

■ Special Issues ■

MIPEX and Japan: Findings and Reflections

Kondo Atsushi and Yamawaki Keizo

Abstract

This paper discusses major findings of MIPEX for Japan.¹⁾ The authors were two of the three reviewers when MIPEX was applied to Japanese migrant integration policy in 2010.²⁾

In terms of the overall scores, Japan ranks as one of the lowest, that is, the 32th out of 37 countries. Among the seven policy areas, particularly low were anti-discrimination and education, followed by political participation and citizenship. The major weakness in anti-discrimination policy lies in the lack of an anti-discrimination law while that of education policy originates in several factors, including insufficient consideration of special needs of foreign children and the lack of intercultural education for all children.

In the concluding section, this paper summarizes the major findings and policy implications for Japan as well as raising some issues concerning limitations of MIPEX.

■ **Key words** : Migrant, Integration Policy, Nationality, Education, Anti-Discrimination

Introduction

The Migrant Integration Policy Index (MIPEX) is an international project on migrant integration policy; it originated in Europe. MIPEX started in 2004, and the second-round assessment was conducted in 2007. The third-round assessment, called MIPEX III, comprises the result of research on migrant integration policies of 37 countries. The authors participated in this research to evaluate Japan's migrant integration policy from a comparative perspective.

Table 1 indicates the scores of the seven policy areas of six major

countries, that is, Sweden, Canada, the United States, the United Kingdom, Germany, France, and South Korea,³⁾ as well as Japan.

Table 1. Scores of Seven Major Countries of MIPEX III (2010).

Countries	SE	CA	US	UK	DE	FR	KR	JP
Labor Market Mobility	100	81	68	55	77	49	81	62
Family Reunion	84	89	67	54	60	52	60	51
Education	77	71	55	58	43	29	56	19
Political Participation	75	38	45	53	64	44	60	27
Long-Term Residence	78	63	50	31	50	46	62	58
Access to Nationality	79	74	61	59	59	59	45	33
Anti-discrimination	88	89	89	86	48	77	54	14
Total	83	72	62	57	57	51	60	38

According to the index, serious challenges Japan faces are in the policy areas of anti-discrimination and education, followed by political participation and access to nationality.

In the following, we aim to clarify what are the issues to consider in order to improve migrant rights in Japan based on the MIPEX assessment. We will go over all the policy areas and focus on the dimensions where Japan earns low scores. In the concluding section, we will sum up major challenges in Japan, and then put forth several issues we faced in applying the index to the Japanese case.

1. Labor Market Mobility

Table 2. Labor Market Mobility.

	SE	CA	US	UK	DE	FR	KR	JP
1.1 Access	100	90	100	80	70	20	70	80
1.2 Access to general support	100	83	83	67	50	50	67	67
1.3 Targeted support	100	50	25	25	88	63	88	13
1.4 Workers' rights	100	100	63	50	100	63	100	88
Total	100	81	68	55	77	49	81	62

Japan scores relatively high on labor market mobility. However, it should be noted that foreign workers discussed here have various statuses of residence. There are two types of residence statuses. Appended Table I of the Immigration Control and Refugee Recognition Act (hereafter referred to as ICRRA) stipulates the residence statuses which are categorized based on one's activity, under which activities and residential terms are restricted. There are fourteen residence statuses for specialized and technical labor: Engineer; Specialist in Humanities or International Service; Entertainer; Intra-company Transferee; Skilled Labor; Instructor; Professor; Religious Activity; Researcher; Investor/Business Manager; Artist; Journalist; and Legal and Accounting Service/ Medical Service.⁴⁾

Appended Table II of the ICRRA lists the residence statuses categories based on one's position or social standing, under which there is no restriction on one's work. The statuses of Long-term Resident,⁵⁾ Spouse or Child of Japanese National, and Spouse or Child of Permanent Resident require renewal of the period of residence, albeit this is a straightforward process. Only Permanent Residents are unrestricted regarding both activity and period of residence. Permanent residents are of two types; ordinary permanent residents and special permanent residents. Special permanent residents are those from former colonies and their descendants under the Special Act on Immigration Control.⁶⁾

Foreigners with residence status under Appended Table I have limited access to the labor market. Foreigners with residence status under Appended Table II have equal access to employment as nationals.⁷⁾ Access to the public sector, except positions which involve an exercise of public authority or important decision making, and the private sector are open to foreign residents. In terms of local public office, there exists the issue of constraints on foreign citizens' appointment to managerial positions. Based on a 2005 Supreme Court ruling, the "assumption doctrine" has emerged, in which foreign citizens are assumed not to take up public official positions, but they are not prohibited under the Constitution. Therefore the issue is left to the discretion of local governments.⁸⁾

Self-employment is allowed only under a few residence statuses, including Permanent Resident and Investor/Business Manager. Persons with such statuses are not subject to any restriction on self-employment. Thus, Japan scores at 80, higher than France or Germany.

Regarding access to general support, there is access to job placement, but access to job training is limited to those who have a permit to work.

Regarding targeted support, qualifications of the origin country are not recognized as in the case of nurses from the Philippines and Indonesia.⁹⁾ There is some targeted support in cities where foreign workers of Japanese descent concentrate,¹⁰⁾ but there is no general measure of labor market integration, such as those against unemployment of foreign workers, and support for access to job placement office is very limited, hence the very low score of 13.

Regarding workers' rights, foreign citizens are entitled to join labor unions. They are eligible for various insurances and allowances such as Employees' Health Insurance, National Health Insurance, Nursing Care Insurance, Employees' Pension Insurance, National Pension,¹¹⁾ and Child Allowance and Unemployment Benefits. However, livelihood protection is limited to Permanent Residents, Spouses/children of Japanese Citizens, Spouses/children of Permanent Residents, and Long-term Residents. The Livelihood Protection Law did not clarify the nationality clause and applied *mutatis mutandis* to persons registered through alien registration and provided them with medical care. When the Immigration Control and Refugee Recognition Law was amended in 1990, the Ministry of Health and Welfare issued a new directive. Since then, the *mutatis mutandis* application covers only foreigners of the Appended Table II of the ICRRRA.¹²⁾

2. Family Reunion

Table 3. Family Reunion.

	SE	CA	US	UK	DE	FR	KR	JP
2.1 Eligibility	100	90	50	40	55	35	60	60
2.2 Conditions for acquisition of status	58	67	58	58	57	34	67	67
2.3 Security of status	88	100	75	75	63	63	63	38
2.4 Rights associated with status	92	100	83	42	67	75	50	42
Total	84	89	67	54	60	52	60	51

Those who are eligible for family reunion can invite their family even if they have lived in Japan for less than a year, except those short-time residents with status of residence such as “Student” or “Cultural Activities.” Those who are eligible for family reunion can invite spouses of minor age. Even if they themselves are minors, they can still invite their spouses.

In terms of conditions for acquisition of status, there is no requirement for language or integration courses for family members before departure. There is no requirement for language or integration courses after arrival, either, but there is a requirement for economic resources. There is no fee for application.

As for security of status, duration of the validity of the permit to stay is equal to that of the sponsor, which is more than one year. Grounds for rejecting, withdrawing, or refusing to renew status include unemployment. Detailed reasons for refusal or withdrawal are not disclosed because they are exempted from the Administrative Procedure Act, and they are not able to appeal because they are exempted from the Administrative Appeal Act.

As for rights associated with status, right to autonomous residence permit for partners and children reaching age of maturity is guaranteed only after three years of stay. Right to autonomous residence permit in case of widowhood, divorce, separation, death, or physical or emotional violence is guaranteed only on limited grounds. Access to education and

training for adult family members is the same as the sponsor.

3. Education

Table 4. Education.

	SW	CA	US	UK	DE	FR	KR	JP
3.1 Access	57	64	86	57	43	50	79	43
3.2 Targeting needs	90	90	60	63	30	13	63	27
3.3 New opportunities	88	63	31	19	50	19	50	0
3.4 Intercultural education for all	75	67	42	92	50	33	33	8
Total	77	71	55	58	43	29	56	19

Regarding access to education, access to preschool education is available for every foreign national regardless of status of residence, but there is no targeted measure to increase participation of migrant pupils.¹³⁾ Because compulsory-age education is not compulsory for foreign children, in practice access to compulsory-age education is limited. However, since there is no impediment to equal access in law, it can be interpreted as an “implicit obligation” for all children. According to the Ministry of Education, the Constitution does not require that foreign children be given compulsory education, but that pursuant to the Article 13 of the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child, the Ministry permits them to attend elementary and secondary public schools if they choose to do so.¹⁴⁾ As for the assessment in compulsory education of migrants’ prior learning and language qualifications and learning obtained abroad, there are neither standardized criteria nor tools. There is no requirement to use trained staff, either. While there is support to access secondary education, access and support to access and participate in vocational training are insufficient. There is access to higher education regardless of residence status, but there is no support to access. There is access to advice and guidance on the system and choices for compulsory education, but it is limited for non-compulsory education.

As for targeting needs, there is no requirement for provision in schools of intensive induction programs for newcomer pupils and their families about the country and its education system. There is provision of support in Japanese language for migrant pupils in compulsory education, but not in preschool education. There is no system disaggregating migrants into various kinds of sub-groups. As for targeted policies to address the educational situation of migrant groups, there is some provision of guidance, but no provision of financial resources. Teacher training and professional development programs are not sufficient in both pre-service and in-service trainings.

As for new opportunities, there is no provision of an option to learn immigrant languages. There is no provision of an option to learn about migrant pupils' cultures and their or their parents' country of origin, either. There is no monitoring segregation between educational institutions. There are no measures to promote societal integration. There are no measures to support migrant parents and communities in the education of their children. Japan scores 0 points for this dimension, but we would like to mention that the Ministry of Education gave a tacit approval to local governments offering Korean nationals an opportunity to learn Korean language and culture in the extracurricular activities in schools when the memorandum on Korean nationals in Japan was exchanged between the Foreign Ministers of Japan and South Korea in 1991. Also in schools with a large number of migrant pupils, there are classes and extracurricular activities to learn about migrant pupil's country of origin, part of which is supported by the government.

As for intercultural education for all, it is not fully included in the curriculum and there is no emphasis on the appreciation of cultural diversity. There is no state support for public information initiatives to promote the appreciation of cultural diversity throughout society.¹⁵⁾ The school curricula and teaching materials cannot be modified to reflect changes in the diversity of the school population. There is no measure to support bringing migrants into the teacher workforce. Teacher training and professional development programs do not include sufficiently inter-

cultural education and the appreciation of cultural diversity for all teachers. In this dimension, Japan scores very low at eight, but we would like to add that in schools with a large number of migrant pupils, there are classes and extracurricular activities to appreciate cultural diversity.

4. Political Participation

Table 5. Political Participation.

	SE	CA	US	UK	DE	FR	KR	JP
4.1 Electoral rights	100	0	17	50	0	0	67	0
4.2 Political liberties	100	100	100	100	100	67	33	83
4.3 Consultative Bodies	0	0	15	0	68	28	40	25
4.4 Implementation Policies	100	50	50	60	90	80	100	0
Total	75	38	45	53	64	44	60	27

Regarding political participation, the right to vote and the right to stand for elections are not allowed for foreign residents at all national, prefectural, and municipal levels. After the general election of 2009, which resulted in the Democratic Party of Japan (DPJ) becoming the ruling party, the submission of a bill for permanent residents' local suffrage became conceivable. However, one of the governing coalition parties opposed the bill. In 2010 the Government lost its majority in the Upper House and prospects for the submission of the bill dimmed.¹⁶⁾ Since then, there has been no debate by policy makers or in the media on local suffrage for foreign residents. Concerning political liberties, the right to association is granted to foreign residents, but the right to create media is limited and representatives and two thirds of executives must be Japanese nationals in TV and radio companies.

There is no consultative body of foreign residents at the national level, but there are many at prefectural and municipal levels.¹⁷⁾ As for implementation policies, there is no active policy of information at the national level. There is no public funding or support of migrant organizations on national, prefectural, and municipal levels. Indeed, some local

governments financially support migrant organization’s activity, but they are not ordinal expenditures. Ethnic schools receive financial support from some prefectural governments, but the amount is small compared with Japanese private schools.

5. Long-Term Residence

Table 6. Long-Term Residence.

	SE	CA	US	UK	GE	FR	KR	JP
5.1 Eligibility	75	67	50	0	33	8	42	67
5.2 Conditions for acquisition of status	50	35	50	17	8	46	50	38
5.3 Security of status	86	50	36	21	71	79	57	43
5.4 Rights associated with status	100	100	63	88	88	50	100	88
Total	78	63	50	31	50	46	62	58

With regard to permanent residence permission, the required time of habitual residence is ten years as a general rule. Under Article 22-2 of the ICRRA, permission for permanent residence is granted at the discretion of the Minister of Justice where the applicant’s residence is determined to be in the interests of the state and he/she fulfils two legal requirements: 1) good behavior and conduct; and 2) sufficient assets or skills to make an independent living. In addition, the administrative interpretation of “interests of the state” consists of another practical condition; 1) a continuous term of residence of ten years in general; 2) one year for a child of a Japanese national/permanent resident; 3) three years for a spouse of a Japanese national/permanent resident; and 4) five years for a long-term resident, including refugees.¹⁸⁾ Certain kinds of foreign nationals, such as trainees and technical interns, cannot apply for permanent residence. The residence term of trainees is for only one year and most of them change the residence status to designated activities (as technical interns) for another two years, but then all of them must return to their country of origin. The purpose of the trainee and technical intern system is the transfer of technology to developing countries, but in many

cases it is used as a kind of rotation system for cheap, unskilled foreign workers.¹⁹⁾ Since July 2010 most trainees have transferred to a new residential status as “Technical Intern,” but they are still required to return to their country of origin within three years. On the other hand, time of residence as a student is counted and the period of absence allowed before granting of status is rather long (eighteen months in three years).

There is no language requirement in the conditions for acquisition of status. However, there is a requirement for economic resources. There is no regulation on the maximum length of application procedure. The costs of application and issue of status are rather low, that is 8,000 yen.

Concerning security of status, the duration of validity of permit is unlimited. On the other hand, since renewal and confirmation issuance of alien registration card, which was abolished in 2012,²⁰⁾ had to be renewed every five years, the duration is five years. Renewal of the permanent residence permit is automatic. Permanent residents can stay abroad for four years. Grounds of rejecting, withdrawing, or refusing to renew status are proven fraud in the acquisition of permit, actual and serious threat to public order or national security, and a sentence for serious crimes. There is protection against expulsion after taking due account of: a) personal behavior, b) the age, c) duration of residence, d) family situation, e). existing links to Japan, f) non-existing links to the resident’s country of origin, and so on, in accordance with the Guidelines on Special Permission to Stay in Japan.²¹⁾

Expulsion is not precluded even in cases of a) long-term residents for 20 years or longer, b) minors or c) residents born in Japan or admitted to Japan before they were 10 once they have reached the age of 18. Grounds for refusal, non-renewal, or withdrawing residential status are not explained by the Immigration Control Bureau. There is also an exemption from appeal under the Administrative Appeal Act in case of foreign residents.

Concerning rights associated with status, residence right after retirement is maintained. Access to employment (with the only exception of activities involving the exercise of public authority), self-employment and

other economic activities, and working conditions are equal to Japanese nationals. Access to social security, social assistance, health care and housing are equal to Japanese nationals. Some professional qualifications from abroad are not recognized.

6. Access to Nationality

Table 7. Access to Nationality.

	SE	CA	US	UK	GE	FR	KR	JP
6.1 Eligibility	60	95	80	65	90	75	30	40
6.2 Conditions for acquisition of status	71	67	36	30	33	25	38	41
6.3 Security of status	86	36	29	43	64	36	36	50
6.4 Dual nationality	100	100	100	100	50	100	75	0
Total	79	74	61	59	59	59	45	33

With regard to eligibility, foreigners can apply for naturalization after five years' residence in general. The Minister of Justice may permit naturalization under certain conditions: (i) having had a domicile in Japan for at least five consecutive years; (ii) being at least twenty years of age; (iii) being a person of good conduct; (iv) being able to make a living through one's assets or abilities, or those of a spouse or relative; (v) not having the citizenship of another country, or renouncing one's citizenship due to the acquisition of Japanese citizenship; and (vi) not having planned or advocated the destruction of the Constitution or the Government of Japan²²⁾ Periods of absence allowed prior to acquisition of nationality are said to be up to six non-consecutive months in five years in practice. Spouses of nationals can apply for naturalization after three years' residence (or one year of residence if the marriage has existed more than three years).²³⁾ However, the residence requirement for partners/co-habitees of nationals is the same as foreign residents in general. Second generation persons need to apply for naturalization even if they are exempt from the five years' residence requirement.²⁴⁾

With respect to conditions for acquisition, in practice, it is said that

applicants are expected to have Japanese language proficiency equivalent at least to the level of a third-year primary school pupil. Language requirement exemptions for elderly and others are not stipulated in law. There is no integration requirement, although there used to be a requirement of adoption of the “Japanese life style” in the past.²⁵⁾ There are requirements for economic resources, non-criminal record, and good character.²⁶⁾ There is no maximum length for the application procedure. The application and issue of nationality title are both free.

Regarding security of status, additional grounds for refusing status are a) proven fraud in the acquisition of citizenship and b) actual and serious threat to public order or national security. Discretionary powers in the refusal process are wide. Before refusal, due account is taken of a) personal behavior of the resident, b) the age, and c) duration of residence and holding of nationality. Grounds for refusal are not explained by the Legal Affairs Bureau of the Ministry of Justice. There is also an exemption from appeal. There is no withdrawing procedure of nationality.²⁷⁾ It is required to renounce a foreign nationality upon naturalization for the first generation unless the country of origin does not allow his or her renunciation of citizenship.

Dual nationality is not allowed for the second and third generations after they reach 22 years old. Article 15 of the Nationality Act stipulates that individuals with multiple nationality will receive, by the age of 22 or two years after they gain multiple nationality if they acquired the status after they turned 20, “written notice that nationality must be selected to any Japanese citizen having a foreign nationality who has not selected Japanese nationality,” and those individuals “shall lose Japanese nationality when the period has elapsed if the selection of Japanese nationality is not made within one month of receiving the notice.”²⁸⁾

7. Anti-Discrimination

Table 8. Anti-Discrimination.

	SE	CA	US	UK	GE	FR	KR	JP
7.1 Definition and concepts	79	100	100	100	50	86	29	14
7.2 Field of application	100	100	100	100	75	100	100	0
7.3 Enforcement mechanism	83	63	88	67	50	67	42	29
7.4 Equality policies	89	94	67	78	17	56	44	11
Total	88	89	89	86	48	77	54	14

There is no anti-discrimination law in Japan, although Japan acceded to the International Convention on the Elimination of All Forms of Racial Discrimination in 1995. Obviously, this leads to a very low evaluation, because there is no clear definition or concept of discrimination, no field of application, very limited enforcement mechanism, and no consistent equality policies. Article 14 of the Constitution prohibits racial discrimination, but it does not have a direct effect on the private space. Instead, Article 90 of the Civil Code invalidates discriminatory conduct in private life and Article 709 of the Civil Code stipulates the compensation for damage. There are court rulings confirming compensation of damages in cases where individuals are discriminated against in the private sector. The Hamamatsu Branch of the Shizuoka District Court ordered the owner of a jewelry shop to pay 1.5 million yen for non-material damages based on racial discrimination in the Ana Bortz Case on 12 October 1999.²⁹⁾ The Sapporo Appellate Court ordered the owner of a bathhouse to pay three million yen for non-material damages based on racial discrimination in the Arudou Debito et.al. Case on 16 September 2004.³⁰⁾ Grounds for access to justice for victims cover race, ethnicity, religion, belief, and nationality.

Conclusion

We have presented an overview of the MIPeX assessment of Japan. We found that serious challenges Japan faces are in the policy areas of anti-discrimination and education, followed by those of political participation and citizenship. Even if the scores of labor market, family reunion and long-term residence are not so low, there still remain several important issues to deal with in these policy areas as well. By way of conclusion, we will reiterate the major challenges.

First, Japan fails to fairly recognize foreign residents' skills and certification from their countries of origin. Second, the ICRRRA lacks a systematic guideline for family reunion. Third, intensive introductory programs for newcomers and the option for migrant pupils to learn their mother tongues at school need to be institutionalized. Fourth, there are not enough measures to promote political participation of migrants. Fifth, the residence requirement for permanent residence permission of ten years seems to be too long. Sixth, Japan needs to consider the introduction of the *jus soli* or *jus domicili* system. Seventh, the enactment of an anti-discrimination law is an urgent task.

Lastly, we would like to put forth five issues we faced while participating in MIPeX. First, there are several other migration policy indicators like MIPeX; we believe all share the same difficulty in setting which aspects of policy are to be evaluated and how many points are to be allocated to each aspect.

Second, the assessment given to a country on each policy indicator may very well differ depending on the evaluator. This problem is almost unavoidable in formulating evaluative indicators like MIPeX. MIPeX does attempt to mitigate this by having evaluators work alongside the informants for each country. However, let us take the case of Japan's policy towards Nikkei (foreign nationals of Japanese descent) and the areas that host a high proportion of these migrants as an example.³¹⁾ A proposition was made that points be added to Japan's assessment on the basis that the Japanese government has some measures in place to

assist the integration of Nikkei. This proposition was denied, given that Nikkei made up only a small proportion (around 15 percent) of all registered foreign nationals in Japan. This is not surprising given the emphasis that MIPeX places on the egalitarian nature of policies. Another example can be seen in the question as to whether prefectural governments employ migrant advisory bodies. In Japan's case, the number of prefectures that have installed advisory bodies is increasing, so the answer may be "yes," but at the same time, this does not represent a majority of prefectures, which may prompt evaluators to answer "no." In the end, "yes" was chosen, and examples of prefectures with active advisory bodies were given.

The third issue we would like to raise is that as long as the arbitrariness of evaluations is left unresolved, the latitudinal or country-to-country comparison and subsequent ranking of countries risks some sort of stereotype. It would be more appropriate to base results on a longitudinal assessment that indicates whether policies of a certain country have improved its protection of the rights of migrants over time or whether in fact this has deteriorated.

The fourth point we would like to make is regarding the difficulty in applying the indicators to countries like Japan, due to the European nature of the assessment criteria. One such example is the issue of language requirements for naturalization. Although Japanese citizenship law does not specify any language requirements, in practice, it is said that applicants are expected to have Japanese proficiency equivalent at least to that of a third-year primary school pupil. This is apparently judged based on whether or not applicants can comprehend written texts that use kanji (Chinese characters) taught in the first three years of Japanese schooling. While we agree that the use of such a peculiar assessment should be criticized, it was difficult to judge whether or not this required language level was equivalent to the A2 Level of the Common European Framework of Reference for Languages, that is, "can understand very short and simple texts." Another example relates to "monitoring segregation between educational institutions" and "measures to promote societal

integration.” In countries where the proportion of the migrant population is large and segregation is serious, these measures are vital, but in countries where the proportion is still small, the absence of these measures may not be as critical.

The fifth and final point is that assessing whether or not the rights of migrants are officially guaranteed by formal laws does not always reflect whether these rights are substantially protected. Sweden, for example, consistently receives the highest result in the overall evaluation, with full marks for labor market mobility. However, as can be seen in Table 9, the difference between the rate of unemployment of native-born and foreign-born population is quite large in continental Europe—much larger than in the other countries. This is evidence that equal labor market participation is not being achieved in reality. This may be because the latter, all of which are English-speaking, tend to attract a larger proportion of highly skilled migrants, while Nordic countries like Sweden have accepted a larger proportion of refugees and other humanitarian entrants. Therefore, one should be aware that MIPEX results, which basically consider the formal legal systems and policies, do not necessarily agree with those of other integration indicators which aim to measure substantive practice.

Table 9. Unemployment Rates of Native - and Foreign-born Population (2011) as a Percentage of Total Population.

	SE	CA	US	UK	DE	FR
Native-born	6.0	7.2	6.8	8.0	5.4	8.5
Foreign-born	16.0	8.9	7.5	9.4	9.5	15.1

Source: OECD (2013).

1) We would like to thank KASHIWAZAKI Chikako, the professor of Keio University, for her valuable comments on the draft of this paper. She was one of the peer reviewers of the MIPEX III assessment of Japan.

2) MIPEX (2013).

- 3) As for comparative research on migrant integration policy between South Korea and Japan, see also Nagy (2009); Chung (2010); Chung & Kim (2012); Lee (2013).
- 4) “College Students” can work for twenty-eight hours per week. In addition, “Dependent (family stay), Cultural Activities and Designated Activities” are non-working residence statuses, but holders may engage in work when permission is obtained. Furthermore, it should be noted that “Trainee and Technical Intern” program can be classified as an entry scheme for unskilled labor migration. See IOM (2003).
- 5) The Long-term Resident status for Japanese descendants and their family members is officially explained as providing opportunities for holders to visit relatives in Japan. However, the hidden intention of policymakers must have been to solve labor shortages extant since the late 1980s. See Surak (2008) 562 & Kond (2008) 26.
- 6) See Kondo (2010), 107-108.
- 7) Article 2-2 (2).
- 8) Supreme Court. grand bench, 26 January 2005, 59 Minshu 128. See Kearney (1998).
- 9) Economic Partnership Agreement (EPA) programs brought Japan 1,869 nurses and care-workers from Indonesia (2008-2013) and the Philippines (2009-2013). However, where these candidates wish to extend their stay beyond the designated terms of three or four years, respectively, they are required to pass the relevant national examinations, which are offered only in Japanese. Due to the difficulty inherent in mastering Japanese, a mere 96 of 1451 nurse candidates passed the examination in 2009-2013, and only 164 of 417 care-worker candidates succeeded in 2012 and 2013. As for the research on the examination of foreign nurses and care workers in Japan, see Seyowati (2012); Kawaguchi (2012).
- 10) See Council for the Promotion of Measures for Foreign Residents (2009). Cabinet Office. (2009).
- 11) However, the National Pension has some loopholes. First, foreign citizens who became disabled persons before the revision of the National Pension Act in 1982 are ineligible to receive a Disability Pension. Second, those foreign citizens who were aged thirty-five years or older at the time of revision of the National Pension Act in 1986 were rendered ineligible for an old-age pension because they lacked the requisite contributory premiums of twenty-five years. As for employees’ pensions, although many foreign citizens, such as Brazilians of Japanese origin, are eligible, employers of small companies are reluctant to pay their required half of the insurance premiums. In addition, many unskilled foreign workers are disinclined to pay their half, because most of them consider leaving Japan after several years and the maximum lump-sum withdrawal payment is for only three years, even if they stay longer. See Iwasawa (1998), 167-76; Hanami (1998), 224-225; Hur (2002), 659-660; Webster (2011), 587-590.
- 12) See Kondo (2001), 17-8.
- 13) There is some targeted support in cities where foreign workers of Japanese origin concentrate. See footnote 6. “Rainbow Bridge Classrooms” were established in 2009

to support migrant children who wish to enroll in schools.

- 14) See Sumi (2002), p. 352 and Kondo (2010) pp. 112-113.
- 15) However, it should be noted that the Ministry of Internal Affairs and Communication issued the “Plan for Promoting Tabunka Kyousei (Living Interculturally) in Local Communities” and advised local governments to come up with similar plans and guidelines in 2006. See Yamawaki (2008), Kondo (2011a), Kashiwazaki (2013), p. 42.
- 16) Kondo (2011b), p. 282.
- 17) Shipper (2008), pp. 136-138.
- 18) Immigration Bureau. Ministry of Justice. (2006).
- 19) See Komai (2001), pp. 38-40; Sumi (2001), pp. 315-320; Kondo (2008), p. 26.
- 20) In July 2012, the Alien Registration Act was abolished and a new registration system was established. New “residence cards” are issued by the Ministry of Justice to “mid-to long-term residents” who are lawfully residents for more than three months, and who have an obligation to carry these cards on their persons at all times. On the other hand, new “special permanent resident certificates” are issued to special permanent residents who no longer have an obligation to carry them.
- 21) Immigration Bureau. Ministry of Justice. (2009).
- 22) Article 5 of the Nationality Act.
- 23) Article 7 of the Nationality Act.
- 24) Three years residential term for (facilitated) naturalization. See Article 6-2 of Nationality Act. For the third generation, (facilitated) naturalization does not need the requirement on residential term. See Article 6-2 of the Nationality Act.
- 25) See Kondo (1999), p. 126. Also see Iwasawa (1998), p. 139.
- 26) The requirement of good character is adopted in naturalisation laws of a number of other countries as well. In Japan, administrative practice is such that minor offences have been considered problematic. Applicants who have a traffic violation record, for instance, may be advised to reapply a few years later. See Kashiwazaki (2000), p. 443.
- 27) There is no provision for withdrawal on ground of fraud or threat to public policy, but there is a provision for “citizenship reservation system”-under Article 12 of Nationality Act: dual citizens born in foreign countries lose Japanese citizenship unless their parents' indicate desire to preserve Japanese citizenship within three months after the child's birth.
- 28) See Murazumi (2000).
- 29) See Webster (2007a) & Yamanaka (2003).
- 30) See Webster (2007b) & Arudou (2004). As for the Murthy case, McGowan case, and so on, see Webster (2008).
- 31) See Council for the Promotion of Measures for Foreign Residents. (2009) and Cabinet Office. (2009).

References

- Arudou, D. (2004). *Japanese Only: The Otaru Hot Springs Case and Racial Discrimination in Japan*. Tokyo: Akashi Shoten.
- Chung, E. A. (2010). Korea and Japan's Multicultural Models for Immigrant Incorporation. *Korea Observer*, 41(4), 649-676.
- Chung, E. A., & Kim, D. (2012). Citizenship and Marriage in a Globalizing World: Multicultural Families and Monocultural Nationality Laws in Korea and Japan. *Indiana Journal of Global Legal Studies*, 19(1), 195-219.
- Council for the Promotion of Measures for Foreign Residents (2009) Promotion of Support Measures for Foreign Residents in Japan (16 April, 2009). Retrieved 20 November 2013 from <http://www8.cao.go.jp/teiju-portal/eng/policy/outline.html#anc02>
- Hanami, T. (1998). Japanese Policies on the Rights and Benefits Granted to Foreign Workers, Residents, Refugees and Illegals. In M. Weiner and T. Hanami (Eds.). *Temporary Workers or. Future Citizens? Japanese and U.S. Migration Policies*. (pp. 211-237). New York: New York University Press.
- Hur, C. J. (2002). Returnees from South America: Japan's Model for Legal Multiculturalism? *Pacific Rim Law & Policy Journal*, 11, 643-686.
- International Organization for Migration. (2003). *World Migration 2003*. Geneva: IOM.
- Iwasawa, Y. (1998). *International Law, Human Rights, and Japanese Law: The Impact of International Law on Japanese Law*. Oxford: Clarendon Press.
- Japan. Cabinet Office. (2009). Outline of Immediate (Short-Term) Support Measures for Foreign Residents in Japan (30 January 2009). Retrieved 20 November 2013 from <http://www8.cao.go.jp/teiju-portal/eng/policy/outline.html#anc02>
- Japan. Ministry of Justice. Immigration Bureau. (2006). Guidelines for Permission for Permanent Residence. Retrieved 20 Nov. 2013 from <http://www.moj.go.jp/content/000099622.pdf> .
- _____. _____. _____. (2009). Guidelines on Special Permission to Stay

in Japan. Retrieved 20 Nov. 2013 from <http://www.moj.go.jp/content/000048156.pdf> .

- Kashiwazaki, C. (2001) Citizenship in Japan Legal: Practice and Contemporary Development. In Douglas B. K., & Thomas A. A. (Eds.), *From Migrants to Citizens: Membership in a Changing World*. (pp. 434-71). Washington, DC: Carnegie Endowment for International Peace.
- _____. (2013) Incorporating Immigrants as Foreigners: Multicultural Politics in Japan. *Citizenship Studies*, 17 (1), 31-47.
- Kawaguchi, Y., Hirano O. Y., Ogawa R., & Ohno S. (2012). Exploring Learning Problems of Filipino Nurse Candidates Working in Japan: Based on the Results of a Practice National Board Examination of Japan Given in English. *Academic Journal of Southeast Asian Studies*, 49 (4), 643-651.
- Kearney, J. M. (1998). Local Public Employment Discrimination against Korean Permanent Residents in Japan; A U.S. Perspective. *Pacific Rim Law & Policy Journal*, 7, 197-227.
- Komai, H. (2001). *Foreign Migrants in Contemporary Japan*. Melbourne: Trans Pacific Press.
- Kondo, A. (1999). From the 'Monoethnic' State to Cultural Pluralism in Japan. In Janina, W. D. & Charles, W. (Eds.), *Governance of Cultural Diversity* (pp. 112-152). Stockholm: CEIFO at Stockholm University.
- _____. (2001). Citizenship Rights for Aliens in Japan. In Kondo, A. (Ed.), *Citizenship in a Global World: Comparing Citizenship Rights for Aliens* (pp. 8-30). New York: Palgrave Macmillan.
- _____. (2008). New Challenges for Managing Immigration in Japan and Comparison with Western Countries. In Kondo, A. (Ed.), *Migration and Globalization: Comparing Immigration Policy in Developed Countries* (pp.15-48). Tokyo: Akashi Shoten.
- _____. (2010). Substantive Citizenship for Foreign Residents and Multicultural Living-Together in Japan. In Tsujimura M. & Osawa M. (Eds.), *Gender Equality in Multicultural Societies* (pp. 99-135). Sendai: Tohoku University Press.
- _____. (2011a). Migrant Integration Policy in Japan *Meijo Law Review*

61(1), 3-30.

- _____. (2011b). Foreign Voters in Japan. *ICCLP Publications 11: Japanese Reports for the XVIIIth International Congress of Comparative Law (Washington, 25 July-1 August 2010)*. (pp. 280-301). Tokyo: International Center for Comparative Law and Politics, Graduate School of Law and Politics, University of Tokyo.
- Lee, B. (2013). International Human Rights Norms and Immigration Policy in Korea and Japan. *GEMC Journal* 8, 60-78.
- MIPEX (2013). Migrant Integration Policy Index. Retrieved 20 November 2013 from <http://www.mipex.eu/>.
- Surak, K. (2008). Convergence in Foreigners' Rights and Citizenship Policies? A Look at Japan. *International Migration Review*, 42(3), 550-575.
- Murazumi, M. (2000). Japan's Laws on Dual Nationality in the Context of a Globalized World. *Pacific Rim Law & Policy Journal* 9, 415-443.
- Nagy, S. R. (2009). Migration and the Potential for International Cooperation in East Asia: A Comparative Examination of State Integration Policies in Japan and Korea. In Akaha, T. and Nagy, S.R. (Eds.), *Asian Regional Integration Review*, 1, 1-19.
- OECD. (2013). Unemployment Rates of Native- and Foreign-born Population. As a Percentage of Total Population. Retrieved 10 November 2013 from Digital Object Identifier : 10.1787/factbook-2013-table26-en.
- Seyowati, OHNO, S., HIRANO O. Y., & Krisna Y. (2012). Indonesian Nurses' Challenges for Passing the National Board Examination for Registered Nurse in Japanese: Suggestions for Solutions. *Academic Journal of Southeast Asian Studies*, 49 (4), 629-642.
- Shipper, A. W. (2008). *Fighting for Foreigners: Immigration and Its Impact on Japanese Democracy*. London: Cornell University Press.
- Sumi, S. (2001). Global Migration: The Impact of "Newcomers" on Japanese Immigration and Labor Systems. *Berkeley Journal of International Law*, 19, 265-327.
- _____. (2002). Newcomer migrants: implications for Japan's administration of social services and nationality. *UCLA Journal of International Law and Foreign Affairs*. 6(2), 313- 363.
- Webster, T. (2007a). *Bortz v. Suzuki*, Judgement of October 12, 1999,

- Hamamatsu Branch, Shizuoka District Court. *Pacific Rim Law & Policy Journal*, 16(3), 631-667.
- _____. (2007b). Arudou v. Earth Cure: Judgment of November 11, 2002 Sapporo District Court. *Asian-Pacific Law & Policy Journal*, 9 (297), 297-321.
- _____. (2008). Reconstituting Japanese Law: International Norms and Domestic Litigation. *Michigan Journal of International Law*, 30 (211), 211-250.
- _____. (2011). Insular Minorities: International Law's Challenge to Japan's Ethnic Homogeneity. *North Carolina journal of International Law*, 36(3), 557-591.
- Yamanaka, K. (2003). A Breakthrough for Ethnic Minority Rights in Japan: Ana Bortz's Courageous Challenge. In Mirjana M. et.al. (Eds.), *Crossing Borders and Shifting Boundaries. Vol.1: Gender on the Move*. (pp. 231-259). Opladen: Leske + Budrich.
- _____. (2008). The Challenges for Japanese Immigrant Integration Policy. *Around the Globe*, 4(2), 41-44.

Biographical Note

Atsushi Kondo is the Professor at Meijo University. He received his LLD from Kyushu University and has been a visiting fellow at Stockholm University, University of Oxford, and Harvard Law School. He has authored and edited a number of books in both Japanese and English, including "Citizenship in a Global World" (Palgrave Macmillan, 2001), "New Concept of Citizenship" (CEIFO Stockholm University, 2003), and "Migration and Globalization" (Akashi Shoten, 2008).

Yamawaki Keizo is the professor of Meiji University, Tokyo. He is one of the leading experts in migration integration in Japan. He has been on the committees on migrant integration of local governments as well as those of the central government. The report of the committee on local migrant integration he chaired, organized in 2005 by the Ministry of Internal Affairs and Communications, was the first governmental document on migrant integration in Japan. In 2012 he was based in Europe as a visiting fellow of the University.

Date of the submission of the article: December 2, 2103

Date of the peer-review: December 18, 2013

Date of the confirmation of the publication: January 6, 2014