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Multiethnic Korea?
Multiculturalism, Migration, and Peoplehood Diversity in Contemporary South Korea

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Preface

After *Multiethnic Japan* appeared, several people asked whether I planned to write a book on the same topic for Korea. I halfheartedly mumbled something vaguely affirmative on more than one occasion, and I am pleased that the conditions of South Korea and of my life made this faint promise a reality, however short of a full-scale study—and with a question mark to boot—the final product has turned out to be.

The myth of monoethnic and monocultural Korea is tenacious. This is paradoxically, or precisely, because historical evidence doesn't support it, though the surprisingly persistent and powerful nationalist historiography in South and North Korea casts the messy past as an epic narrative of a singular, unified, and pure people. The story has convinced enough South and North Koreans so that for the second half of the twentieth century it became a simple matter of commonsense: natural, obvious, and irrefutable. The family romance of the blood-unified nation faces at every turn the recalcitrant reality of human movements and mixings, ethnic heterogeneity, and cultural diversity. The prevailing response, at least until very recently, was denial or denigration. I can only hope that the deleterious consequences of monoethnic and monocultural fantasy will subside, if only in small part because of this and other efforts.

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Diverging Paths, Converging Ends

Japan's and Korea's Low-Skilled Immigration Policies, 1990–2010

KEIKO YAMANAKA

Japan and South Korea (Korea hereafter), two recent countries of immigration in East Asia, adopted similar immigration policies in the early 1990s. They did so in response to an influx of foreign workers from around the region, who filled the growing demand for low-skilled labor among middle- and small-sized companies in both countries. Yet despite the rapidly increasing number of immigrant workers, governments in Japan and Korea denied the very fact of their presence while officially reaffirming the principle of allowing in only high-skilled foreign workers. As a result, each government instituted a variety of de facto immigrant categories that would, in effect, allow for the continuing employment of low-skilled laborers in jobs shunned by locals. The three major categories were (1) "illegal" visa-overstayers, (2) industrial trainees on contract, and (3) coethnics from abroad, such as, in the case of Japan, *Nikkeijin* (people of Japanese ancestry) from Brazil, and, in Korea, *Chosŏnjok* (people of Korean descent) from China.

By the mid-2000s, in the face of growing contradictions inherent within such immigration policies, Korea began to initiate reforms in order to narrow the gap between policy and practice. In August 2004, the country launched the Employment Permit System (EPS), guaranteeing immigrant workers legal protections roughly equivalent to their native Korean counterparts. In December 2006, Seoul abolished the Industrial Technical Trainee Program (ITTP), blamed for repeated human rights violations and a spike in the number of undocumented workers in the country. In the same year, a variety of organizations in Japan—including national ministries, political parties, and civil groups—began to address increasing ethnic diversity among the Japanese population, while also focusing on alternative programs for low-skilled foreign workers. To this day, however, despite the heightened attention on such issues, Tokyo has yet to introduce major changes to its immigration policy.

In previous studies (Yamanaka 2010, 2011), I argued that the divergence in immigration policies in Korea and Japan beginning in the mid-2000s was in part due to historical differences and to the differing ability of civil societies in the two countries to intervene in the policy-making processes on behalf of immigrant rights. Korea's successful democratic transition in the 1980s allowed coalitions of proimmigrant NGOs (nongovernmental organizations) to employ highly confrontational strategies in opposition to the state (S. Kim 2004, 2007). In Japan, however, the entrenched bureaucracy's regulatory framework kept independent civil groups isolated, rendering them ineffective in challenging state policy (Pekkanen 2004, 2006). Such differences played a key role in distinguishing the political dynamics behind the enhancement of immigrant rights in Korea and Japan (Lee and Park 2005).

In this chapter, I will focus on the process and context of policymaking in these two East Asian countries from the early 1990s to the late 2000s. By discussing how each of the three categories of low-skilled immigrant workers—unauthorized, trainee, and coethnic—came to exist in both Korea and Japan, I will highlight contrasting patterns and interactions among the major political actors: these being the state and civil society in Korea and, in the case of Japan, the national government, local governments, and civil society. The chapter is divided into three sections. The first section offers a brief review of theories that account for diverging and converging patterns of state immigration policies. This is followed by a discussion of the dynamic and rapid changes in Korea's immigration policy, with a focus on the critical role played by civil society there. The final section offers an analysis of Japan's comparatively static policymaking process, a process long monopolized by the state and only mildly challenged by local governments and civil society in the area of immigrant integration.

Divergence and Convergence in Immigration Policies

By definition, the immigration policies of highly advanced economies are contradictory. On the one hand, governments are compelled to import foreign workers in order to alleviate labor shortages. On the other hand, they fear that the increase in social diversity that comes as a result of immigration will undermine national integrity. Consequently, immigration policies are frequently inconsistent, generating sizable gaps between the official line and actual outcomes (Cornelius et al. 2004). Although a

specific country's history of immigration and minority relations may frame individual responses, policies regarding "needed but unwanted" immigration have generally converged among highly advanced economies with liberal democracies (Freeman 1995; Joppke 1998). For example, in post-WWII Europe, the EU's human rights conventions put pressure on member countries to adopt similar policies in managing immigrants and refugees. In traditionally immigrant countries such as the United States, despite the official restrictionist rhetoric, "client politics" tends to promote expansionist policies in favor of labor-short industries, such as agriculture in California.

In Asia, a handful of areas in the region—Hong Kong, Japan, Korea, Malaysia, Singapore, Taiwan, and Thailand—have until recently been labor senders to the United States and elsewhere. Receiving immigrant workers, in contrast, is only a recent phenomenon that began in the 1980s as a result of these countries' rapid economic development. Lacking experience in dealing with an influx of immigrant workers, governments in these Asian countries typically assembled strategies that were ad hoc and inconsistent, creating disparities between official policy and outcome. In this process, as they scrambled to regain control of their national borders and labor markets, governments across the region often copied the policies of countries more experienced in immigration matters. As a result, by the early 2000s immigration policies in East and Southeast Asia broadly converged around three major goals: "(1) those that aim to limit the number of migrants; (2) those that aim to limit the duration of migrants' residence and employment; and (3) those that aim to prevent migrants' integration into local society" (Yamanaka and Piper 2005, 14).

Clearly these policies were intended to maintain low-skilled foreign workers in temporary jobs without allowing their families to accompany them, offering only the slightest possibility that they would seek to settle permanently in the countries in which they worked (Seol and Skrentny 2009a). Explaining the lack of family cohesiveness among migrant workers in Asia, Seol and Skrentny (2009a) cite the absence of a supernational rights institution, as exists in the EU, that could enforce regionwide conventions on all members. According to the authors, Asia's elites—governments, bureaucracies, and big businesses—still hold to a developmental state mentality, viewing low-skilled foreigners simply as instruments in their economic development goals. Further, in a regional comparative analysis, Skrentny et al. (2009) find that both Asia and Europe provide special privileges to coethnic returnees that are unavailable to noncoethnic migrants. In Asia, however, such privileges are intended to facilitate economic development, whereas in Europe they are more likely expressions of ethnic solidarity.

As the discussion here amply illustrates, a regional comparison is useful to an understanding of patterns of convergence and divergence in immigration policies across histories and cultures. Existing studies suggest that Asian policies are converging around a highly instrumental model aimed at economic development. Within Asian countries, however, I argue that there are distinct patterns specific to the history and political climate of each nation. In the following sections, I will focus on the historical contexts and political processes in Japan and Korea that framed the three categories of de facto immigrant workers at the low skill level: (1) unauthorized workers; (2) industrial trainees on contract; and (3) coethnic returnees from abroad. Despite these convergent programs, my analysis reveals very different dynamics in policy formation that nevertheless lead to similar results in the two countries. Behind such divergent processes lie contrasting narratives of nation building, democratic transitions, and the roles played by civil society. By delineating changing relations and interactions among major players specific to each country, I hope to highlight the main factors associated with their divergent policy-making processes, which have nonetheless resulted in converging immigration policy patterns between two East Asian countries characterized by comparable economic development, demographic structure, and constitutional democracy.

Korea

The Minjung *Legacy*

The legacy of Korea's "confrontational civil society" in opposition to the state goes back to the period of military dictatorship, and specifically to the period from 1973 to 1987. In 1972, President Park Chung Hee launched the *Yushin* (revitalization reform) Constitution, dramatically increasing his power while simultaneously shutting down all oppositional forces. His successor, President Chun Doo Hwan, violently crushed a popular protest in Kwangju in 1981 and arrested thousands of prodemocracy politicians, professionals, and religious leaders. In a spontaneous response to the state's brutality, a broad range of prodemocracy civil society organizations (including students, workers, and churches) joined together to effectively direct their collective resources toward public campaigns. It was this unprecedented mobilization of the masses, known as the *minjung* (people's) movement, which finally brought down the authoritarian Chun regime, giving birth to Korea's contentious civil society and to a democratic social movement (S. Kim 2004, 2007; N. Lee 2007).

With the roots of Korea's fledgling democracy firmly planted, civil society lost no time consolidating its democratic gains. A "New Citizens'

Movement" (*sinsimin undong*) emerged in the last phase of the country's democratic transition (Alagappa 2004, 5). The movement attracted the attention of former prodemocracy activists who had sought alternative ways to reform Korean society and politics (S. Kim 2004, 2007). A number of civil groups and related coalitions emerged to pressure the state on behalf of their new constituencies, bringing with them the same highly confrontational approaches, including sit-ins and hunger strikes, that had proven so effective in the earlier democracy campaigns. As will be discussed, such militant campaigns for immigrant rights within Korean society had a tangible impact on the process of governmental policymaking.

Controlling Global Workers

Toward the end of the 1980s, Korea received an influx of immigrant workers from neighboring countries. Initially, a high proportion of these workers were *Chosŏnjok* from China's northeastern provinces, the majority of whom were unauthorized (H. Lee 2005; Lim 1999). In response, Seoul instituted a raft of immigration policies in 1991 to control the increasing numbers of foreign workers. Like Japan, Korea allows for the entry and exit of skilled foreigners only. In order to legally admit unskilled foreigners without amending the law, the Korean government adopted the Industrial Technical Training Program (ITTP), following Japan's Industrial Trainee System (discussed later) (Seol and Skrentny 2004, 493). Korea's trainees, like their counterparts in Japan, were explicitly denied protection under Korea's labor laws, which included the rights to unionize, to undertake collective bargaining, and to pursue collective action (Lim 2006).

However, the demand for inexpensive labor quickly exceeded the amount of labor the ITTP was able to supply. As ever larger numbers of foreigners entered the country on tourist and other non-work-related visas, many were funneled into one of the so-called 3D (dirty, difficult, dangerous) jobs traditionally shunned by Koreans. Similarly, a high number of industrial trainees found upon arrival that their wages were unacceptably low and immediately left their jobs in pursuit of higher wages, thereby breaking their contracts and losing their legal status in the country. Consequently, the number of unauthorized workers in Korea tripled from 55,000 in 1993 to 148,000 in 1997. These figures accounted for more than 60 to 80 percent of the total number of immigrant workers in the country during the same period (see figure 9.1). And while the number of industrial trainees also increased from 10,000 to 81,000, their numbers remained less than half that of unauthorized workers. Such figures alerted the Korean government to the acute necessity of overhauling the ITTP.

In search of a new policy, Korea looked again to Japan, adopting in 1997 what amounted to a replica of the latter's Technical Practical Trainee

Figure 9.1 Number of Low-Skilled Foreign Workers in Korea, 1987–2008

Source: H. Lee 2010
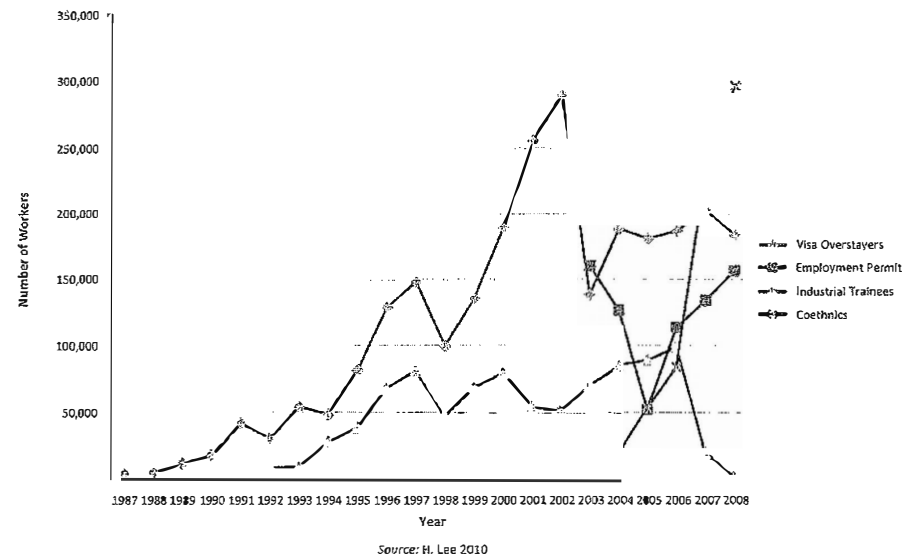
System (TPTS). As in Japan, Korea's revised Industrial Technical Trainee Program permitted industrial trainees to engage for one year in actual on-the-job duties after two years of training. Five years later, the ITTP was further revised to extend actual job performance to two years after one year of training (W. Kim 2007, 110; Lim 2006).

When the ITTP was first instituted in 1997, Korea was in the midst of the Asian economic crisis, which effectively diminished the country's need for immigration reform. Over the next several years, despite high unemployment rates among Korean workers, the number of unauthorized workers increased, climbing to 289,000 in 2002, doubling the number in 1998 (see figure 9.1). Among them were increasing numbers of *Chosŏnjok*, totaling about eighty thousand (Seol and Skrentny 2009b, 155). Fluent in Korean, *Chosŏnjok* workers proved mobile in the labor market, though unlike in Japan, where *Nikkeijin* were privileged with preferential visas, Korean policy granted no such special visas for *Chosŏnjok*. This was primarily because the Chinese government objected to their citizens receiving preferential treatment abroad, fearing such treatment would lead to a diminished sense of loyalty to their homeland in China (Seol and Skrentny 2009b). Despite their Korean ancestry, therefore, *Chosŏnjok* workers became subject to many forms of exploitation in Korea (Lim 1999).

Challenging the State

In the years following the initial influx of foreign workers to Korea, their plight went unrecognized by the Korean media and public. This changed, however, in January 1995 when a group of thirteen Nepalese trainees staged a sit-in at Myŏngdong Cathedral in central Seoul, a site long associated with nonviolent protests. Korea's largest NGO, the Citizens' Coalition for Economic Justice (CCEJ), helped organize the Nepalese protest, and was highly successful in drawing public and political attention to moral questions regarding the deployment of third world workers in unwanted jobs. According to Lim (1999, 349), however, it was the establishment of a special court after the protest that brought about "far-reaching, legal-institutional change" with regard to immigrant rights in Korea. Korean proimmigrant NGOs supported abused workers who in turn brought their cases to the special court (Yamanaka and W. Kim 2008). By doing so, workers legally challenged the state's role in permitting severe forms of exploitation to continue. Between 1995 and 2000, the court ruled in a number of decisions in favor of immigrant plaintiffs, substantially improving their labor rights.[1] Such changes marked a major victory for civil groups—citizens and immigrants—that relentlessly fought for equality among workers regardless of nationality and legal status (Lim 1999, 2006; W. Kim 2005, 2007).

An understanding of the strong commitment to immigrant rights within Korea's civil society requires a historical and organizational explanation. It should be emphasized that, historically, the influx of migrant workers arriving in Korea began only a few years after the democratic transition occurred in 1987. Once democracy had been achieved, former activists began seeking out new agendas that would eventually form the platform of Korea's New Citizens Movement. The timely arrival of third world workers caught the attention of these activists, who regarded them as the new *minjung*, victims of globalization (W. Kim 2007). Among these activists were progressive Christian church leaders who were heavily committed to the protection of human rights for vulnerable foreigners working in Korea's 3D jobs.

The historical continuity linking Korea's democracy struggle with the fight for immigrant rights also translated into organizational effectiveness among immigrant advocacy groups in their challenge against the state, which allied with business interests seeking to enhance the country's global competitiveness. Following the 1995 Nepalese protest, a coalition of proimmigrant groups—the Joint Committee of Migrant Workers in Korea (JCMK)—began mobilizing their resources, manpower, and networks in order to address the urgent need for reforming the immigration system. JCMK advocates identified the ITTP as the root cause of exploitation and discrimination, and targeted the committee's campaign toward achieving two main goals: (1) abolishing the trainee system, and (2) creating a work-permit system that recognizes low-skilled foreigners as legitimate workers (Lim 2006).

Using public rallies, sit-ins, and even hunger strikes, proimmigrant activists pressed the government to end the trainee program and adopt a work-permit system in its place. Their relentless campaigns soon threatened the Korean Federation of Small Businesses (KFSB)—the association of small business owners—long the main advocate and beneficiary of the trainee program (Lim 2006). In turn, KFSB began a powerful campaign to counter efforts by immigrant rights advocates. Caught between the opposing demands, the Korean government agreed to implement a compromise plan, called the Employment Permit System (EPS). The new contract-labor system defined unskilled foreigners as legal workers but denied them mobility in the Korean labor market.

Prior to the system's implementation, however, the government announced the deportation of large numbers of unauthorized workers in a move that was met with vehement protests by immigrant advocates (Y. Lee 2009). In response, the government proposed an amnesty and a one-year work permit for unauthorized workers who agreed to leave Korea when their new one-year permit expired (N. Kim 2008, 591). The government's proposal was appealing to many unauthorized workers, particularly those who had been in the country for less than four years, and by the end of 2003 a total of 184,000 applied for amnesty (H. Lee 2010; see also figure 9.1). The following year, the government finally launched EPS, but in the face of strong opposition from KFSB it was unable to abolish the existing ITTP until the end of 2006.

Assisting Chosŏnjok

Unlike *Nikkeijin* workers in Japan, *Chosŏnjok* in Korea did not enjoy preferential treatment with regard to their admission and employment in the country. The result was a large proportion of *Chosŏnjok* filling the ranks of unauthorized workers, as described earlier. The growing presence of ethnic Koreans from China in Korea's foreign worker population posed a dilemma for policymakers as well as advocacy groups. On the one hand, preferential treatment would offend Korea's powerful neighbor to the west (Seol and Skrentny 2009b). On the other hand, such treatment would

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[1] These changes included financial coverage for unauthorized workers in compensation for work-related injuries (1994), provision of severance pay to unauthorized workers (1997), application of the Labor Standards Law for unauthorized workers (1998), and application of the Occupational Accident Law to unauthorized workers (2000).

go against universal principles of equality for all immigrants regardless of ethnicity, nationality, and gender (N. Kim 2008; Y. Lee 2009). And yet, considering the historical circumstances under which ethnic Koreans fled the peninsula during Japan's occupation, they drew much sympathy among proimmigrant NGOs (H. Lee 2010). The humiliation suffered by the *Tongp'o* (overseas Koreans) of being labeled as illegal workers in Korea was perceived by these NGOs, along with *Chosŏnjok* leaders, as an injustice, and even betrayal, that needed redressing. Such ethnonationalistic calls from grassroots organizations carried an emotional appeal for the public that the Korean government tacitly incorporated into its immigration policies, creating a special program in ITTP for *Chosŏnjok* workers, granting them a larger quota and higher wages than foreign workers of non-Korean ancestry (Seol and Skrentny 2009b, 154).

Further political momentum for preferential treatment of coethnic returnees came in 1998 when the Korean government established the Act on the Immigration and Legal Status of Overseas Koreans (Overseas Koreans Act). Hard hit by the Asian economic crisis, the government in Seoul sought to boost the economy by attracting high-skilled workers and wealthy investors of Korean ancestry from Western countries, mainly the United States. The law, however, excluded coethnics from China (*Chosŏnjok*) and the former Soviet republics (*Koryŏin*) on the ground that their ancestors had left Korea before the establishment of the Republic of Korea in 1948. However, according to Seol and Skrentny (2009b), the main reason for excluding these two groups from the government's definition of overseas Koreans was economic. Most *Chosŏnjok* and *Koryŏin* were from less developed countries and the majority were unskilled. The low value attached to these less affluent Koreans clearly suggested the "hierarchal nationhood" conceived by the state that ranked Korean Americans higher than *Chosŏnjok* and *Koryŏin* (Seol and Skrentny 2009b). The passage of such an exclusionary law outraged Korean NGOs and *Chosŏnjok* leaders, who in turn filed a lawsuit with the Supreme Court arguing that the law was discriminatory (N. Kim 2008, 591). Outside the court, advocates for coethnic rights protested with demonstrations and hunger strikes. In 2002 the Supreme Court ruled the Overseas Koreans Act unconstitutional, leading to a redefinition of overseas Koreans in 2004.

Meanwhile, the controversy over *Chosŏnjok* and their legal position within the country's immigration policy attracted increased attention from policymakers. Presidents Kim Dae Jung (1998–2003) and Roh Moo-hyun (2003–2008) approached the issue from the standpoint of Korean "nationhood," thus endorsing the "ethnicity card" in forming national policy (N. Kim 2008; H. Lee 2010). The result was a gradual expansion of special provisions given only to returning ethnic Koreans, mostly *Chosŏnjok*. In 2002

the government created the Employment Management System, allowing *Chosŏnjok* to work for up to two years in such labor-short industries as restaurants, housecleaning, and elder care (Seol and Skrentny 2009b, 154; H. Lee 2010, 577). Three years later, as part of the efforts to reduce the number of unauthorized workers, the government instituted another program aimed exclusively at *Chosŏnjok*, the Voluntary Departure Program. The program, which guaranteed the issuance of a visa allowing recipients to work for up to three years provided they first voluntarily leave Korea and stay abroad for one year, reduced the number of unauthorized *Chosŏnjok* from about 48,000 in 2004 to 29,000 in 2006 (Seol and Skrentny 2009b, 157).

Finally, in 2007, as part of the latest effort to relax admission and employment regulations for *Chosŏnjok* in Korea, the government launched the Visit and Employment System. The new law allowed low-skilled *Chosŏnjok* to work in select sectors of the service and construction industries for up to three years during a maximum five-year stay in the country (H. Lee 2010). The impact of these special programs was significant and immediate. As figure 9.1 shows, the number of coethnics in Korea jumped from 19,000 in 2004 to 84,000 in 2006. With the implementation of the Visit and Employment System in 2007, the number skyrocketed to 235,000 in that year and to 298,000 the following year. It should be noted, however, that unlike *Nikkeijin* in Japan, *Chosŏnjok* in Korea have yet to attain the right to bring their families to Korea. This may be explained by the state's fear that large numbers of *Chosŏnjok* might be tempted to stay permanently in Korea if such a privilege is accorded to them (H. Lee 2010, 578).

Changing Dynamics

From the early 1990s to the mid-2000s, despite strong opposition from business leaders, Korean civil society was highly successful in challenging the state in support of the rights of low-skilled immigrants, as described earlier. Toward the end of the 2000s, however, changes were imminent in advocates' relations with the government and between themselves. First, the 2004 implementation of EPS and the 2007 legalization of *Chosŏnjok* employment significantly decreased the number of undocumented workers. As with ITTP, EPS prohibited contract workers from switching jobs upon arrival. Thus for immigrant labor unions and their Korean supporters, EPS was deemed unfair to immigrant workers.[2] Nonetheless, the fact that EPS showed lower defection rates as compared to ITTP assured the government that it was achieving at least some of its original goals, the foremost being to reduce the number of undocumented workers and

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[2] My interviews with NGOs, including an immigrant worker union, in Seoul and Busan in 2009 and 2010.

to protect workers' rights while employed in the country. Differing perspectives on and assessments of EPS among proimmigrant NGOs generated divisions regarding goals and the methods by which they would be obtained. Controversy over preferential treatment of coethnic immigrants created further tensions among advocates already shaken by internal conflicts (N. Kim 2008).

Second, the 2007 presidential election brought about a conservative government with a strong bent toward economic development. The new regime ended a decade-long "friendly" state-civic collaboration (1998–2008) that went a long way in promoting immigrant rights. In place of contentious labor issues, the new government expanded multicultural programs designed to integrate increasing numbers of immigrant wives of Korean citizens and their children into Korean society. The shifting demographics of Korea's immigrant population, combined with increasingly divisive politics among advocates, consequently helped the state realign the country's immigration policies in favor of the state vis-à-vis civic activists.

Japan

Controlling the Oldcomers

If Korean civil society is characterized by a confrontational legacy of democratic transition, Japanese civil society constitutes "social capital without advocacy" (Pekkanen 2004a). Such low politicization of Japanese civil society can be traced back to Japan's modernization period. Since the early 1900s, immigration has remained part of the national agenda controlled by the state. With the annexation of Taiwan in 1895 and of the Korean Peninsula in 1910, the population of the Japanese empire came to include a high proportion of non-Japanese (Oguma 1998). Among them, Koreans (the oldcomers) formed the largest immigrant group, approaching two million in 1944 (De Vos and Lee 1981, 37). Following Japan's surrender in August 1945, most Koreans repatriated to the peninsula, but about 600,000 chose to remain in Japan. Under the U.S. military occupation, the Japanese government quickly moved to exclude the former colonial citizens from the new Japanese nation. In 1947 the government passed the Alien Registration Ordinance, requiring resident Koreans to register with the state while retaining their Japanese citizenship (Shin 2010). In 1952, when Japan gained full independence following the signing of the San Francisco Peace Treaty, the government announced that Koreans had lost their right to membership in Japanese society. In the same year, in order to govern this new "alien" population, the government established the Immigration Bureau within the Ministry of Justice (MOJ), the main governmental agency in charge of controlling national borders and resident foreigners.

Such historical inequality continues through new institutional arrangements. According to Shin (2010), the new immigration agency was staffed with officials who had once served the colonial offices in prewar Korea. These former imperial servants, who constituted a "trust network" within the immigration agency in postwar Japan, were charged with making policies dealing with the country's former colonial subjects. The result was the MOJ's adoption and maintenance of highly exclusionary policies throughout the postwar era, denying social rights to resident Koreans and even violating their basic human rights (Shin 2010). However, systematic oppression based on shared identity often unites disadvantaged groups, prompting the development of a collective consciousness and a movement for change.

In Japan, social movements for ethnic minority rights began in the 1960s and 1970s in tandem with the rise of progressive local politics committed to raising quality of life in the midst of rapid industrialization (Haig 2009). A small but highly assertive group of Japanese-speaking second-generation Koreans rose to claim their rights as local residents in such cities as Kawasaki and Osaka, where liberal mayors were open to their demands. At the national level, the compulsory fingerprinting of alien residents highlighted the state insensitivity to ethnic minority rights, drawing sharp criticism and protests from civil rights advocates, including Korean activists. In 1993 heightened opposition pressured the government to finally eliminate the fingerprinting regulation. Taking into account Japan's ascending status in the international community, Gurowitz (1999) argues that international human rights norms, pressed home by Japanese advocates in opposition to the state, played a critical role in the latter's decision to reconsider its position on ethnic minority rights.[3]

A unique aspect of Japan's movement to protect the rights of foreigners, however, is embedded in local politics (Takao 2003). The strong resistance of the national government to the enhancement of ethnic minority rights had long prevented local governments from implementing regional agendas aimed at improving the quality of life for all residents in their respective jurisdictions. But because they were legally responsible for providing public services to all residents regardless of nationality, local governments, along with grassroots groups, including neighborhood associations, took local issues "into their own hands." While the adoption of a series of international conventions in the 1970s officially lifted sources of social inequality against foreigners at the national level, it was at the local level that "a new

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[3] As such, Japan's ratification of a series of international conventions created a watershed in the 1970s and 1980s for the government's amending unequal provisions in law and exclusionary practices against women, children, and ethnic minorities (Tanaka 1999).
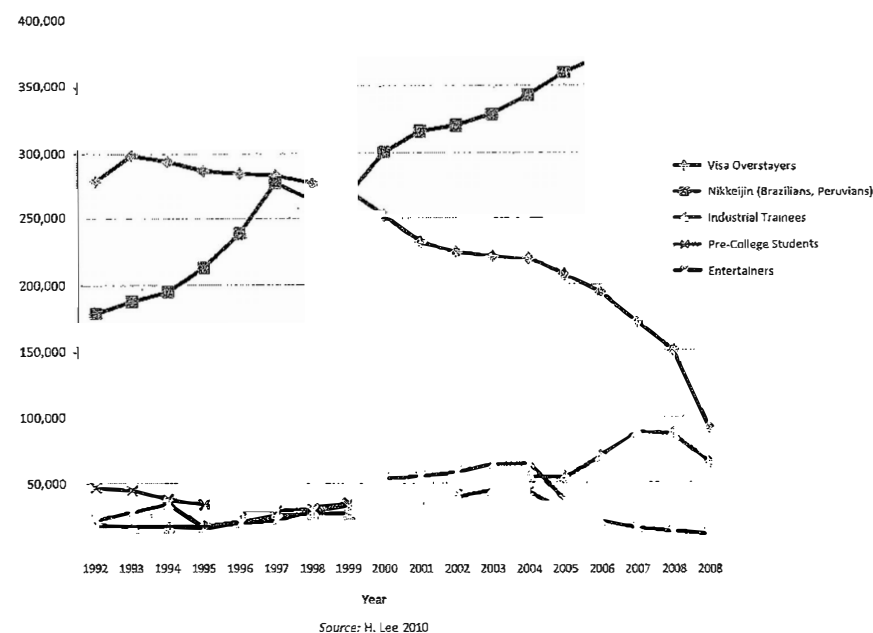
distribution of power and resources" between the state and citizens allowed foreign residents to participate as community members (Takao 2003, 530). The unique position of local governments as an intermediary often put them at odds with the national government in implementing initiatives intended to expand the rights of foreigners. However, as shown here, in the face of a widening disparity between national policy and local realities, the intermediary position of local governments played a significant role in advocating for the rights of global immigrants in the 1990s and the 2000s.

Controlling the Newcomers

As mentioned earlier, a large and diverse population of immigrant workers emerged in Japan during the late 1980s and early 1990s. Their demographics, cultures, and relationships with Japan markedly differed from those of the formerly colonial citizens and their descendants. Beginning with Bangladeshis and Pakistanis in the late 1980s and Iranians in the early 1990s, the new wave of immigrants (the newcomers) had few historical ties with Japan. Many entered the country on tourist visas, working illegally and overstaying their visas to continue their employment. Few spoke Japanese with any fluency, and a large number were unfamiliar with Japanese ways of life.

In response to this influx, in 1990 the Japanese government revised its Immigration Control and Refugee Recognition Law to institute three major changes affecting unskilled labor. First, the law confirmed the state's stance against employment of unskilled foreigners, defining such employment as a criminal offense. Second, it created a new long-term residence visa for foreign nationals of Japanese ancestry (or *Nikkeijin*) up to the third generation, allowing them to enter and reside in the country with few restrictions. Third, the law also created a new visa category for industrial trainees. In the same year, the government instituted a new Industrial Trainee System (ITS, *Sangyō kenshūsei seido*), permitting foreign trainees to receive on-the-job training for two years in companies with less than fifty employees. Because the trainees were not defined as workers, they were conventionally paid below-market wages and were not protected under the Labor Standard Law (Kawakami 2009).[4] In 1993, the government enacted the Technical Practical Trainee System (TPTS, *Ginō jisshūsei seido*), which stipulated that, upon completion of one year's training, trainees would engage in job performance for their second year, this time under the protection of the Labor Standard Law. In 1997, the period of technical practical training was extended to two years, thus permitting trainees to work for up to three years.

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[4] The Labor Standard Law is applied to all workers regardless of nationality.

Figure 9.2 Number of Low-Skilled Foreign Workers in Japan, 1992–2009

Source: H. Lee 2010

Due to Japan's sluggish economy throughout the 1990s and 2000s, labor demand for foreign workers fluctuated greatly. However, the number of *Nikkeijin* (most from Brazil and, fewer, from Peru) continued to increase, surpassing 300,000 in the year 2000 and reaching 377,000 by the end of 2007 (see figure 9.2). Most *Nikkeijin* were hired by labor brokers as temporary workers and were sent to small-scale factories to assemble machinery parts (Higuchi and Tanno 2003). In sharp contrast to the rapidly increasing number of *Nikkeijin*, the number of unauthorized workers decreased steadily during the same period, especially after 2001 and the terrorist attack on New York's World Trade Center. Thereafter, Japanese authorities strengthened law enforcement against foreigners deemed to be "criminal" or potential "terrorist" threats, causing their numbers to dwindle from 252,000 in the year 2000 to less than 200,000 in 2006. The same period witnessed a rapid increase in industrial trainees (two-thirds of whom were Chinese), with their numbers nearly doubling from 36,000 in 2000 to 71,000 in 2006. Because employers often allowed industrial trainees to engage in actual job performance, immigrant rights advocates called them "workers in disguise" (Gaikokujin Kenshusei Mondai Network 2000). In

the labor–short service industries, foreign students, most of whom were Chinese and enrolled in Japanese-language school, worked legally as part-timers to support their student life in Japan. Similarly, professional entertainers were admitted to sing and dance, but many of them, mostly from the Philippines, ended up working as hostesses in bars and clubs.

Assisting the Newcomers

Although opening Japan's "side doors" to increasing numbers of *Nikkeijin* and industrial trainees, the 1990 Revised Law did not address the rights of these newcomers as residents or workers. In the absence of legal protections, these foreign workers frequently encountered inequality based on their nationality, immigrant status, and gender. Immigrants in need of assistance, including the majority of *Nikkeijin* who did not speak fluent Japanese, sought help with local administrations and grassroots groups, usually civic groups known for philanthropy, such as the Catholic Church and community labor unions (Roberts 2003; Shipper 2008; Haig 2009).

As migrant workers' numbers increased, Japanese grassroots activists—socially conscientious citizens, such as religious leaders, labor unionists, social workers, and other professionals—became aware of the urgency and gravity of problems facing immigrants. In order to effectively aid these newcomers, citizen activists formed informal organizations, drawing on previous volunteer experience and existing networks (Shipper 2008). But while these groups were highly dedicated to their cause, a combination of limited memberships (usually less than fifty) and narrow geographic reach, as well as a shortage of funding, seriously undermined their ability to help immigrants (Pekkanen 2006). Consequently, most tended to concentrate their efforts on providing services such as language classes and cultural programs, and solving relatively simple individual problems. Some community-based labor unions provided legal consultation indispensable for unauthorized workers who experienced labor rights violations, such as unpaid wages and industrial accidents (Roberts 2003; Shipper 2008; Urano and Stewart 2007).

Toward the end of the 1990s, recognizing the importance of collective action beyond their localities, loosely connected citizens' groups began coordinating efforts and resources toward the development of systematic strategies and lobbying of national leaders (Milly 2006, 134–135). In 1997, they established the National Network in Support of Migrant Workers (*Ijū rōdōsha to rentai suru zenkoku nettowaku*, commonly called *Ijuren*), dedicated to projecting their agenda directly onto the national political scene, networking policy-specific expertise, and exchanging information on local implementation practices (Okamoto 2004). Two years later, an offshoot of this national advocacy network began consolidating support

for increasing numbers of industrial trainees. Because they were not recognized as workers, industrial trainees were frequently exposed to serious labor abuses and human rights violations at the hands of employers. Activists with the Foreign Industrial Trainee Problems Network (*Gaikokujin kenshusei mondai netowarku*) brought some of the more extreme cases to the local court, thus sending a strong message to abusive employers and the state, which allowed such exploitation to continue (Ibusuki 2009).

Over the years, as immigrant rights' advocates became familiar with administrative procedures in relevant ministries and grew increasingly sophisticated in employing policy expertise, they succeeded in making inroads through regular negotiations with, and mediating among, various national agencies (e.g., Ijuren 2011). However, in Milly's assessment (2006, 148), despite some incremental positive outcomes, on the whole, advocates' efforts have not been successful in bringing about major changes in governmental policies regarding immigrants' rights.

Integrating the Newcomers

According to Pekkanen (2006), Japan's civil society is characterized by its dual structure. On the one hand, large numbers of Japanese citizens belong to voluntary organizations, such as neighborhood associations, that aim to raise social capital. On the other hand, very few participate in advocacy organizations intended to bring about social change. This duality is primarily a result of Japan's "regulatory framework," by which civil society is rigidly controlled by the bureaucracy (Pekkanen 2006). The 1998 passage of the Special Nonprofit Activities Law relaxed many restrictions for some types of nonprofit organizations. However, laws governing formal civil groups granted the bureaucracy enormous power to monitor and sanction their formation, finances and public activities (Pekkanen 2000, 2004b, 369). As a result, independent activist groups view the government with a high degree of suspicion, while the government rarely regards them as equal participants in policymaking (e.g., Flower 2008). In this asymmetrical balance of power between the government and civil society, it has been the national government that, almost singlehandedly, makes decisions regarding major national agenda items, including immigration. However, in the face of an increasing gap between national policy and local realities, new actors emerged by the early 2000s that included mayors and municipal bureaucrats from industrial cities where large numbers of newcomers, mostly *Nikkeijin*, and their families were settled.

In the early 1990s, a sudden and large influx of newcomers imposed serious administrative and financial difficulties on the municipal administrations of industrial cities where they settled. Unlike the governments of Kawasaki and Osaka, which had hosted the oldcomers for decades,

governments of the cities that received newcomers, such as Hamamatsu and Toyota, had no experience managing large and distinct immigrant populations within their jurisdictions. Upon receiving the newcomers, however, these municipal administrations responded with their own innovative programs, offering assistance in the areas of language, health, housing, education, and welfare (e.g., Tegtmeyer Pak 2003; Yamanaka 2006; Haig 2009). But despite the administrations' good intentions, many of the programs failed or were discontinued before they had a chance to succeed. This was because local administrations lacked not only the authority to make decisions about immigrants, but also the financial support to continue programs designed to assist them. Local governments, therefore, relied heavily on temporary funding and volunteer participation to implement special programs for immigrants.

Recognizing the limitations of individual initiatives, in 2001 thirteen mayors of cities with large newcomer populations formed a council with the intent of submitting a collective appeal to the national government for administrative reform (Haig 2009, 127). Since its inauguration, the Council of Cities with High Concentrations of Foreign Residents (CCHCFR; *Gaikokujin shūjū toshi kaigi*) has facilitated the exchange of information and the sharing of experience between member cities, helping to develop alternative policy proposals with which to press the national government for change.[5] These mayors and their deputies, because of their connections with officials in relevant ministries, were able to deliver their demands directly to national policy-makers. They have thus become "the *de facto* voice on immigrant integration in central policymaking circles" (Haig 2009, 129).

Over the years, their efforts have yielded some positive results. In 2006, after one year's research by a special committee, the Ministry of Internal Affairs and Communications (MIC) announced the *Plan for the Promotion of Multicultural Community Building*, intended to provide a framework for local governments to create independent measures to integrate newcomers into their local communities. The plan's central concept, "multicultural coexistence (*tabunka kyosei*) with foreigners," reflected the overarching idea and slogan that many local administrations had been promoting for years before gaining official recognition by the MIC. Since then, many national agencies have proposed their own programs, thus participating in the national debate regarding the integration of newcomers (Roberts 2008; Tai 2009).

However, an unfortunate turn of events in international affairs suddenly halted Japan's nascent efforts to establish a new direction in its

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[5] As of 2010, a total of twenty-eight cities belonged to the CCHCFR.

immigration policies. In the fall of 2008, an economic crisis that began in the United States swept across Japan, causing massive unemployment among workers in the export-oriented manufacturing industry. The negative impact of this recession was far greater on foreigners than on Japanese citizens. Among *Nikkeijin* workers, unemployment was estimated at more than 40 percent, whereas that for indigenous Japanese workers hovered somewhere around 5 percent (Higuchi 2009). As a result, many *Nikkeijin* left Japan, triggering a sharp plunge in their numbers from 377,000 in 2007 to 325,000 in 2009 (see figure 9.2). Similarly, the number of visa overstayers decreased from 150,000 in 2008 to 92,000 in 2009, while industrial trainees dropped from 87,000 to 65,000.

Facing larger numbers of unemployed, and therefore impoverished, *Nikkeijin* workers and their families, the Ministry of Health, Welfare, and Labor announced in 2009 that it would offer a lump sum payment to subsidize the return of *Nikkeijin* to their home countries on the condition that they stay abroad for the ensuing three to five years (San Francisco Chronicle 2009). In my own research in Toyota and Hamamatsu in early 2010, I found that the majority of *Nikkeijin* workers were still unemployed and increasingly impoverished as they lost income and housing (Yamanaka 2010b). In response, municipal administrations organized a task force to assist those unemployed through limited job creation and housing development. However, participants in such efforts involved mostly small numbers of committed Japanese grassroots groups, working to help impoverished immigrant families in their daily lives by running food drives, negotiating with local administrations for public housing, and helping unemployed foreigners fill out application forms for unemployment insurance and social welfare programs.

Conclusion

The account here of the processes and dynamics behind state and civil society efforts in expanding immigrant rights in Korea and Japan elucidates many political factors at work in each country over the last two decades. Both Korea and Japan implemented similar low-skilled immigration programs aimed at economic growth. These programs utilized inexpensive labor supplied by unauthorized workers, contract workers, and returning coethnics from abroad. However, differing paths toward nation building and the roles played by civil society groups in the nation-building process gave rise to contrasting dynamics between key actors in each country, with the end result being the creation of similar policies.

For Korea, the country's recent democratic transition allowed civil society to challenge the state's adoption of policies hostile to immigrant

workers. Meanwhile, the large presence of undocumented workers prompted the state to reform its policies in the early to mid-2000s. In this process, proimmigrant groups, including immigrants themselves, were highly contentious, challenging the state to adopt more inclusive policies. The fact that coethnics from China were initially denied protection motivated some NGO leaders to throw themselves into the fight for immigrant rights. Tacitly combining ethnonationalism with economic rationality, the Korean government approved special treatment for *Chosŏnjok*, legalizing their employment in economic sectors suffering from severe labor shortages.

In Japan, exclusionary policies aimed at controlling former colonial citizens and their descendants continue to shape state policy regarding newcomers, including coethnics from Latin America. Japan's immigration law governs national borders and foreign residents, but does not refer to their rights as workers and residents. *Nikkeijin* workers and their families enjoy many privileges unavailable to immigrant workers of non-Japanese ancestry. Their increasing numbers and lack of access to basic public services, however, prompted municipal administrations to initiate their own integration programs with the collaboration of grassroots organizations. In the absence of effective advocacy groups, it has been the association of these local governments that succeeded in winning the attention of the national government to the mounting problems that they and their foreign residents face.

The present study comparing Korea and Japan highlights the importance of historical and political factors specific to each country that nevertheless have resulted in similar immigration policies. Given the highly restrictive policies employed by countries of immigration in the region, future studies must sort out converging and diverging factors that allow such policies to remain in place.

Acknowledgment

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