

Fewer Japanese, More Migrants? Immigration Frameworks and Policy Challenges*

Glenda S. Roberts[†]

1. Introduction

Changes in Japan's migration policy are occurring, both in response to Japan's recent economic restructuring, and in response to a more heightened sense of urgency for national security after the 9/11 attacks. Perceived increases in crimes by migrants in Japan, abetted by disproportionate focus in the media in recent years, also affect the policy framework. Furthermore, the spectre of the impending population decline also influences migration policy discourse. Governmental agencies as well as economic organizations realize that migration policy must react to these trends, but there is as yet little consensus around what exactly a new vision should be. That the old framework is flawed and inadequate to meet current concerns is obvious. The Ministry of Justice (MOJ) has stated as much in the 9/26/2006 report of a project team related to the reception of foreigners in the future, later analyzed in this chapter. The Ministry has also recently published a 3rd edition of the Basic Plan for Immigration Control, in which they state, "The time has come to decide what the role of Japanese administration of immigration control should be in this age of population decline" (MOJ 2005: 216).

In this chapter, I will first acquaint the reader with the general trends in migration to Japan from the late 1980s onward, and then turn to the question of how Japanese intellectuals and others have responded to the suggestion that low birth rate projections should be compensated for by increased migration. In the final section, I will discuss the latest government responses toward changing the migration policy framework. Due to spatial limitations, it is impossible to cover the migration policy framework in all its intricacy, but I would urge the interested reader to refer to Tsuda (2005), Douglass and Roberts (2003), Sellek (2001) and Iyotani (2001) for more comprehensive treatment.

2. Current Migration Trends and Policy

Before the 1980s, the majority of "foreign workers" in Japan were South Korea and North Korea-affiliated Koreans, as well as some Taiwanese, who, as a legacy of Japan's imperialist past, had remained in Japan after WWII and whose relationship to the Japanese state as citizens of the Empire had been nullified. They were given the status of "special permanent resident" (*tokubetsu eijūsha*). In 2005, 451,909 special permanent residents remained in Japan (MOJ 2006a). These peoples are often referred to as "old-comer" residents. The number of people in this category is shrinking steadily in recent years as those who seek to become naturalized citizens increases.

[†] Professor, Graduate School of Asia-Pacific Studies, Waseda University

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The status of “permanent resident” (*eijūsha*), is granted only after the person has lived for a period of time in Japan, generally at least ten years, although this is now being revised. Granting of the status is at the discretion of the MOJ. This group of people has been increasing as “long-term residents” (*teijūsha*) seek a status that will allow them to remain and work in any occupation permanently in Japan, without rescinding their citizenship in their homelands. There were 349,804 permanent residents in 2005 (MOJ 2006a).

Legal benchmarks leading to new immigration were made when MOJ revised the immigration control law (*Shutsunyūkoku Kanri Oyobi Nanmin Nintei-hō*) in 1989, allowing peoples of ethnic Japanese descent, mainly from Brazil and Peru, to come to Japan with their families to work in any category (including unskilled work) for periods of up to three years. This coincided with extremely high inflation in Brazil, so there were many Brazilians desirous of seeking out job opportunities in Japan, where the yen was very strong, and it seemed possible to accumulate funds even given Japan’s much higher cost of living. Many of these people became employed in the auto parts and automobile industry, as well as in welfare care-giving work. This group of people comes into Japan under the status of “long-term resident” (*teijūsha*), numbering 265,639 registrants in 2005 (MOJ 2006a). Japanese nationals who had been stranded in China at the end of WWII (*zanryū koji* and *zanryū fujin*) who repatriated to Japan, and persons granted asylum as refugees, also are included in the long-term resident category.

The category “spouses of Japanese nationals” (*Nihonjin no haigūsha*) has been growing steadily. According to Yamawaki (2006: 11), one out of eighteen matches in Japan involves a foreign spouse, and almost 80 per cent of these marriages consist of a foreign woman and a Japanese man. In 2005, there were 259,656 people with the status of spouse of a Japanese national.

In 1990, pre-college students of Japanese language (*shūgaku*), as well as college students (*ryūgaku*), were also encouraged to come to Japan. These students are legally allowed to work for up to twenty hours per week at any job. In 2005, there were 129,568 college students, and 28,147 pre-college students, registered in Japan. This immigration status, and in particular the pre-college student status, has come under increasing scrutiny as students have often been found to use the status as a means to enter Japan to work.

The category of “trainee” (*kenshū*) and “technical intern” (*ginōjisshū*) has also allowed foreigners, especially from developing countries, to enter Japan with the ostensible purpose of technology transfer. The current system allows people to be trained and later take up technical internships at firms for up to three years. The trainee program began in 1981 and grew throughout the recession to the present, with modifications through the years. Kawakami notes that despite the recession, small to medium sized firms brought in trainees and technical interns under the lowest possible allowances and wages as they still had a demand for labour (Kawakami 2005). This trainee and internship system has been heavily criticized by academics and NGOs as a loophole for bringing in manual workers under the guise of technical transfer, for extremely low wages and poor conditions (Sellek 2001; Kawakami 2005; Torii 2006; GKMN 2006). The majority of trainees come from China, followed by Indonesia and the Philippines. In 2005, the total number of registered trainees stood at 54,107 (MOJ 2006a).

Another significant group of foreign workers until 2005 were those in the “entertainment” (kōgyō) category. Oishi notes: “The immigration category of “entertainment” was introduced in 1981 in response to the strong demand for overseas entertainment workers. From the beginning, this category was seen as breaching the state policy of not accepting unskilled foreign labour. Work visas in Japan were supposed to be for “skilled workers” (Oishi 2005: 35). Although bona fide entertainers also enter Japan in this category, the majority of women on this visa are channelled to work as bar hostesses, where sex work may also come with the job (Douglass 2003). The Ministry of Justice in 2005 remarked that the number of foreigners newly entering Japan in this category had been steadily on the rise since 2000, reaching 134,879 in 2004. In 2005, Japan imposed severe restrictions on the qualifications for those granted this status, responding to Japan’s being listed as a “Tier 2-Watch List” country on the 2004 U. S. State Department watch list for international trafficking in women and children, together with countries such as the Philippines, Thailand and Zimbabwe (Oishi 2005; see also USDS 2004). As a result, the numbers of people submitting alien registrations as entertainers has fallen sharply, from 64,742 in 2004 to 36,376 in 2005 (MOJ 2006a).

Furthermore, during the 1980s especially, many people from the region and beyond, who learned of the high demand for unskilled labour in Japan’s construction and small-to-medium size manufacturing industries, as well as service industries such as restaurants and bars, came to Japan as tourists or in other statuses such as pre-college student or technical intern or trainee, found jobs, and overstayed. Their estimated number peaked at 298,646 in 1993, but diminished over the economic recession period and particularly under a stringent MOJ campaign instituted in December 2003 that aims to cut in half the number of undocumented foreign residents by 2008. The three pillars of this policy are “Forbid them to come,” “Forbid them to enter,” and “Forbid them to stay” (MOJ 2006b: 2). Their estimated number stood at 193,745 in January 2006, down 6.5 per cent from 2005. There has been no general amnesty for overstayers, and those discovered to be overstaying are summarily deported. In a few cases, however, the MOJ has granted permission for overstayers to remain in Japan. Typically in such cases, the parents have stable jobs, and the children have done well in the Japanese school system and cannot speak their native languages (Yoshinari 2005).

Finally, political asylum seekers are also found among Japan’s migrant population. Aside from Indochinese refugees, of whom Japan accepted as residents 10,941 persons from 1978–2002, Japan approved 313 applications out of 3,544 for asylum seekers through 2004 (*Asahi Shinbun* 2006: 90; MOFA 2006: 3).

The year 2005 saw the largest number of foreigners ever register as residents in Japan, the first year to top the two million mark, at 2,011,555 people. They made up 1.57 per cent of Japan’s total population, which was 127,756,815 in 2005 (MOJ 2006a). The nationality of the majority of foreign residents is South or North Korea (29.8% of all foreign registrants), followed by China (25.85%), Brazil (15%), the Philippines (9.3%), and Peru (2.5%). Although foreign residents can be found all over the country, in both rural and urban areas, their heaviest concentration is in Tokyo, followed by Osaka, Aichi, Kanagawa, Saitama, Hyogo, Chiba, and Shizuoka prefectures (MOJ 2006a). While 1.57 per cent may seem inconsequential compared to the proportions of foreign residents in the rest of the developed world¹, to the Japanese, it is apparent and a cause for

comment. It should be noted, however, that many of the people included as “foreign residents” in the statistics are Japan-born, but Japan’s citizenship principle is based on *jus sanguinis* rather than *jus soli* (Kashiwazaki 1998).

Table 1. Shifts in numbers of foreign registrants by status, 2001–2005

RESIDENCY STATUS	2001	2002	2003	2004	2005	Total%
TOTAL	1,778,462	1,851,758	1,915,030	1,973,747	2,011,555	100,00%
PERMANENT RESIDENT	684,853	713,775	742,963	778,583	801,713	39,90%
General resident	184,071	223,875	267,011	312,964	349,804	17,40%
Special permanent resident	500,782	489,900	475,952	465,619	451,909	22,50%
NON-PERMANENT RESIDENT	1,093,609	1,137,983	1,172,067	1,195,164	1,209,842	60,10%
Long-term resident	244,460	243,451	245,147	250,734	265,639	13,20%
Spouse of Japanese	280,436	271,719	262,778	257,292	259,656	12,90%
College student	93,614	110,415	125,597	129,873	129,568	6,40%
Accompanying family	78,847	83,075	81,535	81,919	86,055	4,30%
Spec. in humanities/ international services	40,861	44,496	44,943	47,682	55,276	2,70%
Trainee	38,169	39,067	44,464	54,317	54,107	2,70%
Entertainer	55,461	58,359	64,642	64,742	36,376	1,80%
Engineer	19,439	20,717	20,807	23,210	29,044	1,40%
skilled labour	11,927	12,522	12,583	13,373	15,112	0,80%
Intra-company transferee	9,913	10,923	10,605	10,993	11,977	0,60%
Spouse of permanent resident, etc.	7,047	7,576	8,519	9,417	11,066	0,60%
Education	9,068	9,715	9,390	9,393	9,449	0,50%
Professor	7,196	7,751	8,037	8,153	8,406	0,40%
Other	155,405	170,999	182,547	190,858	209,964	10,40%

Note: Figures are from year-end of each year. Total per cents are rounded.
Source: Adapted from MOJ 2006a.

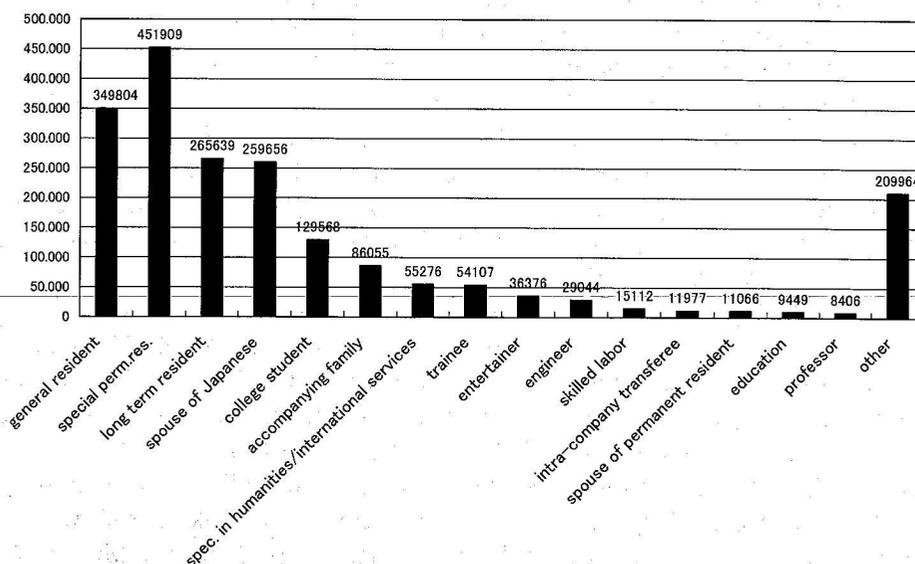


Fig. 1. Residency status in 2005
Source: Adapted from MOJ 2006a.

3. Population Decline and Response

In 2000, a United Nations report suggested that in order for Japan to maintain its population in the face of the coming population decline, it would need to accept about 381,000 foreign migrants annually, and if Japan desired to keep the size of the working-age population constant at the 1995 level (87.2 million), Japan would need to allow 609,000 migrants to enter per year to 2050. In this latter scenario, the report notes, "The number of post-1995 immigrants and their descendants would be 46 million, accounting for 30 per cent of the total population in 2050." (UNPD 2000: 49–51). At the time, this declaration made big headlines, and indeed, it has reverberated in academic writings as well as policy documents. While the projection by the United Nations report may have been a kind of unwelcome wake-up call, it certainly was not taken as a serious policy direction. There is a range of opinion among academics, as well as amongst economic federations, NGOs, and government ministries, as to how the immigration framework should be changed. None of the above parties look to immigration as the main solution to the problem of the low birth rate. On the other hand, no one is calling for a cessation to migration. Parties differ as to what sort of migrant workers should be encouraged to come to Japan, in what sort of occupations, and under what kind of conditions.

In his book *Amerikagata fuan shakai de ii no ka* [Do we want an anxiety society like that of the US?] (2006), Tachibanaki Toshiaki, Professor of Economics at the University of Kyoto, brings to his discussion of the low birth rate society the question of whether Japan must open to foreign migrants. Tachibanaki's opinion on opening the country to foreign labour is that it is effective as a means of economic invigoration. He cites the USA, Canada and Australia as cases in point. Furthermore, in post-war Europe, the economic recovery was successful due to the importation of migrant workers. Such workers, he notes, tend to be 'low-wage' workers, hence cost-saving to firms. This would be especially attractive to firms in Japan, where wages are on the comparatively high side (Tachibanaki 2006: 149). Yet Tachibanaki is aware of the costs of labour migration as well. He notes that in economic downturns, migrants become the first to be unemployed and form an economic underclass. Second, he mentions that migrants' families also come to stay, so social diversity (*ishitsusei*) as seen in religion, language, culture, and race, increases. Third, social unease arises due to the above mentioned increased diversity. As examples, he gives Germany's unease with the Turks, France's unease with Arab population, and England's unease with Indians, Pakistanis and Caribbean peoples in their midst. His solution to minimize such costs is to introduce migrants not as permanent labour, but as fixed-term labour, and not at low wages, but at the same or slightly higher wages as their Japanese counterparts. As to the question of what type of worker should be received, he notes: "The proposal to accept only skilled workers is a selfish argument on the part of the receiving country, and I am of the opinion that unskilled workers should also be accepted in the same way." (Tachibanaki 2006: 150).

Selfish argument notwithstanding, the Japan Business Federation (Nippon Keidanren) in May 2006 issued a set of resolutions for FY 2006, *Tapping Human Potential: Creative Solutions for a New Era*, in which the acceptance of foreign labour is only mentioned once, under "Rapid responses to the decline in Japan's population." The policy recommended is "Controlled admission of more highly qualified foreigners in greater numbers; development of new mechanisms to ensure this goal." (Nippon Keidan-

ren 2006a). Another response to the threat of economic decline is the argument that Japan will make up in high technological prowess what it lacks in bodies. That is, it does not matter if low-value-added industries decline and die, because hi-tech industries requiring fewer but better educated workers will make up the difference in productivity (Usui 2005).

This line of reasoning is also taken up by Prime Minister Shinzo Abe in his book, *Utsukushii kuni he* [Toward a Beautiful Country]. In his chapter “Japan and Asia, and then, China”, he notes, “If there are people who are appreciative of the Japanese national essence (*kunigara*) and ideals, and wish to educate their children in Japan, or if there are people who wish to become Japanese, we must open the doors wide for them. Needless to say, this is for the dynamism of Japan” (Abe 2006: 158). In his chapter on the low birth rate, however, Abe does not mention migration at all. He believes that the shrinking labour force will be compensated for by productivity gains and changing the pension system, as well as by progress in preventive medicine for the elderly.

Governmental officials disagree over the question of whether and to what extent migration should be encouraged in the future. According to the *Yomiuri Shinbun* (3 August 2006), the Ministry of Health, Labour and Welfare (MHLW) crossed swords with the Council on Regulatory Reform and Promotion of the Liberalization of the Private Sector (*Gyōsei kaikaku minkan kaihō suishin kaigi*) over a midterm report the latter had issued, in which they encouraged the acceptance of foreign social welfare workers and welfare caregivers. While the MHLW argued that supply of labour in the care fields exceeds demand, and that importation of foreign labour would lead to job losses for women and Japanese youth as well as worsened conditions, the Council rejected this view, stating “This will not lead to an oversupply of labour or a worsening of labour conditions.” The major private-sector economic organization, Nippon Keidanren, was positive about the so-called Economic Partnership Agreement (EPA): “Nippon Keidanren has been calling to date for the acceptance of foreign human resources in the fields of nursing and care-giving, where a labour shortage is expected. For this reason, it warmly welcomes the creation within the Japan-Philippine EPA of a basic framework for the acceptance of nurses and careworkers (Nippon Keidanren 2006b: 11).

According to the EPA agreement which was supported by both the Ministry of Foreign Affairs (MOFA) and the Ministry of Economy, Trade and Industry (METI), Japan was to accept up to 1,000 nurses and welfare caretakers from the spring of 2007, who would be given six months’ training in Japanese language before being sent to facilities where they will assist in nursing and care-giving tasks respectively. The nurses would be required to have a nursing degree and three years of experience; the caregivers, a four year college degree and care experience or a degree from a Philippine nursing school. Both would be required to pass the Japanese national exams for nurses or welfare caretakers, respectively, by the end of a three or four year term, respectively. If they fail the exam, they will not be allowed to remain in Japan. If they pass, they can remain and work as regular workers on three year renewable visas (*Chunichi Shinbun* 12 September 2006). Apparently it took two years to negotiate this agreement because of the strong stance of labour against it (*Shizuoka Shinbun* 25 September 2006). The Japan Nurses Association issued a public statement on 12 September 2006, in which, after noting that while there are some 550,000 qualified Japanese who are currently not

working in medical fields, “We should not simply bring in foreign nurses with the notion of solving Japan’s nurse shortage” (*Tokyo Shinbun* 12 September 2006).

There are also many citizen groups in Japan working toward improving living and working conditions for foreign residents and lobbying the government actively to create what is called a “Multicultural Co-existence Society” (*tabunka kyōsei shakai*). Beginning with groups that supported the *Zainichi* [residing in Japan] Korean “old-comer” population and expanding to numerous support organizations for “newcomer” foreigners living in Japan, they have proved essential in upholding the rights of the foreign population and contributing in crucial ways where government assistance was totally lacking (see Roberts 2003; Shipper 2005; Milly 2005; Yamanaka 2005). Many of these groups challenge the current immigration policy framework, by, for instance, advocating that overstayers who have lived peaceful and productive lives in Japan for many years now, should be granted amnesty, or by insisting that the current technical trainee system is a sham and should be replaced by a system allowing migrant workers to perform blue-collar work as regular workers under the Labour Standards Law (Torii 2006; GKMN 2006; Miyajima 2006; Nakajima 2006). Some write books to expose the scapegoating by politicians and media of foreign migrants as criminals (GSUN 2004). Some oppose the new move toward heightened surveillance and control through ID cards (Nichibenren 2006). The citizens groups’ voices may lack the strength of the economic organizations, but they do maintain international networks and are savvy about using external pressure and human rights arguments to bolster their concerns. Of course these groups have differences among themselves, and one cannot claim they pose a united front on all issues.

4. A New Basic Stance on Immigration?

In September 2006, the Ministry of Justice’s ‘project team on the future admittance of foreigners’ [Kongo no Gaikokujin no Ukeire ni kansuru Purojekuto Chīmu] issued a report entitled “Basic stance on admittance of foreigners in the future” [*Kongo no gaikokujin no ukeire ni kansuru kihontekina kangaekata*]. The principal investigator on this team was the Vice Minister of Justice, Kōno Tarō. In general, this document seems to lean toward rationalizing the current system of migration, and points toward the creation of a ‘more finely-tuned residence management system’ for foreigners (MOJ 2006 c: 1), wherein foreigners must be given wages equal to those of the Japanese, and will be obliged to enrol in pension and social insurance systems. The new policy document definitely does not lean in the direction of welcoming foreign permanent residents in large numbers. In the following I will highlight two sets of policy proposals to be found in this document, which have a direct impact on the legal status of migrant workers.

The project team recommends changing the systems and policies regarding people who are being used for the securing of cheap labour, (they mention the intern and technical trainee program as well as the entry system for people of Japanese descent). Concretely, they suggest thoroughly overhauling the intern/trainee system to one where such workers are accepted under employment contracts with firms, as “special skills workers” (*tokutei ginō rōdōsha*) whose fields of work are not recognized as skilled under the current framework. They note, “The industries to be allowed to hire such foreign labour are those for which it is deemed necessary for the development of the

industry, only after they have carried out policies to hire domestic workers" (MOJ 2006 c: 3). Furthermore, they suggest that such workers attain a certain level of proficiency in Japanese, and that their children must obtain compulsory education (in Japanese schools). Family reunification is also being considered: "Those on this system may, after a certain period has passed, and after having attained a certain level of skill and Japanese ability, bring over their family members. In that case, the spouses and so on must also have a certain level of Japanese proficiency" (MOJ 2006c: 3).

Another notable feature is that they plan to restructure the current acceptance scheme for *Nikkeijin* [of Japanese descent] migrants such that they must fulfil the same requirements as those mentioned above in the new 'special skills workers' category, once it is implemented, rather than giving them special admittance privileges "just because of shared blood." (MOJ 2006c: 3). This appears to be an attempt to ensure that Japanese Brazilian workers, as well as their accompanying family members, learn Japanese and are covered by health and social insurance programs². They also mention that one of their basic stances in future policy will be to contribute to the diversification of Japanese society by way of refraining from favouring particular nationalities in their admittance policies (MOJ 2006c: 2, item #7). Furthermore, those *Nikkeijin* already in Japan for the purpose of working will have to have acquired a certain level of proficiency in Japanese (after the Japanese language support policies are actualized), and will have to demonstrate their ability to support a household stably (through stable employment) if they wish to continue their residency. Admittance for co-residing direct relatives and dependents would also depend on these conditions (MOJ 2006c: 4). Taken together with the comments on rehauling the admittance policies for *Nikkeijin*, one might conclude that the Ministry of Justice project team is rethinking its descent-based policies, probably due to problems with the education of *Nikkeijin* children³, and related juvenile crimes.

Although the Basic Stance lays out a general scheme for immigration policy and control in the future, it is currently only a set of recommendations, subject to negotiation and amendment. Shortly after the Stance document was published, the *Asahi Shinbun* (23-24 September 2006: 25) noted that although the MOJ project team announced plans to abolish the current trainee-internship program, this is being contested by the business community, who "has asked for an extension of the current trainee-technical internship program." Furthermore, they note the MHLW wants to keep the current system but hold businesses strictly to the rules, while METI wants to consider extending the length of time foreigners may stay under the current system⁴. There is a new Minister of Justice since the project team issued the Basic Stance, and how it fares will also be influenced by his opinion. One wonders how many of the Stance's plans will be eventually put in place, but one can look at it as a text illustrating the policy directions advocated by one group at the MOJ.

5. Conclusion

The economic malaise of the post-Bubble period, accompanied by various social ills that garnered much news coverage, contributed to Japan's caution toward increasing foreign migration. If 9/11 had not occurred, if German and France had not had so much unrest with their migrant populations, and if England had not experienced terrorist

bombings in 2005, the tone regarding immigration might be more positive. A heightened sense of awareness of security issues is brought up regularly in policy documents related to migration⁵. Clearly, the Japanese government will not be moving forward swiftly to increase the numbers of migrants allowed into Japan, despite the accelerating population decline. Indeed, as the Basic Stance document illustrates, there is a strong current toward revising the existing framework, and toward more strict control of immigration. Perhaps they are waiting for the labour market to tighten. One reason it has not done so, as Torii (2006) observes, is that migrant workers, including the undocumented and trainees, are already making substantial contributions. The details of who will be encouraged to come to Japan, under what conditions, are the subject of considerable debate among ministries, economic federations, and local officials. The main challenge to Japan in the years ahead, as with all rich, aging countries of migration, lies in recognizing the necessity of migration at some level, and in setting out a framework to deal justly with the peoples in its midst.

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Footnotes:

- 1 According to the OECD, in 2002, the foreign population made up 8.9% of the population in Germany, 5.6% in France, 4.9% in Denmark, 4.5% in the UK, 4.3% in the Netherlands, 3.1% in Spain, 2.6% in Italy, and 0.5% in Korea (OECD 2003).
- 2 Failure of many employers to enter *Nikkeijin* workers into the social and health insurance schemes has been a major problem in past years (see Roth 2002).
- 3 While young children of *Nikkeijin* families are more easily able to adjust to the local Japanese school curriculums, older children have more difficulties with learning to read and write as well as to keep up with the level of their studies in their home countries. The number of unschooled immigrant children has been increasing since the mid-90s. Furthermore, often both parents work, so unschooled children must fend for themselves during the day. Sometimes these children end up in the juvenile justice system (interview, Kurihama Juvenile Justice Home for Youths, July 26 2005). See also Yamanaka (2005). Problems of this sort might be mitigated by fashioning school systems with far greater support for bilingual students than is now provided.
- 4 See also Miyajima (2006). Mr. Miyajima is a professor in the graduate Sociology program at Hosei University and the head administrator for the NPO, RINK.
- 5 See, for instance, MOJ (2005: 216-228).