



DOUBLE-EDGED MIGRATION POLICIES AND TRANSNATIONAL RENT-SEEKING INTERESTS

POLÍTICAS MIGRATORIAS DE DOBLE FILO E INTERESES RENTISTAS TRANSNACIONALES

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ABSTRACT

There have been contradictory trends in migration policies in advanced countries since the 1990s: states have actively recruited desirable immigrants while they continued to deter and exclude unwanted migrants. The case of Japanese state not only represents this trend, but also shows a profoundly paradoxical case in the sense that it officially negated incorporation of “immigrants” consistently though it has built up multiple channels of transnational labor supply for their urgent needs. It is particularly so because Japan has maintained the divergent policies in the middle of well-known demographic crisis with aging population.

These bifurcated policies can be understood partially by the growing role of “migration industry” in the neoliberal era as recent research showed. However, simultaneous development of migration control machines and building migration pipelines urges us to make a further conceptual breakthrough. This paper introduces the concept of “rent-seeking” activities of stake holders of migration policies to explain persistent gaps between rigid state control of labor flows and active opening of diverse gates for supply of necessary labor by state initiatives. Emerging neo-liberal elites are seeking extra profit through institutional framework which creates oligopolistic market structure by new side door policies such as National Strategic Special Zones for domestic workers and most recent new visa for middle skilled workers. This analysis of rent-seeking of contemporary migrant policies will open fresh eyes on contemporary immigration policies in different national contexts.

Keywords: Migration policy; Rent-seeking; Neoliberalism; Migration industry.



RESUMEN

Las políticas migratorias de los países avanzados han seguido tendencias contradictorias desde la década de los noventa: los Estados han contratado activamente a los inmigrantes deseables mientras seguían disuadiendo y excluyendo a los no deseados. El caso del Estado japonés no sólo representa esta tendencia, sino que también muestra un caso profundamente paradójico en el sentido de que ha negado oficialmente la incorporación de “inmigrantes” de forma sistemática aunque ha construido múltiples canales de oferta laboral transnacional para sus necesidades urgentes. Sobre todo porque Japón ha mantenido las políticas divergentes en medio de la conocida crisis demográfica con el envejecimiento de la población.

Estas políticas bifurcadas pueden entenderse en parte por el creciente papel de la “industria de la migración” en la era neoliberal, tal y como han demostrado recientes investigaciones. Sin embargo, el desarrollo simultáneo de las máquinas de control de la migración y de la construcción de oleoductos y gasoductos nos insta a realizar un nuevo avance conceptual. Este documento introduce el concepto de actividades de “búsqueda de rentas” de los interesados en las políticas migratorias para explicar las brechas persistentes entre el rígido control estatal de los flujos de trabajo y la apertura activa de diversas puertas para el suministro de la mano de obra necesaria por parte de las iniciativas estatales. Las nuevas élites neoliberales buscan beneficios adicionales a través de un marco institucional que crea una estructura de mercado oligopolística mediante nuevas políticas de puertas laterales, como las Zonas Estratégicas Nacionales Especiales para los trabajadores domésticos y el nuevo visado más reciente para los trabajadores de cualificación media. Este análisis de la búsqueda de rentas en las políticas migratorias contemporáneas abrirá una nueva perspectiva sobre las políticas de inmigración contemporáneas en diferentes contextos nacionales.

Palabras claves: Política migratoria; Búsqueda de rentas; Neoliberalismo; Industria migratoria.

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1. INTRODUCTION

Since the last decade of 20th century, we have seen paradoxical dual tendencies of migration policies around the globe. On the one hand, in the middle of global competition, advanced countries have aggressively been pursuing recruitment of preferable immigrant workforce. On the other hand, during the same period, there have been intensifying immigration control in borders and along coastal line as well as enforcement of irregular immigrants within territory. Therefore, immigration policies showed two contrasting faces ironically in the era when neo-liberalism, which emphasizes single-mindedly free operation of market, became imperative of economic policies.

In this paper, we will examine Japan as a strategic case to analyze these contradictory processes. It is known well that Japan is facing the most obvious and urgent needs to incorporate various workers because of aging population and low fertility rate which results in declining population. Therefore, it is counter-intuitive to find the persistent rejection of the “immigration policies” by the Japanese state which has shown neo-liberal orientation. Was it the results from the nationalist ideology and myth of “homogeneous nation”? In contrast, there have been increasing number of “foreign residents” who works diverse sectors, such as convenience stores, Japanese style pubs, care institution, and construction sites. These sectors clearly fill their needs with new imported workforce.

This seemingly “schizophrenic” policies can be interpreted as the discrepancy between ideological statements and actual interest group politics. By more culturally bounded interpretation, this peculiarly wide gap can be understood as a reflection of typical Japanese behavior “Honne and Tatemae” (what one means to do in mind vis-à-vis what one officially states). However, I believe, these seemingly contradictory policies are not necessarily inconsistent, but rather they can be explained as two faces of one integrated strategy. For a more integrated analysis, this paper proposes to introduce the concept of “rent-seeking” to explain a growing number of profit-making private interests in relation with state de facto “immigration policies” in the following analysis.

2. IMMIGRATION CONTROL REGIME OF 1990 IN JAPAN

In the middle of economic boom in the late 1980s, so called “bubble economy”, Japanese small and medium size manufacturing firms and service sectors started to incorporate *overstayer* foreign workers to counteract accelerating labor shortage. However, Japanese government enacted new Immigration Control Act of 1990 which prohibits to import “simple labor” (=unskilled workers) despite serious calls for legal routes for those workers from business interests, which resulted in large number of “irregular foreign residents” (undocumented immigrant workers). The establishment of Immigration Control regime created a fundamentally contradictory structure.

Against the backdrop of this deep contradiction, the Japanese government started to introduce institutional mechanism that serves as loopholes of labor supply. Based upon American experience, A. Zolberg (2006) called incorporation of undocumented immigrants backdoor policies while he named creation of institutional gates to fill the actual demands for immigrant labor as side door policies. In the immigration control regime of 1990, the Japanese state induced proliferation of the side doors. It started from the incorporation of Japanese-Latin American (Nikkei), mainly Brazilians, as ethnic return migration based upon *jus sanguinis* principle. These Brazilians are employed by staffing agencies and they are dispatched mainly to manufacturing firms such as auto and electronic component producer. These Brazilians played a pivotal



role as a catalyst to transform the Japanese employment system from what was dependent predominantly on regular workforce to what relies significantly on dispatched workers. Brazilian population in Japan skyrocketed from almost none in the mid-1980s to 300,000 in the late 1990s. The staffing firms created transnational supply chain of labor force from multiple sites in diverse areas to Japanese industrial cities such as Toyota, Hamamatsu, and Oizumi.

In the course of 1990s, Japanese industries faced new competitive pressures from emerging economies in Asia, especially from ascending China. Japanese firms expanded the use of “technical intern” (called *Ginou-Jisshusei*). These firms were on average smaller sizes than those that use Brazilian dispatched workers. In typical cases, they form local producer cooperatives in the same region; e.g. apparel cooperative in some prefecture. These cooperatives were established solely to recruit and distribute technical intern to their member firms. The cooperatives sought relations with counter partners in source country, i.e. developing countries, which are quasi-public institutions. In reality, they have been profit seeking organizations. With the promise of higher wage in Japan, the intern applicants are charged high registration and procedure fees (often reached as much as U.S. \$20,000) and indebted to the organization and had to work to payback the debt. In short, by making lasting relations beyond the border, they established another type of transnational supply chain of de facto labor. In the case of China, these counter partners are usually local associations to send human resources to foreign countries.

3. MARKET-ORIENTED MIGRATION SYSTEM AND RISING MIGRATION INDUSTRY

Higuchi, N. (2002) put this development of transnational networks around Japan in more global context. Incorporating insights from research of D. Massey et. al (1994), he regards these organized chain as one type of “migration system”. Massey coined the concept to continuous flow of people, resources, and information between communities of origin and destination through the systemic fieldworks and survey research. Higuchi broadened scope of migration system perspective by incorporating insights from Polanyi’s typology of *livelihood of man* (Polanyi, 1977), i.e. exchange in market, administrative redistribution, and reciprocity in community. Higuchi contrast Japanese immigration as “market-oriented migration system” in contrast to “reciprocity-based migration system” in the North America. His typology opened the possibility of regional comparative analysis research in migration flows.

While Higuchi named transnational migration flows around Japan as “market-oriented” migration system which share characteristics of East-Asian states, he did not extensively analyze other country cases, such as Taiwan or South Korea. In contrast, Kristin Surak (2018) analyzed three states in East Asia, Japan, Taiwan, and Korea, from the perspective of “migration industry”. She traced the development of guestworker programs with focus on East Asia, and underlined the common tendencies among the three while pointing out their certain differences. One uniqueness of her analysis rests upon her efforts not only to analyze the commercialization of migration mediating activities, but that to interrelate them with state policies. She examined different patterns in each state to outsource or devolve its function to private actors, whether formally or informally. Her analysis contributed to immigration policy research in the sense that it goes beyond simplistic understanding of state autonomy and coherent regulatory framework and shed a light on the dynamic interaction between state and private actors. Her theoretical framework provided more nuanced analytical tools to understand Japanese transnational connections while putting them in wider context.



However, Surak's perspective did not pay sufficient attentions to underlying the tension between the tightening immigration control vis-à-vis pursuing preferable immigrant workforce. For example, in Japanese case, after 2003, the Japanese state started to intensify the enforcement against overstayers and those who work out of their permitted industrial sectors. It launched a new operation to reduce the undocumented into the half. After this period, Japanese government consciously avoided the word "immigration" in its official policy documents. In particular, Prime Minister S. Abe even officially rejected the discussion on immigration in the diet until 2018. However, in the same period the government created multiple new schemes to incorporate necessary workers with other legitimacies.

4. NEW IMMIGRANT LABOR IN THE ERA OF INTENSIFIED IMMIGRATION ENFORCEMENT

First, in 2004, the same government started to discuss Economic Partnership Agreement (EPA) to recruit nurses and care workers with Southeast Asian countries. After 2007, hospitals and elderly care institution started to import nurses from Indonesia, Philippine, and later Vietnam. Second, in 2008, the government announced to triple the number of international students to 300,000. International students in Japan can work legally up to 28 hours/week to earn their living expenses and their tuition. This stipulation often transformed students into de facto workforce. Some students pursue to increase earnings and save most of it for remittance to their home. Private Japanese language schools function as attractive labor pools for diverse economic sectors, particularly for service industries in urban area.

These new policies showed increasing interests to incorporate de facto immigrants in the middle of tightening immigration control. In fact, chronic shortage of part-time workers in urban services created by official policy to block "simple labor" immigrants. International students have strong advantages on part-time jobs flexibly in any industrial sector or job category in fragmented hours: i.e. waiters in small Japanese style pubs, convenience stores, or distribution centers of Amazon.com for mid-night-shift. In other words, seemingly tight immigration policies themselves have generated important opportunities for migration industry. These international students provide the means for firms to adapt to GIG economy in Japanese style.

With deteriorated labor shortage due to aging and declining population, official policies to keep front door closed to labor created artificial scarcity. This institutionally produced scarcity generated extra-pressure for new supply of flexible labor. In economic discipline, this type of scarcity that results in higher prices is called "rent". And economic purposeful action to take advantage of this scarcity is called *rent-seeking* (Krueger,1974). Given the Japanese state's rigorous control of immigrant, the creation of each *side door* generates new rent opportunities in the gate of entry and thus transform the related migration industry into rent-seeking organizations. In essence, rent-seeking is strategy to take advantage of distortion of normal market competition whether natural monopoly or institutional barrier.

The Japanese de-facto immigration policy, which creates multiple side doors, while maintaining official tight exclusionist immigration control, have produced opportunities for rent seeking by structural conditions. Fundamental paradox is the more rigorous control make the rent the higher and the more attractive for those who have access. In spite of ostensible exclusionist stance, this dual policy produces more favorable ground for migration industry.



This contradictory nature of the policy already existed in the 1990s, but with the neoliberal tendency of Japanese policies in the 21st century, Japanese state began policies that actively encourage rent-seeking activities. The plan to expand international students was one of these policies. Its plan came with new regulatory environment related to schools which permits private firms (Corp.) directly invest and own the language school for the first time in Japan. Combined with the deregulated conditions, the private business can start to involve directly in school operation, and by doing so the schools=firms can pursue lucrative profit.

5. NEW NEO-LIBERAL INITIATIVE AND RENT-SEEKING BY SPECIAL ZONES (“TOKKU”).

Under the administration of Shinzo Abe, while immigration control had been tightened in unprecedented manner and its negation of immigration policy was unequivocal, the new side doors were created and expanded in a consorted manner with deregulation of related regulatory frameworks. The most illustrative case is the policies for domestic workers.

Abe administration proposed a series of regulatory reforms or deregulation. The most important pillar of this initiative is *National Strategic Special Zones* (in abbr. NSSZs). Even though the Japanese government made campaigns to deregulate various areas in society since the early 2000s, new neo-liberal elites within/without bureaucracies had been frustrated with its outcomes. They planned to set up NSSZs for diverse goals of deregulation in multiple regions in Japan, such as NSSZ for reforms for globalization of education in Gumma or one for “casino resorts” in Osaka and Yokohama.

The same administration set up NSSZs for immigrant domestic workers. In Japanese immigration control, immigrant domestic workers had been not permitted except the cases for foreign diplomats or foreign executives of transnational corporations. New NSSZs in Osaka, Kanagawa, Hyogo, and later Tokyo and Nagoya created mechanism to import foreign domestic workers to serve families of Japanese female corporate executives or female professional experts. It has been justified as tools to stimulate business activities through more active engagement of qualified female professionals in labor markets in productive sphere while making immigrant women do the household tasks (Ogawa & Sadamatsu, 2019). In the name of equal opportunities for women, the neo-liberal state established gender-biased labor policy by intervening into reproductive sphere.

This NSSZ is supposed to deregulate restriction on use of foreign domestic workers. However, in its reality, it liberated importing domestic workforce only under the very specific regulatory framework. Namely, Japanese government selected designated agencies which can operate as intermediary of domestic worker recruitment, training in countries of origin, distribution, and managing operation in each household. What is remarkable is the fact the number of these agencies are limited to only six in the nation. They selected already established staffing corporation, such as PASONA corp., Daskin, etc. on the ground that these agencies have accountable records to manage workers in “workplace” in private households. This scheme produced clear oligopolistic industrial structure in this sector. In other words, in the name of deregulation, the NSSZ created business space where entry is restricted and designated agencies can do business for *rent-seeking*.



This NSSZ is a graphic example of *rent-seeking* economic activities not only because it created quasi-monopolistic ground for private firms, but also because they actively intervened into the policy making process. As a matter of fact, CEO of one major large private staffing firms himself (Heizo Takenaka), who was former *Minister of Internal Affairs*, involved in policy and institutional making (Sadamatsu, 2018). As Krueger, who coined the concept, illuminated in her breakthrough study, *rent-seekers* often pursue closed relation with government officials to maintain policies that distort resource allocation from competitive open market. Institutional mechanism surrounding NSSZ is text-book case for *rent-seeking* analysis.

At the same time, this case illuminated that neo-liberalist state elites do not try to liberate migration flows by opening entry gates in general, but rather it focuses on creating new channels of new migration flow so that they can profit from the access to limited chance. Neo-liberal policy agenda is supposed to be radical reduction of state regulation toward market across-the-board and seems to be against *rent-seeking*. However, in reality, neo-liberal state often deregulates partially and creates limited opportunities and keep power over whom these new chances are available. By doing so, they can maintain political legitimacy from free market ideology as well as economic interest of particular groups.

6. CONCLUSION

Despite serious criticism from within and without Japan, the current neo-liberal state is continuing the double-edged policies regarding immigration. The government finally created a new very limited front door to legal general workers, called “specific skilled” human resource, including semi-skilled workforce. Nevertheless, this new front door itself is quite complicated in bureaucratic procedures which was structured under the strong pressure of exclusionist wing of the dominant party. As a result, even in case of gradual opening of labor markets near future, we will see the *rent-seeking* in transnational human mobility around Japan as “business as usual”.

People on the move expanded remarkably in the last three decades when the pervasive current of neoliberalism took place in the global scale. The dramatic increase of immigrants was produced not only global inequality or disequilibrium nor it was produced mainly by growing power of organizations of migration industry. The neo-liberal states have been showing strenuous effort to deter new immigration flow at the surface. But that efforts have prepared the conditions under which *rent-seeking* organization can pursue lucrative business.

On the top of these conditions, some of the neo-liberal states, such as Japan, have crafted diverse mechanism through which steadily increasing number of de-facto immigrants continue to be incorporated in the society in the future.



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