

Japan's Recent Developments in Immigration Law and Policy: Reform on the Admission System of Highly Skilled Professionals, Technical Interns, and Domestic Workers

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ABSTRACT

This paper analyzes law and policy relating to foreign workers in Japan. In the era of “*Abenomics*” or economic policies advocated by Prime Minister Shinzo Abe’s second administration, immigration has been widely debated in Japan against a background of falling birthrates and an aging society, as well as globalization. In regard to immigration reform, the paper will introduce Japan’s point-based immigration system which was recently revised by the Government, and recent debate regarding Technical Internship Program, and discussion on accepting foreign domestic workers, then will make some comments on them.

Keywords: immigration reform, Japan, point-based system, Technical Internship Program, domestic workers, foreign workers, aging society, globalization, labor and employment law, immigration law, labor market

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1. INTRODUCTION

This paper analyzes law and policy relating to foreign workers in Japan.¹ In the era of “*Abenomics*” or economic policies advocated by Prime Minister Shinzo Abe’s second administration Since 2012, which contains “three arrows,”² such as, fiscal stimulus, monetary easing and structural reforms, immigration, as one of the elements of the third arrow, has been widely debated in Japan against a background of falling birthrates and an aging society, as well as globalization.

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² An episode of Motonari Mori (a prominent samurai in the 16 century) mentioned to his three sons, “one arrow could be broken easily, but three arrows held together could not.”

The number of foreign nationals living in Japan was 2.22 million at the end of 2008, the highest it has been throughout history.³ The number, however, continuously decreased to 2.08 million at the end of 2011, through the global recession and after the disaster of Japan on March 11, 2011. In addition, there are around 60,000 foreign nationals who are overstaying in Japan in contravention of the Immigration Control and Refugee Recognition Act (hereinafter referred to as the Immigration Control Act),⁴ the majority of who are thought to be working illegally.⁵ It is roughly estimated that approximately 800,000 foreign nationals is working in Japan.⁶

The challenge of ensuring a labor force sufficient to meet Japan's nursing and welfare needs, as the country experiences a declining birthrate and aging society, as well as maintain the productivity of its manufacturing output despite a declining population, is a contemporary policy issue. While on some levels the utilization of young people, women and the elderly in Japan, who have conventionally not been able to access sufficient employment opportunities, is being proposed as a solution to this problem, the idea of allowing foreign workers to immigrate to work in areas hitherto closed to them is also being considered.⁷ Furthermore, given the developments in globalization within both economy and society, there is a current policy issue regarding not only the training of Japanese human resources but also the proactive immigration of a diverse range of highly qualified foreign nationals in order to maintain and strengthen Japan's international competitiveness.

From a medium to long-term perspective, while the creation of policy that ensures Japan will be

³ There were 2,217,426 foreign nationals registered in Japan at the end of 2008, equivalent to 1.74% of the total population (Japan Immigration Association (2009), p.3). This number, however, decreased slightly in 2009 because of the economic crisis. There were 2,186,121 foreign nationals registered in Japan at the end of 2009, which is 1.71% of the total population of Japan. *See* Ministry of Justice's web site, http://www.moj.go.jp/nyuukokukanri/kouhou/nyuukokukanri04_00005.html. Then, the number decreased more in the aftermath of the Great East Japan Earthquake on March 11, 2011. There were 2,078,508 at the end of the year, which is 1.63% of the total population. *See* Immigration Bureau of Japan, press release dated June 4, 2012, available at http://www.moj.go.jp/nyuukokukanri/kouhou/nyuukokukanri04_00021.html (last visited Dec. 5, 2012). There were 2,066,445 at the end of 2013 under the new system of the residency management act. *See* Immigration Bureau of Japan, press release dated March 20, 2014, available at http://www.moj.go.jp/nyuukokukanri/kouhou/nyuukokukanri04_00040.html (last visited April 30, 2014). There were 2,086,603 at the end of June, 2014. *See* Ministry of Justice, press release dated Oct. 21, 2014, available at http://www.moj.go.jp/nyuukokukanri/kouhou/nyuukokukanri04_00043.html (last visited Feb. 24, 2015). The statistics under the new system excludes certain foreigners, *see* below n. 16, and adds the number of special permanent residents, so the numbers of statistics before and after 2012 cannot be simply compared.

⁴ 59,061 foreigners have remained illegally in the country as of Jan. 1, 2014. *See* Immigration Bureau of Japan, press release dated March 20, 2014, available at http://www.moj.go.jp/nyuukokukanri/kouhou/nyuukokukanri04_00041.html. The number of unauthorized aliens has halved over the five years since 2004 to approximately 130,000. The number of illegal over-stayer as of January 1, 2010 is estimated to be 91,778 (not including illegal entrants and foreign nationals engaging in activities other than those permitted by their status of residence). *See* Immigration Bureau of Japan, press release dated March 9, 2010, available at <http://www.moj.go.jp/PRESS/100309-3.html>. Then, as of January 1, 2012 it is 67,065. *See* Immigration Bureau of Japan, press release dated March 16, 2012, available at http://www.moj.go.jp/nyuukokukanri/kouhou/nyuukokukanri04_00016.html. As of January 1, 2013, it is 62,009. *See* Immigration Bureau of Japan, press release dated March 27, 2013, available at http://www.moj.go.jp/nyuukokukanri/kouhou/nyuukokukanri04_00031.html. There is no official statistics on the number of illegal entrants in recent years, however, it is estimated around 10 to 20 thousand.

⁵ Of the 11,428 people subject to forced deportation during 2013, 7,038 or 61.6% of the total were undocumented workers. *See* Ministry of Justice, press release dated March 18, 2014, revised on March 20, 2014, available at http://www.moj.go.jp/nyuukokukanri/kouhou/nyuukokukanri09_00022.html (last visited April 30, 2014).

⁶ The number of documented workers was estimated at around 755,000 in 2006 (Ministry of Health, Labour & Welfare [2008, pp.34 & 284]). Then, the report system of the employment situation of foreigners has been started since 2008. According to the system, as of Oct. 31, 2014, the numbers of foreign workers who were reported by employers is 787,627 (not including special permanent residents, foreign diplomats and officials). *See* Ministry of Health, Labour & Welfare's press release on Jan. 30, 2015, available at <http://www.mhlw.go.jp/stf/houdou/0000072426.html> (last visited Feb. 24, 2015). Although the statistics are for different dates, adding this number to the number of illegal workers in n. 2 and allowing for an indeterminate number of foreign nationals employed in activities other than those permitted by their status of residence yields the figure of 900,000.

⁷ As part of the recent debate on the issue of immigration, Nippon Keidanren suggests in its paper "An Economy and Society That Responds to the Challenges of a Declining Population" (Oct. 14, 2008), available at <http://www.keidanren.or.jp/english/policy/2008/073.html> (last visited May 12, 2010), that highly qualified human resources should be allowed to immigrate within certain parameters.

properly resourced, both by Japanese and foreign nationals, is an increasingly important issue, there is also an urgent need to consider how to cope with the increase in unemployment of both Japanese and foreign laborers, which has resulted from the worsening employment situation caused by the economic downturn following the global recession.

Besides not accepting non-skilled laborers, Japan's immigration policies have been seemed like a series of ad hoc strategies which too much depend on needs from industries since 1980s until now. When economy grows Japan accepts many numbers of foreigners, such as *Nikkei-jin* (Japanese descendants) and trainees (now called "technical intern trainees" or "interns"). However, once turning into recession, Japan made them go back their home countries.⁸ We did not learn from experiences?

This paper attempts to examine these policy issues, initially outlining the perspectives from which labor law and policy issues relating to foreign workers are examined, and then considers legal issues relating to the Immigration Control Act. In regard to immigration reform, the paper will introduce Japan's point-based immigration system which was recently revised by the Government, and recent debate regarding Technical Internship Program, and discussion on accepting foreign domestic workers, then will make some comments on them.

2. LITERATURE REVIEW

There is no precedential legal research except my recent paper (Hayakawa, 2013) on the topic of the point-based system in Japan. Regarding the Technical Internship Program, much has been discussed, a part of which will be explained below.

3. THE PERSPECTIVES FROM WHICH LABOR LAW AND POLICY ISSUES RELATING TO FOREIGN WORKERS ARE EXAMINED

Before entering into the main considerations, this paper clarifies the perspectives from which labor law and policy issues relating to foreign workers are examined (*See Figure 1. See also Hayakawa, 2008a*).

(1) Selection and Integration

The first perspective is that of the principles of selection and integration, considered to be the basic principles of policy regarding foreign nationals. International conventions dictate that immigration to a country is not free for non-nationals, but rather that a country has the right to exercise its own discretion over whether or not to allow each foreign national to enter (*See Ashibe, 2011, pp. 94-97*).⁹ This is the principle of selection, and the criteria for selection are defined by each country in their immigration laws (in Japan's case, the Immigration Control Act).

At the same time, policy regarding foreign nationals adopts, concurrent to the principle of selection, the principle of integration for foreign nationals who are admitted to a country according to the applicable laws. Integration in relation to foreign nationals who have entered and are residing in a country according to applicable laws means attributing to them the same basic status as nationals of the country in question, and not engaging in inappropriate discrimination towards them. This principle of integration is often reflected in international conventions in relation to national treatment,¹⁰ etc., and is significant in establishing the rights of foreign nationals. Constitutions and laws in different countries have sought to regulate this in practical ways, and labor and employment law is the means by which

⁸ However, a large amount of poor and unemployed *Nikkei-jin* workers remain in Japan in the global recession. *See Hiroaki Watanabe, Gaikokujin Rodosha no Shitsugyo no Genjo* [Surveys on Unemployed Foreign Workers] (JILPT, 2012) at page 43.

⁹ Judicial precedents regarding the residence of foreign nationals also provide that the right to remain in a country is not constitutionally protected (McLean case, Supreme Court judgment, Oct. 4, 1978, MINSHU vol. 32, No. 7, p. 1223).

¹⁰ The Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights (1966), etc.

integration is functionally realized in the aspects of labor dealt with in this paper.

(2) The Combination of Immigration Policy and Labor Policy

As stated above, in terms of the aspects of policy relating to foreign nationals and labor (foreign labor policy), immigration law is the means of realizing the principle of selection, while labor and employment law is the means of realizing the principle of integration. The second perspective, then, is that immigration policy and labor policy based on these laws mingle with each other in realizing these principles. We can consider this through the approach to the Immigration Control Act from a labor policy standpoint, and also through the approach to labor and employment law from an immigration policy standpoint.

(3) Balance and Harmonization between Selection and Integration

The third perspective is that of achieving a balance and harmonization between the two principles under immigration policy and labor policy, which are selection and integration respectively. Based on perspective mentioned above, the paper will examine the features of Japanese law.

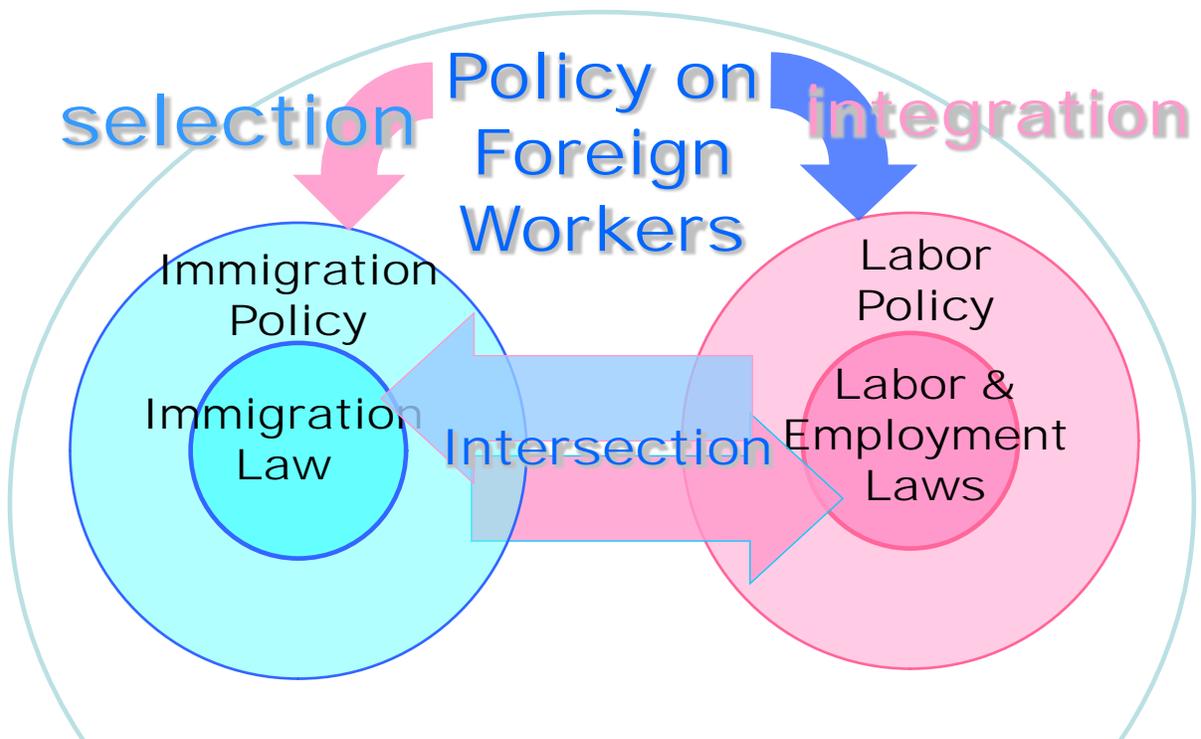


Figure 1: Perspectives from which to consider legal policy relating to foreign workers.

Source: Created by the author

4. FOREIGN WORKERS AND THE IMMIGRATION CONTROL ACT IN JAPAN — REALIZING THE PRINCIPLE OF SELECTION

(1) The State of Japanese Law

(a) The Status of Residence System

Let us take a brief look at the way Japan's Immigration Control Act treats foreign workers. According to the Immigration Control Act, the basic concept relating to the immigration and residence of a foreign national is the statuses of residence (*See Table 1*). As defined by the Immigration Control Act, foreign nationals are, in principle, permitted to enter and remain in Japan only if permitted to do so by their status of residence (Article 2-2), and unless they are given permission to renew it (Article 21), they may not remain in Japan longer than the period of their permission to stay. In addition, foreign nationals may not engage in any activity resulting in income or payment, other than those permitted according to the terms of their status of residence (Article 19).

Categories of status of residence that allow employment include “Permanent Resident,” “Spouse or Child of Japanese National,” “Spouse or Child of Permanent Resident” and “Long-Term Resident.” These statuses are awarded based on the identity or position of the applicant, and persons holding these statuses are able to work in any kind of employment. Workers of Japanese descent *Nikkei-Jin* are treated differently to other foreign nationals in that they have no restrictions placed on the type of work they can do, and they are able to work on the shop floor in manufacturing and other industries because they have been awarded the same status of residence as “Spouse or Child of Japanese National,” or “Long-Term Resident.”

Foreign nationals other than those mentioned above are permitted to immigrate if they have specialist technical skills, but immigration policy dictates that unskilled laborers are not permitted to immigrate,¹¹ and so the scope of activities in which such foreign nationals can engage is defined by their status of residence. Categories of status of residence that permit working are restricted to highly specialist skills such as “Engineer/Specialist in Humanities/International Services,” etc., as well as “Diplomat,” “Professor” and other categories that indicate a commitment to public life. In addition to this, it is also possible to be awarded the status category of “Designated Activities,” where the scope of activity is defined by the Minister of Justice. Other categories of status of residence such as “Student” only permit working within the scope permitted as activities other than those permitted under the status of residence. In this way, the Immigration Control Act uses the status of residence system to restrict working by foreign nationals.¹²

Some of these statuses of residence have been acknowledged to require adjustments in the scope of immigration they allow, in consideration of the impact they have on Japanese industry and the lives of Japanese nationals from the perspective of immigration policy. For these categories, the criteria for being given permission to enter Japan are defined in the “Ordinance of the Ministry to Provide for Criteria Pursuant to Article 7, Paragraph (1), Item (ii) of the Immigration Control and Refugee Recognition Act” (hereinafter referred to as the Criteria Ordinance). Among those statuses of residence to which the Criteria Ordinance is applicable, those categories defined according to types of work activities are almost all covered by income criteria, in the form of legislation that foreign workers must

¹¹ The Basic Plan for Immigration Control (1st Edition, 1992) sets out this policy, which is maintained strongly in the 2nd and 3rd Editions (2000 and 2005). The 4th Edition is released in March 2010, the policy is also basically maintained.

¹² In addition to these, “Special Act on the Immigration Control of, Inter Alia, Those Who Have Lost Japanese Nationality Pursuant to the Treaty of Peace with Japan” (hereinafter referred to as the Special Act) also defines a status of residence known as “Special Permanent Resident” to which no labor restrictions apply.

“receive an equivalent or higher salary to any Japanese national doing the same work.” It is clear from this that the legislation seeks to minimize the impact of the criteria on the labor market, but within the Criteria Ordinance, there is no particular indication of how it should be judged whether a foreign worker is being paid an equivalent or higher salary to a Japanese one.

Table 1: Statuses of residence in relation to permission to work

Status of residence defined by activity*				Status of residence defined by identity or position
Eligible to work within scope of status of residence		Ineligible to work without permission	Depends on contents of Justice Minister's designation	No restrictions to work
Diplomat	Highly Skilled Professional (i)(a), (i)(b), (i)(c) (ii)(a), (ii)(b), (ii)(c), (ii)(d)	Cultural Activities	Designated Activities	Permanent Resident
Official		Temporary Visitor		
Professor		Student		Spouse or Child of Japanese National
Artist		Trainee		Spouse or Child of Permanent Resident
Religious Activities		Dependent		Long-Term Resident
Journalist				
		Legal/Accounting Services		
		Medical Services		
		Researcher		
		Instructor		
	Engineer/Specialist Humanities/International Services			
	Intra-company Transferee			
	Entertainer			
	Skilled Labor			
	Technical Intern Training (i)(a), (i)(b), (ii)(a), (ii)(b)		Special Act	
			Special Permanent Resident	

* Permission can be granted for employment outside the scope of status of residence by the Minister of Justice.

(b) Prohibition of Illegal Work

Foreign nationals working without a status of residence that allows work under the Immigration

Control Act (a work permit) are known as undocumented workers. Persons hiring undocumented workers, placing them under their control or sending them to work for others on a regular basis are liable to be prosecuted for facilitation of illegal work (Article 73-2 Paragraph [1]). Undocumented workers themselves are liable to punishment (Article 70) and deportation (Article 24), but the Minister of Justice is able to offer consideration of circumstances during the process of deportation, and if special permission for residence¹³ is granted, the person in question may remain in Japan under the terms of the status of residence they were awarded (Article 50).

(2) Revisions to the Immigration Control Act

The revisions implemented to the Immigration Control Act (hereinafter “2009 amendments”)¹⁴ was passed at the 171st Ordinary Session of the Diet (Japan's bicameral legislature) and was promulgated on July 15, 2009.¹⁵ Under the 2009 amendments, a new Residency Management System was introduced. The amendment regarding the Technical Internship Program will be discussed in Section 5. Many *Nikkei-jin* workers are engaged in shop-floor work in the manufacturing industries. They are working via employment agencies or contractors (some of which are illegal), and because of the unstable nature of the way they work, they often move frequently and are constantly changing jobs. Before the 2009 amendments, there were often problems caused by the fact that the main residence of *Nikkei-jin* workers and their families, registered under the terms of the alien registration system, which is based on the Alien Registration Act, did not accurately reflect the living status of these families. Because of this, the Alien Registration Act was abolished, and a new residency management system, which integrates immigration control and residency management under the Immigration Control Act, is introduced in regard to medium to long-term resident foreign nationals.¹⁶ The implementation of the new system was taken into effect from July 9, 2012.

Recently, the Act for Partial Amendment of the Immigration Control and Refugee Recognition Act (Act No. 74 of 2014), which was passed in the 186 Ordinary Session of the Diet, was promulgated on June 18, 2014. The Act reorganizes the statuses of residence by establishing a status of residence for highly skilled professionals in order to promote the acceptance of foreign nationals who will contribute to the development of the Japanese economy amid economic globalization.

(3) Evaluation of Current Japan's Immigration Law

As seen above, the Immigration Control Act uses the status of residence system not only to define the scope of immigration by foreign nationals, but also to restrict work done by foreign nationals while resident in Japan. The system allows the immigration of workers in specialist technical fields while denying access to unskilled laborers, thereby realizing the principle of selection defined in immigration policy. When considered from the perspective of the combination with labor policy, however, although the current legislation could be said to be giving consideration to the impact of foreign workers on the

¹³ Immigration Bureau, Ministry of Justice, “Guidelines relating to Special Permission for Residence” (revised July 2009). See <http://www.moj.go.jp/NYUKAN/nyukan85-1.pdf> (last visited Mar. 9, 2010).

¹⁴ The law for partial amendment to the Immigration Control and Refugee Recognition Act and the Special Act on the Immigration Control of, Inter Alia, Those who have Lost Japanese Nationality Pursuant to the Treaty of Peace with Japan (July 15, 2009, Act No. 79).

¹⁵ Additionally, not only were the categories of status of residence “College Student” and “Pre-college student” integrated as “Student”, but negligent employment of undocumented workers became the basis of employer sanction (Article 73-2, Paragraph (2)). See Hayakawa (2009) for outline of amendments.

¹⁶ Foreign Nationals residing legally for a medium to long term with a status of residence under the 2009 amendments, excluding the persons described below, shall be subject to the new residency management system: (1) Persons granted permission to stay for not more than 3 months, (2) Persons granted the status of residence of “Temporary Visitor,” (3) Persons granted the status of residence of “Diplomat” or “Official,” (4) Persons whom the Ministry of Justice ordinance recognizes as equivalent to the aforementioned foreign nationals, (5) “Special permanent residents” under the Special Act.

labor market due to the Criteria Ordinance, under the control of the Ministry of Justice's Immigration Bureau, there is no system in place to assess the impact of individual foreign workers on the labor market.

In addition, as mentioned above, it is Japan's immigration policy that foreign workers are permitted to immigrate only if they have professional or special technical skills, and that unskilled laborers are not permitted to immigrate.¹⁷ The actual situation is, however, inconsistent with the declared policy, such as *Nikkei-jin* workers and foreign interns treated as unskilled laborers. Then, how about the policy of accepting high skilled workers preferably? This issue will be discussed in Section 6.

5. TECHNICAL INTERNSHIP PROGRAM

(1) Industrial Training and Technical Internship Program before July 1st, 2010

Before the amendment of the Immigration Control Act in 2009, revision of the Industrial Training and Technical Internship Program had been also widely discussed in Japan, with a particular focus being the protection of trainees receiving on-the-job training.¹⁸ In the "Report of the Research Group on the Industrial Training and Technical Internship Program" (the interim report being issued on May 11, 2007, and the final report on June 20, 2008), the Ministry of Health, Labour and Welfare advocated revising the program to apply labor legislation to trainees from the time of their entry to Japan.¹⁹ The numbers of registered foreign nationals at the end of 2008 who had been accepted under the Industrial Training and Technical Internship Program had risen to around 87,000 trainees and 105,000 technical interns. Reflecting this increase, cases of abuse also continued to increase, with the number of accepting organizations reaching 452 in 2008.²⁰ Most of these involved association-managed training, and arose from problems such as overtime worked by trainees and violations of labor legislation affecting interns. Human rights abuses were also criticized not only in Japan but also in the United States,²¹ making the protection of trainees and interns an issue of concern.

¹⁷ The Basic Plan for Immigration Control (1st Edition, 1992) sets out this policy, which is maintained strongly in the 2nd and 3rd Editions (2000 and 2005). The 4th Edition is released in March of 2010, the policy is also basically maintained.

¹⁸ On issues concerning the Industrial Training Program and the Technical Internship Program, see the papers by Fumito Komiya, Shinobu Nogawa, Yuki Katagiri, and Chizuko Hayakawa in *NIHON RÖDÖ HÖ GAKKAI SHI* [Journal of Labor Law], no. 112.

¹⁹ The second report of the Expert Panel on Labor Market Reform of the Council on Economic and Fiscal Policy (Sept. 21, 2007) made a similar proposal. Another proposal, in addition to that put forward by the Ministry of Economy, Trade and Industry in "Gaikokujin kenshū/ginō-jisshū seido ni kansuru kenkyūkai" torimatome" [Report of the Research Group on the Industrial Training and Technical Internship Programs] (May 14, 2007), emerged from the Foreign Worker Issue Project Team of the National Vision Project Headquarters of the Liberal Democratic Party. This was outlined in "Gaikokujin rōdōsha tanki shūrou seido" no sōsetsu no teigen" [A Proposal for the Creation of a Short-Term Work Program for Foreign Workers] (July 22, 2008), which called for the introduction of a short-term work program to replace the Technical Internship Program. While advanced (repeat) technical internship program was also considered as a means of enabling foreign workers to develop more advanced skills after completion of their technical internships, this option was shelved (Highly-skilled Worker Acceptance Promotion Council, "Gaikoku kōdo jinzai ukeire seisaku no honkakuteki tenkai wo (hōkokusho)" [Report on the Development of a Full-Fledged Policy on Accepting Highly-Skilled Foreign Workers] (May 29, 2009).

²⁰ Immigration Bureau of Japan, "Heisei nijūnen no 'fusei kōi' nintai ni tsuite" [On Cases of "Abuse" Recognized in 2008] (Apr. 9, 2009).

²¹ See Masako Owaki, "Gaikokujin kenshū/ginō-jisshū seido no mondaiten to rippō kōsō" [Problems with the Industrial Training and Technical Internship Programs and a Legislative Vision], 19 *KOKUSAI JINKEN* 18 (2008), Shoichi Ibusuki, "Gaikokujin kenshū/ginō-jisshūsei no kenri kōshi wo habamu hoshōkin/iyakukin keiyaku" [Contracts Incorporating Deposit and Penalty Clauses that Discourage Foreign Trainees and Interns from Exercising Their Rights], 1483 *CHINGIN TO SHAKAI HOSHÖ* 52 (2009), and *id.*, "Gaikokujin kenshū/ginō-jisshūsei mondai to bengoshi no torikumi" [Problems Faced by Foreign Trainees and Interns and the Response of the Legal Profession], 3 *LAW AND PRACTICE* 239 (2009). Recent years have in fact seen an increase in the number of court cases involving foreign trainees and interns, such as Shigeno Tekkō case, 1709 *HANREI JIHÖ* 57 (Nagoya High Ct. (Kanazawa Branch), Nov. 15, 1999); Ōshima Nitto case, 991 *RÖDÖ HANREI* 29 (Wakayama D. Ct. (Tanabe Branch), July 17, 2009); Kyūshū Keizai Kōryū case, 998 *RÖDÖ HANREI* 80 (Kumamoto D. Ct., Dec. 15, 2009); Sanwa Service case, 1003 *RÖDÖ HANREI* 5 (Nagoya High Ct., Mar. 25, 2010); Debar Processing Service case, 1044 *RÖDÖ HANREI* 21 (Tokyo D. Ct., Dec. 6, 2011); Itō Kōgyō case, 1051 *RÖDÖ HANREI* 86 (Tokyo High Ct., Feb. 28, 2012); Unzen Apparel case, LEX/DB no. 25500556 (Nagasaki D.Ct., March 4, 2013), etc. For a commentary on these cases, see Chizuko Hayakawa, "Case Comment," 228 *KIKAN RÖDÖHÖ* 174 (2010). Abuses of the program have been pointed out in the U.S. government's reports. See U.S. Dep't of State, *Trafficking in Persons Report* (13th ed., June 2013) pp. 212-213, *id.* (12th ed., June

The trainees and interns had been subject to increasing abuse, and the Foreign Training Program and the Technical Internship Program were revised²² under the 2009 amendments with the aim of dealing with the issue of how to protect existing trainees engaged in on-the-job trainings (OJT). As a result, any training including OJT is now basically considered to constitute a technical internship, and labor and employment law applies to interns, with the exception of orientation taking place immediately after arrival in Japan. In addition to this, the categories of status of residence relating to training (“Trainee”) and technical internship (as one of the categories of “Designated Activities”) were integrated into a newly created status of residence known as “Technical Intern Training.” The new system was implemented from July 1, 2010.

(2) New Technical Internship Program after July 1st, 2010 under the 2009 amendments

(a) Establishment of “Technical Intern Training” as a Status of Residence

Reflecting the above concern with the insufficient protection for trainees receiving on-the-job training, the 2009 amendment to the Immigration Control Act as a rule treats training involving on-the-job training as technical intern trainees. Such trainees (now as interns) are consequently protected by labor legislation except when taking orientation courses immediately following entry to Japan, which is considered below (exceptions are described in Section 4 below).

The 2009 amendments thus establishes a new status of residence, called “technical intern training,” that combines the former training involving on-the-job training (“Trainee” status of residence) and technical internship (“Designated Activities” status of residence) into one. This status of residence is divided into two types according to the nature of the activities engaged in. Type (i) covers technical intern training activities corresponding to the former training involving on-the-job training, and type (ii) covers technical intern training activities corresponding to the former technical internship (Both types (i) and (ii) are undertaken under employment contracts, and therefore technical interns are covered by labor legislation. *See Figure 2*). Types (i) and (ii) are further divided into two categories, (a) and (b), according to the form of acceptance: (a) training is provided by enterprises on an individual basis (“individual enterprise-based training”) and (b) training corresponds to association-managed training (Article 2-2 and Appended Table I(2) of the Immigration Control Act, *see Figure 3*). In the case of association-managed training, for example, an intern cannot switch to type (ii)(b) unless he/she was engaged in type (i)(b) training and has completed the proper procedure for changing status of residence under Article 20-2 of the Immigration Control Act.

Looking at association-managed training in more detail, type (i)(b) technical intern training consists of acquiring knowledge (through orientation courses) under the supervision of a “supervising association” (the term for an accepting association under the new program) and skill acquisition activities undertaken in an employment relationship with an “intern training provider” (as accepting companies are called under the new system) under the responsibility and supervision of a supervising association in accordance with a technical internship plan prepared by the supervising association. Technical intern training activities undertaken in an employment relationship with an intern training provider for type

2012) pp. 199-201, *id.* (11th ed., June 2011) pp. 205-207, *id.* (10th ed., June 2010) pp. 189-191, *id.* (9th ed. June 2009) pp.170-172, *id.* (8th ed. June 2008) pp.149-152, *id.* (7th ed. June 2007) pp.124-126, available at <http://www.state.gov/j/tip/rls/tiprpt/index.htm>.

²² Conventionally, trainees engaged in trainings with the aim of gaining technical abilities were not subject to labor and employment law, but under the 2009 amendments, trainees engaged in programs including OJT other than those implemented by the government or agencies such as JICA were categorized as interns and were subject to labor and employment law. *See Hayakawa (2008b)* regarding the debate relating to revision of the programs. *See Hayakawa (2010b)* regarding the interpretation of labor contracts for interns under the new program.

(ii)(b) technical intern training, meanwhile, must be undertaken under the responsibility and supervision of a supervising association (Appended Table I(2) of the Immigration Control Act).

Figure 2: The Technical Internship Program (Old & New)

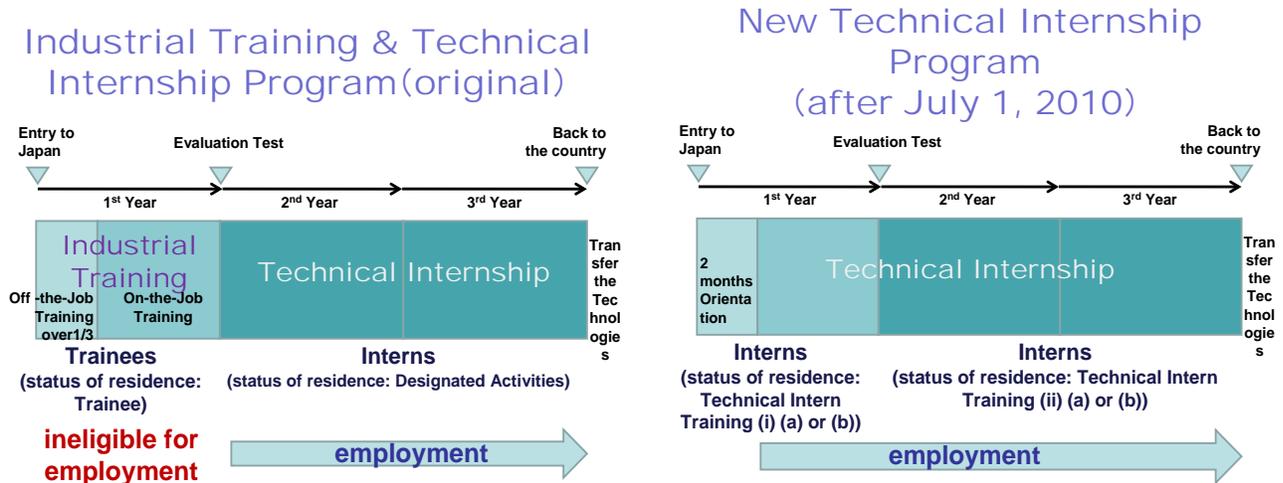
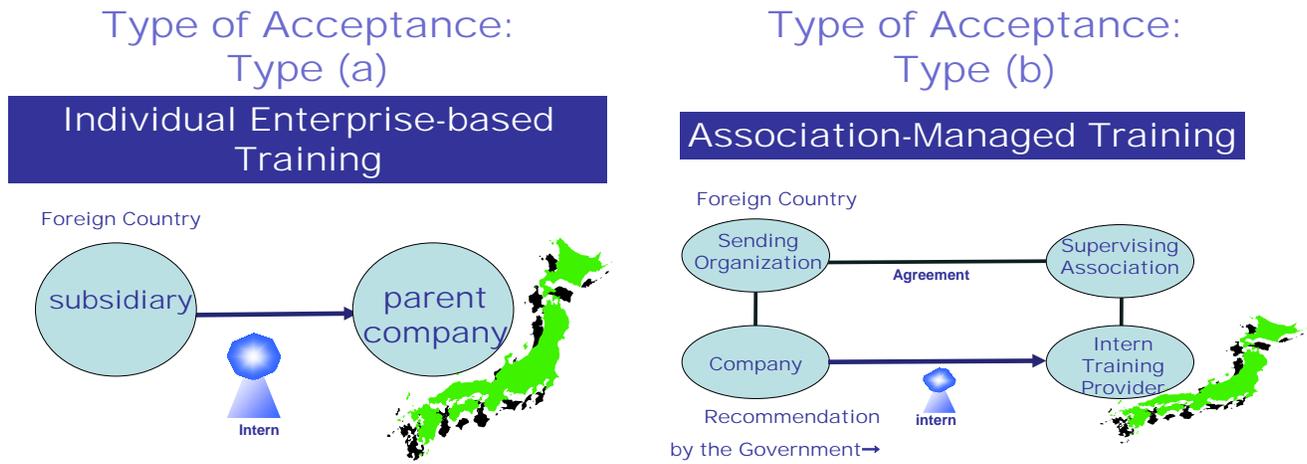


Figure 3: Types of Acceptance



(b) Standards for Type (i)(b) Technical Intern Training (Association-Managed Orientation Courses and Technical Intern Training Activities)

Next we consider the outline of the program as provided for by the Ministry of Justice ordinances and guidelines.²³

Regarding firstly the standards for type (i) training, requirements are established regarding the difficulty of acquiring the skills concerned in the intern’s home country, the intern’s suitability (such as having experience in the same industry), and arrangements made by the supervising association and intern training provider (such as provision of accommodation facilities and appointment of technical

²³ Ministry of Justice Ordinances No. 49 through No. 54 (Dec. 25, 2009) and Immigration Bureau of Japan “Guidelines on Immigration and Residency Management of Interns” (December 2009). These guidelines affirm that a purpose of the program is to assist the transfer of skills to developing countries through the development of human resources.

intern training supervisors and counselors to provide advice on daily living). These are the same as or similar to those for training involving on-the-job training under the old program.

More requirements have been added: remuneration must now be at least equivalent to that paid to a Japanese worker (excluding remuneration for taking orientation courses), and sending organizations, supervising associations, intern training providers, and intermediaries must not charge interns or their families a deposit or other unreasonable monies. Supervising associations are in addition required to provide orientation courses of a length equivalent in time to one sixth of type (i) activities (one twelfth if certain orientation classes are provided before entry to Japan) before interns commence their technical intern training at an intern training provider. Such orientation courses are required to be taught through a combination of classes and visits that cover (1) Japanese language skills, (2) information on life in Japan, (3) information on the Immigration Control Act, Labor Standards Act, methods of dealing with abuses, and other legal protections for interns, and (4) other knowledge contributing to skill acquisition. The periods for which organizations are suspended from accepting interns in the event of abuses are also specified by Ministry of Justice ordinance for each category of abuse. In the case of violence, threats, confinement, removal of an intern's passport or other such documents, arrears of wages, human rights abuses, and similar acts, a five-year suspension is imposed. A concern under the old program was the calculation of quotas for the proportion of trainees that could be accepted for training involving on-the-job training. This was because interns who were already working could be included in the number of full-time personnel of an intern training provider used as the denominator in calculations, which had the adverse effect of producing workplaces made up entirely of trainees and interns. Under the new program, however, the full-time foreign workers and interns are excluded from the number of full-time personnel.

(c) Standards for Type (ii)(b) Technical Intern Training (Association-Managed Technical Intern Training Activities)

As under the old Technical Internship Program, an intern must pass Basic Grade 2 of the National Trade Skills Test or obtain similar qualifications during type (i) skill acquisition activity in order to transfer to type (ii) training (Transfers to type (ii) are only possible in job and work categories that have skill assessment systems). Activities must also involve the same intern training provider and the same skills as type (i) training (except where intern training cannot be provided by the same provider for reasons that are not the fault of the intern concerned). Technical intern training plans must be prepared for type (ii) training as well. However, whereas type (i) plans are required to be prepared by supervising associations under the Immigration Control Act, type (ii) plans may be prepared by either supervising associations or internship providers.

The maximum length of technical intern training combining type (i) (up to one year) and type (ii) is three years.

6. JAPAN'S RECENT DEVELOPMENT (1): MODIFICATION OF POINT-BASED SYSTEM

(1) Modification of Point-Based System

The Ministry of Justice first introduced the point-based system on May 7, 2012.²⁴ The Ministry said that the system provides preferable treatments to the highly skilled professionals and the relatives. The system covered foreign professionals in the categories of (a) advanced academic research activities, (b) advanced specialized/technical activities, and (c) advanced business management activities. The

²⁴ Ministry of Justice's Notice No. 126 & No.127 (March 30, 2012). See Ministry of Justice's news release on March 30, 2012, available at http://www.moj.go.jp/nyuukokukanri/kouhou/nyuukokukanri06_00023.html (last visited April 1, 2012).

Minister of Justice evaluated foreigners on (1) academic backgrounds (allocated 10 to 30 points), (2) occupational career (5 to 25 points given only by years of experience), (3) annual incomes (10 to 40 points), (4) ages (5 to 15 points, younger persons preferred) and (5) additional bonus points (5 to 15 points, after the revision the system of 2013 mentioned below, the bonus point increased up to 25), such as Japanese language skills, graduation from Japanese universities, etc. If the foreigner's amounts of points exceeded 70 points, the Minister granted him/her special recognition as "Highly Skilled Foreign Professional" under the "Designated Activities" status of residence. However, if the annual incomes were less than certain amounts set by ages at the time of entry of Japan, the whole points are evaluated as zero.

Eleven months later, the Immigration Bureau informed 434 foreigners were admitted as highly skilled foreign professionals, and their dependents, etc.²⁵ This number may be much smaller than the Government expected. Thus, only 17 months after the system was started, the Ministry of Justice relaxed requirements²⁶ of the point-based system in order to get more highly skilled professionals. For instance, while minimum annual salary requirement was reduced to only 3 million yen²⁷ at any age of categories of (b) and (c), and omitted for category (a), considering research institutes like universities and small and medium sized enterprises probably pay lower salaries compared to large enterprises, the Ministry increase points to Japanese language skill, graduation from institution in Japan, etc., so that, it is not seemingly difficult to get 70 points for an ordinal graduates from Japan's institute with 5 years' work experience (*See Appendix: Modified Point-Based System in Japan*).

The special treatments for the highly skilled foreign professionals became more advantageous for foreigners, include (1) allowing composite activities other than limited activities in the scope of status of residence for other status, (2) permitting of the spouse's working without time limitation, (3) hiring a domestic worker of his/her language (the annual income requirement reduced from 15 million yen to 10 million yen, and the worker should be paid wages more than 200,000 yen per month), (4) inviting father or mother (or in-law) to take care of the children under 7 years-old (previously 3 years-old). Furthermore, the Ministry mentioned special treatment in obtaining permanent residency, so that the persons may apply after living in Japan for a consecutive three to five years, instead of the regular requirement of 10 years. This status is granted by the Minister's discretion, neither by the Notice of the Ministry nor by the Immigration Law.

The Cabinet intended more drastic change, and decided a strategy to amend the Immigration Reform Act and reduce the length of stay requirement to 3 years for the professionals to apply permanent resident status.²⁸ Then, the Ministry of Justice submitted a bill of amendment of Immigration Control Act to the Diet, which was passed in 2014.

As mentioned above, the amendment Immigration Control Act of 2014 established statuses of residence "Highly Skilled Professionals" for highly skilled professionals. "Highly Skilled Professionals" is divided into two subcategories, such as, (i) contribution development research and economy in Japan and (ii) national interest, and both of them has (a) to (c) categories as the point-based system. Those who have a status of residence "Highly Skilled Professional (i)" who were previously granted the "Designated Activities" status of residence, if fulfill certain requirements, such as more than three years of stay under the status, will be able to apply to change to the status of residence of "Highly Skilled

²⁵ Release from Immigration Bureau on May of 2013.

²⁶ Ministry of Justice's Notice No. 126 & No.127 (March 30, 2012, reviewed Dec. 17, 2013). *See* Immigration Bureau, Ministry of Justice http://www.immi-moj.go.jp/newimmiaact_3/system/index.html (last visited April 30, 2014).

²⁷ It is not difficult for applicants for highly skilled professionals to pass this requirement, because the average men of university graduates' annual income of all industries is 3.954 million yen according to the 2013 Basic Survey on Wage Structure by the Ministry of Health, Labour and Welfare (*See* MHLW's press release on Feb. 20, 2014, *available at* <http://www.mhlw.go.jp/toukei/itiran/roudou/chingin/kouzou/z2013/dl/12.pdf>).

²⁸ Japan Revitalization Strategy, Cabinet Decision on June 14, 2013.

Professional (ii)” without limitation of period of stay.

Under the new system, a problem will arise in the fields of above mentioned (b) advanced specialized/technical activities. Under the current law, the status of residence of “Engineer/Specialist in Humanities/International Services,” requires bachelor’s degree or the equivalent career in the fields of science and humanities. They have potential influence on the labor market of Japan. The paper will analyze whether the system is well considered.

(2) Comment²⁹

(a) Advantage and Disadvantage of the System

To be sure, the acquisition of highly skilled professionals in the midst of globalization will be expected through the introduction of the point-based system. However, if the evaluation system set insufficient requirements to foreign nationals, the system may cause problems of discrimination and negative impact on the domestic labor market. The paper will analyze the problem of the system under the Notice of the Ministry.

(b) Problems: Likelihood of Negative Influence on Labor Market

In most countries, the immigration law on foreign workers establishing combination of systems, for example, labor market tests, such as the labor certification in the United States, annual caps each visas, levies on employers who hire foreign nationals. The point-based systems in other countries are usually introduced with combination of other systems. For instance, the point-based system for the non-EU workers in the United Kingdom is accompanied by a labor market test, so that it excludes certain occupations which are fully occupied by the U.K. workers or the EU workers. However, the above mentioned category (ii), *i. e.*, advanced specialized/technical activities of the system, in Japan only requires occupational careers by years of experience but there is no limitation on the contents of occupations.

Because the category covers the fields of status of residence of “Engineer/Specialist in Humanities/International Services,” which are widely open to the university graduates, the category is too wide as a limitation for highly skilled professionals. Although I agree with the Government policy to promote hiring foreign graduates from Japanese universities, these statuses of residents may have substantive impacts on the labor market. Thus, it is necessary to have a system to determine the existence of negative impact on the labor market.

In addition, the annual income that will be reported under the point-based system may not have a function to avoid negative impact on the labor market. In Japan, terms and conditions of employments shown in immigration documents often neglected by the employers. Indeed, the courts do not consider the conditions on documents of the immigration procedures as employment contracts.³⁰ These legal treatments may not only weaken the rights of foreign workers, but also have negative impacts on the

²⁹ I provided these basic ideas to the Ministry’s collection of public comments on the point-based system proposals on Feb.29, 2012. *See* Outcome of Public Comments (March 30, 2012), *available at* <http://search.e-gov.go.jp/servlet/Public?CLASSNAME=PCMMSTDETAIL&id=300130051&Mode=2> (last visited April 1, 2012).

³⁰ According to the Tokyo District Court decision dated July 7, 1992 in the Yamaguchi Seito case, 804 HANREI TIMES 137, the court did not recognize a document containing labor conditions submitted as part of an immigration application as an employment contract. The labor conditions attestation proposed here, however, would require this document to be submitted by the employer to the worker, which would avoid such a problem.

labor market to undermine the labor condition of workers in Japan.³¹ To take countermeasures to such a problem, Japan should have introduced an attestation program of labor conditions. At least for now, the category (ii) should have granted after the Minister's confirmation of the observance of the conditions after certain time was passed.

Under the point-based system, special treatment of permanent residency will be given as status of residence "Highly Skilled Professional (ii)," the negative impact will be broader than expected. If such a result is intended, the social security systems for immigrants should be prepared.

Furthermore, occupations that have sufficient workers in the labor market are not suitable for the point-based system. To avoid negative impact on the labor market such as unemployment, reduction of labor conditions, labor market tests, such as labor certification program is preferable.

7. JAPAN'S RECENT DEVELOPMENT (2): TECHNICAL INTERNSHIP PROGRAM

(1) Debate

In order to recover from the disaster of March 11, 2011 and prepare the 2020 Tokyo Olympic Games, Japan is now suffering from a labor shortage in construction sectors. To make up for the labor shortage, on April 4, 2014, the Cabinet decided emergency measures utilizing the Technical Internship Program to FY 2020. That is, the measures include (1) allowing to the interns in construction and shipbuilding sectors extended 2 years stay as workers with "Designated Activity" status after finishing 3 years Technical Internship Program, or (2) allowing re-entry to Japan and 2 years stay as workers with "Designated Activity" status after returning to their home countries (if those who re-entry after one year and more staying their home countries, allowing to stay in Japan for 3 years). Special requirements include (1) Accepting companies and organizations should be good ones, (2) the Ministry of Land, Infrastructure, Transport and Tourism will make inspections of those companies, (3) general constructors will supervise the subcontractors (accepting companies), (4) establishing a joint committee of accepting organizations to share information. The Cabinet intends to start this program from April 1, 2015 and end on March 31, 2021.

The President Susum Murakoshi of the Japan Federation of Bar Associations published an opinion on April 3, 2014, against these measures, and recommended establishing a new temporary worker program which guaranteeing freedom to change the employers and proposed that this system should be supervised by governmental agencies between Japan and sending countries. On April 7, 2014, the General Secretary Rikio Kozu, the Japanese Trade Union Confederation, *Rengo*, which is a national center of Japan, expressed concern on the measures, that there would be possible downward pressure on wage for Japanese workers, while interns have not been well protected and used as cheap laborer. The Cabinet, nevertheless, aggressively want to extend the program to open for elder caring work. Moreover, under a joint expert study group of the Ministry of Justice and the Ministry of Health, Labour and Welfare provided a report on reform of the Technical Internship Program on January 30, 2015. The report suggests extension of the stay of 2 years as technical intern trainees (5 years in total of stay), establishing an organization for control and investigation of the program, signing of bilateral treaties between Japan and each of sending countries, licensing supervising associations, etc.

(2) Comment

In the construction industries, there are higher risks of industrial accidents. The measures on utilizing the Technical Internship Program should be established together with industrial safety mechanisms.

³¹ The Labor Condition Application Program (LCA) for H-1B visas in the United States suggest in the solution of such a problem. See Hayakawa (2010c) pp. 29-31, see also Hayakawa (2010a).

Although the Cabinet proposed the prohibition of stay with interns' family members, there will be a new issue from human rights perspective.

8. JAPAN'S RECENT DEVELOPMENT (3): DOMESTIC WORKERS

(1) Debate

June of 2014, the Cabinet suggested that accepting foreign domestic workers,³² or house keepers, for support of working women in National Strategic Special Zones. A domestic worker will conclude a contract with a house work service provider and be dispatched to a private house in a National Strategic Special Zone under supervision of the local government. The Cabinet made a bill of the Amendment Act of National Strategic Special Zones on Oct. 31, 2014, just changing the immigration regulation to accept the workers.

The President Susum Murakoshi of the Japan Federation of Bar Associations published an opinion against the bill on Oct. 31, 2014, contending that the domestic workers mostly are vulnerable women.³³

(2) Comment

Japan has not ratified the Domestic Workers Convention, 2011 (No. 189) of the ILO, yet. In Japan, domestic workers of private houses are not covered by the Labor Standards Act (LSA) (Article 116, Paragraph (2))³⁴.³⁵ Although a domestic employee can conclude a labor contract with the employer, the LSA does not apply to the domestic worker as well as other labor-protective statutes, such as the Minimum Wage Act (Article 2, Item 1) and the Industrial Safety and Health Act (Article 2, Item 2), which borrow a definition of "worker" from the LSA. The Workers Compensation Insurance Act (WCIA) does not have a provision that defines "worker." However, since the provisions of industrial injury compensation under the LSA became the basis of the WCIA, the term "worker" under the LSA has the same meaning as the WCIA. Therefore, the WCIA does not apply to domestic workers.

If a family owner directly concludes an employment contract with a domestic worker, the worker is not protected by the LSA. If a dispatch worker and a service provider conclude an employment contract, although the contract should be covered by the LSA, the investigation of Labor Inspectors is seemingly quite difficult in the private house. Japan should consider omitting of the provision excluding the domestic workers from the covering by the LSA.

In contrast, the Labor Contract Act and the Labor Union Act protect domestic workers from unjust discharge, unfair labor practices, etc.

9. CONCLUSION

In conclusion, firstly, to promote acceptance of highly skilled professionals, the point-based system has certain efficiency. From such a viewpoint, this paper agrees with the new system regarding the

³² Currently, only limited foreigners such as foreign diplomats, investors, lawyers and highly skilled professionals earning certain amount of salary are allowed to hire foreign domestic workers. Japanese people and companies cannot accept foreign domestic workers from foreign countries under the Immigration Control Act.

³³ See also, Asia-Japan Women's Resource Center (AJWRC) and Solidary Network with Migrants Japan (SMJ), Joint Statement "Protesting the Government's Hasty Decision to Introduce "Foreign Human Resources for Domestic Work Support" and Demanding the Ratification of ILO Domestic Workers Convention (C189)", on 27 June, 2014, available at <http://ajwrc.org/jp/modules/bulletin/index.php?page=article&storyid=859> (last visited Feb. 25, 2015).

³⁴ In *Imekai* Case, 1085 RŌDŌ HANREI 60 (Tokyo D. Ct., Sept. 11, 2013), the court decided the provision should be strictly interpreted, and the plaintiffs (baby-sitters) are workers protected by the LSA, because the working conditions are easy to inspect and those are not closely related with employer's privacy.

³⁵ "This exclusion reflects a belief that it is both difficult and inappropriate to subject the working conditions of such persons to state regulation and inspection." See KAZUO SUGENO, *JAPANESE EMPLOYMENT AND LABOR LAW* (Leo Kanowitz trans., Carolina Academic Press 2002) at p.92.

categories of (i) advanced academic research activities and (iii) advanced business management activities. However, the category of (ii) advanced specialized/technical activities is not necessarily suitable for the point-based system without careful consideration of safeguard to avoid negative impact on the labor market.

Because the modified point-based system reduced the minimum annual salary requirement and relaxed other requirements, I am afraid that companies might hire those professionals as cheap labors, producing negative influence on the labor market.

Secondly, the paper contended that recent development of debate on the Technical Internship Program should be taken into consideration how to prevent misusing of the program to abuse interns.

The Cabinet's emergency measures utilizing Technical Internship Program in construction and shipbuilding sectors will extend the permissible period of stay and work in Japan from 2 to 3 years. To avoid labor and human rights abuse more special protections are required.

Thirdly, domestic workers are the most vulnerable workers. The Cabinet proposed the bill of amendment Act of National Strategic Special Zones, just changing the immigration regulation.

Those matters are not only immigration issues, but also a labor market issues. This paper proposes the perspectives from which to consider legal policy relating to foreign workers, that is, harmonizing principles of both selection and integration

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Appendix: Modified Point-Based System in Japan

Source: Ministry of Justice, Japan

Points-Based Preferential Immigration Treatment for Highly-Skilled Foreign Professionals

Under the points-based system, foreign nationals recognized as “highly-skilled foreign professionals” will be given preferential immigration treatment!



For further details, please turn to the Points Calculation Table overleaf

The Three Categories of Activities of Highly-Skilled Foreign Professionals



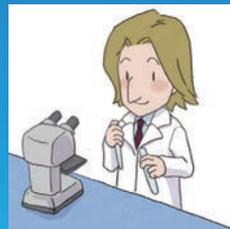
Advanced academic research activities

Activities of engaging in research, research guidance or education based on a contract entered into with a public or private organization in Japan.



Advanced specialized/technical activities

Activities of engaging in work requiring specialized knowledge or skills in the field of natural sciences or humanities based on a contract entered into with a public or private organization in Japan.



Advanced business management activities

Activities of engaging in the operation or management of a business organization in Japan.



Details of the preferential treatment

- 1 Permission for multiple purposes of activities
- 2 Grant of the “five years” period of stay
- 3 Easing of requirements for permanent residence
- 4 Preferential processing of entry and residence procedures
- 5 Permission for the spouse of the highly-skilled foreign professional to work
- 6 Permission for the parent(s) to accompany the highly-skilled foreign professional to Japan under certain conditions
- 7 Permission for a domestic worker to accompany the highly-skilled foreign professional to Japan under certain conditions



Immigration Bureau, MOJ

For further details please check the Immigration Bureau website!
http://www.immi-moj.go.jp/newimmiact_3/en/index.html
 ※Inquiries may also be made at your nearest regional immigration bureau.



Points Calculation Table

Advanced academic research activities		
Academic background	Holder of a doctor's degree (excluding professional degrees)	30
	Holder of a master's degree (including professional degrees)	20
Professional Career (Research experience) * Limited to experience related to the research, research guidance or education in which the person intends to engage.	7 years or more	15
	5 years or more	10
	3 years or more	5
Annual salary *1 The annual amount to be paid by the principal accepting organization. *2 In cases of a transfer from an overseas organization, including the annual amount to be paid by such organization. *3 Bonuses are also to be included in the annual amount.	The lower limit of the annual salary, to which points are awarded, will differ depending on the age classification. For further details, see ②.	40
		10
Age	Up to 29 years of age	15
	Between 30 and 34 years of age	10
	Between 35 and 39 years of age	5
Bonus Point 1 (Research Achievements)	For further details, see ③.	25
Bonus Point 2	Work for an organization which receives financial support measures related to innovation (measures provided for separately in a public notice). See Note 1.	10
Bonus Point 3	Employment in a small or medium-sized enterprise whose experiment and research expenses is more than 3% of total revenue.	5
Bonus Point 4	Holder of a foreign work-related qualification, etc. (See Note 4)	5
Bonus Point 5	Person who has earned a degree at a higher education institution in Japan.	10
Bonus Point 6	Person who has passed Level [N1] of the Japanese Language Proficiency Test or has been approved through another test (See Note 2) as having equivalent or higher language proficiency, or the person who majored in Japanese language at a foreign university and graduated from the university.	15
Total score		70

Advanced specialized/ technical activities		
Academic background	Holder of a doctor's degree (excluding professional degrees)	30
	Holder of a master's degree (including professional degrees) See Note 3.	20
	Holder of a bachelor's degree or equivalent (excluding a person with a doctor's degree or master's degree)	10
Professional Career (Business experience) * Limited to work experience related to the business in which the person intends to engage.	10 years or more	20
	7 years or more	15
	5 years or more	10
	3 years or more	5
Annual salary *1 The annual amount to be paid by the principal accepting organization. *2 In cases of a transfer from an overseas organization, including the annual amount to be paid by such organization. *3 Bonuses are also to be included in the annual amount.	The lower limit of the annual salary, to which points are awarded, will differ depending on the age classification. For further details, see ②.	40
		10
Age	Up to 29 years of age	15
	Between 30 and 34 years of age	10
	Between 35 and 39 years of age	5
Bonus Point 1 (Research Achievements)	For further details, see ③.	15
Bonus Point 2	Holder of a Japanese work-related qualification (5 points per one qualification)	10
Bonus Point 3	Work for an organization which receives financial support measures related to innovation (measures provided for separately in a public notice). See Note 1.	10
Bonus Point 4	Employment in a small or medium-sized enterprise whose experiment and research expenses is more than 3% of total revenue.	5
Bonus Point 5	Holder of a foreign work-related qualification, etc. (See Note 4)	5
Bonus Point 6	Person who has earned a degree at a higher education institution in Japan.	10
Bonus Point 7	Person who has passed Level [N1] of the Japanese Language Proficiency Test or has been approved through another test (See Note 2) as having equivalent or higher language proficiency, or the person who majored in Japanese language at a foreign university and graduated from the university.	15
	Person who has passed Level [N1] of the Japanese Language Proficiency Test or has been approved through another test (See Note 2) as having equivalent or higher language proficiency, or the person who majored in Japanese language at a foreign university and graduated from the university.	15
Total score		70

Advanced business management activities		
Academic background	Holder of a doctor's degree or a master's degree. See Note 3.	20
	Holder of a bachelor's degree or equivalent (excluding a person with a doctor's degree or master's degree)	10
Professional Career (Business experience) * Limited to work experience related to business management.	10 years or more	25
	7 years or more	20
	5 years or more	15
	3 years or more	10
Annual salary *1 The annual amount to be paid by the principal accepting organization. *2 In cases of a transfer from an overseas organization, including the annual amount to be paid by such organization. *3 Bonuses are also to be included in the annual amount.	30 million yen or more	50
	25 million yen or more	40
	20 million yen or more	30
	15 million yen or more	20
	10 million yen or more	10
Bonus Point 1 (Position)	Person to be accepted as a representative director or representative executive officer	10
	Person to be accepted as a director or executive officer	5
Bonus Point 2	Work for an organization which receives financial support measures related to innovation (measures provided for separately in a public notice). See Note 1.	10
Bonus Point 3	Employment in a small or medium-sized enterprise whose experiment and research expenses is more than 3% of total revenue.	5
Bonus Point 4	Holder of a foreign work-related qualification, etc. (See Note 4)	5
Bonus Point 5	Person who has earned a degree at a higher education institution in Japan.	10
Bonus Point 6	Person who has passed Level [N1] of the Japanese Language Proficiency Test or has been approved through another test (See Note 2) as having equivalent or higher language proficiency, or the person who majored in Japanese language at a foreign university and graduated from the university.	15
Total score		70

(Note 1) An additional 10 points will be awarded in cases where the organization employing the applicant is a small or medium-sized enterprise.

(Note 2) e.g., a score of 480 points or more on the BJT Business Japanese Proficiency Test.

(Note 3) An additional 5 points will be awarded in cases where the applicant holds a professional degree relating to business management (MBA, MOT).

(Note 4) For further details please check the Immigration Bureau website. (http://www.immi-moj.go.jp/newimmiact_3/en/index.html)

① Required minimum annual salary
An annual salary of more than 3 million yen is required for the fields of advanced specialized/ technical activities and advanced business management activities.

② Annual salary points allocation table				
	Younger than 30 years	Between 30 and 34 years	Between 35 and 39 years	40 years or older
10 million yen	40	40	40	40
9 million yen	35	35	35	35
8 million yen	30	30	30	30
7 million yen	25	25	25	—
6 million yen	20	20	20	—
5 million yen	15	15	—	—
4 million yen	10	—	—	—

③ Research Achievements			Advanced academic research activities	Advanced specialized/ technical activities
Research Achievements ※	Patent invention 1 item -		20	15
	Record of engaging in research using a grant funded by a public agency prior to entry into Japan 3 items -		20	15
	Past record of research papers: research papers (limited to those for which the applicant is the corresponding author), which appeared in an academic magazine registered in the academic research paper database used by Japanese national organizations 3 papers or more.		20	15
	For items other than above: where the applicant submits a research record equivalent to the above items (such as a record of winning a distinguished award), the Minister of Justice will determine whether to give points to the applicant on a case-by-case basis, after listening to opinions from a number of heads of the relevant administrative organizations.		20	15

※ In the field of advanced academic research activities, 25 points will be awarded in cases where the applicant comes under two or more of the above.