the

money because of the high cost of remittance and their unfamiliarity with the formal system. Filling out the remittance forms in a foreign language (Japanese or English) is considered very tiresome and impractical by some Indonesian workers, thus they prefer informal channels because “it’s very complicated to fill remittance forms in the banks” and banks only operate on weekdays, which are their working days.

Some people see this act of consigning as an opportunity. The person remitting the funds on behalf of one or more other people will collect the money from the trainee and send it to Indonesia under their names. The remittance will later be distributed to the destination bank account in Indonesia. In this case, the workers share the remittance fee, and each of them will pay only a maximum of 1,000 yen (10 USD) every time they remit their money; they also spare themselves from writing out a remittance form and bank statement. However, this collective act of remittance is considered illegal in Japan. In Japan, you have to remit your own money using your own ID card and proof of identity in the form of a statement of income or saving book. There are some Indonesians who have been caught remitting money for several persons and charged by the police as “chika ginko,” or an underground bank (Mainichi Newspaper Online, 2011, November 13).

### Indonesian Migrant Workers in South Korea

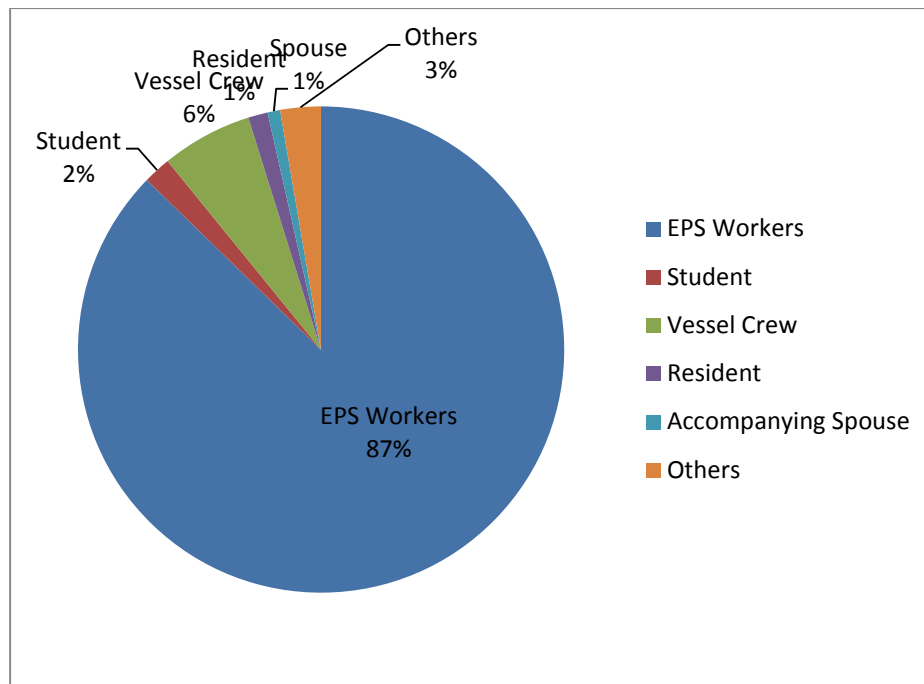
Labor relations between Indonesia and Korea were officially established in 1994 through the Industrial Training System. Following changes in the foreign worker policy of the South Korean government, Indonesia started sending workers under the Employment Permit System (EPS) in August 2004. The opening of work opportunities as trainees in the 1990s has significantly contributed to the increased number of Indonesian residents in South Korea.



*Figure 13.* Indonesian registered residents in Korea, 1991 – 2011

(Source: Korean Immigration Service)

In 2011, there were approximately 36,000 Indonesian residents in Korea; 29,573 of these people are legal residents and 5,718 people live there and are suspected to be illegally working. Based on the data from Korean Immigration Service, of the around 30,000 Indonesians who legally live in Korea, most of them are low-skilled foreign workers. There are approximately 25,813 EPS workers (87%), 1,780 vessel crew (6%), and the rest are students (2%), spouses of Korean nationals (1%), and long-term residents (1%).



*Figure 14.* Status of registered Indonesian residents in Korea in 2011

(Source Korean Immigration Service)

Indonesian low-skilled workers in South Korea mostly live around the metropolitan areas such as Seoul, Gyeonggi province, and Incheon, because these metropolitan areas are heavily industrialized. The author conducted field study in Wongok-Dong, Ansan, about 30 km southwest of Seoul. Ansan is home to two national industrial complexes, Banweol Industrial Complex and Sihwa Industrial Complex. They are the largest and second-largest industrial complexes dedicated to small and mid-sized enterprises. These industrial complexes are home to 6,218 manufacturing companies with a total of 106,488 employees. In the complexes, all buildings are factories and no residential houses are allowed. Migrant workers who work in the industrial complexes live in an area of Ansan City called Wongok-dong and have formed migrant concentrated area. Wongok-dong's foreign population is 20,000, while the total number of foreigners in Ansan is 38,000, coming from sixty countries (Ansan City, 2009).

Ansan is home to 1,400 registered Indonesian workers and the figure may double if undocumented workers are counted. This figure multiplies on weekends because workers from other cities visit Ansan regularly to meet their friends or to buy groceries. In 2010, there are twelve Indonesian restaurants that sell Indonesian food and Indonesian grocery products in Ansan. These restaurants and the availability of Indonesian communal houses and Indonesian mosques have made Ansan a hotspot for Indonesian workers to congregate.

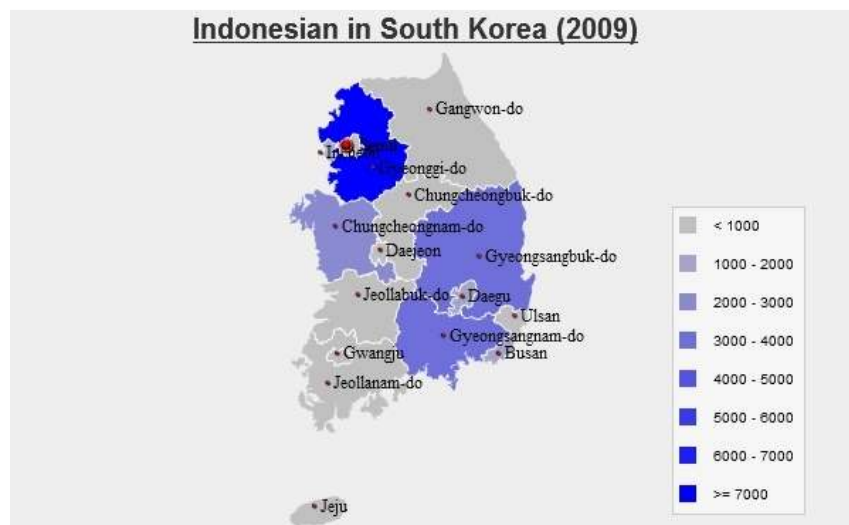


Figure 15. Location of Indonesian Residents in Korea (2009).

#### *Working Life of Indonesian Migrant Workers in South Korea*

Korea has been one of the favored destinations of Indonesian migrant workers, as the country offers abundant jobs with higher salaries than Indonesia. In 2009, 41,756 Indonesians applied for the Korean Language Proficiency Test competing for 17,000 positions in Korea (Bae, 2009). The recruitment of EPS workers is directly supervised by HRD Korea. Under EPS, migrant workers can work for up to four years and ten months in Korea.

Indonesian EPS workers are bound to work for eight hours per day or forty hours per week, and they are entitled to four types of insurance and retirement. Working hours can be extended upon agreement, and they are entitled to receive overtime pay for extra work or

night shift or for working on holidays. The author interviewed forty-five Indonesian migrant workers in Korea during the course of this research. They earned around 1,000,000, to 1,500,000 won (800-1300 USD), depending on their overtime.

They may change their employers and work sites, yet they do not usually change their type of industry. For instance, construction workers may not become manufacturing workers. The Korean government provides migrant workers with various forms of employment assistance. If they encounter problems with their employer, such as delays in the payment of wages, they can come to their local Labor Supervision Division of Ministry of Employment (*jibang nodongbu*) to process the dispute with their employers. If they need assistance in their dispute, they may visit the foreign workers help-desk provided by the government or NGOs. This help-desk usually helps workers to talk to their employers, because many Indonesian workers face language barriers. This help-desk operates every day; weekends and holidays are the busiest days because workers work on weekdays. If they want to change their employer, they may go to the Job Center (*goyong sento*) in order to be listed in the job seekers' database. Some Indonesian workers apply for jobs not through the Job Center, but through informal channels by seeking their friends' help to be introduced to the new employer (*sajang*).

Indonesian EPS workers usually live in the company's dormitory (*gisuksa*) or in a rented room near their working area. Most of the dormitories are free of charge. If the employer charge dormitory fee, it is usually deducted by their employer from their wages. Some companies do not provide dormitories and the workers must find their own accommodation. In some cases, workers refuse to live in a dormitory and prefer to rent a shared house with their fellow workers.



*Figure 16.* The room of Indonesian EPS Workers in Wongok-dong, Ansan, Korea.

### *Private Life of Indonesian Workers in Korea*

Indonesian migrant workers spend their weekdays working, and weekends are for doing private activities such as meeting their social contacts, visiting banks for remittances, visiting foreign workers' help desks, or visiting health facilities when they feel unwell. The author will further discuss their private life, including social life, organizations, religious life, and methods of remittance, in the next section.



*Figure 17.* Ansan Center for Foreign Workers

### *Organizations and Social Life*

Based on my observations, there are three types of organizations and networks of Indonesian workers in South Korea: first, *paguyuban*, an association or grouping based on

kinship and place of origin; second, national or multi-regional groupings; and third, church and religion-based networks. These organizations and networks are vital in helping Indonesian migrant workers in South Korea to solve their daily problems.

*a. Paguyuban (region-based kinship)*

As of 2010, there are at least twenty *paguyuban* in Korea, and most of them are recognized by the Indonesian Embassy in Seoul.<sup>10</sup> These *paguyuban* are from provinces and cities in Indonesia.



Figure 18. The Origins of Indonesian *Paguyuban* in Korea. (2010)

*Paguyuban* members from all over Korea meet at least once a year. During Chuseok holiday (a three-day harvest festival holiday), members of *paguyuban* organize a social event that serves to act as a coping mechanism for their homesickness and to collect money from the *paguyuban* which will be managed by a treasurer for the purpose of helping members who face difficulties.

A *paguyuban* usually rents a communal house for its activities.<sup>11</sup> One *paguyuban* can have several communal houses depending on the size of the communities. The house serves several kinds of *paguyuban* activities, such as band practice, bible recital, and other social

<sup>10</sup> Based on the document, “List of Indonesian Organizations in Korea,” provided by the Indonesian Embassy in Seoul and the “List of Indonesian Communities” provided to the author by Indonesian Community in Korea.

<sup>11</sup> Each *paguyuban* can have different terms for their communal house, including *sanggar*, *pondok*, *markas*, and *rumah*; basically, this means a communal house that they rent together for *paguyuban* activities.



gatherings. This communal house also serves as temporary lodging for members who are unemployed. Usually, the communal houses are empty during the week because all the Indonesian workers are living in the lodgings provided by their employer; they just visit the communal house every weekend and on holidays. Workers without jobs and who do not belong to any *paguyuban* can choose other forms of living, such as a friend's dormitory, a mosque, or other shelters.

*b. Indonesian Community in Corea (ICC)*

The leaders of Indonesian *paguyuban* decided to organize a single organization that represents all Indonesian workers and they named the organization as the Indonesian Community in Corea (ICC) in 2006.<sup>12</sup> ICC serves as an inter-*paguyuban* organization with a particular interest in solving the problems faced by Indonesian workers and coping with inter-*paguyuban* physical fights (J. Jafar, personal communication, April 18, 2010). Currently, the ICC consists of nineteen of the twenty Indonesian *paguyuban* and concentrate more in social missions such helping Indonesian workers who face labor related problems.<sup>13</sup>

The ICC has played a crucial role, especially when Indonesian workers need to deal with the Korean government. The local government in Ansan always asks ICC to coordinate *paguyuban* in scheduling their activities in order to avoid conflicts in using public spaces such as meeting rooms and public halls. ICC also plays a prominent role whenever members of *paguyuban* are caught by Korean Immigration for illegal residence or by the Korean Police for illegal activities.

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<sup>12</sup> The author has asked various sources on why the name of the organization called Indonesian Community in Corea (ICC) instead of Indonesian Community in Korea (ICK). However, the recent administrations of ICC are not aware why the founding persons named the organization that way. Members said they just continue to use the name since Indonesian workers are already familiar with its name.

<sup>13</sup> The only *paguyuban* that was not under ICC is *Kawanua*, a *paguyuban* from North Sulawesi province. This is strongly linked to religion, as *Kawanua* members mostly practice Christianity; they organize their community under the leadership of Rev. Randy and Rev Nam of Antioch church.

In 2010, ICC does not have a permanent office; therefore, they organize their meetings in local Ansan government offices, in Indonesian restaurants, or in the staff's boarding houses. To finance their activities they organize social events such as football competitions and Indonesian Festivals, and publish workers' handbooks. They also often receive support from local governments or private Korean companies to fund their social activities.

### *Religious Life*

In general, Indonesian residents in South Korea are mostly Muslims. There are various religious organizations on the local level in Korea organized by Indonesian Muslim students and Indonesian Muslim workers. According to Azam Arifin, a migrant worker and the chairman of Indonesian Muslim Community in Korea (IMCK), these local organizations are established because some "social problems" existed among Indonesian Muslims in Korea. These local organizations usually rent a building and use it as a small mosque (*musholla*) for prayer. It is interesting to note that some local Islamic organizations were initially helped by priests and pastors from local churches. According to Azam Arifin, "Pastors help some of our members to find buildings for *musholla* and to exchange ideas on how to establish religious organization." (A. Arifin, personal communication, July 25, 2010).

In order to coordinate these local organizations and *mushollas*, Indonesian Muslims initiated a nation-wide organization called the Indonesian Muslim Community in Korea (IMCK) in 2007. Moreover, IMCK is organized with the purpose of connecting all Indonesian Muslims in South Korea, regardless of their professional background, and to introduce the face of Islam in Korea.

To fund their activities, members of IMCK receive donations from workers and students (*jamaah*). The money that they collect is used to pay the rent for the mosques and to organize their activities. Indonesian mosques organize Alquran recital (*pengajian*), Islamic

weddings (*nikah*), and computer and language courses such as Korean and English. Indonesian Muslim students come to the mosque to teach Indonesian workers these courses. IMCK fund-raising programs include selling halal food, phone cards, prayer kits, and airline tickets to Indonesia through an online shop. In 2010, the ICMK managed to collect enough money to buy a building in Changwon and transform it into the first Indonesian mosque in Korea.

Currently, there are at least twenty-six mosques and Islamic organizations organized by Indonesian Muslims in Korea; they are located in the areas where many Indonesian workers resided such as Guro, Ansan, Busan, Daejeon, Daegu, and Changwon. Every year, the Indonesian ICMK organizes a mass sermon (*Tabligh Akbar*), to which they invite a renowned cleric (*ustadz*) to give a sermon during the *Chuseok* holiday in Indonesian mosques all over Korea.



*Figure 19.* Indonesian Mosque Sayyidina Billal in Changwon.

Author noticed that the Korean authorities have intensified their surveillance of Indonesian Muslim migrant workers. The police come to the mosques to interact with

Indonesian Muslim workers every Friday, and they are there every weekend when the mosque organizes religious events.



*Figure 20.* Indonesian Workers Pray Before Mass Sermon in Daejeon. (Photo by PKPU)

Indonesian workers in Korea are free to practice their religious activities, yet in some cases male workers find it difficult to ask for permission for Friday prayer or to attend the festival of Eidul Fitri organized by the Indonesian Embassy and ICMK. According to one worker “My *Sajang* doesn’t care that it’s Eidul Fitri day, he just demands us to meet the target.” (Interview, May 23, 2010). The Indonesian Embassy in Seoul recognized this issue; every Eidul Fitri, the embassy issues a letter that appeals to employers to give Indonesian workers a day off to celebrate religious activities organized by the embassy. The letter is uploaded to the embassy’s website and workers who are going to pray may print the letter and submit it to their employer.

#### *Method of Remittance*

As the amount of overseas remittance has increased in Korea, financial services dedicated to foreign nationals residing in Korea have also increased and diversified. Some

banks now open on Sundays for foreign nationals who cannot visit on weekdays. Some banks offer savings accounts that allow users to deposit and withdraw Korean won and their own currency simultaneously for their convenience. Some banks cooperate with foreign banks in order to provide more appealing services such as door-to-door remittance services. Some banks employ foreign employees in order to serve customers who are not familiar with the Korean financial system and the Korean language, while other banks offer call centers for foreigners in various languages. Moreover, these banks have translated various applications, forms, and brochures for financial products into various languages. The availability of these financial services has contributed to convenient remittance for Indonesian workers in Korea.

In my research, I noticed that some banks are not strict in checking the validity period of foreigners' registration cards, and in some cases the bank only asks to see a migrant worker's valid passport instead of their valid foreigners' registration card. Therefore, undocumented workers may have access to bank facilities for remittance.

The collage consists of three main sections:

- Top Left:** A text-based advertisement in Indonesian. It describes a remittance service that is fast, competitive in exchange rates, and has low fees. It lists a table of remittance rates for various amounts in Indonesian Rupiah (Rp) and Korean Won (KRW).
- Top Right:** A promotional banner for IBK (Industrial Bank of Korea). The text reads: "proses cepat, kurs bersaing, potongan ringan dan biaya murah" (fast process, competitive rates, light cuts, and low cost). It mentions a "telah hadir... program pengiriman uang ke Indonesia 1 hari sampai KEB, tanpa potongan di Indo, biaya murah and diskon sampai ke rekening tujuan untuk informasi hubungi kami" and provides a phone number: "Call : 010-5883-0799".
- Bottom Left:** A section titled "JASA PENGIRIMAN UANG EXPRESS" (Express Money Transfer Service). It states: "KAMI INFORMASIKAN BUAT TEMAN TEMAN DI KOREA SELATAN KAMI MEMBUKA JASA LAYANAN PENGIRIMAN UANG KE INDONESIA DAN HONGKONG EXPRESS". It provides three ways to contact them: 1. Cara Menghubungi Kami (via SMS or phone), 2. Cara Menyebutkan Kami (via WhatsApp or WeChat), and 3. Cara Menyebutkan Jasa Kami (at the bank counter).
- Bottom Right:** A testimonial in Indonesian from a customer named "Nama: Daniel Firmansyah" (No. 021-252339-02-010). The customer says they chose this service because it is fast and has low fees, and they are happy to use it.

Figure 21. Collage of webpages offering informal remittance service in Korea.

All of the workers interviewed declared they only send money using the services provided by the bank. However, the author still found some webpages that offer remittance to Indonesia through informal channels. Workers cited various reasons for avoiding such

informal channels, including the fact that they do not know the service provider personally and therefore cannot trust this informal channel to remit their money. One informant told the author that “only illegal workers and those who live far from the bank still utilize this informal remittance service.” (Interview, 2010).

### Conclusion: Indonesian Workers in Japan and Korea in Comparative Perspectives

This chapter discusses the life of Indonesian low-skilled foreign workers who are accepted through the Technical Intern Training Program (TITP) in Japan and Employment Permit System (EPS) in South Korea. Indonesian workers in Japan and Korea are eligible for the minimum wages that apply to native workers, as well as insurance and pensions. However, unlike Indonesian trainees in Japan, Indonesian workers in Korea have more freedom to change employers if the employer goes bankrupt or abuses them. In Japan, trainees are recruited by the private sector under the supervision of public organizations. When labor disputes occur, trainees must consult social workers dispatched by the recruiting company. Meanwhile, the Korean government utilizes a public institution, the Ministry of Employment and Labor, to solve foreign workers' problems such as labor disputes and transfers of employment.

In terms of a worker's private life, the major differences are the nature of their contacts with fellow Indonesians. In Japan, trainees account for 38% of the Indonesian population and they are spread out all over Japan. Meanwhile, Indonesian workers account for 87% of the Indonesian population in Korea and are mostly concentrated around metropolitan areas. The differences of population size, concentration of workers, and the availability of public spaces such as government facilities, churches, and mosques have brought Indonesian workers in Korea into closer contact with fellow Indonesians, compared

to their compatriots in Japan. The differences in size, geographical factors, and the availability of public spaces have created significant differences in the nature of their organizational activities. These factors also contributed to the increasing number of Indonesian associations and organizations in Korea. While Indonesian migrant workers in Korea often organize offline events and face-to-face meetings, Indonesian trainees in Japan must rely on the Internet for organizational activities.

## CHAPTER 3

### THE DEBATE OVER LABOR IMMIGRATION POLICIES IN JAPAN AND KOREA

#### Introduction

Japan and South Korea are similar in many ways, including their ethnic homogeneity. Japan and South Korea also share similar problems: demographically, the trend of lower birth rates has posed the threat of a shrinking population and shrinking labor force. This chapter will discuss the debate and responses of various interest groups toward the issue of the acceptance of foreign workers in Japan and Korea.

#### Debate over Labor Immigration Policy in Japan

Japan has a long history of utilizing foreign laborers as cheap workers. The history of labor migration in Japan began after the Meiji restoration in 1860s. During World War II, the Japanese government allowed Japanese companies to mobilize and bring Korean and Chinese workers to Japan (1939-1945) (Yamawaki, 2000, p. 39). After Japan's defeat in 1945, more than 1.5 million Koreans returned to their homeland; roughly 500,000 others chose to stay on in Japan (Komai, 1995, p. 234).

The Immigration Control Act of 1952 established a fundamental legal framework for immigration policies in postwar Japan. However, soon after WWII, Japan became a country with more emigration than immigration. The Japanese government officially promoted overseas emigration, mainly to North and South America, after Japan regained its independence in 1952. Postwar emigration reached its peak in the 1950s and began to decrease in 1962. (Mori, 1997, p. 34-35)

Beginning in the mid-1950s, the Japanese economy entered a period of industrialization. However, unlike many other industrialized countries, Japan did not rely on



a foreign labor force to achieve its rapid and sustained economic growth. As Douglas and Roberts explain, while European countries, particularly West Germany and France, were aggressively recruiting “guest workers” abroad from the 1950s through the 1970s, Japan was still able to utilize a large pool of rural migrants and working-age women as flexible low-wage labor (Douglas & Roberts, pp. 3-37). In addition, Japanese firms opted to develop “labor-saving” technologies, promote automation in manufacturing facilities, and transfer labor-intensive production and assembly operations overseas in efforts to overcome domestic labor shortages.

The large-scale influx of migrant workers reached Japan in the 1980s. The rapid increase of foreign laborers in the mid-1980s was spawned by various factors at home and abroad. The principal factor was Japan’s growing economic presence in Asia since the late 1960s. After the government lifted its overseas investment restrictions, Japan’s annual foreign direct investment surged from around 100 million yen to over one billion yen in 1972 (the year often referred to as the first year of foreign direct investment) (Athurokala and Manning, 1999, p. 37). Since then, Japan has exerted strong economic influence in the Asia Pacific region through direct investment, trade, and Official Development Assistance (ODA), as well as the large-scale relocation of production plants and the establishment of foreign branches. Japan’s huge economic presence in the region has provided incentives for prospective migrant workers to choose Japan as their destination country. Another important factor was the appreciation of the Japanese yen following the 1985 Plaza Accords. The change in the exchange rate acted as a strong incentive for migrant workers and it significantly increased the number of migrant workers in Japan (Shimada, 1994, p. 33-34).

Policy makers, business organizations, trade unions, scholars, and the mass media began to pay attention to the issue of migrant workers in the late 1980s, when the number of

migrant workers grew exponentially. The rapid increase of migrant workers stimulated numerous responses and policy recommendations.

### *Responses of the Government*

Japan has a parliamentary form of government. In this system, the prime minister is the head of the executive branch (government) and is an integral part of and responsible to the legislature (Diet). In this regard, the prime minister can take a strong initiative only when he or she is very popular among the general population that he or she can crush resistance from fellow politicians, vested interests or from bureaucracy. In order to pass a law, the authorized ministry drafts a bill after consultation with other related ministries and then submits it before a cabinet meeting headed by the prime minister. After the draft of the bill is endorsed by the cabinet, the bill is submitted to the Diet to be examined. A legislative bill becomes a law when it passes both the House of Representatives and the House of Councilors. Therefore, the executive needs majority support in the legislature in order to enact the law.

The first policy initiative to tackle the issue of foreign workers was first initiated by the Labor Ministry in December 1987 (Hachiya, 1991, p. 35). The Labor Ministry set up the Study Group on Foreign Worker Problems (*Gaikokujin Rōdōsha Mondai Kenkyūkai*) in December 1987 and submitted a report entitled *Future Directions Regarding the Acceptance of Migrant Workers* in March 1988. The report called for wider acceptance of professionally skilled foreigners, while restricting the entry of unskilled workers (Rōdōshō Shokugyō Anteikyoku, 1988, p. 35-40).

The ruling Liberal Democratic Party (LDP) established several subcommittees in early 1988 to weigh the pros and cons of accepting migrant workers (Shimada, 1994, p. 32-34, 51). The subcommittees' interim reports laid a foundation for the government's basic policy on migrant workers, which was then outlined in the Basic Plan for Employment Measures

(*Koyō Taisaku Kihon Keikaku*) and the Economic Plan (*Keizai Keikaku*) in mid-1988. Both proposals basically stipulated that Japan should stay strict on the employment of migrant workers.

On December 8, 1989, the Immigration Control Act was passed and enacted in July 1990. The new law imposed penalties on the recruiters and employers of illegal immigrants. The revised law reflected the government's ambivalent attitudes toward low-skilled migrant workers. The goal of the revision was to accept skilled foreigners and discourage low-skilled migrant workers. Foreign nationals, in order to obtain work visas, must possess specialized skills that native workers are unable to master (Spencer, 1992, p. 762). The law also included side-door policies to allow for the continued entry of *de-facto* low-skilled migrant workers. Sellek (2001, p. 55-92) observes that the Japanese government's policy has allowed for the arrival of migrant workers through various informal mechanisms. The policy created a loophole in which migrant workers were able to enter Japan through "side door" mechanisms such as student visas, foreign trainee visas, South American-Japanese descent (*Nikkeijin*) visas and entertainer visas.

The amended Immigration Control Act gives special work privileges to Japanese descendants (*nikkeijin*) from Latin America in particular. As Tsuda and Cornelius explain: "...as long as they can prove their Japanese descent, the *nikkeijin* (up to the third generation) are legally accepted under 'Spouse of Japanese' or 'Long-Term Settler' visas, which have no activity restrictions and can be renewed an indefinite number of time, making their holders *de facto* permanent resident." (Tsuda & Cornelius, 2004, p.455)

The demand for low-skilled workers influenced the increased number of *nikkeijin* and industrial trainees. The policy of recruiting Japanese descendants (*nikkeijin*) became problematic when they started bringing their family members to live in Japan for a moderate or lengthy period of time. The numbers of *Nikkeijin* continued to grow, to around 330,000 in

2000 and more than 376,000 by the end of 2007. Most *nikkeijin* work and live in small industrial towns in Gunma, Shizuoka, and Aichi Prefectures. In the meantime, there had been a rapid increase in the numbers of foreign trainees, almost quadrupling the total from 32,000 in 1997 to 160,000 in 2007. However, the increase of migrant workers was not balanced with a national government policy to deal with their social problems (including the language barrier, children's education, and health care issues).

In March 2006, the Ministry of Internal Affairs and Communication published a policy recommendation for the promotion of multicultural coexistence (*tabunka kyousei*) within local communities in response to an increasing number of foreign residents and other demographic changes. In the same year, the Ministry of Justice responded to the social problems of foreign residents by creating a project team concerned with the future acceptance of foreign nationals, chaired by the Senior Vice-Minister of Justice, Mr. Taro Kono. In June 2006, this inter-ministerial project team released an interim report on the future acceptance of foreign nationals with the recommendation to broaden opportunities for more migrant workers in Japan. The report suggested that migrant workers that met a certain level of Japanese language proficiency would be allowed to enter the country only for work in designated industries where the Japanese labor force is inadequate. The report also called for providing specified rights, including social security, to legal migrant workers while prosecuting illegal migrant workers (T. Kono, personal communication, January 26, 2011).

Taro Kono is not the only LDP politician who has expressed positive views on the issue of immigration in Japan. In June 2008, a former LDP Secretary General, Hidenao Nakagawa, submitted a proposal to Prime Minister Yasuo Fukuda titled "A Proposal for a Japanese-style Immigration Policy," that proposed Japan should become an immigration country by opening the door to "10 million immigrants." (Matsutani, 2008). This proposal aimed to overcome the problems of an aging society and low birth rate. This proposal was

supported by 80 other LDP politicians, but was opposed by many other LDP members and the general public (H. Sakanaka, interview, January 17, 2011).<sup>14</sup> From this discussion, we can conclude that the ruling political parties in Japan found it difficult to reach a consensus on the issue of immigration, and that consensus has so far proved difficult to attain within the LDP because of the diverse range of ideological positions among its politicians.

### *Responses of Business Organizations*

Many business organizations also articulated their views on the foreign worker problem. Those representing the interests of large corporations took a cautious stand on the introduction of unskilled migrant workers. Alternatively, they advocated the overhaul of the trainee system or similar schemes (Komai, 1995, p. 213). The Business Policy Forum Japan (*Kigyō Katsuryoku Kenkyūjo*) and the Kansai Employers' Association (*Kansai Keieisha Kyōkai*) announced their respective proposals in July 1988; both of them objected to the admission of unskilled migrant laborers (Komai, 1995, p. 212).

The Tokyo Chamber of Commerce and Industry (*Tokyo Shōkō Kaigisho*) conducted a survey in April 1988 that found that some 40% of the member companies would consider hiring unskilled migrant workers if legalized. Yet the organization remained cautious about the employment of unskilled migrant workers in its September report (Komai, 1995, p. 212). The Japan Federation of Employers' Association (*Nikkeiren*), for its part, formed the Foreign Worker Problem Study Group as a sub-group of the Special Committee for Employment in June 1988. The study group's report, released in January 1989, upheld the continued closed-door immigration policy (Hachiya, 1991, p. 142-143).

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<sup>14</sup> The proposal incorporates the idea of Mr. Hidenori Sakanaka, former head of Tokyo Immigration Bureau who is currently the chairman of a research institute called Japanese Immigration Policy Institute. However, the proposal was not well received by public as the survey by the daily Asahi Shimbun showed that 65 percent of respondents opposed to the idea.

Meanwhile, Keizai Doyukai's (Japan Association of Corporate Executives) position toward migrant workers states: "although it is of basic importance to create employment in local areas of each country, bearing in mind the reality that a great many unlawful migrant foreigners are already working everywhere and also considering the balance of supply and demand in Japan's domestic labor market, we should take a positive decision to accept an 'orderly' inflow of unskilled migrant workers." (Keizai Doyukai, 1991, p. 13) A similar proposal was also delivered by Nippon Keidanren (Japan Business Federation) after 2004 (Nippon Keidanren, 2004).

#### *Responses of Trade Unions*

There are three main trade union federations in Japan: *Rengō* (Japan Confederation of Trade Unions), a union largely composed of public sector unions and unions in the private sector; *Zenrōren* (National Federation of Trade Unions), a union that is affiliated with the Japan Communist Party (JCP); and *Zenrōkyō* (The National Trade Union Council), an independent labor union with no links to the Communist Party or any employers. Most national trade unions are united in their opposition to the employment of unskilled migrant workers. They take this similar position on the grounds that the admission of unskilled laborers would impair the working conditions and wage levels of native workers (Weiner, 1998, p. 16-17). In particular, *Rengō*, Japan's largest trade union, issued policy statements in March 1988 opposing the entry of unskilled workers because of an emphasis on security employment for Japanese workers and the need to prevent a decline in working conditions (Nimura, 1992, p. 251-254). The National Federation of Construction Workers' Unions (*Zenken Sōren*), which represented 385,000 construction workers, such as carpenters and plasterers, was the first trade union that opposed the persistent illegal employment of migrant laborers in the construction sector. In October 1986 and May 1987, *Zenken Sōren* called on major

construction companies and housing companies “not to make use of foreign labor as illegal workers.” This led to the first conflict between workers over the issue after the Karabaw Group, an organization that supports Filipino workers in Japan, complained that *Zenken Sōren*’s campaign “infringed the human rights of migrant workers.” (Nimura, 1992, p. 255) By the end of the 1980s, only some small-scale unions, comprised mostly of day laborers, part-timers, and employees of small businesses such as Edogawa Union and Union Higoro, expressed positive attitudes about the employment of migrant workers; however, their position was largely a passive one (Nimura, 1992, p. 257-260).

*Rengō*’s stance on the acceptance of foreign workers in Japan has gradually changed from opposition to reluctant acceptance of foreign labor. In September 2004, *Rengō* published “*Rengō*’s View on the Issue of Foreign Workers,” which basically opposed unskilled workers and suggested that the acceptance of foreign workers in Japan should be limited to jobs that “require expertise, technology and skills, and in principle, consideration should be given to maintaining a balance with domestic employment and a national consensus.” (Rengo, n.d.) Meanwhile, with regard to the Industrial Training Program (ITP) and Technical Internship Program (TIP), *Rengō* proposed “radical reform” and, if necessary, “the abolition of the schemes.” (Rengo, n.d.)

Currently, *Zenrōkyō* is the only labor union that attempts to organize migrant workers. The involvement of *Zenrōkyō* with migrant workers began in 1994 when *Zentoitsu* (National Union of General Workers National Council) joined *Zenrōkyō*. At that time, *Zentoitsu* agreed to join *Zenrōkyō*, on the condition that *Zenrōkyō* would promote the issues of migrant workers (Roberts, 2003, p.277-280).

*Responses of Civil Society*

The movement to support immigrant rights began with the movement to support *Zainichi* Koreans against discrimination in Japan. *Zainichi* Koreans are the second and third generation of Korean workers that were mobilized during Japanese occupation of Korea. *Zainichi* Koreans protested the use of Japanese names instead of Korean names in the 1960s and 1970s and the obligation to record their fingerprints in the 1980s (Lie, 2008). They fought discrimination by utilizing legal mechanisms in the courts.<sup>15</sup> They also targeted local governments to make them pay attention to their demands (Tegtmeyer Pak, 2003. P. 263).

Rapid economic development in the 1980s attracted a new wave of foreigners to Japan. The number of foreigners further increased with the government's decision to accept *nikkeijin* and foreign trainees as *de facto* workers in Japan in the early 1990s. These newcomers faced a different set of problems, such as language barriers, labor relations problems, and access to education and health care. In the wake of these problems, they sought help from local governments and the activism of local NPOs. Local NPO activism, however, was limited to helping foreign residents with their problems on a case-by-case basis, including providing Japanese language classes and translations of written information.<sup>16</sup>

By the end of the 1990s, these local immigrant movement groups started to recognize the importance of collective action and began to coordinate their efforts and resources in order to change policies. In 1997, they established the National Network in solidarity with Migrant Workers (Migrants' Network), to enhance their network and exchange knowledge in order to project their agenda into national politics. The Migrants' Network conducts policy

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<sup>15</sup> One of the popular lawsuits for the *Zainichi* Koreans is the case of *Arai Shoji (Pak Chong-sok) vs Hitachi*, a case of discrimination in employment opportunity in 1970. For details of the case please refer to Chung (2010, p. 97-100).

<sup>16</sup> Japanese civil society groups tend to be small and local. Japanese NPOs are regulated under restrictive legislation of the Special Non-profit Activities Act. The law enables strict state control over NPOs' activities and denies tax benefits to most NPOs. This means that NPOs enjoyed only limited autonomy from the state and faced modest budgets. For more details account on Japanese NPO activism please refer to Pekkanen (2006, p. 39-40).



advocacy for problems faced by foreign workers such as visa decisions, access to health care, and abuses in the trainee system. Over the years, the network has become familiar with administrative procedures and been able to make their voices heard by various public agencies and sympathetic Diet members (Milly, 2006, p. 131-135).

Policy advocates have been able to engage officials in a positive manner when there has been a convergence of interests with the agency. Advocates have been most effective in establishing constructive dialogue based on their experience in dealing with the trainee programs at the local level, compared to their efforts to intervene over visas and access to health care. Despite some positive outcomes, their efforts have been “invisible and informal” because formally they cannot change the system and their efforts have been responded differently depended on agency’s interests. Moreover, the process of their struggle is “unstable and vulnerable” because of frequent changes in personnel and the agencies’ agendas. Therefore, in general, their efforts have not been successful in bringing about major changes in governmental policies on immigrants’ rights (Milly, 2006, p. 148).

### *Responses of Local Government*

The upsurge of “illegal” migrant workers spawned a heated debate among local policy makers as well. On the one hand, the national government opted to maintain rigid immigration procedures; on the other hand, some local governments, such as those of Tokyo and Kanagawa, called for more liberal immigration measures in 1988.

One of the complications of Japan’s immigration policy, after the amendment to the Immigration Control Act in 1990, has been a wide gap between national and local policy. Legislation to protect foreign residents is minimal at the national level. There is no “Basic Law for Foreign Residents” that guarantees the rights of foreign residents in Japan, and the national government persists with a rigid approach to immigration.

The absence of consensus and the lack of policy at the national level have forced local governments to face dilemmatic tasks. On the one hand, local governments are required to carry out policies of the central government, such as enforcement of measures against visa overstayers and non-registered foreigners. On the other hand, “under the Local Government Law, local governments are required to operate public organizations to look after the safety, health and welfare of those, including foreigners, who live in the cities, towns, and villages which make up to their jurisdiction.” (Komai, 1993, p. 146)

This situation has led local governments to be more practical and provide public services to “residents” regardless of their nationality. Municipalities issue alien registration cards and provide other public services to foreign residents, including access to health insurance, the pension system, and other services. Some municipalities even issue Alien Cards to those who have overstayed their visas with "no residential status" typed on them. (Matsutani, 2009) In short, local governments treat foreign residents as members of the community.

It is understandable that local governments came up with various initiatives because they have to deal with the problems of foreign residents on a daily basis. It was local governments who first came up with initiatives on how to better address the needs of foreign residents, including migrant workers. In July 2001, some municipalities with a high number of foreign residents formed the Council of Cities with High Concentration of Foreign Residents (*Gaikokujin shuju-toshi kaigi*). The forum was first established in July 2001 and the Hamamatsu Declaration (*Hamamatsu Sengen*) consists of proposals in several arenas, including education for foreign residents and their children and a review of medical insurance and social insurance. The forum currently consists of twenty-eight municipalities who meet

every year and submit recommendations for dealing with migrant workers to the central government.<sup>17</sup>

### *Public Opinion*

Previous research has emphasized the importance of public opinion in policy making in Japan (Takao, 2011, p. 3-25 and Midford, 2011). Cabinet offices have conducted public opinion surveys on the issue of foreign workers three times, in 1990, 2000 and 2004. From these surveys, we will look at the general attitude of the Japanese public on the issue of foreign workers.

Table 2. Public Opinion Poll on the Issue of Foreign Workers in Japan

<b>Answer/Year</b>	<b>1990</b>	<b>2000</b>	<b>2004</b>
Significant Concern	9.5	8.2	11.9
Some Concern	39.1	40.6	41.2
Little Concern	31.8	32.3	32
Almost No Concern	18.1	18.1	13.7
Don't Know	1.4	0.7	1.2
Total Number	3681	2070	2075

Sources: Cabinet Office, Japan (Naikaku). *Gaikokujin roudousha no ukeire ni kansuru yoron chousa* (Opinion survey on the acceptance of foreign workers)

The table above reflects the degree of general concern felt by the Japanese public toward foreign workers. From 1990 to 2004, the figures did not change significantly. From this survey we can see that the number of respondents who had “significant concern” over the

<sup>17</sup> Further information on the Council of Cities with High Concentration of Foreign Residents can be found on their website at <http://www.shujutoshi.jp/gaiyou/index.htm>

issue of foreign workers decreased by 1.3% in 2000, and increased by 3.7 percent in 2004. Meanwhile, the number of respondents who had “almost no concern” for the issue declined by 4.4 percent in the same period. The results of these surveys indicate that the Japanese public feels a significant degree of public anxiety about immigration over the last decade.

Table 3. Public Opinion Poll on Skilled and Unskilled Migration

<b>Answer/Year</b>	<b>1990</b>	<b>2000</b>	<b>2004</b>
Skilled only	14.1	21.2	25.9
Conditional acceptance in response to domestic labor shortages	56.5	51.4	39
Unconditional acceptance regardless of domestic economic conditions	14.9	16.3	16.7
Other	0.1	0.1	0.7
Don't know	14.3	11	17.7
Total number	3681	2070	2075

Sources: Cabinet Office, Japan. (Naikaku). *Gaikokujin roudousha no ukeire ni kansuru yoron chousa* (Opinion Survey on the Acceptance of Foreign Workers)

Meanwhile in the context of skilled and unskilled migration, we can conclude that Japanese people are generally more supportive of skilled worker migration than unskilled worker migration. Table 3 shows that public support for skilled migration has steadily increased while the percentage of people who are in favor of stricter acceptance has continued to decline. This data set shows that Japan's public is becoming generally more receptive to the acceptance of foreign workers, especially to skilled worker migration (as opposed to unskilled), and therefore they are generally align with the government's official policy on immigration.

### Debate over Labor Immigration Policy in South Korea

Modern Korean history begins in the late nineteenth century as it started with contact with the West and Japan. After experiencing several wars, including the Japanese rule and the Korean War and the division of the country led many Koreans to emigrate. Another factor that influenced their emigration was the state policy that encouraged migration. Korea sent farmers, miners, nurses, and laborers to the United States, Brazil, Germany and the Middle East. The Park Chung Hee administration pushed Korean migration through the 1963 Immigration Act with the motive “to resolve unemployment and to increase foreign exchange earnings.” (Yuh, 2005, p. 280)

Starting in the 1970s, Korea experienced rapid economic growth. However, the rapid economic development entailed a labor shortage. Until the end of the 1980s, Korea sustained its development without foreign laborers because the nation had a sufficient supply of domestic labor. Starting in the late 1980s, small and medium-sized enterprises (SMEs) began to suffer from a severe labor shortage, caused by the lack of young workers and the rising demand for labor in the small and medium-sized enterprises (SMEs). Younger generations did not enter the labor market immediately after they graduated from high-school, but instead chose to pursue higher education in the universities. Further, the younger generations that accumulated a better education were no longer interested in “3D” (dangerous, dirty and difficult) jobs. Meanwhile, there was a sharp increase in demand for employees in the SMEs, as large firms found it more profitable and competitive to subcontract their labor-intensive production lines to SMEs. Therefore, SMEs in 3D sectors began to experience severe labor shortages. This situation has attracted migrant workers to work in Korea.

At the end of 1980s, Korean Chinese (*chosunjok*) began to come into the country. Using family invitations, *chosunjok* became a “full-scale” phenomenon in 1989, with the number of illegal workers reaching 19,000 by early 1990 (Choi, 2006, p. 2). Diplomatic

normalization between the People's Republic of China (PRC) and South Korea in 1992 stimulated the growing number of *chosunjok*.

### *Responses of the Government*

South Korea employs the presidential form of the government, in which the president is the head of state and the head of the government. The executive branch is independent of the legislature; the president is not a part of it and there is no need for the party in power to have a majority of the members in the legislature. The presidential form of government, therefore, has given the president of South Korea a relative strong power to determine and shape public policy.

To solve labor shortages in the low-skilled job industries, the government of Korea, under the administration of President Kim Young Sam, amended its Immigration Act in 1992 to include acceptance of *chosunjok* and invitations to foreign trainees under an Industrial Training System (ITS). The amendment was modeled after the Japanese policy in the early 1990s that sought to solve the labor shortage problem by recruiting Japanese descendants (*nikkeijin*) and foreign trainees to fill low-skilled jobs in small and medium-sized enterprises (SMEs).

The main difference between *chosunjok* and trainees was their working status; while *chosunjok* were considered laborers with benefits, the Industrial Training System did not provide trainees with the same support, even if they worked for long hours. Their allowances were also miniscule compared to those of *chosunjok* and Korean domestic laborers. Most of the trainees ended up escaping from their companies and working illegally where incomes were more lucrative (as cited in Lim, 2006).<sup>18</sup> But working illegally made the trainees more

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<sup>18</sup> In a 2002 survey from the Korean Labor Institute, nearly 70% of foreign industrial trainees said they were willing to sacrifice their legal status to find better-paying jobs when their visas expire.

vulnerable to severe abuse such as unpaid wages. There were often cases where the employers did not pay their wages for months or even reported their status to immigration without paying their wages.

As abuses toward foreign trainees occurred, various actors criticized the implementation of ITS. The Korean government faced a challenge in coming up with a policy that would strike a balance between business interests and upholding the human rights of migrant workers. In 1997, the government started to discuss overhauling the ITS after receiving a draft of the Foreign Worker Protection Law from a civil society network, the Joint Committee for Migrant Workers in Korea (JCMK). Initially, the draft of the law was received positively by the Ministry of Labor under the leadership of Minister Bang Yong Seok, who was a labor union leader who played a key role in South Korea's labor movement during the 1970s and 1980s. However, the Ministry of Trade, the Ministry of Industry and Energy, the Ministry of Health and Welfare, and the Ministry of Justice opposed the draft of the law.

After the year-long dispute, Kim Dae Jung's government modified the industrial training system and introduced the Work after Training Program (WATP) in 1998. Under WATP, the government changed the duration of the stays of foreign workers, wherein after one year as a trainee, they could change their status to trainee-employment for two years. This new system allowed the trainee-employees to receive protection through the Labor Standard Act, benefits from the Medical Insurance Law and Industrial Disaster Insurance Law, and severance pay and other allowances (Lee, 2005, p. 143-165). However, their working permit was dependent on the preference of their employers and they are not allowed to change their workplace, and this has thus led to several problems. Therefore, WATP still fell short in significantly reducing human rights abuses.

Since many foreign trainees ran away, the number of undocumented workers continued to increase; in 2002, there were 308,165 undocumented foreign residents in Korea,

and most of them were working illegally. In response to various civil society pressures, President Rho Moo-Hyun, the former human rights lawyer and activist from the 1980s, is attempting to pass a law that would legalize undocumented workers. Finally, on August 16, 2003, the Employment of Migrant workers Act passed, which provided the legal framework for the Employment Permit System (EPS) to be implemented in 2004.

### *Responses of Business Organizations*

In the late 1980s, Korean Federation of Small Business (KFSB) started to lobby the government to allow foreign trainees to work in South Korea. The policy outcomes emerged in 1991, when the Korean government initiated an ITS that allows foreign trainees to work in Korea, and granted full authority to deal with recruitment of foreign trainees to KITCO (Korean International Training Cooperation Corps) (Seol, 2000 p. 6-31). KITCO, which is totally dominated by KFSB, has the exclusive right to import and distribute trainees to various companies that need foreign workers. By the late 1990s, the Korean government had expanded the training program by granting authority to *CAK* (Construction Association of Korea), *NACF* (*National Agricultural Cooperative Federation*), and *NFFC* (National Federation of Fisheries Cooperative), to recruit trainees in construction, agriculture and the fisheries industries respectively.

It is noteworthy that the interests of KFSB and other recruiters are not limited to bringing foreign workers to heal the labor shortage problem in South Korea, but also to create a system with a high financial profit. KFSB is a private industry association that deals directly with recruiters in sending countries. KFSB recruits workers for manufacturing sectors and profits from the deposits of companies seeking foreign workers and the monthly fees from the trainees. (Lim, 2006 p. 263)



Because of the abusive nature of ITS, many trainees ran away and work illegally. Civil society groups are particularly concerned about such situations and proposed the abolishment of ITS. The proposal, however, was strongly opposed by *KFSB*, *CAK*, *NACF* and *NFFC*, all of which work as agencies recruiting industrial technical trainees (Seol, 2005).

However, in early 2000, business organizations did not share unified positions toward ITS. Several other business organizations that failed to secure foreign workers under ITS started to support the abolition of ITS and the adoption of EPS. The Korea Employers Federation (KEF), the Korea Chamber of Commerce and Industry (KCCI), and the Federation of Korean Industries (FKI) are willing to abolish ITS and adopt EPS to help companies suffering from labor shortages to secure a supply of labor (Seol, 2005).

#### *Responses of Trade Unions*

There are two major trade unions in South Korea; they are the Federation of Korean Trade Unions (FKTU) and the Korean Confederation of Trade Unions (KCTU). Both trade unions have similar policies toward migrant workers; they are against unlimited importation of foreign laborers and support equal treatment for migrant workers if the company has to import the foreign labor because of a labor shortage. Therefore, both unions support the abolition of ITS and the implementation of EPS.

Prior to its establishment on November 11, 1995, KCTU had shown a deep interest in migrant workers and had participated in establishing relevant measures. KCTU has a separate section dealing with the issues of migrant workers. The Equality Trade Union Migrants' Branch in Seoul, Gyeonggi, and Incheon Areas, covering undocumented migrant workers, was established in May 2001 under KCTU. KCTU has been working in close coordination with various civil society organizations, such as JCMK and *Minbyun* (Lawyers for a

Democratic Society), in drafting the Foreign Workers Permit System, which will enable foreign workers to work for any company, with certain restrictions.

### *Responses of Civil Society*

In the winter of 1995, thirteen Nepali industrial trainees staged a protest in front of Myeong-Dong cathedral, a Catholic church. Myeong-Dong cathedral has been famous in the South Korean democratization process as a prominent place for political and labor protest. The protest sparked an increased interest within the Korean NGO community. Shortly after the protest, many organizations were established to provide “labor counseling” and other social assistance. Most of these organizations are church-based organizations; for instance, the Christian Institute for the Study of Justice listed a total of 101 church-based organizations (86 Protestant, 12 Catholic, 2 Buddhist, and 1 Islamic) established to assist foreign workers (Lim, 2006, p. 256).

In solidarity with the protest of the foreign trainees, various civil society groups consisting of human rights advocates, NGOs, religious groups, and labor unions, started to coordinate their actions under the flag of Action Group for Human Rights of Migrant Industrial Trainees. In July 1995, various civil society groups founded The Joint Committee for Migrant workers in Korea (JCMK).<sup>19</sup>

JCMK criticized the government by suggesting that the ITS program was only intended to serve the needs of business, without protecting the human rights of the migrant workers. Their major activity was to push for a new law to protect foreign workers. They initiated a debate on what kind of immigration policy is suitable for Korea’s interests. JCMK further drafted the Foreign Worker Protection Law and lobbied the parliament on this issue

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<sup>19</sup> From the document “Introduction to Joint Committee with Migrants in Korea” p. 2. The document was obtained from Ms. Lee Kyungsook after an interview with the author on August 23, 2010.

(Lim, 2003, p. 423-442). Kim Dae Jung's government accepted some of its proposals and introduced the Work After Training Program in 1998. However, civil society was not happy with the WATP because the program forbids foreign workers to change their workplace. Even after the implementation of WATP, many trainees still ran away from their employer and became undocumented workers.

In March 2000, JCMK published a report titled "A Report on the Oppressed Human Rights of Migrant Trainee Workers," and sent it directly to President Kim Dae Jung. Although President Kim Dae Jung responded to the report positively, the government failed to enact a new law to protect foreign workers in the Kim Dae Jung era (Lim, 2006, p. 259-260). JCMK and other civil society efforts have attracted the attention of President Rho Moo-Hyun, who is a former human rights lawyer. Finally, the law on Employment Permit System was enacted in 2003.

The political activism of JCMK and other civil society and human rights groups who relentlessly pushed for the working permit for foreigners has been rewarded. Civil society groups in South Korea have been successful in framing the foreign workers issue as a "human rights issue." Civil society groups have framed the situation as one where foreign workers are the "victims of" instead of the "threat against" Korean society. As a result, the foreign workers issue is difficult to ignore within Korea, and has made people in the government realize that the government must reform the trainee system (Lim, 2006, p. 259-260). At the same time, various NGOs provided *pro bono* legal assistance to help foreign workers acquiring their legal rights. Among the most notable NGOs are *Minbyun* (Lawyers for a Democratic Society) and Legal Center for Migrant Workers, run by the Seoul Bar Association. This legal assistance, combined with the advocacy and service-based NGOs, has helped ensure that the rights of workers have been translated into concrete actions (Lim, 2006, p. 261-262).

### *Responses of Local Government*

Driven by economic realities and as a response to civil movements, many local governments in Korea have launched plans to become friendlier to foreigners. Among others, Ansan City is a step forward in promoting immigrant rights. Ansan is home to Banweol and Sihwa Industrial Complexes, large industrial complexes dedicated to small and mid-sized enterprises. Currently, there are some 38,000 EPS workers living in Ansan, but an estimated 70,000 foreign residents live in the city when the figure includes undocumented and illegal foreigners. Wongok-Dong, a district in Ansan city, hosts the majority of foreign residents in Ansan city. There are some 150 ethnic restaurants in the Wongok district alone.

The growing number of foreign residents has created issues such as access to health care and other social problems. To cope with the problems, the Ansan local government established the Medical Check-up Center for Ethnic Korean-Chinese and Immigrant Workers, which has provided free medical service to foreigners on public holidays since 2003. In 2005, the city established the Ansan Migrant Community Centre, which accommodates all services for foreign residents, such as free medical service, Korean language classes, computer classes, a library, an interpretation and support center, and a public hall for foreign residents.

In order to support foreign residents in Korea, the Ministry of Government Administration and Home Affairs introduced a guideline under the Proposed Standard Ordinance to Support Resident Aliens in 2006. The primary objective of this ordinance is to lead the local governments to make their own ordinances in order to provide systematic support for resident foreigners living in Korean cities. The scope of support for the resident foreigners includes Korean language education, consultation, and hosting cultural and sports events for foreigners. Ansan City implemented the ordinance to support its foreign residents in 2007. Moreover, Ansan City became the first local government to adopt an ordinance to protect the rights of foreigners in 2008. The ordinance stipulated that the city must actively

develop policies for foreign residents and ensure that they are not discriminated against in the use of public facilities. In 2009, the central government recognized the efforts of the local government in Ansan and designated the Wongok district in Ansan City a “Multicultural Village Special Zone.” (Lee, Seon Hee, personal communication, 2010)

### *Public Opinion*

This section will analyze the general attitude of the South Korean public on the issue of foreign workers. The Survey Research Center at Sungkyunkwan University conducts the Korean General Social Survey (KGSS) annually. In 2003, KGSS asked five questions to measure South Korean attitudes towards immigrants who came to live in Korea; the results are presented in Table 4.

Table 4. South Korean Attitudes Toward Immigrants

No.	Questions	Answer (Percent)					
		Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	Can't Choose
1.	Immigrants increase crime rate	6.8	25.6	28.5	30.2	7.1	1.7
2.	Immigrants are generally good for the South Korean economy	6.2	46.7	29.8	13.8	1.7	1.9
3.	Immigrants take jobs away from people who were born in South Korea	4.6	18.5	28.1	38.4	8.4	1.9
4.	Immigrants improve South Korean society by bringing in	3.8	24.0	43.4	23.0	3.2	2.6

	new ideas and cultures						
5.	The government spends too much money assisting immigrants	2.7	10.4	34.4	37.8	10.1	4.6

Source: The Korean General Social Survey (KGSS) year 2003 downloaded from Korean Social Science Data Archive (KOSSDA) [www.kosssda.or.kr](http://www.kosssda.or.kr)

From the results of this survey, we can assume that South Koreans do not consider immigrants a threat and even tend to think that immigrants are beneficial to the South Korean economy and society. However, to the question of “Do you think the number of immigrants to South Korea nowadays should be increased or reduced?” 22.9% people want the number to increase, 34.5% answered the number must remain the same, and 32.4% answered the number should be reduced. The result indicates that majority of South Korean people do not favor the increase of immigrants in South Korea.

### Conclusion

This chapter has illustrated the different opinions of interest groups on the issue of labor immigration in Japan and Korea. State policy is a reflection of a competition between different interest groups. This paper has shown the influence of politics and the complex process leading to immigration policy, especially in relation to the immigration of foreign workers. The government, business organizations, civil society, trade unions, local governments, and public opinion have strongly influenced the political processes of labor immigration policymaking in Japan and Korea.

In Japan, there is a strikingly similar anxiety, shared by the government, business organizations, labor unions, and the people, toward labor migration, and therefore they are

generally more supportive of skilled migration compared to unskilled migration. These circumstances have resulted in a restrictive policy toward the acceptance of low-skilled foreign workers. Although local government, civil society, and various NPOs struggle to improve the human rights of foreign workers, their efforts have not been successful in bringing about major changes in governmental policies on immigrants' rights.

Meanwhile in Korea, civil society, labor unions, business organizations and the South Korean people are supportive of the acceptance of foreign workers because foreign workers are considered to be more beneficial than burdensome toward the South Korean economy and society. The EPS law successfully passed as the result of continuous civil society activism supported by labor unions, business organizations, and the South Korean people, with the full endorsement of President Roh Moo-Hyun that was newly elected in 2003. Therefore, we can conclude that government, both on the national and local level, has relatively strong support for improving the rights of migrant workers in Korea.

This chapter also showed that the presidential system in South Korea has allowed the South Korean president much more institutional power than the Japanese prime minister has. The South Korean president can actively push for legislation to protect foreign workers, while the Japanese prime minister needs a majority in the Diet in order to enact law. Moreover, the ruling government in Japan must face not only the opposition party, but also internal opposition from its own party caused by several factions with divided opinions on some strategic issues, including the issue of immigration of foreign workers. Labor immigration policy is therefore the product of domestic politics under certain institutional constraints.

## CHAPTER 4

### LABOR IMMIGRATION POLICIES OF JAPAN AND SOUTH KOREA

#### Introduction

Japan and Korea share the immigration policy objective of alleviating labor scarcity while minimizing the social cost. During the early 1990s, both Japan and Korea adopted convergent immigration policies that opened the door to highly skilled foreign workers and admitted temporary migrant workers through alternative ways. In the early 2000s, we witnessed the convergent immigration policies of the two countries after Korea initiated the Employment Permit System in 2004. This chapter will discuss the Industrial Training Program in Japan and the Employment Permit System in South Korea because these programs in Japan and Korea were similar. The opening of work opportunities through Industrial Training Program in Japan and Employment Permit System in Korea have attracted Indonesian young force to work in Japan and Korea.

#### Industrial Training Program of Japan

##### *Industrial Training Program (before 2010)*

To promote the Industrial Training and Technical Internship Program, the Japan International Training Cooperation Organization (JITCO) was established in 1991. The organization was founded by five Ministries: they were the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Health, Labor, and Welfare, the Ministry of Economy, Trade and Industry, and the Ministry of Land, Infrastructure and Transportation. The organization was designed primarily to assist small and medium-sized companies in accepting foreign trainees (Yamawaki, 1996, p. 23). One of the roles of JITCO is to monitor



the intermediary bodies or associations that recruit trainees to work in Japan. However, JITCO has no power to penalize intermediary bodies or associations when misconduct occurs.

In 1993, Japan added the Technical Intern Program to its foreign training program to concede to industry's demands for a foreign labor force. The purpose of the program was to extend the training process into on-the-job training programs so that foreign trainees could stay longer (initially one year, but later two years of additional stay). After one year of training, if the trainee passes the National Trade Skills Test Basic Level Two, his or her residence status will be changed from "trainee" to "designated activities." In this regard, the trainees are entitled the same legal protections as native workers, except that they do not have the freedom to change their occupations.

The Immigration Control Act clearly distinguished foreign trainees from "workers." Based on this act, the purpose of the Trainees and Technical Interns Program is to provide the transfer of technology, skills or knowledge acquired through training in Japan to a foreign country. Under this system, the participants are granted trainee visas, which do not allow them to receive salaries. Instead, they receive "training allowances," which are usually set much lower than regular workers' wages and "even lower than the wages foreign students and illegal workers gain." (Mori, 1997, p. 129)

Moreover, the first-year trainees are not covered by labor laws, and thus the trainees are not in a position to bargain for a fair wage. In practice, many organizations that accept trainees commonly utilize trainees as cheap short-term workers. Of 597 companies surveyed during 1989 and 1990, Komai found that 72% used trainees as *de facto* cheap laborers. (as cited in Athukorala and Manning, 1999, p. 46).

With regard to stipends and remuneration, JITCO reported that in 2008, the average trainee stipend was 65,871 yen (650 USD) and the average monthly wage for technical interns was 122,000 yen or equal to 1220 USD (JITCO, 2009, p .132, 152) If we calculate

that trainees and interns work for 40 hours per week, this means the average hourly wage would be 411.7 yen/hour for trainees, and 762.5 yen/hour for technical interns. Meanwhile, the average national minimum wage in 2008 was 703 yen/hour.<sup>20</sup>

Most of the trainees are recruited from China, Indonesia, Vietnam and the Philippines, and they spread out all over Japan following their place of employment. Of JITCO's 50,064 first-year trainees in 2009, most were in Ibaraki (7.6%), Aichi (7.2%), Gifu (5.3%), Hiroshima (5.3%), Chiba (4.2%), Mie (3.8%), and Hokkaido (3.5%). The rest of the trainees are spread across forty prefectures. In terms of industry, 42.9% of the trainees were concentrated in three industries, textiles (18.7%), food processing (14.9%), and agriculture (9.3%) (JITCO, 2009, p. 116). Meanwhile machinery/metals (26.2%), textiles (22.7%), and food manufacturing (11.4%) composed the bulk of the technical interns' industries (JITCO, 2009, p. 141).

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<sup>20</sup> 地域別最低賃金の全国一覧 (List of national minimum wage by region) from [http://www.mhlw.go.jp/seisakunitsuite/bunya/koyou\\_roudou/roudoukijun/minimumichiran/index.html](http://www.mhlw.go.jp/seisakunitsuite/bunya/koyou_roudou/roudoukijun/minimumichiran/index.html)

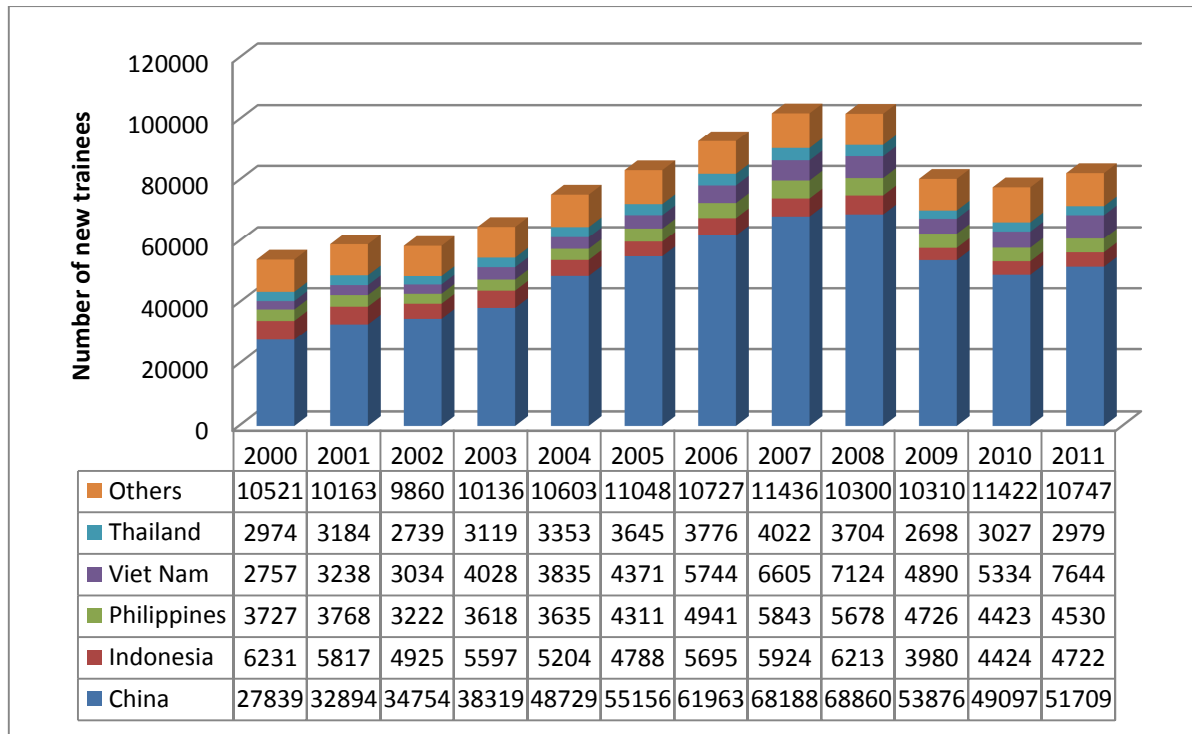


Figure 22. The Arrival of New Trainees Based on Nationality. (Source: Ministry of Justice)

#### *Technical Intern and Training Program (new system)*

The utilization of foreign trainees, particularly in the context of the looming human rights issue, has received attention and criticism from domestic and international society. Several incidents, including the 2008 deaths of Chinese trainees in Ibaraki caused by *karoshi* (death from overworking), has brought significant criticism on the foreign trainees program. According to JITCO's records, 265 trainees died in Japan between 1992 and 2010, and 30% of them died from brain or heart diseases (death brought on by excessive overtime work).<sup>21</sup> This situation has prompted the formation of domestic civil society organizations, such as the Lawyers Network for Trainees, who have called for the government to scrap the training program.

<sup>21</sup> JITCO (n.d.) Recommendation of Utilizing "A Check Sheet to Safeguard Against Death from Brain and Heart Conditions (Death from Overworking, etc.)" [http://www.jitco.or.jp/cgi-bin/press\\_en/detail.cgi?n=52&ca=](http://www.jitco.or.jp/cgi-bin/press_en/detail.cgi?n=52&ca=)

The Ministry of Health, Labor, and Welfare (MHLW), the Ministry of Economy, Trade, and Industry (METI), and the Ministry of Justice (MOJ), have all offered different proposals on how to revise the foreign training program. In 2007, MHLW formulated plans to protect those workers' rights by abolishing the one year of industrial training and extending the technical internship period from two years to three years. METI is urging for more trainees be allowed entry into Japan to address labor shortages, while calling for tighter controls and guidance to employers. Meanwhile, former Minister of Justice Nagase proposed eliminating the foreign trainees program and instructed MOJ officials to study a proposal to develop a short-term working visa (Kyodo News, 2007). Meanwhile, in December 2007, the Immigration Bureau and MOJ published the “Guidelines Concerning Entry and Residence Management of Trainees and Technical Interns.” The report acknowledged many instances of “improper misconduct” and MOJ subsequently decided to publicize the misconduct.

Internationally, the reputation of Japan’s industrial training and technical internship program has also been denounced. Since 2007, the U.S. State Department has published five consecutive annual Trafficking in Persons Reports that have sharply criticized Japan’s industrial training and technical internship program. Citing various abuses against foreign trainees by their employers, the reports argued that foreign trainee programs were similar to forced labor and human trafficking operations.<sup>22</sup> Even after Japan amended the Immigration Act in 2009 to improve the program, the US government and the UN are still critical of the Training Program. In a 2012 TIP report, the US government wrote that “The Government of Japan has not officially recognized the existence of forced labor within the Industrial Trainee and Technical Internship Program, ...However, the government made a number of efforts to address labor abuses in the program.” (page 199-201).

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<sup>22</sup> “Trafficking in Persons report” is an annual report compiled by The US Department and published since 2001. The complete report can be downloaded from <http://www.state.gov/g/tip/rls/tiprpt/index.htm>

In March 2010, the UN special rapporteur on migrant rights, Jorge Bustamante, labeled the program “exploitative” and suggested that in some cases it “may well amount to slavery.” Bustamante went further by asking Japan to end the training program and replace it with an employment program similar to the Korean model. (OHCHR, 2010)

Meanwhile, Japan experienced an economic slowdown after the Lehman Shock in 2008: many Japanese SMEs collapsed, leading to significant unemployment for low-skilled workers, including *nikkeijin* and foreign trainees. To combat rising unemployment, the LDP created a task force under the leadership of Mr. Jiro Kawasaki, a former health minister, which endorsed a repatriation policy for *nikkeijin*. In this initiative, the government facilitated the return of *nikkeijin* to their home countries by giving each worker who was willing to leave Japan 300,000 yen, along with 200,000 yen for each of their dependents, as long as they promised they would not return to Japan within three years. (Tabuchi, 2009)

At the same time, Japan amended its Immigration Act in March 2009, calling for improvements among other resident registration programs, the foreign training program, and college student visas. The significant change in the immigration law amendment is that management of foreign residents will be centralized in the Immigration Bureau. Before the amendment, municipalities issued Alien Registration Cards to foreigners who resided in their area. Since the amendment, the Immigration Bureau now collects the residents’ personal information and issues Residence Cards that took effect in 2012.

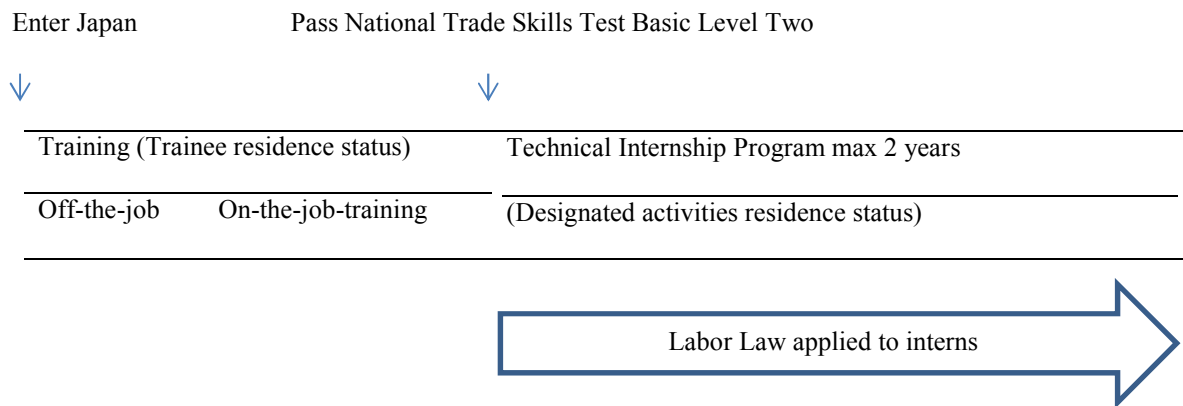
The newly amended Immigration Act covers the loopholes in the foreign training system that had allowed those in the first year of the three-year trainee and internship programs to not be protected by basic labor laws. Japan decided to combine the Trainees and Technical Intern Program through the “Technical Intern Visa.” The improvements to the training program were implemented in July 2010.

The new Training Program and Technical Internship Program reflects the MHLW proposal for abolishing the one-year industrial training period and extending the period of the technical internship from two to three years. The new approach has two main points: the first is the application of labor legislation by treating interns as workers, and the second is the strengthening of regulations concerning the responsibilities and penalties to be imposed. (Ministry of Justice, 2011, p 1-3).

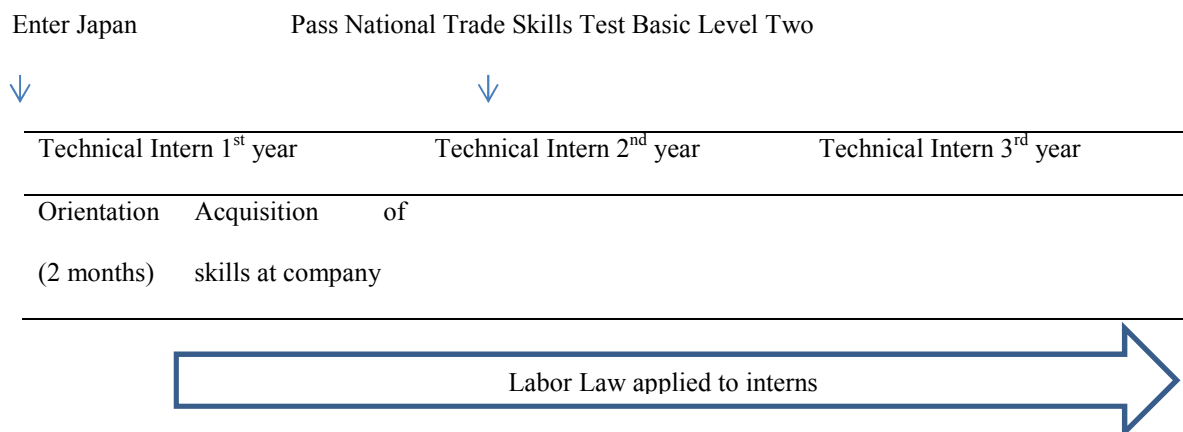
TITP gives foreign interns the protections of the Japanese Labor Standards Law and the Minimum Wage Law for their entire three years in the country. Therefore, foreign trainees are legally protected as workers beginning in their first year. For instance, when a trainee works overtime during their first year, they can demand extra wages for that overtime. The program also protects domestic labor better by limiting the type of occupations and work that foreign interns can do and also by limiting the number of trainees who can work for the companies.

Moreover, companies are prohibited from instituting compulsory savings for their technical intern trainees. In principle, the employer must include the technical intern trainees in their employment insurance and workers' compensation insurance. In addition, dismissal without legitimate reasons is not allowed. JITCO reported a significant increase in the income of first-year interns; the average increase was 123,606 yen, or 772.5 yen per hour. (JITCO, 2012, p. 102).

### Before July 2010



### After July 2010



*Figure 23.* Overview of the Industrial Trainee Program and the Technical Internship Program before and after July 2010. (Source: Ministry of Justice)

Table 5. Major Differences Between the Old System and the New System

	<b>Trainee (First Year of Old System)</b>	<b>Technical Intern (First – Third Year of New System)</b>
Status of residence	Trainee	Designated activities
Status of employment	Non-worker	Worker
Labor laws	Not applicable	Applicable
Benefits	Allowances	Wages with minimum wage equivalent to Japanese workers in the same workplace.
Overtime	Cannot	Can, agreement between employer and employee is required
Income tax ( <i>Shotokuzei</i> )	Not taxable	Taxable
Workmen's accident compensation insurance ( <i>Koyō Hoken</i> )	Not covered	Covered
National health insurance ( <i>Kokumin Kenkō Hoken</i> )	National health insurance not applicable	National health insurance applicable
Pension	National pension ( <i>kokumin nenkin</i> ) applicable	Welfare pension insurance ( <i>Kōsei nenkin</i> ) applicable
Labor union	Unable to join labor union	Able to join labor union

The most notable achievement of TITP is the fact that this program does not significantly contribute to the number of visa overstayers in Japan. The largest percentage of overstayers in 2007 had the residence status of “Temporary Visitor” (54,220), accounting for 69.1% of the total. This was followed by “College Student” (4,322), accounting for 5.5%, “Entertainer” (3,425), accounting for 4.4%, and “Trainee” (1,192), accounting for 1.5%. The small ratio of overstayers using the Trainee visa indicates that this program contributes little toward irregular migration in Japan.



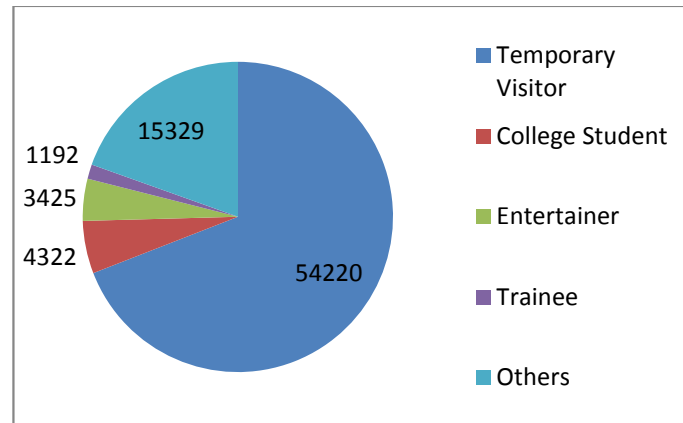


Figure 24. Visa overstayers based on status of residence as of January 1, 2011

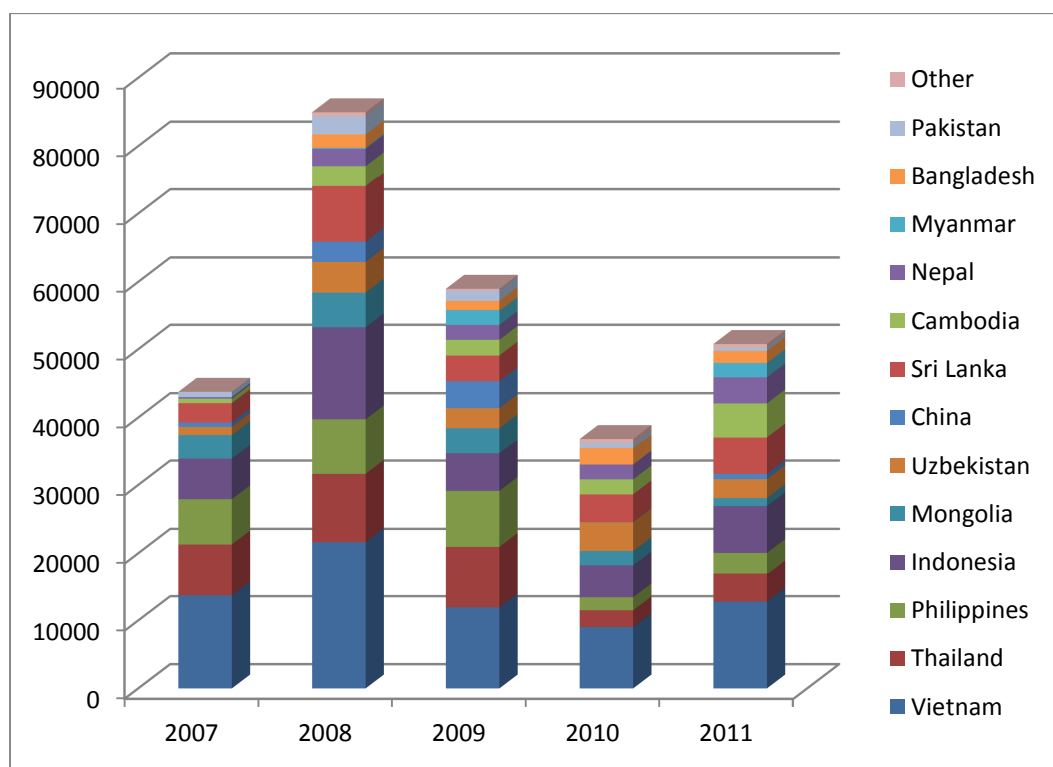
(Source: Ministry of Justice)

However, although TITP is a step forward from the trainee program, it still leaves much to be desired. Although technical interns are workers in the legal sense, they are paid much less than Japanese workers because of the obligatory deductions imposed by employers. There is no standardized recruitment process for the technical intern trainees, and thus the qualifications of the trainees are different from one recruiter to another. Further, each supervising organization and private company has different rules and benefits, and this situation often leads to confusion among the technical intern trainees.

#### Employment Permit System of South Korea

The Korean government established its Employment Permit System in 2004 and fully phased out the Industrial Training System in 2007. This substantial change from the training system to EPS enabled the Korean government to take over the recruiting process of migrant workers that had been managed by the essentially public-private Korean Federation of Small Businesses (KFSB) in the past. This shift in the recruitment scheme gave the government greater capability to monitor migration. After this shift, the Foreign Workforce Policy Committee was established under the Prime Minister's Office as the principal institution responsible for policy making. Their major task is to deliberate over and decide major issues

related to the foreign workforce, including the types of business, quotas, and the participant countries. Meanwhile, the Ministry of Employment and Labor (MOEL) and the Human Resources Development of Korea (HRD Korea), a public service organization affiliated with MOEL, are responsible for supervising the recruitment of migrant workers and implementing the EPS. Korean immigration authorities accommodate EPS migrant workers with the Non-Professional Visa (E-9), while a special EPS for ethnic Koreans operates under an H-2 visa. During the transition period, the number of undocumented workers was reduced significantly since the government provided amnesty and legalized undocumented workers.



*Figure 25. Arrival of EPS Workers Based on Nationality.*  
(Source: Korean Immigration Service)

The Korean government established strict requirements for labor exporters countries by requiring the transparency of recruitment process for sending countries. Moreover, the Korean government limited the opportunities for employment through an annual “labor quota” scheme. The Korean government only recruits migrant workers from countries that have

already signed a memorandum of understanding (MoU) with the Korean government. Currently, the Korean government has signed MoU with fifteen countries, including Indonesia. The MoUs are renewed every two years through a regular assessment of MoU implementation. In this regard, the EPS is fully controlled by the government, and the nature of cooperation between host and sending countries is government-to-government cooperation (G to G).

After the government determines the quota, including a quota per country and quota per type of job, the recruitment process begins. To avoid abuses in recruitment, the Korean government monitors the transparency in the home country by ensuring the cost of recruitment and setting the standards for recruitment. The governments of both countries organize the recruitment process; after sending countries finalize their job seeker rosters, they must submit them to HRD Korea for approval.

Migrant worker candidates between the ages of 18 and 39 can enter Korea after they pass a standardized qualification process consisting of the Employment Permit System Test of Proficiency in Korean (EPS TOPIK) and a skill test in their home country. Once they enter Korea using the EPS (E-9) visa, migrant workers can only work in occupations specified by the government, which are manufacturing, construction, primary industries (agriculture and animal husbandry), service, and fisheries.

The implementation of EPS made Korea the first Asian country to legally recognize the rights of migrant workers, including providing them with a minimum wage and insurance.<sup>23</sup> Under EPS, foreign workers have similar rights to those of Korean domestic laborers; they are entitled to a minimum wage equivalent to that of Korean workers in the same workplace. In 2012, the minimum wage was 4,580 won per hour, or 957,220 won per

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<sup>23</sup> Under Foreign Workers Act, foreign workers are covered by four insurances; workers must pay for return cost insurance and casualty insurance, while employers must pay for departure guarantee insurance (retirement payment) and guarantee insurance (guarantee for unpaid salary).

month (approximately 825 USD) for those working forty hours a week (approximately 825 USD).

However, the Korean government still reiterated its preference for temporary and disposable migrant workers.<sup>24</sup> The Korean government ensures that EPS workers are temporary migrants; the government only granted three years plus the possibility of an extension of one year and ten months. In total, migrant workers can stay up to four years and ten months, ensuring that migrant workers cannot become naturalized or apply for permanent residency. Furthermore, the Korean EPS does not offer family reunification rights. Although migrant workers from Korean ethnic diasporas are allowed to bring their family members, EPS migrant workers are not allowed to bring their family members during their sojourn. A family can reunite only when the husband and wife both work as migrant workers in Korea. The other avenue for family visits is the short-stay tourist visa.<sup>25</sup> Migrant workers with families may place more of a burden on the government, including the need to educate their children who speak foreign languages; therefore, the policy prevents migrant workers from settling and living permanently in Korea.

Since the implementation of EPS in 2004, we have witnessed progressive legislation at the national level to protect the rights of foreign residents and migrant workers. In 2007, the government legalized a basic act for the treatment of foreigners in Korea that allows workers to change their workplace, up to three times during their first three years and twice during the extension period of one year and ten months. In 2012, the Korean government passed a new bill that allows migrant workers to switch their jobs as much as they need to if

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<sup>24</sup> Among other foreigners in Korea, migrant workers have the lowest social status, as they are least preferred by Korean immigration. Access to Korea is open for professionals and skilled workers, and members of the Korean diaspora receive “preferred treatment,” yet Korea is “restricted for unskilled labor and their sojourn will be limited.” For further details, please see *The First Basic Plan for Immigration Policy 2008 – 2012* page 11-12 published by Ministry of Justice, downloaded from <http://www.immigration.go.kr/HP/IMM/icc/basicplan.pdf> (Accessed on June 2, 2010).

<sup>25</sup> Visiting family members using short-stay tourist visas are also limited because many tourists overstay their short-stay visa to work; Korean embassies in developing countries require a guarantor in Korea and a substantial amount of money in their savings account before granting such a short-stay visa.

their employer breaches regulations set by the Ministry of Employment and Labor (MOEL). The bill also stipulates that migrant workers can return to Korea after three months if the previous employer expresses his or her willingness to rehire departing E-9 visa holders for a minimum of one year. Once the bill took effect, those returning to Korea upon the employer's request would be exempt from a Korean language test (EPS TOPIK) and job training course. (Lee, T., 2012).

As of January 2011, there are 166,337 low-skilled workers with the EPS E-9 visa. They were living mostly in South Korea's metropolitan areas, including Seoul, Gyeonggi province, and Incheon. Seoul is located in the middle of Gyeonggi province, and the city of Incheon borders Gyeonggi province. These metropolitan areas are heavily industrialized with several large cities. These metropolitan areas serve as the economic, industrial, and demographic hub of South Korea where approximately 48% of South Korean residents live. In 2011, there were 33,545 companies available to hire EPS workers, and over 47% of the companies that were eligible to hire migrant workers were spread throughout Seoul, Incheon, and the Gyeonggi region. The dispersion of companies that are eligible to hire migrant workers is closely related to the spread of workers. In January 2011, of the 166,337 EPS workers in Korea, 83,858 (50.41%) were working in Seoul, Incheon and Gyeonggi province. Of those 166,337 EPS workers, around 147,854 (88.88%) were working in the manufacturing sector. (Ministry of Employment and Labor, 2011).

The change from the Industrial Training System to EPS in Korea has brought significant improvement to the admission scheme for Korea's low-skilled foreign workers in the following ways:

- a. EPS has contributed to the protection of the rights and interests of foreign workers.

The government put an end to discrimination against foreign workers by applying Labor Relations Acts, such as the Labor Standards Act and Minimum Wage Act, to

foreigners just as they are applied to native Koreans. Furthermore, in order to offer greater support to foreign workers during their stay in Korea, the government provides funds for foreign workers support centers that were initiated by civil societies. In 2011, the government opened a National Counseling Center for foreign workers in Ansan to provide labor affairs-related counseling in ten languages. Moreover, in order to provide on-the-spot service, twenty-seven foreign worker support centers have been established in small and medium-sized cities (including Yeongam, Yeosu, and Wonju), in addition to the seven existing main centers (including Seoul and Uijeongbu).

The services available in these centers include counseling for foreign workers who suffer from cultural differences and the language barrier, and classes on Korean language, practical law, and the Korean culture. The government is also working on some active measures to raise the awareness of workers. Pamphlets, living guide books, labor rights guides, safety guide books, and Korean language books are available for migrant workers in fifteen languages. Access to these pamphlets and books is easy as they are available in local government buildings, job centers, churches, NGOs, and even in ethnic restaurants.

- b. EPS has helped to reduce the labor shortages of SMEs by legally providing foreign workers without infringing on job opportunities for native Koreans.

To avoid the displacement of native workers, the Korean government sets a quota per industry sector, and per nationality, and limits the number of migrant workers per company. The government decides annual quotas for the foreign workforce by considering human resources supply and demand trends, including Korea's economic situation and the domestic labor market. EPS allows employers to hire foreign workers in industries with a labor shortage, such as agriculture and stockbreeding, fisheries, construction, and manufacturing enterprises with less than 300 regular workers. For instance, businesses in the manufacturing sector can only hire migrant workers for up to 12.5% of their workforce; a manufacturing

company with 151 – 200 workers will only be allowed to hire a maximum of twenty-five migrant workers, and a manufacturing company with 201 – 300 workers will only be allowed to hire a maximum of thirty migrant workers. Therefore, the implementation of EPS with its detailed quota system has helped to address the mismatch between labor supply and demand. The Korean government claimed that “88.9% of general foreign workers were employed in workplaces with less than 30 employees, which are shunned by Koreans” (MOEL, 2012).

c. Reducing the number of undocumented migrant workers in Korea.

Statistics show that, in 2011, more than 27% of EPS workers overstay in Korea after their work permit expires. Although the number is still high, this is a significant reduction from the nearly 70% of ITS trainees who were abandoned their status for undocumented work in 2002. Furthermore, the statistics show the increasing number of foreign residents in Korea and the decreasing number of undocumented foreign residents. The decision to accept foreign migrant workers legally and allow them to enjoy some benefits has made the status of undocumented workers less desirable for foreign migrant workers.

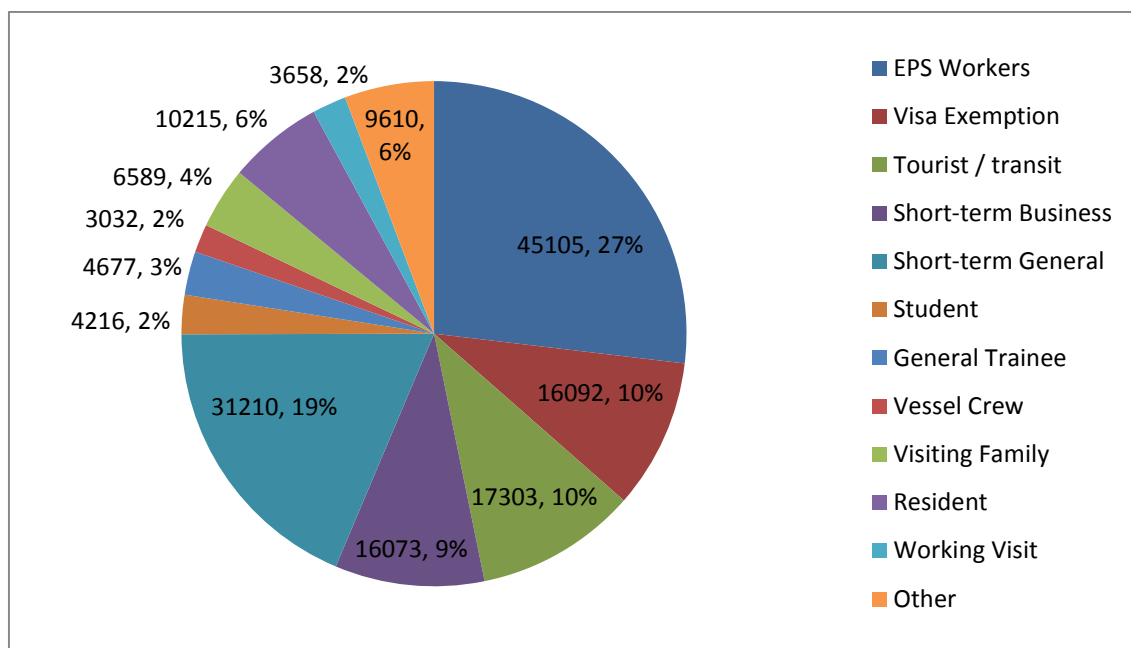


Figure 26. Illegal foreign residents in Korea based on residence status in 2011

(Korean Immigration)

In order to reduce the number of undocumented workers, Korean immigration authorities and the Ministry of Employment and Labor implement frequent crackdowns to regulate the number of migrant workers. They set the quota of migrant workers per country, and the quota will be reduced along with the number of undocumented workers. In this regard, countries with more undocumented workers will receive a lower quota. (Lim Musong, personal communication, 2011).

The Korean government also created several other programs, including the regulation of businesses that employ migrant workers and a “Voluntary Exit Program.” The regulations are formally designed to deter someone from becoming an undocumented worker. Fines and penalties are aimed not only at undocumented workers but also at the companies that hire them. Undocumented workers can be fined up to 3,000,000 won (2800 USD), and the employers can be fined up to 4,000,000 won (3700 USD) and banned from hiring migrant workers for three years. Korean immigration authorities also offer a pragmatic program called the Voluntary Exit Program to complement the crackdown method for reducing the number of overstayers. (Kim Jong Do, personal communication, 2010) This program offers “amnesty”; overstayers will be exempted from fines and will not be banned from entering Korea if they return to their home voluntarily (Arirang News, 2010).

During unstable periods such as a recession or economic crisis, however, the implementation of EPS was determined more by the labor market. During the global financial crisis, the Korean government acted to keep Korean domestic workers in the labor market over migrant workers by halting the approval of non-professional visas and reducing the quota for migrant workers between December 2008 and February 2009. The government also subsidized a company with as much as 1.2 million won to replace foreign migrant workers with local ethnic Koreans. Many migrant workers had to return home because, under the rules,



they were deemed illegal if they were unemployed for one month. Korean authorities also intensified their crackdown on undocumented migrant workers, with about 8,000 people getting deported since November 2008 (ILO Regional Office for Asia and the Pacific, 2009).

However, after the Korean financial crisis subsided and industries recovered, labor shortages again increased at the end of 2009 as businesses relied once more on undocumented underpaid workers. During this period, the Ministry of Justice eased the penalty for employers of undocumented workers in 2009, given the consideration that “SMEs are suffering from manpower shortages.”(Park, 2009). Previously, companies that hired undocumented workers were not allowed to employ migrant workers. Under the new rule, Ministry of Justice would re-issue licenses that allow companies to employ migrant workers after the companies paid a certain amount of fines (Arirang News, 2009).

d. Improvement of transparency in the process of sending foreign workers.

The public sector took charge of worker selection and introduction, thereby improving the publicity and transparency of the process, which resulted in the reduction of corruption. After the introduction of the Employment Permit System, the sending process became transparent. As a result, the cost a foreign worker pays to get employment in Korea went down by one-fourth, down to 927 USD from the 3,509 USD recorded under the Industrial Trainee System.<sup>26</sup> Furthermore, the UN has recognized EPS as an exemplary model for foreign worker management. In 2011, in recognition of its innovation, Korea was selected as the first winner of the United Nations Public Service Award under the category of “Preventing and Combating Corruption in the Public Service.” (UNPAN, 2011)

There are mixed responses to the implementation of EPS, however. In general, Korean civil society and human rights advocates acknowledge the improvement compared to

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<sup>26</sup> Employment and Labor Minister holds meeting with ambassadors of countries sending workers to Korea under Employment Permit System, from [http://www.moel.go.kr/english/topic/employment\\_policy\\_view.jsp?&idx=931](http://www.moel.go.kr/english/topic/employment_policy_view.jsp?&idx=931)

the training system.<sup>27</sup> Civil society movements and non-state actors, such as churches, NGOs, and labor unions, continued to contribute to the betterment of the situation of migrant workers even during the implementation of EPS. Some civil society organizations turned to cooperating with the government under several projects.<sup>28</sup> However, most of these groups still push for human rights improvements, a work permit system, family integration, and even selective settlement of migrant workers. (Lee Kyung-sook, personal communication, 2010). Meanwhile, Korean employers do not favor the temporary nature of EPS; they oppose the opening of short-term employment opportunities and recruiting new migrant workers after a certain period. They believe that such a short sojourn period causes volatility in their productivity because they have to train new workers. In practice, businesses are not allergic to employing the undocumented workers that are already accustomed to working in Korea. This situation has encouraged undocumented workers to stay longer, as long as the businesses still need them.

#### Japan and Korean Labor Immigration Policies in Comparative Perspectives

As we have discussed in the previous sections, there was a convergence of labor immigration policy in Japan and Korea in the 1990s; both countries opened their doors to skilled and professional workers and closed their doors to low-skilled migrant workers. Currently, we see a divergent pattern of labor immigration policy in Japan and Korea. In Korea, the rights of migrant workers have been significantly improved because of strong labor and civil society activism. The political activists of Korean civil society have played an

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<sup>27</sup> Rev. Nam of Antioch International Community, Rev. Lyu Seong Hwan of Ansant Migrant Center, and Prof. Park Kyung Tae from Department of Sociology, Sungkonghae University. All interviews conducted by the author in July 2010.

<sup>28</sup> The Korean government, through Ministry of Labor and HRDK, funded Korean Migrants Center and Korean Migrants Network TV, which is an improvement on the Foreign Labour Counseling owned by Rev. Kim Hae-sung. This information is based on an interview with Mrs. Kim Mi-youn, an official of Foreign Workforce Employment Support Team, HRD Korea, on July 24, 2010.

important role in the formation of labor immigration policy. Meanwhile, in Japan, bureaucrats play an important role in improving the life of foreign trainees and interns; this is proven by the various bureaucracies (MHLW, METI, and MOJ) that offer various proposals with different logics and interests to improve the foreign trainees program.

In the following table, I will further elaborate on the different policy tools of TITP Japan and EPS Korea in reaching policy objectives to alleviate the labor scarcity in 3D jobs, while minimizing the social cost:

Table 6. Comparison of Policy Objectives and Policy Tools for the Admission of Low-Skilled Workers in Japan and Korea

<b>Policy Objective</b>	<b>Japan</b>	<b>Korea</b>
	(Trainees and Technical Interns Program)	(Employment Permit System)
Policy-making institutions	Five ministries responsible, namely Ministry of Justice, Ministry of Health, Labor, and Welfare, Ministry of Foreign Affairs, Ministry of Economy, Trade and Industry, and Ministry of Land, Infrastructure and Transportation	Committee for Foreign Workers under the coordination of the Office of the Prime Minister
Admission control	Maximum ratio of foreign to native workers	Sets quotas (Committee for Foreign Workers); ensure quality and transparency of recruitment utilizing public agency of origin country and HRD Korea
Quality control of workers	Limit age of workers (18 – 30); conduct test, medical check-up	Limit age of workers (18 – 39); utilize standardized test, medical check-up, pre-departure training (HRD Korea)
Protection of native workers	Limit sectors; prohibit changing employers	Limit sectors; restrict frequency of changing employers
Sources of workers	Bilateral agreement by JITCO	Bilateral agreement

Prevention of abuses in recruitment	Recruited by private sector, supervised by JITCO, acknowledged by public agency	Only public agency may recruit
Protection of foreign workers' rights	Ensure same rights/benefits as native workers, pre-departure and post-departure lectures, and dispatching social workers to companies by private recruiters	Covered under all labor –related laws; right to organize; pre-departure training (HRD Korea); complaints mechanisms through (MOEL); informed about rights upon arrival; labor inspection; access to services and foreign workers' help-desk
Ensure temporariness of stay	Duration of stay is three years (not extendable and not renewable), no family reunion	Duration of stay is three years, extendable and renewable, no family reunion
Prevention of illegal foreign workers	Employer sanctions (three years imprisonment or 2 million yen), worker can face one year imprisonment	Employer sanctions (10 million won), worker sanction of 100,000 won

The admission of low-skilled workers in Japan through TITP is managed by five different ministries. Japan has yet to tackle the coordination issue, as different ministries create different research committees that often come up with different policy proposals. The Korean government has developed a relatively better approach to tackling the coordination issue by creating the Committee for Foreign Workers under the coordination of the Office of the Prime Minister. This committee is responsible for policy-making for admission control, including the determination of quotas for foreign workers.

To avoid the displacement of native workers, both programs limit the available sectors of employment and restrict the changing of employers. In the case of TITP Japan, the program completely forbids changing employers, while EPS Korea allows workers to change employers only if employers go bankrupt or are abusive.

The difference in the recruitment process has created different outcomes. Korea has recognized that recruitment by private agents has reduced the government's capability to control foreign worker migration. The Korean government responded to such a situation by making the public sector responsible for recruitment. The result is a transparent, standardized test, and a lower cost for workers who apply to work in Korea. Meanwhile, Japan still relies on private institutions as the main recruiting institutions for foreign trainees and technical interns. Private institutions recruit foreign trainees through various avenues and with unstandardized tests.

To protect foreign workers, TITP Japan ensures technical interns have the same rights and benefits as native workers. Further, they provide trainees with pre-departure and post-departure lectures to inform them of their rights and obligations. This program also requires accepting organizations to dispatch social workers in order to inquire about foreign trainees and interns in the employment company. Meanwhile, EPS Korea covers all foreign workers under all labor-related laws, provides pre-departure training (HRD Korea), offers complaints mechanisms through MOEL, informs workers of their rights upon arrival, conducts labor inspections, and grants workers access to services such as a foreign workers' help-desk in local MOEL offices.

To ensure the temporariness of their stay, TITP limits the period of sojourn of foreign trainees and interns to a maximum of three years, and their period of sojourn is neither extendable nor renewable. TITP Japan prohibits family reunion, which means foreign trainees and interns are not allowed to bring members of their family. Meanwhile, Korean EPS offers relative flexibility; EPS workers under thirty-nine years old may work in Korea as long as their employer employs them, and foreign workers' period of sojourn is renewable and can be extended to up to four years and ten months. Just like TITP in Japan, EPS in Korea also prohibits foreign workers from bringing their family members.

To avoid and prevent illegal foreign workers, Japan has regulated employer sanctions of a maximum of three years imprisonment and fines of 2,000,000 yen (20,000 USD), while an illegal worker can face one year of imprisonment. Meanwhile, Korea has regulated employer sanctions of ten million won and workers' sanctions of 100,000 won (900 USD).

### Conclusion

This chapter has discussed labor immigration policy in Japan and South Korea. During the early 1990s, both Japan and Korea adopted convergent immigration policies that admitted temporary migrant workers, including industrial trainees and members of their diaspora, as de facto low-skilled workers. Over the years, Japan and Korea adopted divergent immigration policies, especially after Korea initiated the Employment Permit System in 2004.

The evolution of the change in Korea's policy was very fast as the government responded to pressure for immigration policy change. Korea became a partially-open destination for low-skilled foreign workers after the Korean government launched the Employment Permit System in 2004. The system allows Korean companies that fail to employ domestic Korean workers to legally employ foreign workers. Meanwhile, Japan still maintains a closed immigration policy toward low-skilled foreign workers. Officially, Japan prohibits the entry of low-skilled foreign workers, and continues to employ *nikkeijin* and foreign interns as de facto unskilled foreign workers.

## CHAPTER 5

### EFFECTS OF POLICIES ON INDONESIAN WORKERS IN JAPAN

#### Introduction

This chapter identifies the potential, and actual, social and political implications of the Japanese government's policies on the life of Indonesian trainees in Japan. Data for this chapter were derived mainly from participatory research in the field between 2009 and 2011.

#### Policies and Problems of Indonesian Workers in Japan

Japan's closed immigration policy has resulted in an official policy that forbids low-skilled foreign workers from working there. Although Japan officially closed its door to low-skilled foreign workers, Japan invites young people from Asian countries for a training program through TITP. Based on interviews conducted in the field, Indonesian trainees were found to be *de facto low-skilled* workers. This finding clearly shows a disparity between the Japanese government's immigration policies and the existing labor shortage problems. Furthermore, this program relies on private institutions as the main recruiting institutions for foreign trainees. The heavy utilization of private recruiters as the backbone of this program has created a looming human rights problem. This situation is worsened by language barriers and the lack of impartial agencies to solve the problem.

#### *The gap between expectation and reality*

A significant gap exists between the stated purpose of TITP and the reality of the program. The purpose of TITP in the first place is to "transfer skills" to technical intern trainees and "to advance their careers" in the future.<sup>29</sup> In reality, Indonesian trainees work as

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<sup>29</sup> JITCO (n.d.). Purpose of the Technical Intern Training Program, from JITCO's website <http://www.jitco.or.jp/english/overview/itp/index.html>

menial laborers in various sectors such as manufacturing, farming, and fisheries. This situation has led to a significant gap between trainee candidates' expectations and the reality of their working conditions in Japan. Some Indonesian trainees are recruited after they graduate from vocational school. Having had an education in a vocational high school made them expect to engage in training that could be applied to their future education or employment; however, what they do in Japan is simple manual labor that does not require any special skill or knowledge.

IM, a trainee from Yogyakarta, indicated that she is a graduate of an agricultural vocational school and she joined TITP because she saw an announcement in her school. She was hoping that, by becoming a "trainee," she could learn about Japanese agricultural technology and she therefore delayed her plan to continue studying agricultural technology in university. She told, "I just realized that I came here as '*buruh tani*' (farm laborer) after I arrived." IM did not inform her parents about her real living conditions because initially her parents wanted her to enter university immediately after graduation from vocational high school. (IM, Interview, January 2, 2011)

Neng, a trainee from Cirebon, told a similar story; she was one of the top five graduates of a fishery vocational school. Neng was aspiring to study in a university; however, she decided to become a trainee in Japan because she wanted to be able to finance her own university education. She is now working for a fishery products business and she describes her daily activities as similar to those of a "*buruh*" (low-skilled laborer) instead of those of a trainee. (Neng, Interview, August 2, 2011)

Agung, a trainee from Semarang, related how he went to an electricity vocational school, but now he is working for an automotive industry. However, he decided to join the program because he thought he would develop a new skill through the training. "When I heard the word training program I thought I will be studying in a class and have on-the-job



experience in Japanese industry, but in reality I have to be a laborer.” Agung said that he indeed received lectures before he was placed in the factory, but the lectures had nothing to do with his daily work. It was a longer-tenured Indonesian colleague who taught him how to operate a machine in his factory. (Agung, Interview, November, 2010). The sample stories of IM, Neng, and Agung are typical stories of Indonesian trainees who experience a gap between their dreams and their real lives in Japan.

### *Problems with the human rights of the migrant workers*

During my fieldwork in Aichi and Shizuoka Prefectures, between 2009 and 2011, I found some cases of infringement on the lives of Indonesian trainees, both in their working life and private life. This situation was worsened by the fact that Indonesian trainees were very dependent on their employers. The fact that they cannot switch jobs or change their workplace makes them more susceptible to abuse from their employer. Moreover, trainees are very dependent on their employer for their accommodations. Employers provide them with housing or act as a guarantor of their rental houses. In some cases, they are not only working for the employers but they also live with their employer.

Trainees who live with their employer usually have less freedom and are more prone to abuse. IM, a trainee in a farming family in Shizuoka Prefecture, told me that she and her two friends had just found out that they would be working on the farm and they are accommodated on the second floor of the family house. In such a situation trainees have less freedom and are more prone to abuse. An informant told me that even though her contract only requires her to work eight hours, in reality she is working for at least ten hours a day. However, these trainees do not have choices because they are transported to the factory / workplace by their employer and have to return home together with their employer. They never receive extra payment for these extra hours of work, as the farming houses do not have

a machine or mechanism that records the trainees' working hours. (Interview, January 2, 2011).

Regular working hours are generally eight hours per day, while overtime, which ranges from two to six hours, in most cases is about four hours per day. Compensation is paid for overtime and holiday work, which is only permitted to those in the second and third year. In practice, however, many companies require their first-year trainees to work overtime. Although they pay overtime compensation, the rate is lower (400-600 yen per hour) than that paid to technical interns (about 800-1,200 yen per hour). In some cases, companies avoid paying overtime compensation to first-year trainees, citing lack of regulation for the overtime compensation owed to them. (Study Group on Technical Internship Program, Japan NGO Network on Indonesia (JANNI), 2001).

In January 2010, the author conducted fieldwork in Hamamatsu and had a chance to follow all the activities of four Indonesian trainees: Suki, Dewi, Ega, and Ari, all of whom are from Yogyakarta. Suki and Dewi are female trainees who work for a curtain company in Hamamatsu, while Ega and Ari are male trainees who work for an automotive spare-part manufacturing company. I learned that the female trainees' income is relatively small compared to that of their male compatriots. Suki and Dewi received an allowance of 50,000 yen (500 USD) per month during their first year in Japan, while their friends, Ega and Ari, earned 80,000 yen per month during their first year as trainees (800 USD). (Interview, January 23, 2010)

Trainees encounter limited freedom not only in their working life but also in their private life. Female trainees are also more prone to the abuse of their freedoms, including their freedom of mobility and social life. Suki and Dewi did not want the author to meet them in their boarding house because they are not allowed to have contacts with "outsiders," including Indonesian friends from other companies. "Our company president is very worried

that we will run away”; therefore, they are only allowed to leave the dorm to go to the grocery store and the neighboring park. They are also not allowed to own mobile phones, and their passports are confiscated by their *Shacho*. (Interview, 2010, January 23).

Dewi and Suki’s working and living situation in 2010 echoes an incident that occurred in 2006. According to the *Yomiuri Shimbun*, an Indonesian Muslim trainee was asked to sign a note promising that she would refrain from praying five times a day and fasting for Ramadan as a condition of her employment. The firm also prohibited her from owning a cell phone, exchanging letters with and sending money to her family, or traveling in vehicles. In addition, she had a curfew of 9 p.m. at her dormitory and was not allowed to invite friends there. (*Yomiuri Shimbun*, 2006, December 4).

The fact that the private sector arranges recruitment in both countries has made the cost of recruitment unregulated. Often, private institutions charge a large amount of money for the recruitment, both to the employer and the trainee candidates. Trainees interviewed in this research spent between seven and twenty million IDR (equal to 700 to 2,000 USD or 70,000 to 200,000 JPY) to work in Japan. In order to come to Japan, trainees often incur a huge debt to their employers or recruiters. In order to pay their debt, employers often require trainees to contribute to forced savings.

Suki and Dewi, for instance, had to pay the cost of traveling to Japan on their own, including obtaining a passport, their medical check-ups, visa applications, and airfare. This led them to owe their employer up to 200,000 yen (2000 USD) that they then have to make monthly payments on. Their employer garnishes their wages in the first year in order to pay for their debt. In addition to paying for their debts, Dewi and Suki must save some of their wages as part of a forced savings program to buy airline tickets to go home at the end of their stay.

*The lack of an impartial agency for employment assistance*

I noticed a very minimal awareness of Japanese labor law among Indonesian trainees interviewed. Since they are unaware of their rights and obligations, sometimes they are unaware when their rights are violated by their employers. Furthermore, the fact that trainees are dependent on their employer for their basic needs causes them to be hesitant to come forward to settle their problem. As the trainees show absolute obedience to their company president, there could be no organizing or collective bargaining.

Unfortunately, although many trainees recognized their poor working conditions, they rarely protest or complain to their employer because they are afraid of being sent home. The slow growth of Japan's economy since the end of 2008 and the Lehman shock in 2009 caused many employers to send home many of their Indonesian trainees before their contract ended. Therefore, protests and complaints will not help their situation.

Moreover, language is a major hurdle for Indonesian trainees in Japan. The lack of proficiency in the Japanese language makes it difficult to express complaints to their employers. Unfortunately, TITP does not offer reliable labor employment assistance such as a mechanism for handling complaints. This situation has meant they have limited access to an impartial organization that can support and advise them on legal issues and other inquiries.

JITCO recommends trainees solve their problems by "consulting with accepting organizations." Under the new TITP, accepting organizations and recruiters must provide trainees with social workers for consultation about their problems. The recruiters dispatch the social workers to companies to inquire about the trainees. However, in reality, the lack of Japanese proficiency and the fear of being deported have made trainees reluctant to report any illegal activity of their employers. Furthermore, trainees rarely receive a positive response when there are labor disputes between them and their employers. Trainees believe

that social workers are not neutral because the social worker works for the supervising organization, and their company paid a certain amount of money to the supervising organization in order to recruit the trainees. (Interview, 2010)

JITCO provides a consultation hotline in native languages (Chinese, Vietnamese, and Indonesian) in order to assist the trainees with their questions and problems. However, the consultation hotline is open only twice a week, on weekdays, with a limited number of hours. Most of the Indonesian trainees in the field are not aware of this hotline facility and, even if they are aware of it, they cannot call because the time it is available coincides with their working hours. JITCO only recently started to offer the consultation on Saturday.

JITCO's guidelines also allow trainees to consult Regional Immigration Bureaus and the Supervision Division of the Prefectural Labour Department. Regional Immigration Bureaus under the Ministry of Justice are responsible for supervising recruiting companies and employment companies in order to operate TITP appropriately. The Ministry of Justice revised guidelines for the acceptance of trainees several times; one of these revisions was in response to the discovery of corruption involving the head of IMM Japan (Association for International Manpower Development of Medium and Small Enterprises, Japan), which arranged for Indonesian trainees to come to Japan in January 2001. In the wake of this scandal, the Ministry of Justice issued orders to organizations receiving foreign trainees to stop confiscating their passports or forcing them to save part of their earnings (Hanai, 2008). When the Ministry of Justice detects abuses of trainees, the government indeed punishes those companies by banning them from employing trainees for several years. However, these punishments increase the hesitancy of Indonesian trainees to report their employer. If they report their employer, the government will ban them from employing trainees, thus threatening the trainees with a return to Indonesia before their visa expires. Moreover, the lack of Japanese language proficiency in trainees, the lack of public officers who can speak

the Indonesian language, and the incompatibility of public service working hours have discouraged them from reporting their situation to related public agencies. Given such a backdrop, the abuse of trainees' rights often goes undetected.

### *Solitude*

This research indicates that Indonesian workers are at risk of experiencing loneliness and homesickness arising from separation from their family and their loved ones. TITP severely restricts the family reunion rights of foreign trainees. All of the trainees that were interviewed for this research are single males or females in their early 20s. For most them, this is their first experience living abroad and being far from their family.

Given this situation, Indonesian trainees cope with homesickness by utilizing the Internet to contact their family and fellow Indonesians in Japan. Although it is not cheap, the extensive use of the Internet is clearly visible in their daily life. One trainee informed the author that she spends at least 7,000 yen per month for an internet connection, mobile phone, and international calling cards. When the author visited a dorm for Indonesian trainees in Hamamatsu, the author noticed that six people share a 2DK apartment and each of them had an internet connection installed by their bed. Some male trainees spend their spare time involved in virtual dating with someone back home or with Indonesian domestic workers in Hong Kong. This virtual dating often continues with an exchange of gifts or even marriage after the program.

### Conclusion

There is a significant gap between the stated purpose of TITP and the reality of the program. The primary objective of the TITP is to “transfer skills” to trainees and “to advance their careers” in the future. In reality, the program serves as a way to recruit low-skilled labor.

This situation has led to a gap between expectations and the reality of trainees' working conditions. While Indonesian trainees expect to receive a transfer of skills, in reality they are working as low-skilled laborers.

Even after the revision of the TITP in 2010, there is room for improvement in the program. There are several loopholes that are rooted in the structure of a system that relies on the private sector to recruit and manage the program. The heavy utilization of the private sector as the backbone of TITP has created a looming human rights problem.

Because of language barriers or lack of access to impartial information, Indonesian trainees may be lacking in knowledge of employment and their rights. They are also hesitant to come forward because of the fear of losing their employment. Furthermore, the lack of a reliable complaints mechanism and an impartial agency to tackle labor disputes has worsened the working situation of TITP. This research also indicates that Indonesian workers are at risk of experiencing loneliness and homesickness because of the prohibition on family reunion rights. These problems are expected to persist for trainees even in the future.

## CHAPTER 6

### EFFECTS OF POLICIES ON INDONESIAN WORKERS IN SOUTH KOREA

#### Introduction

This chapter identifies and discusses the potential and actual implications stemming from South Korea's policy on Indonesian migrant workers. Data for this chapter were derived mainly from participatory research conducted during six months of field work in 2010.

#### Policies and Problems of Indonesian Workers in Korea

##### *Improved Working Conditions of Legal Workers and Marginalization of Undocumented Workers*

Several former undocumented workers who had gone through amnesty and been granted legal visas by the government of Korea were interviewed. Based on their stories and experiences, EPS workers appear to have greatly benefited with the improved working conditions compared to the Industrial Training System as the Korean government provides migrant workers with various types of employment assistance. For instance, if they encounter problems with their employer, they can come to a / the government agency to process the dispute with their employers. Because many Indonesian workers face language barriers, they may visit the foreign workers help-desk provided by the government or NGOs.

Moreover, EPS workers in Korea have relatively more freedom compared to their fellow trainees in Japan. They may change their employer under certain circumstances. Although they arrived in Korea without knowing their employer, they may change their employer if their rights are violated. If they want to change their employer, they may go to the Job Center (*goyong sento*) in order to be listed in the job seekers' database. However, some Indonesian EPS workers prefer informal channels by which friends help with



introductions to the new *Sajang*. EPS workers also have the freedom to choose their accommodation. They may live with their employer in the dormitory, or rent a room on their own.

There are, of course, some voices of dissatisfaction towards EPS, especially with the fact that EPS workers cannot change to another type of industry. For instance, Indonesian EPS workers who work in construction sites are generally unhappy with the EPS regulations that prohibit EPS workers from changing to a non-construction industry. Indonesian people are not accustomed to extreme weather, especially in the winter. Therefore, many of the EPS workers in the construction industry fled from their work site, because they could not bear to work in the extreme weather. One informant related that “unlike those factories workers, we work outdoors; we build apartment buildings, bridges, roads. It’s freezing and we are not used to cold weather.” (Ar, Mr. Interview, 2010).

The implementation of EPS has caused many workers to now prefer legal status and has further marginalized undocumented workers in terms of employment. The decision to accept foreign migrant workers legally and allow them to enjoy benefits has made the status of undocumented worker less desirable for Indonesian migrant workers. Therefore, the implementation of EPS has complicated the life of Indonesian undocumented workers, who face tougher competition for employment from the legal EPS workers.

While legal EPS workers can only rely on the government system for employment, undocumented workers rely on various actors in order to survive in Korea. In the following section, I describe various actors and their roles as part of the survival strategy that Indonesian undocumented workers use to solve their daily problems.

a. The role of *Sajang* / Boss

The *Sajang*, or boss, provides work and sometimes accommodation and transportation to the workers. Usually, workers are connected to the *Sajang* through friends. The secret code

to look for employment among Indonesian workers is “channel.” If a worker needs to be connected to a new *Sajang*, he will ask his or her friends about the availability of a “channel.” As much as possible, Indonesian workers prefer not to find employment through intermediaries because they do not want to pay brokers’ fees and because the middlemen simply inform them of what work is available without providing information about their work situation in advance.

The wage of undocumented workers is based on negotiations between *Sajang* and the employer, not on a government minimum wage rate. *Sajang* who own factories in remote areas, and whose workload is unattractive, would offer higher wages. In most cases, undocumented workers can earn more than their legal counterparts, since undocumented workers do not pay required taxes. However, there are cases where some workers get a smaller wage.

Being undocumented means they are unable to select their work site. Only undocumented workers who can speak Korean fluently can choose their work site; if they do not like the work, they can quit anytime. For those who are not so fluent in Korean, they usually work in the companies avoided by legal EPS workers, for instance, a work site located in a remote area where “the closest train station or bus station needs a 40-60 minute walk.”<sup>30</sup> The *Sajang* of these companies usually find it difficult to hire legal workers through HRD Korea, and thus the only way to ensure uninterrupted business operations is to hire undocumented workers.

Some companies subcontract or outsource jobs to smaller companies, and there are undocumented Indonesian workers who work under these subcontractor bosses. Often, they may appear to work officially for the same company, but in reality they are employees of different *sajang* because of this subcontract system. One undocumented worker related how

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<sup>30</sup>Anonymous undocumented worker, interviewed by author on May 23, 2010.

companies normally separate the working sites of the legal EPS workers and undocumented workers: “Our working site is located at the back side of the factory, and our *sajang* provide us a beeper, so when the immigration come to our factory, our *sajang* will buzz the beeper secretly so that we can run away from the immigration.” (N, Mr. Interview, 2010). According to the informant, some companies have certain paging devices that tell workers not to come to the factory when they find out that the immigration office is planning a raid.

While legal workers mostly work for 40-44 hours a week, undocumented workers work long hours at night (*cheolya*). However, Indonesian workers are not always unhappy with *cheolya*.<sup>31</sup> Those who dislike *cheolya* admit that they have no choice: they could not refuse when their *sajang* asked them to do *cheolya*. They realized that they could face forced deportation if their *sajang* didn't like them, as the *sajang* can easily report the worker to the authorities.

b. The role of the middleman

Undocumented workers are dependent on the role of middlemen. Mr. Hd, an undocumented worker from Lombok Island, has stayed in Korea for twelve years, and told me that his life as an undocumented worker changed significantly after the implementation of EPS. Before EPS was implemented, almost all Indonesian workers were undocumented and never needed to contact a middleman to get employment because they never worried about being unemployed. He stated, “Korean *sajang* were looking for workers; they can offer you employment anywhere, even on the street.”

The employment situation of undocumented workers varies depending on the availability of work, their language skills, their employer, and the middlemen who help them find work. Middlemen play an important role as the unofficial recruiter and one who could

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<sup>31</sup> Indonesian workers call it “*ceria*” instead of *cheolya*; *ceria* is an Indonesian word that literally means “being cheerful,” because working long hours means they are making more money.

solve other work-related problems. In Gyeonggi province, for instance, unofficial recruiters can be founded in the areas where many foreigners live, such as Guro, Gasan, Daerim, Pyongtaek, Ansan, and Suwon. Sometimes they are disguised as recruitment agencies or foreign workers' help-desks. These recruitment agencies usually post advertisements offering foreigners help finding jobs in manufacturing or on construction sites. Middlemen also might have a "job consulting company" that offers work to workers with or without visas. Some of these middlemen do not have a permanent office. These middlemen and undocumented workers usually contact each other via SMS (short message service).

The service provided by a middleman or broker includes providing information and transportation. Undocumented workers can choose to work on a daily or monthly basis. The average wage for working on a daily basis in a manufacturing company is 50,000 – 70,000 won (50-70 USD) per day; meanwhile, the average wage to work in a construction site is 60,000 – 80,000 (60-80 USD) won per day. For an undocumented worker who works on a monthly basis, he or she must pay the broker as much as 200,000 to 300,000 won (200-300 USD) for information on a job vacancy. If the worker chooses to work daily, he or she has to come to a designated place early in the morning and the broker will provide a van to take them to the work site. After finishing the work, the broker will transport the workers back to their homes. The worker must pay as much as 7,000 to 10,000 won per day to the broker after their work, while the employer will also pay some fees and transportation costs to the broker. Undocumented workers will also need assistance from brokers when the employer delays their wages or benefits.

Both undocumented workers and the employers of undocumented workers can be banned under Korean law. Undocumented workers can be fined up to 3,000,000 won, (3000 USD) and the employer can be fined up to 4,000,000 won (4000 USD) and banned from hiring migrant workers for three years. Brokers usually will settle the problem and make

“both sides happy.” They assist the undocumented worker in writing a letter to the employer that includes a calculation of their unpaid wages. If the letter does not work, the broker will contact the factory himself and remind the factory that they could face penalties from the government. The broker fee for settling a wage dispute can vary from 300,000 to 1,000,000 won, depending on the amount of the wages to be settled between worker and their employer.

Even EPS legal workers sometimes have to utilize the services provided by brokers and middlemen. For instance, when EPS workers lose their job after the employer goes bankrupt, they only have a certain period of time to look for a new job. EPS workers who are applying for a new job need a certificate guaranteed by an employer to make sure their status will not change into “illegal.”<sup>32</sup>

c. The role of kinship / *Paguyuban*

An illegal worker that belongs to a *Paguyuban* could seek help from the other members of the *Paguyuban*. It is important to note that *Paguyuban* treat their members equally regardless of their immigration status. In fact, some *Paguyuban* were formed to help members with undocumented status. This unique form of solidarity is rather different from migrant workers from the other countries. Migrant workers from the Philippines, for instance, tend to organize themselves based on place of origin like the Indonesians, but the legal EPS workers separate themselves from the undocumented workers.

The role of the *Paguyuban* is also critical during situations when workers get sick and or when they are arrested by immigration agents. Since undocumented members do not have access to health insurance, other *Paguyuban* members collect money for hospital fees and

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<sup>32</sup> During the fieldwork in 2010, an EPS worker had to go to a Job Center to get a list of employers that need workers. If he/she cannot secure a new job for a month, he or she is considered to be “illegal.” In 2012, the period of time to look for a new job was extended to three months, however the Job Center does not give the list of employers to workers anymore. Job Centers distribute the list of job seekers to employers and the employer will call EPS workers to offer employment. The changes in regulations aimed to reduce brokers who often make use of the list of job seekers and employee-seeking companies.

share the burden of taking care of the sick. When an undocumented member of a *Paguyuban* is arrested, other members collect money to help pay for the return airline tickets and pay the immigration fines. Other members will pack the belongings of the deported worker when the latter prepares to be sent home. Some *Paguyuban* even have detailed codes of conduct to help undocumented members who are arrested by the immigration authorities. A *Paguyuban* from East Java for instance, has an insurance system in which undocumented workers pay contributions monthly, to be used specifically for the airfare of those being deported.

The *Paguyuban's* effectiveness as a self-support system is currently limited by the intensified policing on the part of the Korean authorities, partially because there are cases which link their members with criminal activities, like turf wars or individual payback situations. It is not rare that the sense of solidarity among *Paguyuban* members often leads them to bigger trouble. When one member gets hurt, the other members show their solidarity by getting involved in the brawls. For example, in 2009, twenty-four members of Galok, a *Paguyuban* from Lombok, were tried for fighting with members from another *Paguyuban*. The leader of Galok told me that the Korean police thought the Galok was involved in a gang war extorting money from an Indonesian discotheque in Ansan. Although Galok was not found guilty, and Korean authorities released its members, the police in the Ansan area intensified the surveillance of their members and thereafter often raided their communal house.

During my fieldwork in South Korea, I noted that Korean authorities raided three communal houses of Indonesian *Paguyuban* in Ansan from June through August 2010. The houses were raided upon suspicion that they were linked to illegal gambling, involvement with under-aged prostitutes, and street fights with Thai migrant workers. All the raids were conducted without any warrant and the authorities entered the houses while migrant workers were sleeping. None of these cases proceeded to trial; authorities deported undocumented

workers who did not have ID cards while releasing the legal workers. Although the Korean government's security concern behind the raids is understandable, I also consider it important that Korean authorities follow the rule of law in prosecuting those involved.

d. The role of churches / shelters

Churches and pastors play a vital role in providing comfort to Indonesian migrant workers in Korea. The most notable figures fighting for migrant workers in Korea are Rev. Park Cheon Eung and Rev. Kim Hae Sung. These pastors have been detained several times because of their activism in defending migrant workers, whatever their legal status.

Many churches provide shelter for migrant workers and help them with both labor-related issues and non-labor related issues. Churches help migrant workers to settle workplace issues. As migrant workers often / usually have poor knowledge of Korean and are often uninformed of their rights, they often become involved in disputes with their employers. In these kinds of cases, the church provides assistance by acting as a mediator between workers and the employer. The church also gets involved in non-labor related issues, like access to insurance and defense of workers during immigration crackdowns. According to Rev. Lyu Seong Hwan, of the 11,000 cases assisted by his shelter between 1995 and 2006, only about 6,000 cases were labor-related issues. More than 5,000 cases were over issues connected to medical care, education, public education, and public administration. Many shelters thus offer comprehensive assistance to migrant workers, including counseling, medical care, and Korean language education.

Churches also serve the migrant workers as they provide free public space for migrant workers for community organizing. The church is an ideal place for community organizing, especially among Filipino migrant workers. Most Indonesian migrant workers go to churches and shelters for labor and non-labor related issues, but they are hesitant to organize meetings inside the church as most Indonesian workers are Muslims. There was an attempt at

Indonesian community organizing in the church in early 2000. Migrant workers, including those who are Muslims, organized the “Iswara” Indonesian community as a multicultural church, but after a while Iswara became inactive. (Hwan, Rev. Interview, 2010). Only Christian migrant workers from Minahasa, North Sulawesi, and Toraja in southern Sulawesi regularly organize their meetings in the church.<sup>33</sup>

Even though there were no exact statistics on the success rate of these churches and shelters in solving migrant workers issues, it is clear that these churches are important in helping undocumented workers. For instance, Rev. Nam of the Antioch International community, is famous among Indonesian workers because he helps negotiate with hospitals to reduce the medical bills of undocumented workers. (Nam, Rev. Interview, 2010). V, an undocumented worker who has been in Korea for fifteen years, told me that she will call on the shelter whenever she has a problem with the government. The shelter has helped her daughter enroll in a Korean elementary school for no charge and helped get her treatment in a hospital for a minimal fee when she gets sick. There was even an incident when V was caught by the police for driving without a license, but her case did not proceed to the immigration office after she called several shelters for help. (Interview, 2010)

Figure 27 may help us to understand the roles of the networks that undocumented workers use to survive.

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<sup>33</sup> Christian Indonesians will go to a church that provides a service in *Bahasa*, the Indonesian language, for instance the Antioch church and Hati Elok church.



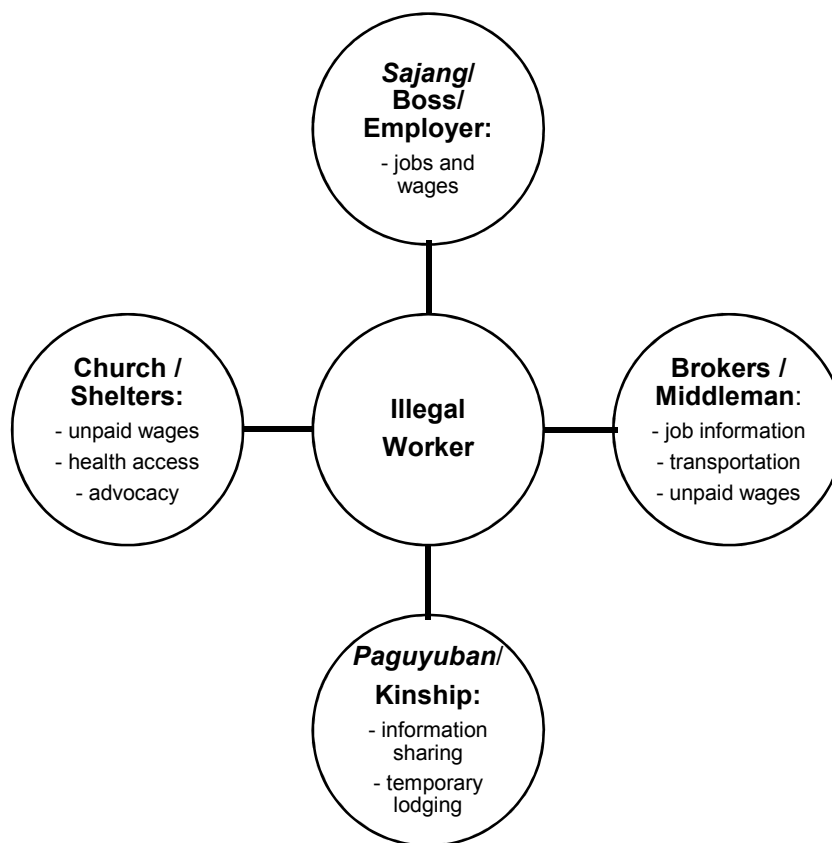


Figure 27. The network of undocumented workers in South Korea

In general, undocumented workers have limited freedom and are always dependent on others to survive. They are always cautious about their environment. They disguise the way they speak and act for the purpose of self-protection, as they do not want Koreans or migrant workers from other countries to know their status. For instance, in daily conversation, Indonesian workers do not use the word *bulbob*), or “illegal,” but use the word “swasta,” which means “private” in Indonesian. They are not very mobile and prefer to travel using taxis or private cars to avoid big train stations and bus terminals where immigration officers might be on the prowl. They choose to work on nightshifts, and when there is a police crackdown, the news spreads quickly through mobile phones. When one person is stopped by the authorities, they will directly alert their friends and *paguyuban* members.

Undocumented workers are also dependent on their friends and other networks for sending remittances back home. If they come to Korea legally and still maintain their initial bank account, they rarely have a problem in sending the remittances. If an undocumented worker does not own a bank account under his or her name, however, he or she will send the money through social networks or through an illegal bank that operates openly through Facebook and the internet.

Mr. AC, an undocumented worker for eleven years, informed me that a police crackdown is unlikely to happen as long as there are no criminal incidents, demonstrations, or financial crisis that could cause many companies to go bankrupt. (Interview, 2010) He told me one crackdown occurred after a criminal incident involving *Chosunjok* in 2005. In order to look for the criminal, the authorities apprehended those who did not have ID cards in the park. However, the operation was not successful as the *Chosunjok* migrant communities in the area resisted and staged a demonstration against the authorities.

In the year 2011, there were 5,718 Indonesian illegal residents suspected to be working in Korea. I observed that the practice of hiring undocumented workers is tolerated as long as they follow minimum rules. The common agreement is to keep order in the communities while still serving the interests of businesses. Being an undocumented worker seems to be tolerated because “they just have [an] expired visa, they are not involved in crimes and not a criminal.”<sup>34</sup> During unstable periods such as a recession or economic crisis, however, Korean authorities intensified their crackdowns on undocumented migrant workers, with about 8,000 people deported since November 2008 until February 2009, which was the peak of Lehman shock. (ILO Regional Office for Asia and the Pacific, 2009). However, after the Korean financial crisis subsided and the industries recovered, labor shortages again increased at the end of 2009 as businesses relied once more on underpaid undocumented

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<sup>34</sup> Anonymous Police Officer in Gyeonggi Province, Interview by author, July 12, 2010.

workers. During this period, in 2009, the Ministry of Justice eased the penalty for employers of undocumented workers, with the consideration that “SMEs are suffering from manpower shortages.” (Park S., 2009) These inconsistencies in the policy enforcement have resulted in the number of Indonesian illegal residents spiking upwards again in 2011. Many migrant workers overstay their visa and work illegally even though they know that being undocumented could place them in difficult positions.

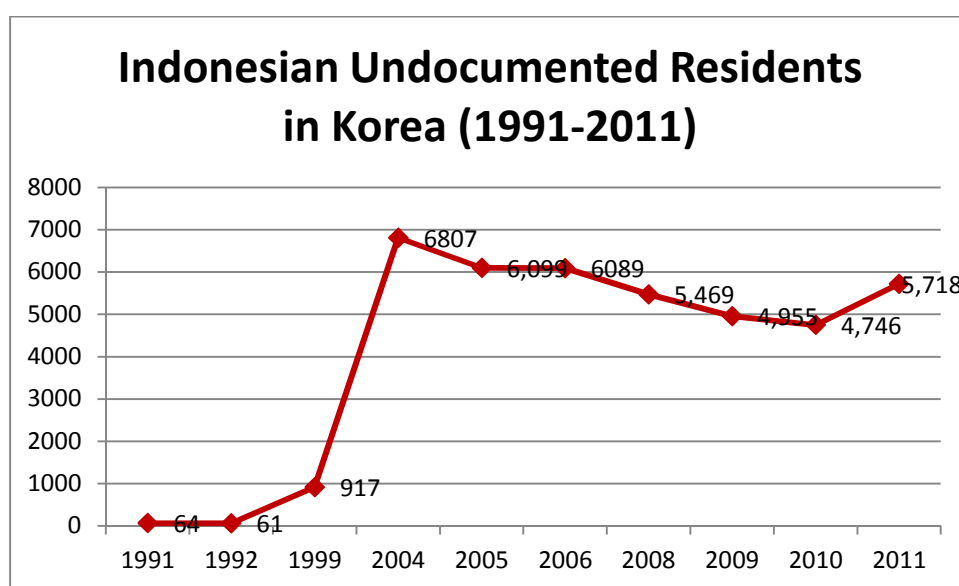


Figure 28. Trend of Indonesian Undocumented Residents in Korea (2005-2011)

#### *Less Interest in Joining Political Activism*

After the Korean government implemented the EPS and legally acknowledged undocumented workers, the Indonesian community generally stopped its political activism and became more cooperative with the government. One of the reasons for this change is members' fear of being caught as they have noticed that Korean authorities seem to target migrant workers who are involved in political activism.

In 2003, there were some 12,000 Indonesian workers working in Korea illegally. (Sijabat, 2003). Some came to Korea as tourists, but most of them were industrial trainees

who overstayed their visa. During the transition of ITS to EPS, many workers were concerned that the new system would force the undocumented to go home. This fear led workers like “AJ” and “Harry” to form “Solidarity of Migrants Indonesia” (SMI) in August, 2003, and link this organization with Korean civil society groups and labor unions to fight for the legalization of undocumented workers. They joined protests and demonstrations organized by Equality Trade Union Migrant’s Branch (ETU-MB, later changed to Migrants Trade Union), a wing of the Korean Labor Union, the Korean Confederation of Trade Unions. When interviewed, “AJ” described their work as an effort “to tell the stories of those who have had accidents on the shop floor, to sit in protest and show their suffering to the Korean public.” (AJ, Mr. Interview, 2010).

Activist migrant workers tapped various media to publicize their cause. In 2003, “Harry,” the founder of SMI, joined Stop Crackdown, a rock band consisting of migrant workers from Myanmar, Indonesia, and Nepal, as well as Migrant Workers TV (MWTV) as a news broadcaster. Stop Crackdown not only became popular among migrant workers but also was well received by Korean fans. Meanwhile, Migrant Workers TV has been successful as an alternative media outlet that broadcasts migrant workers’ issues in Korea. The network features news coverage and educational programs for migrant workers, including material on the passage of the new migrant workers’ laws and events held for migrant workers.

The popularity of the Stop Crackdown band inspired “N” to create an all-Indonesian “Workers Band” in 2005 and to write songs related to labor life.<sup>35</sup> In 2009, two members of Stop Crackdown, Harry from Indonesia and Minu from Nepal, were deported from Korea despite the fact that Harry, who was an undocumented worker in 2003, had been able to obtain a student visa thereafter.<sup>36</sup> Harry believed that his visa status was just a pretext to

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<sup>35</sup> Interview with “N,” vocalist of the Workers Band during a Migrant Workers rally, May 2, 2010.

<sup>36</sup> Just like Harry, Minu, whose real name is Minod Moktan, was also a broadcaster at MWTV. Minu has attended numerous political events on issues such as the free trade agreement, U.S. beef imports, and the

deport him; in reality, he was sent back home because of his activism. (Interview, September 2010)

Harry's story became an urban legend of sorts among Indonesian workers. He became a legend because he was a rock star who fought for them. It is also an urban legend because Harry's experiences made them realize that the Korean government will detain and deport those involved in political activism and labor organizing.

After the Korean government implemented the EPS and provided amnesty to undocumented workers to work legally, the Indonesian community generally became more cooperative with the government. It is interesting to observe that Indonesian workers changed their response in tandem with the changes made by Korean government in migrant policy. Knowing that their resistance and political activism would lead to severe punishment, Indonesian workers shied away from political activism.<sup>37</sup> Indonesian workers tended to keep their distance from labor unions and anti-Korean government organizations because they feared being arrested by Korean authorities.

### *Trapped in the Never-Ending Cycle as Migrant Workers*

I interviewed 45 Indonesian migrant workers in Korea during my field research. These Indonesians were highly concentrated in satellite cities of Seoul and Incheon, (and some other cities in Gyeonggi province), and in Daegu and Gimhae. Ten of the 45 were undocumented workers while the rest had legal visas, even though some of these had experience working illegally. For those who previously worked illegally in Korea, some of

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crackdown on undocumented workers protests. Ministry of Justice clarified in a press release that "His deportation was to set an example of principle: abide by the rules." For further details please refer to "Nepalese Activist Deported," *Korea Times*, October 25, 2010. Online version downloaded from [http://www.koreatimes.co.kr/www/news/nation/2009/12/117\\_54223.html](http://www.koreatimes.co.kr/www/news/nation/2009/12/117_54223.html) on September 20, 2010.

<sup>37</sup> Mr. Michel Paulos, President of Migrants Trade Union in Korea also noticed that Indonesian workers have shied away from MTU activism: "...the oppressive crackdown has made many migrant workers from Indonesia reluctant to join political activism." Interview by author on August 18, 2010.

them returned to Korea for a second or third time using a new identity in order to obtain a legal visa.

Even though the minimum requirement to obtain a Non-Professional Visa (E-9) is a junior high school diploma, I only met two interviewees who were only junior high school graduates. Thirty-three of the other interviewees had graduated high school, five interviewees spent some years in college, and five were college graduates. Before going to Korea, one was a teacher, another a tailor, another a member of the Indonesian army, and some were farmers and daily laborers in Indonesia. Only three of them were unemployed prior to coming to Korea.

They came to Korea to seek better opportunities, as most of them were not below the poverty line, and many had the financial support to attend Korean language school. Many of them were able to pay for their travel to Korea, with some putting up their houses as collateral to take out loans to arrange their departures. Those who did not have any financial resources usually borrowed money at higher interest rates. They were therefore under great pressure to earn enough to repay their loans and also save money. Some in fact admitted that they have to work in Korea illegally because of debts they owe to *rentenir*, the Indonesian term for a usurer or loan shark. For instance, "L," an undocumented worker from Bima Island, took out a 4,000 USD loan from a usurer in his hometown to finance his trip to Korea in 2005, and had to pay 10,000 USD over three years to cover the principal and the interest. (Interview, 2010).

The undocumented workers I interviewed overstayed their visas from between one to twelve years. Of the 10 undocumented workers, only two said they might return to Indonesia within a year. Mrs. V, who had been in Korea for 15 years and working illegally for 12 of those years, said that she might go back to Indonesia because her husband had been caught by immigration authorities and would be deported soon. She met her husband in Korea and now

they have one daughter. Mrs. V, however, would prefer to stay in Korea until her daughter finishes her primary school, if her husband is allowed to return to Korea after his deportation.<sup>38</sup> She said it would be hard for her to go back to Indonesia considering her daughter, who was born and raised in Korea, barely speaks Indonesian. Meanwhile, Mr. A is planning to go home because he misses his daughter after eight years of working in Korea. Some of the interviewees told me that they will return to Indonesia when they have enough savings, and others told me that they would stay in Korea until the authorities caught them.

The interview data suggest there are economic and non-economic reasons why the workers prefer to stay and work illegally in Korea. Most of the undocumented workers say that Korea provides better wages and better employment opportunities, and thus they are hesitant to return home as they are afraid they might be unemployed once they returned to Indonesia. They also fear that with the Korean government's quota system for new migrant workers from Indonesia, and the competition for entering Korea among new migrant workers, they fear they may not be able to return to Korea.

Other factors they cited as reasons for staying longer include their responsibility to family members in Indonesia. These undocumented workers are the main breadwinners and their remittances support up to six or eight family members. Hugo (1995) argues that the family values of Indonesian migrant workers are a crucial factor in their decision to work overseas, and that they leave their homeland to follow their family members or friends who have gone before. This observation resonates well in the context of Indonesian migrant workers in Korea. Some came to Korea because their family members or friends from the

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<sup>38</sup> Mrs. V was interviewed on July 22, 2010. During the period of interview, the Korean government only allowed the children of undocumented foreign residents to go to primary school. However, on August 17, 2010, Ministry of Science, Education and Technology announced a new policy that allows the children of undocumented foreigners to study until middle school. Source: Yonhap News, “불법체류자 자녀에도 중학교 입학 허용(“Children of Illegal Aliens Allowed until Middle School”), downloaded from <http://news.naver.com/main/read.nhn?mode=LSD&mid=shm&sid1=102&oid=001&aid=0004608957>

same village has been successful in their work in Korea and had been able to send money home. It is very common for Indonesian workers to finance Korean language classes for other family members and provide channels of employment for their family members.

I also observed that status and reputation are the other reasons why migrant workers stay longer in Korea. Migrant workers acquire a certain high social status back home. Their families use the remittances to buy property, to finance the college education of family members, or to start their own businesses. Thus, working overseas has elevated the status of the migrant workers' family back home.<sup>39</sup>

For the sake of status back home, Indonesian migrant workers often create the image that they are working really hard in Korea and have attained a good relationship with high-level authorities. I noticed that Indonesian workers always wear expensive attire and name-brand items when attending gatherings organized by the Korean government or Indonesian Embassy. These migrant workers take their pictures with officials (the mayor, ministers, and parliament members) and upload these to the Internet immediately. These photos thus send the message that migrant workers have a good life in Korea; they wear nice clothes and attend meetings with high-level officials from both Korea and Indonesia. Other migrant workers upload photos and videos of their working sites to show their families that they have been working hard in Korea.

Indonesian migrant workers often spend their money on name-brand items. In Gyeonggi province, they go to the Mario's outlet in Garebong, near the Gasan Digital Complex station, which offers discounted name-brand items. During the intense crackdowns, some buy clothes and other necessities through online shopping websites. They spend

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<sup>39</sup> Another insight on the status of migrant workers can be found in the work of Ruenkaew (2004), in a study titled "Toward the Formation of a Community: Thai Migrants in Japan." Ruenkaew argued that the migration of Thais to Japan is not a result of poverty; rather, it serves as a way of earning money easily and quickly with the purpose of establishing status and reputation – to buy a house, land, and even to start a business with their earnings in Japan.



lavishly on their relatives back home, too, by sending packages consisting of expensive gifts to their families on a regular basis. Some of the migrant workers told me that they enjoyed shopping in Korea because they can afford it; their incomes are five to seven times higher than what they received in Indonesia.

Holidays and Sundays are the most important days for Indonesian workers. Those who are religious go to the mosque or church to attend Sunday service or bible recital. However, most Indonesian workers spend their Sundays shopping, dining, and drinking with friends. Even though most are Muslim, it is common to see them enjoy alcoholic drinks and some have already told me how they adapted to the Korean drinking habit after being introduced to it by their *Sajang* (boss) and co-workers.

Thus, Indonesian workers have become accustomed to the Korean lifestyle, of “big-income and big-spending,” with many ending up without any savings after their working sojourn. As they do not want to go home without savings, some of them decided to overstay and work illegally. Even if migrant workers have some savings, some of them find out that their family members did not invest their remittance wisely when they return to Indonesia. Materialism has become a new family value, and members get spoiled because they get used to a new expensive lifestyle courtesy of remittances from Korea. When a migrant worker returns to Indonesia, he or she is expected to maintain the same lifestyle.

Some migrant workers that could not find jobs or do not know how to run a business wind up spending all of their savings. When their savings dry up, they always think of going back to Korea. During my research, I found many Indonesian migrant workers already staying in Korea for several periods of sojourn.

When I interviewed “Mr. An,” from East Java province, he told me that he decided to work in Korea because the country offered more opportunities. Prior to coming to Korea, he worked in his father’s furniture rental business for wedding events. He came to Korea as a

trainee in 2000 and then worked illegally until 2006. He invested his earnings in Indonesia by buying a plot of land, a house, and properties for his family business. However, when he returned to Indonesia he realized that he had no marketing skills and networks to compete with the large wedding organizing companies. It took him only a year before his savings dried up, and he decided to return to Korea in 2007. At the time of the interview, he was considering working illegally after his legal visa expired because he did not have enough savings to return home. Mr. An argued that “Korea is a heaven for illegals” because undocumented migrant workers can live their life almost as freely as the legal migrant workers. (An, Mr. Interview, 2010)<sup>40</sup>

### *Solitude*

The government does not allow migrant workers to bring their spouses and family members. Because of their separation from spouses and family, Indonesian workers in Korea are at risk of suffering from loneliness. Further, separation through migration has a significant impact on the sexual lives of migrant workers, an issue that has not been addressed yet by the Korean government.

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<sup>40</sup> The interview was conducted on a fine Sunday afternoon in Ansan where most migrant workers are out shopping and socializing. Sunday is actually the best day to catch undocumented migrant workers but according to his memory, he never saw or heard of any crackdown on Sunday.

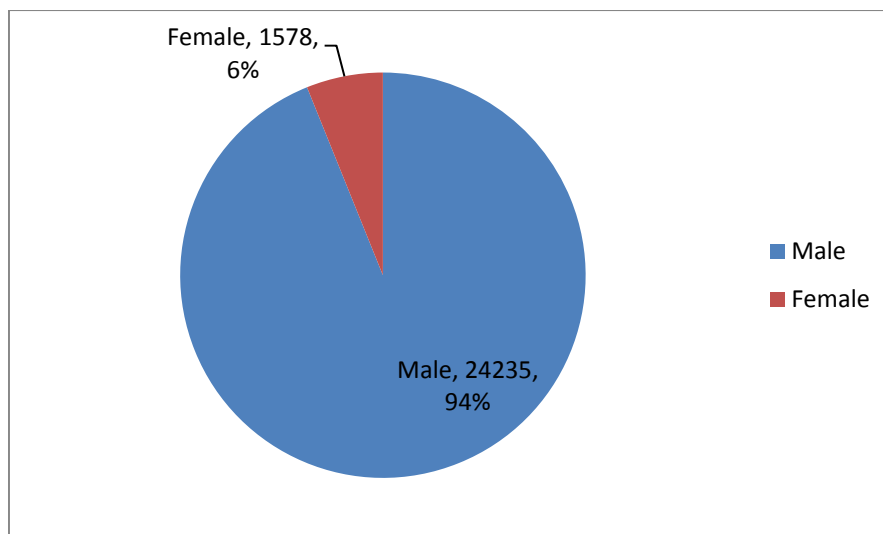


Figure 29. Ratio of male and female Indonesian workers in Korea.  
(Source: Korean Immigration)

In 2011, there were about 25,000 registered Indonesian workers in Korea; of these, 24,235 (94%) were male workers and only 1,578 (6%) were female workers. I noticed that the fights between Indonesian males in Korea are often based on jealousy over their girlfriends. One informant jokingly told me that Indonesian girls can have more than one boyfriend because the number of girls is insufficient for all the Indonesian males in Korea.

I also noticed that cohabitation is common among Indonesian migrant workers. Meanwhile, others visit *rumah kaca* (an Indonesian word that literally means “glass house”), where girls are displayed in glass houses in the famous red-light district near Suwon station. Others visit *noraebang* (the Korean word for karaoke), and order *doumi* (a Korean word that politely means “entertainer girl”).

Prostitution and cohabitation are strictly prohibited in Islam, the religion of most Indonesian workers. The Islamic community and imams from Indonesian mosques in Korea acknowledge that repression of sexual desire can cause social problems. (Arifin, A. Interview, 2010). To reduce sexual problems, the mosques organize weddings and loosen the marriage requirements for migrant workers. According to the *syariah* (law), the father of the bride shall

give his blessing and acknowledge that his daughter will be under the responsibility of the husband after the marriage. However, instead of inviting the father to Korea, the mosques allow the bride to call their father by phone during the wedding ceremony. The mosque's imam who is officiating the wedding then asks the Indonesian Embassy to legalize the marriage certificate. The efforts of the mosque have been welcomed by Indonesian migrant workers as the procedures are easier and relatively cheaper compared to organizing the wedding in Indonesia.



*Figure 30.* An *Imam* officiates a wedding in a Mosque after the bride calls her father to seek his blessing to get married.

The availability of the Internet and mobile phones facilitates communication between these workers and their families and friends back home. I noticed that the Internet plays a very important role in reducing their homesickness. Most of them are connected to home through Internet social networks such as Facebook, and so can share their photos and tell family members about their lives in Korea.

### Conclusion

The implementation of EPS has improved the working conditions of EPS legal workers and at the same time marginalized undocumented migrant workers in Korea. The

decision to accept foreign migrant workers legally and allow them to enjoy benefits has made the status of undocumented worker less desirable for Indonesian migrant workers. Therefore, the implementation of EPS has changed / complicated the life of Indonesian undocumented workers because they face tougher competition for employment from the legal EPS workers. In order to continue working in Korea, undocumented workers need to employ survival strategies by utilizing their networks, such as employers, middlemen, *paguyuban*, and shelters provided by the local church.

During the implementation of the training system, many Indonesian undocumented workers joined civil society movements to push for better working situations. Their movement has united the Indonesian community. However, the implementation of EPS, along with the improvement of working situations and the fear of getting deported, has motivated migrant workers to work more closely with the government and avoid the situation of being undocumented. Currently, Indonesian migrant workers prefer not to be involved in political activism because of the fear of being deported.

Indonesian workers in Korea have become accustomed to the Korean lifestyle, and “big-income and big-spending,” with many ending up with no savings after their working sojourns. Furthermore, the inconsistencies in law-enforcement, combined with abundant working opportunities, have often trapped Indonesian migrant workers in a never-ending cycle of being migrant workers. They are further encouraged to work in Korea, either illegally by overstaying their visa, or legally by re-applying as EPS workers.

The other noticeable effect is that Indonesian workers are at risk of suffering from loneliness. The government does not allow migrant workers to bring their spouses and family members, and thus many workers suffer from loneliness. Migrant workers might get involved in prostitution and may create other social problems. This separation through migration has

had a significant impact on the sexual lives of migrant workers, an issue that has not been addressed yet by the Korean government.

## **CHAPTER 7**

### **CONCLUSION AND POLICY IMPLICATIONS**

#### Introduction

The purpose of this study is to explain the different living conditions of Indonesian workers in Japan and Korea. The labor immigration policy in the host countries emerged as the most important factor that shapes the different living conditions of Indonesian migrant workers in Japan and Korea. In addition, the admission scheme of low-skilled foreign workers was found to affect the life of a specific national group. For that purpose, two admission schemes were examined that allow Indonesian low-skilled workers to work legally: the Technical Intern Training Program (TITP) in Japan and the Employment Permit System (EPS) in Korea.

#### Summary of findings

The literature review in Chapter 1 revealed that IR perspectives help us to understand the rationales that influence policymakers in deciding labor immigration policy. However, compared to the realism and liberalism perspectives, constructivist perspectives help us to more fully understand different labor immigration policy outcomes such as rigid control, positive introduction, or concerns about human rights.

This study also found that domestic politics approach helped us to explain why different countries create different labor immigration policies. Countries tend to consider domestic pressures more than foreign pressures because immigration impacts not only the economy, but also the sovereignty, culture, and politics of a country. The domestic politics approach, therefore, helped us to understand the influence of politics and shows us the

complex institutional process leading to immigration policy, especially policy concerning the immigration of migrant workers.

This study illustrated that labor immigration policy is the product of domestic politics under certain institutional constraints. Immigration policies are influenced by various factors such as economic benefits, security and social cohesion of receiving countries. Furthermore, various actors have different opinions towards various factors related to immigration policy. The differences in the views and interests of various state and non-state actors would constrain the choices available to policy makers. Therefore, labor immigration policies may not represent government values, but rather reflect policies that will best achieve their fundamental goal. The labor immigration policy outcomes will then shape the living conditions of migrant workers in their receiving country. Therefore, this study revealed that combining constructivist and domestic politics approaches helped more to our understanding of immigration policies.

In Chapter 2 we discussed the life of Indonesian low-skilled foreign workers who are accepted through the Technical Intern Training Program (TITP) in Japan and Employment Permit System (EPS) in South Korea. Indonesian workers in Japan and Korea are eligible for the minimum wages that apply to native workers, as well as insurance and pensions. However, unlike Indonesian trainees in Japan, Indonesian workers in Korea have more freedom to change employers if the employer goes bankrupt or abuses them. The Korean government utilizes a public institution, the Ministry of Employment and Labor, to solve foreign workers' problems such as labor relations, disputes, and transfers of employment. Meanwhile, in Japan, trainees are recruited by the private sector under the supervision of public organizations. When labor disputes occur, trainees must consult social workers dispatched by the recruiting company. Meanwhile,



In Japan, trainees account for 38% of the Indonesian population and are spread out all over Japan. Meanwhile, migrant workers account for 87% of the Indonesian population in Korea and are mostly concentrated around metropolitan areas. The differences of population size, concentration of workers, and the availability of public spaces such as government facilities, churches, and mosques, have brought difference result in the life of Indonesian migrant workers. Indonesian trainees in Japan are distributed in scattered locations and therefore they found it difficult and expensive to access public service such as counseling service, language education and banks for sending remittance. Meanwhile, Indonesian workers in Korea into closer contact with fellow Indonesians, and indigenous society and therefore, they can be more influential. Moreover, due to their numerous populations in a concentrated area, local governments and private businesses including banks can offer more services at a lower cost.

Chapter 3 revealed that the government, business organizations, civil society, trade unions, local governments, and public opinion have strongly influenced the political processes of labor immigration policymaking in Japan and Korea.

In Japan, the government, business organizations, labor unions, and the people shared similar anxiety toward labor migration, especially toward the unskilled migrants. The dominant view on foreign workers in Japan is the fear (real or imagined) that foreign workers may threat domestic security and disrupt social life of Japanese people. These circumstances have resulted Japan is more realist and created a restrictive policy towards foreign workers. Meanwhile, the dominant view on foreign workers in Korea is that foreign workers are regarded as economic necessity rather than security threat. Civil society, labor unions, business organizations and the Korean people are supportive of the acceptance of foreign workers because foreign workers are considered to be beneficial toward the Korean economy

and society. Therefore, Korea is more liberal as the government has relatively strong support for improving the rights of migrant workers.

Moreover, Chapter 3 also finds that the presidential system in South Korea has allowed the South Korean president much more institutional power than the Japanese prime minister. The South Korean president can actively push for legislation to protect foreign workers, while the Japanese prime minister needs a majority in the Diet in order to enact laws. Moreover, the ruling government in Japan must face not only the opposition party, but also internal opposition from their own party caused by several factions with divided opinions on some strategic issues, including the issue of immigration of foreign workers. Labor immigration policy is therefore the product of domestic politics under certain institutional constraints.

In Chapter 4, we discussed labor immigration policy in Japan and South Korea. During the early 1990s, both Japan and Korea adopted convergent immigration policies that admitted temporary migrant workers, including industrial trainees and members of their diaspora, as de facto low-skilled workers. Over the years, Japan and Korea adopted divergent immigration policies, especially after Korea initiated the Employment Permit System in 2004.

The evolution of the change in Korea's policy occurred quickly as the government responded to pressure for immigration policy change. Korea became a partially-open destination for low-skilled foreign workers after the Korean government launched the Employment Permit System in 2004. The system allows Korean companies that fail to employ domestic Korean workers to legally employ foreign workers. Meanwhile, Japan still maintains a closed immigration policy toward low-skilled foreign workers. Officially, Japan prohibits the entry of low-skilled foreign workers, and continues to employ *nikkeijin* and foreign interns as de facto unskilled foreign workers

In Chapters 5 and 6 we explained that detailed immigration regulations and procedures and categories of admission such as period of sojourn, the extendibility and renewability of sojourn, limitation of family rights, and foreign workers' rights has affected Indonesian workers in Japan and Korea.

In Japan, there is a significant gap between the stated purpose of TITP and the reality of the program. The stated objective of the TITP is to “transfer skills” to technical intern trainees and “to advance their careers” in the future. In reality, the program serves as a side-door to recruit low-skilled labor. Moreover, the structure of TITP in Japan still relies on the private sector to manage the program. The heavy utilization of private companies as the backbone of TITP has created a looming human rights problem. Furthermore, because of language barriers and lack of access to impartial information, Indonesian trainees and interns may be lacking in knowledge of employment and their rights. They are also hesitant to come forward due to the fear of losing their employment. Moreover, the lack of reliable complaint mechanisms and an impartial agency to tackle labor disputes has worsened the working situation of TITP.

Meanwhile, in Korea, the implementation of EPS has improved the rights of legal EPS workers yet marginalized undocumented migrant workers in Korea. Undocumented workers face tough competition for employment from the legal EPS workers, and they need a survival strategy in order to continue working in Korea, including utilizing the support from their employers, middlemen, kinship and church shelters. Moreover, the improvement of the working situation under EPS and the fear of getting deported has motivated Indonesian workers to avoid the situation of being undocumented and to shun political activism.

Indonesian workers in Korea and their family in Indonesia have become accustomed to the Korean lifestyle and “big-income and big-spending,” with many ending up with no savings after their working sojourn. Furthermore, the inconsistencies in law enforcement

combined with abundant working opportunities have caused many Indonesian migrant workers to become trapped in a never-ending cycle as migrant workers. They are encouraged to work in Korea for a long period illegally by overstaying their visa, or legally by re-applying as EPS workers.

This research has also indicates that Indonesian migrant workers are at risk of suffering loneliness, homesickness and frustrations due to living far from their loved ones and the prohibition of family reunion rights. Furthermore, this research reveals that the separation through migration has a significant impact in the sexual lives of foreign workers. They may get involved in prostitution and may create other social problems.

### Policy Implications

I herewith propose the following policy recommendations.

#### *Policy Consistency*

##### *Japan*

The basic problem of migrant workers in Japan is the disparity between the Japanese government labor immigration policies and the existing labor shortages problems. While the government does not allow low-skilled workers to work in Japan, they allow foreign trainees and interns to work under TITP program as de facto low-skilled workers. This study suggests a significant gap between the stated purpose of TITP and the reality of the program. While the objective of the TITP is to “transfer skills” to Technical Intern Trainees and “to advance their careers” in the future, in reality, the program serves as a side-door to recruit low-skilled labor. This inconsistency has led to a gap between expectations and reality of trainees and interns’ working conditions. While trainees and interns expect to receive transfer of skills, in reality they are working as low-skilled labors.

To address this problem, Japan must first initiate a public debate and national survey on how to address the issues of labor shortage in certain industries. This debate must include the issues of Japan's shrinking population and recognition of which type of industry could not survive without foreign trainees, interns, and other low-skilled foreign workers. The debate may also include how immigration may help to ease the problem. The most important thing is to be consistent towards the choice of policy that Japan pursues. For instance,

- a. If Japan persists in closing its doors toward foreign low-skilled workers, Japan should reform the type of industries that require low-skilled workers the most. The reform could go in two directions: by advancing the technology and minimizing the need for labor or by eliminating certain types of industry that could not survive without foreign workers.
- b. If Japan recognizes that certain type of industries need foreign workers, than it should embrace that truth by opening the door to low-skilled workers and considering how to minimize the social and economic costs.

### *Korea*

The frequent changes in employment regulations such as period of stay, method of extending sojourn, and method of finding employment may attribute to workers' confusion. The Korean government must address this issue by disseminating its policy decisions in a timely manner.

### *Institutional Recommendations*

#### *Japan*

If Japan hopes to utilize foreign workers then it must address the institutional problems rooted in TITP. Currently, there are five ministries involved in policymaking, and each ministry has different opinions towards the improvement of TITP. Inter-ministerial

committee may be needed in order to have more coordinated views on the issue. Moreover, these five ministries supervise JITCO, which is a public foundation that provides support, assistance as well as advice and instructs private organizations that intend to host or are currently hosting technical intern trainees. In reality, the structure of TITP relies on the private sector in both sending and receiving countries to recruit foreign trainees and interns. JITCO does not have any authority to inspect or penalize private organizations that violate the rules.

To address this problem, Japan must create a public institution that bears the role of recruiter to minimize the role of the private sector. For instance, complicated coordination may end if the recruitment is conducted by one public institution under the supervision of only one Ministry.<sup>41</sup> This public institution must utilize the standardized Japanese Language Proficiency Test to ensure worker candidates possess a certain level of the Japanese language. Language training as well as skill training should be provided prior to beginning working, and lectures on their rights should also be offered.

The government should avoid assigning foreign workers in Japan to scattered locations in order to make local governments and banks to offer better services at lower cost to the worker. Delivery of social services such as a complaint mechanism for labor disputes and counseling services should be provided in such locations as municipality offices. Moreover, such social services must be available in workers' native languages and during weekends. Pamphlets, brochures and guidelines of all related labor laws must also be translated into workers' native languages. The government should also facilitate remittance institution services to operate on weekends at least twice a month.

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<sup>41</sup> Japan has utilized this kind of mechanism in recruiting foreign nurse and care givers. JICWELLS (Japan International Corporation of Welfare Services), a public agency under MHLW is in cooperation with Indonesian public service to recruit candidate of nurses and caregivers.

*Korea*

The basic problem found was that Indonesian migrant workers, both the legal EPS workers and the undocumented workers, are heavily utilizing informal channel such as brokers instead of using the formal “Job Center” channel to find places of employment. EPS workers’ status will turn into “illegal” if migrant workers cannot secure employment for a certain period of time. If after some time migrant workers cannot secure jobs, they could be encouraged to contact brokers to get new employment. To avoid brokers or the informal service providers, the Korean government must strengthen the role of job centers. They should also organize job fairs periodically. The recruitment and job interviews should be organized to provide an official avenue for employers and employees to meet directly.

*Law Enforcement**Japan*

Companies that employ foreign workers should submit a periodic report on the implementation of the program. Moreover, monitoring and inspections should occur on a regular basis in order to combat companies that tolerate violations and infringe on the human rights of foreign workers.

*Korea*

The high number of irregular workers under EPS may pose a bigger problem in the future. 27% of EPS workers become undocumented workers. This figure is still relatively high although it has been reduced significantly compared to Industrial Training System. The consistency in law enforcement is needed both for employers who employ undocumented workers and for undocumented workers who overstay their visa.

### *Enhancing Cultural Understanding*

#### *Japan and Korea*

Smooth labor relations require not only those foreign workers learn about the local language and local culture but also that employers have a certain level of understanding towards workers' religious and cultural background. It is important for both employers and employees to share mutual understanding and determination to prevent or deal effectively with any labor relations issues that occur.

### *Family Reunion Rights*

#### *Japan and Korea*

This study has found that Indonesian migrant workers suffer the loneliness and frustrations of living far from their loved ones. The receiving country should give family reunion rights to ease loneliness and homesickness of migrant workers. Family reunion rights would also overcome social problems caused by separation through migration that has a significant impact on the sexual lives of foreign workers. Governments should explore various policy options to ensure that family members are not staying and becoming a social burden to the receiving country such as restricted duration of visa for family members.

Labor migration has emerged as a critical policy issue of our times. Each year millions of people cross national borders in search of human betterment for themselves and their families. People aspire for a productive experience through labor migration such as better employment opportunities and wages than in their home countries. However, in reality they may suffer poor working and living conditions, far inferior conditions to natives in host countries, and their rights as workers are often undermined. Receiving countries aspire for a work force that may cover the labor shortage problem and serve as a force for growth and development. However,



countries must confront the challenge to manage labor migration so that it will not lead to illegal movements that may pose dangers to society and established institutions. Author hopes this study represents a modest contribution towards a win-win situation between the receiving country and migrant workers--human resources for the economic resilience of the host country and the well-being of migrant workers.

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Anonymous trainee, interview, 2010.

Anonymous Indonesian undocumented worker, May 23, 2010, in Ansan.

Anonymous Police Officer in Gyeonggi Province, July 12, 2010, in Ansan.

AJ, Mr. former founder and Secretary General of Solidarity of Migrants Indonesia and Indonesian Community in Korea, June 20, 2010 in Ansan.

An, Mr. undocumented worker, June 27, 2010 in Ansan.

Ari, Mr. Indonesian trainee in an automotive spare-part company, January 23, 2010 in Hamamatsu.

Arifin Azam, Mr. Chairman of Indonesian Muslim Community in Korea (ICMK), July 25, 2010 in Ansan.

Dewi, Ms. January 23, 2010, in Hamamatsu.

Edi Susilo, Mr. Chairman of Indonesian Trainee Fraternity in Japan (IPTIJ), January 2, 2010 in Osaka.

Ega, Mr. Indonesian trainee in an automotive spare-part company, January 23, 2010 in Hamamatsu.

Harry, Mr. former labor activist and member of Stop Crackdown Band, September 19, 2010 in Jakarta.

Hwan, Lyu Seong, Reverend and Office Director of Ansan Migrant Center, July 29, 2010 in Ansan.

IM, Ms. Indonesian trainee, January 2, 2011, in Hamamatsu.

Jefry Jafar, Mr. President of Indonesian Community in Corea, April 18, 2010 in Ansan.

Kim Jong Do, Mr. Deputy Director of Visa and Residence Division, Korea Immigration Service, Ministry of Justice, July 29, 2010 in Seoul.

Kim Mi-youn, Mrs. Official of Foreign Workforce Employment Support Team, HRD Korea, on July 24, 2010 in Ansan.

Kono, Taro, Mr. Politician and former Senior Vice-Minister of Justice, January 26, 2011 in Tokyo.

L, Mr. undocumented worker, May 23, 2010 in Ansan.

Lee, Kyung-sook, Ms. International Coordinator of Joint Committee with Migrants in Korea, August 23, 2010 in Seoul.

Lim Mu-Song, Mr. Director General of Manpower Policy Bureau, Ministry of Employment and Labor, May 13, 2011 in Tokyo.

N, Mr. undocumented worker and vocalist of the Workers Band, May 2, 2010 and August 22, in Ansan.

Nam, Reverend from Antioch International Community, July 10, 2010 in Ansan.

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Suki, Ms. Indonesian trainee, January 23, 2010, in Hamamatsu.

V, Mrs. Indonesian undocumented worker, July 22, 2010 in Ansan.