

**JAPAN ASSOCIATION FOR MIGRATION POLICY STUDIES (JAMPS)
2020 Annual Spring Conference, International Session (Online)
10:00-12:00 Saturday, May 23, 2020**

Chair and Moderator: Dr. Yasutaka SAEKI (Osaka University)

ABSTRACTS

CHHOUR, Phengse (Hosei University)

“Why do Cambodian Technical Intern Trainees Flee from their Workplaces in Japan?”

Keywords: policy, technical intern trainees, missing, refugee recognition application

The purpose of this study is to describe the reasons behind their escape. It is the first study that explores the factors that motivate Cambodian technical intern trainees to flee the workplaces. The main research question is why do Cambodian technical intern trainees flee from their workplaces in Japan? Sano (2012) states that since the trainee programs function as a system of workforce supply faced a shortage of labor force since the late 1990, the trainees' escape has become a major social problem, and some analysts also said that all of them worked illegally or there is possibility of crimes. Over the years, trainees who came to Japan lived illegally and escaped are increasing. For trainee program does not guarantee that the trainees return to their countries. The effectiveness of the system is a main issue (Sano, 2012:19). The number of escaping trainees has increased up to 9,052 by 2018, including 758 Cambodian technical intern trainees in 2018 (NHK, 2020).

Sano (2012) examines foreign trainee's escape issue. The author found that as the percentage of recruit slips, while the labor market finds fewer people, more job seekers run away from the workplaces. Sano also found that another problem is that the host for foreign workers that accepts the trainees is less strict in its management which also resulted in the escape from the workplaces. Sano highlights as the Yen currency rises, remittances to homelands are more profitable than interest rates. Because they want to make a lot of money, escaping from the workplaces can also rise (Sano, 2012:22-23). Saito (2018) explores Vietnamese technical intern trainees. Saito found that the reason for the trainees' escaping is due to low pay, recruitment, repayment, harassment, and misleading and inadequate information, payment of high fees to come to work in Japan and forcing to sign contracts illegally (Saito, 2018:15-16).

Summarizing, the existing evidence regarding Cambodian technical intern trainee is limited. However, future research is need to more clearly identify the cause of escape by interview missing trainees. Not many researchers work on the issue because it is difficult to find technical intern trainees who run away from the workplaces for interview. Most scholar conducted study on Chinese and Vietnamese technical intern trainees, and the research only analyzes secondary data and does not interview missing trainees for explanation about the reason, and the above research has not studied the factors that led the trainees to escape from the workplaces. This study explores the reasons and factors that motivated Cambodian technical intern trainees to flee the training sites. The original paper is that the author is Cambodian and interview with 10 missing Cambodian technical intern trainees in Khmer language.

The current literature about missing Vietnamese technical intern trainees, but fails to analyze the main factors of brokers and refugee recognition application that led Cambodian technical intern trainees run away from the training sites. Therefore, it is significant to understand brokers and refugee recognition application that the reasons for escape from the workplaces, and this research is a trial to fill the research gap.

The study examined case study in November 2018 on the life and living conditions of missing Cambodian trainees. This paper used ethnographic case study to explore Cambodian technical intern trainee's life-stories on disappearing from the workplaces. The data collection was conducting semi-structured interviews in order to get the primary data and interviewed 10 Cambodian technical intern trainees, including 3 females and 7 males who ran away from the workplaces for about 20 hours on the reasons behind the escape from the workplaces from November 23, 2018 to January 2, 2019 in the prefectures of Kanagawa, Gunma and the City of Tokyo.

This paper finds that indebtedness, low salary, failure to honor contracts, no overtime work, brokers, poor working environment, refugee recognition application are all the factors that led the trainees to run away from the workplaces. This paper contributes to the existing literature on brokers and refugee recognition application by providing information of former Cambodian technical intern trainees. This empirical evidence contributes to the emerging literature that investigates Vietnamese technical intern trainees. This study definitively answers the question regarding

the reasons that Cambodian trainees flee from their workplaces in Japan. Future studies are needed to investigate Yen currency rises. Following Sano (2012) one could hypothesize that if as the Yen currency rises, remittances to homelands are more profitable than interest rates, then technical intern trainees will run away from the workplaces, because they want to make a lot of money.

References

NHK, 2020, As foreign workers disappear, Japan puts in measures to improve working conditions. (<https://www3.nhk.or.jp/nhkworld/en/news/backstories/810/>, February 8, 2019)

SANO Tetsu, 2012, Gaikokujin kenshu • ginojishuseido no kozo to kino, [Structure and function of foreign trainees • technical intern training program], (Japanese), *Hitotsubashi University Repository*, p.19, p.20, pp.22-23. (https://hermes-ir.lib.hit-u.ac.jp/rs/bitstream/10086/14458/1/pie_dp53.pdf, January 8, 2019)

SAITO Yosihisa, 2018, *Nihon de hataraku betonamujin rodosha: mondai jokyo to sono haikai*, [Vietnamese workers in Japan: problem situation and background], (Japanese), *rengo soken repoto 2018 nen 5 go*, No. 337, pp.15-18. (<https://www.rengo-soken.or.jp/dio/dio337.pdf>, August 25, 2019)



NGUYEN, Thi Thu Trang (Ritsumeikan Asia Pacific University)

“How Illegal Foreign Workers Enter and Remain in Vietnam”

Keywords: immigration, public administration, illegal foreign workers, Vietnam

This study aims at identifying loopholes of Vietnam’s immigration and labour laws, weaknesses and difficulties in the practice of law enforcement in administrating foreign workers in Vietnam, and how illegal foreign workers take advantage of these shortcomings to enter and work in Vietnam to establish fundamental understanding on modus operandi of the violation.

In response to the need of a qualified workforce in the era of globalization and integration, Vietnam’s Labor Code (2012) allows to hire foreign managers, directors, specialists, technical employees that Vietnam cannot supply. There are specific requirements such as qualifications, experiences, clear criminal records, etc. that these workers should meet. Furthermore, in order to protect Vietnam’s vulnerable low-skilled workforce, it is prohibited to employ foreign workers to do the jobs that can be satisfactorily done by Vietnamese workers, especially manual and unskilled jobs.

The number of foreign workers in Vietnam increased dramatically from 12,602 in 2004 to 92,100 in 2019 (Cao, 2019), and most of them are managers, specialists, and engineers who make positive contribution to the economy (Thuy, 2019). Nevertheless, there are also illegal foreign workers in Vietnam (Vu, 2016). The presence of illegal foreign workers in a country is always a sensitive and complicated issue as it is not only related to economy, but also diplomacy, security, and sovereignty. As a result, preventing illegal foreign workers is an indispensable work of the authorities. However, there have been no thorough studies on how illegal foreign workers enter and remain in Vietnam to identify loopholes of Vietnam’s immigration and labour laws as well as weaknesses and difficulties in the practice of law enforcement.

This research uses crime opportunity theories as theoretical background. Rational Choice Theory is applied to identify crime script of the violation to find any weak points that need intervention. Routine Activity Theory is applied to examine routine activities of the authorities and related people to see if they are intentionally or unintentionally facilitate violations. Crime Pattern Theory is applied to find existing violation generators, attractors and enablers. The study itself is the first step for applying Situational Crime Prevention in preventing illegal foreign workers, which tries to identify the modus operandi of the violation.

Bearing in mind advantages and disadvantages of each research method, I chose qualitative method for this study. I decided to collect data from three sources. First, I collected secondary data from books, articles, news, etc. to see what researchers and reporters had found. Second, I conducted in-depth interviews with ten experienced immigration and labour officers from different provinces in Vietnam to view the issue from the perspective of the authorities. Illegal foreign workers is a stigmatized population, so it is very difficult to approach and get their consent to collect data directly. As a result, I decided to conduct social media research by collecting relevant information from various platforms that foreigners often use to discuss about entering and working in Vietnam such as Facebook, Twitter, YouTube, Flickr, and various websites, blogs, mini-blogs, forums, etc. Finally, I triangulated these collected data to increase credibility and reliability of the findings as well as to obtain a comprehensive view on the issue.

In order to enter Vietnam for work, illegal foreign workers take advantage of Vietnam's favorable policies to enhance tourism and business to enter under tourist, investor and business visa. Travel agencies intentionally and unintentionally do not play a good role in administrating what their customers do in Vietnam. Vietnam's investment law is too lax, and does not regulate the minimum amount of an investment which lets foreigners easily become investors with only some dollars. Some Vietnam's companies make false guarantee to help foreigners enter Vietnam under business visa. These companies know that punishments for this violation are lax, so they keep violating, or simply open a new company to violate again. Some public servants also involve in facilitating this process by not checking each case carefully. In order to remain in Vietnam, illegal foreign workers often go to border gates for visa run. There are some travel agencies directly support this process. Furthermore, the ignorance of landlords and employers contribute to the continuance and development of this issue.

References

Books:

Natarajan, M. (2011). *Crime Opportunity Theories: Routine Activity, Rational Choice and their Variants*. Ashgate Publishing.

Vu, T. L. (2016), *Quản lý nhà nước về cư trú của người nước ngoài ở các tỉnh, thành phố trực thuộc trung ương phía nam Việt Nam* [State management over foreigners' residency in Southern provinces and municipalities of Vietnam]. Hanoi: National Academy of Public Administration.

Articles:

Cao, T. N. (2019, June 8). *Một số quy định mới về cấp giấy phép lao động cho người nước ngoài tại Việt Nam* [New regulations on issuing work permit for foreigners in Vietnam]. Retrieved from <http://csnd.vn/Home/Nghien-cuu-Trao-doi/6175/Mot-so-quy-dinh-moi-ve-cap-giay-phep-lao-dong-cho-nguoi-nuoc-ngoai-tai-Viet-Nam>

Thuy, D. (2019, October 10). *Tăng cường quản lý lao động nước ngoài làm việc tại Việt Nam* [Enhancing administration on foreign workers in Vietnam]. Retrieved from <https://www.qdnd.vn/xa-hoi/cac-van-de/tang-cuong-quan-ly-lao-dong-nuoc-ngoai-lam-viec-tai-viet-nam-593189>



TIAN, Yunchen (Johns Hopkins University)

“Foreign Trainees as Foreign Talent: Local and National Policies towards Migrant Labour in Japan”

Keywords: Technical Internship Training Program, guest workers, local governance of migration, institutionalism, political economy of migration

Since the tail end of Japan's economic miracle in the 1980s, the dual demographic pressures of a rapidly aging population and one of the world's lowest fertility rates have created dire labour market conditions. As of 2017, 1.37 empty positions existed for every job-seeker nationwide; in some in-demand industries such as health care, security, and construction, open positions outnumbered the total applicant pool by a factor of three or even six (Ministry of Economy, Trade and Industry 2017). Faced with chronic labour shortages that critically threaten Japan's already anaemic economic prospects, policy-makers, both within the Prime Minister's Cabinet and Japan's extensive ministerial bureaucracies, have overseen the implementation of various programs to allow foreign labourers access to employment in Japan in even lower-skilled fields such as construction, agriculture, and manufacturing. One pathway is the Technical Internship Training Program (TITP), an initiative officially for transmitting Japan's considerable industrial and technical expertise to trainee workers recruited from across the Asia-Pacific region. The number of TITP program participants has skyrocketed from little over 10,000 in the first years after its inception to more than 270,000 as of 2018, with recent annual growth rates in the double digits (Ministry of Justice 2018).

The longevity, and continued expansion of the TITP stands out in comparative perspective with other Western cases (primarily in Europe), where guest-worker programs have been gradually phased out. In Korea, a near-identical system was replaced by the Employment Permit System, which formally recognized migrant laborers as guest workers. Politically, the TITP remains uniformly unpopular amongst all opposition parties (Solidarity with Migrants Network

Japan 2019), as well as with conservative factions within the ruling Liberal Democratic Party (LDP)¹. In addition to domestic opposition, the scheme has also been the subject of sustained criticism from abroad, including as a regular feature on the annual Trafficking in Persons Reports published by the United States Department of State (Office to Monitor Trafficking in Persons 2016). Why has the TITP program been preserved and revised despite considerable criticism and resistance, from both domestic and abroad? Why has it been the subject of near-continuous reform and expansion, instead of being scrapped completely in favour of a labour migration regime without the pretences of knowledge training? Finally, why has it increasingly become the leading source of irregular migrant labour in Japan, even over the co-ethnic *Nikkeijin*?

I propose focusing attention to the fact that the expansion of foreign labourers has been mediated through not only national-level policies and bureaucratic management, but also by heavy involvement on the part of local level public and private actors. Despite the predominantly national nature of the migration regime, localities across Japan have begun to seriously involve themselves in the migration process through subsidies and even direct participation in the oversight of migrant workers. From Hokkaidō in the north to Okinawa in the far south, one can find examples of municipal and prefectural governments offering lucrative subsidies and grants to local business specifically to assist in the hiring of TITP programme participants. For example, Hida City, located in industry-dependent Gifu Prefecture, subsidizes translation services, interview travel expenditures, and the conversion of underutilized housing stock into worker dormitories (Hida City Office for Commerce and Tourism 2018). In Metropolitan Tokyo, as well as many small towns in Hokkaido, local governments offers employers flat annual subsidies ranging from 100,000 to 350,000 yen (~\$950 to \$3200) for each TITP intern employed (Fukushima Town 2017; Tokyo Bureau of Social Welfare and Public Health 2019).

Careful analysis of policy documents and results from novel survey conducted by the author in late 2019 of all municipal units in Japan demonstrate that examples of such local policies can be found across the country in a range of economic and industrial contexts. Contrary to the official *tatemaie* line that the recruitment of migrant workers is intended for knowledge and technical skills transfer, local governments overwhelmingly frame their policies as economic measures aimed at arresting economic decline and promoting local development. Institutional changes in Japan's labour migration regime should be looked as the result of gradual, but not over-determined, processes. The multi-level approach incorporates concepts from scholarship examining the increasing devolution of policy authority to local actors, both within Japan and in comparative perspective (Samuels 2016; Clingermayer and Feiock 2001; Sorensen and Funck 2007; Hirose Nishihara 2018; Andrew and Goldsmith 1998; Hooghe and Marks 2003). This approach not only identifies distinct typologies or patterns of multi-level governance and policy devolution, but also illustrates how, under certain conditions, moving responsibilities to subnational jurisdictions can increase governance efficiency.



TSUCHIDA, Chiaki (Tokyo University)

“The Political History of Refugee Protection Policy in Japan before 1981”

Keywords: Refugee Protection, Political Offenders, Deportation, Immigration Control, Japan

Today, the Japanese refugee status recognition system has entered a critical phase. For instance, detention and deportation have become more serious issues than ever before. Lacking legal permission of residence, asylum seekers with a status of provisional release or provisional stay often struggle to remain in Japan and maintain their livelihoods. Moreover, the number of such permissions have actually plunged in recent years (The Statistics Bureau of Japan online). Additionally, the government of Japan has tried to grant work permission to those who have status of residence namely the permission for designated activities. Furthermore, beginning in April 2020, temporary visitors including asylum seekers with specific expertise and skills would be accepted (The Ministry of Justice online).

Consequently, asylum seekers seem to be now treated as labor migrants instead of refugees. Based on this perspective, the refugee status recognition system is no longer a policy for asylum seekers to enjoy the exclusive rights of protection as refugees. In short, the refugee protection policy seems to not be functioning in practice. In order to investigate one of the causes, therefore, it is necessary to examine how the Japanese government has developed refugee protection scheme if the government has transformed its approach for protecting refugees. This research

¹ “Nyūkan hōan, jiminitabasami, hoshūsō ga hantai, hitodebusoku ha shinkoku shijisha sōhan, taiō muzukashiku.” 2018. Nishi Nippon News. November 7, 2018. <https://www.nishinippon.co.jp/item/n/4635>

especially focuses on the period before 1981 when the government signed the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees (hereafter the Refugee Convention) because the treatment of people who entered or stayed illegally after WWII until 1981 seems to lay the foundation for protecting refugees (eg. Miyazaki 1963, Honma 1974, 1990).

There are three main points to answer my research question. The first one is the reconsideration of deportation. Koreans accounted for approximately 80 percent of total deportation until Korea and Japan normalized its diplomatic ties (The Ministry of Justice Immigration Bureau 1981: 160). In order to improve its deportation operations under the Immigration Control Order, the government of Japan granted the special permission to stay to the applicants if there could be extenuating circumstances. Also, those who were deported were provided a choice over the destination. The Japanese government finally adopted the principle of non-refoulement despite the government having not yet acceded to the Refugee Convention.

The second point for consideration is the principle of non-extradition of political offenders. From 1953 until 1981, this principle was the only legal recourse for people who asked the Ministry of Justice to grant them asylum. The principle has two features: protection and prohibition of repatriation. However, the principle was never applied to asylum claims. Thus, the need for another relevant legal system for protecting refugees increased.

The final point the author consider is the submission of Seiji Boumeisha Hogo Houan (the bills entitled the “Political Asylum Protection Law”). In late 1960s, a group consisted of scholars and layers brought pressures upon the Diet to enact “Political Asylum Protection Law”. The bills were submitted by the members of Japan Socialist Party on five different occasions from 1969. All of these bills were rejected in the end; however, it appears that they were vital for future refugee protection policy in Japan in two points of view. First of all, the bills were based on the Refugee Convention despite Japan not having been a member state. Following that, the Ministry of Justice established the refugee status determination system in reference to the bills and five of eight chapters were adopted.

In conclusion, the Japanese government developed its refugee protection scheme throughout improving its practice of immigration control based on the existing laws. The government also adopted the principle of non-refoulement, the most important international norm in the Refugee Convention despite of having been no legal protection policy for refugees. The protection scheme before 1981 subsequently became the significant foundation of the Japanese government’s approach for protecting refugees.

References:

Honma, H., 1974, *Seiji Boumei no Houru* [in Japanese], Waseda University Press.

Honma, H., 1990, *Nanmon Mondai towa Nanika* [in Japanese], Iwanami Shoten.

Miyazaki, S., 1963, *Kokusaihou ni okeru Kokka to Kojin* [in Japanese], Miraisha.

The Ministry of Justice Immigration Bureau, 1981 Shutsunyuukoku Kanri no Kaiko to Tenbou -Nyuukan Hossoku 30 Shunen wo Kinen Shite- [in Japanese], Okurasho Insatsukyoku.

The Statistics Bureau of Japan, “Syutsunyuukoku Kanri Toukei Nyuukoku Shinsa, Zairyuu Shikaku Shinsa, Taikyo Kyousei Tetsuzuki tou” <https://www.e-stat.go.jp/dbview?sid=0003288365> (Accessed on 07 March 2020)

The Ministry of Justice, “Houmusho: Shiken Kankei.” http://www.moj.go.jp/nyuukokukanri/kouhou/nyuukokukanri01_00135.html (Accessed on 07 March 2020)