

**Japanese Migration Policy Reform and the Complexity of Channels:
From Control Orientation to Rights-Based *Laissez-Faire***

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Conventional Japanese migration policy has never allowed the recruitment of unskilled workers for any reason, except for either international cooperation or students' education. However, the series of immigration reforms including the revised immigration law in 2018 began the recruitment of foreign workers for the first time, to fill the supply-demand gap of unskilled worker. Interestingly, even though the initial proposal was a response to the strong demand from the economic sector's labor shortage, the reform itself was also partly welcomed by human rights groups to solve the policy contradiction of accepting unskilled worker from "side-doors," such as Technical Intern Training Program (TITP) and foreign students. The new scheme of "specified skills program", which targets 340,000 foreign workers in five years has some unique aspects. Foreign workers in this program, called "specified skills workers" are positioned between high skilled and unskilled; in other words, mid-level skilled, and are given more generous entitlement than unskilled workers, such as Technical Intern Trainees or students. At a glance, this program aimed to provide more freedom and to alleviate the existing extravagant recruitment fees under the TITP.

The TITP has been heavily criticized by *Trafficking in Persons Report* (TIP) and civil groups. While it has increased the number of workers coming to Japan, it has also increased the number of runaways and criminal offence cases, a result of the exorbitant recruitment fees and low salary. The average initial cost for runaways paid in countries of origin is at JPY 890,000 which is far beyond the legal cap, and more than 60 per cent paid more than JPY 1,000,000. Considering that around 70 per cent of employing companies violate any kind of Labour Standard Law of Japan. Therefore, malpractices in the price control of recruitment fees and the low salary were the main causes. Even though similar Memoranda of Cooperation (MOCs) have been signed between Japan and various countries, there is a wide gap in the recruitment process from 0 fee policy of the Philippines and no cap policies of China, Indonesia, and Cambodia.

Due to the disrepute of TITP, the specified skills program saw some innovative developments. First, the Computer Based Test (CBT) was introduced to supersede the recruitment agency-based language training by separating the language education fee from the recruitment process fees. This enables potential applicants to study by him/herself without being dependent on sending agencies, which is similar to the Korean Employment Permit System (EPS) system. Second is the possibility of direct hiring. The new law does not obligate licensed recruitment agencies in the countries of origin to apply for Japan. Those who passed the exam can directly

apply for visa after successful matching. Such direct hiring process is aimed at circumventing the high recruitment cost. Furthermore, the specified skills program allows workers to change employers within the same industry after their arrival in Japan. This is in contrast with the current TITP, where it basically does not allow to change employers, hence limiting the freedom to choose employers. In short, the new program provides less recruitment fees, more freedom to choose employers, and less dependence from sending and supervising organizations.

However, this is not really the case when the author scrutinized how it is actually implemented in sending countries, like the Philippines, Vietnam, Cambodia and Myanmar. Strong opposition against direct hiring arose from sending organizations who are authorized under the TITP; and to protect workers, sending countries do not allow direct hiring. Even with innovative changes on direct hiring, governments of countries of origin decided that potential workers should go through designated authorized agencies, which means that placement fees will be placed on applicants.

For fair recruitment, Japan and governments of countries of origin have signed Memoranda of Cooperation (MOCs). However, none of these specifically regulates the price control of placement fee since the specified skills is not necessarily assumed by mandatory authorized sending agencies. Therefore, the placement fee may be similar to TITP. It is an irony that the program giving more freedom to applicants exposes them to more risk.

One of the strong criticisms against the specified skills program is the ability to change employers within the same occupational category. This comes from potential employing companies in rural areas, where the likelihood of foreign workers changing workplaces is higher once they are employed. Since employing companies shoulder a portion of the placement fees, they waver how much they can invest for the training and recruitment of workers. Therefore, TITP would be potentially more viable for employing companies in rural areas than the new program.

As mentioned, even though the specified skills program seems founded on a rights-based approach, providing CBT, direct hiring and freedom of changing employers, the above-said institutionally built-in mechanism is not fully realized given the actual challenges in its implementation.