

Contemporary Immigration Issues in Japan: Undocumented Foreigners and Detention Center

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Abstract

Immigration issues have recently meant an increase in heated public debate in Japan due to some serious problems in relation to human rights, particularly in the detention centers. Indeed, recent news on mistreatment of detainees have drawn much attention and wide publicity across Japan. But it is sometimes said that a ‘black box’ exists in the Immigration Bureau, there is no consistency in Government decision for issuing special permission for ‘undocumented foreigners’ to stay. On this matter, the situation has somewhat changed in the 2000s. In terms of living conditions in the detention center accommodation, there are still serious problems to resolve. Although research on immigration detentions has not been abundant in Japan’s social scientific field, this paper has introduced some basic data with a desire to raise some further empirical questions.

1. Introduction

This paper proposes to focus upon immigration issues in Japan with special consideration to the institutional problems that relate to human rights. In particular, we attempt to describe the Immigration Bureau’ issue which has become the focus of attention in recent years. As well, we also explain some problems in the detention center of foreign residents which has now become a target for criticism from both domestic and international communities. In this analysis, we refer to the term, ‘undocumented foreigners,’ who are mostly ‘visa-overstayers’ remain in the country. The Government’s documents have often used terms, such as ‘irregular foreigners’ and ‘illegal residents’. However, support organizations for foreign residents and sociologists tend not to use the term ‘illegal immigrants’, because the term ‘illegal’ may conjure up images of criminals with a strong negative connotation. First, we will explain some of the social background and describe changes in the numbers of undocumented foreigners in Japan since the 1980s. That was when the numbers of foreign residents began to increase, and of foreigners detained by the Immigration Bureau. After that, we will discuss news reports that have recently been attracting attention and raise some problems that must

be considered if future policy is to offer genuine solutions.

2. Civic Movement and its Effects upon the Black Box to Open?

In this section, let us discuss the changes in terms of successive ‘black boxes’. Here then is the first black box. There has been system in place for foreigners to be granted ‘special permission to stay’ (in Japan), and this permission has been offered from the Minister of Justice. To be exact, a foreigner who must leave Japan, due to the issuance of a compulsory deportation order under Article 24 of the Immigration Control Act, may be able to remain if the Minister of Justice recognizes the ‘special circumstances’ that will allow the person to stay in Japan. This ‘special permission to stay’ means the government’s permission for ‘permanent residency.’ One of the Nonprofit Organizations, the Asian People’s Friendship Society (APFS), have dealt with a number of cases, e.g., those foreigners applied to the Immigration Services Agency of Japan, for special permission to stay. But they have indicated that it has been difficult to find a consistent standard for offering such permission from the Ministry of Justice’s rulings. In addition, there is no clear explanation or information disclosing why such a decision had been reached: Some cases are acceptable, while others are not. From the organization’s point of view, the Minister of Justice appeared to make arbitrary decisions and hence our framing this discussion in terms of ‘black boxes’ (Yoshinari and Mizukami 2018).

APFS has experiences in organizing simultaneous group actions for requesting special permission to stay. The actual impact of these actions upon Government’s administration and policy is not entirely clear, but we can find that their direction has somewhat changed. It was 1st of September 1999 that approximate 50 people gathered at the Tokyo Immigration Bureau to ask for a special permission for residency. The foreigners, who were asking for permission to stay consisted of 21 foreign residents from 7 families including some single households. Though four persons could not appear due to illness or attendance at school, some 17 people turned themselves in at the Immigration Bureau in Kita Ward, Tokyo. This is the first action to be recorded of ‘undocumented foreigners’: even though they risked arrest, detention or even deportation as those with overstaying status, they decided to take the simultaneous action. At that time, newspaper and television reports announced that ‘illegal immigrants’ were demonstrating at the Tokyo Immigration Bureau (ibid.). It was widely covered in the news. A second group action was executed on 27th December 1999, and a third one on 12-13th July 2000. These series of actions were not only covered by the mass media, but also supported by other foreign support groups and specialists in immigration researches. Messages of support have been received not only from Japan but also from well-

known researchers from overseas. This collective action had a variety of effects on Japanese society.

It is not possible to judge what was the decisive criterion governing the consideration of these three simultaneous actions and the resultant permissions that were granted as well as those that were unsuccessful. However, APFS has looked for some trends from these past cases. For example, if there are additional considerations, such as that the family has already been in Japan for 10 years or more at the time of reporting, and there are children in the upper grades of elementary school or junior high school, the family may be allowed to stay (Yoshinari 2002: 23).

Although we cannot confirm that this is the result of these group actions, the government eventually announced some standard for issuing the special permission to stay. In June 2006, the Government they provided a guideline for special permission to stay on its website, which had long been unclear. Furthermore, in October 2006, the “Guidelines for Special Permission to Stay” were published, indicating the basics of special permission to stay and the positive and negative factors of considerations regarding whether or not permission would be granted (Yoshinari 2007: 171- 172). Up until then, the Immigration Bureau had consistently stated that there were no ‘standards’ for ‘special permission to stay’, but this was the first time they showed guidelines. The guidelines presented in 2006 were revised in July 2009. Among the positive elements, there was the following statements about children.

The foreign national lives with, takes care of, and raises a biological child who was born in Japan and has lived in Japan for more than 10 years with enrollment in a primary or secondary educational institution in Japan. (excluding educational institutions in their mother tongue). Additionally, those who have personally reported to the local immigration office that they are overstaying illegally, and who are deemed to have no particular problems with their status of residence, such as not violating other laws and regulations (translated by the author from *Homusho Nyukokukanrikyoku*, 2009).

In fact, foreign families with school-age children raised in Japan tend to have an advantage in obtaining residence permits, when compared with singles and families without children. To a certain extent, the trend is certainly compatible, but there are cases where it cannot be judged that positive and negative standards are uniformly applied to all cases. APFS will not allow the division of the family, and will promote a wider range of activities that get close to the core of the issue, such as developing a “family is together” campaign (Mizukami and Yoshinari 2018).

3. Detention Center as Another Black Box?

At present (in February 2023), there are fifteen immigration bureau and branches as well as two detention centers throughout Japan, all of them having facilities for accommodating undocumented residents. Those foreigners who will be detained and accommodated at these facilities have been caught and issued with a detention order due to the following reasons: visa-overstaying; engaging in activities other than those permitted under the status of residence previously granted; violating criminal penalties or entering Japan by illegal means; and so on. The Japanese government has a policy of detention of all ‘irregular migrants,’ thus most of them will be sent to detention centers until they return to their home countries, although it is simply not possible to detain all undocumented foreigners.

When a deportation order is issued, the deportation will be to the country of nationality, the country of one’s citizenship belongs. However, instead of leaving Japan immediately such as on the same day, they will stay in Japan until passage on a flight or ship is confirmed for departure from Japan. If one is detained under a detention order and a deportation order is issued during a violation investigation, one will continue to be detained in an immigration facility until he/she leaves the country.

Length of Detention

According to Immigration Control and Refugee Recognition Act (Cabinet Order No. 319 of 1951), Article 41 Paragraph (1), indicates, [Containment by detention order] ‘is to be within 30 days; provided, however, if a supervising immigration inspector finds that there are compelling reasons, they may extend the period for an additional 30 days (Japanese Law Translation 2023). In addition, Article 52 Paragraph (5) indicates that if the immigration control officer cannot immediately arrange the deportation of the foreign national from Japan, then the officer may detain the person in an immigration detention center, detention house, or any other place designated by the Commissioner of the Immigration Services Agency or by the supervising immigration inspector entrusted by the Commissioner, until the time deportation becomes possible (ibid.). Hence, no specific period of detention was constituted. On this matter, on January 14, 2020, The Tokyo Bar Association submitting a written opinion to the Diet and the Government, asking that the problem be resolved. The statement was a request, ‘to set an upper limit on the period of detention under a deportation order, and request the problem be resolved by allowing those foreigners who have difficulty in leaving Japan in a manner that complies with human rights treaties.’ In fact, the unclear length of time for the accommodation of ‘irregular foreigners’ has been

serious problem. According to Our Planet TV (2019), one of the support groups for foreign residents conducted a survey concerned with residential status initiated by the East Japan Immigration Center (Ushiku City, Ibaraki Prefecture). This civic organization undertake a questionnaire survey at the Ushiku Immigration Camp from November 2018 to March 2019. The questionnaires were distributed to the 325 people detained, and 260 people responded. As for the question of the length of time they had been detained, it was found that the maximum length of detention was five years and one month, with an average of twenty-two months. This was data that the Ministry of Justice would neither confirm nor deny.

4. The Number of Undocumented Foreigners

In the past, as with what pertained just after the Second World War, the majority of undocumented migrants in Japan were mainly Koreans and Chinese since both groups had been stripped of their Japanese nationality. This arose from Japan's defeat in the war. In the 1980s, however, the vast majority of the foreigners coming to Japan from Southeast and South Asia, such as the Philippines, Thailand and Bangladesh came as migrant workers. Those foreigners who came to Japan for tourism purpose and stayed and worked for more than three months rapidly increased in the late 1980s, although they did not need a visa for a visit of three months or less. In January 1989, the Japanese government suspended the mutual visa exemption agreement between Japan and Bangladesh, and Japan and Pakistan (Mizukami 2010). With Iran, an agreement was signed in 1974, to exempt tourist visas for up to three months, but after negotiations with the Iranian government, the agreement was shortened to two weeks in January 1992. And then the government decided to suspend it in April in that year (ibid.).

Dramatic Increase in the 1990s

In 1990 the revised immigration Control and Refugee Recognition Law was introduced. 'It rigidly restricted unskilled labor migration, while at the same time it opened the door for people of Japanese descent from Central American countries. This policy encouraged people of Japanese descent in Central America to return to Japan' (Mizukami 2018). Then, as a result, the Japanese population of Brazilians and Peruvians of Japanese descendants, so-called 'Nikkei-Jin,' and the number of undocumented 'Nikkei-Jin' also gradually increased.

The number of undocumented foreigners rapidly expanded in the early 1990s, and reached its peak in 1993 when the number hit nearly three hundred thousand (298,646), but afterwards, the number gradually decreased, as shown in Figure 1.

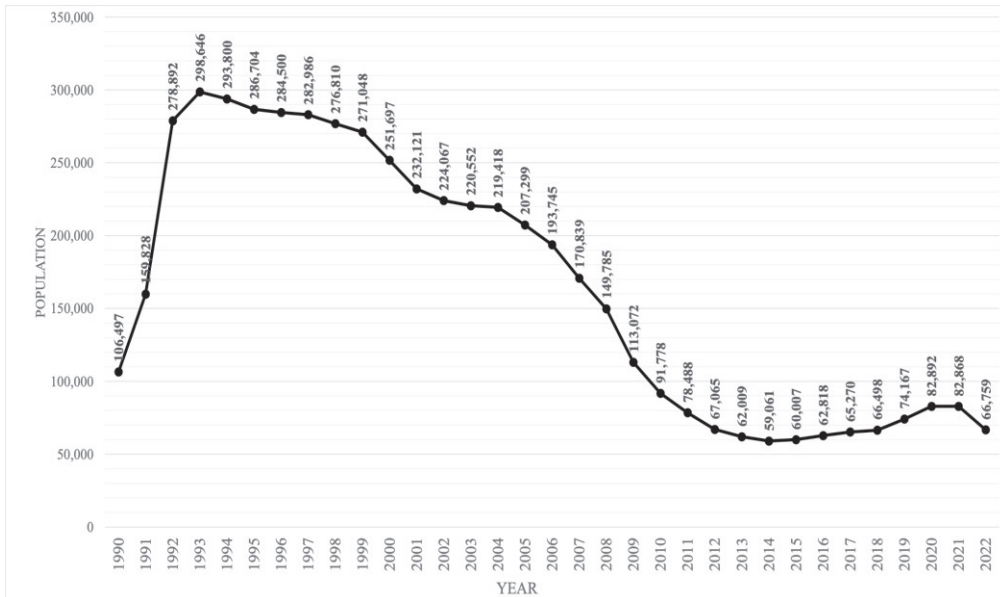


Figure 1 The Numbers of Undocumented Foreigners in 1990-2022

Source: *Homushō* [The Ministry of Justice] (2015) and *Shutsunyūkoku-zairyūkanrichō* [The Immigration Service Agency of Japan] (2020, 2022).

‘Action Plan for Realizing a Crime-Resistant Society’

From 2004-5, the number steadily decreased, because of the strengthening of the crackdown by the governments. In December 2003, the Immigration Bureau formulated ‘Action Plan for Realizing a Crime-Resistant Society’, asking the relevant ministries and agencies to ‘halve the number of illegal immigrants who become hotbeds of crime for foreigners over the next five years.’ The government set as its objectives to cooperate and actively work with related organizations in: ‘a) Promotion of surveillance and enforcement measures at the border; b) Promotion of measures against illegal immigration and illegal stay; c) strengthening criminal investigations of foreigners visiting Japan; and d) strengthening cooperation with related foreign organizations’ (Ministry of Justice Immigration Services Agency 2009). According to their report, ‘Recently, as international criminal organizations based in foreign countries have advanced into Japan, illegal immigrants residing in Japan have formed criminal organizations, and there has been a marked trend toward aggravation, organization, and spread throughout the country. This has become a major factor in the deterioration of public order. The police will work closely with the Immigration Bureau of the Ministry of Justice, the Japan Coast Guard, and other related organizations to promote various measures, such as intensive crackdowns aimed at illegal immigration and illegal stays’. Then, they indicated

‘The number of illegal overstayers decreased from 220,000 to 113,000, reducing the number of illegal overstayers by 48.5 percent in five years’ (ibid).

It is conceivable that the number decreased in a few years from 2011 was influenced by the Great East Japan Earthquake and the nuclear accident that occurred on March 11, 2011. Then, from about 2015, the number has gradually recovered, and in 2020, the number was nearly 82,892. It dropped again to 66,759 in 2022.

5. The Number of Detainees and Violation of Human Rights

The Numbers of Detainees

Now let us look at the transitional numbers of detainees by year. Figure 2 shows the total numbers of new foreigners detained in each year at immigration bureau, branch offices, and detention centers across Japan. It graphically depicts the changes. The number of inmates has rapidly increased since the late 1980s. In 1984, the number of detainees exceeded 10,000 for the first time in statistics, and then it reached 30,000 in 1989. It augmented by more than 10,000 to reach the 40,000 level in 1990 as shown in the Figure (Nakamura 2023). In 1994, there were 81,342 detainees. After that, the number of detainees decreased, but increased again by about 5,000 from 1998 to 1999, and in 2005, the number was the highest ever recorded. Since 2006, the number has decreased by around 10,000 each year, and in 2012, the number fell below 20,000 for the first time in 25 years since 1987. Afterwards it increased

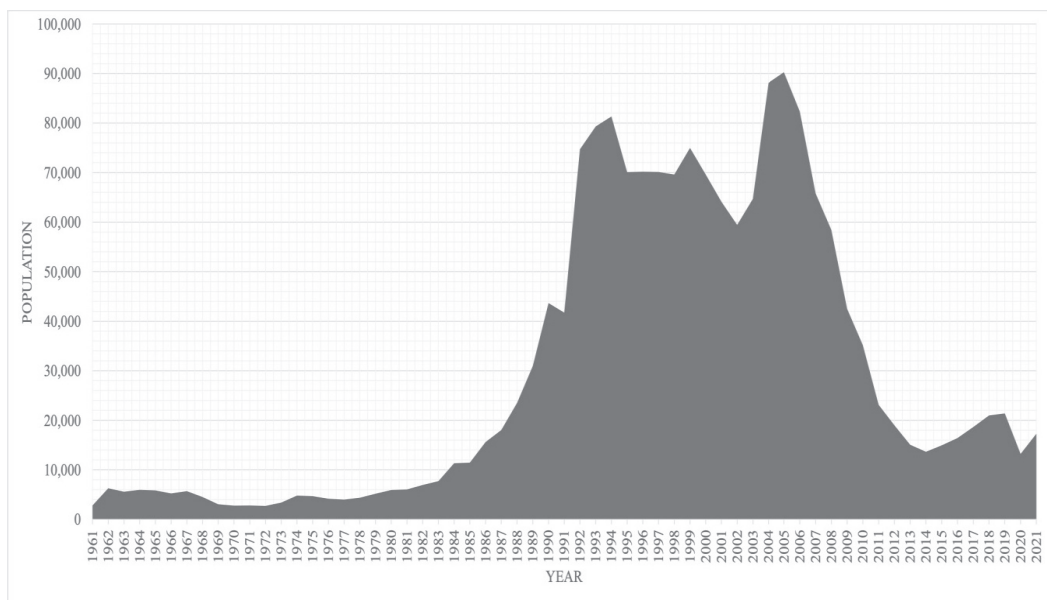


Figure 2 The Number of Immigration Detainees in Japan

Source: The Immigration Service Agency of Japan (2021).

again from 2015 to 2019, but in 2020 due to the impact of the COVID-19, the number also decreased (ibid.).

The Death in the Detention Center

Various support organizations have claimed that terrible conditions persist in the detention centers. Recently media reports have focused upon this. For example, four or five people share one small room and detainees are required to spend long hours each day in this room which is locked. In the detention centers, detainees have restricted contact with each other and meetings with people from outside is strictly limited to specified hours. Freedom to meet and talk freely together is strictly controlled. That means they are cut off from family and friends, and even singles face the risk of losing their jobs and housing (ibid.). In addition, ‘it is necessary for them to apply and obtain permission from the immigration authorities to meet with outside people, to receive items brought to them, to meet with lawyers, to make living necessity requests while in detention, and to request medical examinations and treatments. Furthermore, in recent years, the use of violent coercive measures in the name of physical control of detainees has also been viewed as a problem’ (ibid.).

In March 2021, a Sri Lankan woman who had been detained for overstaying died at the Nagoya Immigration Bureau detention facility. Ms. Wishma was detained for more than six months from 20th August to 6th March. She came to Japan in June 2017 as an exchange student. According to her sisters, Ms. Wishma hoped that she would be able to support her family in place of her late father. Her mother used her house as collateral to borrow money to pay for her study abroad (NHK WEB NEWS 2021). It is alleged that she did not receive proper medical care in the facility, and various demonstrations have been held.

6. Concluding Remarks

There has yet been sufficient research into immigration detentions in Japan, although it is certain that there have been detainees with diversified backgrounds. The reason for the prohibition is that the Immigration Bureau prohibits the recording of interviews with detainees. Audio and visual data cannot be saved. However, regarding the death of a Sri Lankan woman in 2021, some images of the situation at that time have been released, and information has been provided, little by little, so that something of what happened inside the ‘black box’ can be known. In addition, human rights groups and support groups for foreign residents have been enthusiastically publishing messages and making recommendations to the government and the media has taken up the issue. Some social scientists also trying to deepen investigation of those cases. With all this movement, it is obvious that this is an area

where future reforms are needed.

References

- Mizukami, Tetsuo. 2018. "A Rise and Progression of Migration and Ethnicity Studies in Japan's Sociology", *The Monitoring of Public Opinion: Economic and Social Changes Journal*. (5), 173-182.
- . 2018. "Japanese Brazilian Communities in Hamamatsu City: 'Business Castle Towns' and Multicultural Directions." In Shanghai Municipal Commissions of Housing, Urban-Rural Development and Management; Guangzhou Housing Urban-Rural Construction Committee; Office of Science and Technology Sub-Committee of Shanghai Committee of Urban-Rural Development and Management; and Shanghai Coordination Center for World Cities Day. (Compiled.), *Selection of Achievement Result for 2017 World Cities Day*, pp.200-209, Xuelin Publishing House and Shanghai Renmin Press.
- . 2010. "A New Epoch of Immigration for Japan: Directional Shift in Civic Organizational Support for Newcomer Settlement." In H. Vinken, Y. Nishimura, B.L.J. White, and M. Deguchi (Eds.), *Civic Engagement in Contemporary Japan: Established and Emerging Repertoires*, pp.101-116. New York: Springer.
- Mizukami, Tetsuo and Katsuo Yoshinari. 2018. "Nihon no nyūkoku kanri no jidai to hiseiki taizai gaikokujin no shien - mondaikaiketsu-gata sodan to zairyū tokubetsu kyōka o megutte [Japan's Era of Immigration Control and Support for Undocumented Foreigners: In relation to Counseling to Solve Problems and Special Permission to Stay]." In K. Yoshinari and T. Mizukami (eds.), *Iminseisaku to tabunkakomyūnithi eno michinori [Migration Policies and Path to Multicultural Community]*. pp.2-16, Tokyo: Gendaijinbunsha.
- Nakamura, Sho. 2023. (Unpublished Master Thesis) Nyūkan hi shūyō-sha no haijō to teikō jissen ni kansuru shakai-gaku-teki kenkyū [Sociological research on exclusion and resistance practices of immigration detainees]. Graduate school of Sociology, Rikkyo University, Tokyo.
- Yoshinari, Katsuo. 2002. "Naze 21nin wa zairyūtokubetsukyōka o motometanoka [Why 21 did 21 people ask special permission for permanent residency?]" In *Kodomotachi ni amunesuthi o [Amnesty for Children]*, APFS (ed.), pp.7-23. Tokyo: Gendaijinbunsha.
- . 2007. "Zairyū tokubetsu kyōka to AP. F. S. Zairyū tokubetsu kyōka issei shuttō o furikaette [Special Permission to Stay and AP.F.S: Reflecting on the Simultaneous Appearances for Special Permission to Stay]." I. Watado, E. Suzuki and APFS (eds.). *Zairyū tokubetsu kyōka to Nihon no imin seisaku 'imin senbetsu jidai' no tōrai [Special Permission to Stay and Japan's Immigration Policy: The Arrival of the 'Immigration Selection Era']*. Tokyo: Akashishoten, pp. 159-173.

Websites

Homushō [The Ministry of Justice]. 2015. *Hanzai-Hakusho 2015* [*White Paper on Crime 2015*].

<https://hokusyo1.moj.go.jp/jp/62/nfm/mokuji.html>

Homushō Nyūkokukanrikyoku [Immigration Bureau, The Ministry of Justice, Japan]. 2009.

(February 17). “Fuhō taizai-sha 5-nen hangen keikaku no jisshi kekka ni tsuite [About the implementation results of the 5-year half-reduction plan for illegal immigrants].”

https://www.moj.go.jp/isa/publications/materials/121226_huhoutaizai.html

Japanese Law Translation. 2023. “Immigration Control and Refugee Recognition Act.”

<https://www.japaneselawtranslation.go.jp/ja/laws/view/3624>

NHK Web News. 2021 (May 25). “Suriranka-jin josei no shi ga nagekakeru nyūkan shisetsu no

‘chōki shūyō’ mondai [The death of a Sri Lankan woman raises the issue of ‘long-term detention’ at immigration facilities]”. <https://www3.nhk.or.jp/news/html/20210525/k10013042051000.html>

Our Planet TV 2019 (April 13), “Nyūkan shūyō-sha, saichō de 5-nen ijō shūyō mo ~ shien dantai ga

chōsa [Immigration detainees can be detained for up to 5 years-support group investigates].” <https://www.ourplanet-tv.org/39695/>

Shutsunyūkoku-zairyūkanrichō [The Immigration Service Agency of Japan]. 2020. (March 27).

“Honpō ni okeru fuhōzanryū-sha-sū ni tsuite [About number of illegal residents in Japan].”

https://www.moj.go.jp/isa/publications/press/nyuukokukanri04_00004.html

———. 2022. (March 29). “Honpō ni okeru fuhōzanryū-sha-sū ni tsuite [About number of illegal

residents in Japan].” https://www.moj.go.jp/isa/publications/press/13_00003.html

The Immigration Service Agency of Japan. 2021. “Immigration Control statistics tables.”

https://www.isa.go.jp/en/policies/statistics/toukei_ichiran_nyukan.html

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