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COMPARING IMMIGRATION POLICIES IN JAPAN AND KOREA:
A HISTORICAL-INSTITUTIONALIST APPROACH

by

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ABSTRACT OF THE DISSERTATION

Comparing Immigration Policies in Japan and Korea:
a historical-institutionalist approach

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This dissertation, *Comparing Immigration Policies in Japan and Korea: a historical-institutionalist approach* examines convergence and divergence in immigration policies between Japan and Korea. I challenge a well-established hypothesis that supports policy convergence based on the experiences of European countries. I argue that significant policy divergence has occurred between Korea and Japan especially when it comes to unskilled foreign workers, while policy convergence has been observed in return migration policies toward ethnic Koreans and Japanese. To explain these puzzles, I propose a historical-institutionalist approach to immigration policy by placing special emphasis on intra-governmental competition and political coalitions between state and social movement organizations (e.g. pro-migrant NGOs) in the policy-making processes. Using data from governmental sources and interviews, I find that political coalitions between state and pro-migrant civic organizations lead to liberal policies toward unskilled foreign workers in Korea, whereas the absence of influence of civil society in the policy-making process makes immigrant policies less liberal and less flexible in Japan. This comparative study outside of traditional western states not only broadens the empirical scope of international migration studies, but also tests whether current migration theories that heavily rely on Euroamerican cases may apply more generally to non-Western cases.

For studying other policy areas, my research also can provide new analytical dimension including roles of new social movements in policy domains beyond the traditional view of bureaucracy-led policymaking in Japan and Korea.

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CHAPTER 1

INTRODUCTION

During the fall of 2004, one of Korea's most popular television shows, "Asia, Asia," aired a compelling story about the experiences of a foreign migrant worker in South Korea. South Korean viewers learned how a migrant worker from Bangladesh endured delayed wages, illegal status, and wrenching homesickness. Although able to return to his home country at any time, the Bangladeshi felt that he could not do so until he had earned enough to pay off debts owed brokers in his country before starting work in South Korea. In addition, "Asia, Asia" interviewed activists from humanitarian non-governmental organizations (NGOs) who worked with and on behalf of migrant workers in South Korea, and they informed the television audience about various problems faced by foreign workers, the causes of these problems, and what kinds of institutional and policy changes were needed to address them. The show arranged a meeting between migrant workers and their families regardless of their legal status in South Korea. With assistance from the Korean government and its embassy staffs in particular, the show's hosts flew to migrant workers' countries, searched for their families, and transported many family members to South Korea for tearful reunions.

"Asia, Asia" was the first regular TV show which focused on the needs and problems of migrant workers in South Korea. In general, this show covered how poorly migrant workers have been treated despite their contributions to the Korean economy. However, the show was not a serious investigative newsmagazine in the mold of "60

Minutes” in the United States. Instead, it falls within the genre of “edutainment (education + entertainment),” designed to provide the audience with social messages of public interest in an entertaining format. The show’s hosts, famous comedians in South Korea, successfully mitigated the seriousness of the topics, and made difficult issues alternately funny and touching. Broadcast during “prime time” of Korean broadcasting (Saturday evenings), the program on migrant workers punctuated climactic family reunions with powerful social messages aimed at the South Korean public:

“Korea must be mature. We have to look back our discriminative attitudes toward migrant workers. We should approach them with more humanitarian view. As they have their own families, migrant workers are same as us.”

“A better treatment of migrant workers is a true diplomacy.”

“Improving their working and living conditions is favorable for our national interests.”

“Protecting human rights of migrant workers is for the future of our industries and economies.”

According to NGO activists and others interviewed for this study, this episode of “Asia, Asia” was an important “focusing event” in South Korea concerning the treatment of foreign guest workers. Indeed, these sources suggest that it served as a significant catalyst for recasting South Korean public opinion on the issue of migrant workers and immigration policy more generally.

When I finished watching the show, my initial reaction was one of great surprise that the problems of foreign workers in Korea were so serious that one of its most popular television shows took up these issues. More deeply, I was curious how the Korean people

conceived of issues concerning foreign workers from mostly South Asia, and how the Korean government was responding both to the influx of low-skilled workers and to the social problems associated with increased international migration. South Korea has never viewed immigration as a part of its national identity or a part of its nation-building. Rather, it is the opposite. The Korean national identity has been formed by excluding ethnic others. Indeed, the Korean people traditionally have strongly believed in the purity of their bloodline and ethnic homogeneity. South Korea has historically been described as a racially homogenous country without much experiences of living together with foreigners. There have been only two visible foreigners' groups in South Korea until recently. The first group is U.S soldiers and their families who began to live in South Korea mostly after the Korean War. However, since they mostly spent their time inside the U.S. military camps, their encounters with native Koreans were quite rare. The second foreign group is *Hwakyos*, Chinese citizens residing outside of China. Due to their personal networks to China, *Hwakyos* used to dominate export and import in Korea directly following liberation from Japanese colonialism in 1945. Yet, the number of *Hwakyos* in South Korea has decreased because of social discrimination against them and harsh regulation on their properties and economic activities in the 1960s and the 1970s. Therefore, South Korea did not face a variety of issues on immigration control and immigrants integration until foreign workers from Asian countries began to enter South Korea in the late 1980s, and international marriages between Korean males and Asian females suddenly increased since the early 1990s. Precisely speaking, Koreans have not had that kind of chance. But now the Korean people have to care for a massive number of

non-Western, low-skilled foreign workers from less developed countries. The Korean government also has to consider how to control them, and how to live together with them.

Table 1.1. International Marriages in South Korea from 1990 to 2006

Year	Total Marriage Cases	Int'l Marriage Cases	%	Foreign Wives Cases	%	Foreign Husbands Cases	%
1990	393,312	4,710	1.2	619	0.2	4,091	1.0
1991	416,872	5,012	1.2	663	0.2	4,349	1.0
1992	419,774	5,534	1.3	2,057	0.5	3,477	0.8
1993	402,593	6,545	1.6	3,109	0.8	3,436	0.9
1994	393,121	6,616	1.7	3,072	0.8	3,544	0.9
1995	398,484	13,494	3.4	10,365	2.6	3,129	0.8
1996	434,911	15,946	3.7	12,647	2.9	3,299	0.8
1997	388,591	12,448	3.2	9,266	2.4	3,182	0.8
1998	375,616	12,188	3.2	8,054	2.1	4,134	1.1
1999	362,673	10,570	2.9	5,775	1.6	4,795	1.3
2000	334,030	12,319	3.7	7,304	2.2	5,015	1.5
2001	320,063	15,234	4.8	10,006	3.1	5,228	1.6
2002	306,573	15,913	5.2	11,017	3.6	4,896	1.6
2003	304,932	25,658	8.4	19,214	6.3	6,444	2.1
2004	310,944	35,447	11.4	25,594	8.2	9,853	3.2
2005	316,375	43,121	13.6	31,180	9.9	11,941	3.8
2006	332,752	39,690	11.9	30,208	9.1	9,482	2.8
1990 - 2006	6,217,616	280,445	4.5	190,150	3.1	90,295	1.5

Sources: Korea National Statistical Office, <http://kosis.nso.go.kr> (requoted from Seol (2007))

Later, the demographic and migration trends changed rapidly and became more complex. Besides the increases of foreign migrant workers, and especially of ethnic Koreans from China, as noted in Table 1.1., international marriages between Korean males and Asian females raised the questions of national identity, citizenship, and multiculturalism in South Korea. As a response to those challenges, on April 26th, 2006, the former Korean president, Roh Moo-Hyun spoke in a cabinet meeting, “Korea is rapidly moving toward multi-racial and multi-cultural society, and this trend is irreversible.” (Yoon 2008) Since then, a variety of ministries have proposed social

integration policies for foreigners residing in Korea.

While South Korea had been historically free from the problems of foreign minorities, Japan has faced the issues of those minorities as a legacy of the Japanese colonialism, and observed their struggles against legal and social exclusion and attempts at assimilation. Whereas one of the popular beliefs among policymakers, citizens, and even scholars in Japan is that Japan has no history of immigration, Japan indeed has had experienced a number of immigration over the past century dating back to the late 19th century. Japan had built an empire, and Japan's colonial subjects had been incorporated as Japanese nationals, and became a part of the Japanese multiethnic empire. As the British and French colonial histories have affected the current debates on multiculturalism and citizenship, Japan is not free from the impacts of the prewar colonial history on the Japanese contemporary immigration policy.

The Japanese empire by nature encompassed diverse populations from its colonies. At the end of the war approximately over 2 million Koreans lived in Japan, which comprised over 90 % of the total foreign population.(Surak 2008) When the Japanese empire collapsed following the World War II, the Japanese state needed to redefine the status of those colonial subjects. Even though the former colonial subjects from Taiwan and Korea were Japanese nationals under Japanese colonialism, Koreans and Taiwanese were redefined as "aliens." Dealing with the former colonial subjects in the newly democratized Japan deeply affected the formation of Japan's national migration regime. Katherine Tegtmeier Pak argues that the decision about how to manage Koreans and Taiwanese was closely connected with Japanese conservatives' concerns about how to

redefine Japan's national identity from a multi-ethnic empire to democratic nation-state. (Pak 2004) Those 'old-comers' moved to Japan as a part of the wartime mobilization. In 1910, the number of the Korean populations in Japan was only 791, but it surpassed 129,000 in 1925, and reached about two million when the Pacific War ended. One study concluded "Over 720,000 Koreans were forced to move to Japan as manual and menial laborers from 1939 to 1945 alone." (Morooka 2006, p. 38) After Japan was defeated in 1945, more than 1.5 million Koreans came back to Korea. However, about 50,000 Korean decided to stay in Japan "in part because of the political uncertainty and high inflation in their homeland and because of the difficulties of repatriating the property then had accumulated." (Komai 1995, p. 234) Due to the 1952 San Francisco Peace Treaty, however, Japan stripped the former colonial subjects of their Japanese citizenship. As a consequence, those old-comers were considered as foreigners instead of subjects of the Japanese empire. Their life is characterized by "marginalization and the struggle for inclusion." (Chapman 2006, p. 90) In sum, unlike the case of South Korea, Japan's colonial past and its reformation of national identity from the Japanese multiethnic empire into a democratic state based on a single race have profoundly affected the development of migration regime in Japan.

Japan offers a valuable point of comparison, one that is consistent with South Korean immigration policy developments in important respects but decidedly different in others. Japan in fact addressed the subjects of foreign workers and foreign labor policy a few years earlier than South Korea. As I discovered early on in my research, the basic framework of foreign labor policy in Korea was actually borrowed from the Japanese

policy. Before 2004, it is no exaggeration to state that the Korean policy toward foreign labor forces was a carbon copy of the Japanese policy.

Over time, the immigration control regime in Japan was modified due to structural changes in Japanese society such as low-birth rate, an aging population, and increasing vacancies in low-skilled occupational sectors. To cope with those problems, the Japanese government decided to close the front door, but open the side-door to import the unskilled laborers in the name of trainees. South Korea adopted this idea and implemented it. In 2004, however, South Korea elected to pursue a different policy path. Rather than modeling its migration regime after Japan's, South Korea decided to open its front door to foreign workers at the same time that Japan held fast to its original position of "no unskilled foreign workers." These striking programmatic developments underscore a crucial comparative question that has not been adequately addressed by scholars in this field: Why did these two prominent East Asian countries with formidable economies and liberal democratic forms of government begin with essentially the same policy and later diverge in important ways? In particular, why is South Korea moving gradually toward more open immigration and integration policies while Japan remains devoted to maintaining a more restrictive regime?

These differences are further highlighted by still more policy shifts since 2004, when the Korean government set up an official guest worker program to import foreign laborers and who were promised the basic labor rights as domestic workers. Beginning in 2006, the Korean government prepared for a comprehensive framework for social integration of foreigners including legal migrant workers, international marriage migrants, their

children, and other foreigners at the national level. In 2006, the Committee on Foreigner Policy extensively discussed the “basic direction” and implementation system of Korea’s policy on foreign nationals (hereafter, the Basic Direction)¹, and the Korean government proclaimed the “Grand Plan” of social integration of female marriage migrants, mixed-race people, and foreign residents into Korean society.² (Lee 2008) In April 2007, the Korean National Assembly passed the Basic Law Pertaining to Foreigners in Korea (*Jaehan oegukin Gibonbeop*) (hereafter Basic Law), which provides an institutional framework for supporting foreigners and seeks to enhance the rights of foreign nationals in Korea through systematic management. Upon legislation of the Basic Law, the Korean Immigration Bureau extended its area of activity to the implementation of foreigner policy, in addition to its original task of controlling entry and exit. At the same time, the Ministry of Justice announced that it would strive to enhance the social integration of foreigners into Korean society with full respect for their rights.³

During the spring of 2007, there were some signs that Japan might consider reforming its approach. At this time, Japan’s Minister of Justice, Jinen Nagase, announced that his country should abolish the current system and replace it with one that

1 The Basic Direction (Oegukinjeongchaek Gibonbanhyangkwa Choojinchekye) defines three principles of policy on foreigners in Korea as follows: (1) protecting foreigners’ human rights, (2) enhancing national competitiveness by attracting highly skilled foreign workers and importing low-skilled workers in a limited way, and (3) encouraging the embrace of multiculturalism and social integration.

2 The Grand Plan (Yeoseong Gyeolhoniminja Gajok Mit Honhyeolin/Ijuja Sahoetonghap Jiwonbanan) proclaims the vision of Korea as a leading country in terms of multiculturalism and human rights in Asia. It mainly aims to reduce discrimination against international marriage migrants and mixed-race people and to raise social awareness of multicultural issues.

3 Some criticize that these policy changes exclude foreign migrant workers, especially illegal migrant workers. Oh defines these more open policies as a sort of “divide and rule” to accelerate splits within immigrant communities (Oh, 2007).

officially accepted unskilled workers. Yet his plans ultimately went nowhere. A newly appointed Minister of Justice, Kunio Hatoyama rejected Nagase's proposal in September, 2007 and explained that his first concern was the possibility of increasing crimes by foreign nationals. Whereas the South Korean government in recent years has focused on planning and implementing new foreign worker and immigrant integration policies, Japan's national government has devoted little attention to the social integration of new migrants and has left it to local governments to respond as they see fit to the needs and challenges posed by foreign workers and their families. Again, it is intriguing how and why two countries that initially adopted similar policy regimes to address international migration generally and unskilled foreign workers specifically have evolved in unmistakably different directions. It is the central puzzle of this dissertation.

To solve this puzzle, I propose a historical-institutionalist approach to immigration policy by placing special emphasis on intra-governmental competition and political coalitions between state and social movement organizations (e.g. pro-migrant NGOs) in the policy-making processes. Using data from governmental sources and interviews, I find that political coalitions between the state and pro-migrant civic organizations have led to liberal policies toward unskilled foreign workers in Korea, whereas the absence of a similarly influential role of civil society actors (especially strong pro-migrant NGOs) in Japan produced an immigration policy-making process that was more restrictive, less liberal, and less flexible than the one that emerged in South Korea. This comparative study outside of traditional Western states not only broadens the empirical scope of international migration studies, but also tests whether current migration theories that

heavily rely on European and American cases may apply more generally to non-Western cases. For studying other policy areas, my research also can provide new analytical insights about the roles of new social movements in policy domains beyond the traditional view of bureaucracy-led policymaking in Japan and Korea. Indeed, it will underscore the importance of civil society actors in South Korea.

1.1 Immigration Studies in East Asia

Just as goods, capital, and information have been freely exchanged in a more interdependent world, human beings have been constantly moving across borders. According to the United Nations Population Division, the population of migrant stock in the world is approximately 191 million, which accounts for 3 percent of the world's population. (Kim 2009) Although this number of migrant workers is still a small proportion of the world's labor force, their geographic spread is increasing. Foreign migrant workers now reside not only in developed countries in Europe and North America, but also in newly industrialized countries such as Taiwan, South Korea, Singapore, Hong Kong, Malaysia, and Thailand. As of 2005, out of 191 million international migrants, 53.3 million (or 28 percent) were in Asia. (Asis and Piper 2008) Further, "the number of 'South-to-South' migrants is similar to that of 'South-to-North' migrants." (Kim 2009, p. 2) International migration has become a global and universal phenomenon. (Lee 2009)

International migration as a global phenomenon entails political, social, and cultural issues; in particular, it raises several fundamental questions about how nation states

control borders, how they delineate membership of the state, and how they should integrate foreigners and immigrants in their host societies in order to maintain political and social order. Whatever countries are founded by immigration or are reluctant to immigration, countries that have had notable experience of immigration have long struggled with these issues. Therefore it is quite natural that scholarship on immigration has been built on the cases of these countries theoretically as well as empirically.

As the issues of international migration are becoming globalized, political and social consequences of international migration are no longer confined to the developed countries in the West. These migratory movements pose a series of questions as to how states in Asia control their borders, how they protect their social order, and further, how they integrate newcomers into their social fabrics. However, academics on immigration have paid little attention to the countries that recently began to receive migrant workers and to face the issues of immigration. Especially studies of international migration in this region and receiving states' responses to growing international labor mobility are marginalized from literatures of immigration. A relatively short history of contemporary immigration in Asia or small portion of foreign workers among domestic labor forces might justify the reason why literatures on Asian migration phenomena or Asian states' immigration policies are rarely analyzed. However, exploring migration policies in Asia not only can fill up the hole, but can yield significant contributions to overall literature of immigration. In this dissertation, I would like to redress this imbalance between the reality of growing migrant workers and scant academic attention by focusing on two industrialized countries in the East Asian region, Japan and Korea.

Comparative study of immigration distinguishes host societies based on their openness to immigration in terms of admission policies, naturalization processes and understanding of immigration associated with national identity. The traditional countries of immigration such as the United States, Canada, and Australia grant citizenship to all persons born in their territories on the principle of *jus soli* (by birth in the territory). Despite of variance among these settler societies (Bloemraad 2006), foreign-born immigrants in these societies are relatively easy to naturalize. At the opposite side of the continuum, some countries set up the exclusionary model. Germany before 1999 was the representative case of the exclusionary model. On the basis of the principle of *jus sanguinis* (by blood), this model allows citizenship to a person whose parents are the citizens of the country. (Brubaker 1992) Those countries have an ideology of a nation based on blood community rather than a nation of immigration. The exclusionary model admits foreign workers or immigrants only in limited economic sectors, and never grants them civic and political rights including voting rights.

Figure 1.1 Integration Type of Immigrants/Migrant Workers in Selected Host Countries

The Standard
For Naturalization

<i>Jus Soli</i>		UK Ireland	USA Canada Australia New Zealand
<i>Jus Domicili</i>	Germany Belgium	France Netherland Italy	Sweden
<i>Jus Sanguinis</i>	Austria, Switzerland Middle East Taiwan, Singapore Korea, Japan		
	Exclusion Model	Assimilation Model	Multicultural Model

The Integration methods of Foreigners

Source: (Seol 2005, p. 80)

As figure 1.1 shows, Japan and Korea are included in the exclusionary category. Japan officially maintains closure to immigration despite its history of inviting foreign laborers. During Japanese imperialism, many Koreans in rural areas moved to Japan in search of work opportunities as well as in the form of forced laborers for the purpose of the war mobilization. After the Japanese state switched its position from legitimizing immigration during the colonial era to fortifying ethnic homogeneity in the postwar construction, the remaining Koreans in Japan lost citizenship as imperial subjects. The Japanese policies on immigration and naturalization have been maintained with the goal of racial homogeneity. These policies denied non-Japanese populations' access to economic and political areas. Among the advanced industrial countries, Japan uniquely

avoided relying on foreign workers to achieve steady economic growth from the 1950s through the 1970s. Refugees were not admitted until the early 1980s. Koreans residing in Japan in principle could be naturalized, yet in practice this was exceedingly difficult. In addition, only children whose fathers held Japanese citizenship could receive citizenship at birth until the mid 1980s. However, Japan did face a new wave of foreign workers in the late 1980s. The Korean case is almost the same. The Korean state has never predicted the issues engendered from immigration until recently. Like the case of Koreans in Japan, the Korean state systemically discriminated against ethnic Chinese (*Hwaykos*). They are excluded from full participation in education, economic activities, and political sphere. The 1961 Alien's Land Act mandated that foreigners required permission to own land, so many ethnic Chinese had to sell their land. Due to the discriminatory measure, the number of ethnic Chinese has decreased from more than 80,000 to 21,000 over the past 60 years. As mentioned above, these two exclusionary models have had to respond to the influx of foreigners since the late 1980s. In this dissertation, I would like to compare how both Japan and Korea included in the exclusionary model of immigration have developed immigration policies, and examine what similarities and differences are found, and what factors have made resemblance and variance between Japan and Korea. We return, then, to the question at the core of this dissertation: How and why have Japan and South Korea, both of which fall into Castle and Miller's exclusionary immigration model, developed different policies? To be more precise, what explains areas of convergence and divergence in their immigration policies?

In examining the two cases, I expect that this research will contribute to academic

works on immigration policies. First, it can show whether the East Asian states have followed the way in which Western countries adopted or whether they have built their own unique model of migration regime built on lessons from Western experiences. When it comes to comparative immigration policies, one important school of thought is that immigration policies among advanced industrial countries are becoming convergent, and they “are coming to resemble each other in important ways.”(Cornelius 2004) By examining the convergence hypothesis, this study can make useful insights as to whether immigration controls are convergent across different types of migration regimes all over the world or whether this convergence hypothesis is limited to regional areas or whether there is a trend of divergence within the same region. Second, the establishment of migration regimes and dynamic policy change in a short span of time can contribute to overall literature of immigration by testing theoretical frameworks based on Western cases in a different setting. In explaining policy convergence or divergence, Asian cases can provide a good opportunity to check applicability of existing theories. Explaining policy convergence or divergence in Asian cases can expand significantly theoretical scope of immigration policies.

1.2 The Puzzles: Comparative Immigration Politics in Japan and Korea

Supporters of the convergence hypothesis claim that although policy convergence at the global level is debatable, substantial policy convergence is occurring at the regional level. For instance, European Union member states are heading toward the same direction

of immigration policies by affecting each other. East Asian receiving countries share policy similarities such as an official reluctance to become immigrant countries, a reliance on cheap labor forces throughout temporary guestworker programs, denial of family reunification and dearth of social integration policies. Policy convergence can be explained by parallel path development, which means that countries can have similar historical legacies and share similar political institutions and policy regimes. Cornelius and Tsuda point out that Japan and Korea are good examples of “parallel-path policy convergence.” It is no doubt that Japan and Korea share a lot of similarities in institutional scheme of public policy-making. Imperial Japan implanted modern administrative systems into colonial Korea. Even after liberation, Korean government has learned and adopted the Japanese policies and laws because Korean policymakers have assumed that the Japanese policies can also work in a similar Korean context. By doing this, Korean policymakers could save their time in researching and devising new public policies. However, I would like to challenge such an argument. I intend to address that immigration policies in Japan and Korea are not simply converging, but diverging in certain areas of immigration policy. For instance, while return migration policies toward overseas Koreans and Japanese are converging, foreign labor policies toward unskilled migrant workers are diverging now. Therefore, the goals of this dissertation are to illustrate why policy divergence in Japan and Korea is taking place in one area, why policy convergence is developed in another area, and how we can explain these trends between two countries.

In this dissertation, I would like to compare how two industrialized and democratic

countries such as Japan and South Korea have responded to the increase of international migration, and its impacts on politics and society in the respective countries. Both Korea and Japan have experienced a rapid rise of foreign migrant workers as well as international marriage migrants since the late 1980s. During the past two decades, Japan and Korea have passed so called, “migratory transition,” which means that both countries turned from labor-sending countries into labor-receiving ones. As latecomers to immigration, both countries have some similarity in formulating immigration policies. The two countries have faced a structurally embedded demand for foreign labor such as aging population and low birth-rate, and labor shortage in dirty, dangerous, and difficult sectors. Japan and Korea had shared almost identical policies against the inflow of foreign workers until 2004. Japan claims that unskilled foreign workers are officially not allowed. In 1991 following the Japanese model, Korea launched a similar program. However, Korea adopted a new system in 2004, and it is aimed at allowing unskilled migrant workers to work legally with a status of worker, and at providing equal treatment to foreign workers including basic labor rights, employment insurance and legal minimum wages, so that it can prevent human rights violation, which was chronic in the former trainee system. The debut of the new program signals that Korea switched the position from side-door mechanism to front-door one. This research tries to figure out the puzzle why Japan is still maintaining the restrictive foreign labor policy to import the foreign workers, yet Korea is moving toward more open policy even though Korea began with a carbon copy of the Japanese policy. In sum, I would like to answer the first question as to why this policy divergence in the area of foreign labor policy is taking

place.

One of the commonalities in both countries' immigration policy is ethnic preferential treatment toward ethnic Japanese from Latin America and Korean Chinese. Both ethnic Japanese and ethnic Koreans not only receive preferential treatments in terms of immigration control, but also find themselves in jobs of higher status and pay compared to other non-Japanese or non-Korean migrant workers. As a result, Korean Chinese are the largest ethnic group among foreign migrant workers in Korea. They accounted for about 30% of low-skilled migrant workers in 2006. Ethnic Japanese are the third largest foreigners' group, followed by Chinese, who are mostly the trainees, and Koreans, who are mostly descendants of immigrants from the colonial periods. However, both countries did not implement ethnically oriented policies from the beginning. While the Japanese foreign labor policy began with ethnic preference toward Japanese descendants in 1990, the Korean government did not grant privileged status for Korean Chinese when they were regulated under the scheme of the trainee program. However, foreign labor policy in Korea gradually moved into ethnicizing direction. The Korean government has gradually granted more privileges to overseas Koreans, especially Korean Chinese (*Joseonjok*). In 2007, the Korean government launched the new program, "Working Visit Program (*Bangmoon Chuieip Jedo*)", designed to provide more job opportunities for ethnic Koreans with foreign citizenship. It allows overseas Koreans, mainly from China and the former Soviet Unions to enter and exit freely from Korea for five years and seek employment in any company in Korea for three years. (Seol and Skrentny 2009) Due to the Working and Visit program in 2007, the proportion of Korean Chinese has

dramatically increased. Now the proportion of ethnic Koreans accounts for approximately 56% of the total foreign workers. As Hui-Jung Kim points out, it is quite paradoxical that on one hand, the Korean policies grant more rights for foreign migrant workers, on the other hand the Korean government treats Korean Chinese much better than based on the concept of ethnicity.(Kim 2008) Therefore, I would like to answer the second question as to why immigration policies toward ethnic returnees are converging.

I would like to raise two empirical questions for the comparative study of immigration politics in Japan and Korea. The first puzzle is connected with the policy divergence in foreign labor policies in Japan and Korea. The second puzzle is related to the policy convergence in ethnic return policies toward ethnic Japanese and ethnic Koreans. Both puzzles require explanation. To find out the crucial factors shaping these policies of divergence and convergence, I would like to attempt to extend the comparative migration studies based upon Western cases into Asian cases by following Gary P. Freeman's suggestion that approach to immigration policy within political science needs to be built on three keywords such as interests, rights, and institutions. In sum, my research aims to contribute to revealing how the new immigrant countries in East Asia have formed and implemented immigration policies throughout a comparative study of Japan and Korea.

1.3 Literature Review

Although international migration is sharply increasing in East Asia and the issues of

international migration have been hotly debated among publics, Korea and Japan are often ignored and international migration studies have paid little attention to those two cases. However, some scholars recently began to investigate the realities of international migration as well as immigration policies in Japan and Korea. Although many academic works still remain as mere description of immigration realities and suffer from a lack of comparative perspective, a few studies try to apply established theories for immigration policy to the Japanese and Korean cases. In this section, I would like to review the empirical literatures on immigration policies and realities in those two countries.

Among academic works on the Japanese immigration or the Korean one, most of them are a single case study. In the existing literatures, a variety of variables including international norms, civil society, local governments, institutional arrangement, and demographic variable were used to explain immigration policy in Japan and Korea. However, some works merely describe the trend of immigration, typology of immigrants, and demographic changes without a rigorous theoretical framework. Although they offer detailed information of the current immigration in both countries, most of the previous literature does not provide in the way of theoretical and systematic explanations.

Amy Gurowitz explains the impacts of international norms on the Japanese immigration policy with emphasis on the relationship between domestic actors and the Japanese state. Criticizing the view of “globalists” who are lack of process tracing between international standards and state behavior, Gurowitz traces how domestic actors have appreciated international norms to change current governmental policies. Although she aims to analyze the Japanese immigration policy, her cases are mainly related to

Korean residents in Japan. While she reveals that international norms matter in enhancing the rights of Korean residents in Japan, she fails to explain how international norms have affected other areas of immigration policy including foreign workers' rights and immigrant integration. (Gurowitz 1999) Tsutsui and Shin also confirm the conclusion from Gurowitz's study. They argue that social movements by Korean residents in Japan became more successful as Japan became involved in more international human rights regimes since the late 1970s. (Tsutsui and Shin 2008) While the above two studies positively assess the role of international human rights norms in the Japanese context, Petrice R. Flowers critically approaches this issue. Exploring why Japanese government policies still do not comply with international norms, especially with regards to refugees, she points out lack of access to the Ministry of Justice (MOJ) and ideational constraints. (Flowers 2008) She notes, "MOJ dominates immigration-related issues, including refugee policy; NGOs and other civil society actors have had limited access to MOJ officials and no influence over procedures." (Flowers 2008, p. 337)

Different from Flowers' arguments, Apichai Shipper's study positively evaluates the power of civil society for expanding foreign workers' rights in Japan. (Shipper 2006) Although he admits that Japan's civil society seems small compared to other developed countries, these small issue-oriented groups are increasing their influences over policy and contributing to advancing democracy for Japan. Further, they are increasingly making partnership with local governments and taking broader responsibilities in solving the problems of foreign migrant workers in Japan. However, Shipper's work does not explain why pro-migrant NGOs in Japan fail to change immigration policies at the

national level. Even though he argues that “civil society organizations are shaping the role of the state in actively refining membership rules and the boundaries of state responsibilities to residents (Shipper 2006, p. 289),” this explanation is only applied to the relationship between the NGOs and the local governments. Without analyzing interaction between civil society and state in Japan, we could not accurately assess the power of the NGOs and not explain why changes of immigration policy at the national level have not been triggered, and how Japan has maintained strict immigration policy despite a strong demand of foreign labor forces. With regards to this point, some scholars partially deal with institutional characteristics in the Japanese policy-making processes. Borrowing from the literature on economic policy-making in Japan, Lavenex notes, “most major decisions were not made by the Diet, but by the bureaucracies.” (Lavenex 2004, p. 192) Further, she argues, “In the absence of a clear consensus and without clear political leadership on the issue of immigration, policy has tended to follow the approach of the most conservative parts of the Japanese bureaucracy.” (Lavenex 2004, p. 192) Chiavacci also points out the dominance of two conservative branches including the Ministry of Justice and the Ministry of Labor in the immigration policy-making. (Chiavacci 2007) However, analytical focus on the institutional dimension is not fully integrated into the main studies in a theoretical and systematical way.

For the Japanese part, it is notable that many studies tend to highlight the role of local governments in enhancing foreign worker’s rights as well as immigrants’ rights. Takeyuki Tsuda’s edited volume, *Local Citizenship in Recent Countries of Immigration: Japan in Comparative Perspective* is a representative work reflecting this trend. Tsuda’s

volume is highly insightful for providing rich empirical researches on immigrants integration at the local level, and aims for a comparative perspective by including the cases of Italy, Spain, and Korea.(Tsuda 2006) Takao also examines the impact of Japanese local government's roles in promoting foreigners' rights. Given the fact that the Japanese national government is unwilling to change its position of "no immigration," he argues that the burden of integrating foreigners into the Japanese society has fallen over the shoulder of the local governments. Japanese local governments and residents at the grassroots level are actively involved in "cultivating new categories of norms about foreigners' rights." (Takao 2003, p. 530) In a more detailed fashion, Pak examines how migrant NGOs and local government cooperate with each other in caring for foreign migrants. She argues, "NGOs are adeptly transforming information gained from their direct experiences into political currency...Local bureaucrats are pursuing innovative policies that contradict national priorities." (Pak 2000, p. 74) However, the literature on the positive role of local governments in Japan heavily relies on specific cases which are famous for progressive and innovative policies toward foreigners including Kawasaki City or Hamamatsu City. (Han 2004) In reality, however, problems and tasks facing local authorities significantly vary. According to Abe's national survey on local governments' responses to immigration, some local governments embrace foreigners as members of the community, yet "the vast majority of the municipalities do not have any organized channel to hear the voices of foreign residents, which in turn keeps them 'invisible' to the administration as well as to the legislature at the local level." (Abe 2007)

In sum, the literature on the Japanese immigration policy seems to emphasize the

roles of international norms and local governments, especially some progressive local authorities. Considering the fact that the Japanese national government does not show any signals for policy change, scholars on the Japanese immigration policy have attempted to find who have and will trigger the policy change from international and local factors. However, the impacts from international and local levels should be explained by other political actors including civic organizations and bureaucrats within the Japanese historical context. In this sense, the existing literatures do not offer a comprehensive theoretical framework.

In a similar vein, the literature on the Korean immigration policy takes account of a variety of variables including civil society, international norms, a structure of global labor market and so on. In comparison to the studies of immigration policy in Japan, the Korean part appears to highlight the contribution of political activism in promoting foreign workers' rights. It is inevitable because it was pro-migrant NGOs that made foreign workers' plights one of the public agendas, and pushed the government to change the policy. Joon Kim examines highlights the role of NGOs in Korea in protecting the human rights of foreign workers throughout a series of protests and collaboration with other civic organizations.(Kim 2003) Lim also focuses on how transnational migrant workers have made solidarity with civil society in Korea to achieve meaningful gains and to protect their rights.(Lim 2003) Woo-Seon Kim specifically investigates how the church has played a role in the NGOs' activism for migrant workers in Korea.(Kim 2007) His dissertation is insightful because a vast majority of migrant NGOs in Korea is church-related. Hye-Kyung Lee analyzes the case of female migrant workers within the

literature of civil activism (Lee 2003). Kevin Gray uniquely focuses on the relationship between migrant workers and the Korean major labor unions. (Gray 2006) As described above, the existing literature on the Korean immigration policy heavily depends on the impacts of NGOs on improving the human rights of migrant workers in Korea. However, the literature has paid less attention to the governmental side. The Korean state is portrayed as an agency which has passively reacted to the demands from civil society in Korea. There are not many researches which focus on intra-governmental relations, and the dynamics between civil society and state in Korea. Joon Kim aims to explain the interlocking process among state, civil society, and international norms in another article. (Kim 2005) However, he merely explains how the Korean state institutionally supported NGOs, yet he does not reveal how civil society and the Korean state mutually have influenced each other. In sum, the existing literature on the Korean immigration policy is lack of a comprehensive framework to explain both sides of civil society and state in immigration policy-making.

Although Kim laments, “More systematic comparative studies, especially with the Japanese case, are required,”(Kim 2004, p. 334) there have not been many comparative studies of immigration policy in Japan and Korea. Timothy Lim’s work is one of few comparative studies of immigration policies in Japan and Korea.(Lim 2006) Lim began his article by focusing on similarities between Japan and Korea, especially expansion of rights for migrant workers. He raises his main research questions such as “Why would Japan and South Korea, both with long histories of antipathy and distrust toward “outsiders”, strive to expand rather than restrict the rights of foreign workers?” (Lim

2006, p.159) His dependent variable is expansion of foreign workers' rights, and he assumes that both Japan and Korea similarly have enhanced foreign workers' rights. Therefore, he mainly focuses on what factors have contributed to the process of rights' expansion in both countries. He argues that the expansion of foreign workers' rights can be explained by domestic process rather than external pressures including international human rights norms. Considering Christian Joppke's concept of "self-limited sovereignty," (Joppke 1998) both the Japanese and Korean states have been constrained by processes and institutional structures which are domestically embedded in each country's history and politics. Challenging against the "globalization" camp, which claims that expansion of foreign workers' rights is a product of increasing external pressure on state sovereignty, Lim pays attention to the roles of the legal system and courts' decisions as well as the influences of other political actors including pro-migrant NGOs in Korea and local governments in Japan. He also examines how those agencies have made efforts to developing the mere existence of rights into the real rights in the historical contexts of each country. For example, while Japan granted more labor rights to foreign workers due to a favorable clause in the Japanese labor law, a strong and dense network among civic organizations inherited from the legacies of democratization has played a critical role in advancing foreign workers' rights in Korea.

Although Lim's work provides a way in which immigration scholars can compare immigration policies in Japan and Korea by suggesting the dimension of political activism and judiciary roles within the historical contexts, he does not sufficiently discuss why the influences of pro-migrant NGOs in Japan are less viable than those in Korea. He

simply notes, “Japanese civil society has tended toward a far more passive, more parochial fashion.” (Lim 2006,p.189) He should have examined why the Japanese civil society is less influential in the policymaking process compared to the counterpart in Korea, and what factors made this difference between two countries. Further, he analyzes the roles of civic organizations in advancing foreign workers’ rights without much connection to the governmental sides. To fully understand to what extent pro-migrant NGOs have contributed to extending foreign workers’ rights, interaction between the states and civic organizations needs to be examined. Second, as he confesses, he does not fully explain the historical formation of migration regimes in both countries. He does not sufficiently take into account the existence of Korean residents in Japan, and how their resistances after World War II have made Japan reluctant to opening front door to new immigrants later. For the Korean case, he pays less attention to the complicated history of the Korean nationhood, especially the existence of ethnic Koreans in China. Without these historical contexts, we are not able to understand why change in immigration policies between Japan and Korea has played out differently.

Lee and Park also analyze foreign labor policy in Korea and Japan in a comparative way.(Lee and Park 2005) Differentiating from Lim’s study, they focus on the variation of foreign labor policy in Japan and Korea, and raise the same question in this dissertation, why Korea adopted the Employment Permit Program, while Japan does not still consider it yet. To answer this question, they borrow the idea of the effects of international norms on changes in state policies from international relations literature. They argue that both countries have been exposed to external pressures such as international human rights

norms, yet states' different responses to the international norms made variation between the two countries. For instance, the Korean state has more actively translated international human rights norms into the adoption of the Employment Permit Program than the Japanese state. In sum, "this point, the critical role of the state in integrating international norms domestically in the manifestation of the adoption of the EFWA (the Employment Permit Program), can be more persuasive when Korea is compared to Japan." (Lee and Park 2005, p. 159) Although they provides us with new analytic dimensions such as international human rights norms, and states' responses, they did not fully explain how the Korean government has complied with international human rights norms in changing the government's foreign labor policy. Addressing the Korean government's report to the Committee on the Elimination of Racial Discrimination is not enough to support their main argument. (Lee and Park 2005, p. 155) Further, when they emphasize the roles of pro-migrant NGOs in Korea, it is still doubtful that those NGOs used international human rights norms as their main resources to push the Korean government to change the policy. For example, Seoul and Skrentny note that international human rights norms played a symbolic role, and pro-migrant NGOs in Korea found their main claim-making from human rights and labor rights discourses cultivated from the history of democratization. (Seol, Skrentny et al. 2002)

Sook-Jong Lee describes the current trends of immigration as well as the governance of foreign migrant workers in Japan and Korea. (Lee 2007) Utilizing well-organized and detailed raw data, she analyzes who the migrant workers are, and how two governments have responded to the influx of those foreign workers since the late 1980s. Though her

study can be criticized as lacking a theoretical and comparative framework, she importantly points out one of the variations between Japan and Korea. She notes, “If NGOs in Korea deal with the promotion of foreign workers’ rights and requirements by pressurizing the central government to provide more protective legal regulations, NGOs in Japan will remain active at the grassroot level by providing social services and education programs.” (Lee 2007, p. 628) She does not comprehensively advance this argument further. However, her claim implies that we need to examine “the overall distinctive mode of the political engagement of the civil societies in Korea and Japan” with regards to immigration policies. (Lee 2007, p. 628)

1.4. Analytical Framework

Both puzzles require explanation. To identify the crucial factors shaping this policy divergence and convergence, I propose a historical-institutionalist approach to immigration policies. Within the literature of comparative migration studies, many scholars take group interests and international human rights norms as main analytical tools. However, political economy approach rooted in pluralism regards the state as a passive, monolithic umpire, thus ignores the possibility of intra-governmental competition, and existence of political coalition between bureaucrats and social actors. International norms approach also failed to reveal the different impacts of international norms on domestic policies because they do not consider much domestic institutional arrangement such as dynamic interactions among states, civic groups, and international

norms. In this sense, I argue that an institutional approach can explain better the difference of two countries by focusing on intra-governmental competition, political activism, and political coalition between state and civil society.

1.5. The Main Argument

The policy divergence in foreign labor policies was made possible because intra-governmental competition in Korea was more critical than that in Japan, and the Korean NGOs succeeded in making political coalitions while the Japanese NGOs failed to make policy-networks with the governmental agencies. In both countries, the key ministries in the immigration policymaking regime are the Ministry of Justice and Labor. However, while in Japan two ministries stood on the conservative side, in Korea, the Ministry of Justice represented the interests of business on the conservative side, and the Ministry of Labor repeatedly opposed the stance of the Ministry of Justice. In terms of political opportunity structure, the Korean civic groups had more favorable conditions to change immigration control policy by utilizing the cleavage within the government than the Japanese civic groups did. Further, the Korean civic groups in support of a policy change made political coalition with the Ministry of Labor and the National Human Rights Commission in the name of labor rights and human rights. Additionally, political activism in Korea has played a huge role in national policy-making because the Korean civic groups are rooted in the history of strong political opposition to dictatorship. Further, many activists occupied the governmental positions after democratization, thus the

Korean civic groups were able to increase their political influences over national policy-making. Meanwhile, Japan's dual civil society, an abundance of local NGOs and a dearth of large advocacy groups at the national level, facilitates the localized pattern of state-society relation. Therefore, the Japanese civic groups in support of policy shift have not produced reforms of national policies.

For the policy convergence in ethnic return policies, Korea has been following the Japanese path. Ironically, this ethnicizing trend has also been pushed by the Korean migrant NGOs. While the Japanese government and the ruling party advocated "playing the ethnicity card" in dealing with a labor shortage and the maintenance of ethnic purity, the Korean government has not emphasized ethnicity in immigration policies until recently because they were worried about disruption in the domestic labor market and diplomatic disputes with China due to massive influx of ethnic Koreans in China. This issue was highlighted in the Overseas Koreans Act (hereafter OKA). After the Asian financial crisis, the Korean government enacted the OKA and made a new visa category for overseas Koreans to attract foreign investment and high-skilled Koreans. Under this visa, overseas Koreans could enjoy the same rights as Korean citizens especially in economic activities. However, the OKA excluded overseas Koreans in China. The Korean migrant NGOs strongly criticized the OKA, and organized a series of protests and lawsuits. On this issue, the Ministry of Justice and the Ministry of Foreign Affairs had contrasting views. The Korean NGOs utilized this cleavage, and further, the Supreme Court raised the hands of the NGOs. As a result, the Korean government decided to treat ethnic Koreans in China specially. Since then, foreign labor policy in Korea has gradually

moved toward ethnicizing direction.

1.6. Research Design and Organization of Dissertation

1.6.1. Data

To identify the trends in foreign workers, I use data on immigration and control released by the Ministry of Justice in both countries. The Ministry of Justice in Korea publishes data on immigration including exit and entry of foreigners as well as stock and flow data on immigrants in forms of monthly, quarterly, and annual reports. Those data are available on its webpage. (<http://www.immigration.go.kr>) The Ministry of Justice in Japan also releases data on immigration annually and periodically through Immigration Control Report and Basic Plan for Immigration Control. All reports also can be accessed on its webpage. (<http://www.immi-moj.go.jp/english/seisaku/index.html>). In addition, I also analyze survey data of foreign workers collected from several scholarly projects funded by the government of Korea. Especially, the survey on migrant NGOs in Korea, which was conducted by Dong-Hoon Seol and Ran-Ju Lee, helps me elaborate my understanding of the role of NGOs in making immigration policies. For the Japanese part, I take advantage of survey data on migrant NGOs in Japan, which was conducted by the German Institute for Japanese Studies.

I conducted field research in August of 2006 and June of 2007 in Korea. During this field research, I collected governmental documents, minutes from the National Assembly, and scholarly reports to the government. Those governmental records are an excellent source to delineate each governmental branch's and National Assemblymen's position on

immigration policies in Korea. I also conducted interviews with key officials from the Ministry of Justice, the Ministry of Labor, and the National Human Rights Commission. Besides the governmental officials, I conducted interviews with NGOs activists as well as migration scholars. These interviews were composed of semi-structured open ended questions. (Leech 2002) Those interviews were designed not only to gain as much information as possible from interviewees' privileged experiences for policymaking, but also to reveal their shared and different views on particular events for a comparative purpose by asking them as similar questions as possible. (Tichenor 2002, p. 297) This strategy allowed me to highlight how each governmental branch and NGOs have viewed a certain aspect of immigration policies differently. All of the interviews were conducted in person, and the length of interviews ranged from 30 minutes to two hours.

1.6.2. Methodology

This research is a case study. George and Bennett define it as “the detailed examination of an aspect of a historical episode to develop or test historical explanations that may be generalizable to other events.” (George and Bennett 2005, p. 5) The methodological debate between large-N and case-oriented research has been the most controversial issue in political science enterprise for a long time. In the field of comparative politics, the case studies or qualitative method traditionally closely examines a fewer number of cases, while large-N studies refer to statistical studies of large number of cases. Although a case study has contributed to developing theoretical and empirical

studies of political phenomena, statistical methods have been dominant in recent decades. It is no doubt that large-N research is one of most crucial pillar in political science. However, I choose a case study method because I believe that this method can best answer my research questions for this project. This case study method enables me to seek to produce detailed understandings of the main research question as to how and why two countries that initially adopted similar policy regimes to address international migration generally and unskilled foreign workers specifically have evolved in unmistakably different directions. By considering each case can only be compared and contrasted with other relevant cases as wholes—as ordered and meaningful combinations of parts, process tracing of case studies can offer us a tool to study the historical dynamics of the case. Without paying attention to the historical context of each case, it is impossible to understand state behaviors' in choosing different or similar policy options; moreover, this research strategy is also the best way to uncover distinct state-society relations in both countries which contribute to explaining policy convergence and divergence.

Through the cases of Korea and Japan, I attempt to extend and refine a theoretical discussion of the relationship between state and civil-society in the making of immigration policy. Focusing on intra-governmental competition and migrant NGOs' engagement in policy-making process, I try to explain how we can explain policy divergence and convergence among two countries, and policy stability in Japan as well as policy changes in South Korea. I expect that this research will reveal mechanism of immigration policy change within the exclusion model, especially Asian countries.

To answer the puzzles in this research, I employ the comparative method. The

comparative method is the most effective method for the case with many variables and a small number of cases. Among the comparative methods, I use the “most-similar” system to explain policy convergence and divergence between Korea and Japan, which have demonstrated similar experience and situations, but resulted in different outcomes. Although the “most-similar” system cannot go beyond middle range theories and has the possibility of over-determination, it allows the remaining differences to be better perceived. Comparing intra-governmental competitions as political opportunity structures, and the interaction between migrant NGOs in civil society and political systems, which have differently cultivated in both countries’ historical development, this research would help us to advance the understanding of immigration policy changes.

Comparing immigration policies in Japan and Korea makes sense for several reasons. First, both countries recently began to experience immigration, and can be categorized as latecomers to immigration. Second, both Japan and Korea are arguing that they are ethnically homogenous countries. Despite there has been small number of ethnic minorities such as the Ainu, Korean residents in Japan and Taiwanese in Korea, public beliefs in ethnic homogeneity are strongly found in both countries. Third, in terms of policymaking, both countries have tradition of developmental state, which means that bureaucrat-led policymaking is dominant over party politics and legislative bodies in the name of national interests. However, the two countries have different pattern of state-society relations. Japan’s state-society relations have been less contentious than Korea’s, mediated by the all-power bureaucracies and a corporate culture that took organized labor’s interests under its wing for a large part of the post-Second World War period.

Civic movements in Japan became rationalized much earlier than those in Korea, with issues and actors diversifying and transforming into interest groups throughout the 1970s. On the other hand, Korea has a postwar history of violent confrontation and repression in state-society relations.

Distinct state-society relations in both countries might result in different patterns of immigrant integration policies. Put simply, political activism in Korea has had a greater impact on national policy-making than in Japan. This consequence stems from the different structure of civil society in each country. The Japanese civil society is characterized as an abundance of small local groups with many members but a striking dearth of large independent advocacy groups with political influence, so it can be called as “members without advocacy.”(Pekkanen 2006) Unlike the Japanese civil society, the Korean equivalent can be categorized as “advocacy without members,” which means that the civil society groups have paid more attention to drawing policy changes rather than to mobilizing their membership bases. To exert their influences, the Korean NGOs usually aim for policy changes by targeting the national government, but activities of NGOs in Japan have become localized.

In terms of a structural characteristic of civil society in Japan, Robert Pekkanen claims that the Japanese state decided to selectively shape civil society by giving more preferential treatments to certain type of organizations, while regulating other type. The Japanese state has promoted small local associations such as the neighborhood associations, and the state has put heavy institutional restrictions on large national advocacy groups. As a consequence, Japanese civil society has a dual structure. It implies

that many small local groups facilitate a high level of social capital, but fewer civil society voices are heard in the terrain of public policy. The dearth of voices from civil society in the area of immigration policy also made a difference between Korea and Japan. Pekkanen states, “Japanese civil society groups have also been weak on issues ranging from whaling to human rights.” (Pekkanen 2006)

Unlike the Japanese NGOs, the Korean civil society can be categorized as “advocacy without members,” which means that the civil society groups have paid more attention to drawing policy changes rather than to mobilizing their membership bases. To exert their influences, the Korean NGOs usually aim for policy changes by targeting the national government, have developed strategies to make solidarities with other civil society groups, and are expert at obtaining media attention. The Korean NGOs have also been a partner in national governance since the Kim Dae-Jung administration. Further, The Roh Moo-Hyun Administration, whose title was “participatory government,” intensified the collaboration with civil society because the birth of the Roh Administration was made possible by increasing power of civil society groups. It is obvious that the active coalition-building on the consensus of human rights delivered more liberal policy in Korea in comparison to Japan.

1.6.3. Outline of Chapters

Chapter 1 introduces the puzzles of the dissertation, and significance of the research. Challenging a well-established hypothesis supporting policy convergence which is based

on the experiences of European countries, I argue that significant policy divergence has occurred between Korea and Japan especially when it comes to unskilled foreign workers, while policy convergence has been observed in return migration policies toward ethnic Koreans and Japanese. This chapter ends with a brief description of methodology and data. Chapters 2 and 3 set the stage for the central discussions. Chapter 3 provides a detailed theoretical discussion. By reviewing theories of migration and immigration policy, I propose a historical-institutionalist approach focusing on intra-governmental competition and political coalitions as the main analytical framework to explain the puzzles in this dissertation. I also assess the applicability of other theoretical models including political economy and international norms approaches in the context of Japan and Korea. Chapter 3 describes demographic change, recent trends of migrant workers, from the late-1980s in Japan and Korea by presenting statistics that shows the realities of the newly emerging immigration countries. I also describe the historical development of immigration policies in Japan and Korea for the discussions in chapter 4 and 5. Chapter 4 examines the policy divergence in foreign labor policy when it comes to non-Japanese and non-Korean workers. I analyze intra-governmental competition as a political opportunity structure, and historical development of political activism as well as interaction between state agencies and societal groups. Chapter 5 examines the policy convergence in ethnic return policies toward overseas Japanese and Koreans. This chapter mainly analyzes why foreign labor policy in Korea has followed ethnicizing direction. This chapter basically examines how ideas of national identity have been associated with immigration policymaking through the case of the Overseas Korean Act

and the 1990 Immigration Control Act in Japan. Chapter 6 summarizes the main findings in this dissertation, and briefly explores implications for multicultural policies in Korea and Japan.

CHAPTER 2

THEORETICAL FRAMEWORK

In this chapter, I review theories of migration that explain why people move across borders, and overview theories of immigration policy especially within the discipline of political science. I also critically assess three main theories such as political economy, international norms, and institutional approaches in the context of South Korea and Japan. This chapter aims to provide an analytical tool for examining policy divergence and policy convergence between Korea and Japan. To identify what factors have affected these policy divergence and convergence, I propose a historical-institutionalist approach to immigration policies. Literatures on comparative immigration policies have developed the main analytical tools favoring group interests and international human rights norms respectively. However, I argue that the political economy approach with emphasis on group interests fail to see how different governmental agencies compete and compromise with each other because it considers the state as a monolithic umpire. I also address that international norms approach does not sufficiently provide the concrete mechanism with which international human rights norms are mediated and realized in a particular society. Therefore, I propose a historical institutional approach that focuses on historical development of political activism, and political coalition between state and civil society (vertical coalition) as well as between civic organizations (horizontal coalition) given certain political opportunity structures such as intra-governmental competition.

2.1 Theories of Migration

A variety of theories have attempted to explain why people migrate to other countries. (Massey, Arango et al. 2006) Although each discipline within social sciences approaches this question differently depending on its own theoretical viewpoints, many have made a consensus that the theories of international migration have been developed by economics and sociology. Neoclassical economics focuses on wage differentials and employment conditions among countries. Explaining international migration through logic of cost and benefit, neoclassical economics conceives of people's movement as individual decision for maximizing incomes from low-waged countries to high-waged countries. In contrast, the "new economics of migration" considers international migration as a household decision rather than an individual choice. According to the "new economics of migration," households in developing countries try to minimize risks to family income by sending family members to earn income in foreign countries. Different from those micro-level decision models, structural theories including dual labor market theory and world systems theory focus more on macro-level factors. "The former links immigration to the structural requirements of modern industrial economies, while the latter sees immigration as a natural consequence of economic globalization and market penetration across national boundaries." (Massey, Arango et al. 2006, p. 35) Besides structural pull factors within host economies and economic globalization, some sociologists examine another structural factor such as transborder social networks. They focus on how migrant networks play roles in lowering the costs of migration and

increasing the expected returns to migration.

Neoclassical economics says that international migration results from disparities in wages and standards of living. Thus, international migration is generated by supply pushes and demand pulls in the uneven geographical distribution of capital and labor. International migration not only reflects people's movement from low-wage country to high-wage country, but also is viewed as a combination of push factors and pull factors. Push factors include poverty, low living standards, high rates of unemployment, and lack of economic opportunities, while pull factors means positive circumstances such as higher wages, high living standards, and better economic opportunities. Neoclassical economic theory predicts that growing international migration will gradually reduce the differentials of wages and finally will lead to the cessation of migration because flows of labor and capital will make a new equilibrium. Due to the movement between labor intensive countries and labor scarce countries, the supply of labor decreases and wages rise in the labor-abundant country, while the supply of labor increases and wages fall in the labor-scarce country. Thus, in this view, international labor migration is a temporal phenomenon. The second characteristic of neoclassical economics is that it highlights individual choice in international migration. Basically international migration is made by individual rational actors who calculate costs and benefits of net returns from their decision. Considering not only benefits of higher wages and better opportunities, but also costs of traveling, efforts in adjusting to new environment, and difficulties in a new labor market, people choose to migrate to where they can achieve the greatest.

As Cornelius and Rosenblum (Cornelius and Rosenblum 2005) observe, however,

the parsimonious neoclassical economics model could not answer the following questions: Why do successful immigrants often return to their low-wage countries of origin after brief period of employment in high-wage countries? Why do many migrants come from middle-income families and not from the poorest families? To account for these anomalies, a “new economics of migration” has emerged to challenge a number of the assumptions of neoclassical theory. A key difference is that the “new economics of migration” focuses on families or households rather than individuals as the unit of analysis, in which “ people act collectively not only to maximize expected income, but also to minimize risks and to loosen constraints associated with a variety of market failure, apart from those in the labor market.” (Massey, Arango et al. 2006, p. 39) In this view, households try to control risks to their economic condition by diversifying income sources, and investment in emigration is one of their options for improving their living standards and for minimizing their risks in the case that local economic conditions deteriorate. Massey et al. argues that in developed countries, private insurance and governmental programs play a role in minimizing risks to family incomes. However, in developing countries, it is difficult to expect that these forms of social insurances function equally. Thus, in the underdevelopment of accessible private or government protections, worse local economy or market failures causes enormous pull factors of international migration. Therefore, the “new economics of migration” argues that international migration does occur without a wage differential, while the neoclassical economics model implies that international migration does not occur in the absence of differences in earning.

Despite neoclassical economics model and the new economics of migration make different conclusions about the nature of international migration, both theories are commonly based on micro-level decisions. Differentiating itself from those micro-level decisions models, dual labor market theory focuses on structural “pull” factors embedded in receiving countries. It argues that international migration is originated from the labor demands of industrialized states. According to Piore, international migration stems not from push factors in sending countries such as high unemployment or low wages, but from pull factors in receiving countries in which labor shortages in secondary segment of labor market are chronic.(Piore 1979) The dual market theory divides the labor market into a primary and a secondary segment. While the primary segment is characterized as a capital-intensive mode of production, the secondary segment needs labor forces for a labor-intensive mode of production. Piore argues that the modern industrialized states suffer from general labor shortages in the secondary segment, and those states need to fill in the vacancies at the bottom positions in the hierarchy of the labor market. As domestic workers avoid working in those sectors due to low social status, the secondary segments of advanced countries become more structurally dependent on international migration. This dependence on foreign migrant workers in low-skilled sectors is getting deeper where countries are experiencing a decline in birth-rates and an aging population.

While the dual market theory examines structural demand for migrant workers in advanced industrial countries, world systems theory “has linked the origins of international migration not to the bifurcation of the labor market within particular national economies, but to the structure of the world market.” (Massey, Arango et al.

2006, p. 41) World systems theory basically argues that international migration is a natural consequence of economic globalization and expansion of capitalist economy at the global level. In this view, as capitalism penetrates from its core into peripheries, labor also comes under the control of the expanded world markets. Increasing interconnectedness of the global market provides people in the peripheries with more opportunities to be incorporated into the world market economy. Thus, in this scheme, international migration is “a natural outreach of disruptions and dislocations that inevitably occur in the process of capital.” (Massey, Arango et al. 2006, p. 42)

A similar school of thought highlights the global economic structure that mobilizes a cheap and flexible labor force for the expanded capital. Saskia Sassen sees international migration as a ‘global labor supply system’ that provides cheap labor forces for both urban and rural labor markets in advanced capitalist countries.(Sassen 1988) This globalization thesis claims that global economic interconnectedness lowers the cost of international migration by establishing linkages between sending and receiving countries. At the same time, globalization provides capitalists with benefits from “maintaining a category of job characterized by a flexible labor supply, allowing lay-offs to minimize losses to capital during economic downturns.” (Cornelius and Rosenblum 2005, p. 101) The uneven allocation of power in the global economy and international politics facilitates international migration, and simultaneously international migration, which offers a cheap labor forces to capital, accelerates the economic gap between core and peripheries by allowing rich countries to exploit the resources of poor countries.

Besides micro-level decision models and structural theories, a group of sociologists

emphasizes the presence of transnational migrant networks. Migrant networks are defined as “sets of interpersonal ties that connect migrants, former migrants, and nonmigrants in origin and destination areas through ties of kinship, friendship, and shared community origin.” (Massey, Arango et al. 2006, p. 43) Migrant networks bridges structural elements represented in sending or receiving countries, and individual rational actors. Migrant networks exist in the form of social relations between structure and agency. Migrant networks not only convey social and economic effects of structure to social agencies including individuals, families, and households, but also provide resources and information about receiving countries, which are necessary for successful settlement. Therefore, international migration is not a sole decision by an individual rational actor or structural effect, but a result of interplay among a variety of social factors surrounding structure and agency.

Migrant network theory argues that once international migration began, and the number of migrants reached a critical threshold, international migration becomes self-sustaining. In other words, migrant networks are likely to increase international migration because “the expansion of networks reduces the costs and risks of movement, which causes the probability of migration to rise, which causes additional movement, which further expands the networks, and so on.” (Massey, Arango et al. 2006, p. 43) Migrant networks contribute to reducing costs of migration. For the first migrants, cost of migration is extremely high because they do not have reliable social resources. However, once they moved to the host countries, their friends or family members who left behind the sending countries are able to reduce the cost because the potential migrants form

social networks with the first migrants by taking advantages of kinship and friendship structures. These networks link non-migrants with migrants, and provide easier access to employment and settlement at the point of destination. Migrant networks also are likely to induce more new migrants by declining risks of international migration. If migrant networks are stably created, most of the potential migrants consider international migration as a means of safe employment and risk diversification. Throughout this chain migration, migrant networks are expanded, induce more people from their countries, augment the size of the networks, and so on.

All these theories of migration are at least partially useful in explaining the influx of migrant workers into South Korea and Japan. For example, the differentials in wages and poor employment conditions in other Asia have propelled a number of migrant workers to look for higher-paying jobs in South Korea and Japan. (Kim 2009) As dual market theory notes, Korea and Japan have been utilizing cheap labor forces from Asia, and to fill jobs in secondary sector which is avoided by native Koreans and Japanese. In the next section, I will overview theories of immigration policy which has been evolved within the discipline of political science.

2.2 Theories of Immigration Policy

Theories of international migration have been inspired by sociology, economics and anthropology. Each discipline corresponds to three levels of abstraction. Macro-level theory such as world system theory assumes that international migration functions independently from the agency of either migrants or states; mid-level theory focuses on

interactions between migrants and host societies; micro-level theory attributes international migration to the decisions of individuals. However, these theoretical perspectives have one commonality, ignoring the political dimension of international migration. Although international migration not only relocates populations across countries, but also changes membership structure and nature of sovereignty in host societies, the theories have rarely commented on the relationship between the modern nation-states and the process of international migration.

During recent years, the academic dearth of the political variable in studies of international migration has been recognized by several scholars. Aristide Zolberg clearly addresses, “it is the political organization of contemporary world space into mutually exclusive and legally sovereign territorial states which delineates the specificity of international migration as a distinctive process and hence as an object of theoretical reflection.” (Zolberg, 1981) Douglas Massey recognizes that, “a principle challenge is to model the behavior of nation-states and political actors, filling a void in the general theory of international migration” (Massey quoted in Zolberg 1999, p.71-72) However, the main issue is how to explain the ways in which the nation-states influence international mobility of people and elevate policy outcomes. (Hollifield 2000)

With regard to theorizing the political dimension of international migration, James Hollifield summarizes that two dependent variables are basically proposed. The one is policy outputs (the demand for and the supply of immigration policy), and the other is policy outcomes (flows and stocks of immigrants across time and space) (Hollifield 2000) For example, Gary Freeman concerns policy outputs as he argues that demand for

immigration policy rests on the role of organized interests. Therefore, theories with emphasis on policy outputs are associated with the questions as to why immigration policies are in some states more liberal and expansive than in others or what factors can account for more open or closer immigration policies of specific nation-states. As Hollifield notes, explaining policy outcomes is more difficult than explaining policy outputs because “we are compelled to look at a broader range of independent variables.” (Hollifield 2000) I fully acknowledge that a theory which takes into account of the political impacts on policy outcomes is a crucial step to contribute to a more comprehensive theory of international migration. However, I will focus more on theories that give an explanation to policy outputs because the main questions in this dissertation are closely associated with policy outputs.

In sum, theories of international migration have been mainly developed within the disciplines of sociology, economics, and anthropology. Political science previously lagged behind other disciplines in theorizing international migration, despite the highly political dimension of this phenomenon. However, political science has recently developed its own theoretical accounts. The theorizing of the immigration policy within the discipline of political science has been dominated by two groups, favoring political economy and institutionalist approaches, respectively. (Freeman and Kessler 2008) Besides those two schools of thoughts, I will also review theories with emphasis on international human rights norms in the next section.

2.2.1. Political Economy approach

The political economy approach was first developed by Gary P. Freeman. He bases his model on the work of James Q. Wilson, who identifies four types of politics depending on the distribution of the benefits and costs of a certain policy. The political economy approach attempts to explain immigration policymaking through which economic interests and societal preferences are mobilized and channeled. It assumes that while benefits of the immigration policy tend to accrue to well-organized interest groups including employers and ethnic groups, the costs of the immigration policy are widely diffused over the general public. Since the relevant interest groups have more incentives to mobilize in order to further their economic interests through more open immigration, the immigration policy is made based on a cliental relationship between policymakers and these well-organized groups. It means that “a form of bilateral influence in which small and well-organized groups intensely interested in a policy develop close working relationships with those officials responsible for it.” (Freeman 1995: 886) Detached from the voice of public opinion, policymakers and organized pro-migrant lobbying by employers and businesses that depend on unskilled workers have been successful in continuously pushing for more open immigration policies.

Gary Freeman assumes “immigration politics and policy is fundamentally about interests.” (Freeman, 2005, p. 112) His political economy approach addressed in his article, “Modes of immigration politics in liberal democratic states” gained the most attention in the field of immigration policies in recent years. Referring to the political process and the crystallization of demands for immigration policy among social actors,

Freeman attempts to answer the question as to why the immigration policies in Western liberal countries have become more expansive despite of negative public opinions. He tries to explain this puzzle based on the idea of “client politics.” (Freeman 1995)

Client politics approach basically assumes that power game among interest groups, political parties, and electoral systems affect immigration policy. Before Freeman investigates his main question, “Can a single model of immigration politics accommodate the experiences of all the liberal democratic receiving states?” (Freeman 1995, p. 881) he defines liberal democracies as political systems characterized by “free constitutions founded on individual rights, competitive party systems, and regular elections.” (Freeman 1995, p. 883) Therefore, choices of specific immigration policy are closely linked with electoral strategies that aim to appeal to the preferences of individual voters. For example, organized interest groups that will gain benefits from immigration, attempt to influence the immigration policymaking by lobbying politicians or participating in electoral campaigns. Political parties can take advantage of immigration policy and organize popular sentiments toward immigration for their own political purposes. Therefore, Freeman claims, “The politics of immigration in such systems can be analyzed at the level of individual voters, organized groups, and state actors.” (Freeman 1995, p. 833)

As an ideal type, liberal democracies encourage individual voters to participate freely in debate of public issues. However, as Freeman argues, serious barriers in the liberal democracies tend to prevent people from acquiring proper information and deliberating certain issues. Due to the ambiguous data from government in the area of immigration, citizens in the liberal democracies become ignorant of these issues, and they

are caught with temporal illusion which predicts that immigration will be terminated soon. Further, the liberal democracies have discursive constraints over the discussion of immigration. Since the boundaries of debates over immigration policy are quite narrow, those who argue against liberal immigration policies can be in charge of racism. Given the limited access to information about immigration, and constrained discussion of immigration in the liberal democracies, individual voters may affect immigration policymaking only through elections. Yet, issues of immigration policy are not clearly constructed by political parties at elections. Parties usually do not take solid positions on immigration policy because they already knew that clear and strong stance over immigration does not help to gain substantial support for seats in government and legislatures in the cases of right-wing parties in Europe. In short, Freeman attempts to exclude the roles of individual voters among three levels of analysis for immigration politics. The formation of public opinions over the issues of immigration can be easily distorted thanks to the serious barriers including ambiguous data and narrow discourse on immigration. Further, those public opinions are not actively framed by political parties for their political purposes.

For this reason, Freeman claims to focus on organized groups and state actors among the three levels of analysis in order to understand the dynamics of immigration politics in liberal democracies. Freeman addresses, “we need to investigate how public officials interact with organized groups between elections because immigration politics in liberal democracies is dominated by the organized public.” (Freeman 1995, p. 885) To understand the interaction between state actors and organized groups, Freeman builds his

model on the work by James Q. Wilson who identifies four types of politics depending on the distribution of the benefits and costs of a certain policy. If the benefits and costs of a policy are both concentrated on discrete groups, interest group politics will emerge. If both costs and benefits are diffuse, majoritarian politics will follow. If costs and concentrated and benefits are diffuse, Wilson expects entrepreneurial politics. If benefits are concentrated but costs are diffuse, the mode of politics will be client politics, which means “a form of bilateral influence in which small and well-organized groups intensely interested in a policy develop close working relationships with those officials responsible for it.”(Freeman, 1995, p.886)

Although some support the argument that immigration will benefit everybody in host society, from the perspective of political economy, in reality there are winners and losers or beneficiaries or burden-holders of immigration. The expansive immigration policy will bring out benefits to the following groups: employers in labor-intensive textile industries, vegetable growers in the Southern United States, the software industry in the Northwest, or employers in construction industries in Japan and Korea, immigration communities which will increase their size. Those groups are likely to be well-organized to continue the benefits from immigration streams. In contrast, the costs of immigration fall disproportionately on the certain minority groups who will compete with immigrant groups for jobs, housing, schools and social welfare services. However, “these groups, the least advantaged in the society, lack the resources to make their voices heard.” (Freeman 1995, p. 885) Therefore, Freeman argues that the political process surrounding immigration policy is dominated by client politics because well-organized interest groups

that want more open policies put more direct pressure on policymakers than the more diffuse and poorly concentrated influence of the public.

In the arguments of “client politics,” political elites and well-organized interest groups in the domain of immigration policy are detached from the voice of public opinions. Policymakers and organized pro-migrant lobbies such as employers and businesses depending on unskilled workers have been successful in continuing to push more open immigration policies. As a consequence, the pro-immigration interest lobby is far more capable of mobilizing political resources than its anti-immigration opponent. The result is an “expansionary bias” within domestic political competition that occurs in most liberal democracies, even if they have otherwise quite different political traditions. In this view, the real business of migration policy takes place behind closed doors in the arena of organized politics. Politics thus keeps the door open for migrants regardless of how unpopular their presence may be with the mass native public.

Using his client politics model based on the logic of cost-benefit distributions, Freeman concludes that his theoretical framework explains an expansionary bias of immigration policy across the three different types of immigration countries. Freeman divides immigration countries into three subsets of migration regimes including 1) the English-speaking settler societies (Australia, Canada, New Zealand, and the United States), 2) Western European states that accepted temporary workers after World War II (Germany, France, Britain, Switzerland, the Netherlands, Sweden, and Belgium), 3) Southern European countries that experienced migratory transition from sending countries into receiving countries since the mid-1980s (Portugal, Spain, Italy, and

Greece). The model of client politics can be best applied to the settler societies of primarily Britain origin. People in those countries basically have a positive myth of immigration. Further the politics of immigration have been forged for a long time, and been institutionalized well. The politics of immigration is made in the interplay between organized groups. The most supportive groups are “employers, ethnic advocacy groups, and civil and human rights organizations.” (Freeman 1995, p. 888) The strongest opposition groups are labor unions. However, they have come to support immigration, “resigning themselves to defensive rather than restrictive measures” (Freeman 1995, p. 888) such as employers sanctions. Political parties rarely criticize immigration in order to appeal to voters. The positive folklore of immigration and well-established institutions provide people in those countries with a strong belief in managing the flow of immigration properly. As a result, even though public opinion has fluctuated, public sentiments are generally positive and at least indifferent or moderate opposition. However, since general public opinion is poorly articulated, “ordinary voters in the settler societies are rationally ignorant, often indifferent, and rarely organized or consulted for their views on immigration.” (Freeman 1995, p. 888) As the model of client politics predicts, immigration policy in the settler societies is created out of public views and broader debates. Thus, immigration policy is not volatile, and policy change takes place gradually and infrequently.

Compared to those settler societies, western European states with postcolonial and guestworker migrations have a short history of immigration. These states did not consider that immigration was necessary to the process of nation-building. Large-scale

immigration from non-European origins posed serious dilemma with respect to nationality and citizenship. Further, they faced unforeseen consequences of temporary guestworker migration, which means that guestworkers turned into permanent settlers in those countries. Therefore, the politics of immigration in western European societies is relatively conflictive. Sometimes extreme right parties have had significant support at the polls, and have attempted to push extremely restrictive policy. The response of publics to immigration is much less positive than those in the settler societies. However, public opinions were ignored by politicians and parties. “Nonetheless, given the hysterical tone of much academic and journalistic analysis of the politics of immigration, it is worth noting that the overall picture... is close to the predictions of the model.” (Freeman 1995, p. 891)

After Gary Freeman introduced a consideration of the benefits and costs of immigration into immigration policymaking, some scholars take his insights and develop the logic of client politics. Jeanette Money reconsiders Freeman’s argument that the concentrated benefits and diffuse costs of immigration lead to the mode of client politics in liberal democracies from a spatial perspective. (Money 1999) As Money calls political geography, she accounts for the differential effects of immigration by geographical regions. Money argues that we need to consider the costs and benefits of immigration geographically because immigrant populations are geographically concentrated, and the costs and benefits are also concentrated by geographical distribution. Depending on the geographical allocations of immigration effects, they can affect the formation of preferences both for and against immigration. For example, local government increases

expenditures in social and other public services and local housing shortages become serious in these concentrated areas. These increasing costs are likely to make anti-immigration forces stronger. Holding the perspective of political geography, Money furthers her model focusing on political consequence of immigration in specific electoral constituencies. She attempts to answer the question as to under what conditions do political oppositions to immigration at the local level become salient at the national level. She contends that when the electoral outcome in those immigrant-concentrated regions is critical to retaining a national electoral majority, national politicians attend to hear opinions in those local constituencies, and try to translate their voices into policy. In other words, “when anti-immigrant sentiment develops in swing or marginal districts, the national parties pick up the issue.” (Freeman 2005, p. 119) Money develops theoretical framework to link the geographical distributions of immigration effects, the impact of local preferences on national electoral system, and actual policy outcomes. She empirically applies her model to the cases of Great Britain, France, and Australia, and traces how electoral contests in the immigrant-concentrated localities have led to restrictive immigration policy.

Another variant of client politics is drawn from models of international trade. In order to take into account of a country’s choice of migration policy, Alan E. Kessler applies international trade theory to immigration policymaking. He argues, “the welfare effects of immigration on domestic factors of production, particularly labor, are key determinants of a country’s migration policy.” (Kessler 1998) Kessler expects that where immigrants and domestic workers are substitutes or competing against each other in the

domestic labor market, labor forces are more likely to lobby for immigration restriction. Further, if these organized labor and pro-labor governments coexist, there would be a greater tendency toward immigration restriction. On the other hand, where labor has little influence over immigration policymaking, “governments beholden to capital or land owners have little to gain from restriction and liberal policies are more likely to prevail.” (Kessler 1998) Therefore, his model implies that we need to investigate a country’s factor endowments and which factors are salient in the political process in order to find the demand for immigration restriction.

2.2.2. International Norms Approach

Another group of scholars within political science suggests international norms approach to immigration policy. They “stress the extent to which the individual rights that are at the heart of democratic states displace interests and limit the actions of states.” (Freeman 2005) James Hollifield argues that migration policies in liberal states are affected by embedded liberalism. The organizational framework which emerged in the post-World War II era implicitly supported freer international mobility of labor forces. Embedded liberalism with emphasis on individual rights has developed rights-based discourses and policies. Therefore, the structure and culture of the democratic states as well as international regimes bring out more open and generous patterns of immigration policies in the liberal democracies. Further, they claim that once embedded liberalism is installed, it will be difficult to roll more open policies back to more restrictive ones due to

nature of path dependency. While the political economy approach explains expansive immigration policies in the liberal democracies with regard to the mode of client politics, international norms approach focuses on the process of path dependency in which rights of immigrants and asylum seekers have been evolved.

While agreeing that rights do matter, one question still remains: how rights influence state behavior? Is the power of rights coming outside state or inside state? Do states constrain their actions by complying themselves with external pressures or by self-limiting themselves? Regarding this issue, Saskia Sassen, David Jacobson, and Yasemin Soysal see transnational processes as a key force in regulating states' sovereignty over immigration policies. An emergent transnational regime of human rights is limiting the basis of state sovereignty, and pushing right to self-determination toward rights of individuals regardless of nationality. However, some scholars do not agree with the idea of this globalization thesis. For example, Christian Joppke mockingly addresses, "the capacity of states to control immigration has not diminished but increased – as every person landing in Schiphol (Amsterdam) or Sidney airports without a valid entry visa would painfully notice." (Joppke 1998) Joppke argues that the liberal democracies are not losing capacity to control migration, but self-limiting that capacity. Joppke illustrates the idea of self-limited sovereignty by focusing on the legal processes in democratic countries as the underlying force of expansionary immigration policy. Put simply, courts and judges protect rights of immigrants from anti-immigrant populist voices and from client politics. These judicial decisions provide the strongest framework for expansionary and inclusive immigration policy-making. In sum, expansion of immigrants' rights is

rooted in domestic political process.

While the tradition of political economy approach to immigration policy emphasizes domestic factors such as interest groups, geographical location, and factor endowments, other scholars, so-called “globalists” began to pay attention to international factors including economic globalization and international norms. “Globalists” refers to “scholars who emphasize the blurring of domestic and international boundaries in an interdependent world, which relies on the free flow of goods, money, people, and ideas or norms.” (Guiraudon and Lahav 2000, p. 164) International relations and comparative politics have focused on to what extent globalization has diminished national sovereignty, and how international norms impact domestic policy change. International migration as a form of transnational flows is in the middle of this ongoing debates between globalization and national policy making. Linking international migration with large-scale social change including post-industrial change and intensified globalization, “globalists” highlight the decline of sovereignty in the sense that nation states can no longer hold their own autonomy over controlling international labor movement under the global pressure outside of nation states. They argue that socioeconomic global transformation and increasing international human rights norms are reducing the power of nation states when they enact and implement immigration policies, and leading to convergence of immigration policies.

Globalists locate the source of policy change outside the nation states in the age of globalization as well as in the increase of international human rights norms. Saskia Sassen claims that economic globalization and the emergence of global cities have made

multinational corporations demand more generous immigration policies in receiving countries. (Sassen 1996) Yasemin Soysal (Soysal 1994) and David Jacobson (Jacobson 1997) argue that international human rights norms have contributed to shifting traditional citizenship-based rights into “postnational” rights based on universal personhood.

According to them, international human rights norms, which are embodied in “charters, treaties, and transnational organization as well as in proliferating governmental and nongovernmental “rights talk,” (Surak 2008, p. 552) have provided migrants with rights previously limited to citizens. Studies of globalists imply that international norms and standards can constrain immigration policy making, even on sovereignty-related issues.

With regard to the relationship between international human rights norms and state’s sovereignty over immigration policy, the previous researches can be divided into two groups. The first group is the “top-down” theory that emphasizes the diffusion of norms through international regimes such as the UN and the European Commission on Human Rights. The post-national scholars such as Yasemin Soysal emphasize the power of universal human rights, and they claim that international human rights norms embedded in international regime constrain the decisions of the states from the outside. Soysal argues that the legitimacy of human rights is located at the transnational level rather than the national level when rights of migrants are discussed. Guestworkers in Western European countries have received permanent residence status and have formed large “foreign communities” there, even though they are not naturalized. She addresses that the traditional concept of national citizenship is shifted to what she calls a post-national citizenship based on “personhood” detached from nationality due to international human

rights norms. In sum, whereas national citizenship is rooted in territorialized concept of cultural belonging, post-national citizenship is anchored in deterritorialized persons' rights. To explain these changes in citizenship, the post-nationalists assume that international norms directly affect the national government's decision to expand the rights of immigrants. Since the post nationalist scholars do not specify the intermediate mechanism between international norms and expansion of immigrant rights, Hideki Tarumoto calls it "international-legal path." (Tarumoto 2003) However, this approach is criticized "although an international human rights regime may indeed affect states, this has yet to be demonstrated." (Gurowitz, 1999, p. 414) Soysal demonstrates a list of the agencies and the organizations, but does not explain how these agencies and organizations play roles in diffusing international norms and in changing the national government's policies.

International norms do not acquire domestic salience automatically, and norms do not have the same importance everywhere. Thus, another camp on the role of international human rights norms argues that we need to focus on the dynamic mechanism embedded in the interactions among the state, international norms and civil society in expanding the rights of migrant workers. The second group is a "bottom-up" theory that underscores how NGOs utilize as tools to fortify their arguments on the issues of expanding rights of migrant workers. Gurowitz claims, "The role of international norms has been central in part because these standards have provided pro-immigrant actors with a tool to use in their arguments against the government in the face of domestic resistance to change." (Gurowitz, 1999, p. 415) Tarumoto calls this mechanism as

“domestic-political path.” The second group of globalists constructs the basic model that explains the causal chain flowing from international human rights norms through pro-migrant organizations to government’s responses to expand immigrants rights. The domestic-political path highlights the roles of social movements and pro-migrant NGOs activities as engines for expanding immigrant rights.

Globalists raise the core question as to “whether and how the capability of the state in liberal democracies to control immigration has been eroded by a combination of international agreements and the increased role of courts in establishing individual and collective rights.” (Schain 2009, p. 94) Although critics admit that international norms circumscribed the government’s options for immigration policies, they argue that the power of international norms is exaggerated. Rather, they claim that normative constraints on migration control come from domestic liberal norms guaranteed by constitutions, legislation, and jurisprudence. Embedded liberalism in the political system makes it difficult to roll back the expansive immigration policies, and the domestic norms in the legal system also keep protecting immigrants’ rights.

Debating on the influence of international norms, the critics of globalists’ argument address “bring the state back in” because “It is still the states themselves that decide whether and how they will abide by international norms.” (Schain 2009, p. 98) Since it is not clear to what extent international norms have influence on decisions of political authorities, we should look into the state or domestic institutions that mediate or filter transnational ideas and international norms.

2.2.3. Institutional Approach

Another school of thought, institutionalist approach, emphasizes the liberal principles embedded in constitutions and judicial branches in advanced industrial countries. The liberal nature of the state grants many rights to migrants as persons rather than citizens, (Surak 2008, p. 553) and in compliance with liberal values and human rights encoded in the constitution, the judicial branch prevents the state from rolling back the immigration policy and making it restrictive, for instance, when an economic downturn deepens or anti-immigrant movements increase. (Joppke 1998) In short, while the political economy approach emphasizes economic interest in the organizational form of interest groups, the institutionalist approach highlights the effects of the liberal principles in constitutions and the role of the judiciary that contribute to enhancing the rights of migrants.

Although the political economy approach and international norms one can be generalized across the countries, “states may vary according to the extent to which they are integrated into liberal international structures and to which they adopt thoroughly liberal, rights-based domestic institutions.” (Freeman 2005) Interests or norms do matter, but their effect is dependent on the specific context in which immigration policy unfolds. Therefore, the institutionalist approach pays more attention to “the causal connections between institutional configuration of states and the immigration policies they adopt.” (Freeman 2005) In sum, the institutionalist approach concentrates on the supply for policies than the demand for policies to explain policy outputs. Regardless of how states are constrained from above (international norms) or from within (democratic structure or

judicial activism), institutional approach claims bringing back states in theorizing immigration policy.

When the institutionalist approach brings states back in analyzing immigration policy, they challenge its characterization of the state as a broker and a unitary actor assumed by the political economy approach. (Boswell 2007, p. 78) Their definition of the state is closely related to the degree of autonomy of the state and the cohesion within the state.

The first concern of institutional approach is the role of the state in shaping immigration policy, more precisely the relative openness of policymakers to external influence. The political economy approach views the state as a passive umpire whose role “is confined to that of finding a utility-maximizing compromise between organized interests.” (Boswell 2007, p. 79) In contrast, the pure type of institutionalist approach basically assumes “that political institutions can be autonomous: they can form public policy according to the interests of the state and remain unaffected by societal or interest group pressures.” (Meyers 2000) In practice, however, the institutionalist approach is modified by accepting the degree of relative autonomy of state. While studies of immigration policy with emphasis on the state mostly assume that the state and the political institutions have their own interests and enjoy substantial autonomy, it is difficult to accept the view that the state as an internally rationalized organization is immune to influences from social voices or operated by its own self-regulated rules. Therefore, most scholars focus on an active role of the state in formulating immigration policy. Yet, they portray the state as less autonomous state.

Secondly, the institutionalist approach examines the degree of cohesion within the state. As Freeman and Kessler describes, institutional analysis “relaxes the assumption of a unitary state and introduces sub-state institutions.” (Freeman and Kessler 2008, p. 667) They disaggregate the concept of the state, and investigate intra-state negotiations and competitions among the executive, legislative and judicial components of the state or competition among different bureaucratic agencies. In sum, “researchers also differ with regard to whether the state is monolithic, united in its view of its interest, or whether various bureaucratic agencies pursue their own agendas, in what is known as the bureaucratic model.” (Meyers 2000)

Although the state has its own interests and enjoys substantial autonomy, the various agencies within the state keep interacting with their clients, and being affected by various social elements such as labor, capital, ethnic groups, and NGOs. In many cases, the state fails to maintain the cohesion within the state. If we agree that the state is composed of a number of different agencies, which may have different interests and goals, the state is frequently involved in a tug of war between rival agencies over one policy.

Relying on the tradition of pluralism, the political economy approach assumes the state is a unitary actor and a monolithic entity. It views the state as a passive umpire whose role “is confined to that of finding a utility-maximizing compromise between organized interests.” (Boswell 2007, p. 79) Challenging this concept of the state, the institutionalist approach disaggregates the state into several governmental agencies with different norms, ideas, and policy goals. It assumes that governmental branches frequently compete with each other in the making of the immigration policy. For example,

in South Korea, the Ministry of Justice and the Ministry of Labor have supported different policies with regard to foreign workers. In Japan, while the Ministry of Justice maintains the most conservative position, the Ministry of Foreign Affairs, which is sensitive to international norms, has a relatively liberal stance toward migrant workers. (Cornelius 2004) In sum, the institutionalist approach attempts to theorize the role of the state in shaping the immigration policy by emphasizing the importance of intra-governmental competition.

Drawing from this critical review of the dominant theories of the immigration policy, Christina Boswell tries to move beyond political economy and institutionalist approaches, and theorizes a third way to consider the immigration policy by suggesting that we look into the functional imperatives of the state. However, her approach still relies more on the tradition of insitutionalist approach. Yet, as a new variant of the institutionalist approach, it is worthwhile to introduce her theory here.

Boswell argues that the four functions of the state—security, accumulation, fairness, and institutional legitimacy—are important criteria for assessing state legitimacy, which is defined as “a function of the compatibility of political actions and practices with the expectations and values of a particular public.” (Boswell 2007, p. 88) Although the state would ideally synthesize all four functions within its immigration policy, in reality, it usually has to manage the tensions between the four functions by selectively prioritizing certain function(s). For example, the state can sacrifice economic gain in the name of national security. To enhance border control and physical security for its citizens, the state might narrow the window for import of foreign labor and implement stricter policies

against illegal migrant workers, even though this might result in labor shortages, especially in low-skill and labor-intensive sectors. Boswell claims that depending on what functions the state emphasizes, different types of immigration policy will be enforced.

Among the four functions, Boswell first of all cites “international and internal security for its subjects.” (Boswell 2007, p.89) States have traditionally been concerned with their territorial integrity and with public safety for their citizens. As security providers, states attempt to demonstrate their capacity to control borders, and to maintain social orders. States are particularly concerned about illegal immigration, and, especially after 9/11, sometimes link irregular migration with crimes committed by foreigners, and terrorism. In addition, states are likely to reinforce their capacity to monitor entry and exit of foreign nationals, for example, through using a fingerprinting system. The second function is related to the accumulation of wealth, frequently expressed in terms of economic or national interests. As a contributor to this accumulation, the state needs to provide foreign migrant workers to meet the demand for labor in the low-skill sectors that the domestic labor force tends to avoid. In addition, states consider highly skilled migration in order to enhance national competitiveness in the age of globalization. The third function of the state, “fairness,” is a loosely defined term. Fairness is roughly understood as promoting “welfare” or “a just pattern of distribution.” (Boswell 2007, p.90) While states tend to gain popular support through excluding outsiders from their welfare system on one hand, they sometimes make efforts to integrate ethnic minority groups as members of their host societies. By including mobilized ethnic minority groups,

multicultural societies, for example, broaden boundaries of membership and widen the scope of entitlement to the welfare system. The final state function is “institutional legitimacy,” which is “public confidence that state practices conform to certain formal conditions considered vital for the preservation of democracy and liberty.” (Boswell 2007, p. 91) In other words, institutional legitimacy is understood as ideological and institutional conditions, including human rights, civil liberties, constitution, and judicial powers, that prevent a rollback from open immigration policies toward more restrictive ones.

2.3. Immigration Policy Theories in the Context of Japan and Korea

Applied to the cases of Japan and Korea, the differences between the political systems need to be taken into account. Freeman himself realized that his concept of client politics works best in the case of the United States (Freeman 1995, p. 887). The framework of client politics provides a clear-cut account of immigration policymaking based on relevant actors’ interest maximizing strategy. However, if we want to explain the difference of immigration policy between Japan and South Korea, conventional political economy approach falls short of explaining the different trajectories. The theoretical limits first of all stem from that Freeman does not consider to what extent each country’s bureaucracy has autonomy from social actors. The work of client politics assumes that public officials and well-organized groups are significantly detached from social voices, and therefore their interactions can choose expansive policies despite of negative public

opinion. Yet, each country has different degree of state autonomy, and I argue that the difference of state autonomy can produce the different policy outcomes. Without the consideration of different bureaucratic autonomy, we cannot explain the variance of immigration policies in Japan and Korea. Especially, even though Korea and Japan shared the experiences of the developmentalist state, after the procedure of democratization from 1987, the state structure of Korea is gradually changing, and the government becomes more sensitive to the voices and pressures from society.

The second problem of the political economy approach is that it assumes the state is a unitary actor. In reality, however, we can witness that each governmental department with different norms, ideas, and policy goals competes with each other. For instance, in the Korean case, the Ministry of Justice and the Ministry of Labor supported the different policies toward foreign workers. In Japan, while the Ministry of Justice stands on the most conservative position, the Ministry of Foreign Affairs which is sensitive to international norms has relatively liberal stance on the issues of migrant workers. Further, when we examine such intra-governmental competitions, I suggest we scrutinize how political coalitions have been made. (Tichenor, 2002, p.8) As Tichenor argues, policy changes have been closely tied to the possibilities of political coalitions to support new policies. Without this consideration, we will fail to explain “why sometime pro-immigrant groups lost powers to expand immigration policies” or some organized groups that enjoy the benefits from current policy failed to resist against new policy. (Tichenor, 2002, p.24) Thus, I will examine during legislating the new program, the Employment Permit Program in Korea, how each governmental department had made coalition with

social actors, for instance, the Justice Ministry and the small-medium sized companies, or the Labor Ministry and pro-migrant NGOs.

Several scholars have emphasized the role of international human rights norms as one of the key factors to shape migration policies or citizenship by constraining the policy choice of the state. However, this approach cannot sufficiently explain the variance of foreign labor policies. If international norms simply affect state policy, and constrain the policy option, as Lee and Park argue, we would have expected Japan to change the migration policies much earlier than Korea because Japan's international status as a major developed country could have made it more sensitive to international pressures. (Lee and Park, 2005) In reality, however, the Korean government is modifying the foreign labor policy in a more liberal way, while the Japanese government is maintaining the most restrictive policy. Why is it so? For a comparative study, however, this approach needs to be equipped with more detailed analytic dimensions because whether or to what extent international norms affect states' choice depends on what contexts acceptance of international norms has been discussed and what kinds of state institutions and civil societies interact with each other.

Institutionalist approach calls for a different concept of state. While political economy approach assumes that state is understood as a passive umpire and a monolithic entity, the institutionalist approach claims that state is conceived of a complex composition of diverse institutions. Institutional analysis views policy-making processes as competitions among different institutions with their own special knowledge and organizational interests. Although it can be criticized for its lack of testability and

predictive potential, this approach helps us to delineate the structures that generated policy outcomes. Providing more specific view on the state, institutional analysis helps us to consider the different level of state autonomy, intra-governmental competition, and political coalitions between state agencies and societal groups.

The institutionalist approach provides studies of immigration politics with important insights about the function of institutions as a mediating variables and sophisticated concept of state. By means of the idea of path dependency, this approach rigorously explains evolutionary process of immigration policy-making. Therefore, studies with institutional approach show the continuity and stability of immigration policy, and internal division among state agencies, and political coalition between state agencies and social actors. Nevertheless, this approach has some weaknesses. It often fails to specify how and why policies vary over time, and between states. Hansen himself recognizes this weakness: “Works that emphasize historical continuity and path dependency invariably poorly account for moments at which the historical trajectory is punctured by dramatic policy change” (Hansen 1999, p.423). They are not able to explain the change of policy from one to another. (Favell 2001, p. 20). For an understanding of this transformation, the actors and dynamics of the political process need to be taken into account more explicitly (Feldblum 1999, p. 10). To satisfy this necessity, I will embrace idea of political opportunity structure from literature of social movements in order to explain how and why immigration policies in Korea and Japan have become divergent as well as convergent.

2.4 New Perspective: Thinking About Civil Society, the State, and Immigration Policy in East Asia

To identify the crucial factors shaping this policy divergence and convergence in Korea and Japan, I propose a historical-institutionalist approach to immigration policies for this study. As Daniel Tichenor “examines how the political activities of government officials and ideological orderings” in studying changes of immigration policies in the United States, (Tichenor 2002, p. 8) my approach is drawn from historical institutional scholarship on immigration policy. For example, some historical institutional works try to make these connections between civil society actors and state actors including Theda Skocpol’s *Protecting Soldiers and Mothers*, and Daniel Tichenor’s *Dividing Lines*. My approach pays special attention to intra-governmental competition as a political opportunity structure, and historical development of political activism as well as possibility of making political coalitions between state agencies and societal groups. I would like to focus on the dynamic process of policy changes in the issues over immigration. This study is mainly related to the procedures and outcomes that resulted from the interaction among related actors including specific bureaucratic bodies and civil society organizations. What I analyze in this study is how pro-migrant NGOs have taken advantage of intra-governmental competitions in terms of political opportunity structure, and how those NGOs have succeeded or failed in policy changes. Therefore, what is critical in this study is how to understand the interaction between state and social movements surrounding the issues of immigration policies. For this purpose, the existing

theories of immigration policymaking need to be modified.

To explain policy changes and political dynamics in process of policymaking, it is important to note that we need a theoretical concept beyond political economy approach's static nature of states and institutionalist approach's emphasis on continuity and stability. The political economy approach argues that the decision-making of immigration policy is confined to backdoor negotiations among political elites. However, in many cases, the issues of immigration policy spill over into a larger public space. For instance, in the 1980s and 1990s, many Western European countries experienced a high level of public awareness and political contentions mobilized by social movements organizations and political parties ranged from anti-immigration right to civil rights left. In South Korea, the issues of immigration policy began to draw attentions from the media and the public through sit-ins and protests. In these situations the political processes surrounding immigration policy are much more complex than client politics' static concept. Although historical institutionalism provides an analytical account to explain cross-national differences with details, some scholars criticize historical institutionalism for its static and agent-poor worldview. However, I argue that this criticism is not inherent to the institutional approach. Borrowing academic achievements in the studies of contentious politics, we are able to make it a more dynamic framework maintaining its emphasis on distinctive and historical trajectories. The studies of contentious politics have long focused on interactions among a variety of actors including social movement as a challenger, government as target or mediator, and other organizations. I expect that combination between historical institutionalism and literature on social movements will

provide a useful theoretical tool to examine policy convergence as well as policy divergence in Korea and Japan.

For this purpose, I will utilize the concept of political opportunity structure (hereafter POS) which is widely used in the studies of contentious politics. This concept is originated from Peter Eginer's comparative study in urban protests in the U.S. Focusing on political environment, he tried to explain the differences in the success of mobilization. Later, Sidney Tarrow elaborated this concept. He defines POS as "consistent - but not necessarily formal or permanent - dimensions of the political environment that provide incentives for people to undertake collective action by affecting their expectations for success or failure." (Tarrow 1998, pp. 76-77) Basically this concept aims to analyze the openness or closure of political space where an actor can participate in political process. POS can offer a helpful analytical tool to understand social movements as well as immigration issues. For example, Ruud Koopmans and Paul Statham have brought the concept of POS into the study of immigration policy by defining migration and ethnic relations as a field of political contention. (Koopmans and Statham 2000) They address that it is necessary to "move beyond the usual loose and vague references to 'institutions', 'political process', or 'public discourse', and specify much more clearly what these consist of, which dimensions can be distinguished, and which indicators might be used in empirical investigations"(Koopmans and Statham 2000, p. 31) Taking advantage of the concept of POS, they analyze the structural conditions, actors, and their interactions in the political process.

Depending on the different needs of research designs, different scholars offer

different dimensionalizations of POS. However, in this research, I will follow Sidney Tarrow's concept of POS. Tarrow provides four dimensions of POS: the opening up of access to participation, shifts in ruling alignments, the availability of influential allies, and cleavages within and among elites. (Tarrow 1998) For this research, I selectively utilize dimensions of POS being transferred to the contexts of Korea and Japan. For example, when European scholars apply POS to their immigration studies, they tend to emphasize the roles of political parties. Koopmans and Statham stress the composition of the party system, and the relationship between migrant groups and parties in their dimension of "alliance structure." (Koopmans and Statham 2000) However, in Korea and Japan, political parties do not significantly play in the immigration policymaking. Therefore, I will modify the dimensions of POS offered by Tarrow in the Korean and Japanese context.

I first of all use the term of POS in order to understand formal institutional structure that face migrants and migrant NGOs seeking to influence immigration policy. Therefore, Tarrow's two dimensions such as shifts in ruling alignments and cleavages within and among elites will be used for this purpose. Government changes (e.g. inauguration of liberal government in 2003 in Korea) and intra-governmental competitions (e.g. competition between the Ministry of Justice and the Ministry of Labor both in Korea and Japan) will help us understand policy changes or stability in South Korea and Japan. I also use the concept of POS to analyze the interactions between state and civil society. Tarrow's other two dimensions such as opening up of access to participation, and availability of a coalition with influential allies will help us examine

how political actors outside the political system influence the decision-making process. For example, to exert their influences, the Korean NGOs usually aim for policy changes by targeting the national government, and have developed strategies to make solidarities with other civil society groups, and they are adept at obtaining media attention. The Korean NGOs have also been a partner in national governance since the Kim Dae-Jung administration. Further, The Roh Moo-Hyun Administration, whose title was “participatory government,” intensified the collaboration with civil society because the birth of the Roh Administration was made possible by increasing power of civil society groups. It is obvious that the active coalition-building on the consensus of human rights delivered more liberal policy in Korea in comparison to Japan. In sum, what I argue here is that four dimensions of POS are keys to understanding why and when in such situations some policy initiatives are successful but others fail.

Although the political opportunity structure approach can offer a helpful theoretical framework to examine both formal institutional structure and informal strategies for interaction between state and civil society, the focus only on structural conditions can miss the power of movements. My framework does not assume that either interest groups or political parties play the central role in the policy-making process. In Chapter 4 and 5, I will deal with historical development of civil society and migrant workers’ movements including mobilization, tactics, framing and so on.

Finally, I would like to address the relationship between the state and social movements in order to analyze interactions with each other. We can examine the interaction between the state and social movements, focusing on the four-way interaction

between citizens, social movements, the political representation system, and the state. “In this interaction, the state and the political representation system provide political opportunities to social movements, and the impact of social movements is turned back on the state and the representative system. Social movements can also have indirect effect on the political system by shaping the attitudes and action of citizens.” (Choi 2008, p. 42) As this approach implies, traditional literatures have understood social movements as processes of conflict, struggle, and compromise between the state and civic organizations in civil society. Therefore, the state is often considered as a target of social movements or as an actor affecting motives, processes, and consequences in the movements. “From this point of view, the frontline of social movements should be formed between social movements and the state.” (Choi 2008, p. 12) However, in my research, the availability of a coalition between some migrant NGOs and specific governmental branches is a crucial condition for policy change. In this study, I define the state neither as a static governor nor subservient by-product of other social forces, but as a group of institutions so that it can be target or part of an alliance for social movements simultaneously. Thus, in this research I will focus more on structured relations between the state and migrant-related groups rather than on the frontline between state and social movements. Since the structured relations have been historically formed as institutional and ideological products, I will maintain historical institutional perspective in analyzing formal institutional structure, social movements for migrant workers, and interactions between state and civil society in this research.

CHAPTER 3

THE CURRENT SITUATION OF IMMIGRATION IN KOREA AND JAPAN

This chapter provides an overview of the current situation of immigration in Korea and Japan in order to set up contextual background for analyzing immigration policies in both countries in subsequent chapters. I introduce the situation of immigrants and the policies for them. For this purpose, this chapter is composed of three major sections. The first section offers the recent trends and current situation of immigration in South Korea and Japan. The second part reviews a historical background and causes of increasing immigration. The final section provides a brief description of both countries' immigration policies responding to the current demographic changes.

3.1. Recent Trends of Immigration in Korea and Japan

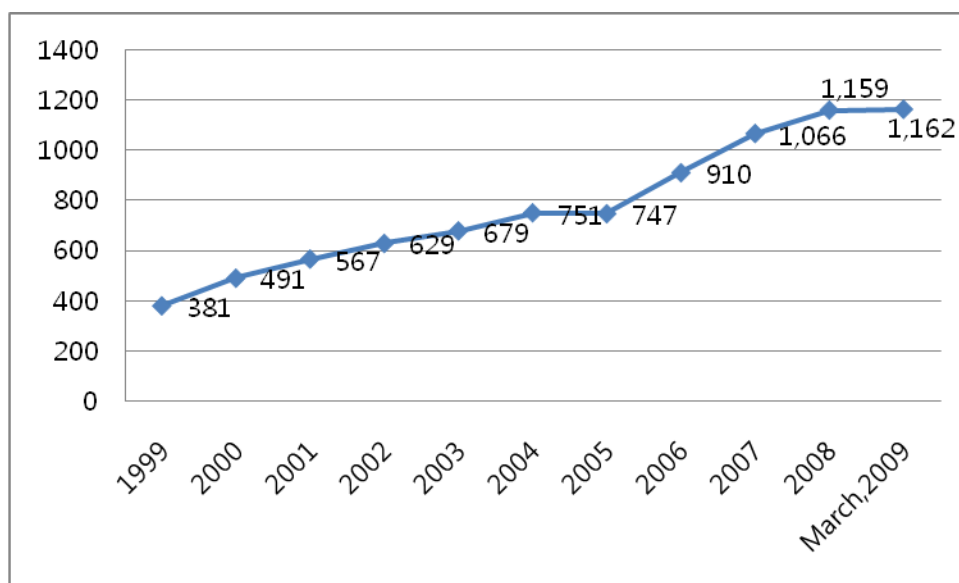
3.1. 1. Recent Trend of Immigration in Korea

South Korea has long been regarded as an ethnically homogeneous country with few foreign populations. Such demographic homogeneity has been fortified by strong ethnic nationalism and strict definition of nationhood based on the purity of blood, which has been reinforced by a series of nationalist momentums including the anti-Japanese independence movements, the military governments' nationalistic mobilization, and

nationalistic democratic movements. (Shin 2006) Recently, however, Korea has been experiencing drastic demographic changes due to the influx of foreign migrant workers, the return of ethnic Koreans mostly from China, and the increase of international marriages between Korean males and international brides mostly from neighboring Asian countries.

As figure 3.1 shows, the number of foreign population residing in South Korea has been rapidly increasing. For example, the number of foreigners in 1980 was 40,519, and 49,500 in 1990.(Seol 2008)

Figure 3.1 Changes in the number of foreign population residing in South Korea (Unit: 1,000 persons)



Source: Ministry of Justice (2009)

However, as of March 2009, the number of registered foreigners in Korea is 1,162,171 (Ministry of Justice, 2009) accounting for approximately 2% of the total population. Table 3.1 notes that the proportion of foreign residents in 1990 was merely

0.11% of the total population in South Korea. Yet, the proportion will reach the level of 2.54% by 2010. Since the 1980s, the numbers of foreign residents have increased by 18% annually. Compared to other OECD countries, the proportion of foreign population is still low. However, it is notable that the increase of foreign population is quite rapid, and considering South Korea's ethnic homogeneity, it is expected that the increasing immigration will have huge impacts on Korean society in the future.

Table 3.1. Change in Proportion of Foreign Residents in South Korea

	1990	1995	2000	2005	2010 1)
Foreigners	49,507	269,641	491,324	747,467	1,249,765
Korean Population	44,553,000	44,940,000	45,985,000	48,294,000	49,219,537
Proportion	0.11%	0.60%	1.07%	1.55%	2.54%

Source: Ministry of Justice (2006) Cited from (Choi 2008)

Note: 1) Estimated by Korea National Statistics Office

As for their nationality, Chinese constitute 49% of the total foreign residents, followed by Americans (10%), Vietnamese (8%), Filipinos (4%), Japanese (4%), Thai (4%), Mongols (3%) and so on.

According to table 3.2., among the total foreign residents, 568,906 work legally in the Korean labor market. While the majority of them (529,851 / 93%) are working in low-skilled manufacturing sectors, only 34,085 are considered professional workers, which is merely 6% of all foreign workers. The number of undocumented workers among foreign workers is estimated around 50,000, accounting for 9% of all foreign workers. However, among all foreign residents, the number of illegal stayers is 223,229, which accounts for 19.3% of all foreigners in South Korea.(Council 2008) The problem in

South Korea's foreign labor management is the high proportion of undocumented workers. After the inauguration of the new program in 2004, the proportion significantly decreased from 80% to 35% owing to legalization of some qualified undocumented workers. However, the new system failed to prevent the number of undocumented workers from increasing. (See Table 3.5)

Table 3.2. Number of Foreign Workers in Korea by Qualification
(March, 31, 2009, Unit: Persons)

	<i>Total</i>	<i>Professional</i>	<i>Non- professional</i>	<i>Entertainment</i>
Total 1)	568,906	34,085	529,851	4,970
Legal	516,619	33,342	479,698	3,579
Undocumented	52,287	743	50,153	1,391

Source: Ministry of Justice (2009)

Note: 1) Short term employment (C-4), Industrial Training (D-3), Special Work Permit (F-1-4) visas are excluded.⁴

Table 3.3 indicates more detailed information on what kinds of visas foreign workers in South Korea hold. The Ministry of Justice in South Korea has 31 types of visas depending on the purposes of entry. Among them, visas for Professors (E-1), Language Instructors (E-2), Researchers (E-3), Technology Transfer (E-4), Professional Employment (E-5), and Special Occupations (E-7)⁵ are considered as professional employment visas. Non-professional Employment (F-9), Post-Training (E-8), Vessel Crew (F-10), and Working Visit visas are classified as non-professional visas. Although I

⁴ C-4 visa is designed for those who seek to make profits from music, arts, performance and so on within 90 days. D-3 visa is trainee visas under the ITP. F-1-4 is created for ethnic Koreans in China for working in low-skilled sectors.

⁵ The Special Occupation visa is designed for employees under contract with a public/private organization or those with high technology skills, such as in information technology. Park, Y.-b. (2008). "Republic of Korea." *Asian and Pacific Migration Journal* 17(3-4): 429-437.

will explain in detail later, South Korea has two different channels in order to import non-skilled foreign workers, such as the Industrial Training Program and the Employment Permit Program. The Industrial Training Program began in 1991, and became a major importing channel for unskilled migrant workers before the Employment Permit Program embarked on. Under this scheme, the Industrial Trainees were trained for a year, and employed for two years with Post-Training visa. This system was already abolished. Under the Employment Permit Program, unskilled migrant workers can work in South Korea holding Non-professional Employment Visa (E-9) or Work Visit Visa (H-2). The Work Visit Visa was introduced in 2007 only for overseas Koreans with some qualifications. (Park 2008)

Table 3.3. Detailed version of Table 2 (March, 31, 2009, Unit: Persons)

			Total	Legal	Undocumented
Total			568,906	516,619	52,287
Professional	Subtotal		34,085	33,342	743
	Professorship (E-1)		1,852	1,846	6
	Language Instructor (E-2)		21,105	20,979	126
	Research (E-3)		1,950	1,940	10
	Technology Transfer (E-4)		110	106	4
	Professional Employment (E-5)		527	515	12
	Special Occupations (E-7)		8,541	7,956	585
Entertainment	Entertainment (E-6)		4,970	3,579	1,391
Low-skilled	Subtotal		529,851	479,698	50,153
	Non-professional	Subtotal	191,955	158,809	33,146
		Legalization (E-9-1)	22,481	20	22,461
		Employment Permit (E-9-2~7)	168,659	158,786	9,873
		Employment Privileged (E-9-A~K)	815	3	812
	Post-Training (E-8)		14,998	421	14,577
	Vessel Crew (E-10)		4,317	3,595	722
	Working Visit (H-2)		318,581	316,873	1,708
Short Term Employment (C-4)			862	523	339
Industrial Training (D-3)			16,449	2,090	14,359
Special Work Permit (F-1-4)			1,300	5	1,295

Source: Ministry of Justice (2009)

Table 3.4 indicates that Chinese accounts for 60% of all migrant workers, followed by Vietnamese (9%), Filipinos (5%), Thai (5%), Indonesians (4%) and others.

Table 3.4. The number of foreign workers by nationality (March, 31, 2009, Unit: Persons)

	Total	Legal	Undocumented
Total	568,906	516,619	52,287
China (Korean Chinese)	21,947 (320,965)	14,125 (313,110)	7,822 (7,855)
Vietnam	49,203	40,966	8,237
Philippines	30,544	24,092	6,452
Thailand	26,713	22,542	4,171
Indonesia	25,206	21,781	3,425
Sri Lanka	14,212	13,064	1,148
Mongolia	13,500	9,535	3,965
United States	12,092	12,043	49
Uzbekistan	11,551	9,683	1,868
Pakistan	5,595	4,305	1,290
Canada	5,515	5,485	30
Bangladesh	5, 113	2,919	2,194
Nepal	4,892	3,563	1,329
Cambodia	4,781	4,357	424
Myanmar	2,192	1,683	509
United Kingdom	2,186	2,171	15
Japan	1,317	1,313	4
Russia (Korean Russian)	763 (1,968)	561 (1,957)	202 (11)
Australia	790	786	4
New Zealand	650	647	3
Kyrgyzstan	609	542	67
Others	6,602	5,389	1,213

Source: Ministry of Justice (2009)

The high proportion of Korean Chinese in the foreign labor market can be explained by re-ethnization of Korean immigration policy. The Korean government has gradually granted more privileges to overseas Koreans, especially Korean Chinese (*Joseonjok*). In 2007, the Korean government launched the new program, “Working Visit Program (Bangmoon Chuieip Jedo).” This program was designed to provide more job opportunities for ethnic Koreans with foreign citizenship. It allows overseas Koreans, mainly from China and former Soviet Unions to enter and exit freely from Korea for five

years and seek employment in any company in Korea for three years. (Seol and Skrentny 2009) Due to the Working and Visit program in 2007, the proportion of Korean Chinese has been dramatically increased. Other countries such as Vietnam, Philippines, and Thailand made MOU contracts with the Korean government under the Employment Permit Program.

Table 3.5. Number of Foreign Workers in South Korea, 1987-2006 (Unit: Persons)

Year	Total	Registered Foreign Workers		Industrial Trainees	Undocumented Workers
		Professional	Non-professional		
1987	6,409	2,192	0	0	4,217
1988	7,410	2,403	0	0	5,007
1989	14,610	2,474	0	0	12,136
1990	21,235	2,833	0	0	18,402
1991	45,449	2,973	0	599	41,877
1992	43,664	3,395	0	9,370	30,899
1993	68,500	3,767	0	10,225	54,508
1994	81,824	5,265	0	28,328	48,231
1995	128,906	8,228	0	38,812	81,866
1996	210,494	13,420	0	68,020	129,054
1997	245,399	15,900	0	81,451	148,048
1998	157,689	11,143	0	47,009	99,537
1999	217,384	12,592	0	69,454	135,338
2000	285,506	17,000	2,063	77,448	188,995
2001	329,555	19,549	8,065	46,735	255,206
2002	362,597	21,506	12,191	39,661	289,239
2003	388,816	20,089	179,950	50,721	138,056
2004	420,702	20,272	175,392	36,555	188,483
2005	345,911	23,609	103,220	38,290	180,792
2006	423,481	27,221	165,348	44,018	186,894

Source: Calculated data from the *Statistical Yearbook of Departures and Arrivals Control 2006*, released by the Ministry of Justice, 2007 cited from Seol (2007)

Notes: 1) Non-professional workers refer to foreign low-skilled workers who enter into Korea under the Employment Permit Program since 2004. But, this category also includes Post-training workers that refer to industrial trainees who pass skill tests, and are allowed to work as workers under the Work-After-Training Program. This program was terminated in January 1, 2007.

Table 3.5 shows historical changes in the composition of foreign workers in South Korea from 1987 to 2006. In 1991, the Korean state began to import unskilled foreign workers through the trainee scheme. In 1994, the Industrial Training system was expanded. Due to the malfunction of the trainee system, the number of undocumented workers marked the highest level in 2002. Since the Employment Permit Program was enacted in 2003, the rate of legal foreign workers increased and the proportion of undocumented workers decreased.

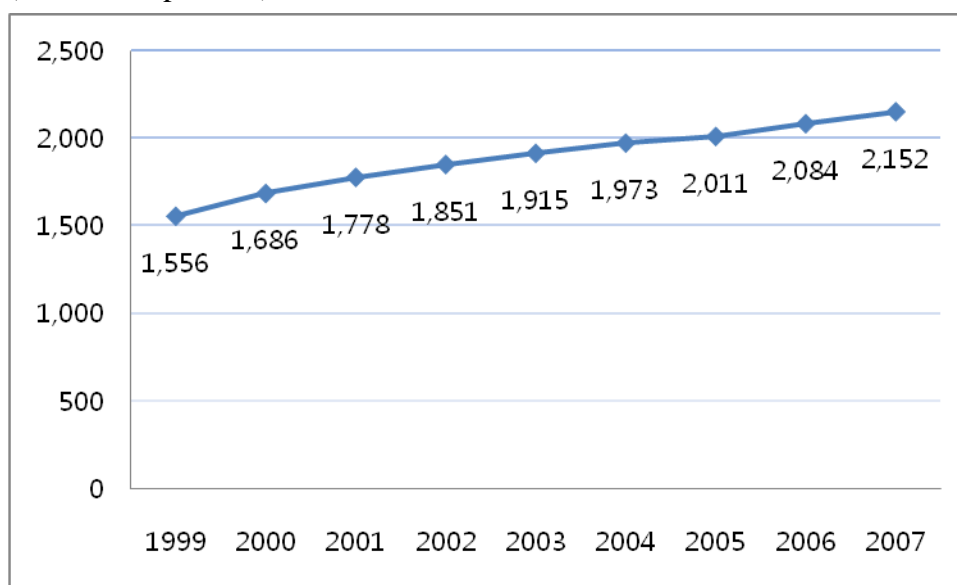
3.1. 2. Recent Trend of Immigration in Japan

Similar with South Korea, Japan has recently experienced the increase of foreign population although the proportion of foreign residents is still lower compared to other developed countries. Immigration Control Bureau within the Ministry of Justice in Japan produces two sets of statistics to show an overall trend of the presence of foreign nationals in Japan: 1) the number of foreign nationals entering Japan and 2) the number of foreign nationals registered in Japan. In principle, Every foreigner who has entered Japan must apply for registration to any administrative unit in which his/her residence is located within 90 days of the date of his/her landing in accordance with the Alien Registration Law. Most foreign nationals have entered Japan with the status of “Temporary Visitor”, which accounts for more than 90% of the total number of foreign entrants. Therefore, the number of registered foreign nationals in Japan indicates how

many foreign residents live in Japan as the state of the “stock.”

As figure 3.2 shows, the registered foreign population in Japan has been gradually increasing every year. As of the end of 2007, the number of registered foreign residents in Japan was 2,152,973. This number increased by 68,054 from 2006, and by 670,266 from 1997.

Figure 3.2 Changes in the number of foreign population residing in Japan
(Unit: 1,000 persons)



Source: Ministry of Justice (2008)

According to table 3.6., the proportion of registered foreign residents to the total Japanese population has been increasing. The 2,152,973 registered foreign nationals in 2007 were the highest number ever recorded, but it represented only 1.69% of the total population in Japan. The proportion increased by 0.06% from 1.63% at the end of 2006.

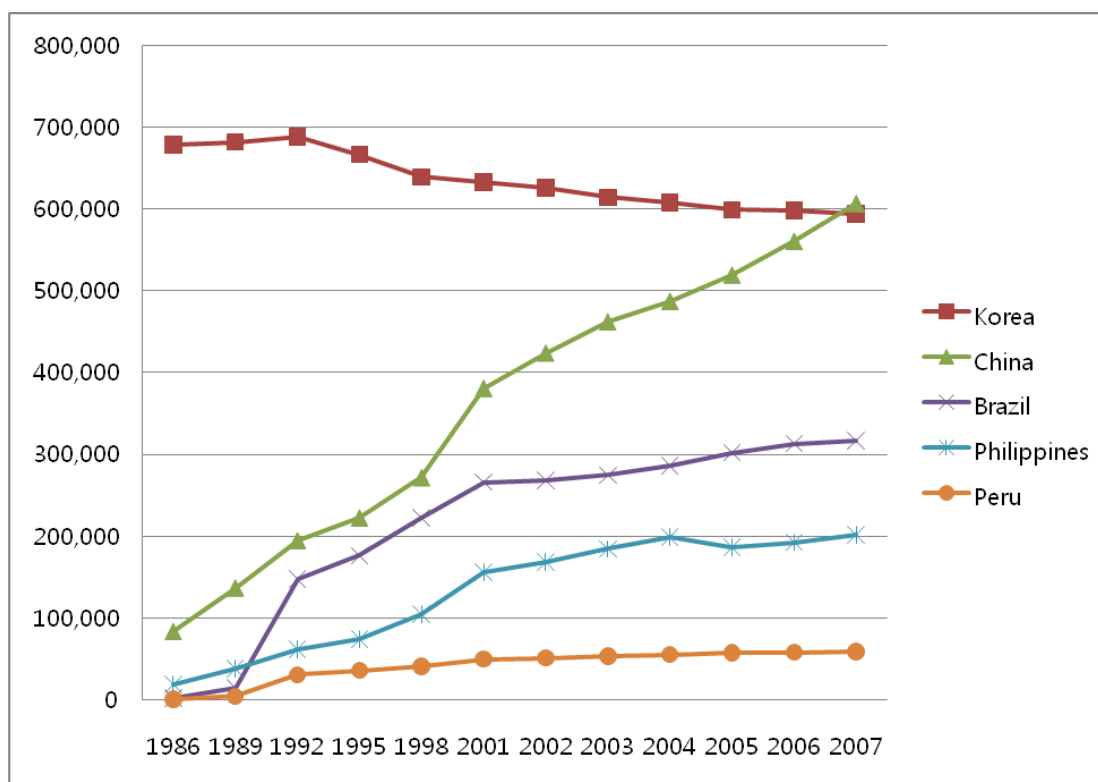
Table 3.6. Change in Proportion of Foreign Residents in Japan

	1990	1995	2000	2005	2007
Proportion of Foreign Residents	0.87%	1.08%	1.33%	1.57%	1.69%

Source: Ministry of Justice (2008)

According to the statistics of the number of registered foreign nationals by major nationality, Chinese were the largest foreign population group at 606,889, which accounts for 28.2% of the total foreign residents in Japan. As seen in figure 3.3., Chinese are the most rapidly increasing foreign group in Japan. In 1986, the number of Chinese residents was just 84,397. However, after two decades, the number increased over seven times.

Figure 3.3. Changes in the number of registered foreign nationals by major nationality (Unit: Persons)



Source: Ministry of Justice (2008)

The number of Chinese population was followed by people from North and South Korea (593,489, accounting for 27.6%), Brazil (316,967, accounting for 14.7%), the Philippines (202,592, accounting for 9.4%), and Peru (59,696, accounting for 2.8%).

Traditionally, Koreans had been the largest foreign population group in Japan. They usually are referred to “old comers”, who were imported from colonial Korea.⁶ However, in 2007, dramatic change took place in that Chinese exceeded Koreans for the first time. Koreans as the largest ethnic group in Japan (for a long time) has been declining since the early 1990s, due to natural declines and increasing rate of naturalization among the young generations of *Zainichi* Koreans who have become Japanese citizens. In contrast, foreign nationals from China significantly increased since the early 1990s. Most are college and pre-college students as well as industrial trainees and technical interns. The third largest foreign population is the Brazilians (*Nikkeijin*) who came as descendants to overseas Japanese and dependents to Japanese nationals.⁷ After the revision of Immigration Control Act in 1990, the Japanese labor market became wide open to *Nikkeijin*. As seen in figure 3.3., the number of foreign residents from Brazil dramatically increased since the early 1990s. Registered foreign nationals from China, Brazil, and Peru are considered as “new comers,” who have come to Japan since the middle of the 1980s. Today, most

⁶ After World War II, most returned to their homelands, but about 550,000 Koreans and Chinese remained in Japan. They hold the status of “Special Permanent Resident.” which was granted to foreign nationals whose Japanese nationality was stripped away as a consequence of the San Francisco Peace Treaty. Therefore, those who lived in Japan before the end of the war and their descendants obtain this status. The permanent residents accounted for about 40% of the total foreign residents.

⁷ Those Japanese descendants from Latin America enter Japan with the status of “Long-Term Residents.” They have unlimited opportunities for renewing their visa, and the option to change their visa into that of “Permanent Residents.”

issues of migrant workers in Japan are related to the new comers. After the Japanese government introduced the industrial trainees and *Nikkeijin* from Latin America as de facto unskilled migrant workers since the early 1990s, those new policies changed the composition of foreign populations in Japan. As a result, the subject of immigration politics in Japan gradually shifted from the issues of old comers to ones of new comers.

Table 3.7. Estimated Number of Foreign Workers in Japan, 1993-2007 (Unit: Persons)

<i>Year</i>	<i>Total 1)</i>	<i>Status for Working Purposes 2)</i>	<i>Technical Intern Trainees</i>	<i>Student Working part-time</i>	<i>Nikkeijin</i>	<i>Illegal Overstayers 3)</i>
1993	611,384	95,376	5,054	39,299	174,904	296,751
1994	615,105	105,616	6,418	33,499	181,480	288,092
1995	605,412	87,996	6,558	32,366	193,748	284,744
1996	631,182	98,301	8,624	30,102	211,169	282,986
1997	662,864	107,298	12,144	32,486	234,126	276,810
1998	668,525	118,996	19,634	38,003	220,844	271,048
1999	668,181	125,726	23,334	46,966	220,458	251,697
2000	709,240	154,748	29,749	59,435	233,187	232,121
2001	735,960	168,783	37,831	65,535	239,744	224,067
2002	763,873	179,639	46,445	83,340	233,897	220,552
2003	796,227	185,556	53,503	98,006	239,744	219,418
2004	800,532	192,124	63,310	106,406	231,393	207,299
2005	797,752	180,465	87,324	96,959	239,259	193,745
2006	785,016	171,781	97,476	103,595	241,325	170,839
2007	792,138	193,785	104,488	104,671	239,409	149,785

Source: Statistics of the Ministry of Justice and the estimates by the Ministry of Health, Labor, and Welfare (until 2003). For the period from 2004 to 2007, the estimates rely on the statistics made by Yasushi Iguchi (2008).

Note 1) For the period from 2004 to 2007, there is no available data from the Japanese government. Therefore, the total number of foreign workers in this period is estimated. The actual number of foreign workers is expected to be more than the total numbers in this table. In addition, Special Permanent Residents are excluded from the total number.
 2) Including professor, artist, religious activities, journalist, investor/business manager, legal/accounting services, medical services, researcher, instructor, engineer, specialist in humanities/international services, intra-company transferee, entertainer, and skilled labor
 3) Estimated number of undocumented workers violating Immigration and Refugees Recognition Act

As mentioned above, the number of registered foreigners in Japan has been gradually increasing. As of 2007, the total number is 2,152,973, which accounts for 1.69 % of the total population in Japan. However, it is difficult to calculate how many foreigners are working among these over 2 million foreign population in Japan because the data released by the Ministry of Justice is just composed of the number of registered foreign nationals by status of residence. For example, we are able to count the number of foreigners who hold employment visas mostly in skilled labor sectors. But, the data does not reflect how many college or pre-college students are involved in their part-time jobs or how many *Nikkeijins* are working. Therefore, it is impossible to estimate how many foreign workers exist in Japan from the data of the Ministry of Justice. In order to make a better estimation, another data should be compensated for the data from the Ministry of Justice. Ministry of Health, Labor and Welfare (MHLW) publishes data on foreign workers in Japan, and the most current data was released in June, 2005. This data includes the number of foreign workers by region and sectors. Thus, we can acquire the number of industrial trainees, students working part-time, and *Nikkeijin*, which the Ministry of Justice's data does not have. However, the data from the MHLW is also incomplete because this data relied on Reporting System for Employment of Foreign workers, which is not mandatory for companies which employ foreign workers. Further, employers often fail to report foreign residents whose visas are not limited in terms of permission to work including permanent resident, long-term resident, and spouse/child of Japanese nationals.(Vogt 2007) In addition , this data does not include the numbers of foreign workers after 2003. For the period from 2004 to 2007, I depend on data collected

by Yasushi Iguchi. However, Iguchi does not produce precise number of the total foreign workers in Japan. Due to the incomplete nature of foreign workers data, Iguchi made a rough estimation of the number of foreign workers in Japan. For example, in 2007, the number of foreign workers in Japan was mathematically 792,138, yet Iguchi estimated the number exceeded 930,000.

In 2007, the number of foreign residents with employment visas mostly for skilled sectors was 193,785, constituting 9% of the total foreign population, and accounting for approximately 24% of the total foreign workers in Japan. Since Japan does not officially import low-skilled workers, the employment visa categories do not include foreign low-skilled migrant workers. These low-skilled jobs are usually filled by industrial trainees, college students, and *Nikkeijin*. The number of trainees in 2007 was 104,488. The trainees from China accounted for 75% of the total, followed by ones from Viet Nam (7%) and ones from Indonesia (5%) . However, the proportion of foreign trainees is quite small in Japan. While the proportion of the trainees to the total foreign workers in Japan was 18% in 2007, the one of *Nikkeijin* was 30%. Thus, many experts argue “the Japanese way to recruit alien workforce is *Nikkeijin*, allowing foreign students a part-time work status, and ignoring employment of undocumented workers.” (Seol 2005)⁸

⁸ The data from the Ministry of Justice is based on the records of entry and exit, thus it does not fully reflect the current reality of foreign workers in Japan. In this sense, an annual report published by the Ministry of Health, Labor, and Welfare (MHLW) might be more helpful to understand employment pattern of foreign workers in Japan. According to the 2002 Annual Report, *Nikkei* and spouses of Japanese accounted for 30.6 % of the total foreign workers, followed by illegal foreign workers (28.9%), registered foreigners for employment (23.5%), student part-time workers (10.9%), and trainees (6.1%).(Lee, 2007, p. 625)

3.2. Historical Background and Demographic Change in Korea

3.2.1. Historical Background

South Korea has historically been described as a racially homogenous country without much experience living together with foreigners. There have been only two visible foreigners' groups in South Korea until recently. The first group is the U.S soldiers and their families who began to live in South Korea mostly after the Korean War. However, since they mostly spent their time inside the U.S. military camps, their encounter with native Koreans were quite rare. The second foreign group is *Hwakyos*, which means the Chinese citizens residing outside of China. Due to their personal networks to China, *Hwakyos* used to dominate export and import in Korea directly following the liberation from Japanese colonialism in 1945. Yet, the number of *Hwakyos* in South Korea has decreased because of social discrimination against them and harsh regulation on their properties and economic activities in the 1960s and the 1970s. Therefore, we can say that South Korea did not face a variety of issues on immigration control and immigrants integration until foreign workers from Asian countries began to enter South Korea in the late 1980s. The problems related to immigration are relatively recent phenomenon, yet the issues of immigration have profoundly has impacted on Korean society.

Many Koreans, even scholars assume that the recent boom of multicultural discourses is attributed to the massive influx of foreign workers since the 1980s, and the sudden

increase of international marriages between Korean males and Asian females. However, they ignore the historical fact that Korea already had experiences in living together with one visible foreign group, *Hwakyos* for decades. Further, the Korean state implemented systematic discrimination and social exclusion against them. It implies that foreign migrant workers from Asian countries and international marriage migrants are not the first ethnic and racial minorities in contemporary Korean history. Although I do not cover how the presence of *Hwakyos* has affected the Korean immigration regime in this study, I argue that the Korean government's policies toward *Hwakyos* as an ethnic minority clearly show the closed nature of the Korean immigration policy.

After the Trade Treaty between Korea and Qing dynasty in 1882, Chinese merchants were allowed to enjoy unlimited business activities. Despite the demise of Qing dynasty in East Asia, the number of *Hwakyos* increased dramatically. For example, while the number of *Hwakyos* in Korea was 209 in 1883, the number reached 11,818 in 1910. (Park 2008, p. 148) After Korea was annexed to Japan in 1910, the population of *Hwakyos* kept increasing, and it marked over 80,000 in 1942. However, as the Japanese imperialism began to penetrate into China and Manchuria in the 1930s, they intentionally agitated conflicts between Koreans and Chinese by spreading rumors that many Koreans were murdered by Chinese in Northern China. It resulted in increasing anti-Chinese feeling in Korea. Many *Hwakyos* decided to leave Korea, and only 12,648 *Hwakyos* remained in 1945 when Korea was liberated from the Japanese colonialism.

After the liberation in 1945, *Hwakyos* suddenly played a leading role in trading business in Korea. For instance, in 1946, 82% of export and 84% of import in Korea were

related to China. “In 1948, only 13 *Hwakyos* trade companies counted 21% of export and 16% of import of Korea.” (Park 2008, p. 156) However, the Communist Revolution in China changes the whole thing. Suddenly, China became an enemy in South Korea, whose dominant ideology was anti-communism. Further, the Korean government started a series of discriminatory legislations in order to implement systematic exclusion against *Hwakyos*. In 1950 Warehouse Blockade Act prohibited all foreigners from using warehouses in sea ports. Even though it did not directly mention *Hwakyos*, *Hwakyos* were the only foreign group using warehouses in sea ports. Therefore, we can easily guess that the Act was designed to reduce *Hwakyos*’ dominance in international trade activities. In 1962 the Korean government legislated a law that prevented foreigners from holding any real estate. At that time *Hwakyos* were only foreigners who possessed real estates because the U.S. soldiers and their families did not need to have houses or commercial buildings in South Korea. Since then, *Hwakyos* sold their land to Koreans, and it resulted that many commercial farmers among *Hwakyos* abandoned their businesses. *Hwakyos* could only run a Chinese restaurant for their living. In 1970 the law was changed that foreigners were allowed only 2,000 sq for commercial use and 8,000 sq for residential use. It means that *Hwakyos* were not able to run a larger restaurant. In 1973, the Korean government prohibited Chinese restaurants from serving foods made of rice. They were just allowed to sell noodles. In the early 1970s, the Korean government dismantled Chinatowns usually located in the center of cities in the name of redeveloping urban centers. Since then, small scales of Chinatowns in South Korea were scattered, and many *Hwakyos* who lost the center of their business left South Korea, and re-emigrated to

the U.S., Australia, and Japan. Although there is no study that revealed the intention of the Korean government, their policy toward *Hwakyos* symbolizes nationalistic sentiment and closedness of immigration policy in South Korea. Currently approximately 20,000 *Hwakyos* live in South Korea.

Since the late 1980s, South Korea has experienced a so-called “migration transition” from a labor-sending country to a labor-receiving one. During the 1960s and 1970s, thousands of Korean workers moved to Germany or Middle Eastern countries as nurses, mining workers, and construction workers, and it is widely agreed that their remittances, being a sort of seed money, contributed greatly to the Korean economic development. Since the late 1980s, however, small and medium sized companies began to suffer from the serious labor shortage, which was caused by several domestic factors. First, the rural populations as a reservoir of surplus labor forces became depleted, and as higher education became almost universally available to young generations due to the mushrooming of four-year colleges and universities across country, the rate of their entrance into the labor market significantly dropped (Kim 2009). Second, large sized firms found it more profitable to subcontract their labor-intensive production lines to small and medium sized companies to increase international competition. As a result, the demands of employees in small firms sharply rose. Third, while the percentage of employees in small firms dramatically increased from 18.3% in 1980 to 27.6% in 1995, the boom of housing construction accelerated the shift of worksites from low-paying manufacturing jobs to high-paying construction work (Kim 2009, p. 6). Fourth, more fundamentally, the better-educated young working forces no longer took jobs in low-

paying and socially less-respected manual jobs. Therefore, small and medium sized firms in so-called 3D sectors (Dirty, Dangerous, and Difficult) began to experience the serious labor shortage. They had to fill those jobs by importing foreign migrant workers from Asian countries. Since then, foreign migrant workers became the main target groups for immigration control in South Korea until international marriage suddenly emerged as a new social agenda in 2006.

While the issues of immigration in South Korea began with the influx of foreign workers in the beginning, the sudden increase of international marriages provided moments for the Korean government to shift immigration policy from immigration control to immigrants integration because unlike foreign workers as temporary labor forces, international marriage migrants are the first group who will settle down and form families in South Korea. Before the 1990s, the number of international marriages in Korea was insignificant. Historically, international marriages in Korea were perceived as marriages between Korean women and the U.S. soldiers after the Korean War. Derogatory term such as '*Yanggongju*'⁹ was attached to the women who were married with U.S soldiers, and they have been condemned as "betrayals of nationalism." (Lee 2008) As a result, those GI brides and their biracial children became targets of social discrimination in Korea. To avoid such social prejudice, most Korean females involved in international marriages left Korea. Therefore, international marriages before the 1990s did not make any issues of social integration. As these cases show, international marriages in Korea have been described as a female phenomenon. For example, of the

⁹ *Yanggongju* literally means princess for westerners. This term refers to prostitutes around the U.S. military bases in Korea.

total international marriages in 1991, 4349 cases (86.8%) were involved in the marriages between Korean females and foreign males. Before 1995, international marriages between Korean females and foreign males outnumbered international marriages involving Korean males.

Since the early 1990s, international marriages began to be paid attention in Korean society. While the number of total marriages in South Korea has decreased by approximately 20%, the number of international marriages has increased rapidly by almost 10 times from 4,710 cases in 1990 to 43,121 in 2005. Since then, the number of marriages between Korean males and foreign females increased rapidly, and in 2005 it reached 13.6% of the total marriages in Korea. 72.3% of the total international marriages in Korea were the marriages between Korean males and foreign females in 2005. Especially, in rural areas, 35.9% of marriages were international marriages in 2005. As a consequence, the Korean government began to consider the impacts of international marriages on an ethnically homogenous society because the sudden increase of international marriages from the mid-1990s was associated with the influx of foreign women from underdeveloped countries who are more likely to settle down in Korea.

As of December 2007, the largest group of marriage migrants is Chinese nationals including *Joseonjok*, Korean Chinese (33%), followed by Vietnamese (20%), Japanese (5%), Filipinos (5%), and Mongolians (2%). Up to the early 1990s, foreign females who were married with Korean males were originated from the U.S. or Japan. After South Korea normalized diplomatic relations with the People's Republic of China in 1992, international marriages between Korean males and *Joseonjok* (Korean Chinese) females

increased sharply. However, the share of Chinese brides has been declining recently. Instead, international marriages between Korean males and Vietnamese females have risen rapidly. For instance, there were 95 Vietnamese brides in 2000, but in 2006 10,131 brides were reported to come to Korea. Along with the decline of Chinese brides and the increase of Vietnamese brides, nationalities of foreign females have become diverse such as Philippines, Thailand, Mongolia, Cambodia, and former Soviet Unions.

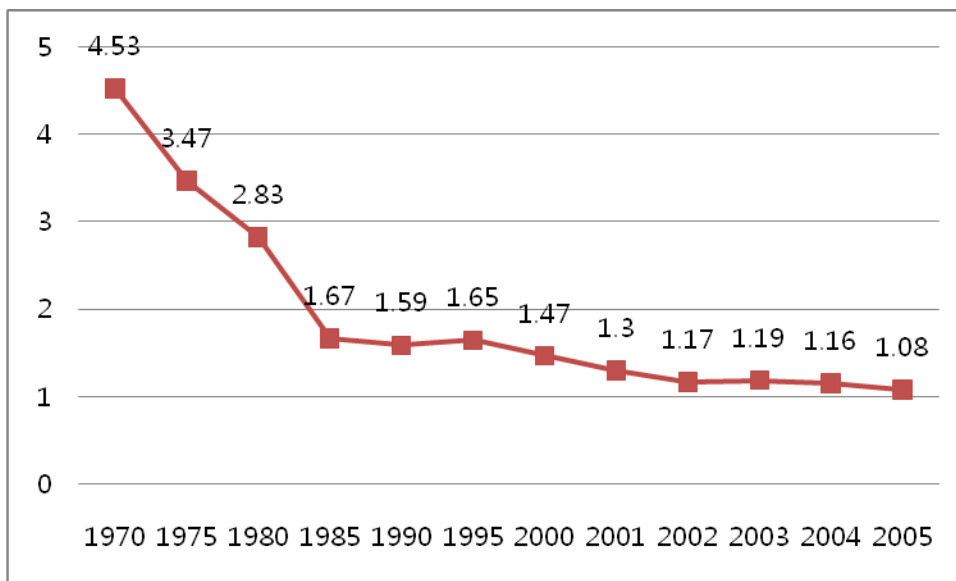
3.2.2. Demographic Change

As described above, immigration issues in South Korea were caused by two main factors such as the influx of foreign migrant workers and the increase of international marriages. For the Korean government, it is important that these trends will not end with temporary phenomena because South Korea has a structurally embedded demand for continuous migration. The most critical problem is that Korea is one of the fastest aging societies in the world. Korea has already entered the group of ‘aging society,’ which means that 7 percent of the total population is composed of older people aged 65 and over in 2000. Korea is expected to become a ‘super-aged society’ in which those 65 years old and over account for 14% of the population in 2020-2030. (Eun 2008) While France and Germany took about 40 years to make the transition from aged societies to super-aged societies, Korea will take only seven years. (Kim 2009) The proportion of older people is expected to outnumber that of children aged 0-14 in 2020, and the percentage of those 65

years and over will rise to 38.2 % of the total population, more than four times that of children by 2050. (Eun 2008)

Falling fertility rates contributed to the aging population in South Korea. As a developing country, South Korea tried to curb fertility rates after the 1950s. The Korean government was successful in implementing the national family planning program in the early 1960s. Since then, the total fertility rate remained at 2.1 in two decades. However, Korea's fertility rate kept falling below the replacement level due to a higher age at marriage and an increase of costs in education and childcare. Especially the Asian Financial Crisis boosted the pace of the falling fertility rate, and it reached 1.08 in 2005. (Eun 2008)

Figure 3.4. Trend of Fertility Rate in South Korea



Source: Korea National Statistical Office 2006

The aging population and the falling fertility rate lead to the decline in the economically active population. When those aged 15-64 are presumed to be the economically active population, those people will reach 64 % in 2020, and then, the number is expected to fall as low as 53.7 % by 2050. The Korea Labor Institute expects that due to the aging population, a serious labor shortage will begin in 2010, resulting in a labor shortage of 586,000 in 2015 and 1.23 million in 2020. (Kim 2009)

These trends will also affect the dependency ratio. The ratio of the population aged 0-14 to the population aged 15-64 is referred to as the child dependency ratio, and the ratio of the population aged 65 and over to population aged 15-64 as the elderly dependency ratio. Those are used to measure the burden of the economically active population when they support children and older aged people. While the child dependency ratio was 78.2 per 100 economically active population in the 1960s and 1970s, the child dependency ratio is currently 16.8 per 100 economically active population. In contrary, the elderly dependency ratio continues to rise from 5.3 to 10.1 in 2000. In 2050, the ration is expected to reach 72, which means that the economically active population will have more burdens to support an old aged population. Those trends signal that the Korean economy will lose its vitality, and the Korean government will suffer from declining tax revenues, and finally will bear more burdens for social security.

To cope with this demographic problem, the expansive immigration policy could be one of the options for the Korean government. However, the government chose to implement policy measures first to facilitate a higher fertility rate instead of the increase in labor importation. These include: 1) an allowance to every pregnant mother for

medical check-ups; 2) free vaccinations to all newborns and free medical and dental check-ups until the age of six; 3) childcare allowances for low-income families; 4) expansion of public childcare facilities; 5) for low-income families, waiving monthly health insurance fees for newborns until the age of five; 6) subsidies for after-school programs for the children of low-income families; and 6) incentives for companies to extend, and offer more benefits for, maternity leave. (Kim 2009) Many local governments have also introduced incentives for higher fertility rates including childbirth allowances, one-time payment of between one and three million won for every second or third newborn, gift certificates for families to buy clothes, diapers, baby food and other childcare supplies for newborns. However, these measures have failed to slow Korea's declining fertility rate. As a consequence, the Korean government has to consider the possibility of increasing labor importation to prevent harmful effects of the aging population.

3.3. Historical Background and Demographic Change in Japan

3.3.1. Historical Background

One of the popular beliefs among policymakers, citizens, and even scholars in Japan is that Japan has no history of immigration. In contrast to this belief, however, the problem of immigration and foreign workers is never unprecedented in Japan. Rather, Japan has experienced a number of immigration waves over the past century dating back to the late 19th century. Similar with South Korea, Japan has fortified the idea that Japan

has never had immigration, and it is composed of a single race of people. As Douglass and Roberts noted, it is one of the myths centered around the debates on immigration in Japan. (Douglass and Roberts 2003) Unlike South Korea, Japan had built an empire, and in the Japanese empire, Japan's colonial subjects had been incorporated as Japanese nationals. (Morris-Suzuki 2002) As Japan gained more colonies after the acquisition of Taiwan in 1895, the Japanese colonial empire needed the legal framework to incorporate a variety of colonial subjects into a single political order. This hierarchical colonial order was visualized as "a multiethnic Greater Asia Co-Prosperity Sphere, in which increasingly complex layers of rights and duties distinguished peoples of the metropolitan core, the formal colonies, quasi-colonies like Manchukuo and occupied areas." (Morris-Suzuki 2008) Within this multiethnic and hierarchical structure, mass migrations took place in East Asia, and "the prewar Japanese empire was a space crossed by a complex web of movement." (Morris-Suzuki 2008) As the British and French colonial histories have affected current debates on multiculturalism and citizenship, Japan is not free from the impacts of the prewar colonial history on the Japanese contemporary immigration policy. For example, two main foreigners' groups in current Japan such as Koreans and *Nikkeijin* from Brazil and Peru are legacies of the Japanese colonialism. Most Korean residents in Japan are the second and third generations of migrants from the colonial era. *Nikkeijins* are descendants of those who emigrated to Latin America in support of the Japanese empire. Therefore, we need to trace the past history in order to understand how the boundaries of nationality and the legal framework of citizenship has been shaped from the Meiji Restoration throughout the colonial period to the postwar Japan.

The influx of foreign workers in Japan has become a significant social issue since the late 1980s. Keizo Yamawaki argues “When discussing the issue of foreign workers in Japan, the nation’s earlier experience must be taken into account.” (Yamawaki 2003, p. 39) Yamawaki divides the development of Japan’s immigration policy in the prewar period into three periods. The first period was from 1859 to 1899, when the Japanese state restricted foreign settlements. In this period, foreigners were allowed to reside only in some designated areas such as Yokohama, Kobe, and Nagasaki. The main issue was how to control and accept Chinese workers. According to Yamawaki’s historical analysis, the mass media’s attitude toward Chinese workers at that time was strikingly similar with the current ones. For instance, one editorial said, “there was a serious problem with Chinese workers in the United States, and that Japan would have a more serious problem if it opened its borders since it was situated more closer to China than was the United States.” (Yamawaki 2003, p. 41)

During the second period from 1899 to 1939, the Japanese government built an imperial decree on foreign workers, and redefined the regulation on foreign settlements. As Tessa Morris-Suzuki refers it to the 1899 system, Japan established the first Nationality Law in 1899, and Imperial Ordinance No. 352, the first general set of regulations on immigration. Despite several revisions since 1899, “the key principles of the 1899 versions remain intact.” (Morris-Suzuki 2002, p. 164) The 1899 system set up the principle of Japanese citizenship based on *jus sanguinis* – the principle by which nationality is inherited, rather than being determined by the territory where an individual is born. The principle of *jus sanguinis* still survives in the current Japanese citizenship

law. The Imperial Ordinance defined the rules as to what kind of foreign workers would be allowed. While Westerners were free to live in Japan, Chinese workers were allowed to live and work only in the previous foreign settlements. This policy implies that the Japanese state introduced a two-track approach toward foreign workers, inviting skilled labors from the West, and utilizing low-skilled workers from China in a limited way. This approach is also found in the current Japanese immigration policy, attracting skilled labor, and importing low-skilled labors from Asian countries in a restrictive fashion. In short, the 1899 system determined the course of the contemporary Japanese immigration policy in the sense that “the revised Nationality Law of 1950 was closely modeled on the 1899 version (which had itself been the subject of minor revisions in 1916 and 1924), and postwar migration control policy continued essentially to follow the course charted by Imperial Ordinance 352.” (Morris-Suzuki 2002, p. 165)

In the third period from 1939 to 1945, the Japanese empire began to enter the stage of the wartime mobilization. As a part of the wartime mobilization, the Japanese government allowed Japanese companies to recruit a number of Korean workers in Japan and Korea. Although Japanese employers aggressively hired Korean workers to solve labor shortages in the face of an economic boom resulted from World War I, the wartime mobilization was the major factor to cause the issues of Korean residents in Japan later.¹⁰ As a result, the number of Korean population in Japan dramatically increased. In 1910, the number was only 791, but it surpassed 129,000 in 1925, and reached about two

¹⁰ Japan’s colonial subjects had been defined as “Japanese nationals.” However, they did not enjoy equal rights with ones of the native Japanese. Throughout the empire’s family registration system, colonial subjects from the external territories were discriminated from those from metropolitan Japan.

million when the Pacific War ended. One study said “Over 720,000 Koreans were forced to move to Japan as manual and menial laborers from 1939 to 1945 alone.” (Morooka 2006, p. 38) After Japan was defeated in 1945, more than 1.5 million Koreans came back to Korea. However, about 50,000 Korean decided to stay in Japan “in part because of the political uncertainty and high inflation in their homeland and because of the difficulties of repatriating the property they had accumulated.” (Komai 1995, p. 234)

In sum, Japanese policymakers, citizens, and scholars have a misconception that Japan had never a history of immigration. Contrary to this popular belief, Japan has long utilized foreign workers as cheap labor forces in manual and menial jobs in order to alleviate labor shortages and to sustain its economy. The fundamental dimensions of the Japanese immigration policy in the contemporary period have been evolved from the prewar history. The principle of *jus sanguinis*, and differentiated attitude toward skilled or low-skilled workers are still a surviving and recurring discourse on the debates on immigration control since the late 1980s.

The Japanese empire by nature encompassed diverse populations from its colonies. At the end of the war approximately over 2 million Koreans lived in Japan, which comprised over 90 % of the total foreign population.(Surak 2008) When the Japanese empire collapsed after World War II, the Japanese state needed to redefine the status of those colonial subjects. Even though the former colonial subjects from Taiwan and Korea were Japanese nationals under the Japanese colonialism, Koreans and Taiwanese were redefined as “aliens.” According to the 1947 Alien Registration Law, they were “required to carry identification cards and register with the government” (Surak 2008, p. 557) even

though they still maintained Japanese citizenship at that time.

Dealing with the former colonial subjects in a newly democratized Japan deeply affected the formation of Japan's national migration regime. Pak argues that the decision about how to manage Koreans and Taiwanese was closely connected with Japanese conservatives' concerns about how to redefine Japan's national identity from a multi-ethnic empire to democratic nation-state.(Pak 2004) The Allied Occupation kept trying to end the myth of the Emperor. They believed that for democratization in Japan, sovereignty in Japan should be transferred to the people, and the new constitution should ensure a full range of citizenship rights, even to foreigners. However, Japanese conservatives decided to maintain the ideology of family-state by transforming "the extended imperial family-state" into "a kind of nuclear family-state, a narrower definition of who belonged that was still grounded in cultural rather than civic ideals." (Pak 2004, p. 13) In other words, during the seven years of the U.S. Occupation, Japan was reborn as an ethnically homogenous nation-state by abandoning the family-state ideology encompassing diverse colonial subjects.

To push these ideas, Japanese conservatives scapegoated Koreans "for the chaotic social conditions, such as black-marketeering and labor strikes." (Pak 2004, p. 14) Along with the development of the Cold War in East Asia, the U.S. occupations had to change their priority from democratization in Japan to security and anti-Communism. Some Koreans' participation in the Communist movement accelerated conservative sentiment, and the American occupation authorities were compelled during so-called "the Reverse Course." The 1947 Foreigners' Registration Law and other citizenship-related legislations

were implemented in this historical context. Finally, due to the 1952 San Francisco Peace Treaty, Koreans and Taiwanese residing in Japan lost their Japanese citizenship.

In 1952, Japan not only stripped the former colonial subjects of their Japanese citizenship, but also established its immigration control regime in the postwar history. In 1951, the Allied Occupations sought for a comprehensive immigration control measure definitely followed by the American system. These efforts resulted in the 1952 Immigration Control Law.(Surak 2008) Nicholas Collaer, a former official of the US Immigration and Naturalization Service, provided a basic framework for the Japanese postwar immigration scheme. Therefore, “It is no coincidence that key aspects of the Japanese legislation resembled clauses in the 1952 Immigration and Nationality Act (commonly known as the McCarran-Walter Act.” (Morris-Suzuki 2006, p. 14) As the McCarran-Walter Act was profoundly affected by the atmosphere of the Cold War, its Japanese counterpart focused on restricting entry to Japan and deporting “subversive” foreigners. The Law strengthened an ethos of controlling the new foreigners, and confirmed that “those who had been colonial subjects would not benefit from the democratization of Japan, ” (Pak 2004, p. 14) which resulted in de-nationalization of Koreans and Taiwanese, “resolving the contradictory position of these alien citizens through complete membership loss.” (Surak 2008, pp. 557-558) Institutionally, the Immigration Bureau was transferred to the Ministry of Justice. Since then, the Ministry of Justice has taken monopolized responsibility for all the administrative measures related to entry and exit, citizenship and naturalization as well as foreigners’ registration. The 1952 Immigration Control Law set up a major legal framework for immigration policies in

postwar Japan. However, due to its nature of the Cold War, the law “ignored or placed little emphasis on human rights, while imposing a system of strict surveillance.” (Komai 1995, p. 15) In sum, the 1952 Immigration Control Law “comprised an exclusionary rhetoric, fully elaborated exclusionary administrative techniques, and a single bureaucratic agency that enjoyed a monopoly in administering the laws.” (Pak 2004, p. 14) Japan’s migration regime which was established from 1945 to 1952 did not face a major change until Japan faced a variety of problems of foreign workers in the late 1980s.

Meanwhile, Japan kept exporting labor forces until the mid-1970s. Since the Japanese farmers who suffered from “overpopulation, declining agricultural prices, increasing debt, and unemployment” (Tsuda 2003) in the late 1880s were recruited on Hawaiian sugar plantations, Japanese emigration was sponsored by the Japanese government as “state policy emigration.” (Brody 2002) Due to the Chinese Exclusion Act of 1982, Japanese farmers filled the gap in the US labor market replacing Chinese workers. However, after the U.S. restricted Japanese immigration, the Japanese emigration redirected to Latin America because the abolition of slavery and a decline in European immigration generated a labor shortage problem in coffee and other agricultural production in Latin America. Since Japanese emigration to Peru began in 1899 and to Brazil in 1908, emigration to Latin America marked its peak in the 1950s and began to decrease in 1962. (Morooka 2006) After the end of the World War II, the Japanese government promoted emigration to Latin America to mitigate economic disasters due to loss of the GNP and massive return of civilian and military personnel from the former colonies. Later, Japan reversely imported descendants of these Japanese emigrants to

solve a labor shortage problem in the late 1980s.

The Japanese economy began to rebound since the mid-1950s. In contrast to other industrialized countries, Japan did not depend on foreign workers to sustain economic development even when its GDP growth rates rapidly expanded. While European countries aggressively recruited guest workers from the 1950s to the 1970s, Japan was able to utilize rural populations and women as a reservoir of flexible labor. However, it does not mean that the Japanese government had never considered the import of foreign labor forces during the period of economic expansion. According to Morooka, “it is little known that mounting pressure from industry led policy makers to deliberate on the importation of foreign labor force in the mid-1960s, especially after the ratification of the Treaty on Basic Relations with the Republic of Korea I 1965.” (Morooka 2006, p. 40) Yet, whenever businesses demanded the import of foreign workers, they were turned down by the Cabinet. Rather, the Cabinet confirmed Japan’s “closed-door” policy in 1967 when they determined the First Basic Plan on Employment Measures 1967-1971. Japan’s official position not allowing unskilled foreign workers was reconfirmed in 1973 and 1976. (Morooka 2006, p. 41) Employers’ demand for foreign workers was rebuked partly because the Ministry of Labor kept insisting that it is too early to accept foreign workers. Considering an overall migration regime in Japan, however, Pak interprets that any policy changes were not possible because of “the expertise and monopolistic policy control of the Ministry of Justice, the rhetoric of controlling national identity.” (Pak 2004, p. 15)

Although Japan maintained a firm stance against the introduction of foreign workers during its economic boom, Japan’s economic success paved a way for the influx of

foreign workers in the late 1980s. After the Japanese government loosened the regulation on overseas investment, Japan's foreign direct investment dramatically increased from 100 million yen to over one billion yen in 1972.(Morooka 2006) Since then, Japan has projected strong economic presence in Asian region "through direct investment, trade, and Official Development Assistance (ODA) as well as the large-scale relocation of production plants and the establishment of foreign branches." (Morooka 2006, p. 41) Further, the yen's dramatic appreciation resulted from the 1985 Plaza Accords provided a strong incentive for capital investment abroad. In the period from 1984 to 1992, Japan's overseas investment increased by 225 percent. (Papademetriou and Hamilton 2000) As Sassen argues, "Japan's growing presence in their countries, together with the consequent availability of information about Japan, had created and made Japan emerge in their minds as an option for emigration." (Sassen 1991, p. 314) Meanwhile, the decline of oil prices and its consequent recession in the Middle East made foreign workers in Asia turn their eyes to Japan. In sum, Japan's growing economic strength made potential foreign workers in Asia choose Japan as a country of destination.

Domestically, Japan began to face a labor shortage. "In 1989, 46 percent of companies in the manufacturing sector were labor-deficient, including its famed automobile industry, and the proportion increased to 58 percent in 1990." (Tsuda 2001) The shortage of labors especially in low-skilled manufacturing sector became so critical that the hole could not be filled by domestic labor forces. First of all, alternative sources of labor including rural populations, women, and aged workers were exhausted. For example, while "Between 1960 and 1973, some 5.3 million workers left agriculture for

industrial work,... during the boom years of 1986 to 1991, only 730,000 of the needed workers came from the primary sectors- and only a minority of them came from agriculture.” (Papademetriou and Hamilton 2000, pp. 10-11) Secondly, many young Japanese began to shun blue-collar work in so called “3K” jobs – *kitani* (dirty), *kitsui* (difficult), and *kiken* (dangerous). As their educational level became higher, they considered those jobs as unattractive and even distasteful. As a result, “employment application in many lower-wage job categories continued to decline, falling by as much as 20 percent in the late 1980s.” (Papademetriou and Hamilton 2000, p. 12) Interlocking these domestic factors with the above international ones, Japan experienced a massive influx of foreign workers since the late 1980s. Especially, some small and medium sized companies which cannot afford to relocate their production lines abroad had to hire cheap foreign workforces for their survival. For example, according to the Immigration Control Bureau, the number of undocumented stayers was 32,000 in 1986. The number reached 42,000 by 1987, and increased 1.3 times, 57,000 in 1988, and 1.8 times to 101,000 in 1989. (Komai 1995)¹¹

The sudden increase of undocumented foreign workers pushed the Japanese government to revise the Immigration Control Act of 1952. The biggest revision to the Immigration Control Act in postwar Japan was passed in the Diet in December 1989 and took effect in June 1990. As I will explain in detail later, the Japanese government took an ambivalent stance towards immigration. The revision clearly addressed that Japan will welcome the immigration of skilled foreign workers while not allowing unskilled foreign

¹¹ Since the Japanese policy did not allow foreign workers to work in low-skilled sectors, most of low-skilled migrant workers were considered as unauthorized workers at that time.

workers. Following this basic principle, the new immigration law increased the number of visa categories from 18 to 28 to prepare for the procedures for the entry of professional workers. At the same time, the revised law toughened sanctions for brokers and employers who are involved in recruiting undocumented foreign workers. Those brokers and employers could be sentenced to a maximum of three-year imprisonment or two million yen (about \$18,000) fines. The third component of the major change in the 1990 Immigration Control Law was to create three side-doors for unskilled foreign workers. The new law facilitated foreign students by extending their working hours from 20 hours a week to 28 hours a week. The Japanese government also expanded the foreign trainee program by lifting a 5 percent ceiling on the proportion of trainees to regular works, and allowing more companies to hire foreign trainees. Finally, the revised law has created a new visa category of “long-term resident” for the descendants of Japanese emigrants in Latin America. Since this visa is work-permitted and indefinitely renewable, it encourages *Nikkeijin* families to return to Japan for work. In short, the 1990 Immigration Control Law reconfirmed Japan’s official position that Japan does not allow unskilled foreign workers. However, the ambivalent nature of the new law made “the three legal loopholes for the *de-facto* entry of unskilled foreign workers: *Nikkeijin*, trainees, and students.” (Morooka 2006, p. 50) While Japan kept being pressured by domestic and international factors of immigration, Japan has not changed the basic framework of immigration control yet.

3.3.2. Demographic change

Similar with Korea's demographic situation, Japan's population is shrinking and aging. As table 3.8 shows, Japan's population is 127.77 million as of 2007. However, the number of the total population is expected to drop to 115 million by 2030 and about 90 million by 2055. Along with depopulation process, Japan's population is also graying. As of 2007, the percentage of aged 65 and above is 21.5 percent, but the percentage will reach 40.5 percent by 2055. Let alone the overall process of depopulation, the more important thing is the speed at which this demographic transition is taking place. While Japan "took just 24 years to go from a society with seven percent of the population officially defined as aged (1970) to 14 percent (1994), a demographic shift that took 70 years in the US and 130 years in France." (Goodman and Harper 2007) If Japan does not change the trend of aging and shrinking population, it will have a negative impact on its economy such as fiscal insolvency, loss of economic vitality, and increasing burden of social security on younger generations.

Table 3.8. Japan's Population, Longevity and Total Fertility Rate (TFR)

<i>Total</i>	<i>Population (million)</i>	<i>Over 65 years (%)</i>	<i>Life Expectancy</i>		<i>TFR</i>
			Male	Female	
1950	84.16	4.9	59.67	62.97	3.65
1960	94.30	5.7	65.32	70.19	2.00
1970	104.67	7.1	69.31	74.66	2.13
1980	117.06	9.1	73.55	78.76	1.75
1990	123.61	12.0	75.92	81.90	1.54
2000	126.93	17.3	77.72	84.60	1.36
2007	127.77	21.5	79.19	85.99	1.34
2010	127.17	23.1	79.51	86.41	1.218
2015	125.43	26.9	80.22	87.08	1.217
2020	122.76	29.2	80.85	87.68	1.228
2025	119.27	30.5	81.39	88.19	1.234
2030	115.22	31.8	81.88	88.66	1.238
2035	110.67	33.7	82.31	89.06	1.245
2040	105.69	36.5	82.71	89.43	1.251
2045	100.44	38.2	83.05	89.77	1.256
2050	95.15	39.6	83.37	90.07	1.260
2055	89.93	40.5	83.67	90.34	1.264

Source: Statistic Bureau, Ministry of Internal Affairs and Communications, 2008
Statistical Handbook of Japan and National Institute of Population and Social Security
Research (NIPSSR) in Japan

This demographic trend in Japan is attributed to two main reasons. Goodman and Harper first point out that average life expectancy keeps increasing. (Goodman and Harper 2007) By 2055, an average male Japanese will live to the age of 83, and female to the age of 90. While longevity has increased, the number of children being born in Japan has significantly declined. For example, while the total fertility rate in 1950 was 3.65, the number could not reach above 1.4 recently. The low fertility rate is attributed to “an increase in women of reproductive age not getting married and not having children.” (Goodman and Harper 2007, p. 3) Due to the lack of the state’s support for working women, Japanese women try to stay in employment and not have children. For instance, “the total fertility rate for working women in the late 1990s was 0.60 against 2.96 for those not working.” (Goodman and Harper 2007) The combination of the decline in the

fertility rate and the increase of longevity has created a demographic crisis in Japan.

In a similar manner to South Korea, Japan will face inevitable economic and social impacts due to the shrinking and aging population. First of all, it will increase public spending in pensions. However, as the ratio of employees to retirees falls sharply, Japanese workers will face the prospect of reduced pension benefits. Further, high dependency ratios between workers and non-workers in the future will lead to greater tax burden on smaller taxpayers, and national budget from smaller working population will be allocated more to health care for the elderly. The imbalance between working and non-working population will result in a decreased consumption rate, and it will finally cause less vitality in economic activities, and loss of influential position in the world economy. (Goodman and Harper 2007).

To prevent this bad scenario from the depopulation process, the Japanese government has made efforts to tackle the problems of the declining fertility rate. As introduced in the Angel Plan in 1994, the Japanese government has focused on encouraging women to have more children while staying in employment. The Angel Plan increased “day nurseries, drop-in care for non-working mothers, centers to care for sick children, after-school care centers and counseling centers for parents with childcare problems.” (Goodman and Harper 2007)

Unlike other developed countries facing a demographic crisis, Japan has not considered immigrant labors as a solution. In 2006, the Council on Fiscal and Economic Policy, headed by Prime Minister Koizumi Junichiro, called for accepting foreign workers in areas that are not open to them in order to revitalize the economy. However,

the Council's report was ignored and rejected by concerns about an influx of foreign workers among influential circles in policymakers and media even though the Ministry of Health, Labor and Welfare expected that the number of workers in Japan will drop by about 10 million from its current level to about 56 million by 2030. Even the Minister of Health, Labor, and Welfare at that time argued "the government should expand employment opportunities for senior citizens, women and young men for the time being" (Masaki 2006) rather than for foreign workers. Japan has had no plans to import foreign workers as an alternative solution to a demographic crisis. Yet, it is questionable whether Japan's domestic solution such as increasing fertility rate will be able to cope with the problems caused by a demographic crisis because the proportion of Japanese workforces in the manufacturing sectors (18.2%) is one of the highest rates among G7 countries compared to the U.S. (11.3%) and Canada (6.5%) in 2007. (Er 2009)

3.4. Immigration Policy in Korea

When foreign migrant workers began to enter Korea for the first time in the late 1980s and early 1990s, the Korean government had not yet established a systematic immigration policy. (Kim 2008, p.585) The government was primarily concerned with the import of cheap labor force for some of its industrial sectors, especially the so-called 3D sectors, and with preventing these workers from pursuing permanent residency. If I borrow Boswell's concepts, which were briefly discussed in Chapter 2, the Korean immigration policy in general began with an emphasis on "accumulation," through the

import of cheap and low-skilled labor force, and “security,” through the adoption of highly restrictive immigration policy principles, including “no foreign settlement and no multicultural society.” (Seol and Skrentny 2004, p.482) The Korean state assumed that a failure in controlling immigration and migrant settlement would potentially have tremendous social costs and, further, endanger national security. Therefore, the Korean state admitted foreign workers on a temporary basis without allowing family reunification. (Seol and Skrentny 2009: 607) However, it paid little attention to the social consequences of importing this foreign labor. As human rights violations and migrant workers’ poor working conditions became a serious public concern, various NGOs that worked for migrant workers’ rights were mobilized in order to pressurize the government to improve social protection for migrant workers and the labor-importing system. (Kim 2003) Responding to their demands for “institutional legitimacy” (human rights), the government changed its immigration policy, making it more open and inclusive. Furthermore, as the increase in the rate of international marriages and births of mixed-raced children posed a more direct “multicultural” challenge to Korean society, the Roh Moo-Hyun government began to emphasize the function of “fairness” (immigrant integration), announcing in 2006 that “Korea is moving toward multicultural society and that this trend is irreversible.” (Yoon 2008) Thus, many observe that the focus of Korea’s immigration policy has shifted from immigration control to immigrant integration.

While the Lee Myung-Bak administration is primarily engaged in maintaining the basic framework of the multicultural policies, the government has tried to again strengthen the function of “accumulation” in the name of “national competitiveness,” by

opening up the country, especially for highly skilled workers, and to restore “law and order” (*The Korea Times*, February 24, 2009) by placing more stress on “security” through continually cracking down on undocumented migrant workers. The following sections are a detailed exploration of how the four functions of the state, embedded in the Korean immigration policy, have been highlighted by each government.

Korea’s rapid and remarkably successful economic development has, somewhat ironically, entailed grave labor shortage especially in “3D” sectors. Since the late 1980s, therefore, the troubled industries suffering from severe labor shortage have vigorously sought to employ foreign migrant workers mostly from neighboring Asian countries.(Lim 2003). Acknowledging the vital role of migrant workers in ensuring continuous national economic growth, the Korean government, in November 1991, launched the Industrial and Technical Training Program for Foreigners (hereafter ITTP), a program that allowed Korean companies to train their foreign employees. Under this program, the trainees could stay for six months and extend their stay for an additional six months. However, when the program first launched, only the Korean companies overseas were entitled to take advantage of this program by training their workers in their overseas branches(Seol 1998, p. 424). The small and medium-sized businesses (hereafter SMBs), though they were suffering the most severely from labor shortage, were not able to participate in the ITTP. Responding to insistent demands from the Korea Federation of Small and Medium Business (hereafter KFSB) to make the program more inclusive, the Korean government decided in August 1992 to include in the ITTP the small and medium-sized businesses without overseas affiliate so that they could import foreign trainees as well (Seol 1998, p.

427). Initially, the SMBs recruited up to 10,000 foreign trainees in selected manufacturing sectors through private agencies. Under the revised ITTP, the foreign trainees were allowed to work for one year, and after June 1993 they could extend their training period up to two years. In November 1993, the Korean government decided to increase the scale of importing foreign trainees, and over the following decade, the total quota was remarkably increased from 20,000 in 1993 to 145,500 in 2002 (Yoo, Lee et al. 2004, p. 207). In addition to the notable increase in the number of foreign trainees, the industrial sectors that could take on trainees were also expanded from manufacturing alone to include construction and fishery. Until 2003, the ITTP presented itself as the blueprint of Korea's foreign labor policy.

It is important to note, however, that even under the revised ITTP, the migrant workers were not defined as workers but as “trainees.”¹² Therefore, they were not entitled to protection under Korean labor laws. While benefiting from their immigrant trainees' labor (hence treating them as “workers”), not only did most Korean employers fail to provide them with proper training, as the ITTP stipulated, but, more problematically, they were “legally” able to prohibit their foreign employees from exercising any basic workers' rights. Not surprisingly, because of the salient gap between the migrant worker's legal status as “trainee” and the harsh working reality and malicious (if not illegal) exploitation by many Korean employers, the ITTP was the target of extensive criticism

¹² The ITTP was operated by Korea International Training Cooperation Corps (hereafter KITCO), following the Japanese model, the Japan International Training Cooperation Organization (hereafter JITCO). However, KITCO represents solely business interests from the KFSB, while JITCO is collecting the opinions from the government, labor and business. Further, KITCO had exclusive rights to import and allocate trainees to the companies. Thus, by nature, the ITTP would serve on behalf of employers, and would lead to failure of the program.

from labor unions and various liberal-minded civil organizations. (Kim 2003) The failure of the ITTP was clearly displayed in the number of trainees who left their assigned worksites. In 1994, 18,819 trainees entered Korea, but 73% (13,733) left their allocated companies. According to the Korean government, 20.4% (34,062) of 167,190 trainees became undocumented workers seeking better wages. (JCMK 2001).¹³

This WATP was modeled after Japan's Technical-Intern Training Program (TITP) that had been enacted in April 1993. Under the WATP, foreign trainees who passed certain skill tests were allowed to obtain legal status as "workers" after a two-year training period (2+1 system: 2 years as a trainee and 1 year as a worker); this was then recast in 2000 as a 1+2 system (1 year as a trainee and 2 years as a worker). The apparent merit of this new program was that the legal status of "workers" guaranteed the migrant workers the same labor rights that their Korean colleagues have enjoyed under the Labor Standards Act, the Minimum Wages Act, and other labor-related laws. (Yoo, Lee et al. 2004) However, the WATP was not free from problems—it was essentially an extended version of the ITTP, in that during the training period, the trainees could not claim any legal protection as workers, and the WATP was still run by the KITCO. (Lee and Park 2005: 150)

On August 16, 2003, a new foreign worker employment-related legislation went into effect. This new law aimed to provide the legal framework for the enactment of the

¹³ These phenomena were embedded in the process of recruitment. The trainees usually paid for brokerage fees before they came. The agencies in their countries deducted the payment from the trainees' monthly wages. Yet, the monthly wages were quite lower than they expected. As a result, large number of trainees escaped the companies, and became illegal workers to get more reasonable wages or to pay off their debts.

“Employment Permit Program for Foreigners” (hereafter EPP), the primary goal of which was to correct the problems that emerged in the actual implementation of the previous policies. First, the new system attempted to obtain an accurate assessment of the problems associated with undocumented workers (including the former trainees) who had defected from the companies that had employed them. Generally speaking, EPP helped make foreign labor policies more transparent and rational; it aimed both to meet the demands of domestic companies suffering from labor shortages and to fix the problems that emerged with the illegal recruitment of foreign workers. Second, while the previous ITTP had been run by privately owned recruiting agencies that withheld wages and imposed hidden costs, with the EPP, the government took on more responsibility for planning and implementing foreign labor policies, without going through private agencies. The Foreign Workforce Policy Committee (hereafter FWPC) was established under the Office of the Prime Minister, and under the jurisdiction of the FWPC, both sending and receiving countries’ exchanged Memoranda of Understanding (MOU).¹⁴ Finally, the EPP endowed foreign workers with the same rights as domestic workers. While the previous system had only insufficiently guaranteed the rights of foreign workers, it was required under the EPP to fix wages, working hours, bonus, and several welfare benefits according to a standard labor contract. (Kim 2005) Understandably, to many observers, the establishment of the EPP represented a dramatic change in the history of the Korean immigration policy. In the process of replacing the ITTP with the EPP, foreign migrant

¹⁴ Under the bilateral agreement, the labor-sending countries are in charge of selecting job applicants, and providing the Ministry of Labor in Korea with a list of job applicants. In Korea, the Employment Security Centers issue confirmation letters to employers who have made reasonable efforts to hire domestic workers. After foreign workers enter Korea, the Korea Human Resource Development (KHRD) helps foreign workers make contracts with employers, and provides them with job training.

workers were finally endowed with the full legal status of “worker.”

The Korean government is strictly maintaining the principle of supplementing domestic labor market by saying that the import of foreign labor forces must be limited to industrial sectors suffering from labor shortage. For this purpose, the Korean government has aptly put the sectors that are in need of foreign labor forces into two categories: one that is associated with professional jobs such as foreign language instructors, managers of multinational corporations, and high-tech engineers, and the other that is affiliated with so-called low-skilled sectors, most notably, the 3D industries (Seol 2008).

Accordingly, the occupations of migrant workers in Korea are bipolarized into professionals and low-skilled workers. The former category covers (1) engineers and/or technicians involved in electricity, electronics, computer science, or information technology and (2) services in professional industries such as finance, public administration, medical industry, health, education and so on. These high-skilled professional employments are regulated by seven general categories: professors (E-1), language instructors (E-2), researchers (E-3), technology instructors (E-4), specialists (E-5), arts and entertainment workers (E-6), and people engaged in special activities (E-7) (Lee, Park et al. 2005). Most of these professional workers are from advanced industrial countries such as Canada, the United States, Australia, and Japan.

Over the last decade, the Korean government has been enthusiastically working to attract highly skilled migrant workers. Since November 2000, it has eased regulations to attract workers in information technology and other advanced technology sectors to work in Korean enterprises. Before that, the Korean government issued only single entry visas

for those who sought jobs in Korea, and the job-seekers were able to have multiple visas based on bilateral visa agreements with the applicant's home country. In November 2000, however, the Korean government completely abolished such restrictions, and allowed the applicants to acquire multiple entry visas regardless of any visa agreements between countries, especially for those who are seeking jobs in information technology (particularly in venture industries) and those who are qualified to work in the e-business area. (Yoo, Lee et al. 2004: 227) The policy change extended the maximum length of stay from two years to three, and further, highly skilled workers were allowed to request an extension of their stay without limits when employment contracts were renewed. (Yoo, Lee et al. 2004: 228) Moreover, in September 2005, the Korean government eased conditions of permanent residence for highly skilled foreign workers in the name of enhancing the nation's global economic competitiveness. The government also allowed foreign students who have graduated from Korean universities to get jobs as soon as they graduate and decided to grant doctoral degree holders or highly skilled holders green cards (F-5 visa) regardless of their period of stay in Korea. (Kang 2006: 12)

Despite all these reforms, however, small- and medium-sized enterprises still facing difficulties recruiting highly skilled engineers and researchers were in favor of more reforms on behalf of highly skilled professionals. In fact, these active government policies notwithstanding, highly skilled workers continued to contend that the reforms were not sufficient to improve their working and living conditions. For instance, the current law does not allow the spouses of highly skilled workers to change their visa status from resident to worker, a condition that requires them to go to Korean embassies

in their home countries in order to extend their visas. As a consequence, the proportion of highly skilled workers among total migrant workers has continuously fallen from 23% in 1995 to 6% in 2007. (Kang 2006: 5)

To ameliorate the situation, the current Lee Myung-bak administration, which proclaimed itself a “business-friendly government” from its inception, boldly announced Strategies for Attracting Global Talents in April, 2008, the central agenda of which was to make every effort to attract global talent and thereby increase the nation’s economic productivity and global competitiveness. (National Competitiveness Council, 2008a)

With this ambitious platform, the government pledged to run a comprehensive recruitment program in twenty-five government-sponsored business agencies scattered over twenty-four foreign countries. Furthermore, it simplified immigration procedures by easing regulations on permanent residency visas and Special Occupation visas (E-7). Moreover, the government extended the residential period up to five years, simplified procedures for the change of workplace, and also eased visa status procedures for the applicants’ spouses. The government also promised to grant official recognition to various “international schools” in Korea, which had been treated as auxiliary, rather than as formal and government-sanctioned education programs. More impressive was the government’s plan to open government posts to foreigners. (National Competitiveness Council, 2008a)

All in all, the Korean government is strongly committed to creating a more “foreigner-friendly” environment. What is important, however, is that by “foreigners,” the Korean government meant (and still means) highly skilled professionals, who it

deems instrumental to Korea's continuous economic development and national competitiveness in the era of globalization. To understand how the current government approaches the immigration policy from such a perspective, it is worth noting that the new policy for highly skilled workers was first reported to President Lee at the meeting of the Presidential Council on National Competitiveness on April 30, 2008. The Korean government firmly believes that attracting highly skilled talent is an indispensable vehicle to enable Korea to forge ahead in the age of globalization, which many Koreans understand in terms of "endless competition."

International migration by ethnic Koreans with foreign nationalities provides important dimension considering immigration control and immigrants integration in South Korea. Especially, Korean Chinese, so-called *Joseonjok*¹⁵ are not only composed of the majority among foreign residents in South Korea, especially in the unskilled sectors, but also they demand preferential treatments based on the same Korean ethnicity. Indeed, they are better privileged than non-Korean migrant workers. (Kim 2008)

While the government kept defining *Joseonjok* as foreigners, *Joseonjok* as foreign labor force was managed under the system of the ITTP like other non-Korean migrant workers. However, *Joseonjok* had enjoyed a little bit privileged position in the ITTP. The Korean government explained the reason that *Joseonjok* would pose less of a threat to South Korea's tight-knit, homogenous society. The government set up separate quota for *Joseonjok* in the ITTP, thus *Joseonjok* became the largest group of foreign workers in the

¹⁵ *Joseonjok* refers to descendants of ethnic Koreans who emigrated to China during the Japanese colonial period. Most *Joseonjok* left Korea in the late 19th century and the early 20th century because of political and economic reasons

ITTP. Yet, in terms of the rights of workers, their situation was not different from other non-Korean migrant workers. Although I will explain the contentious politics around their treatment in homeland in another chapter, *Joseonjok* kept arguing that they are discriminated comparing with other Koreans from more advanced countries including Korean Americans. Facing *Joseonjok*'s claim and political activism, the Korean government began to take the course of re-ethnization, which means that the state has granted more privileges to *Joseonjok* institutionally.

Holding institutional restriction on the employment of ethnic Koreans from poor countries, the government has gradually opened the door to ethnic Koreans by expanding opportunities of employment embedded in the existing foreign labor policies. As a result, foreign labor policy in Korea became more colored by ethnic preference. (Kim 2008) In 2002 the Employment Management Program for Overseas Ethnic Koreans (*Chueop Gwanri Jedo*) was created. It is the first labor-importing system disconnected from the purpose of training, based on ethnic preferences. "Overseas Koreans over the age of forty and with family (cousins or closer relatives) in Korea would receive special two-year visas to work in the labor-starved service industry—supplying cheap labor to restaurants, cleaning companies, and nursing facilities (as "caregivers" and not nurses) but excluding bars and sex-based "room salons" and karaoke hostess bars." This program was targeted to help overseas Koreans from underdeveloped countries acquire more job opportunities in Korea. Under this program, ethnic Koreans entered Korea with visiting visa (F-1-4), and then were allowed to have working permit through the arrangement of employment security center under the Ministry of Labor. After the EPP was launched in 2004, this

program was merged into the scheme of the EPP, and changed into the privileged employment program. After ethnic Koreans entered Korea with visiting visa, and then completed registration as a foreigner, they were permitted to get nonprofessional visa (E-9) for labor-starved construction and service areas. In the beginning, this program was only applied to two sectors such as construction and service areas, but later it was extended into 19 sectors. In 2007, Korean immigration policies became more ethnicized, and introduced the Working Visit Program (Bangmoon Chwieop jedo). With Working Visit visa (H-2), ethnic Koreans can find jobs and enter Korea more easily. H-2 visa is valid for 5 years and good for 3 years stay for ethnic Koreans from China and former Soviet Unions. The Korean government issues H-2 visas to those who have relatives in Korea without quota. However, those without any family connection in Korea are randomly chosen for H-2 visa within a yearly quota. Considering the fact that ethnic Koreans without family relatives in Korea could not enjoy privileges as ethnic Koreans, the Working Visit Program furthered benefits of ethnic Koreans in domestic labor markets compared to other non-Korean workers.

Since the launch of the EPS, the paradigm of immigration policies in Korea has rapidly moved from “control” to “integration.” More specifically, since 2003, the Korean government has attempted a change in focus of its immigration policy in terms of “multiculturalism,” by focusing on issues of international marriage migrants, mixed-race people, migrant workers, and foreign residents in general. In 2006, the Committee on Foreigner Policy extensively discussed the “basic direction” and implementation system of Korea’s policy on foreign nationals, and the Korean government proclaimed the

“Grand Plan” of social integration of female marriage migrants, mixed-race people, and foreign residents into Korean society. (Lee 2008) In April 2007, the Korean National Assembly passed the Basic Law Pertaining to Foreigners in Korea (*Jaehan oegukin Gibonbeop*), which provides an institutional framework for supporting foreigners and seeks to enhance the rights of foreign nationals in Korea through systematic management. Upon legislation of the Basic Law, the Korean Immigration Bureau extended its area of activity to the implementation of foreigner policy, in addition to its original task of controlling entry and exit. At the same time, the Ministry of Justice announced that it would strive to enhance the social integration of foreigners into Korean society with full respect for their rights.

International marriage migrants are actively used as a policy target group for assimilation in the Grand Plan of April 26, 2006. For this plan, the Ministry of Gender Equality and Family took the lead in coordinating other departments including the Ministry of Justice, Labor, Health and Welfare, Education, and Human Development as well as local governments. Besides regulating international marriage agencies and protecting foreign wives from domestic violence, the Grand Plan was designed (1) to support newly arrived foreign wives, (2) to support children of international marriages in schools, and (3) to provide social welfare to foreign wives. The Grand Plan indicates that the Basic Law for foreigners will provide a variety of Korean language and cultural programs. According to the Grand Plan, the Ministry of Education and Human Development recently announced that it will include a multicultural section called “Overcoming Prejudice against Different Cultures” in civic education textbooks. The new

curriculum will emphasize the multicultural tradition in Korean history, encourage tolerance, and de-emphasize the purity of blood. The new education content targets a new type of mixed-race children, “Kosians,” children from international marriages between Korean males and Asian females. According to the 2006 statistics, approximately 13,400 Kosians attended primary to high schools, and the number increased by 68% from the previous year. In the Grand Plan, both international marriage migrants and their Kosian children are considered active policy target groups for immigrant integration.

The Grand Plan and other policies for supporting international marriage migrants clearly indicate two major shifts in Korea’s immigration policy. First of all, the policy focus is moving from women to family. Second, the policy shift entails a move from controlling “them” to assimilating “them” and making each of “them” one of “us.” The first shift signals that international marriage migrants are defined as mothers who reproduce future Koreans. The government perceives international marriage migrants as the most easily mobilized resource to solve the low birth-rate and the population crisis in contemporary Korea. (Kim 2007) After the Grand Plan was announced in 2006, government documents frequently state that international marriage migrant women are “an object that can be used to resolve Korea’s low birth, aging society crisis.” (Kim 2007) In this sense, the government approaches the issues of international marriage migrants within the frame of the population policy. In fact, the Grand Plan came from the Presidential Committee on Aging Society and Population Policy, and it remarks that policies for international marriage migrants operate as a part of the population policy.

The current Lee Myung-bak administration seems to follow the basic principles of

the Korean immigration policy that was set up by the previous Roh Moo-hyun government. For example, the First Basic Plan for Immigration Policy (2008–2012), which was announced by the Ministry of Justice in 2008, specifies the basic aims of the immigration policy as follows: (1) Enhancing national competitiveness through an open-door policy, (2) Developing into a more mature, multicultural society where human rights are respected, (3) Ensuring that immigration laws and orders are respected. (Ministry of Justice, June 2009, p. 11–13) However, the first meeting of Foreigners Policy Council under the Lee government, held on December 17, 2008, negatively assessed the Roh immigration policy. It argued that the Korean government did not make sufficient efforts to utilize highly skilled foreign human resources for the purpose of national development. The Council also criticized the government's sympathetic attitude toward foreigners, which resulted in a lack of consistency and trust in the immigration policy. Based on this assessment, the Lee government began to stress enhancing national competitiveness through actively recruiting highly skilled workers, and strengthening law and order in border control and preventing illegal migration, through consistent crackdown activities and reinforcing the infrastructure to manage foreigners, with measures such as fingerprint registration.

The Lee government is trying to roll back to a more restrictive foreign labor policy when it comes to low-skilled workers. First of all, the government reduced the quota for low-skilled foreign workers from 72,000 last year to 34,000 this year. (*The Korean Herald*, March 21, 2009) Prior to this year, the quota had increased from 34,750 in 2006 to 49,600 in 2007, and to 72,000 last year. Further, the government prohibited newly

arriving *Joseonjok* workers from working in construction sectors. Second, the Lee government planned to reduce the costs of employers by shifting more costs onto foreign workers themselves. According to the Presidential Council on National Competitiveness's report, the "Plan for Improving Policy on the Unskilled Foreign Labor Force" includes several policy measures for saving costs on foreign workers, for example, requiring foreign workers to pay a part of meal and housing fees, and extending the so-called "training period" (three months) during which employers can pay 90% of minimum wages. (National Competitiveness Council, 2008b) The government justified these policy measures by stating that foreign workers have low productivity but high costs due to language problems and so on.

Among Bowell's the four functions of the state, the Lee Myung-bak administration is paying serious attention to "security," for instance, reducing the number of undocumented foreign workers. According to data from the Ministry of Justice, on March 31, 2009, the number of foreign residents in Korea was 1,162,171. Among them, 195,038 were illegal aliens, accounting for 16.8%. (Ministry of Justice, March 31, 2009) The proportion of illegal aliens decreased from 19.7 in August 2008 due to the continuing crackdown on those undocumented foreigners. Since President Lee called for tougher measures on illegal migration in March 2008, the government has escalated its crackdown on illegal aliens in a continuing and systematic way with the clear goal of reducing the number of undocumented foreigners by half by 2012. (*The Korea Herald*, September 26, 2008)

Corresponding to President Lee's emphasis on law and order, the current

government declared concentrated crackdowns on a regular basis, usually from May to July and from November to December every year. In 2008, the Ministry of Justice announced “the five year plan to reduce illegal foreigners” with the goal of reducing the proportion of illegal foreigners to 10 percent by 2012. (*The Korea Herald*, October 1, 2008) Operating a special taskforce dedicated to reducing these numbers, the Ministry assigned a quota for arresting illegal aliens to 16 immigration offices nationwide. Further, the Ministry of Justice will submit a revised Immigration Controls Act in order to strengthen the power of immigration officers for such crackdowns. As a result, the number of identified violators of immigration control law increased from 73,712 in 2007 to 105,743 in 2008. (See Table 2)

Table 3.9. Statistics of Violation of the Immigration Control Law from 2001–2008 in Korea (Unit: cases)

Year	Total	Deportation	Departure Order	Recommendation of Departure	Disposition of Notification	Accusation	Negligence Fine	Others
2001	40,527	10,301	1,280	2,097	13,121	531	3,364	9,833
2002	30,452	5,670	613	1,808	11,297	351	3,955	6,758
2003	42,906	5,861	2,446	1,386	8,427	535	5,398	18,853
2004	67,734	19,307	1,511	2,259	20,444	780	7,245	16,188
2005	105,212	38,019	2,523	3,152	19,123	1,595	8,327	32,473
2006	69,674	18,574	901	2,509	22,468	1,438	6,231	17,553
2007	72,712	18,462	948	2,458	26,212	1,437	6,959	16,236
2008	105,941	30,576	1,240	3,689	26,325	2,186	11,200	30,725

Source: Ministry of Justice (2009)

Besides these crackdowns on illegal aliens, the government plans to strengthen measures to monitor the entry and exit of foreigners, for example, requiring all foreigners entering Korea to have their fingerprints registered. Citing the increase in incidence of crimes by foreign nationals from 13,045 cases in 2004 to 34,108 in 2008 (*Joongang*

Daily, August 17, 2009), the Minister of Justice announced that it will submit the revision of the Immigration Control Law to the National Assembly in November 2009, so that foreigners visiting Korea will be obliged to provide biometric information to the authorities upon their arrival. The Korean government had previously abandoned the fingerprinting system for foreigners in 2004 when the Minister of Justice, Kang Kum-sill responded to requests by human rights groups arguing that the fingerprinting system treats foreigners as potential criminals. (*Joongang Daily*, September 22, 2009) This plan for collecting information faced criticism from human rights and migrant NGOs, which said that it could lead to infringement of human rights of foreigners. Human rights NGOs, including Lawyers for Democratic Society, claimed “the bill does not specify concrete guidelines needed to prevent immigration officers from abusing their power.” (*The Korea Times*, April 23, 2009) However, the Ministry justified its decision on the grounds that Koreans are required to provide their fingerprints and other basic personal information to the authorities at age 17.

3.5. Immigration Policy in Japan

Japan has been considered a unique “negative case” in the literature of immigration studies, which means during rapid economic growth in the post-war period, Japan, unlike other developed countries, successfully resisted the import of foreign labor forces by using internal labor migration from rural area to urban cities. (Bartram, 2000) However, in the 1980s, Japan’s local labor began to shrink, and therefore, “the increasing labor

shortage in non-tradable sectors, such as construction and small manufacturing, prompted a heated debate over the use of unskilled foreign workers, polarizing opinions on the grounds of economic necessity and the potential loss of racial homogeneity.”(Kim 2004, p. 40) Coping with the problem of labor shortage and the increase of foreign workers, the Japanese government decided to revise the Immigration Control Law and to reconsider the basic framework of immigration policy in 1990.

When Japan was confronted by a serious labor shortage, however, Japan did not open the door to unskilled foreign workers. Rather, the government officially refused to accept them, and even strengthened sanctions against employers who hire foreign workers illegally. Not allowing unskilled workers from abroad, the revised law highlighted that Japan will facilitate the importation of skilled and professional workers. Yet, considering employers’ demands, the Japanese government created some side-doors to accept *de-facto* unskilled foreign workers by taking advantage of industrial trainees, foreign students, and *Nikkeijin*.

Throughout the revision of the Immigration Control Law in 1990, Japan expanded the number of legal statuses from the former 18 to 28 visa categories and simplified immigration procedures for skilled workers.(Tsuda 2001) As table 3.9 shows, visa categories for skilled and professional workers are allocated to education, arts, sciences, engineering, and business sectors.

Table 3.10. Visa Categories for Skilled and Professional Workers in Japan

<i>Visa Categories</i>	<i>Authorized to</i>
Professor	Conduct or direct research or education at colleges (or other higher education)
Artist	Conduct artistic activities for income (music, fine arts, literature etc)
Journalist	Conduct news coverage, under contract with foreign journalistic organizations
Business manager/investor	Start, operate, or invest in international trade or other business; manage international trade or other business for foreign nationals or foreign corporations
Legal/accounting services	Engage in legal or accounting services (requires legal qualifications)
Medical services	Perform medical treatment provided by physicians, dentists, or those with other legal qualifications
Researcher	Conduct research, under contract with public or private organizations in Japan
Instructor	Teach languages or other subjects at elementary schools, secondary schools, special schools or vocational schools
Engineer	Provide services requiring technology and /or relevant knowledge of physical science, engineering, or other natural science under contract with public or private organizations in Japan
Specialist in humanities/international services	Provide services requiring knowledge of jurisprudence, economics, sociology, other social sciences, or services requiring specific skills or sensitivity based on foreign culture(s) under contract with public or private organization in Japan
Intra-company transferee	Transfer from business offices in foreign countries to work in business offices in Japan, by public or private organizations with offices in Japan
Skilled labor	Provide services requiring industrial techniques or skills in special fields, under contract with public or private organizations in Japan

Source: Ministry of Justice (1999) quoted from (Scott M. Fuess 2003)

Similar with Korea's high-skilled foreign labor policy, Japan actively tries to recruit foreign nationals who can contribute to Japanese society such as highly-skilled workers in the name of enhancing the international competitiveness of Japan. According to the Basic Plan for Immigration Control released by the Ministry of Justice in 2005, Japan will ease immigration procedures for business activities which require long and frequent

trips, and for information-technology sectors which are considered as vital for the Japanese economy. Confronting an aging population in Japan and increasing demand for the elderly, Japan will import foreign nurses and doctors who are qualified through Japan's national examinations throughout written agreements with foreign governments. In order to attract highly-skilled foreign nationals, Japan will extend periods of stay, which is currently a maximum of three years. Further, the Japanese government will consider easing, clarifying, and increasing the transparency of requirements for "Permanent Resident" Permission for qualified highly-skilled foreign workers.

While the problem of labor shortage became acute not in the field of professional sectors, but in low-skilled areas, the Japanese state took an ambivalent stance for accepting un-skilled foreign workers. Officially it denied the possibility of importing low-skilled workers from abroad, but it invented several side-door mechanisms. The first one is Training Program. The Japanese government initiated an ambiguous foreign labor policy, so-called Training Program in 1982. It was originally designed for Japanese firms with overseas branches to train their foreign workers who are employed in overseas factories. However, this program was extended in the 1990 Immigration Control Law by lifting up restriction to official agencies and large multi-national corporations. In the trainee program established in 1982, only companies with capital or trade relations with foreign countries and with more than 20 employees were allowed to hire foreign workers from this system. In 1990, however, the program was significantly changed to allow any company to utilize trainees. Further, the government eagerly expanded this program by establishing the Japan International Training Cooperation Organization (JITCO) to help

companies to accept foreign trainees. “It is quite apparent that the Ministry took such action in order to implement a sidedoor mechanism that would supply labor-deficient companies with necessary immigration labor since it has been precisely these smaller-sized companies that have suffered the most from the labor shortage.” (Tsuda 2001)

Through this program, the government was able to maintain their original position that Japan does not allow unskilled migrant workers, and at the same time, the government could import the migrant workers through side-door in the name of “trainees.” As a result, the number of trainees dramatically increased. In 1987, the number of trainees was 17,081, but by 1997, the number increased almost threefold to 49,594 (Shipper, 2002, p.57). However, the problem is that the large majority of trainees were treated not as real trainees who should receive technical training, but as cheap, unskilled laborers for 3-D jobs where native Japanese no longer works. Another problem is that legally trainees are not classified as workers entitled to standard wages and to the protections guaranteed under Japan’s labor laws. In short, the trainee system was vulnerable to turn into a highly exploitive system and designed to create a marginalized lower class within the Japanese labor market.

In 1993, the Ministry of Justice revised the Training Program with the introduction of the Technical Intern Training Program (hereafter TITP). Although it still maintained limited improvement, the new program allowed trainees to change their residence status to “technical interns” after a minimum of nine months, and after passing a “skills evaluation”.(Cornelius et al, 2004, pp.454-455) Under the TITP, the trainees would become official employees entitled to regular wages and full protection under Japanese

labor laws. While Tsuda and Cornelius argue that “it moves closer to an officially acknowledged (front-door) guest-worker program when compared to the old trainee system”(Cornelius et al, 2004, p. 455), it is hard to assess that the Japanese government accepted front-door mechanism to import foreign workers because in 2000, the Ministry of Justice released a new basic immigration control plan that mainly reiterated the original position that the government maintain its policy of not accepting unskilled foreign workers. Further, although the technical interns are able to acquire extended duration and more benefits, “participation rates for the new trainee program have been very low with only 2,320 foreigners admitted to this program in 1995.” (Tsuda 2001) For the Japanese employers, the new program requires a greater amount of paperwork, higher salaries, and closer monitoring from government. Therefore, most employers who want to hire foreign workers as cheap labor forces prefer the old training program despite its shorter period of stay.

As Tsuda and Cornelius (2004) explain it, the two main pillars of the side-door mechanism “are the admission of the *Nikkeijin* and the expansion of the ‘trainee’ program” (Cornelius et al. 2004, p. 453). Another important side-door mechanism is to encourage *Nikkeijin* to work in Japan , and these descendants of Japanese emigrants in Latin America returned to Japan to supply the largest number of new foreign workers. Most of the *Nikkeijin* come from Brazil, but there are also significant numbers from other countries, including Peru, Bolivia, Argentina, China, and the Philippines. There are currently over 330,000 *Nikkeijin*,(Tsuda and Cornelius, 2004, p. 455), yet the total number of *Nikkeijin* is much higher because many bring their spouses and children with

them. Most *Nikkeijin* work for small subcontractors in unskilled or low-skill production jobs. This fact totally belies the government's official position that the policy toward the *nikkeijin* is designed as an opportunity for learning Japanese language and culture, for meeting Japanese relatives, and for chances to search their ethnic heritage (Tsuda and Corenlius 2004). However, it is obvious that few *Nikkeijin* come to Japan to learn their cultural roots. According to one survey, 80 percent of *Nikkeijin* returned to Japan in order to find jobs. (Shipper, 2002, p. 44). Compared to trainees/interns and illegal workers, the *Nikkeijin* enjoy some privileges. Their salaries are relatively higher, there are no restrictions on the type of work, and they have a legally protected right to stay in Japan with permanent residence. Yet, it does not mean the *Nikkeijin* enjoy the same economic status as the native Japanese. They are located in the Japanese labor market as second-class because the majority of *Nikkeijin* are working for the manufacturing sector as a form of indirect employment, meaning they are employed by labor contractors and dispatched to production lines. With contract periods limited to three months or even shorter, *Nikkeijin* workers have become a source of extremely flexible labor for many businesses. Despite their lower economic status, it seems that the government's effort to replace foreign workers with *Nikkeijin* is successful. *Nikkeijin* surpassed the number of the undocumented workers and legal trainees combined. (Kim, 2004, p. 48) The policy toward *Nikkeijin* clearly shows how much the Japanese government has made efforts to maintain the racial homogeneity in the face of the labor shortage.

Another sidedoor mechanism in Japan is to utilize college or pre-college students. In 1983, Prime Minister Yasuhiro Nakasone announced the "Plan to Accept 100,000

Foreign Students before the Beginning of 21st Century” during his visit to ASEAN countries. As a result, the Japanese state simplified the application procedures for pre-college students in 1984. Its consequence was the increase of language schools, which actively recruited students from China. College students refer to foreign students who study mainly at universities or advanced vocational schools, whereas pre-college students are defined as foreign students studying at high schools, Japanese language schools or various other vocational schools. (Kuwahara 2005) While college students are allowed to work part-time jobs a maximum of 28 hours a week with no obligation to report to the authorities, pre-college students are entitled to engage in part-time work a maximum of 20 hours a week with report to the authorities. However, in reality, a large proportion of college or pre-college students are working longer hours than authorized and fail to report to the local authorities. Further, Tsuda reports “many of them are becoming full-time, unskilled foreign workers.” (Tsuda 2001) For example, in the late 1980s, some false enrollments of foreign students at Japanese language schools were found. Those students entered Japan only to work and may have no intention of studying Japanese language. Even though many college or pre-college student are involved with unskilled jobs in Japan, their number is still undetected, and “the Japanese government has neither taken particular action nor shown its intention concerning compliance with the regulations on *arubaito* (part-time) work.” (Kuwahara 2005)

Besides open and side doors to the Japanese labor market, many undocumented foreign workers are involved with the backdoor mechanism. Most of them are comprised of those who enter Japan with tourist visas, work illegally, and overstay their status. Their

exact number is difficult to estimate. In 2007, the number of visa overstayers was 149,785. However, we expect that the number of illegal immigrant workers in Japan exceeds this number because “it does not include those who enter Japan with false documentations or work illegally in violation of their visa activity restrictions.” (Tsuda 2001) To reduce the number of undocumented workers in Japan, the Japanese government toughened penalties against employers throughout the 1990 Immigration Control Law. However, the enforcement of employer sanctions has been less effective and minimal. In 1992, only 351 employers were penalized, and 692 in 1993. According to Tsuda, when the Japanese Diet passed the revised Immigration Control Law in 1990, the Ministry of Justice made clandestine agreement with employers that they would not aggressively enforce the employers sanctions.(Tsuda 2001)

In this Chapter, I have described demographic change, recent trends of immigration in Japan and Korea in order to illustrate the realities of the newly emerging immigration countries. I also have illustrated the historical development of immigration policies in Japan and Korea for the discussions in the next two chapters.

CHAPTER 4

Explaining Policy Divergence between South Korea and Japan: From Training Program to Employment Permit Program

4.1. Introduction

This chapter basically seeks to examine divergence of immigration policies in Japan and South Korea. As described in chapter 3, both countries as late-comers to immigration have similar condition and experience when it comes to influx of foreign workers. Japan and Korea have faced a structurally embedded demand for foreign labor including aging population and low birth-rate, and labor shortages in so-called 3D sectors (dirty, dangerous, and difficult). Further, economic disparity between both countries and other Asian countries has functioned as a pull factor of international migration. Japan and Korea had shared almost the same policies in order to control the inflow of foreign workers until 2004. While Japan addresses that unskilled foreign workers are officially not allowed, the government in reality utilizes the trainee programs and imports ethnic Japanese from Latin America as a side-door mechanism. In 1991 following the Japanese model, Korea launched a similar program. However, Korea adopted a new system in 2004, and it acted to allow migrant workers to work legally with a status of worker, and to prevent human rights violation. The debut of the new program signals that Korea

switched the position from a side-door mechanism to a front-door one. This chapter tries to figure out the puzzle as to why Japan is still maintaining a restrictive policy when it comes to low-skilled foreign workers, while Korea is moving toward a more open policy even though Korea began with a carbon copy of the Japanese policy. By applying theories of immigration policies which heavily rely on the Western cases to East Asian cases, this chapter attempts to assess three theoretical approaches including political economy (client politics), international norms, and historical institutionalist approach.

In this chapter, however, I explain this puzzle with more emphasis on intra-governmental competition and political coalitions between state and pro-migrant NGOs drawn from historical-institutionalist approach. I will particularly use the concept of political opportunity structure (hereafter POS) in order to understand intra-governmental competition and political coalitions. Literature on comparative migration studies takes group interests and international human rights norms as main analytical tools. However, I argue that the two existing approaches ignore how the politics of immigration are mediated by institutional ordering. Political economy approach regards state as a passive, monolithic umpire, thus misses degree of state autonomy, intra-governmental competition, and role of political coalition between bureaucrats and social actors. International norms approach also fails to reveal different impacts of international norms on domestic policies because they do not consider the domestic institutional arrangement such as dynamic interactions among states, NGOs, and international norms. Thus, I try to explain the variance of immigration policies between Japan and Korea focusing on how politics of immigration in the two countries have been conditioned by distinct state-society relations.

My finding suggests that more conflictive intra-governmental competition over immigration policy provided pro-migration NGOs with more favorable political opportunity structure compared to the Japanese case. In addition, political coalitions between state and pro-migrant civic organizations lead to liberal policies toward unskilled foreign workers in Korea, whereas the absence of influence of civil society in the policy-making process makes immigrant policies less liberal and less flexible in Japan. This comparative study outside of traditional Western states not only broadens the empirical scope of international migration studies, but also tests whether current migration theories that heavily rely on Euroamerican cases may apply more generally to non-Western cases. For studying other policy areas, my research also can provide new analytical dimension including roles of new social movements in policy domains beyond the traditional view of bureaucracy-led policymaking in Japan and Korea.

4.2. The Puzzle

Migration policies revolve around the dilemma, which is that states on one hand need to satisfy the demands from employers who suffer from the problems of labor shortage, and on the other hand, states need to control and prevent excessive influx of migrants. The labor shortages in economic structure and restrictive immigration policies mainly generate the problems of migrant workers. (Moon, 2000, p.174) To solve the labor shortages in small and mid-sized firms the government had to import limited number of foreign labor forces in the name of trainees, yet at the same time the government attempted to control numbers of foreign workers on a short-term basis. One of the

principles for the migrant workers in South Korea and Japan is to prevent them from settling down in the long term, and to force them to work only within a restricted period. For this purpose, East Asian countries studied the German work permit system for importing foreign labor forces. They have concluded that the German system failed to solve the dilemma as mentioned above because of “the breakdown of the “rotation principle” and the emergence of the permanent settlement of foreign workers by endowing “special work permits” and allowing family reunion.” (Seol 2005, p. 85) As a consequence, Singapore and Taiwan invented the “employment permit system” to limit foreign workers’ option to change their workplaces and prohibit their family union. The employment permit system generally requires the employers who want to hire foreign workers to apply for the employment permit from the government. After the employers get the employment permission, foreign workers can obtain the work permit under the condition of being employed in those firms. Different from Singapore and Taiwan, South Korea and Japan chose the “trainee system,” which does not grant the status of workers to foreign labor forces. Those foreign trainees are technically students who want to learn advanced skills. Therefore, they just receive allowances, and are excluded from the jurisdiction of several labor laws. However, South Korea changed their policy from the trainee system to the employment permit system later.

Table 4.1. Comparison between the Training Program and the Employment Permit Program

	Training Program	Employment Permit Program
Responsible government body or public organization	JITCO (Japan) Employers' Association (Korea)	Ministry of Labor (Korea)
Legislation	No separate legislation (but relying on the existing Departures and Arrivals Control Act)	Act on Foreign Workers' Employment Etc.
Legal status of foreigners	Trainee	Worker
Labor allocation system	Neither employers nor workers have the opportunity to choose their workers or jobs	Employers have the opportunity to choose their workers
Channels through which foreign workers are received	JITCO / intermediary organizations	Government and Public Agencies

As seen in Table 4.1., the employment permit program in South Korea emphasizes the role of the government and public agencies in selecting and inviting foreign workers. Unlike the training program, the Korean government is deeply involved in pre-departure selection and post-entry management. The sending countries and the Korean government sign bilateral agreements on importing foreign workers. By doing this, the Korean government tries to increase transparency in the recruiting process. Under the training program, illegal and unfair behaviors done by the Korean employer associations and private agencies in the sending countries posed a lot of extra-charges on foreign job seekers. By granting the status of workers to foreign workers, the employment permit system allows more protective measures and social welfare benefits for foreign workers.

Under the new system, Labor Standard Act and other labor-related laws are fully applied equally as to native workers. Under the trainee system, only some clauses of Labor Standard Act were applied. Under the new system, foreign workers' minimum wages are guaranteed, and industrial safety and health are provided. Besides industrial accident insurance and health insurance, foreign workers are covered by a national pension scheme and employment insurance. In sum, the launch of the employment permit system signals that South Korea officially imports low-skilled foreign workers through a front door. By doing so, the Korean government improved transparency in the recruiting process, and treat foreign workers equally as native workers in order to guarantee their human rights. Although it is still criticized that the new system also restricts foreign workers' freedom to transfer workplaces, it is assessed that Korea's foreign labor policy has made a substantial progress in terms of human and labor rights.

In this chapter, I will mainly focus on the question as to how we can explain this divergence between South Korea and Japan.

4.3. Political Economy Approach

In this part, I discuss whether the Japanese and the Korean cases can fit into framework of political economy approach (client politics). The mode of client politics has been developed in the English-speaking settler societies, especially in the U.S. (Freeman, 1995, p. 887). Thus, applying the framework of client politics to Japan and Korea might have little explanatory powers. However, I argue that this approach fails to explain

development of immigration policies in Japan. While it partly explains immigration policies before 2004 in Korea, it does not successfully explain why Korea has adopted the employment permit program which imposes more financial burden on employers.

In the political economy approach, the key dimensions are public officials and organized group. In Japan, however, it is difficult to see the interaction between bureaucrats and organized group such as employer's association¹⁶ because in terms of policymaking, the Japanese bureaucrats still maintain its old pattern, bureaucrat-led policymaking. (Moon and Ingraham, 1998, p. 88)

Many scholars locate this way of policymaking within the framework of a developmental state. A developmentalist state is defined by "the dominance of the professional bureaucratic staff over politicians with regard to policymaking authority or power." (Bartram, 2004, p.136) Scholars reported how a strong bureaucracy is insulated from politicians and civil society, and they argue a core of the developmentalist literature is that the bureaucrats can resist social pressures and attempt to implement policies to advance the general welfare. (Pekkanen, 2004a, p. 363) In this sense, what Freeman is missing is that not all liberal democracies are characterized by the same degree of state structure and cliental politics. That is why I argue that the theory of cliental politics falls short of explaining the immigration policymaking in Japan.

While most scholarly works on a developmentalist state focus on industrial policy (Johnson, 1982), David Bartram applies the argument of the developmentalist state to the Japanese immigration policy. (Bartram, 2004) In his comparative study of

¹⁶ For Freeman, the significant organized groups are employers and ethnic advocacy groups. However, since both countries are lack of ethnic pro-migrant groups, I will mainly focus on employer's association.

immigration policy between Israel and Japan, Batram characterizes the state structure of Japan as a developmentalist state. He argues “foreign worker initiatives are more likely to be adopted in a country with a clientalist state than in a country with a developmentalist state,” (Batram, 2004, p.137) From this point of view, the Japanese bureaucrats dealing with immigration policymaking have been enormously isolated from economic and social pressures. Tsuda and Cornelius state, “it is dominated by the bureaucracy, with little active participation by the democratic elected Diet, beyond rubber-stamping legislation handed down by the bureaucrats after pro-forma policy debates.” (Cornelius et al., 2004, p. 450)

However, the domination of the bureaucracy in immigration policymaking does not mean that well-organized groups such as employers’ associations have never attempted to deliver the demands of foreign workers. Especially, in 2003, *Nippon Keidanren* (Japanese Business Federation) published the report, “Interim Recommendations on Accepting Non-Japanese Workers – Bring Dynamism of Diversity into Japan by Opening Doors to Transnational Human Resources.” The report asked the government to reform its immigration policy for the future of Japan. In the face of continuous demand for foreign labor forces, the government continued to encourage employers to solve the problems of the labor shortage in other ways such as moving some firms abroad, mechanizing production, and increasing employment of inactive working populations like women and senior citizens.¹⁷ As a reaction to such demands, the government at least implemented a

¹⁷ Until recently, the Japanese government never shows any signals to change its position on migrant workers. On February 9, 2006, the Japanese Prime Minister Junichiro Koizumi obviously mentions, “If we open up to foreign labor at once, it would be good for (securing) the labor supply but could do more harm than good if crime increases.” (*Japan Times*, February 9, 2006)

side door mechanism to import foreign workers. Tsuda and Cornelius say, “Labor-deficient Japanese company managers who have directly contacted or even visited the Ministries of Labor and Justice to demand more liberal immigration policies report that they have either been met with blank stares.” (Cornelius et al., 2004, p.451) In sum, in the context of the Japanese developmentalist state, the mode of client politics does not have rigorous explanatory power to immigration policymaking because the bureaucrats dominate the policymaking process, and further small business which are much harder hit by the labor shortage has never been active social force compared to big business. (Bartram, 2000, p.25)

Although Japan and Korea share many similarities such as trainee programs, Korea’s policy was different because first of all, before the implementation of the Employment Permit Program (hereafter EPP), the process of immigration policymaking was dominated by small business interests. In this sense, Freeman’s “client politics” fits into the Korean context more than the Japanese one. For instance, Seol and Skrentny state, “Korean policy has its origins in a fragmented state and the Justice Ministry’s client politics.” (Cornelius et al., 2004, p.508) Despite that the trainee system has been continuously revised the government still maintained it until 2004, which clearly demonstrates the cliental relationship between the Justice Ministry and the Small and Medium Business Administration (hereafter SMBA), and the SMBA’s client, the Korean Federation of Small Business (hereafter KFSB). The SMBA seems to be detached from the policymaking, and they just represent the interests of KFSB inside the government. Since the Justice Ministry runs the Immigration Office, and implements the Departures

and Arrivals Control Act with considerable administrative power, the Justice Ministry dominated the policymaking process. The ties between the KFSB and the Justice Ministry look weird, yet if we observe the roots of the ties, it is understandable. “The ties are rooted in the fact that the KFSB runs KITCO (Korea International Training Cooperation Corps), the labor recruiting body. All KITCO chairmen since 1994 are officials retired from the immigration office. As the middleman in the labor-importing process, KITCO has made its officials’ jobs very lucrative through corruption.”(Cornelius et al., 2004, pp. 498-499)¹⁸ Besides the organizational connection, we can conclude that the Industrial Technical Training Program (hereafter ITTP) was totally represented by business interests through how to run the trainee program. While the JITCO(Japan International Training Cooperation Corps), the Japanese overseas foreign labor recruiting agency, is running under the governmental guidance with channel to labor and business, the KITCO, the Korean recruiting agency, was run by the KFSB as a private organization without interference from labor or other organized public. In sum, Korean immigration policymaking was dominated by business interests until the EPP was established in 2004. The KFSB created the trainee system with help from Justice Ministry officials, and the KFSB monopolized the privilege to run the trainee programs.

However, the mode of client politics explains the establishment of the ITTP and its operation until 2004. If we scrutinize the process of implementing the new program, EPP,

¹⁸ Several KITCO officials have been arrested for bribery, including KITCO’s chairman in 1995, its director and manager in 1996, and its sub director and various staff members in 1997. In 2002 the former vice president of KFSB and the head of KFSB’S international cooperation team were arrested for taking bribes, mainly from labor recruiters in sending states. Other groups that benefit from the current system are the twenty agencies that provide “consulting services” to industrial trainees although their actual purpose is to prevent runaways. These agencies charge a monthly fee for each trainee they oversee.

we need another angle because the cliental alliance between the Justice Ministry and KFSB strongly resisted the new EPP, yet they failed to stop launching the EPP.

KFSB strongly opposed to the launch of the employment permit system by arguing that it would increase cost of wages, and decrease flexibility. Although the employers were eager to introduce foreign workers in general and demanded it to the government, what they wanted was to maintain the expedient trainee system for importing cheap and flexible labor forces. Because the new system guarantees more labor rights and more social welfare benefits, the employers were concerned about rising cost and decreasing flexibility. In addition, since the Korean government plays more roles in the recruiting and post-entry processes, KFSB can no longer fully control the channels for foreign workers, and cannot obtain economic benefits from the hiring and educational programs. Therefore, KFSB mobilized organizational power, and produced favorable statistical data for making favorable public opinion. They also attempted to prevent a new legislation from passing in the National Parliament by active lobbying. For instance, “two legislative bills proposed by members of National Assembly in 1996 and legislative petitions by migrant support groups in 2000, by KCTU (the Korean Confederation of Trade Union) in 2002 and by FKTU (the Federation of Korean Trade Union) in 2002 were all frustrated by them.” (Choi 2008) However, they failed to impede the new employment permit system in 2004. The theory of client politics cannot explain why the Korean government changed its position despite continuous and strong lobbying activities from employers associations. To solve this puzzle, we first need to scrutinize the role of the state in immigration policymaking by disaggregating the state. Beyond the concept of the state as

a unitary actor theorized in client politics, it would be necessary to reconsider the state as “a disaggregated mediator through which various social interests and contradictory forces are mediated through interaction, conflict and compromise.” (Choi 2008) Further, we need to examine how some organizations in civil society and some governmental branches have made a coalition, and how another coalition has been formed.

4.4. International Norms Approach

Several scholars have emphasized the role of international human rights norms as one of the key factors to shape migration policies or citizenship by constraining the policy choice of the state. However, norm-based approach cannot sufficiently explain the variance of foreign labor policies. If international norms simply affect state policy, and constrain the policy option, as Lee and Park argue, we would have expected Japan to change the migration policies much earlier than Korea because Japan’s international status as a major developed country could have made it more sensitive to international pressures. (Lee and Park, 2005) In reality, however, the Korean government is modifying the foreign labor policy in a more liberal way, while the Japanese one is maintaining the most restrictive policy. Why is it so? For a comparative study, however, this approach needs to be equipped with more detailed analytic dimensions because whether or to what extent international norms affect states’ choice depends on what contexts acceptance of international norms has been discussed and what kinds of state institutions and civil societies interact with each other. Therefore, in this part, I examine how acceptance of

international norms and its roles have been discussed differently in Japan and Korea, and how different state institutions and structures of civil society in Japan and Korea are linked with impacts of international norms on the rights of migrant workers in both countries.

The debates over migration issues in Japan cannot be understood without the trend of internationalization. Internationalization refers to “such diverse things as learning English, traveling internationally, keeping up with other advanced industrial states and the latest high technology, and fully participating in international institutions.” (Gurowitz, 2006a, p. 156) As a part of internationalization project, the Japanese government participated in international affairs more actively. For example, the government began to be involved in aid to other regions such as Eastern Europe and Asia, and increased the role in United Nations human rights process and the UN in general. Behind these scenes, the Japanese government had an idea that “economic power bring with it new responsibilities that extend beyond the purely economic realm.” (Gurowitz, 2006a, p. 156) To achieve this goal, Japan was pressured to be more open culturally and socially at the domestic level.

The move to internationalization had significant impacts on the use of international norms for expanding the rights of migrant workers in Japan. Pro-migrant activists linked the mood of internationalization with the issues of immigration in Japan, and they have utilized this linkage to pressure the Japanese government by arguing that Japan is against or lags behind international norms regarding the rights of migrant workers.

Under the internal pressure of internationalization, Japan has ratified several major

international human rights norms such as the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social, and Cultural Rights (ICESCR) in 1979, the Convention Relating to the Status of Refugees in 1982, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1985, and the Convention on the Elimination of All Forms of Racial Discrimination (CERD) in 1995. As Amy Gurowitz names this process as “change from outside-in,” pro-migrant activists, lawyers, and scholars use the ratified international conventions to advance their demands to expand the rights of migrant workers in Japan, and further to press the government to change their policies.

A series of ratification of international human rights norms entailed the improvement in court decisions and policy toward minorities in Japan. Before 1982, Koreans in Japan, who migrated or were forced to migrate under the Japanese colonial rule, were excluded from the national pension plan. However, with the help from Japan’s ratification of the Convention Relating to the Status of Refugees, nationality restrictions were abolished in the pension plan. After Japan ratified the Convention on the Elimination of All Forms of Discrimination Against Women in 1985, Japan modified its citizenship law to allow not only children born to Japanese fathers, but also those born to Japanese mothers to acquire Japanese citizenship. In 1993 the practice of fingerprinting required for permanent resident aliens was eliminated. The court argued that “there was to suspect that the policy of fingerprinting violated several ICCPR.” (Lu, Menju, and Williams, 2005, p. 115)

As previously noted, internationalization and Japan’s ratification of several

international human rights norms contributed to improving the rights of foreigners in Japan. While Amy Gurowitz positively assesses the impacts of international norms on domestic policies, crucial changes to transform the basic framework toward migrant workers in Japan are rarely found in the national level. Tegtmeier Pak argues in her study of differences between national and local responses to foreigners in Japan that local actors frequently invoke an idea of internationalization and local governments are compensating for the national government's unwillingness to admit the migrant workers. In short, as Yasuo Takao claims, "while the Japanese national government has been extremely reluctant to engage fully in international norms, Japanese local governments have been cultivating new categories of norms about foreigners' rights." (Takao, 2003, p. 530) However, it is obvious that international norms alone are unlikely to engender the major changes in policies toward migrant workers at the national level. Therefore, we need to raise the question why the Japanese national government has been reluctant to make efforts to match domestic policies with international standards.

First of all, the Japanese governmental policy is not crucially constrained by the judicial system. David Chiavacci claims, "Japanese courts have very rarely challenged the authority of the government... have not limited the ability of the Japanese state to formulate and implement a foreign worker policy" (Chiavacci, 2007, p. 12) The Japanese government signed a variety of international conventions, yet they are still free to choose the policy options. It is hard to say that international norms have been effectively transmitted into the realm of the Japanese policies without considering the institutional arrangement. Second, for the Japanese government, the ratification of international norms

is a sort of polite gesture to maintain their face at the international level. Fujimoto Mie, the lawyer of the Japan Civil Liberties Union (JCLU) states, “Japan ratified (with reservations) the CERD in 1996, but the government maintains that there is no need for the passage of new laws on racial discrimination.” (Chan, 2008, p. 254) Due to the reluctance of the Japanese government, international norms are hardly be transmitted into domestic laws. Further, the linkage between international norms and domestic NGOs is still in question. As I will explain later, the Japanese civil society is characterized as a dual structure, with a lack of large advocacy groups at the national level and abundance of small groups at the local level. Given the lack of national organizations and Japan’s unique political opportunity structure, the mediating effect of international norms through the NGOs is limited. Pro-migrant NGOs in Japan focus more on local issues with collaboration with local governments rather than changing national policy by targeting the national government. As Joppke mentioned that international human rights regime is the single most inflated construction in recent social science discourse, the power of international norms on the Japanese immigration policy is overemphasized too. In sum, due to the lack of sufficient resources from the domestic level, pro-migrant NGOs in Japan have no choice but to rely on international norms as a weapon to push the Japanese government. However, in terms of the impacts of international norms on domestic policies, the functions have been constrained by less open political opportunity structures in Japan.

While Japanese acceptance of international human rights norms has taken place in the context of internationalization, Korean political leaders and some parts of the

bureaucracy have pushed human rights as part of national development. Gurowitz found a pattern in Japan that pro-migrant advocates use international human rights norms as a tool for NGOs to elaborate their claims, and to challenge against the Japanese government. According to Seol and Skrentny, however, a similar pattern in Korea is found “but somewhat more muted pattern.” (Seol and Skrentny, 2001, p. 11) They argue that human rights norms for expanding the rights of migrant workers in Korea are already internalized, and Korean NGOs legitimize their claims based more on human rights norms domestically grown from the experiences of democratization, rather than on international human rights norms.

South Korea ratified the ICCPR and the ICESCR in 1990. They acceded to the CERD in 1978, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1995, CEDAW in 1984, and the Convention on the Rights of the Child (CRC) in 1991. However, it is quite controversial whether these ratifications of international human rights norms have affected the recent policy change from ITTP to EPP in South Korea.

Joon K. Kim positively assesses the impacts of international norms on the policy change stating relationships among the state, civil society, and international conventions “can provide a mutually reinforcing system of checks-and-balances and foster a greater accountability from the state in implementing international norms regarding the protection of foreign workers.” (Kim, 2005, p. 385) Kim illustrates that in 1998, the Joint Committee for Migrant Workers in Korea (JCMK), an umbrella organization for migrant worker advocacy has taken part in the campaign for the ratification of the UN convention

on the Protection of the Rights of All Migrant Workers and Members of their Families. However, some activists denied that they used international norms as a tool for migrant advocacy. They straightforwardly state they do not use international norms as part of their struggle. Another activist, Park Seok-Woon, director of Seoul's Association for Foreign Workers' Human Rights, mentioned international norms "don't really concern us. As fellow laborers, we feel that we basically need to reform solidarity and ensure that they are guaranteed the same rights as us. So that's the level at which we are proceeding with our movement." (Seol and Skrentny, 2001, p. 12)

It is difficult to measure which one among domestic values and international norms pro-migrant NGOs in Korea have been using more. However, it is obvious that unlike the Japanese NGOs, the Korean NGOs are able to articulate their claims from domestic and international levels. The Korean NGOs have been able to appropriate human rights as a strategy of national development. The NGOs utilize the context and symbol of the democratization movement in South Korea to enhance the rights of migrant workers. For instance, the protests for migrant worker rights are frequently held at Myongdong Cathedral in downtown Seoul, a symbol of democratization and labor protests in Korea. When the foreign workers shouted, "We are not machines," it conjured the image of Chun Tae-Il, who burned himself to invoke Korean workers' poor working condition during the era of rapid economic development. The poor working conditions, long working hours, and human rights abuses among foreign migrant workers are easily overlapped with painful experiences of Korean domestic workers during the 1960s and 1970s. Therefore, in order to improve the foreign labor policies, the discourse grown

from Koreans' own experiences is much more effective repertoire of contention, and they rely more on human rights norms inherited from domestic experiences rather than on international norms. Thus, Seol and Skrentny argue, "international option is not a decisive factor in policymaking." (Seol and Skrentny, p. 13) Public opinion in Korea keeps reiterating the message that Korean people were once foreign migrant workers in Germany, Japan and some Middle Eastern countries. Further some NGOs leaders understand the expansion of migrant worker rights as a chance of national development. For example, Reverend Hae-Sung Kim, an activist for migrant workers warned in an interview with *Hankyoreh* newspaper that if the government does not stop the crackdowns on illegal migrant workers, we will have "notorious names" such as underdeveloped countries in terms of labor relations and human rights. He says, "legalizing the illegal migrant workers is a good opportunity for us to be reborn as "new human rights country." (*Hankyoreh*, 21 November, 2003)

It is true that Korean policymakers and some ministries find a reason to conform to international human rights standards in the national interest. As I mentioned above, Korea has ratified several UN conventions and covenants relating to civil and political rights, economic and social rights, and racial discrimination. These efforts result from the politics of national development, national image maintenance, and the internalization of human rights norms in the context of interaction between nationalism and globalization. The representative case is the National Human Rights Commission's "National Action Plans for the Promotion and Protection of Human Rights" announced in January, 2006. To comply with international human rights standard, the Commission established the

detailed plan to increase the rights of social minorities including migrant workers, and recommended each governmental agency to follow the guideline and action plans. However, the behind logic of this plan is that Korea should advance to human rights country as a part of the globalization project following the achievements of economic development and democratization. Even the characteristics of the National Action Plans quite resembled Korea's Five-year Economic Development Plan used as a model of state-led economic development. Further, when the Ministry of Justice announced the plan of future immigration policy, the Ministry clearly stated that it will carry out the new immigration policy as the national development strategy.

Korean policymakers also are concerned that Korea would be conceived as an anti-human rights country resulting from mistreatment of migrant workers in Korea. Park Hyo-Ouk, policy director of the Korean Ministry of Labor, explained that after the Nepalese protest in downtown Seoul and other related events, human rights became a more serious consideration. He states, "It is not so much a matter of paying attention to international norms as it is recognizing that Korea in general has to conform to international standards and trends. Korean policy-makers feel that this is the natural thing to do and try to move in that direction." (Seol and Skrentny, p. 16) Korean policy making elites understand that Korea must aspire to international standards as part of national development and national pride. To be survived in the age of globalization, they argue that it is necessary to enhance our viewpoints, way of thinking, system and practices to the international standards.

4.5. Historical-Institutionalist Approach

As I mentioned above, the main problem of the interest-based approach is that it assumes state is a unitary actor. In reality, however, we can witness that each governmental department with different norms, ideas, and policy goals competes with each other. For instance, in the Korean case, the Ministry of Justice and the Ministry of Labor supported the different policies toward foreign workers. In Japan, while the Ministry of Justice stands on the most conservative position, the Ministry of Foreign Affairs which is sensitive to international norms has a relatively liberal stance on the issues of migrant workers. Further, when we examine such intra-governmental competitions, I suggest we scrutinize how political coalitions have been made. (Tichenor, 2002, p.8) As Tichenor argues, policy changes have been closely tied to the possibilities of political coalitions to support new policies. Without this consideration, we will fail to explain “why sometime pro-immigrant groups lost powers to expand immigration policies” or some organized groups that enjoy the benefits from current policy failed to resist against new policy. (Tichenor, 2002, p.24) Thus, I examine during legislating the new program, EPP in Korea, how each governmental department had made coalition with social actors, for instance, the Justice Ministry and KFSB, or the Labor Ministry and pro-migrant NGOs.

For this purpose, I will use the concept of political opportunity structure (POS) which is widely used in the studies of social movements. Following Sidney Tarrow’s definition of POS, “consistent - but not necessarily formal or permanent - dimensions of

the political environment that provide incentives for people to undertake collective action by affecting their expectations for success or failure.” (Tarrow 1998, pp. 76-77), I use the term of POS as an analytical tool to understand formal institutional structure that migrants and migrant NGOs face. Therefore, Tarrow’s two dimensions such as shifts in ruling alignments and cleavages within and among elites will be used for this purpose. Government changes (e.g. inauguration of liberal government in 2003 in Korea) and intra-governmental competitions (e.g. competition between the Ministry of Justice and the Ministry of Labor both in Korea and Japan) will help us understand policy changes or stability in South Korea and Japan. I also use the concept of POS to analyze the interactions between state and civil society. Tarrow’s other two dimensions such as opening up of access to participation, and availability of a coalition with influential allies will help us examine how political actors outside the political system influence the decision-making process. For example, to exert their influences, the Korean NGOs usually aim for policy changes by targeting the national government, and have developed strategies to make solidarities with other civil society groups, and they are savvy at obtaining media attention. The Korean NGOs have also been a partner in national governance since the Kim Dae-Jung Administration. Further, The Roh Moo-Hyun Administration, whose title was “participatory government,” intensified the collaboration with civil society because the birth of the Roh Administration was made possible by the increasing power of civil society groups. It is obvious that the active coalition-building on the consensus of human rights delivered more liberal policy in Korea in comparison to Japan. Since I assume that the focus only on structural conditions can miss the power of

movements, I will deal with historical development of civil society and migrant workers' movements including mobilization, tactics and so on in the middle of the section.

4.5.1. Formal Institutional Structure: Governmental Change and Intra-governmental Competition

Since the democratic struggle in 1987, the Korean political system has gradually evolved into a more democratic one. Despite its limited nature of democratic regime, the first civilian president was elected in 1992, and succeeded in cutting off the ties of the previous military regime. In 1997, Korea experienced for the first time a peaceful turnover to liberal opposition party. The President, Kim Dae-Jung contributed to enhancing a peaceful relationship with North Korea as well as human rights conditions, for instance through the establishment of the National Human Rights Commission. In 2002, another big change of political power was witnessed in Korea. Roh Moo-Hyun, a former human rights lawyer as well as a liberal figure who had long been marginalized even in the liberal ruling party (the Millennium Democratic Party) was elected as president. Due to the active political participation among young generations and their use of the internet, President Roh gained initiatives in reforming Korean politics and in pursuing more progressive policies. Although he faced strong opposition even from his political base, and was even impeached in 2004, it is not deniable that he invited the Korean NGOs as partners for his governance. Indeed, the Korean NGOs have also been a partner in national governance since the Kim Dae-Jung administration. However, the Roh

Moo-Hyun Administration, whose title was “participatory government,” intensified the collaboration with civil society because the birth of the Roh Administration was made possible by the increasing power of civil society groups. It is obvious that the active coalition-building on the consensus of human rights delivered a more liberal policy in Korea in comparison to Japan. Kyung-Tae Park points that after the enactment of the EPP, pro-migrant NGOs in Korea tend to choose more cooperative relationship with the government rather than confrontational one. Many activists take part in making immigration policy, and the government began to subsidize the activities of the NGOs. (Park, 2005, p. 104)

In the Japanese case, such a governmental change had not been found until recently, in summer 2009. Although Japan is considered as a successful democratic country, the Liberal Democratic Party (LDP) had ruled the Japanese political system since its establishment in 1955. In one sense, the monopolized rule of the LDP provided Japan with social and political stability. However, in other words, Japan never experienced an enormous transition of political power which might bring about new momentum for policy changes. From a perspective of political opportunity structure, “the duration of this conservative politics has provided little room for those who strove for social and political reform.” (Choi 2008, p. 266)

The unchallenged monopoly of the LDP created and cultivated “a pattern of “consensus politics” which discouraged policy-making by obvious majority rule in favor of policy-making by “consensus.” (Pak 1998, p. 126) However, it does not mean that there have been no conflicts among the bureaucrats, the LDP politicians, and business

within the ruling block. Consensus politics indicates that a so-called “iron-triangle” composed of LDP politicians, bureaucrats, and business “has portrayed their majority as comprising the nation as a whole, as if there actually was a unified consensus.” (Pak 1998, p. 127) From a perspective of political opportunity structure, consensus politics has functioned as an effective mechanism for sealing off intra-governmental competitions.

In Japan, about seventeen government ministries and agencies were involved in immigration policymaking. However, each ministry and agency reacted to different view points and agendas. “On the liberal end of the policy spectrum were those ministries most responsive to the demands of labor-deficient Japanese industries, most notably the Ministries of Construction, Agriculture, Transportation, and Forest and Fisheries, all of which generally advocated the legal admission of foreign workers. The Ministry of Foreign Affairs (MOFA), which is most concerned with Japan’s international responsibilities and bears the brunt of foreign criticisms over Japan’s exclusionary immigration policies, also took a liberal stance.”(Cornelius et al., 2004, p.451) On the conservative side, the Ministry of Justice (MOJ), which is responsible for social order, has the most conservative stance on the issue of migrant workers. The Ministry of Health, Labor and Welfare (MHLW), which is concerned with lowering the standard of labor due to influx of migrant workers, is also conservative on the issue. However, in terms of controlling immigration, those two ministries have a great degree of substantial authorities such as entry and exit, and hiring migrant workers. Therefore, within the government, the voices from labor and justice must have been heard loudly. Further, as Tsuda and Cornelius assert, “there is relatively poor coordination and cooperation

between the ministries, which rarely produce policies based on a balanced discussion and compromise between a diversity of represented opinions and positions.”(Cornelius et al., 2004, p.451) Due to the mechanism of consensus politics, immigration policy has tended to follow the approach of the most conservative parts of the Japanese bureaucracy represented by the MOJ and MHLW.

The immigration policymaking in Japan is dominated by two conservative Ministries. The MHLW argued that unskilled foreign laborers would downgrade wages and working conditions and cause labor market segmentation. The MOJ, which monopolizes immigration controls, pursued complete control over immigration policymaking from other ministries and agencies. However, the main concerns of the MOJ are not protecting human rights of migrant workers, but cracking down on undocumented workers, and preventing the crimes committed by migrant workers. This is one of the reasons why the Japanese government maintains quite restrictive policy toward foreign workers. In this sense, Tsuda and Cornelius’s quotation is meaningful. “Former Justice Ministry insiders (retired bureaucrats) report that the Ministry is one of the most conservative, closed-minded institutions in Japanese society and is still dominated by domestic security and ideological concerns to maintain the nation’s ethnic homogeneity and cultural purity. Because the Ministry of Justice emerged on top of the bureaucratic hierarchy in terms of immigration policymaking, its restrictive position was directly reflected in Japan’s 1990 revised immigration law.” (Cornelius et al., 2004, p.452)

Although both ministries shared views on the necessity of continuous restrictive

foreign labor policy, they were involved in a turf war in the late 1980s and early 1990s. In 1988, the Ministry of Labor (name changed into MHLW later) proposed a new work permit system when the Japanese ministries began to discuss about the revision of the Immigration Control and Refugee Recognition Act. The Ministry of Justice regarded this proposal as an invasion of the MOJ's territory. After the turf war, the MOL postponed its new proposal, and since then the MOJ has prevailed in the fight with the MOL.

(Chiavacci 2007)

In sum, I argue that the reason why Japan clings to the most restrictive immigration policy among liberal democratic countries is found in high degree of bureaucratic isolation in the context of developmental state and domination of most conservative governmental branches such as the MOJ and MHLW. Further, without any political coalitions between the bureaucrats and social actors such as employer's association and pro-migrant NGOs, it is almost impossible to expect any changes in immigration policy in Japan.

In Korea, the Ministry of Trade and Industry, the Ministry of Justice and the Ministry of Labor dominated the process of immigration policymaking. While the Ministry of Trade and Industry approached the problem of foreign workers in order to provide cheap labor forces with some industrial sectors which have chronic labor shortages, the Ministry of Labor treated it as a labor relation issue which definitely belongs to the Ministry of Labor. The Ministry of Justice also argued that the problems of migrant workers should be dealt with one of issues over immigration control, which is under the jurisdiction of the Ministry of Justice.

In the early debate over foreign labor policy, the Ministry of Trade and Industry took initiatives in launching the ITTP, and in revising ITTP into the Employment after Training Program. They further opposed the change into the Employment Permit Program claiming that it would put more financial burden on the shoulder of small and medium companies. Other economic ministries including the Ministry of Finance and Economy Plans took the side of the Ministry of Trade and Industry with the rationale that the ITTP would reduce labor costs for companies, and it would be beneficial for the sake of national interests. The Ministry of Justice also opposed the new system from a perspective of immigration control and social order. They assumed that the introduction of the EPP would result in preventing Korea from preserving social order due to the massive flow of foreign workers and their overstaying as well as increase of foreign crimes.

Unlike the Japanese case, the Ministry of Labor (hereafter MOL) opposed the position of the Ministry of Justice (hereafter MOJ) and the Ministry of Trade and Industry since 1993. For example, “the Labor Ministry, which has been tasked with monitoring human rights violations, is sensitive to Korea’s international image”, (Cornelius et al., 2004, p. 499) and they have supported the front-door policy toward migrant workers, while the MOJ has been against the EPP and attempted to maintain the ITTP with KFSB. The former President Kim Dae-Jung instructed that the Labor, the Justice, and the KFSB worked together in developing policy, but the MOL obviously has conflicts with the other two. Seol and Skrentny reports, “According to Choi Tai-Ho, deputy director of the Employment Policy Division at the Labor Ministry, The Labor Ministry holds the position

that migrant workers should have legal worker status for a specified period, and also that an objective assessment is needed to determine the overall number of migrant workers needed in the labor market... The Justice Ministry and KFSB, on the other hand, feel that the current trainee system should be maintained.”(Cornelius et al., 2004, p. 499)

In short, more conflictive intra-governmental competition in Korea especially between the Ministry of Justice and the Ministry of Labor provided migrant NGOs with more favorable political opportunity structure for the policy change. Further, POS in Korea became more open for the NGOs due to the inauguration of the new progressive government in 2003. However, intra-governmental competition in Japan was less critical in comparison with the Korean case, and minor competition among the Ministries was likely to be sealed off following the logic of “consensus politics.” Therefore, pro-migrant NGOs in Japan had to face less flexible POS for the policy change.

4.5.2. Historical Development of Movements for Migrant Workers, and Their Activities

It is impossible to discuss the issues of immigration both in Japan and Korea without investigating histories and roles of migrant NGOs because unlike many countries in Europe, political parties in both countries are not generally interested in the issues of immigration. Further, foreign migrant workers have had to rely on migrant NGOs to solve a variety of problems ranging from economic and social welfare to legal ones because unlike other industrial countries, migrant workers in Japan and Korea do not have active co-ethnic organizations. Despite Korean co-ethnic organizations in Japan,

they usually are maintaining the principle of “non-involvement in Japanese domestic politics.” Therefore, it is migrant NGOs who have advocated and advanced the rights of foreign workers, and it is their effort that has attempted to change the governments’ policies.

Although a few churches began supporting migrant workers in 1990, their activities were mainly involved with religious services. Thus, Seol asserts that it is 1992 that migrant NGOs which solely focused on the issues of migrant workers were established. In May 1992, Filipino priests began to offer Mass in Tagalog to hundreds of Filipino workers at Jayangdong Catholic Church. This exotic scene was reported by the Korean mass media. Simultaneously, the mass media revealed cases of human rights abuses of migrant workers. It became a starting point for social movement activists to become interested in migrant workers, and they began to organize NGOs to support migrant workers in Korea.

The Association for Migrant Workers’ Human Rights was established in May 1992 at Jayangdong Catholic Church, and the Association was the first organization which purely put priority on the issues of migrant workers. The Association provided a variety of services such as solving delayed wages, compensation for industrial accidents, resolving physical abuses in companies and so on. On August 1992, the Foreign Workers Labor Counseling Office (FWLCO) of the Catholic Church was established. FWLCO also offered counseling services regarding delayed payment, industrial accidents as well as entry and exit of Korea. On November 27, 1992, the National Council of Churches in Korea (NCCCK), which had a national network of Protestant churches, established Korean

Church's Mission Association for Migrant Workers, and opened an office at the Galilee Church. The Foreign Worker Counseling Center of the Galilee Church composed a medical service team, and for the first time they provided migrant workers with free medical treatments every Sunday afternoon. In November, 1992, the Asylum for Foreign Workers was founded in Gurodong, representative industrial complex in Seoul. The Asylum is the first organization which made shelter service for migrant workers in Korea. In 1992, migrant NGOs in Korea began to emerge based on Christian organizations. They created various services for migrant workers, which are widely accepted by the current migrant NGOs such as counseling, medical services and shelters. As a consequence of increasing quotas of the Industrial Trainees between 1994 and 1997, the number of foreign workers rose sharply, and the issues of migrant workers such as human rights abuses and their poor working conditions became publicized. Since then, migrant NGOs with emphasis on counseling services were created in metropolitan areas, and were expanded into other local industrial cities such as Busan, Daegu, Gwangju, and Changwon.

The majority of the migrant NGOs in Korea are organizations which are affiliated with Protestant or Catholic churches. As of 2000, the religious NGOs for migrant workers account for 87.8% among total migrant NGOs in Korea. This seems a revival of the history of the labor movement in Korea because radical Christian activists had taken up labor issues since the late 1960s, and they had taken advantage of churches as a sacred shield against the labor-repressive government. Activists tried to publicize poor working conditions of young workers, and trained workers as future labor leaders. (Moon 2002)

As Catholic churches in Korea have long been interested in social issues, they took initiatives in supporting migrant workers, and established several counseling centers in local areas. Following “Jun-Jin-Sang Welfare Center” in Anyang (1993), many Catholic labor counseling centers were founded in Daegu(1993), Busan (1994), Suwon(1995), Gumi (1996), Ansan (1997), Changwon (2000), Euijungboo (2000), and Iksan (2000). Each Catholic labor counseling center is being run under the guidance of each region’s Archdiocese Labor Pastoral Commission.

Protestant churches developed Korean Church’s Mission Association for Migrant Workers into The Committee for Korean Church’s Mission for Migrant Workers in September, 1993. The Committee and the National Council of Church in Korea (NCCCK) as an overarching organization paved the way for more Protestant churches to be involved in support of migrant workers later. As issues of human rights of migrant workers got more serious since 1994, counseling centers for migrant workers based on Protestant churches began to emerge in metropolitan areas. Especially, Pastor Hae-Sung Kim founded Sungnam Migrant Workers’ House in April, 1994, and Pastor Chun-Eung Park established Ansan Counseling Center for Migrant Workers in October, 1994. Both pastors have participated in social movements for urban workers and poor people for a long time. They claimed social movement to protect migrant workers’ human rights and labor rights. In 1995 the Korean Church Women United opened a counseling center for female migrant workers, and in 1996 the Seoul Migrant Worker Center was established by Pastor Eui-Pal Choi. Those pastors have become leaders of the movement to enhance migrant workers’ human rights.

Among Protestant church-based organizations, a few organizations solely aim to help specific ethnic groups. For example, Pastor Kyung-Suk Seo, who is considered a pioneer of the civic movement in Korea, established the Seoul Joseonjok Church, and the Church is providing Joseonjok with a variety of services such as medical treatment, barbering, counseling, job searching, and so on.

Although many migrant NGOs have been established by churches, it does not mean other religions have not made efforts to help migrant workers. Buddhist associations approached migrant workers by creating the Buddhist Committee for protecting human rights of migrant workers in January 1994. Since February 1994, the Korean Buddhist associations have provided Buddhist Nepalese workers with a variety of services. In April 1995, Jokyesa, the most influential temple in Korea, launched the Village for migrant workers with the temple to begin projects to support migrant workers. The Village changed its name to the Human Rights & Culture Center for Migrant Workers in November 2000, and the Center later established a second branch in Kimpo.

Meanwhile, non-religious migrant NGOs were also created. Followed by the Association for Migrant Workers' Human Rights, the Center for Chinese Workers opened its door in May 1994, and the House of Migrant Workers in Bucheon was established in March 1995. The Bucheon House declared that their organization was not religious-affiliated, only a pure civic organization. Later, the Association for Foreign Workers' Human Rights in Pusan began their activities on October 1996. Since 1998, the Purun Citizen Community has been running counseling center and Korean language class for foreign workers. In April 2001, the Korea Migrant Workers' Human Rights Center was

set up in Incheon. “In May 2001, the Migrants Branch of the regional Equality Trade Union (ETU-MB) was formed by mainly Bangladeshi, Nepalese, Filipino and a number of sympathetic Korean activists.” (Gray 2006) In June 2002, Friends of Asia was established in Ilsan, and Solidarity for Asian Human Rights and Culture was opened in Bucheon in May 2005. Those two organizations aim for a more international approach to the issues of migrant workers.

As the number of Migrant NGOs rose, the NGOs have specified their main focus among comprehensive services. In September 1999, the Joint Committee of Migrant Workers in Korea (JCMK) set up the Medical Mutual-Aid Union to diagnose medical problems of migrant workers. The Medical Mutual-Aid Union offers various health services to migrant workers with close connection to regional migrant workers’ centers. The Medical Mutual-Aid Union was developed into the Migrant Health Association in Korea in October 2003. Sometimes medical-specific organizations were formed by local migrant NGOs. In 2002, the Medical Supporting Center for Migrant Workers in Kyeongbuk was established by the joint efforts of NGOs in this region such as YMCA. Some medical associations also have close relationships with religious sectors. While Rafael Clinic is supported by the Catholic Church, the Good Neighbors Clinic and the Korean Christian Doctors Association are providing medical services with help from Protestant churches.

Besides medical services, there are organizations that are providing legal services to foreign workers. The Seoul Bar Association opened the Legal Counseling Center for foreign workers in December 1994, and the Legal Rescue Center for foreign workers has

been running in Euijungboo since January 1997. These legal organizations are trying to provide free legal services for foreign workers who are troubled by legal barriers.

Female migrants support groups make up the significant component of migrant NGOs in Korea. Followed by the counseling center for female migrant workers within the Korean Church Women United in 1995, many NGOs which specifically support female migrant workers and international marriage migrants are actively working for enhancing female migrants' human rights. In 1996, the Female Migrant Workers Center within Female Church was established, and the Seoul Migrant Workers Center set up the House of Female Migrant Workers in 2001. The next year the House turned into the Women Migrants Human Rights Center. Meanwhile, those gender-specific NGOs united together and launched the Solidarity for Migrant Women's Human Rights on March 28th, 2001. As international marriages between Korean males and foreign females increasingly gain public attention recently, those NGOs play more active roles in publicizing the issues and changing government's policies.

According to the survey conducted in 2006(Seol and Yi 2006, p. 9), there were 145 NGOs assisting migrant workers in Korea. Among them 106 NGOs (69.7%) are working in metropolitan areas such as Seoul, Incheon and Gyeonggi Province, followed by 13 NGOs (8%) in Daejeon, Chungnam, and Chungbuk, 9 NGOs(6.2%) in Busan and Gyeongnam, 9 NGOs(6.2%) in Daegu and Gyeongbuk, 6 NGOs (4.1%) in Gwangju, Jeonnam and Jeonbuk. There were two NGOs in Jeju Province.

Migrant NGOs in Korea provide migrant workers in need with a wide range of services, from counseling services to organizing demonstration to call for institutional

changes. Following Seol's categorization (Seol 2005c), I would like to summarize their activities into six types.

1) Counseling Services: Migrant NGOs provide free counseling as to how they can receive compensation when their companies do not take actions. According to the 2006 survey, 87% of NGOs were providing counseling services. NGOs help migrant workers in trouble resolve many problems such as delay of payment, industrial accidents, confiscation of passports, acts of violence, medical needs and so on. Most topics in counseling are related to basic labor rights and working condition. Among them, delay of payment is the biggest issue. Because many migrant workers are undocumented, they are vulnerable to fight against immoral behavior of employers. Utilizing illegality of the migrant workers, some unscrupulous employers intentionally delay payment, and when migrant workers complain, some employers warn of the possibility of deportation. Given this situation, migrant NGOs mediate conflicts between employer and employee, and file complaints on behalf of migrant workers.

2) Provision of Shelters and Medical Services: When migrant workers are temporarily laid-off, they need shelter while seeking new jobs. 80% of NGOs are providing medical services for migrant workers. Some NGOs have their own medical facilities, and run free medical programs with support of volunteer doctors, nurses, dentists, and pharmacists during weekends.

3) Educational Services: Migrant NGOs are providing a variety of education programs. Mostly they focus on Korean language programs. According to the 2006 survey, 78.2 % of NGOs are running Korean language programs. Recently NGOs are paying attention to

resettlement program preparing lives of migrant workers after they return. In addition, NGOs are providing computer training, programs for migrant workers' children, and health education.

4) Research and Advocacy: NGOs conduct research projects regarding the issues of migrant workers, and disseminate newsletters as well as printing materials.

5) Religious Services: Migrant NGOs which put more weight on Christianization are conducting missionary services. "The religious groups emphasize church services, Bible studies and revival meetings in their shelter or counseling work." (Moon 2002)

6) Supporting the Associations of Migrant Workers: Migrant NGOs help migrant workers organize their own associations throughout cultural and social events such as picnics, camps, and sports activities.

Migrant Workers Movement in Korea have made enormous efforts to build a network beyond diversity of migrant NGOs, and the movement maintained a firm solidarity to advocate human rights of foreign workers and to push the Korean government to change its policies. It is notable that solidarity among migrant NGOs in Korea has been formed through a series of public confrontations and contentious politics as typically as other Korean social movements have been.

According to Seol (Seol 2005c), the first attempt to build a network among migrant NGOs was the Korea-Japan Solidarity Meeting for Foreign Workers held in September 1993. The meeting was co-organized by three main blocks of the migrant workers movement in Korea, the Association for Migrant Workers' Human Rights, Catholic National Labor Pastoral Commission, and the Committee for Korean Church's Mission

for Migrant Workers. Almost all activists of migrant NGOs in Korea participated in the meeting to share their information and know-how. However, migrant NGOs failed to organize a united umbrella organization. Solidarity-building was just limited to their denominations. The Presbyterian Church in the Republic of Korea, The General Assembly of Presbyterian Church in Korea, The Presbyterian Church of Korea, The Anglican Church of Korea, and The Korean Methodist Church organized each Foreign Workers Mission within their body. Each church and NGOs joined one of these denominational networks. Migrant NGOs operated their mission without core leadership. The Migrant Workers Movement in Korea did not possess critical momentum to build a strong network at the national level. However, momentum came through a series of protests against harsh and unfair government policies.

There had been three critical struggles to unite the dispersed migrant NGOs together. On November 9th, 1993, Ho Lim, a Korean Chinese worker committed suicide in order to protest an excessive fine for illegal overstay. Several NGOs such as the Asylum for Foreign Workers and the Jubilee Mission organized a demonstration to criticize the Korean government's foreign labor policy in front of the Seoul Immigration Bureau. It was the first protest in which migrant NGOs took part together. However, the first significant protest took place between January 10th and February 7th 1994. A group of migrant workers who did not receive sufficient compensation for industrial accidents staged a sit-in at the office of the Citizens' Coalition for Economic Justice (hereafter CCEJ). The CCEJ was the most influential civic organization at that time, which aimed for non-violent and legal solutions to social problems. 11 migrant workers from

Bangladesh, Nepal, the Philippines and Ethiopia outcried their reality that although they endured verbal and physical abuses on shop floors, they had to be expelled from their companies without compensation for industrial accidents and even delayed payments.

Those migrant workers decided to approach the CCEJ because “they were fully aware of the CCEJ’s reputation as a progressive, democratic organization, and thus they sought to use the organization’s reputation to achieve their own purposes.” (Lim 2003)

After the sit-in, major civic organizations in Korea began to realize the serious human rights condition surrounding migrant workers. They helped the workers frame their issues as “human rights problems.” The 29-day demonstration not only caught media attention but also drew the promise that the government would improve the human rights problems of foreign laborers. Yet, only a few workers who participated in the sit-in received compensations. Further, the government did not demonstrate any efforts to change general conditions for migrant workers in Korea. Therefore, the mixed result of the demonstration in the CCEJ created a necessity of more activism among migrant workers and activists. Finally, the most important protest in the history of the migrant workers’ movement in Korea was organized in January 1995. 13 Nepalese workers staged a protest at the Myongdong Cathedral. The migrant workers and activists strategically chose the Cathedral as the protest site because the Myongdong Cathedral has been perceived as the symbolic space for the democratization movement and the place in which the marginalized in Korea have raised their voices at last. The Nepalese workers argued that they have never received their trainee allowances for the previous seven months, and they no longer stand physical and verbal abuse from their Korean employers. Labor

exploitation and human rights abuses which were structurally embedded in the trainee system were vividly transmitted to the Korean public throughout the peaceful demonstration in the Myondong Cathedral. Despite the quiet nature of the protest, their statements during the protest were strongly echoed in the minds of Koreans. Their slogans were as follows: “Please don’t beat me,” and “We are human beings, not slaves,” and “Please give me allowances.” Along with these simple, but powerful slogans, a series of their stories were emotional enough to change Koreans’ attitude toward foreign workers. They said, “I lost three fingers on my right hand working in a factory. What will I do for the future?” (Lim 2003) After a few days passed, their outcries led to a public apology by South Korea’s Cardinal Stephen Kim, who has been a symbolic figure representing a religious consciousness in Korea. Later, “Prime Minister Lee Hong-Koo ordered a “thorough study” of the case and the working conditions of foreign workers more generally.” (Lim 2003)

The protest in the Myongdong Cathedral not only conveyed the miserable working conditions of migrant workers to the Korean public, but also functioned as a catalyst to make a wider network among migrant NGOs as well as other civic organizations. 38 NGOs including migrant NGOs, civic organizations and labor organizations formed the Committee for Guaranteeing Human Rights of Foreign Workers. In July 1998, the Joint Committee for Migrant Workers in Korea (JCMK) was established with ten migrant NGOs to facilitate more coordination among a variety of migrant NGOs. Katherine Moon assesses “the JCMK itself is the offspring of the first public demonstration by foreign workers, which lasted for nine days in January 1995.” (Moon 2002) Afterwards the

JCMK forced institutional changed from the government, and contributed to improving human rights conditions for migrant workers.

Established in 1995, the JCMK led a number of protests, and a nation-wide campaign calling for the end of discrimination and the adequate protection of migrant workers' basic rights. For example, the JCMK drafted its own Foreign Worker Protection Law as an alternative to the problematic ITTP. The JCMK successfully collected over 56,000 signatures supporting this proposal. (Kim 2005) The proposed law was based on an idea of a Labor Permit System, "which allows foreign workers to obtain "regular work permits", renewable each year up to five years." (Kim 2005) Under a labor permit system, foreign workers would enjoy the freedom to switch workplaces, and the three basic labor rights as well as four insurances.(Gray 2007) Although the government did not accept the idea of a labor permit system, the JCMK's proposal formed the basic framework of the EPP later. The EPP contains a number of significant clauses from the proposed law: the Foreign Workforce Policy Committee, the bilateral agreements between Korea and sending countries, the language educational programs, the application of Labor Standards Law and other labor-related laws, and the right to change worksites given certain reasons. However, whether migrant NGOs will keep aiming for a Labor Permit System or not became a major reason for a division of migrant NGOs later.

In this part, I would like to examine the attitude of trade unions in Korea toward foreign labor policy. In many cases, trade unions are regarded as opponents against immigration. In Korea, however, two representative trade unions have not actively opposed importing foreign workers, but passively supported pro-migrant NGOs and

partially contributed to enhancing human rights condition of foreign workers.

The Federation of Korean Trade Unions (FKTU), the Korea's largest trade union, was favorable to the launch of the Employment Permit Program (EPP). The FKTU welcomed the ideas of equal rights and wages for both foreign and domestic workers embedded in the EPP. The FKTU insisted that foreign workers should enjoy the workers' right to organize trade unions, and more social welfare programs should be prepared for foreign workers. Though it seems that the FKTU strongly advocated the human rights and labor rights of foreign workers, the FKTU supported the EPP for another reason. The FKTU criticized the former Industrial Trainee System "on the grounds that domestic workers face unfair competition from cheap, illegal workers in the labor market." (Kim 2004) Kim argues "the FKTU's primary goal is to protect domestic workers from competition from foreign workers. Thus, the federation's motive for supporting the Employment Permit System is mainly to control the inflow of foreign workers through heavy government restrictions on employers." (Kim 2004) The FKTU were concerned more about interests of the union itself and protection of domestic workers rather than about human rights and labor rights of foreign workers. For example, the FKTU urged the government to let the FKTU participate in the policymaking process, and has demanded "a number of restrictions in employment tenure, scope, and type of work, and advocates that only short-term employment options be made available." (Kim 2004)

Another trade union in Korea, the Korean Confederation of Trade Unions (KCTU), which is more radical and progressive, opposes the Industrial Trainee system as well as the Employment Permit Program. Although the KCTU admits that the EPP embodies

better protections for foreign workers compared to the Trainee System, the KCTU has a negative view of the EPP on the ground that the EPP prevents foreign workers from easily changing jobs. These restrictions are violations of an open labor market. “The KCTU argues that the Employment Permit System can only be implemented under a policy of free contracts, and has demanded that the Korean government comply with International Labor Organization (ILO) rules that guarantee labor rights such as free movement for work contracts, the right for workers to organize trade unions, stay with their family members, etc.” (Kim 2004) In sum, while the FK TU puts first priority on protecting the interests of domestic workers, the KCTU strives to further the interests of workers in general regardless of their nationality. (Kim 2004)

The Japanese national government lacks the basic and comprehensive policies to integrate migrant workers into Japanese society because they regard migrant workers as temporary labor forces. Given this neglect of the national government, however, local governments and migrant NGOs in Japan have had to face numerous problems surrounding migrant workers in their everyday life. Especially migrant NGOs have been publicizing the problems of migrant workers and assisting them for over a decade. According to Apichai Shipper, there are about 200 migrant-concerned NGOs in Japan. Migrant NGOs are classified into the following three categories: 1) church-based organizations 2) workers unions 3) civic and professional organization(including women’s organizations, lawyers organizations, medical NGOs and human rights organizations). Like migrant NGOs in Korea, Japanese migrant NGOs provide migrant workers with a variety of services such as advocacy for migrant workers’ rights, solving

job-related problems, offering shelters, affordable medical access and so on. To facilitate coordination among various migrant NGOs, they formed a loose network at the national level. Yet, compared to the Korean case, “the network is much smaller and far less influential.” (Lim 2006)

Although the Christian population in Japan is just about one percent, Christian organizations were the first groups to address the concerns of migrant workers in Japan. “On 13 April 1982, the Catholic Bishops’ Conference of Japan (CBCJ) received a desperate call for help from a bishop in the Philippines to assist Filipina entertainers who had been forced into prostitution in Japan.” (Shipper 2006) In 1983, the CBCJ established a special committee, “Society in Solidarity with Foreigners in Japan” to provide counseling services, masses in foreign languages, and shelters. Since then, the Catholic Church has been the most important group which supports migrant workers in Japan. The Committee on International Cooperation in the Bishop’s Conference is responsible for the pastoral care of migrants. In addition, several dioceses have run centers for migrant workers. Although the number of the native Catholic population is about 400,000, the number of Catholic migrant worker is approximately 300,000. Therefore, the Catholic Church could not neglect this massive influx of Catholics into Japan. Throughout transnational religious networks within the Catholic Church, priests, nuns and lay missionaries have been invited to Japan from migrants’ countries of origin, for example Brazil and Philippines. More than 150 churches serve masses in English or Tagalog.

Protestant Churches have also been actively engaged in activities for migrant workers not only because there are about 300,000 Protestant migrant workers, but also

because “they hold an ethical view that all people are equal as children of God.” (Shipper 2006) Compared with the Catholic Churches’ activities, efforts by Protestant Churches are not as well organized. Most activities were organized spontaneously when migrant workers began to live together in their churches or neighborhoods. Among the Protestant denominations, the Episcopal Church of Japan is the most active. The Episcopal Church of Japan offers English worship services, and further they invited Filipino missionaries to establish an organization to support Filipino workers. Generally speaking, activities by Protestant Churches tend to be isolated and separate without coordination among them.

The second category of migrant NGOs in Japan is community workers’ unions. In Japan, labor unions are divided into enterprise unions and community workers unions. Enterprise unions are usually organized in large firms, and they have led the labor movement in postwar Japan. Community workers unions were created to advocate the rights of workers in Japan’s peripheral labor market because “many enterprise unions do not allow part-time workers to join...small companies often do not have unions.” (Shipper 2006) Therefore, community workers unions established under the slogan, “a union where anyone, even a single individual, can join at any time.” (Shipper 2006) Community workers, unions are open to any workers even foreign workers, and the unions regard foreign workers as exploited fellow workers who are far from protection of Japanese labor laws due to their own lack of knowledge or lack of proper visa status. Usually male migrant workers who work in small firms and construction sites join the unions. In general, the actions of community workers unions are reactive, which means that they do not begin collective bargaining until the rights of a member have been

violated. Community workers unions focus on labor consultation and dispute resolution for example, non-payment of wage, unjust dismissal or compensation for industrial accidents. Migrant workers usually do not join the unions until they encounter a labor dispute. When their needs are satisfied, they leave the unions. “Foreign workers in Japan join these labor unions not for the purpose of strengthening worker solidarity and the labor movement; instead, they join because they are seeking resolution to specific labor disputes with employers.” (Shipper 2006)

Civic and professional organizations make up the third type of migrant NGOs in Japan. Among them women’s support groups have the longest history as supporting groups for migrant workers because along with church-based organizations, migrant concerned activities were initiated by activists involved in transnational campaigns against prostitution. In the early 1980s, the majority of migrant workers in Japan were females from other countries to work for sex industries in Japan. Women’s support groups began to help women who began coming to work in Japan in the early 1980s. Women’s groups provide temporary shelters for women who have been abused, and they offer legal advice. “These shelters also have rescue teams to help foreign prostitutes escape from forced captivity.” (Shipper 2006)

With the increase of migrant workers in the late 1980s, the main issues among migrant NGOs turned into labor consultation and medical care. In many cases migrant workers without medical insurance were not treated in hospitals because hospitals were concerned that foreign workers are not covered by NHI, thus they will not be able to pay their bills. The NHI is a medical insurance program for local residents or self-employed

who are not covered by employee insurance. It is run by local governments and funded by the insurants' premiums and National Treasury disbursements. In 1992, the Ministry of Health and Welfare guided local governments to provide public-funded NHI only to Japanese citizens, permanent residents, and foreigners who have registered themselves and who will be in the country for over one year from the time of arrival." As a consequence, overstayed migrant workers cannot be covered by NHI. Civic organizations have been pushing government to provide emergency services for all migrant workers. Some NGOs have established mutual aid system for migrant workers who are not insured by the national insurance system. Due to such institutional barriers to medical services, medical NGOs are the most active service providers among support groups. The Occupational Safety and Health Centers (OSHC) are the representative ones who treat migrant workers who suffer from industrial injuries and illness. Even they take care of overstayed foreigners working in bad conditions. "These doctors have mobilized their medical friends and members of these OSHC to support overstayed foreigners." (Shipper 2006)

Many overstayed foreigners experience difficulty in accessing not only medical services, but also legal assistance. Concerned lawyers in each regional bar associations formed subgroups to help foreign workers with legal consultation on labor disputes. The reason why the lawyers help foreign workers is that they feel that their clients are vulnerable to Japanese discriminative policies and institutional regulations. For example, when foreigners are under arrest, police do not explain them their rights comprehensively, and "furthermore, the authorities are known to have verbally (and, at times, physically)

abused foreign suspects even in cases of petty infringements.” (Shipper 2006) Besides legal advices and handling criminal cases, the lawyers’ associations propose “better treatment of suspects being held in detention centers, prisons and immigration offices, and the professionalization of translators in legal cases involving foreigners who speak Japanese poorly.” (Shipper 2006) Further, the lawyers in the Japan Civil Liberties Union (JCLU) drafted a proposal for a law on the elimination of racial discrimination. (Chan 2008)

Following the Christian NGOs, the ideological citizens’ group began to pay attention to the issues of migrant workers. They help foreign workers because of their belief in racial equality, social justice, and civil rights. Based on these ideas, they assist not only foreign workers, but also other minorities in Japan such as the Burakumin, the elderly, the handicapped and the homeless people. Thus, Shipper defines these groups as “civil rights activist organizations that are seeking legal rights and protection for marginalized people.” (Shipper 2006)

Migrant NGOs in Japan began from Church-based organizations and women’s organizations. Since then, several citizens’ groups evolved out of Christian groups. In the late 1980s, when male foreign workers were induced into small firms and construction sites, some community workers unions and lawyers’ associations started activities to support foreign workers. As the number of foreign workers increased, migrant NGOs became more diversified. Especially, after the Japanese government instructed local governments to exclude overstayed foreigners from the national health insurance, medical NGOs emerged to provide proper medical service for overstayed migrant

workers.

As migrant NGOs expanded their activities beyond the day-to-day counseling, they needed to build networks to share information and to make unified voice. Efforts to organize network among migrant NGOs were achieved within geographical regions first. Activists contacted with other NGOs in their neighboring areas to share information about immigration law and expertise on how to resolve the problems of migrant workers. Further, personal relationships among activists stemmed from previous social movements facilitated network building. "Personal ties between individual activists with previous experience in social movements provided a foundation for network building." For example, the Pacific Asia Resource Center (PARC) as a pre-existing institution in the activists' community played a crucial role in molding relationship before network was formed. PARC provided opportunities for migrant NGOs which have similar goals to resolve the issues of migrant workers. In 1987 ten migrant NGOs formed an umbrella organization known by the Ajikon (Round Table on the Asian Workers Problem). The Ajikon was established by continuous efforts of older activists and religious organizations. PARC provided a forum for activists in the migrant NGOs, and religious organizations, for instance the Japan Council of Churches provided their offices for the Ajikon. When Ajikon faced financial deficits in 1994, a Christian constituent group provided loans to tide them over. Meanwhile, religious groups developed cooperative relationships among themselves, and similar labor unions also built ties.

In 1997, migrant NGO activists announced a plan for a formally organized national network at the session of the National Forum on Migrant Workers' Issues. They intended

to institutionalize the previous loose informal patterns of information exchange, and they tried to go beyond the annual National Forum and a sort of ad hoc committee to exert more influential opinion over immigration authorities in Japan. The Ijuren, Solidarity Network with Migrants Japan, exemplifies the major organizational shift in the history of migrant workers' movement in Japan. "This new network aimed for greater national coordination of activities and better information exchange that would take advantage of electronic communications to support a proactive policy agenda." (Milly 2006) After the Ijuren finished organizing leadership structure and local representative systems, the Ijuren formed project teams to focus on specific policy areas to draft policy proposals, lobby politicians, and meet with central officials. According to the Ijuren, their main activities for advocacy are to prepare a comprehensive policy for foreign residents in Japan, and negotiate with governmental agencies. However, the Ijuren have used both confrontational and cooperative methods to make improvements in policies. In the late 1980s and early 1990s, the Ijuren used the traditional movement methods such as demonstrations, litigation, and direct intervention with local employers and authorities. But, recently they added cooperative tactics such as "regular informal meetings with central ministry officials over policy problems." (Milly 2006)

4.5.3. Interactions between State and Social Movements

As I will explain later, while we can observe political coalition between the Labor Ministry and pro-migrant NGOs in Korea, and it contributed to implementing the new

policy, it is difficult to see such a coalition in Japan because Japanese civil society has tended toward a passive and more parochial position. In terms of a structural characteristic of civil society in Japan, Robert Pekkanen claims that the Japanese state decided to selectively shape civil society by giving more preferential treatments to certain type of organizations, while regulating other type. The Japanese state has promoted small local associations such as the neighborhood associations, and the state has put heavy institutional restrictions on large national advocacy groups. As a consequence, the Japanese civil society has a dual structure such as “an abundance of small local groups but a striking dearth of large independent advocacy groups.” (Pekkanen, 2004b, p.224) It implies that many small local groups facilitate high level of social capital, but fewer civil society voices are heard in the terrain of public policy. The dearth of voices from civil society in the area of immigration policy also made a difference between Korea and Japan. Pekkanen states, “Japanese civil society groups have also been weak on issues ranging from whaling to human rights.” (Pekkanen, 2006, p. 181)

Gabriele Vogt and Philipp Lersch’s survey on migrant support organization in Japan confirmed Pekkanen’s thesis of Japan’s dual civil society. Vogt and Lersch conducted a survey of 18 migrant support NGOs in Japan. They concluded that the organizations pay more attention to service-providing rather than political advocates who seek a policy change. According to this survey, organizations with more than 50 volunteers tend to have more contact with local authorities, yet they did not find a significant contact to national policymakers. For example, 66% of the migrant NGOs in Japan do not have contact with the Ministry of Justice, and 77% do not have contact with other

bureaucracies at the national level. (Vogt and Lersch 2007)

Therefore, the Japanese NGOs for migrant workers are more likely to focus on local issues, and the NGOs become more fragmented without forming national level organizations. In other words, Japan's dual civil society and strong state confine the issues related to foreign workers to the local level. Thus, it seldom influences the policymaking process. According to Vogt and Lersch's survey, "political advocacy, such as "change legal framework for migrants," or "enforce human rights" are relatively few in numbers." (Vogt and Lersch 2007, p. 31) It is quite contrary to the Korean situation where nationally well-organized NGOs coalition including trade union, women's organizations, national church organizations as well as various NGOs for migrant workers pushed the national government to change ineffective foreign labor policy. According to Seol and Yi's survey, 54.5% of the migrant NGOs in Korea are involved in political advocacy, which aims to improve the foreign labor policy. 78.2% of migrant NGOs are maintaining horizontal network with other civic organizations for a better advocacy. (Seol and Yi 2006)

The cleavage between the Justice Ministry and the Labor Ministry took place in the Korean government's attempts to make a balance between economic interests and human rights concerns. Along with the increase in the number of foreign workers, human rights violations have become widespread. Reflecting these matters, the emerging politics of immigration policies in Korea has largely been led by splits between economic interests coalition and human/labor rights coalition. When the government debated the reforms of immigration policy, political coalitions were built on this line. Economic interests

coalition consisted of the Korea Federation of Small Business, The Ministry of Commerce, Industry and Energy, The Ministry of Justice, and the Small and Medium Business Administration, while the human/labor rights coalition was made up of the Joint Committee for Migrant Workers in Korea (JCMK), Labor Unions, other Civil Society Groups, the Ministry of Labor, and The National Human Rights Commission. The policy core of the economic interest coalition was to guarantee corporations' interests, thus their main goal was to maintain the current training system. At discourse level, they argued that the EPP would not only increase financial burden (wages will be increased by 20-30%), but also reduce flexibility of employment. In addition, they claimed that the EPP would cause instable relationship with foreign workers (labor union), and the settlement of foreign workers would bring about social problems and increase costs of social welfare. They even asserted that the consequence of the EPP would damage Korea's national identity. They were also concerned that foreign workers will gradually penetrate labor markets for domestic workers. Meanwhile, human/labor rights coalition established their policy core as guaranteeing human/labor rights for foreign workers. They contended that the current training system keeps violating human rights, and is making illegal workers continuously. As a result, it will lead to damage of national image at the international level.

As I explained earlier, the ITTP generated a great amount of human rights violations for foreign workers. The ITTP ended up a total failure as the program became a site for generating illegal foreign workers, thus creating more workers to human rights violations. A significant number of trainees escaped from their designated companies to become

undocumented migrant workers whose wages more closely resembled native labor market price. As a remedy to the failure of the ITTP, the ruling New Korea Party and the opposition National Congress for New Politics submitted a bill in 1997 of the EPP to the National Assembly with the intention to reduce human rights abuse and labor exploitation. The MOL also supported the bill along with the Joint Committee for Migrant Workers in Korea (JCMK), an umbrella organization for migrant workers. Established in 1995, JCKM led a number of protests, and a nation-wide campaign calling for the end of discrimination and the adequate protection of migrant workers' basic rights. Since then, the MOL and pro-migrant NGOs have made political coalition to abolish the ITTP, and to introduce the EPP. When the MOL announced that the Employment Permit would replace the ITTP, for instance, "a joint organization of 26 civic movement groups, including the Citizens' Coalition for Economic Justice (CCEJ), had urged the government to reform the policy on the import of foreign workers." (Lee and Park 2005, p. 152) Both the MOL and the migrant NGOs needed each other for different reasons. Since the MOL did not have a strong influence over introduction of the new policy facing critical opponents within the government including the Ministry of Justice and other economic branches, the MOL sought to find its coalition partner from civil society in order to achieve its policy goal. The migrant NGOs tried to find a channel to pressure the government directly through the MOL.

In the face of strong opposition from proponents of economic interests led by the Korea Federation of Small Business (KFSB) and the Ministry of Justice arguing that the passage of the bill would place a heavier financial burden on small Korean business due

to the expected rise of foreign workers' wages and welfare benefits, the EPP turned into a diluted form called "the Working After Training Program for Foreigners (WATP)" in April 1998. Through the WATP, foreign workers became entitled to the Labor Standard Act, the Medical Insurance Law, and the Industrial-Disaster Insurance Law, as well as receiving severance pay and various other allowances.

However, as the WTAP still fell short of the goal of reducing human rights abuses, a second such attempt was made in April 2000 under the Kim Dae-Jung Administration. The JCMK released a report, titled "A report on for human rights of foreign workers in Korea." (JCMK 2001) "The JCMK sent it directly to Kim Dae-Jung." (Lee and Park 2005, p. 153) Meanwhile, the MOL kept making efforts to introduce the EPP. However, the attempt of the EPP was once again dropped on January 9, 2001, for economic reasons. This time, the EPP bill did not even reach the Standing Committee of National Assembly due to the economic downturns. Despite continuing opposition, the EPP bill was finally approved in August 2003 under the Roh Administration.

One of the reasons for success in enacting the EPP was that the political coalition to support the EPP on the basis of human rights was much wider than before. In September 2002, "a consortium of 166 advocacy organizations formed the Common Committee for Opposing Crackdown on Migrant Workers, Abolition of Trainee System and Securing Migrants' Rights (COCATS)." (Kim 2005, p. 401) Further, the two largest labor unions in Korea, the Korean Conferderation of Trade Unions (KCTU), and the Federation of Korean Trade Unions (FKTU) sponsored a mass meeting in June 2003 urging the government to implement the Work Permit System, even though their roles were quite

symbolic.¹⁹ (Kim, 2005, p. 405)

With support of horizontal coalition among civil society, the MOL actively attempted to pass the EPP under the new administration. The MOL reported to the presidential transition team in 2003 that it would introduce the EPP starting in 2004. (Lee and Park 2005) Although the efforts to pass the EPP had been blocked by a strong opposition of economic interests coalition since 1996, the new government accepted the bill of the MOL, “which argued the existing system would increase long-term social costs for overstaying and human rights violation and could not solve the labor shortage problem effectively.” (Choi 2008, p. 208) Further, the efforts of the MOL and the migrant NGOs were supported by the National Human Rights Commission (NHRC). It was established in 2001 as Kim Dae-Jung’s interest in institutionalizing human rights issues. In support of the Roh administration’s initiative, the National Human Rights Commission (NHRC) helped the government to completely abolish the ITTP and to introduce the EPP to better protect human rights of foreign workers.²⁰ As a consequence, Lee Jae-Jung, the ruling party’s assembly man submitted the bill on behalf of the MOL to the National Assembly on February 19, 2003. Finally, it passed on July 31, 2003.

Unlike the Japanese NGOs, Korean civil society can be categorized as “advocacy without members,” which means that the civil society groups have paid more attention to

¹⁹ While Japanese trade unions oppose the imports of migrant workers, Korean trade unions do not oppose hiring migrant workers as far as they play supplementary role to domestic workers’ jobs. Most company trade unions are affiliated with the FKTU and KCTU, which is considered a more progressive federation than the FKTU. On the issues of migrant workers, KCTU was actively engaged in this issue. Both federations agree that the rights of migrant workers have to be protected by trade unions since they are also subjects of the unions.

²⁰ NHRC has authority to investigate and research policies containing human rights issues and recommend solutions for correcting human rights violations.

drawing policy changes rather than to mobilizing their membership bases. To exert their influences, the Korean NGOs usually aim for policy changes by targeting the national government, and have developed strategies to make solidarities with other civil society groups, and they are really good at obtaining media attention. The Korean NGOs have also been a partner in national governance since the Kim Dae-Jung Administration.

Further, The Roh Moo-Hyun Administration, whose title was “participatory government,” intensified the collaboration with civil society because the birth of the Roh Administration was made possible by the increasing power of civil society groups. As noted in table 4.2, the number of activists who were appointed in governmental positions significantly increased in the Kim Dae-Jung administration and the Roh Moo-Hyun government. Definitely those previous activists had become an effective channel for civil society groups to realize their voices in policymaking.

Table. 4.2. The number of Activists Appointed in Governmental Positions (1993-2008)

<i>Positions related to</i>	<i>Kim Young-Sam Govt (93-98)</i>	<i>Kim Dae-Jung Govt (98-03)</i>	<i>Roh Moo-Hyun Govt (03-08)</i>	<i>Other</i>	<i>Total</i>	<i>%</i>
President	6	48	63	4	121	38.7
Prime Minister	0	16	16	3	35	11.2
Government	5	27	51	5	88	28.1
Legislative	1	5	3	3	12	3.8
Judiciary	1	1	2	1	5	1.6
Independent	6	13	21	2	42	13.4
Local Govt	3	3	2	2	10	3.2
Total	22	113	158	20	313	100.0
%	7.0	36.1	50.5	6.4	100.0	

Source: Yoo and Wang (2006)

It is obvious that the active coalition-building on the consensus of human rights delivered more liberal policy in Korea in comparison to Japan. Kyung-Tae Park points

out that after the enactment of the EPP, pro-migrant NGOs in Korea tend to choose more cooperative relationship with the government rather than a confrontational one. Many activists take part in making immigration policy, and the government began to subsidize the activities of the NGOs. (Park, 2005, p. 104)

Although it is not sufficiently scrutinized in this chapter, we should consider another factor, the will of presidents besides intra-governmental competition and political coalition. The first attempt to change into the EPP came from the former president, Kim Dae-Jung's instruction. He stated, "We should be ashamed about the discrimination against foreign workers when we are aiming at establishing state safeguarding human rights in global era." The next successor, president Roh's will to human rights as a former human rights lawyer, contributed critically to passing the new policy. President Roh pledged enactment of the EPP during his presidential campaign, and the transition team considered how to pass the EPP even before the inauguration of President Roh. (Lee and Park, 2005, p. 156) He claimed, "The responsibility and rights are inseparable; the nation, joining the ranks of advanced countries and the UN human rights conventions, should hold up labor policies meeting the international norms and standards not only in name, but in reality." (*Korea Times*, February 2, 2003)

4.5.4. Division of the Movement and New Political Opportunity Structure

The JCMK had played a crucial role in improving human rights of foreign workers, and had contributed to changing the basic framework of foreign labor policies. As the

JCMK became a center of the migrant workers' movement, the Korean government recognized political power of the JCMK, and picked up the JCMK as a major channel when the government supported the migrant NGOs in Korea. Therefore, many migrant NGOs newly joined the JCMK in order to utilize the increased influence of the JCMK, and to gain more support from the government. However, increase of membership made it difficult for uniformity and consensus-building within the JCMK. In the course of conflicts, young staffs in the JCMK collectively resigned in the summer of 2000. In winter, three organizations with which former president of the JCMK and incumbent vice-president are affiliated separated from the JCMK. A few young staffs organized "the headquarter of struggle for achieving labor rights of migrant workers and freedom of migration & employment" in October 2000. Later the headquarter was evolved into the Equality Trade Union-Migrants Branch (ETU-MB)." The three organizations withdrawn from the JCMK formed another network, "the Solidarity for Migrant Women's Human Rights" on March 28th, 2001. This network had gathered a series of regular meeting for a year. In February 2004, they launched Solidarity for Migrant Workers' Human Rights in Korea (SMHR). Since 2001, the migrant workers' movement in Korea was realigned into three camps such as the JCMK, the SMHR, and the ETU-MB. Ideologically, the ETU-MB is far from the other two networks, and the ETU-MB is quite marginalized. Thus, the migrant workers' movement in Korea is mainly divided into the JCMK and the SMHR.

The JCMK and the ETU-MB sharply confronted with each other on their position on the EPP. The main difference between the EPP and the LPP lies in migrant workers' right to change their workplaces. While the LPP allows migrant workers to change their

workplace, the EPP generally does not except for a few reasonable circumstances.

Although the JCMK had been supporting the LPP as an alternative to the ITTP from 1996, it tactically decided to accept the EPP on the ground that “recognition of the workerness of migrants was an obvious improvement over the ITTP and that the government was unlikely to accept all the JCMK’s demands in one go.” (Gray 2007) However, supporting the EPP meant that the JCMK agreed with the government’s main principle of rotation and deportation policy. The ETU-MB opposes the EPP because it does not guarantee freedom to change a workplace. But, the JCMK views the EPP as a second-best solution. The SMHR’s position on the EPP is not much different from the JCMK’s.

Two camps also had different views on voluntary reporting for illegal migrant workers in 2002. Prior to the 2002 Korea-Japan World Cup, the Korean government announced a temporary amnesty program for illegal migrant workers. If illegal overstayers report their status during the voluntary reporting period, the government would grant them one-year legal stay. It was a preparatory stage of deportation in advance of the EPP. It was a double-edged sword for the migrant workers’ movement. Unless the government will not massive crackdown after a year, it would be a good opportunity for illegal workers to be employed legally. However, it also could be interpreted that the migrant NGOs are helping the government’s deportation policy. On this issue, the JCMK decided that the JCMK just provides the migrant workers to the relevant information, and lets them choose whether they will report their status or not. Kevin Gray summarized this position as follows: “if you register and you are deported, or if you don’t and are deported, all the same it’s your responsibility.” (Gray 2007) The

ETU-MB clearly opposed the voluntary reporting system by saying that the JCMK's decision is a betrayal for the migrant workers. They argued that "the objective of the movement should be the registering of all workers, rather than what amounts to a tactical abandonment of the long-term illegal sojourners, who would be the targets of the forced deportation." (Gray 2007)

Regarding both issues of the EPP and the voluntary reporting system, the JCMK and the ETU-MB were clearly split into a realist camp and an idealist camp. The realist camp, the JCMK stands on position that the migrant workers' movement should achieve its goals through gradual improvement of the system. They assert that unless we cannot attain the whole at once, we have to take advantage of the improved situation step by step. However, the idealist camp, the ETU-MB argues that the migrant workers' movement should not abandon the basic principle of the movement such as the LPP, collective decision making and so on.

The fundamental difference between the JCMK and the ETU-MB depends on how they view migrant workers. "There is a clear division between the subjects and the objects of the movement." (Gray 2007) It is a difference of how to define the migrant workers' movement. Is it the movement to support migrant workers throughout the day-to-day activities as well as political campaign or is it the movement to be organized by migrant workers themselves in the form of labor union? Is it the movement for migrant workers or of migrant workers? The ETU-MB criticized the JCMK that the migrant workers' movement in general is led by Korean activists, who have paternalistic attitudes toward migrant workers. The ETU-MB argued that the Korean NGO-centered movement

does not help migrant workers themselves represent their own interests.

The JCMK and the ETU-MB was divided because of widely different views on the government's policies and definition of the movement. However, the JCMK and the SMHR was split for a variety of reasons. First of all, the representatives of the three organizations which withdrew from the JCMK first were all females. They mainly criticized that the JCMK had been led by male activists, and it was lack of democratic civility within the movement. Second, some activists in local areas challenged the movement's emphasis on the metropolitan areas. Third, non-religious organizations considered that the JCMK heavily relied on religious-affiliated organizations, and the JCMK was dominated by a few religious leaders. According to my interview, the chairman of the SMHR, Hyun-Mo Choi, said that the SMHR was separated from the JCMK mainly because the decision-making in the JCMK was made by a few famous activists. Therefore, some young activists aimed to make a more democratic network organization.

Along with the division of the JCMK, the migrant NGOs in Korea faced a new political opportunity structure. As soon as the EPP was introduced, intra-governmental competition quickly disappeared, and each governmental branch tried to adapt itself to the new legal framework. Especially, the Ministry of Justice, which opposed the EPP, began to actively emphasize the protection of human rights of foreign workers. To find its position within the new policy, the Ministry of Justice also built network with scholars and civic organizations, and took initiatives in shifting the government's position on immigration from immigration control to immigrant integration. (Lee 2008a) Therefore,

the new political opportunity after the introduction of the EPP was less favorable for the migrant NGOs to achieve the next goals such as introducing work permit rather than employment permit, and legalizing undocumented workers. Further, the Ministry of Labor, which achieved its primary goal, detached itself from the migrant NGOs. In short, less intra-governmental competition “became less probable for the movement organizations to gain favorable opportunities due to the division of the government.” (Choi 2008, p. 215)

4.6. Conclusion

In this chapter, I argue that the South Korean pro-migrant NGOs are in a relatively more advantageous situation to draw significant change in immigration policy at national level by making political coalitions. Deborah Milly says, “The lesson of the South Korean case is that, even with a commitment to human rights, it is difficult to protect workers and prevent irregular employment unless there is a concerted and sustained effort by officials, advocacy groups, and employers to make repeated adjustments that will respond to unintended policy outcomes.” (Milly, 2007)

One of the goals in this chapter is to throw three keywords, interests, norms and institution into the cases of Japan and Korea. I conclude that interest-based approach has lesser explanatory powers than institutional approach in order to explain the development of immigration policies in Japan and Korea as well as the difference between two countries. The mode of client politics is little found in Japanese policy regime because the

Japanese bureaucrats enjoy higher degree of autonomy than any other bureaucracies. This approach explained the development of immigration policies in Korea until 2004.

However, it failed to explain why the cliental coalition between the Justice Ministry and organized business groups was not able to stop enacting the new program, EPP. In addition, few roles of international norms on domestic migration policies are played in Japanese policy regime, especially at the national level despite of several key decisions by the courts because the Japanese governmental authority is not significantly limited by these decisions. Although Korean NGOs and governments sometimes have utilized international norms to enhance the rights of migrant workers in Korea, the real impacts on policy change came from domestic reasons rather than outside-in.

In this regard, I argue that the historical-institutionalist approach focusing on intra-governmental competition and political coalition can explain better the differences of the two countries. In both countries, the key ministries in the immigration policymaking regime are the Ministry of Justice and Labor. However, while in Japan two ministries are standing on the conservative side, in Korea, the Justice Ministry represented the interests of business on the conservative side, and the Labor Justice kept opposing the stance of the Justice Ministry. Moreover, this intra-governmental competition was extended to the cleavage between political coalitions respectively based on economic interests and human rights. Thus, Korea had more opportunities to change the immigration policies within more competitive environment rather than the Japanese policy regime, which was dominated by two conservative ministries, and was lack of political sway from civil society. I make the conclusion that the different statue structure and political opportunity

structure could make a difference in the immigration policies between Japan and Korea.

CHAPTER 5

Explaining Policy Convergence in Japan and South Korea: Ethnic Preference Policies toward Ethnic Japanese and Koreans

5. 1. Introduction

This chapter mainly aims to explain convergence of immigration policy in Japan and South Korea focusing on ethnic preference policies toward ethnic Japanese and Koreans from Latin America or China. The issues of *Joseonjok*, Korean Chinese in Korea, and of *Nikkeijin* as descendants to overseas Japanese and dependents to Japanese nationals are closely intertwined with foreign labor policy in both countries. According to immigration data in Korea, there were 237,000 *Joseonjok* in Korea in 2006. They account for about 30% of low-skilled foreign workers in 2006. The proportion of ethnic Koreans in the foreign labor market currently accounts for approximately 56% of the total foreign workers. In Japan, *Nikkeijin* is the third largest foreign population followed by Chinese and Korean residents. After the revision of Immigration Control Act in 1990, Japanese labor market became widely open to *Nikkeijin*. As seen in figure 3.3., the number of foreign residents from Brazil has dramatically increased since the early 1990s. While the proportion of the trainees to the total foreign workers in Japan was 18% in 2007, the equivalent one of *Nikkeijin* was 30%. Thus, many experts say, “the Japanese way to recruit alien workforce is *Nikkeijin*, allowing foreign students a part-time work status, and ignoring employment of undocumented workers.” (Seol 2005)

Both ethnic groups are enjoying relatively privileged status in foreign labor markets. Both ethnic Japanese and ethnic Koreans not only receive preferential treatments in terms of immigration control, but also find themselves in jobs with higher status and salaries in comparison with other non-Japanese or non-Korean migrant workers. For instance, the current Japanese immigration law allows *Nikkeijin* to stay in Japan for three years without any restrictions in their economic activities. They can renew their “long-term resident” visa without any limits. Further, they are able to bring their spouses and children. Under the current immigration system in Korea, *Joseonjok* is granted a five-year multiple re-entry visa with a maximum stay of three years for each entry. In this regard, Yong-Wook Lee assesses this ethnically preference policy by saying that “ it arguably constitutes the first case of breaking away from the long-held government principle that all foreign workers (including Korean descendants) should be admitted only on a temporary basis.” (Lee 2009, p. 322)

However, it is notable that Korea did not begin with ethnic preferential -treatments when it comes to ethnic Koreans when the debate on foreign labor and immigration were emerging. While the Japanese foreign labor policy started with ethnic preference toward Japanese descendants in 1990, the Korean government did not grant privileged status for Korean Chinese, and rather they were regulated under the scheme of ITTP like other non-Korean foreign workers. However, foreign labor policy in Korea has gradually moved into the direction of ethnicization. In 2002, the Korean government started to consider preferential policy to *Joseonjok*, and they made a special distinction between *Joseonjok* and other non-Korean foreign workers in controlling their employment. Once the

decision of ethnic preference was made, the Ministry of Justice reduced one of the requirements of employment visas, especially age limit. In 2005, the age limit for the employment visa was lowered from 30 to 25. By making a “Working Visa System” which came into effect in 2007, the Korean government allowed *Joseonjok* to work not only in the manufacturing sectors, but also in the service areas including the wholesale and retail businesses, which were previously prohibited. Further, “the Ministry of Justice is considering completely lifting any remaining restrictions on visiting, employment, and residence for *Joseonjok* by 2010.” (Lee 2009, p. 323)

It is quite paradoxical in the sense that on one hand, immigration policy in Korea grants more rights for migrant workers than before, on the other hand the Korean government preferentially treats Korean Chinese based on the concept of ethnicity and bloodline. (Kim 2008b) In this chapter, I would like to explain this paradoxical policy change in Korea in comparison with the Japanese case. For this purpose, I will describe historical background of the issues on *Nikkeijin* and *Joseonjok* as well as historical development of policy when it comes to *Nikkeijin* and *Joseonjok*. And then, I will mainly explain Korea’s policy change into ethnic preference by utilizing historical-institutionalist approach with focus on intra-governmental competition and interactions between state and social movements. I argue that when it comes to policy convergence in Japan and Korea, more contentious civic organizations and migrant NGOs in Korea kept protesting the discrimination against *Joseonjok* embedded in the Overseas Korean Act, and finally they yielded surrender from the Korean government. As a result, the Korean government decided to devise the special treatment of *Joseonjok* within the EPP system. Since then,

immigration policy in Korea has gradually moved toward ethnic preference toward Korean Chinese.

5.2. Issues on *Nikkeijin* in Japan

In June 1990, the Japanese government announced a new immigration policy, the so called revised Immigration Control and Refugee Recognition Act. Following enforcement measures in the U.S., the new policy imposed a penalty on employers who hire illegal foreign workers, and it also confirmed that Japan would not allow unskilled foreign workers. Although the new policy seemed to reinforce the principle of no immigration, it granted an open chance in the domestic labor market to second generation (*Nisei*) and third generation (*Sansei*) of Japanese ancestry in Latin America. As a consequence, Japanese employers increased a preference to the Japanese descendants who were freely accessible to the job market without any legal problems. The new policy sought to maintain a strict regulation on unskilled labors from Asian countries, while Japan opened a side door to the Japanese descendants as an alternative solution to cyclical labor shortage in 3D sectors.

5.2.1. Historical Background

Japanese emigration to Latin American and their U-turn migration to Japan later were totally rooted in the Japanese government's policies. Right after the Meiji

Restoration, the Japanese Meiji government attempted to transform Japan into a modern society as fast as possible in order to catch up with other developed countries under the slogan, “Rich Country, Strong Military.” In the middle of the course, the government intended to lower the price of rice for controlling inflation, and put a heavy burden of taxes on farmers and landless tenants. They consequentially moved to urban areas to find jobs in newly emerging manufacturing sectors. However, some farmers and tenants, especially in southwestern Japan were displaced as being unemployed. In order to figure out unemployment among those displaced population, the Japanese government encouraged emigration to other countries. In 1885, the first Japanese emigrants were recruited by sugar plantation owners in Hawaii, and later other Japanese emigrated to the West Coast of the United States as a replacement of Chinese workers, who had been refrained by the 1882 Chinese Exclusion Act. In 1889 the first group of Japanese immigrants moved to Latin America to work for Peru’s sugar-cane plantations. In 1908, Brazil became a new destination for Japanese emigrants because European countries banned emigration to Brazil due to deferred payment of salaries in the Brazilian coffee industry. The Japanese ship, *Kasatomaru* arrived at the port of Santos carrying 781 Japanese people, and it was the beginning of the ninety-year history of the Japanese Brazilians. (Yamanaka 1996)

In 1924, the Japanese government decided to increase Japanese emigration to Brazil as a state policy to solve the problems of increasing population and to offer relief to the victims of the Great Kanto Earthquake. (Tsuchida 1998) To promote emigration to Brazil, the government provided emigrants with subsidies for transportation, agent fees and

allowances. The Social Affairs Bureau of the Ministry of Home Affairs subsidized travel costs (200 yen per person) and commissions (35 yen), and even bought nice clothing for them to help improve their image. To boost these emigration campaigns, the government also gave subsidies to the Kaigai Kogyo Kaisha (Overseas Development Company), and let them handle the encouragement, propaganda and recruitment. Further, the government encouraged prefectural emigrant associations and private emigrant organizations to disseminate the idea of “great ventures abroad.” (Tsuchida 1998) As a result of the government’s efforts, 158,000 Japanese took ventures to Brazil between 1923 and 1941. This period marked “the peak of Japanese immigration to Brazil.” (Yamanaka 1996)

After the end of World War II, Japan experienced another population problem because approximately 6.2 million people returned to Japan and 6.4 million babies were born. In 1949 the Japanese Diet reacted to this problem by proposing a Resolution of the Population Problem. After Japan came back to the international community in 1953, the government decided to promote emigration abroad again, and created several governmental agencies and government affiliated associations such as Consular and Migration Policy Division in 1953, the Japan Overseas Cooperation Union Committee in 1954, and Emigration Division in 1955. The Japanese government also signed bilateral Migration Agreement with Bolivia in 1956, Paraguay in 1959, Brazil in 1960, and Argentina in 1961. The emigration campaigns kept on until 1973 when the Japanese government officially announced end of the emigration program. Between 1953 and 1973, almost 60,000 Japanese emigrated to Brazil alone.

Economic analysis based on cost-benefit calculation cannot completely explain the

return migration of the *Nikkeijin*. However, it is hard to deny the fact that the return migration was driven by a strong push factor in Brazil. The Japanese Brazilians' return migration was caused by a series of economic deterioration in the Brazilian economy throughout the 1980s. The oil crises and skyrocketing national debts nearly collapsed the Brazilian economy. Brazil's external debt reached 123.9 billion by 1987, and the annual economic growth rate was sluggish. During the period, hyper inflation swallowed the Brazilian economy and reached the 2,000 percent per year mark by 1993. The Japanese Brazilians could not avoid these economic catastrophes. Although the Brazilian *Nikkeijin* enjoyed more prosperity than other Brazilians at lower socioeconomic levels, it was difficult for them to bear the decline in income and purchasing power. (Tsuda 1999a)

According to Yamanaka, the Japanese Brazilians began to return to Japan massively from the mid-1980s. Prior to that period, only a small number of *Nikkeijin* moved to Japan. They were generally holders of Japanese nationality, who emigrated to Brazil recently. Since they spoke Japanese and held Japanese nationality, their return was not paid attention. Prior to the mid-1980s, return to Japan to earn money was coupled with negative image among the Japanese Brazilian community. It "was frowned upon as a sign of economic failure in Brazil by the majority of *Nikkeijin*." (Yamanaka 1996) However, a combination between a sluggish Brazilian economy and labor shortages in Japan made this negative opinion quickly disappear. "Young and better educated, these people had grown up in Brazil, spoke Portuguese and knew little of Japanese culture" responded to the trend of the return migration to Japan.

Although a number of *Nikkeijin* returnees increased sharply in the late 1980s, the

Japanese immigration law and citizenship policies were not ready to deal with the rising tide of return migration. The first generation of *Nikkeijin* or recent emigrants who usually hold Japanese nationality did not bring many problems. However, the second (*Nisei*) and the third (*Sansei*) generations who wanted to earn money in Japan faced a number of discrepancies between the Japanese immigration law and reality. At that time Japan did not allow foreigners to work in unskilled sectors (This policy is still functioning). Foreigners could only hold professional jobs, and in this case they needed to acquire a residence visa during their tenure in Japan. Despite a blood lineage, *Nisei* and *Sansei Nikkeijin* without Japanese nationality were treated as foreigners under the old Japanese immigration law. Therefore, the return of *Nikkeijin* suddenly brought a lot of issues to the surface, and raised significant questions as to what the relationship between ethnicity and citizenship is, who Japanese are, and whether *Nikkeijin* are Japanese. The Japanese government reached the time to decide how to resolve a huge gap between the reality and the basic principles of Japanese citizenship.

5.2.2. Policy Development

The basic framework of Japanese citizenship is *jus sanguinis* (law of blood). Prior to 1985 when Japan adopted bilineal *jus sanguinis*, only children born to a Japanese father were entitled to obtain Japanese citizenship. In a case of foreign born children, the parents were required to report his or her birth to a Japanese Embassy or Consulate within fourteen days; otherwise the child would lose his or her Japanese citizenship to

prevent future problems of dual citizenships. However, many *Nikkeijin* in Brazil failed to register their children because many Japanese Brazilians lived in remote areas, thus it was not easy to visit the Japanese Embassy for registration. (Yamanaka 1996 ,p.74) As a result, many second generation of *Nikkeijin* in Brazil lost their Japanese citizenship permanently, and “Under the Japanese Nationality Law, they were defined as foreigners despite their Japanese blood.” (Yamanaka 1996) Fortunately, *Nisei* (second generation) had one channel to work in Japan legally because the old Japanese immigration law granted spouses and children of Japanese citizen resident status which guarantees no restrictions on employment. Yet, *Sansei* (third generation) *Nikkeijin* in Brazil could not enjoy such privileges, and their admissions were judged by the Ministry of Justice case-by-case. Given the fact that many *Nikkeijin* tried to escape from the troublesome Brazilian economy in the late 1980s, it was a natural consequence that visa applications to return to Japan went up sharply, and the process became much slower. Further, Japanese Consular officials in Brazil required a lot of papers for visas such as documents “proving not only that they were descendants of Japanese, but also that they would not engage in illegal activities in Japan.” (Yamanaka 1996) They also required a Japanese guarantor residing in Japan to submit a variety of papers such as financial records. The rising visa applications and complex administrative processes delayed visa issuance, and it was intolerable to the *Nikkeijin* community.

The difficulties to return to their “homeland” caused frustration especially in the first generation of *Nikkeijin* (*Issei*). They believed that regardless of nationality, their descendants are Japanese. They did not understand why they had to submit many paper

documents to prove their Japaneseness. Further they emphasized that they were dislocated from their homeland as a state policy in promoting emigration especially between 1924 and 1973. “The *Issei* felt that the Japanese government should allow their descendants to pursue the chance of a better life in Japan than they had themselves experienced in Brazil as a result of heeding their governments’ call to emigrate.”(Yamanaka 1996)

The issues concerning return of *Nikkeijin* became unmanageable for immigration authorities and intolerable for *Nikkeijin* themselves. The situation demanded engagement of politics both in Japan and Brazil. *Nikkeijin* politicians in Brazil first called for a change of the Japanese immigration policies. “Throughout the 1980s, *Nikkeijin* politicians in Sao Paulo frequently visited Japanese Ministries (Foreign Affairs, Justice, Labor and other) in Tokyo, asking them to direct their attention to the Japanese-Brazilian interest in employment in Japan.” (Yamanaka 1996) Particularly, they focused on resolving problems of *Nikkeijin* without Japanese citizenship. They also lobbied the Japanese Diet and the ruling party, Liberal Democratic Party (LDP). *Nikkeijin* politicians also pressured the Brazilian government to lift restrictions on employment of Brazilians in foreign countries. “Finally, delegates to the fifth Pan American *Nikkeijin* Conference in 1989 endorsed a request that the Japanese government grant special visas to *Nikkeijin*.” (Yamanaka 1996)

Corresponding to these efforts and increasing debate on “foreign worker problems” in Japan, import of *Nikkeijin* emerged as an alternative and attractive option to policymakers and politicians to kill two birds with one stone – to maintain ethic

homogeneity and to solve problems of labor shortage. The LDP Diet members from industrial districts where labor shortages were chronic welcomed this idea, and the Special Committee on foreign worker problems within the LDP advocated an admission of *Nikkeijin* by creating a special visa category for the Sansei as *Nikkeijin* politicians requested. The Committee claimed “it would be in the public interest to admit *Nikkeijin*” (Yamanaka 1996) because maintaining ethnic homogeneity and cultural unity were significant to the Japanese society. Yamanaka quotes a part of the Special Committee’s report published in the LDP’s monthly magazine, *Gekkan Jiyu Minshu* as follows:

“Admitting *Nikkeijin* legally will greatly help to ameliorate the present acute labor shortage. People who oppose the admission of the unskilled are afraid of racial discrimination against foreigners. Indeed, if Japan admitted many Asians with different cultures and customs than those of Japanese, Japan’s homogenous ethnic composition could collapse. However, if *Nikkeijin* were admitted, this would not be a problem....*Nikkeijin*, as relatives of the Japanese, would be able to assimilate into Japanese society regardless of nationality and language.”
(requoted from (Yamanaka 1996))

When Japan faced a wave of foreign workers in the 1980s, *Nikkeijin* from Latin America were considered as an ideal alternative to non-Japanese workers from South Asia because simply speaking they were ethnic Japanese. As Weiner (Weiner 1997) points out, the Japanese government utilized human resource pool of *Nikkeijin* not only to figure out the problems of labor shortage, but also to maintain purity of the Japanese homogeneity. They claimed that import of ethnic Japanese will help Japan endure its unique quality of Japaneseness without bearing social costs caused by incorporation of foreigners. However, behind the logic of ethnic homogeneity, the Japanese government turned their eyes to *Nikkeijin* because they assumed that the *Nikkeijin* will not be

permanent settlers but be temporary workers in Japan. Tsuda argues “Some Japanese immigration policymakers assumed that since the Japanese-Brazilians were not poor and destitute like migrants from Asia, the number who would eventually migrate to Japan would be limited and that they would quickly return to Brazil instead of settling in Japan.” (Tsuda 1999b)

The Japanese Diet passed the Revised Immigration Control and Refugee Recognition Act on December 8, 1989. The intention of the new immigration law can be summarized in three ways; to maintain the existing principle of no admission of unskilled foreign laborers, to reinforce hiring illegal foreign workers by posing criminal penalties (two years imprisonment or a maximum fine of two million yen (\$20,000)), to establish some side door mechanisms to import foreign workers legally corresponding to demands from business and *Nikkeijin* communities. Following employer sanction policy contained in the Immigration Reform and Control Act of 1986 in the United States, the Japanese government attempted to prevent increase of illegal foreign workers. Instead, the government induced small factory owners to take advantage of new labor reservoir without any legal problems, *Nikkeijin*. The new immigration law granted *Nikkeijin* “long-term resident” visa. The new visa category would apply to: 1) Nisei – a child of persons born as Japanese, and 2) Sansei – a child of a child of those who were born as Japanese and who once had a household registration record in Japan. Now qualified *Nikkeijin* could stay in Japan for three years without any restrictions on their economic activities. They could bring their spouses and children. Further, they could renew their visa without limit.

5.3. Issues on Joseonjok in South Korea

It is difficult to estimate how many Koreans are living abroad because until recently the Korean government did not collect accurate data on this population and further they are minority groups in foreign countries. However, according to the Ministry of Foreign Affairs and Trade, as of 2005, about 6.6 million Koreans are scattered in 170 countries over the world. Korea has the fourth largest diaspora group following China, Israel and Italy. It is estimated that there are about 2.4 million in China, about 2 million in the United States, and 0.9 million in Japan. Considering the large number of overseas Koreans, we might guess that the Korean government has long felt the necessity of developing bondages between the Korean diaspora groups and homeland. However, the Korean government began to plan and implement *de facto* overseas Korean policies after the end of the Cold War. The making of overseas Korean policies has become more complex because as in the diverse composition of the Korean diaspora, requests from each diaspora vary depending on their situation in their resident countries. For example, the Korean Americans want to enhance their legal and economic status in the homeland throughout freer exchanges, while the Korean Chinese demand more job opportunities in South Korea. As a result, the realm of overseas Korean policies had to be contentious in terms of equal treatment among the Korean diaspora. The contention was vividly highlighted in the case of Overseas Korean Act.(hereafter OKA).

In this section, I would like to narrow my focus on Korean Chinese, *Joseonjok* not

only because they are closely related to foreign labor policy, but also because they are both agents and subjects in the contentious debates on what Korean citizenship is and the Koreans are. Although I will briefly take references to the Korean Americans and the Koreans in Japan, they are confined to the relevance of the Korean Chinese.

5.3.1. Historical Background

Most *Joseonjok* left Korea in the late 19th century and the early 20th century for political and economic reasons. When they returned to the new homeland, South Korea later, however, the reality of Korean nation rendered this issue more complicated. First, *Joseonjok* do not hold Korean citizenship because they left Korea before South Korea was established in 1948. For the third and fourth generations, their ties to South Korea are quite weak. Second, thanks to Chinese policies toward minorities, *Joseonjok* could maintain their Korean culture, while at the same time, they have long lived as Chinese citizens. Thus, they have a sort of dual identities such as Korean ethnicity and Chinese nationality. Third, since 1948, the Korean peninsula has been divided into two countries. The legacies of the Cold War are still dominating the politics of overseas Korean policies. For instance, one of the reasons why the Korean government has been hesitant to open the door to the Korean Chinese widely is that the government was concerned about a breach of national security because *Joseonjok* community has historically had a closer relationship with North Korea than with South Korea. The South Korean government had to consider the possibility that North Korea might use admission of *Joseonjok* into South Korea “as a route for infiltration, thereby causing immediate security threats.” (Skrentny

et al. 2007, p. 801) In sum, the special and complex history of the Korean nation draws interesting attention to scholarship and literatures on citizenship and ethnic return migration.

History of the *Joseonjok* community has passed from the collapse of the Choson Dynasty through the Japanese colonial rule to the end of the Cold War. From the late 19th century to the early 20th century, Choson Dynasty which had maintained over 500 years was gradually eroded and finally annexed by the newly rising imperial power in East Asia, Japan. During the colonial period, Koreans decided to migrate to neighboring countries massively such as Japan, Northern China, Manchuria and so on for a variety of reasons. Some migrated to avoid political repression or some joined the fights against the Japanese empire, or others voluntarily moved to Manchuria with a hope to gain their own lands or were forcefully sent there by the Japanese empire to cultivate farming land in Manchuria.

They migrated as landless tenants, anti-Japanese fighters, or forced migrants during the Japanese colonial rule. However, the important thing is that they lost their Korean nationality. Under the Japanese rule, all Koreans were Japanese subjects. After the Japanese empire was collapsed, *Joseonjok* were encouraged to acquire Chinese citizenship. Meanwhile, the Korean peninsula was divided into two countries. *Joseonjok* from northern areas were free to return to their hometowns, but *Joseonjok* from southern parts were prevented by the anti-Communist South Korean government, and further, the Chinese Communist Party did not allow their departure to South Korea. The Chinese Communist Party created the Yanbian Korean Autonomous Prefecture, and made

Joseonjok easily integrate into Chinese society by promising ethnic equality. Regional realignment of Post World War II and the division of Korean peninsula rendered the status of *Joseonjok* ambiguous.

The complex situation of *Joseonjok* which had been forged from the beginning of the Japanese colonialism throughout the Cold War era eventually came into reality at the end of the Cold War. A few Korean Chinese began to visit South Korea before 1990, but most *Joseonjok* migrated to South Korea after the establishment of diplomatic relationship between South Korea and China in 1990. Whereas South Korea began to import foreign migrant workers since the early 1990s, economically motivated *Joseonjok* joined this rally to take advantage of a better economic condition in their homeland. After 1990, *Joseonjok* occupied low-skilled sectors in Korea, and they became the largest group among foreign migrant workers in Korea. Finally, *Joseonjok* problems entered into the political stage of ethnically homogeneous countries in the middle of migrant transition in Korea. These issues raised various interesting questions regarding foreign labor policies, citizenship policies, and politics of nationalism in Korea. Specifically speaking, how did the Korean government treat coethnics, the *Joseonjok* under the scheme of the foreign labor policies in comparison to other non Korean workers? Did the government grant privileged positions to them based on idea of ethnicity and nationalism? How did the government treat ethnic Koreans from underdeveloped countries compared to Koreans from developed countries? What was the impact of influx of *Joseonjok* on the Korean citizenship policies? How did it change Korea's perception on citizenship and nationhood? In this part, I would like to illustrate how the policies

toward overseas Koreans, especially the *Joseonjok*, have been developed since the early 1990s to the current era.

5.3.2. Policy Development

As I stated above, the *Josenjok* returned to South Korea from the late 1980s. It is the time that other non Korean migrant workers began to fill up lower-skilled sectors in Korea. That means that influx of Korean Chinese and foreign migrant workers conincidentally took place, and the Korean government had to decide whether both ethnic Koreans and non ethnic Koreans would be dealt equally or not. While Japan granted ethnic preference to ethnic Japanese from Latin America in 1990, Korea took ambivalent stances because *Joseonjok* issues were too complicated for the government to make clear policy determination. First of all, since most *Joseonjok* left Korea before the establishment of South Korea, they did not have sufficient legal ties to South Korea. Second, most *Joseonjok* were originated from current North Korean areas, so they did not have many family ties to South Korea. Further, due to political and geographical proximity to North Korea, the South Korean government thought that they were more inclined to North Korea, and there was a possibility of breaches in national security. Third, economically massive movement of *Joseonjok* into South Korea might hamper the order of the labor market in Korea, and it will lead to putting strains on the Korean economy. Fourth, diplomatically South Korea did not have normal relationships with China, so the government was not sure how China would react to *Joseonjok* issues.

However, the Korean government could not simply negate political importance of *Joseonjok* in the narrative of Korean nationalism. Many *Joseonjok* claimed that their ancestors migrated to China to fight for Korean independence during the colonial period, and they identified themselves as descendants of former anti-Japanese fighters. If they put restrictions on the entry of *Joseonjok*, the government would face the criticism that it abandons not only forgotten brothers, but also heroes of independence struggle. Therefore, facing ethnic returnees from China, the Korean government was caught in dilemma between economic and political caution, and ideological embrace.

Given this ambivalent nature of *Joseonjok* problem, the Roh Tae Woo Administration did not make a clear position on how to treat Korean Chinese. In 1987 the government regarded *Joseonjok* as nationals, but allowed their entry without issuing visas. Instead of visas, *Joseonjok* who want to visit South Korea could have travel certificates which usually are issued when South Korean nationals lost their passports. Further, considering *Joseonjok*'s ideological position in the nationalistic narratives, the government decided to designate the Korean Chinese who could be confirmed as descendants of independent movement activists as "permanent resident returnees." However, Roh quickly abandoned this policy because China claimed that this policy violated China's own sovereignty. After the disapproval from China, South Korea changed their original position that *Joseonjok* are designated as Korean nationals. The new policy clearly defined *Joseonjok* as foreigners. As a result, they could enter South Korea with tourist visas. The visa was in effect for three months, with one possible renewal and no work rights. If *Joseonjok* wanted to work in Korea, they had to become

employed through the industrial training program like other non Korean migrant workers.

At the end of the Roh's term in 1992, the Korean government's policy for *Joseonjok* became tighter by adding an age limit. Short-term visas were issued only for over sixty years *Joseonjok*. Young Korean Chinese could enter Korean only with trainee, student or business visas. Later the age limit lowered to 55 and to 50 in 1999. In 2005, it reached the level of 25 years old.

While the government kept defining *Joseonjok* as foreigners, *Joseonjok* as foreign labor forces was managed under the system of the ITTP. However, *Joseonjok* had enjoyed some privileged position in the ITTP. The Korean government explained the reason that they would pose less cultural threat to South Korea's strong belief in ethnically homogenous society. The government set up a separate quota for *Joseonjok* in the ITTP, thus Joseonjok became the largest group of foreign workers in the ITTP.

The Kim Young-Sam Administration pursued a more active and encompassing overseas Korean policy compared to former administrations. As a part of the campaign of globalization, the Administration announced "New Overseas Koreans Policy" in 1995. The goal of the new policy was to support overseas Koreans to achieve successfully social and economic adjustment in their residing countries and to intensify their connection to homeland. The Administration also considered the establishment of governmental agency for overseas Koreans, dual citizenship, property rights for overseas Koreans, and the establishment of the Overseas Koreans Foundation.

Although the Kim Young-Sam Administration actively engaged in Overseas Korean Policy, they clearly maintained a position that overseas Koreans are foreigners, and they

should grow as model residents where they resided. This statement was reiterated in the “Detailed Guidelines in Dealing with Korean Chinese” published by the Presidential Committee for Globalization in 1995. The guidelines made it clear that the government will treat Korean Chinese as “Chinese Citizens.” It clearly mentioned that the Korean government will support the *Joseonjok* on the principle that they are Chinese citizens.

Kim Dae-Jung was the president who was helped a lot by overseas Koreans while he was in exile in Japan and the United States. Therefore, from his presidential campaign he promised that he would establish a special agency in charge of overseas Koreans, and would allow dual citizenship. He withdrew this platform after he became president. However, his government made substantial changes in overseas Korean policy by making special legislation for overseas Koreans.

Another factor which made difference between the Kim Dae-Jung Administration and the former Administrations in terms of overseas Korean policy is that the Kim Dae-jung Administration began its term just after the IMF Crisis. For a quick recovery from economic catastrophe, the Korean government needed to seek for foreign investments from overseas Koreans. Now South Korean approached overseas Korean policy from an economic point of view. Finally, the Korean government made legislation of the 1999 Act on the Immigration and Legal Status of Overseas Koreans (Overseas Korean Act). Contention around the enactment of Overseas Korean Act should be understood in context of the president, Kim Dae-jung’s personal experience and economic condition at that time.

According to recent research on ethnic return migration in Europe and Asia, co-

ethnic preference in immigration policies among East Asian countries is quite economically motivated. (Skrentny et al. 2007) In this sense, the South Korean case is not exceptional. Especially the Kim Dae-Jung government's primary goal in the beginning of its term was to boost up the fallen Korean economy. For this purpose, the government decided to utilize the existence of Koreans abroad as a tool to bring the Korean economy back on track. The Korean government's effort was finally crystallized in the enactment of the "Overseas Korean Act" in 1999.

On December 3, 1999, the National Assembly passed the law, "The Act on Immigration And Legal Status of Overseas Koreans." The purpose of the law was "to promote globalization of the Korean society by encouraging more active participation of ethnic Koreans living abroad in all spheres of the Korean society" and "the Act aims to encourage investment in Korea by simplifying regulations" on business. (Skrentny et al. 2007, p. 802) Thus, qualified overseas Koreans could enjoy privileged rights in lieu of Korean citizens in terms of property rights, medical insurance, and social welfare. Those eligible overseas Koreans are entitled to acquire a special visa (F-4) which enables them to stay in Korea for two years. They are also exempt from visa processes in exit and entry. However, the Act defined overseas Koreans narrowly compared to the definition of coethnic Koreans in "the 1997 Act on the Overseas Koreans Foundation." The 1997 Act defines overseas Korean as "anyone who is of Korean descent regardless of current nationality." The 1999 OKA used "post-1948 criterion" which means that since South Korea was established in 1948, only those who emigrated to other countries after 1948 are eligible for benefits of the OKA. Such a narrow definition caused contentious

reactions from Korean Chinese and other groups residing in underdeveloped countries.

The Act grants “quasi-citizenship rights” to eligible overseas Koreans. (Park and Chang 2005) Eligible Koreans are divided into two groups: *chaeye kukmin* (Korean nationals abroad) and *oegukkukchok dongpo* (ethnic Koreans who held South Korean citizenship in the past and their descendants, but now who have foreign citizenship). The former category means that they are Korean citizens who just are residing in foreign countries for certain purposes such as study, business and so on. Thus, their eligibility is unquestionable. However, the problem is how to define the latter case, overseas Koreans who are now holding foreign citizenship. The definition of *oegukkukchok dongpo* is located at the center of contentions and debates on the OKA.

The 1999 version of the Act clearly defines *oegukkukchok dongpo* as “those who either once possessed South Korean nationality or are the direct offspring of former South Korean nationals.” (Park and Chang 2005, p. 4) The legal definition seems to encompass almost all ethnic Koreans abroad. However, this definition is compounded by a unique nation-building process in Korea. As I mentioned above, South Korean government was established in 1948, which means that there was no South Korean nationality before 1948. “Those who left the Korean peninsula during the Choson period were the Choson kings’ subjects, and those who left during the colonial period were Japanese colonial subjects.” (Park and Chang 2005, p. 4) Therefore, the Act could deliver benefits only to those who left Korean after 1948. This “post-1948 criterion” is only applied to a part of Korean residents in Japan and Korean Americans, and it excluded most Korean Chinese. Thus, Korean Chinese felt that the South Korean government discriminated themselves from

other Koreans abroad based on economic status of their residing countries. Korean Chinese who sought for more job opportunities in Korea strongly resisted the enactment of the OKA, and their grievances led to judicial review at the Constitutional Court on the ground that “the OKA breaches the universality principle of citizenship by arbitrarily excluding certain groups.” (Park and Chang 2005, p. 4)

For the South Korean government, using the “post-1948” card seems to be a legally legitimate action. The government’s economic motivation behind the OKA deliberately excluded Korean Chinese from the category of overseas Korean embedded in the OKA. For instance, the Enforcement Ordinance of the Act provided a chance to gain benefits from the OKA for Korean residents in Japan by stating that those who left Korea before 1948 were eligible only if they had been “explicitly confirmed” to have been Koreans before they acquired foreign nationalities. The “explicitly confirmed” documentation means the registration as South Korean nationals abroad. While Korean residents in Japan were encouraged to resister as South Korean nationals in the past, the Korean Chinese never had such an opportunity. Further, the OKA clearly states that *chaeoe dongpo* are not allowed to work in unskilled manual work. It definitely functioned as a barrier to *Joseonjok* who are mostly being hired in low-skilled manufacturing sectors.

Economic motivation of ethnic return policy in Korea was clearly visualized in the passage of the OKA. After the catastrophic IMF crisis, South Korea on one hand needed to induce investment as well as to recruit competitive high-skilled labors from overseas Korean populations – definitely ethnic Koreans from North America. On the other hand, South Korea structurally demanded cheap, unskilled, foreign labors to maintain

international competitiveness for 3 D sectors. The demands of two different categories of foreign labor forces were directly transmitted into the OKA. The OKA created an incentive structure for high-skilled, English-speaking ethnic Koreans, while the OKA built a barrier to influx of low-skilled *Joseonjok*, and instead they were managed under the scheme of the ITTP like other foreign migrant workers.

5.4. Other Approaches

One of the commonalities in both countries' immigration policy is ethnic preferential treatment toward ethnic Japanese from Latin America and Korean Chinese. Both ethnic Japanese and ethnic Koreans not only receive preferential treatments in terms of immigration control, but also find themselves in jobs of higher status and pay compared to other non-Japanese or non-Korean migrant workers. As a result, Korean Chinese are the largest ethnic group among foreign migrant workers in Korea. They account for about 30% of low-skilled migrant workers in 2006. Ethnic Japanese are the third largest foreigners' group followed by Chinese, who are mostly trainees, and Koreans, who are mostly descendants of immigrants from the colonial periods. However, both countries did not implement ethnically oriented policies from the beginning. While the Japanese foreign labor policy began with ethnic preference toward the Japanese descendants in 1990, the Korean government did not grant privileged status for Korean Chinese when they were regulated under the scheme of the trainee program. However, foreign labor policy in Korea gradually moved into ethnicizing direction. The Korean government has

gradually granted more privileges to overseas Koreans, especially Korean Chinese (*Joseonjok*). In 2007, the Korean government launched a new program, “Working Visit Program (*Bangmoon Chuieip Jedo*).” This program was designed to provide more job opportunities for ethnic Koreans with foreign citizenship. It allows overseas Koreans, mainly from China and former Soviet Unions to enter and exit freely from Korea for five years and gain employment in any company in Korea for three years. (Seol and Skrentny 2009) Due to the Working and Visit program in 2007, the proportion of Korean Chinese has been dramatically increased. Now the proportion of ethnic Koreans accounts for approximately 56% of the total foreign workers. As Hui-Jung Kim points out, it is quite paradoxical that on one hand, the Korean policies grant more rights for foreign migrant workers, on the other hand the Korean government treats Korean Chinese much better than based on the concept of ethnicity. (Kim 2008b) Therefore, I would like to figure out this question as to why immigration policies toward ethnic returnees are converging.

The logic of client politics assumes that the political process surrounding immigration policy is dominated by client politics because well-organized interest groups that want more open policies put more direct pressure on policymakers than the more diffuse and poorly concentrated influence of the public. In the arguments of “client politics,” political elites and well-organized interest groups in the domain of immigration policy are detached from the voice of public opinions. Policymakers and organized pro-migrant lobbies such as employers and businesses depending on unskilled workers have been successful in continuing to push more open immigration policies. As a consequence, the pro-immigration interest lobby is far more capable of mobilizing political resources

than its anti-immigration opponent. The result is an “expansionary bias” within domestic political competition that occurs in most liberal democracies, even if they have otherwise quite different political traditions. In this view, the real business of migration policy takes place behind closed doors in the arena of organized politics. Politics thus keeps the door open for migrants regardless of how unpopular their presence may be with the mass native public.

Applying this model to policy convergence in Japan and Korea, the model of client politics might expect that there were strong organized efforts among employers and business groups to open wider door to ethnic Japanese and Koreans. Although the Japanese employers have gained economic benefits from hiring *Nikkeijin* without expensive costs and legal barriers after the revision of Immigration Control Act in 1990, there is no evidence that the Japanese employers were mobilized to push the Japanese government to pursue ethnicized immigration policy toward *Nikkeijin*. In Korea, the Korean employers even did not prefer *Joseonjok* when they sought to hire foreign workers. According to one survey conducted by Korean Federation of Small and Medium Businesses in 1994, “31 percent of Korean business owners who wanted to employ foreign workers preferred Han Chinese, who were the top-ranked group” followed by Filipinos (21%) and Joseonjok (12%). (Seol and Skrentny 2009, p. 160) The Korean employers tend to believe that *Joseonjok* are more likely to leave a job due to their proficiency of Korean language and cultural affinity. Therefore, the model of client politics does not have a rigorous explanatory power.

International-norm approach cannot explain the policy convergence between Japan

and Korea. Although some legal scholars argued that ethnic preferential treatments of *Joseonjok* violated International Convention on the Elimination of All Forms of Racial Discrimination and International Covenant on Civil and Political Rights that Korea ratified respectively in 1969 and in 1990, the Korean government did not seriously consider the impacts of international norms on ethnicization of immigration policy. Rather, the Korean government was hesitant to implement ethnic preference policy toward *Joseonjok* not because of international human rights norms, but because of the possibility of diplomatic troubles or pressure from foreign governments, especially China. Therefore, in the next section, I would like to explain the policy convergence between Japan and Korea relying on intra-governmental competition and interactions between state and social movements.

5.5 Historical-Institutionalist Approach

5.5.1. Formal Institutional Structure: Intra-governmental Competition

Unlike the case of foreign labor policy toward non-Korean workers, the main intra-governmental competition on the issues of *Joseonjok* was formed between the Ministry of Justice and the Ministry of Foreign Affairs. Following President Kim Dae -Jung's belief that Korea should take advantage of all ethnic Koreans abroad as valuable resources for national development, the Ministry of Justice took a policy stance that every ethnic Korean will be granted social and political rights as equal as Korean citizens. (Takako

2004) Some assemblymen also tried to include all ethnic Koreans abroad in the OKA built on the idea that they are all blood-related compatriots. However, this blood-centered concept of ethnic Korean was strongly opposed by the Ministry of Foreign Affairs, which was more sensitive than any other departments to oppositions from other countries. The Ministry warned that a more expansive concept of *dongpo* would face opposition from powerful neighboring countries, especially China. As well-known in the case of Tibet, China has paid sensitive attention to issues of minorities in its territory. In fact, China delivered several complaints through informal diplomatic channels. When the Constitutional Court declared the OKA as unconstitutional in 2001, Li Bin, the Chinese Ambassador in Korea stated, “although *Joseonjok* in China are blood-tied coethnics to Korean nationals, they are also members of a big family composed of 56 ethnic groups in China.” (Jung 2002, p. 11) Later, the Chinese government denied visas for four Assemblymen who had a plan to investigate the situation of *Joseonjok* in relation to the revision of the OKA. Besides diplomatic conflict with China, the Ministry also criticized the baseline of the OKA, a “blood-centered approach” which was “incompatible with ‘the universal globalism that the President Kim was striving for.’” (Lee 2003, p. 110) Some legal scholars also expressed their concerns that giving privileges to a certain coethnic groups was a violation of the universalistic principle of international laws.

The idea of ethnic preferential treatment was also hampered by a variety of reasons from several ministries. The Ministry of Labor was concerned about possible disruption in the domestic labor market. The Ministry of Labor argued that liberalizing entry of *Joseonjok* will open the domestic labor market especially for low-skilled and service

sectors, and then large scale of migration of *Joseonjok* to South Korea will lower the level of wages and labor standards. One governmental official stated that the Korean labor market could be seriously damaged “if only a quarter of the two and half million ethnic Koreans in China and the CIS come to South Korea.” (*Choson Daily*, December 10, 2001) The concerns of national security were also raised in relation to North Korea. There was a concern that North Koreans would try to infiltrate South Korea by impersonating Koreans from China or the former Soviet Union because historically ethnic Korean in both regions maintained closer relationship with North Korea rather than with South Korea. National Human Rights Commission also opposed the idea of the OKA and ethnic preference for a different reason. In 2001, the Commission pointed out that these policies could be a racially discriminatory law without considering equality with non-Korean foreign workers.

Similar with the case of foreign labor policy toward non-Korean workers in Chapter 4, the Korean state experienced intra-governmental competition on the issues of ethnic preference toward Koreans abroad. While the Ministry of Justice claimed ethnically preferential treatment based on Korean bloodlines regardless of his/her citizenship, the Ministry of Foreign Affairs emphasized that *Joseonjok* are holders of Chinese nationality. While the Japanese case shows more closed political opportunity, the Korean case also indicates that migrant NGOs in Korea faced more favorable condition for policy change. In Japan, several Ministries involved in immigration policy made a consensus that ethnic preference toward *Nikkeijin* was an alternative solution to the problem of foreign workers because *Nikkeijin* will not pose a serious threat to Japanese society and its ethnic

homogeneity. Furthermore, as Sharpe claims, the one party dominance of the conservative LDP has created a favorable environment that “re-ethnization” were privileged for culturally acceptable and political expedient.” (Sharpe 2008, p. 319) In the next section, I will attempt to explain how non-preferential policy toward *Joseonjok* turned into ethnic preference policy by paying attention to mobilized efforts of migrant NGOs and other social movements.

5.5.2. Interaction between State and Social Movements

Joseonjok hold quite ambivalent position in the Korean society. Although they claim they are brothers and sisters who share the same bloodline with other Korean citizens, *Joseonjok* sometimes were subject to stricter regulation in the entry ports because they were regarded as foreigners with more possibility of overstay for the reason that they are more likely to assimilate into Korean society with their physical similarity and cultural affinity. Therefore, the problems of *Joseonjok* critically raise a series of questions about Korean nationhood and its relationship with citizenship, and issues of equality with other migrant workers. These issues unexpectedly drew public attention when the OKA bill in 1999 ignited a controversy over discrimination of ethnic Koreans in China and Central Asia.

While the OKA provided qualified ethnic Koreans with a special visa, significant amount of freedom in economic activities, and privileged rights in real property, transactions, foreign exchanges, and social welfares, it ignored ‘overseas compatriots’

such as the 2.4 million Koreans in China and the former Soviet Union. Therefore, some Korean Chinese residing in Korea staged hunger strikes and more than sixty civil society groups organized protests against the government. As a deliberate strategy of the movement, three *Joseonjok* filed a constitutional complaint to the Constitutional Court by highlighting that the OKA treats ethnic Korean abroad unevenly, for example, the OKA discriminates those who had left their homeland to fight against the Japanese colonialism, and provides benefits only for those who have chosen to give up Korean nationality only in the reason that they are residing in wealthier countries.

On August 23rd, 1999, after the National Assembly passed the OKA, three Korean Chinese, Yeonseop Cho, Hyunsoon Moon, and Mira Chun referred the case to the Constitutional Court on the grounds that the OKA violated rights of equality in the Constitution of the Republic of Korea. They argued that although ethnic Koreans who left Korea before 1948, and those who departed Korea after 1948 are basically the same *dongpo*, compatriots, Clause 2 of Chapter 2 in the OKA excluded the former ethnic Koreans by intentionally devising the 1948 criteria, and it is a discrimination without legitimate reasons. Finally, the Constitutional Court ruled that the definition of ethnic Koreans in the OKA violated the principle of equality. Instead of disqualifying the law, the Constitutional Court ordered the National Assembly to revise the law by the end of 2003. The Court judged that the 1948 criteria cannot be a decisive factor to justify the unequal treatment between ethnic Koreans who left Korea before 1948 and after 1948. As a result, the debates on who ethnic Koreans are were ignited among political society, civil society, and media again.

The ruling of the Constitutional Court turned back all debated so far to the starting point. Although the court decision ordered the National Assembly to revise the law in three years, the law-making process was stopped because President Kim Dae-Jung would step down before the deadline of the revision. However, re-emerging controversy over the OKA provided a political opportunity for *Joseonjok* and their advocates. In 2003, *Joseonjok* communities in Korea and a number of NGOs were mobilized to exert their influences in the law-revising process. They formed the Committee to Reform the Law on Overseas Koreans (hereafter the Committee) under the leadership of Protestant pastors who were former activists of the democratization movement. The Committee drew support from the National Council of Churches (NCC), whose political network still was powerful in lobbying assembly members, politicians, and public administrators. They staged mass demonstrations and hunger strikes from October 2003. Meanwhile, the Korean government implemented the largest crackdown of illegal migrant workers before the Employment Permit Program would be introduced in August 2004. The crackdown resulted in at least nine deaths of migrant workers. Therefore, both non-Korean and Korean Chinese illegal migrant workers were mobilized to protest the harsh crackdown. After that, *Joseonjok* workers decided to join the Committee's movement to reform the OKA because they believed that if they were granted the privilege from the OKA they would be much safer than illegal status. To avoid the head-on confrontation between the government and the movement, the Ministry of Justice started negotiations with the protesters and NGOs. On November 20, 2003, the Ministry of Justice announced that they would consider the restoration of Korean citizenship for Korean Chinese whose

names are still in the household registration system created by the Japanese colonizers in the early 1920s. On the same day, President Roh Moo-Hyun suddenly paid a visit to the Seoul Korean Chinese Church where *Joseonjok* workers staged hunger strike, and promised that the government would make its best efforts to solve the problem. The mobilized efforts of *Joseonjok* and NGOs finally brought about the revision of the OKA, which includes those who had left Korea prior to 1946 in the category of Korean compatriots.

On March 5, 2004, the National Assembly passed the revision of the OKA, pursuant to the decision of its inconformity with the Constitution which was made by the Constitutional Court on November 29, 2001. The amendment of the OKA defines overseas Koreans as “a person prescribed by the Presidential Decree of those who have held the nationality of the Republic of Korea (including Koreans who had emigrated to a foreign country before the Government of the Republic of Korea was established) or of their lineal descendants, who obtains the nationality of a foreign country.” Seol and Skrentny assessed “with this change, *Joseonjok* entered a status – on paper at least – mostly equivalent to that of the *Nikkeijin* in Japan: they had a right of free movement to and from South Korea and China to work.” (Seol and Skrentny 2004) However, the revision of the OKA did not figure out the problems of *Joseonjok* completely because there is another institutional barrier to prevent *Joseonjok* from working in Korea freely. The OKA only permits overseas Koreans to work in professional sectors, not in low-skilled manufacturing or service sectors. Thus, most Korean Chinese who lack such professional skills had to be under the regulation of clause 3 at Article 23 of the

Enforcement Decree of the Departures and Arrivals Control Act, which prohibits overseas Koreans from working in 1) simple laborer, 2) occupations regarded as subversive of the existing social order 3) occupations recognized to need restriction to employment for the public good or for the protection of domestic labor market. Although the Korean government decided to revise the problematic article in the OKA to correct the inconformity with the Constitution, however, the government never gave up the will to control massive influx of poor ethnic Koreans by taking advantage of Immigration Act and the Enforcement Decree of the OKA.

After the decision of the Constitutional Court, the Korean government decided to modify other institutional schemes rather than to open the domestic labor market for ethnic Koreans throughout the OKA. Holding institutional restriction on the employment of ethnic Koreans from poor countries, the government has gradually implemented ethnic preference policy toward ethnic Koreans by expanding opportunities of employment embedded in the existing foreign labor policies. As a result, foreign labor policy in Korea became more colored by ethnic preference. In 2002 the Employment Management Program for Overseas Ethnic Koreans (*Chuieop Gwanri Jedo*) was created. According to Seol and Skrentny, it is the first labor-importing system disconnected from the purpose of training, based on ethnic preferences. “Overseas Koreans over the age of forty and with family (cousins or closer relatives) in Korea would receive special two-year visas to work in the labor-starved service industry—supplying cheap labor to restaurants, cleaning companies, and nursing facilities (as “caregivers” and not nurses) but excluding bars and sex-based “room salons” and karaoke hostess bars.” (Seol and Skrentny 2009) This

program was targeted to help overseas Koreans from underdeveloped countries acquire more job opportunities in Korea. Under this program, ethnic Koreans entered Korea with visiting visa (F-1-4), and then were allowed to have working permit through arrangement of the employment security center under the Ministry of Labor. After the EPP was launched in 2004, this program was merged into the scheme of the EPP, and changed into the privileged employment program. After they entered Korea with visiting visa, and then completed registration as a foreigner, overseas Koreans were permitted to get nonprofessional visa (E-9) for labor-starved construction and service areas. In the beginning, this program was only applied to two sectors such as construction and service areas, but later it was extended into 19 sectors. In 2007, Korean immigration policies became more ethnicized, and introduced the Working Visit Program (*Bangmoon Chwieopjedo*). With Working Visit visa (H-2), ethnic Koreans can find jobs and enter Korea more easily. H-2 visa is valid for 5 years and good for 3 years stay for ethnic Koreans from China and former Soviet Unions. The Korean government issues H-2 visas to those who have relatives in Korea without quota. However, those without any family connection in Korea are randomly chosen for H-2 visa within a yearly quota. Considering the fact that ethnic Koreans without family relatives in Korea could not enjoy privileges as ethnic Koreans, the Working Visit Program furthered benefits of ethnic Koreans in domestic labor markets compared to other non-Korean workers.

5.6. Conclusion

This chapter has so far examined the policy convergence of immigration policy in Japan and Korea focusing on ethnic preference policy toward *Joseonjok* and *Nikkeijin*. I have attempted to explain why the Korean government has shifted non-preferential policy toward *Joseonjok* to ethnically preferential treatment almost equivalent with the *Nikkeijin* policy in Japan. I have claimed that when it comes to policy convergence in Japan and Korea, more contentious civic organizations and migrant NGOs in Korea kept protesting the discrimination against *Joseonjok* embedded in the OKA, and finally they yielded surrender from the Korean government. As a result, the Korean government decided to devise the special treatment of *Joseonjok* within the EPP system. Since then, immigration policy in Korea has gradually moved toward ethnic preference toward Korean Chinese.

However, intra-governmental competition and the role of the migrant NGOs cannot sufficiently explain why the Korean government quickly decided to implement ethnic preferential policies in comparison to the case of the policy convergence which was dealt in Chapter 4. Therefore, I briefly suggest an alternative perspective in this conclusion. The empirical evidence indicated below presents that Korea began to view the influx of foreign workers from a perspective of societal security. Christopher Rudolph directs our attention to societal security in other words “social stability and cohesion” as a component of immigration policy. (Rudolph 2003: 605) Rudolph argues when societal security and societal differences are publicized, the state’s grand strategy diverts to strengthening border control and facilitating immigrant integration. As a large number of

people with different ethnic backgrounds are introduced to host-societies, the receiving states become more sensitive to “ethno-cultural proximity,” which results in “lower degrees of societal threat.” (Rudolph 2003: 606)

As the Japanese government found an alternative solution to the problems of foreign workers from *Nikkeijin* in the early 1990s, the Korean government started linking immigration policy with ethnicity card. The ethnicization of Korean immigration policy implies that we need to scrutinize the whole feature of immigration policy in Korea from a perspective of societal security and nationalism. Katherine Moon argues that the Korean government considered “the possibility of massive refugee flows as a consequence of the collapse of the North Korean regime.” (Moon 2002, p. 186) Park Young Bum, a researcher of a government related institute, also confirmed Moon’s argument, saying “Korea should not open its labor market on a large scale because in North Korea, about 50 percent of the labor force is still employed in the agricultural sector, it could be a major source of unskilled labor when Korean reunification occurs.” (Moon 2002, p. 186) On July, 24, 2007, Kwon Oh-Kyu, a Vice Prime Minister of Economy, announced “we cannot accept massive scale of low-skilled workers because we have to consider North Korea. Corporations need to utilize the North Korean laborers in the Joint Industrial Complex such as the Kaesung complex.” (*Kyunghyang Shinmoon*, July 25, 2007) In sum, the gradual shift from non-preferential policy toward ethnic preference indicates that immigration policy in Korea is tied to complex nature of nationhood in Korea, and incomplete nation-building process in the Korean peninsula including the issues of unification, and legacy from the Japanese colonialism.

CHAPTER 6

Conclusion: Implication for Multicultural Policy in Korea and Japan

This dissertation *Comparing Immigration Policies in Japan and Korea: a historical-institutionalist approach* examines convergence and divergence in immigration policies between Japan and Korea. Challenging a well-established hypothesis that supports policy convergence based on the experiences of European countries, I have argued that significant policy divergence has occurred between Korea and Japan especially when it comes to unskilled foreign workers, while policy convergence has been observed in return migration policies toward ethnic Koreans and Japanese. Placing special emphasis on intra-governmental competition and interactions between state and social movement organizations (e.g. pro-migrant NGOs) in the policy-making processes, I have found that political coalitions between state and pro-migrant civic organizations lead to liberal policies toward unskilled foreign workers in Korea, whereas the absence of influence of civil society in the policy-making process makes immigrant policies less liberal and less flexible in Japan. When it comes to policy convergence in Japan and Korea, more contentious civic organizations and migrant NGOs in Korea kept protesting the discrimination against *Joseonjok* embedded in the OKA, and finally they yielded surrender from the Korean government. As a result, the Korean government decided to devise the special treatment of *Joseonjok* within the EPP system. Since then, immigration policy in Korea has gradually moved toward ethnic preference toward Korean Chinese. This comparative study outside of traditional Western states not only broadens the

empirical scope of international migration studies, but also tests whether current migration theories that heavily rely on Euroamerican cases may apply more generally to non-Western cases. For studying other policy areas, my research also can provide new analytical dimension including roles of new social movements in policy domains beyond the traditional view of bureaucracy-led policymaking in Japan and Korea.

In this dissertation, I have focused more on immigration control such as foreign labor policy, rather than immigrants integration, another pillar of immigration policy. In this conclusion, therefore, I would like to briefly explore how both Korea and Japan have implemented immigrants integration policies. Further, it will be a preliminary research as to whether the main analytical framework utilized in this dissertation could be extended to explain immigrations integration policies in Korea and Japan.

Two representative democracies in East Asia such as Japan and Korea have carried out immigrant integration policies responding to the recent increase of migrant workers as well as international marriage migrants. According to the UN, as of 2005 53.3 million of 191 million international migrants (28 percent) resided in Asia. The number shows that the issues of international migration are no longer confined to the traditional settler countries and European nations. The growing human mobility raises several fundamental questions such as how democracy draws the boundary of membership, to what extent they are entitled to enjoy the basic rights regardless of their legality, and how democracy should incorporate foreigners into its community in order to maintain its political and social orders. This section aims to examine how Japan and South Korea have answered those questions by focusing on their immigrant integration policies.

In contrast to the growing number of immigrants in Asia, immigration studies have paid little attention to the Asian cases. Among little existing works, most literatures on immigration policy in Japan and Korea have so far concentrated on immigration control rather than immigrant integration. Further, few comparative studies have been implemented to explain the governments' integration policies in Asia. However, recent debates on immigration in Japan and Korea are rapidly shifting toward the issues of immigrant integration in each society. For instance, after the former Korea president, Roh Moo-Hyun declared in 2006 that Korea is moving toward a multicultural society, several governmental agencies proposed a variety of integration policies. Compared to the debate over immigration control in the late 1980s in Japan, recent discourses put more emphasis on integration policies for immigrants who already resided in Japan including social policies and services to support their incorporation. To overcome the lack of academic attentions and the poverty of comparative perspective, this paper will be a preliminary study for a more systematic and comparative study of immigrant integration policies in Japan and South Korea by focusing the governmental policies both on local and national levels.

For this section, I will discuss Korean and Japanese attempts of immigrants' integration both at the national and local levels. I will also trace what factors have affected the different patterns of relationship between local and national governments emphasizing historical experience with ethnic minorities, different perception on internationalization, and different state-society relations. And then, I will attempt to assess each country's integration policies by focusing on top-down (South Korea) and

bottom-up (Japan) approaches.

As noted in Chapter 3, the demographic change in South Korea has been propelled by the sudden increase of foreign residents including migrant workers, and rapid rise in international marriages. Responding to this trend, the South Korean government has actively taken initiatives in implementing immigrant integration policies since 2000. The development of the policies has been first made at the national level, and then the national government has pushed local governments to prepare for multicultural society. It can be characterized as top-down approach (from central to local government). However, Japan already has experienced problems of ethnic minorities, especially *zainichi* Koreans after the World War II. After the revision of Immigration Control Act in 1990, the Japanese descendants from Latin America became a newly emerging ethnic minority. Immigrant integration policies in Japan have been developed in response to demands by Korean residents at the local level. Some local governments had established programs to serve foreign residents, and then they pushed the national government to implement social integration policies toward foreign residents at the national level. For example, the Committee for Localities with a Concentrated Foreign Population which is composed of sixteen cities calls upon “national authorities to reform public education, national health insurance, and the foreigners’ registration system to better meet the needs of their foreign residents.” (Pak 2006, p. 68) Therefore, the Japanese case can be characterized as bottom-up approach (from local to central government). In this part, I would like to overview how national and local governments in South Korea and Japan have carried out immigrant integration policies.

When foreign migrant workers began to enter Korea for the first time in the late 1980s and early 1990s, the Korean government had not yet established a systematic immigration policy. The government's primary focus then was how to import cheap labor forces and how to distribute them efficiently to various industrial sectors. It hardly paid attention to the social consequences of importing foreign laborers such as human rights violations, industrial accidents, and long-term social integration, because it did not anticipate the permanent settlement of migrant workers in Korea. However, as human rights violations and migrant workers' poor working conditions became serious public problems, various forms of NGOs specifically for migrant workers were mobilized in order to pressure the government to improve social protection and the labor-importing system (Kim, 2003). And their efforts eventually paid off, as the government changed its immigration policy to be more open and inclusive. Furthermore, as the increase of international marriages and births of mix-raced children posed a more direct "multicultural" challenge to Korean society, the Roh Moo Hyun government finally announced in 2006 that "Korea is moving toward multicultural society and that this trend is irreversible" (Yoon, 2008). Thus, many observe that Korea's immigration policy is shifting from immigration control to immigrant integration.

Since the Korean state shifted foreign labor policy from the trainee system to the employment permit system, the paradigm of immigration policies in Korea rapidly has been moving from "control" to "integration" policies. More specifically, since 2003, the Korean government has been driving a paradigm change in its immigration policy in terms of "multicultural policy" by encompassing within it such issues as international

marriage migrants, mixed raced people, migrant workers, and foreign residents in general. In 2006, the Committee on Foreigner Policy discussed extensively the “basic direction” and implementation system on foreigner policy (hereafter, the Basic Direction). The Basic Direction (*Oegukinjeongchaek Gibonbanhyangkwa Choojinchekye*) defines three principles of foreigners policy in Korea as follows; 1) protecting foreigners’ human rights 2) enhancing national competitiveness by attracting high-skilled foreign workers and importing low-skilled workers in a limited way 3) encouraging multicultural embracement and social integration. The Korean government also proclaimed the “Grand Plan” of social integration of female marriage migrants, mixed-raced people and foreign residents into Korean society (Lee 2008b). The Grand Plan (*Yeo seong Gyeolhoniminja Gajok Mit Honhyeolin/Ijuja Sahoetonghap Jiwonbanan*) proclaims the vision of Korea as a leading country of multicultural and human rights in Asia. It mainly aims to reduce discrimination against international marriage migrants and mix-raced people, and to raise social awareness of multicultural issues. Following the Grand Plan, 21 International Marriage Immigrants Support Center were established nationwide. The name was changed into Multicultural Family Support Center later, and as of 2008, 80 centers are being run. The centers mainly focus on Korean language education, programs for vocation training, and counseling for family related issues. The Korean National Assembly passed “Basic Law Pertaining to Foreigners in Korea (*Jaehan Oegukin Gibonbeop*)” (hereafter Basic Law), which provides an institutional framework to support foreigners and enhances foreigners’ rights in Korea through systematic management. Upon legislation of the Basic Law, the Korean Immigration Bureau extended their policy

areas to the implementation of foreigner policy in addition to its original task of controlling entry and exit. At the same time, the Ministry of Justice announced that it will strive to enhance social integration of foreigners into Korean society with full respect of their rights.

On April 26, 2006, then Korean president, Roh Moo Hyun, said during the cabinet meeting, “Korea is rapidly moving toward a multi-racial and multi-cultural society, and this trend is irreversible.” Since then, multiple governmental branches have proposed a variety of social integration policies for foreigners residing in Korea and most recently.

One of the characteristics in the Korean social integration policies is that the national government has taken initiatives in making and implementing policies. As mentioned above, the President directly ordered the ministries to make plans for immigrant integration policies. As a result, the government and the national assembly enacted the major plans and legislations including the Basic Law, the Grand Plan and the Multicultural Family Support Act. However, local governments did not actively participate in this policy-making process. Rather, most local governments just followed the guideline from the national government. For example, the Ministry of Government Administration and Home Affairs proposed Standard Ordinance for Supporting Foreign Residents, and delivered it to local governments in February, 2007. Following this standardized form, as of May, 2008, 63% of local governments in South Korea enacted the ordinance for supporting foreign residents.(Yang 2009) Although some migrant NGOs and lawyers criticized that this standard ordinance excludes undocumented foreigners and prevented local governments from making their own ordinances that fit

more into local conditions, most local governments accepted this ordinance form without revisions. This top-down process in making ordinance for foreign residents clearly demonstrates that the national government actively initiates immigrant integration policies, and local governments are passive in dealing with the issues of multicultural coexistence with foreigners.

The Ordinance for Supporting Foreigners indicates that any resident foreigner may use the properties and public facilities equally to the other residents unless it is limited by law, and they are entitled to receive various administrative benefits. It also states that local governments should support for foreigner to settle in early time to the local community, and undertake appropriate action for building up the condition for resident foreigners to live with the local residents. The scope of support is 1) education for Korean language and basic living adaptation 2) consultation on difficulty, living, legal affairs, employment and others 3) providing living convenience and emergency relief 4) hosting cultural and sports event for resident foreigners. The Ordinance indicates that local government may establish advisory committee for supporting the policies.

The Ordinance allows local governments to provide NGOs that support foreign residents with administrative and financial support. Since most local governments in South Korea have not been specialized in supporting foreign residents, they tend to support foreign residents with corporation with NGOs. According to the Ministry of Public Administration and Security (former the Ministry of Government Administration and Home Affairs), as of July, 2009, 743 public agencies and civic organizations are involved in these activities. Compared to the year of 2008, the number increased by 179

(31.7%). Among them, the number of civic organizations including religious organizations is 439. However, considering many public agencies such as Multicultural Family Support Center and Migrant Workers Center are run by NGOs, the proportion of civic organizations is expected to be higher. As local governments began to provide financial supports and to subsidize immigrants supporting policies, immigrant integrations become attractive and lucrative issues for local NGOs. Hye-Soon Kim reports that some local NGOs are in conflict with each other to receive more money from local government. (Kim 2008a)

In principle, while national government provides the basic guideline, local governments need to plan and implement more detailed programs that fit into specific local conditions. However, local governments in Korea do not offer specialized and creative services for foreign residents and immigrants. Among 480 programs at the province levels, most programs are related to education to be adapted into the Korean society (44 cases), Korean language class (89 cases), experiencing traditional Korean culture (43 cases), cultural exchange events (35 cases), providing shelters (16 cases) and so on. Although migrant workers and international marriage migrants have a variety of ethnicity and nationality, most local governments are running almost the same activities for supporting foreign residents and immigrants. It shows the limitations of top-down approach in making social integration policies, and local governments in South Korea have not yet prepared for a long-term investment on immigrants integration.

International marriage migrants and their multicultural family including mix-race children are the most important policy targets for immigrants integration in South Korea.

After some local governments began the project, called “Getting Rural Bachelors Married” in the 1990s, international marriages especially between Korean males and females from Asian countries including China, Vietnam, and the Philippines rapidly increased. In 2005, 13.6% of the total marriages in Korea were international marriages. 36% of marriages in rural areas were international marriages. Since international marriage migrants are the first settler type immigrants who bear children and make multicultural family in Korea, they are challenging demographic composition and ethnic nationalism in Korea.(Kim 2007) Accordingly the Korean government quickly responded to the increase of international marriages throughout implementing the Grand Plan and Multicultural Support Act from 2006 to assimilate them into the Korean society. It is not exaggeration that immigrants integration policy in Korea emerged due to the rise of international marriages and multicultural families.

International marriage migrants are actively demonstrated as policy target group for assimilation in the Grand Plan of April 26, 2006. For this plan, Ministry of Gender Equality and Family takes the leading role and coordinate other departments including the Ministry of Justice, Labor, Health and Welfare, Education and Human Development as well as local governments. Besides regulating international marriage agencies and protecting foreign wives from domestic violence, the Grand Plan was designed 1) to support newly arrived foreign wives, 2) to support for children of international marriages in schools, and 3) to provide social welfare to foreign wives. The Grand Plan indicates that the Basic Law for foreigners will provide a variety of Korean language and cultural programs. According to the Grand Plan, the Ministry of Education and Human

Development recently announced that they will include a multicultural section called “Overcoming Prejudice against Different Cultures” in civic education textbooks. New curriculum will emphasize the multicultural tradition in Korean history, encourage tolerance, and de-emphasize the purity of blood. The new education contents targets a new type of mixed-race children, ‘Kosians,’ which means that children from international marriages between Korean males and Asian females. According to the 2006 statistics, approximately 13,400 Kosians attended primary to high schools, and it increased by 68% from the previous year. In the Grand Plan, both international marriage migrants and their Kosian children are considered as active policy target groups for immigrants integration.

The Grand Plan and other policies for supporting international marriage migrants clearly indicate two major shifts in Korea’s immigration policy. First of all, a policy focus is moving from women to family. Second, policy shift occurs from controlling ‘them’ to assimilating ‘them’ into one of ‘us.’ The first shift signals that international marriage migrants are defined as mothers who reproduce future Koreans. The government perceives international marriage migrants as the most easily mobilized resource to solve the low birth-rate and the population crisis in contemporary Korea.(Kim 2007) After the Grand Plan was announced in 2006, government documents frequently state that international marriage migrant women are “an object that can be used to resolve Korea’s low birth, aging society crisis.” (Kim 2007) In this sense, the government approaches the issues of international marriage migrants within the frame of population policy. In fact, the Grand Plan came from the Presidential Committee on Aging Society and Population Policy, and it remarks that policies for international marriage migrants operate as a part of

population policy.

International marriage migrants can be supported by the government only when they are located within the Korean family. The Grand Plan and other supporting policies define international marriage migrants not as individual women but as women within family. In this sense, supporting policies provide preferential treatment to international marriage migrants with children. For instance, according to the revised Natural Basic Livelihood Security Law, international marriage migrants with children are eligible for the benefits from the Welfare Protection Law for Parents even before they acquire Korean citizenship. In addition, when international marriage migrants got divorced, if they do not have children, they have to return to their countries immediately. However, if international marriage migrants with children want to raise their children in Korea, they are allowed to stay. Therefore, they do not have the choice but to bear children. The Korean state incorporates international migrant women within making families and protecting maternity. At the same time, the state disqualifies migrant women without children from the category of model migrant women.

To assimilate international marriage migrants into the Korean society, they are invited in the field of education. Among the supporting policies for marriage migrants, the majority is a variety of education program. According to one survey, the education programs national wide are composed of Korean language class (74%), Korean cooking class (44.6%), traditional Korean culture class (34.7%), class for family relation (25.6%), and class for traditional Korean manners (24%). These classes are designed to teach international marriage migrants how to behave like traditional Korean wives. Throughout

those education programs, the Korean state imposes specific gender roles on marriage migrants in the name of tradition including bearing children, serving parents-in-laws, and supporting husband as a domestic housewife.

While the national government takes initiatives in planning and implementing immigrant integration policies in South Korea, the Japanese central government has been less responsive to the need of social integration policies toward immigrants. Instead, local governments in Japan have actively established immigrant integration policies. However, the Japanese national government has begun to consider the need of immigrant integration policy. Responding to the progress in immigrant integration policies at the local level, the Ministry of Internal Affairs and Communications (MIAC) formed the Committee for the Promotion of Multicultural Community Building in June 2005.

(Yamawaki 2008) After researching a variety of policy measures from local governments, the Committee submitted the report, “the Plan for the Promotion of Multicultural Coexistence” in March 2006. Although the Japanese national government has discussed the issues of immigration, it has mainly focused on policy related to foreign workers as temporary working forces, controlling foreigners after their entry, preventing foreign crimes, and so on. (Yang 2009) Until recently, the Japanese national government felt no need of long-term consideration in social integration policies. In this sense, “This report is supposed to be the cornerstone of immigrant integration policy at the national level.” (Abe 2007)

This plan is composed of the four major focuses on immigrant integration policy including 1) communication assistance; 2) lifestyle assistance; 3) community building

for multicultural coexistence; 4) establishment of a system to promote multicultural coexistence. The plan recommends that local government should provide foreign residents with multilingual information about administrative services and local information. The plan also indicates that both national and local governments need to offer programs for Japanese language and Japanese society. For lifestyle assistance, the plan suggests that local governments should provide foreign residents with detailed information about everyday life such as garbage collection, housing, education, labor environment, health care, and emergency assistance. The plan acknowledges that understanding of multicultural coexistence among local residents is an important precondition for facilitating communication assistance as well as lifestyle assistance. Therefore, the plan recommends that local governments should develop programs that raise multicultural awareness among local residents such as education of foreign languages, and events for cultural exchanges between foreign and local residents. The plan also considers how to help foreign residents form their own community network, and how to increase foreign residents' participation in policy-making process. Finally, the plan specifies each role of local government, national government, private sectors for a better systemized coordination among them.

Although the plan “requested that all prefectures and major cities create guideline or plans for the promotion of multicultural community building,” (Yamawaki 2008) legal responses from local governments seem to be slow. In July 2007, Miyagi prefecture became the first one in the country that made an ordinance to promote multicultural coexistence. (Yamawaki 2008) Comparing the ordinances at the local level between

Japan and South Korea, Yang assesses while the Korean version contains more detailed clauses for supporting foreign residents and immigrants, the Japanese ordinance seems to be more declarative by emphasizing the meaning of multicultural coexistence. (Yang 2009)

While legal foundation for immigrants integration in South Korea is more developed than one in Japan, in practice, efforts of social integration for foreign residents and immigrants at the local level are much more diverse. Local governments in Japan as major actors who implement immigrant integration policies have established a variety of multicultural practices including “language classes and translation services (for personal, legal, employment, and social welfare issues), public housing, health insurance and emergency medical coverage, assistance with alien registration, and even limited political representation through foreigner advisory councils.” (Tsuda 2006)

In her study of local incorporation programs in the six cities including Yokohama, Osaka, Nagoya, Sapporo, Kobe, and Kyoto, Pak notes that the contents of the incorporation programs are common: 1) initiatives mitigating language barriers; 2) other incorporation policies; 3) cultural outreach through nonprofit foundations dedicated to internationalization; 4) research and continuing debates on the appropriate scope of incorporation initiatives; 5) advocacy for reforms at the national level; 6) creation of alternative forms of political participation. (Pak 2006) All six cities provide not only Japanese language classes, but also “translate information about local governmental services and other aspects of daily life in their cities into a total of fifteen different languages.” (Pak 2006, p. 73) All cities are active in direct financial support for foreign

residents and school-age education programs. Since education of non-Japanese children is one of urgent tasks, some local governments actively hired special Japanese language teachers for foreign children, and provide intensified counseling services for foreign children. In Kobe, Multicultural Children's Center provides support staff to help individual children adjust to Japanese schools. For the activities for cultural outreach, international centers have played a significant role in coordinating multicultural coexistence plan at the local level. International centers take part not only in mitigating language barriers, but also in promoting "international understanding" among Japanese residents throughout overseas study trips and social events with foreign residents.

Among those activities, the foreigners' assembly that "have set up in Tokyo(1997), Kanagawa (1998), and Hyogo (1999) prefectures, and in the cities of Osaka (1994), Kawasaki (1996), Kyoto (1998), and Hamamatsu (2000)",(Han 2004) have drawn attention. While the council for foreigners in South Korea is composed of public officials and Korean experts, the foreigners' assembly in Japan is considered as an alternative form for increasing political participation among foreign residents. Although the foreigners' assembly with the status of 'consultative councils' (*shingikai*) has no political and judicial power, in reality, their activities have a profound impact on decision-making process through several propositions. In Kawasaki city, a variety of propositions are presented to the local government including the issues of "the education of children, discrimination in daily life, the establishment of a permanent information center, as well as supporting inbound internationalization (1997), pursuing multicultural understanding (1999), expanding public welfare service for senior foreign citizens (2000), supporting

the children of multicultural families (2001), and maintaining an environment for encouraging multicultural coexistence (2003).” (Kwak 2009, p. 173) Combined with efforts of “reform-minded ‘social bureaucrats’” (Han 2004) in Kawasaki city, the foreigners’ assembly functions as partners in the policy-making process.

Although local governments in Japan have paid attention to providing various measures to serve foreign residents and immigrants focusing in communication, lifestyle assistance, multicultural awareness, and so on, their policies are insufficient in providing road to citizenship and to political rights. Fundamentally, Tessa Morris-Suzuki criticizes the current policy by using the term, ‘cosmetic multiculturalism.’ (Morris-Suzuki 2002) She uses the term ‘cosmetic multiculturalism’ “to suggest a vision of national identity in which diversity is celebrated, but only under certain tightly circumscribed conditions.” (Morris-Suzuki 2002, p. 171) Since *tabunka kyosei* policy does not request Japan to change existing institutions structurally and fundamentally, it is cosmetic, and cultural diversity is to be displayed in a sort of controllable form. Kwak also warns that multicultural coexistence without principle might bring about “unexpected, retrogressive outcomes when the public supports any decision unfavorable for multicultural coexistence.” (Kwak 2009, p. 178)

In this section, I attempt to explain what factors have made different pattern of immigrant integration policies in both countries. For a preliminary explanation, I take into account of three plausible factors: 1) historical experiences with ethnic minorities; 2) different perception of internationalization; 3) different pattern of state-society relations.

South Korea has historically been described as a racially homogenous country

without much experiences of living together with foreigners. There have been only two visible foreigners' groups in South Korea until recently. The first group is the U.S soldiers and their families who began to live in South Korea mostly after the Korean War. However, since they mostly spent their time inside the U.S. military camps, their encounter with the native Koreans was quite rare. The second foreign group is *Hwakyos*, which means the Chinese citizens residing outside of China. Due to their personal networks to China, *Hwakyos* used to dominate export and import in Korea right after the liberation from the Japanese colonialism in 1945. Yet, the number of *Hwakyos* in South Korea has decreased because of social discrimination against them and harsh regulation on their properties and economic activities in the 1960s and the 1970s. Therefore, South Korea did not face a variety of issues on immigration control and immigrants integration until foreign workers from Asian countries began to enter South Korea in the late 1980s, and international marriages between Korean males and Asian females suddenly increased since the early 1990s. The problems related to immigration are relatively recent phenomenon, yet the issues of immigration have profoundly had impacts on Korean society.

Different from the Korean case, Japan has been concerned about dealing with foreign minorities, especially the former colonial subjects. Dealing with the former colonial subjects in the newly democratized Japan deeply affected the formation of Japan's national migration regime. Pak argues that the decision about how to manage Koreans and Taiwanese was closely connected with Japanese conservatives' concerns about how to redefine Japan's national identity from a multi-ethnic empire to democratic

nation-state.(Pak 2004) Those ‘old-comers’ moved to Japan as a part of the wartime mobilization. In 1910, the number of the Korean populations in Japan was only 791, but it surpassed 129,000 in 1925, and reached about two million when the Pacific War ended. One study said “Over 720,000 Koreans were forced to move to Japan as manual and menial laborers from 1939 to 1945 alone.” (Morooka 2006, p. 38) After Japan was defeated in 1945, more than 1.5 million Koreans came back to Korea. However, about 50,000 Korean decided to stay in Japan “in part because of the political uncertainty and high inflation in their homeland and because of the difficulties of repatriating the property then had accumulated.” (Komai 1995, p. 234) Due to the 1952 San Francisco Peace Treaty, however, Japan stripped the former colonial subjects of their Japanese citizenship. Therefore, those old-comers were considered as foreigners instead of subjects of the Japanese empire. Their life is characterized by “marginalization and the struggle for inclusion.” (Chapman 2006, p. 90) Unlike the Japanese national government which did not have the concept of social integration toward foreign residents, some local governments has made gradual progress in making social integration policies toward foreigners, especially resident Koreans. Yamawaki argues that some local governments in the Kansai region, where there are a lot of Korean residents, began to recognize the necessity of social integration policies at the local level in order to protect human rights and to enhance equality of Korean residents. (Yamawaki 2008) Those local governments regarded resident Koreans as integral parts of their communities. Resident Koreans and local governments’ efforts to improve their rights contributed to local initiated pattern of immigrant integration policies in Japan.

In sum, while South Korea had been historically free from the problems of foreign minorities, Japan has faced the issues of the old-comers as a legacy of the Japanese colonialism, and witnessed resident Koreans' struggles against legal and social exclusion and attempts at assimilation. In this sense, the problems of the old-comers in Japan have functioned as a barrier to implement immigrant integration policies actively at the national level. As a result, local governments in Japan had to be major agents in establishing and practicing immigrant integration policies given the lack of multicultural policies at the national level. In contrast, South Korean government has never historically considered foreign residents as groups who disrupt social order in Korea. Thus, the national government in South Korea was able to take initiatives in making immigrant integration policies.

Immigrant integration policies in Japan have evolved from two policy areas. As mentioned above, some local governments in the Kansai region have conducted human rights policy toward resident Koreans. Other local governments in Japan since the 1990s have developed social integration policies as "extension of their policy for internationalization." (Yamawaki 2008, p. 43) When Sakamoto Yoshikazu's idea of "*minsei gaiko*" (people-to-people diplomacy) caught public attention, Kazuji Nagasu, governor of Kanagawa Prefecture between 1975 and 1995, pushed the principle of "*uchinaru minsei gaiko*" (inbound people-to-people diplomacy). He argued "local governments should pursue international cooperation independently of the central government and citizens need to play an active role in the decision-making process." (Kwak 2009, p.170) In the name of "inbound internationalization," many institutions

including Shonan Village, Kanagawa International Foundation, and Earth Plaza were found in Nagasu's governorship in order to promote academic exchanges with foreign scholars, cultural understanding of foreign residents, and educating Japanese citizens. Later, those efforts have played roles in supporting settlement of foreign nationals in the Kanagawa Prefecture, and the policy for inbound internationalization was evolved into a multicultural policy. (Kwak 2009)

While Japan concentrated on inbound internationalization such as internationalization of the Japanese people and making foreigners-friendly local societies, Korea was more interested in outbound internationalization such as strengthening economic competitiveness in global market. Like the campaign of "internationalization" in Japan, the Korean state also spread the term, "globalization (*Segeyhwa*)" as a form of national campaign. As Shin argues, the Korean state proactively appropriated globalization for nationalist goals, and globalization can strengthen national identity in reaction. (Shin 2006, p. 211) The Korean government perceived globalization based on Social Darwinism, principles of competition and survival of the fittest. Shin claims, "This reflects the social Darwinism thinking in Korea's drive toward globalization that has utilized an instrumentalist treatment, which has aimed at maintaining competitive edge for the nation." (Shin 2006, p. 213) The governments have claimed that the globalization must be achieved through 'competitiveness' and economic minded-nationals, and the globalization is one of the historical stages toward the developed country, superpower, and a center of Asia. Under these goals, the government heavily imposed the discourse of the globalization colored with economic and nationalistic rhetoric on the Korean public.

As a result, the globalization campaign focused more on “outbound internationalization”, and it was lack of “inbound internationalization” such as making foreigners-friendly local society, internationalizing local residents’ consciousness, and multicultural coexistence with foreign nationals. Thus, the different strategy of the internationalization campaign might be connected to the different patterns of integration policies in Japan and Korea.

Finally, distinguished state-society relations in both countries might result in different patterns of immigrant integration policies. Put simply, political activism in Korea has had a greater impact on national policy-making than in Japan. This consequence stems from the different structure of civil society in each country. The Japanese civil society is characterized as an abundance of small local groups with many members but a striking dearth of large independent advocacy groups with political influence, so it can be called as “members without advocacy.”(Pekkanen 2006) Unlike the Japanese civil society, the Korean equivalent can be categorized as “advocacy without members,” which means that the civil society groups have paid more attention to drawing policy changes rather than to mobilizing their membership bases. To exert their influences, the Korean NGOs usually aim for policy changes by targeting the national government, but activities of NGOs in Japan have become localized.

In terms of a structural characteristic of civil society in Japan, Robert Pekkanen claims that the Japanese state decided to selectively shape civil society by giving more preferential treatments to certain type of organizations, while regulating other type. The Japanese state has promoted small local associations such as the neighborhood associations, and the state has put heavy institutional restrictions on large national

advocacy groups. As a consequence, the Japanese civil society has a dual structure such as “an abundance of small local groups but a striking dearth of large independent advocacy groups.” It implies that many small local groups facilitate high level of social capital, but fewer civil society voices are heard in the terrain of public policy. The dearth of voices from civil society in the area of immigration policy also made a difference between Korea and Japan. Pekkanen states, “Japanese civil society groups have also been weak on issues ranging from whaling to human rights.” (Pekkanen 2006)

Unlike the Japanese NGOs, the Korean civil society can be categorized as “advocacy without members,” which means that the civil society groups have paid more attention to drawing policy changes rather than to mobilizing their membership bases. To exert their influences, the Korean NGOs usually aim for policy changes by targeting the national government, and have developed strategies to make solidarities with other civil society groups, and they are really good at obtaining media attentions. The Korean NGOs have also been a partner in national governance since the Kim Dae-jung administration. Further, The Roh Moo-hyun Administration, whose title was “participatory government,” intensified the collaboration with civil society because the birth of the Roh Administration was made possible by increasing power of civil society groups. It is obvious that the active coalition-building on the consensus of human rights delivered more liberal policy in Korea in comparison to Japan.

Although there is a debate on the nature of multicultural policy in South Korea (state-led or civil-society led) (Yoon 2008), it is undeniable that civic organizations first publicized the multicultural issues, and then they requested the Korean national

government to take actions. In reality, many NGO activists and migration scholars participated in formulating the policies, and many NGOs became major agencies that carry out immigrant integration policies.

I attempt to make a conclusion by evaluating localized integration policies in Japan and nationalized one in South Korea. The Japanese local governments' integration policies can quickly respond to what immigrants need, and provide immigrants with local-friendly and diverse programs. In other words, "municipally-initiated multicultural policies are more likely to be sensitive to the idiosyncratic needs of the local communities." (Kwak 2009, p. 182) As Tsuda points out (Tsuda 2006), however, the localized integration policies have some limitations. The immigrant integration programs in Japan might vary in coverage and quality depending on financial and demographic situation of each local government. Therefore, without uniformity at the national level, it might remain uneven and uncoordinated among the local governments. No national action plan to encourage social integration and no legal provisions at the national level might fail to ensure foreign residents and immigrants a legal guard against discrimination.

In contrast, the nationalized integration policies in Korea can maintain a uniformity of social services for immigrants across local administrations. Yet, the local governments in Korea might fail to respond to the needs of local immigrant groups. In fact, the immigrant integration programs in Korea have been criticized by NGOs that the Korean local governments devised the programs delivered from the national government without considering local differences. By critically evaluating each country's contrasting pattern of integration policy, this section is expected to suggest effective mechanism of

integration policy and will find the way in which national and local governments make a balance in making integration policies.

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