

Japan's Immigration Policy and the EPA between the Philippines and Japan

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Introduction

The purpose of this paper is to examine why the Japanese government accepted migrant care workers under an Economic Partnership Agreement (EPA) between the Philippines and Japan as an exception to its otherwise restrictive immigration policies. The EPA was concluded on December 18, 2009 for the purpose of launching a free trade agreement (FTA) between the two countries. Article 2 in the appendix of the EPA, Movement of Natural Persons, mentions that Japan will accept care workers from the Philippines. Although this stipulation was not a main concern of the EPA, its implication for Japanese immigration policy is not small.

Japanese researchers in the fields of medical care and care work have conducted research on Philippine care workers. One group discusses the care workers' situation in Japan and tries to explain why the number of care workers from the Philippines has not increased. Furukawa et al. concluded that the qualification examination for nurses and care workers (kaigoshi) to become certified in Japan is extremely difficult for people who do not have Japanese language skills.¹ Another group concentrates on the gender dimension, noting the distinct difficulties that women face in working separately from their families.² The scope of this research was limited to care work and care workers. Therefore, it suggests that an improvement in the certification process for care workers is key to improving their situation. But, is the reason why care workers do not increase in number only a matter of the examination? I clarify the unique status of the care workers who come to Japan in accordance with the EPA and the intention of Japan's immigration policy.

1. EPA between the Philippines and Japan

As mentioned above, the Japanese government concluded the EPA with the Philippines in 2009. The purpose of the agreement is to promote the free exchange of goods, capital, and the free movement

1 Furukawa, Emi, Kanako Seto, Kunichika Matsumoto, Tomonori Hasegawa, 2012. "A Questionnaire survey of Economic Partnership Agreement (EPA) host facilities for foreign nurses," *The Journal of Japan Society for Health Care Management*, Vol.12 No.4, pp.255-260.

2 Hirano, Yuko, Reiko Ogawa, Shun Ohno, 2010. "A Comparative Survey on Indonesian and Filipino Nurse Candidates Coming to Japan Under the Economic Partnership Agreements: An Analysis of the Results of Questionnaire Survey on Socio-economic Attribution of the Respondents and Their Motivation to Go to Japan," *Bulletin of Kyushu University Asia Center*, Vol.5, pp.153-162.

of persons. Therefore, its main concern is business and trade. Although the agreement consists of fourteen chapters and is more than 600 pages long, the migration of “natural persons,” specifically nurses and care workers, is only mentioned briefly in the main provisions and in the appendix. So, the matter of care workers is not the main concern of the EPA.

According to the agreement, Japan will accept 200 nurses and 300 caregivers from the Philippines per year. Although this number is extremely low, the actual number of nurses and caregivers who come to Japan since the agreement was signed has never reached this limit (see Table 1). In 2009, the first year of acceptance under the agreement, 93 nurses and 190 caregivers arrived. The following year, the numbers decreased to 46 and 72 respectively. The numbers have remained in this range, with the number of nurses reaching an all time low of 28 in 2013. The number of caregivers has risen to more than 200 since 2015, but it has yet to reach the designated limit of 300.³

Arrivals to Japan under the EPA are considered candidates to become certified nurses and caregivers in Japan. Like their Japanese counterparts, they must pass a national examination. They can take the exam more than once, but they must pass it within three years. If they manage to pass the examination, they can work in Japan without any limitation, but if they cannot pass it within the three-

Table 1. The Number of Nurses and Caregivers Arriving in Japan Under EPA Agreements⁴

Fiscal year	Category	Philippines	Indonesia	Vietnam
2008	Nurse	—	104	—
	Caregiver	—	104	—
2009	Nurse	93	173	—
	Caregiver	190	189	—
	Caregiver (student)	27	—	—
2010	Nurse	46	39	—
	Caregiver	72	77	—
	Caregiver (student)	10	—	—
2011	Nurse	70	47	—
	Caregiver	61	58	—
2012	Nurse	28	29	—
	Caregiver	73	72	—
2013	Nurse	64	48	
	Caregiver	87	108	
2014	Nurse	36	41	21
	Caregiver	147	146	117

³ Japan International Cooperation of Welfare Service (JICWELS), *Pamphlet on the Acceptance of Nurses and Careworkers under EPA*, 2017.

⁴ Japanese Government concluded the same EPA between Indonesia and Vietnam. According to the table, we can see the number of Indonesian and Vietnamese nurses and caregivers also has not increased so much.

2015	Nurse	75	66	14
	Caregiver	218	212	138
2016	Nurse	60	46	18
	Caregiver	278	233	162
Total	Nurse	472	593	53
	Caregiver	1124	1199	417
	Caregiver (student)	37		

Source) Japan International Cooperation of Welfare Service (JICWELS), *Pamphlet on the Acceptance of Nurse and Careworkers under EPA*, 2017, p.39.

year limit, they cannot stay in Japan and must leave. We can easily imagine how difficult it is for them to prepare for the examination while they are working in a hospital or a caregiving facility. Table 2 shows the low numbers of successful applicants for the national examination during 2008-2015. We can see that very few nurses and caregivers pass the examination.

Table 2. Number of Successful Applicants for Japan's Caregiver certification

course	The Year of entry into Japan	Philippines	Indonesia	Vietnam	Total
nurse	2008	—		—	
	2009	15	42	—	57
	2010	11	14	—	25
	2011	19	12	—	31
	2012	5	7	—	12
	2013	18	8	—	26
	2014	7	2	12	21
	2015	2	—	3	5
	Total	77	109	15	201
Care worker	2008	—	46	—	46
	2009	50	82	—	132
	2010	32	54	—	86
	2011	27	38	—	65
	2012	26	42	—	68
	2013	5	—	—	5
	2014	—	—	—	—
		Total	140	262	—

Source) JICWELS, *Pamphlet on the Acceptance of Nurse and Careworkers under EPA*, 2017, p.40.

The Japanese government has said that the acceptance of nurses and caregivers was a demand made by the Philippine government during the negotiation of the EPA. Is this the reason that the government has created a difficult obstacle to accept them long term? Is there no demand for care workers in Japan?

Compared to other countries, the percentage of the foreign care workers is quite low in Japan.

While recognizing that direct comparisons among countries are difficult due to differences in cultures, lifestyles, and social welfare systems, the numbers are striking. Foreign caregivers represented 23% of the total number of caregivers in the USA in 2010 and 8% of those in the UK in 2008. Foreigners represented more than 50% of caregivers in the countries of Israel, Austria, Korea, and France in 2010 and 72% of those in Italy.⁵ By comparison, in Japan, the rate of foreign nurses was 0.2% and foreign caregivers was 0.6% in the same year. Japan's Ministry of Health, Labour and Welfare estimates that the country will have a shortage of 377,000 caregivers in 2025.⁶ Even if all Philippine caregiver candidates pass the examination and get the qualification, the percentage of Philippine caregivers would still only rise to 0.082% of the total, a long way from supplying the shortage.

Why then does the number of care workers from the Philippines remain so low? Surely to learn Japanese within three years is a very high obstacle for the persons who did not have the opportunity to learn Japanese at home. However, we must pay attention to another factor: Japan's immigration policy.

Officially, Japan does not accept immigrants for unskilled work. However, there are a lot of unskilled foreign workers in Japan. Current estimates put the number of foreign workers in Japan at more than one million⁷ but estimates put the number at more than one million. Do they work illegally in Japan? No, they are not always illegal. Then, what is the status of these immigrants?

Nurses are considered skilled workers, but even if they have special qualifications, the Japanese government does not accept qualifications acquired in their home country. Therefore although nurses from the Philippines are skilled workers, they are treated as unskilled workers until they are certified in Japan. As I mentioned above, more than half candidates cannot pass the examination and they therefore work only for three years as an assistant nurse or as a caregiver⁸.

2. Japanese immigration policies

Historically Japan was a country of emigrants until the 1950s. Japanese emigrated to Hawaii and the USA until the USA prohibited immigration from Asia in 1924. Then, Japanese immigrated to Manchuria and the Korean peninsula. After the end of World War II, these immigrants returned to Japan and Japan suffered from overpopulation. Japanese then immigrated to Central and South America, to countries such as Brazil, Peru, and Mexico.

Due to rapid economic growth in the 1970s, Japan needed more workers in the domestic labor

5 OECD, 2011. *Help Wanted? Providing and Paying for Long-Term Care*, p.174.

6 Ministry of Health, Labour and Welfare, Press Release, 'Estimated demands for the care givers in 2025' at <http://www.mhlw.go.jp/stf/houdou/000088990.html> (Last accessed 1/10/2017).

7 <http://www.mhlw.go.jp/houdou/0000148933.html> (Last accessed 8/1/2018).

8 Kamibayashi, Chieko, 'Shortage of care workers and the acceptance of foreign workers,' in *The Japanese Journal of Labour Studies*, No.662, 2015 <http://www.jil.go.jp/institute/zassi/backnumber/2015/09/pdf.088-097/pdf> (Last accessed 8/1/2018)

market. At the same time, the declining birthrate and aging of Japanese society put further pressures on the workforce. In order to keep up with the economic growth, the expectation that immigrants could fulfill unskilled jobs increased among Japanese industry circles.

For Japan to open its doors to immigrants, it would need to accept foreigners who are not Japanese. However, it would prefer to utilize immigrants in the workforce while maintaining *jus sanguinis*, a principle of nationality law in which citizenship is not determined by place of birth, but by having one or both parents who are citizens of the state. It therefore adopted two policies. First, Japan opens the door to ethnic Japanese descendants of Japanese immigrants, mainly from Brazil and Peru. Second, Japan allows foreigners to enter the country under its Technical Intern Training Program, which ostensibly provides training in technical skills, technology, or knowledge to persons from developing countries. The program was established in 1981.

The official purpose of the Technical Training Program is to contribute to international cooperation by providing assistance to developing countries in the form of training personnel who will become the foundation for economic and industrial development in those countries. However, Japanese enterprises and employers expect the persons who come to Japan under this program to work as unskilled labor. Some Japanese business owners employ these workers without following the standards of the labor law, especially in terms of work time and the minimum wage. In the most egregious cases, workers who want to stop the program and to return home due to difficult working conditions cannot do so and are trapped in bad situations when unscrupulous employers confiscate their passports, or they become indebted to commission agents.

The hard work and strict supervision of the “trainees” increased their frustration and at the same time severe criticism from the international society was growing in 1990’s. For example, in March 2010 Mr. Jorge Bustamante, the Special Rapporteur on the Human Rights of Migrants, criticized the situation of trainees and asked the Japanese government to improve it:

The industrial trainees and technical interns programme often fuels demand for exploitative cheap labour under conditions that constitute violations of the right to physical and mental health, physical integrity, freedom of expression and movement of foreign trainees and interns, and that in some cases may well amount to slavery. This program should be discontinued and replaced by an employment program.⁹

In 2012 the Japanese government changed the law and the program so that interns can attain equal

9 http://www.unic.or.jp/news_press/features_background/2805/ (Last accessed 1/10/2017)

status as ordinary Japanese workers after one year of training. However, the Japanese government did not change its overall immigration policy and the “back door policy” of accepting unskilled foreign workers as trainees and as part of “international cooperation” continued.

3. The status of foreign care workers in Japan

The acceptance of Filipino and Indonesian nurses and caregivers under EPA agreements allows them to work and train in hospitals or caregiving facilities in Japan until they succeed in attaining the Japanese national certification as *kangoshi* or *kaigohukushishi*. They have to succeed within three years and if they cannot succeed within that timeframe they must leave Japan. Until they obtain the national qualification, they are treated as candidates.

In order to work in Japan, foreign care workers must register with the Japan International Corporation of Welfare Services (JICWELS). JICWELS has been designated by the Ministry of Health, Labour and Welfare as the only accepting coordinating agency in Japan to engage in operations such as: coordination with the deploying agency in the Philippines, recruitment and screening of accepting institutions, and provision of supports upon conclusion of the employment contract. Without registration with JICWELS, they cannot work as nurses or caregivers.

The situation of Philippine care workers in Japan is quite strange. Although their qualification at home is not accepted in Japan, they are requested to have a qualification at home or higher education. They are skilled workers, but they are treated almost the same as the trainees of the Technical Intern Training Program. Their recruitment is allowed only by the Philippine Overseas Employment Administration (POEA) and JICWELS, and they cannot select the workplace by themselves. While they stay in Japan, they are under the supervision of JICWELS, which also provides their accommodation.

According to a survey of candidates who had returned home, the obstacles to working in Japan are: difficulties with the Japanese language, unfair treatment as a qualified worker, and separation from family. Many did not work as a care giver after returning home, but rather worked in other occupations by using the Japanese language knowledge they had acquired.¹⁰ This means the skill as nurse or caregivers they acquired in Japan is not for use at home.

On the opposite side, according to a survey of Japanese hospitals and caregiving facilities concerning the nurse and caregiver candidates, Japanese employees also had complaints about the program.¹¹ First, it is too expensive to accept candidates. If a hospital or caregiving facility asks

10 There is no specific data concerning returnees. According to Indonesian returnees in 2012, only 4 persons among 20 returnees worked as nurses upon returning home. Maeda, Machiko, 2014. “Acceptance of the EPA Indonesian and Filipino Nurse Candidates and Support for the Returnees,” in Fukuda, Yuko (ed.) *International Migration and Its Social Effect: Chiba University Graduate School of Humanities and Social Sciences Research Project*, No.286, pp.6-30.

11 Furukawa, Seto, Matsumoto, Hasegawa, op. cit., pp.256-259.

JICWELS to place a candidate, the cost is \$1,000 per person to JICWELS for accommodation, 3,000 peso per person to POEA, 200,000 yen for travel fees, and 360,000 yen for training by JICWELS. The total expense of acceptance amounts to more than one million yen per person. Second, the hospital or facility has to also provide job and Japanese language training and designate a trainer or adviser who will work with the candidate. Candidates usually work shorter hours than the ordinary workday in order to prepare for the national examination. Many hospitals and caregiving facilities, suffering from labor shortages, cannot afford to provide preferential opportunities to the candidates. Ironically then, the acceptance of candidates in reality becomes a burden for the accepting side.

Then, why do they accept candidates? Most respondents of the survey cited the request from the government for the purpose of international exchanges or contribution to the international cooperation as the primary reason for accepting candidates. The second answer was to secure care workers in the future.

Hospitals and caregiving facilities suffer from a shortage of care workers, but the present system is too much of a burden for them. The Japanese government's policy of immigration only accepts personnel who have high qualifications; the acceptance of care workers is an exceptional case only within the framework of the EPA. Yet according to the Japanese government, the acceptance of care workers is not a scheme to address workforce shortages. It also does not meet the request of candidates who want to work in Japan as skilled workers.

The Japanese government insists that the acceptance of nurses and caregivers is for the purpose of international cooperation and does not constitute the acceptance of immigrants. Under this reasoning, the nurse and caregiver candidates seem to be positioned as skilled workers who are simply brushing up their skills in Japan, but they are not treated as the skilled workers that they are. If the acceptance of candidates is for the purpose of international cooperation, the skills that they acquire in Japan must be useful for the Philippines. But the fact that many people do not work as nurses or caregivers after returning home illustrates Japan's failure to achieve the international cooperation it professes to be striving for.

Recently the Japanese government added care work as a category of the Technical Intern Training Program. In this case it also insists that the acceptance of the care workers from developing countries is for the purpose of contributing to international cooperation. According to the Program, trainees can stay in Japan for not more than five years. Trainees can acquire the skill for care but the program is not for the purpose to overcome a shortage of care workers in Japan. Therefore it is difficult for trainees to be highly skilled specialists who will work continuously in Japan. Otherwise it is seemed that the care work is just unskilled work which need not any skill and everybody can do, because five years is not enough to get highly skill for care work.

So, what kind work do the care workers bear under the EPA? If Japanese government just wants to fulfill the shortage of care workers and considers the care work is just a simple unskilled work, it will be never manage to secure the care workers in Japan. Because there is a shortage of care workers all over the world, the contest for care workers will be very severe soon.¹²

4. How to create a win-win relationship between the Philippines and Japan?

The Japanese government's attitude toward care workers under the EPA is not clear. On the one hand, it insists that it is advancing international cooperation, but on the other, it expects to recruit Filipinos as a source of cheap labor. With the exception of accepting descendants of Japanese immigrants, the government does not have any immigration policy. The care workers accepted under the EPA are expected to work within a certain term and not to stay as members of Japanese society. The government is not concerned about their family or their life after they leave Japan. However, care workers are not disposable, and it is overly optimistic to think that Japan will be able to continue to easily recruit them simply based on economic difference.

As mentioned above, competition for care workers will be severe soon. Within this context, Japan needs to think about how it can be selected as the attractive working place. Here I would like to introduce some examples of win-win relationships between sending and receiving countries.

The first example is the relationship between England and Spain. More than 80% of Spanish doctors and nurses immigrate to England to advance their career and after several years they return to Spain. In this situation, England is able to secure doctors and nurses, and the Spanish can gain higher incomes and advance their careers.¹³ In England, the Spanish qualification for a doctor or nurse is accepted after a certain course of medical training is completed. Generally, there is a common certification for qualifications within the EU with supplemental training programs to adapt to a particular country's system.

The second example is the relationship between Saudi Arabia and the Philippines. Saudi Arabia needs nurses, but the Philippine qualification was an obstacle to accepting Filipinos to work as nurses. To address this problem, Saudi Arabia financed the building of a hospital in the Philippines equipped with cutting-edge technology. The Philippines was able to receive training for its nurses at home, while Saudi Arabia did not need to train nurses in Saudi Arabia to adapt to its nursing system.¹⁴ Some

12 Kazu Takahashi, 'Japan's Immigration Policy and the Acceptance of Foreign Care Workers : Can the EPA overcome the shortage of care workers?', Yamagata Univeristy, *Houseironso*, No. 68·69, 2018, pp.19-23.

13 Blitz, Brad K. 2014. *Migration and Freedom: Mobility, Citizenship and Exclusion*. Cheltenham; Edward Elger Publishing. pp.57-76.

14 Asakura, Kyoko, Takashi Asakura, Chika Hyodo and Yuko Ohara-Hirano, 2009. "Issues of Receiving Foreign Nurses to Japan by the Schema of The Japan-Philippine Economic Partnership Agreement," *Bulletin of School of Health Science Tohoku University*, No.18(2), pp.67-74.

colleges in the USA have established affiliations with colleges in the Philippines where students study the textbooks used in America and the teachers visit the college several times in a school year and to give advice. This system makes it easier for Philippine students to obtain the necessary qualifications to work as a nurse in the USA.¹⁵ These examples illustrate ways to ease the barriers to working in foreign countries and to create win-win relationships between sending and receiving countries..

Conclusion

Japan's system of accepting care workers from the Philippines is not effective for either the Philippine care workers or Japanese agencies. Half of the care workers return to the Philippines and most of those do not continue to work as care workers.¹⁶ Not only are care workers unable to work in Japan long term, the education and time in Japan was in vain if they would not work as nurses and caregivers. In some cases treatment as mere candidates or assistants damages a sense of self-confidence and pride. This situation is not only a loss for the care workers themselves, but also contributes to a broader social loss, because Japanese Government lose the qualified workers who could be a future member of Japanese society.

While the Japanese government's immigration policy actually intends to increase the number of care workers in Japan, it also insists on maintaining the principle that Japan does not accept foreign workers. Japan suffers from a labor shortage, especially of care and unskilled workers. To address this, Japan adopted policies to admit foreign unskilled workers as trainees under the Technical Intern Training Program and as care worker candidates under the framework of the EPA. These policies intended to supply an unskilled work force and care workers, but the government insists that their purpose is for international cooperation with developing countries.

The Japanese government's approach toward foreign immigrants is inconsistent. Today, it is said that more than one million foreigners work in Japan. Japan should change its official immigration policy from one that relies solely on *jus sanguinis* to one that treats foreign workers fairly and builds win-win relationships.

¹⁵ *Ibid.*, pp.69.

¹⁶ According to the report of JICWEL, more than half of the candidates could not pass the examination.(See Chapter2)

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2009年、日本とフィリピンは経済連携協定（EPA）を締結した。日本はこの協定において外国人看護師・介護福祉士の受け入れを開始した。そもそも日本は公式には外国人労働者に対して市場を開放しておらず、また移民の受け入れもしていない。このEPAに基づく外国人看護師・介護福祉士の受け入れは、日本の移民政策の転換点となるのであろうか。

第二次世界大戦前もまた戦後においても日本はもともと移民の送りだし国であったがゆえに、「移民政策」を行って来なかった。しかし、すでに1970年代の半ばから外国人の労働者は増加し、現在では100万人を超える外国人労働者が働いていると言われている。しかし、血統主義を取るがゆえに移民を認めない日本政府は、外国人ではなく「日系」人に対しては労働市場を開放するとともに、技能・研修制度によって単純労働者としての外国人を受け入れてきた。そこには安価な労働力として外国人労働者を雇いながら、定住は認めず、使い捨てにしようとする意図が透けて見える。

介護労働者も人手不足が深刻な分野である。EPAによる介護労働者の受け入れには病院や介護施設の期待があったが、実際には定着率は低く、受け入れ施設の負担も多いため、不足する労働力を確保するには至っていない。また、日本語による試験の難しさや学歴や資格を持ちながら補助的な仕事しかできないことへの不満も多い。

介護労働者不足は、世界的な規模で進んでおり、近い将来、争奪戦になることは明らかである。こうした状況を踏まえて、日本は外国人介護労働者を一時的な使い捨てにするのではなく、双方で利益を享受できるような仕組みづくりが必要であり、また外国人労働者をバックドアから受け入れるのではなく、現実を見据えた「移民政策」を立てて、正面から取り組む必要がある。