국제학 석사 학위논문

# Subsidizing Japanese National Identity through Immigration Policy:

## *Nikkeijin* and Applications of *Teiju-sha* Status

## 출입국 관리정책을 통한 일본의 내셔널 아이덴티티의 지원:

## '닛케진(日系人)' 과 '정주자' 라는 재류자격

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# Subsidizing Japanese National Identity through Immigration Policy:

## *Nikkeijin* and Applications of *Teiju-sha* Status

A thesis presented

by

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# Abstract

# Subsidizing Japanese National Identity through Immigration Policy:
## *Nikkeijin* and Applications of *Teiju-sha* Status

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This study began by questioning the characteristics of the borderline tha t separates Japanese from non-Japanese is and investigated the nature of *Nikkeiji n*（*日系人*）, or non-Japanese people of Japanese descent, as people who exist between the identities of Japanese and non-Japanese. Then the study found that the visa status, *Teiju-sha status* which is given to *Nikkeijin* targets not only *Nik kejin* but also other foreigners, such as refugees. The main concern of this stud y is the *Teiju-sha status*.

The immigration control after the World War II is characterized by "Immigration Control Order" which intended to make a homogeneous nation and controlled the entrance and activities of foreigners severely. When "the Immigration Control Order" was revised into "the Immigration Control and Refugee Recognition Act", however, Japanese government began to accept Indochinese refugees, complete foreigners without any ties to Japan or Japanese people, to settle down in Japan. The

new trend of relaxing immigration restrictions to let foreigners gain legal status in Japan was reflected in the amendment of the Immigration Control Act in 1990. In the amendment, Japanese government created *Teiju-sha status* and solved multiple foreigner groups' settlement problems which became big issues from the second half of 1980s at once. The target group of *Teiju-sha status* which includes Nikkeijin, Japanese orphans in China, Koreans and Taiwanese people living in Japan and Indochinese refugees were mainly those who were Japanese before the war but suddenly became non-Japanese in the post war time. It is considered that *Teiju-sha status* has the purpose to control these residents by keeping tabs on them to be able to trace them while allowing them to legally settle down in Japan.

The *Teiju-sha status* given to Nikkeijin and the nature of this status reveals that the Japanese government's understood them as essentially in the same category as other foreigners. South Korean government, on the other hand, saw overseas Koreans as the "same" Korean people, and thus created the visa status, *People of Korean Heritage*. On the contrary, even though Japanese government decided to accept *Nikkeijin* considering the biological and cultural relations existing between Japanese people and *Nikkeijin*, it did not understand *Nikkeijin* as the "same" Japanese people. Therefore, Japanese government categorized *Nikkeijin* as those who were excluded from the category of Japanese people, and put *Nikkeijin* in the target group of *Teiju-sha status* with other foreigners. It is considered that because of these underlying understanding and the resulting manner of acceptance, *Teiju-sha status* and the accepted Nikkeijin did not exercise recognizable influence on defining the border

between who is Japanese or not. In other words, these changes did not rewrite the definition of who belongs under the category of Japanese people.

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**Keyword:** Japanese, *Nikkeijin*, *Teiju-sha status*, visa status, immigration control, foreigner

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# Ⅰ. Introduction

## 1. Research Subject and Purpose

Where is the borderline between Japanese and Non-Japanese? Eiji Oguma studied the boundaries of what was considered "Japanese" from pre-war period to the war time by examining policies and discourses regarding Okinawa, Ainu, Taiwan and Korea (Oguma, 1997). People of Okinawa, Ainu, Taiwan and Korea were sometimes treated as Japanese, but also as non-Japanese other times. *Nikkeijin* (日系人), or a person of Japanese descent who has lived or has been living in a foreign country, are experiencing similar treatment in contemporary Japan. They are biologically related to Japanese ancestry, but often do not possess Japanese citizenship. Considering only this points, Japanese war orphans in China and children with foreign nationality whose parent are Japanese belong to *Nikkeijin*. However, the Japanese word "*Nikkeijin*" generally mentions Japanese Latin Americans without Japanese citizenship, such as *Nikkei*, or Japanese, Brazilians whose ancestors several generations ago have immigrated from Japan. Yukitake Tsuda pointed out that *Nikkei* Brazilian transcends traditional and ethnic borderline between Japanese and non-Japanese because they are biologically Japanese and culturally Brazilian (Tsuda, 2008, pp.304-305). The word "overcome" would mean that *Nikkeijin* who exist *on* (or *above*) the borderline between Japanese and non-Japanese object to the conventional dichotomy of Japanese and foreigner and demand a new interpretation.

Latin American *Nikkeijin* such as *Nikkei* Brazilian began to appear in Japan since bubble economy at the second half of 1980s, according to Ninomiya Masato. At first, the first generation of *Nikkeijin* with Japanese citizenships and the second generation of *Nikkeijin* with dual nationalities in Latin American moved to Japan in order to work at small and medium enterprises which suffered from a shortage of workers because their jobs were regarded as too exhausting. Then, to satisfy the still unmet demands for labor, the second and third generations without Japanese nationalities started to work with the visa status of visiting relatives. Ninomiya analyzed that Japanese government noticed the tendency and made the visa status, *Teiju-sha* (定住者), or *Long-term Resident*, to let *Nikkeijin* work legally (Ninomiya, 2006, pp.373-375).

If the visa status, *Teiju-sha*, was created as Ninomiya explained, it means that Japanese government regarded *Nikkei* Latin Americans as unskilled labor. However, Japanese government is known to be against accepting unskilled foreign labor. The reason *Nikkeijin* were accepted in spite of its classification as unskilled labor would be that *Nikkeijin* share the biological line with the Japanese people. Newly creating the visa status which accepts people who have roots in Japan had an important meaning for the immigration control which did not have a previous system for granting favorable treatment to foreigners having biological relations or marital relations with Japanese.[①]

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① Hidenori Sakanaka. (2013). *1990nen no nyuukanhou kaisei – nikkeijin no nyuukoku no tobira wo hiraita.* Retrieved December 30th, 2017, from Ippan shadan houjin imin seisaku kennkyuujo Web site:
http://jipi.or.jp/１９９０年の入管法改正ー日系人の入国の扉を開/

The visa status which accepts people who have roots in the country like the visa status, *Teiju-sha*, exists in other countries. For example, a neighboring country, South Korea enacted "Act on the Immigration and Legal Status of Overseas Koreans" (or, "the Overseas Koreans Act") in 1990, and gives visa status, *People of Korean Heritage*, to non-Korean citizens (hereafter, non-Koreans) of Korean descent. Non-Koreans of Korean descent who have the visa status, *People of Korean Heritage*, are given the period of maximum 2 years for stay, with possibility of extension by application. Also, they may find employment freely, and may have rights which are similar to South Korean nationals to some extent such as obtainment of land and application of medical insurances (Lee Cheol-woo, 2002, pp.253-254). The visa status, *People of Korean Heritage*, grants rights to non-Korean of Korean descent, newly creating an officially recognized identity for overseas Koreans. Then, does the Japanese visa status, *Teiju-sha*, also take a role in creating a new identity for overseas Japanese or *Nikkeijin*?

Compared to the Korean visa status, *People of Korean Heritage*, the Japanese visa status, *Teiju-sha*, has a different feature in regards to its target groups. The target groups of the Korean visa status, *People of Korean Heritage*, are nationals of South Korea who live abroad, and non-nationals who have held the nationality of South Korea or as their lineal descendants (Lee, Cheol-woo, 2002, pp.253). On the other hand, the target groups of the Japanese visa status, *Teiju-sha*, include not only *Nikkeijin*, but also a variety of foreigners. The target groups of the visa status, *Teiju-sha*, is defined by the public notice No. 32, which was published by Ministry of Justice in 1990: so called

*Teiju-sha* public notice, which has been revised several times since 1990, with its latest amendment made in 2015. It is as follows:

(1) Burmese refugees who have been temporarily asylum in Thailand, and who fall under any of the following among those United Nations High Commissioner for Refugees find international protection necessary and recommend their protection to Japan;

(a), (b) omission

(2) Burmese refugees sojourning in Myanmar, and who fall under (a) of the preceding item among those United Nations High Commissioner for Refugees find international protection necessary and recommend their protection to Japan;

(3) Natural children of those born as the children of Japanese nationals (excluding those falling under the preceding item and item 8), and who is a person of good conduct;

(4) Natural grandchildren of those born as the children of Japanese nationals and once having a permanent domicile as Japanese in Japan (excluding those falling under the preceding item and item 8), and who is a person of good conduct;

(5) Those who fall under any of the following (excluding those falling under the preceding item and item 8);

(a) Those who stay with the status of spouse or child of Japanese national, and the spouses of those born as the children of Japanese nationals;

(b) The spouses of those who stay with the status of residence of long term resident designated period of stay over one year (excluding those who has been granted landing permission as those falling under item 3 or preceding item and were divorce during the period of stay);

(c) The spouses of those who has been granted landing permission or permission for change of status of residence or permission for acquisition of status of residence as those falling under item 3 or preceding item and who stay with the status of residence of long term resident designated period of stay over one year, and who is a person of good conduct;

(6) Those who fall under any of the following (excluding those falling under any of Items 1 to 4 and item 8);

(a) Natural children who are minors and unmarried of those living by support from those, who are Japanese natural or who stay with the status of residence of permanent resident or special permanent residents provided for by the Special Act on the Immigration Control of, Inter Alia, those who have Lost Japanese Nationality Pursuant to the Treaty of Peace with Japan (Act

No. 71 of 1991) (hereinafter referred to as a "special permanent resident");

(b) Natural children who are minors and unmarried of those living by support from those who stay with the status of residence of long-term resident, designated period of stay over one year (excluding those who has been granted landing permission or permission for change of status of residence or permission for acquisition of status of residence as those falling under item 3, 4 or preceding item (c));

(c) Natural children who are minors and unmarried of those living by support from those who has been granted landing permission or permission for change of status of residence or permission for acquisition of status of residence as those falling under item 3, 4 or preceding item (c), and who stay with the status of residence of "Long-Term Resident", designated period of stay over one year, and who is a person of good conduct;

(d) Natural children who are minors and unmarried of those living by support from those, who are spouses of those who are Japanese natural or who stay with the status of residence of permanent resident or special permanent resident or who stay with the status of residence of long-term resident, designated period of stay over one year, and who stay with the

status of residence of spouse or child of Japanese national or spouse or child of permanent resident;

(7) Adapted children who were less than six years old of those living by support from those who fall under any of the following (excluding those who fall under any of Items 1 to 4, the preceding item or the following item);

(a) Japanese national;

(b) Those who stay with the status of residence of permanent resident;

(c) special permanent resident;

(8) Those who fall under any of the following;

(a) Those who have continued to live in the region of China from before September 2 1945, without returning Japan under the confusions in the region of China August 9 1945 after, and who had a permanent domicile as Japanese in Japan in September 2 1945;

(b) Those born in the region of China September 3 1945 after and whose parents fall under the preceding item, and have continued to live in the region of China;

(c) Those who fall Article 1, item 1,② 2,③ or Article 2, item 1,④ 2⑤ of Regulations for Enforcement of the Act on the promotion of smooth return

② Article 1, item 1, "Those who have continued to live in the region of China from before September 2 1945, without returning Japan under the confusions in the region of China

home for Japanese returnees from China and support for independence for Japanese returnees from China doing permanent residence and special spouses (Ordinance of the Ministry of Health, Labour, and Welfare No.613 of 1994);

(d) Japanese returnees from China prescribed in Article 2, item 1⑥ of the Act on the promotion of smooth return home for Japanese returnees from China and support for independence for Japanese returnees from China doing permanent residence and special spouses (Act No.30 of 1994), and relatives of Japanese returnees from China doing permanent residence (hereinafter referred to as ″Japanese returnees from China doing

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August 9 1945 after, and who did not have a permanent domicile as Japanese in Japan in September 2 1945 because they cannot submit a notification of birth;"

③ Article 1, item 2, "Those whose mother have continued to live in the region of China from before September 2 1945, without returning Japan under the confusions in the region of China August 9 1945 after and who had a permanent domicile as Japanese in Japan in September 2 1945 and whose father had a permanent domicile as Japanese in Japan in September 2 1945, and who have continued to live in the region of China since September 3 1945;"

④ Article 2, item 1, "Those who have continued to live in the region of Sakhalin from before September 2 1945, without returning Japan under the confusions in the region of Sakhalin August 9 1945 after and who had a permanent domicile as Japanese in Japan or Sakhalin in September 2 1945;"

⑤ Article 2, item 2, "Those born in the region of Sakhalin after September 3 1945, and who have parents falling under the proceeding item, and who have continued to live in the region of Sakhalin;"

⑥ Article 2, item 1, "Those who have continued to live in the region of China from before September 2 1945, without returning Japan under the confusions in the region of China August 9 1945 after, and who had a permanent domicile as Japanese in Japan in September 2 1945, and those born in the region of China September 3 1945 after and who have parents fall under the preceding sentence, and have continued to live in the region of China and equivalent persons specified by Ordinance of the Ministry of Health, Labour, and Welfare;

permanent residence") who enter Japan to live with them in Japan, and who fall under any of the following;

(i) Spouses;

(ii) Natural children who were less than six years old (limited no spouses);

(iii) Natural children with serious disabilities for daily or social life (limited no spouses) and who receive support of the Japanese returnees from China doing permanent residence or their spouses;

(iv) Natural children who had offers from the Japanese returnees from China doing permanent residence (limited over 55 or with serious disabilities for daily or social life) that most suitable for living with them in Japan to do necessary supports to promote earlier independence after permanent residence and stable life;

(v) Spouses of those who fall under the preceding item;

(e) Adapted children or unmarried children of spouses who have lived with those falling under any of (a) to (c) since less than 6 years old (including the case living apart from them temporarily due to school or other reason the same shall apply hereinafter) and who received support from them, or who have lived with them from less than 6 years old to get married or employment and who received support from them;

In short, (1) and (2) are Myanmar refugees. They are used for the relatively new project, “Refugee Resettlement”, which Japan started in order to accept Myanmar refugees who could not be protected in the first shelter countries such as Thai and Malaysia since 2010.⑦ (3) and (4) are second and third generations of *Nikkeijin*. (5) is spouses of those who have the visa status, *Spouse or Child of Japanese Nationals* or *Teiju-sha status*. (6) is true children of those who have the visa status, *Permanent Resident*, *Special Permanent Resident* or *Teiju-sha status.* (7) is adopted children of those who have the visa status, *Permanent Resident*, *Special Permanent Resident* or *Teiju-sha status.* (5), (6) and (7) deal with family members of those who has family permit visa status. (8) is Japanese war orphans in China and in Sakhalin and their family members. Thus, in *Teiju-sha status* public notice, only (3) and (4) mention *Nikkeijin*, and others describe different groups of people. Therefore, it can be understood that the visa status, *Teiju-sha,* was created not only to accept *Nikkei* Latin Americans for the purpose of absorbing foreign labor force as Ninomiya asserted. Also, it is open to question whether the Japanese visa status, *Teiju-sha*, served the purpose of creating an identity for overseas Japanese as the Korean visa status, *People of Korean Heritage*, does. Then, with what kind of purpose and background was the visa status, *Teiju-sha*, created? Why was *Nikkeijin* put in the visa status, *Teiju-sha*, with other foreigners? What kind of impact did the visa status, *Teiju-sha*, give to defining the

⑦ “Daisangoku teiju” ni tuite. (2012). Retrieved January 4th, 2018, from Japan Association for Refugees Web site:
https://www.refugee.or.jp/refugee/rst.shtml

borderline between Japanese and foreigners? These are the research questions of this study.

## 2. Previous Works

There seems to be a scarcity of works focusing on the visa status, *Teiju-sha*, itself. As one indication, academic information reference database service CiNii had 67 articles regarding the keyword the visa status, *Teiju-sha*, from 1990 to 2017. 38 of them were not about the visa status but about people who live in certain regions, because the Japanese word *Teiju-sha* means permanent residents.⑧ Thus articles focusing on the visa status, *Teiju-sha*, are less than 30 during 27 years.

Furthermore, as Ninomiya's research, most of the few articles focusing on the visa status, *Teiju-sha,* regard *Nikkeijin* as foreign labor, and consider the visa status, *Teiju-sha*, for *Nikkeijin* and their family members.⑨ These research results are based on the fact that *Nikkei* Latin Americans occupied most part of foreign labor instead of "illegal" foreign workers after 1990. Ninomiya also insists that the visa status, *Teiju-sha*, was created to accept *Nikkei* Latin Americans as labor force. However, Takamichi

⑧ Articles which use the word *Teiju-sha* as permanent residents are as follows: "Some Types of Value Orientations of New-comer Inhavitants in Depopulated Area : The Case of Yamagata Prefecture", "A Study on Personal Networks of Migrants by Chiiki-Okoshi-Kyoryokutai", "A Study on a Dwelling Tendency and Land Use Control Problems in Iizuna Heights of Nagano City"

⑨ Those researches except Niyomiya's are as follows: Masashi Yamada (1992) claimed that the amendment of "the Immigration Control and Refugee Recognition Act" in 1990 tightened the regulation for "illegal" work and simplified entrance of *Nikkeijin*, and it resulted in distortion in employment because only Latin American *Nikkeijin* who have no restrictions on activities were hired intensively. Also, Naoto Higuchi (2010) pointed out that unemployment rate of *Nikkeijin* is much higher than that of Japanese, and insisted that *Nikkeijin* was intensively affected by economic crisis in the labor market.

Kajita, Kiyoto Hatano and Naoto Higuchi insist that the theory has a problems because there is no clear evidence that Japanese government regarded *Nikkei* Latin Americans as foreign labor before the amendment in 1990. According to Kajita, Hatano and Higuchi, the inflow of *Nikkei* Latin Americans was unexpected not only for ordinary persons but also for persons in charge of immigration control. Kajita, Hatano and Higuchi foremost point out that the same group handled amendment of "the Immigration Control and Refugee Recognition Act" (or "the Immigration Control Act") in 1990 and enactment of "the Special Act on the Immigration Control of, Inter Alia, Those who have Lost Japanese Nationality Pursuant to the Treaty of Peace with Japan" (or "the Special Immigration Act") in 1991 at the same time. Kajita, Hatano and Higuchi also claim that persons in charge of immigration control decided to give a certain visa status to *Nikkeijin* when a visa status was given to the third generation of Koreans living in Japan rather than securing them as a work force. Moreover, Kajita, Hatano and Higuchi indicate that *Nikkeijin* persons in charge of immigration control kept in their mind at that time was mainly the second and third generation of Japanese orphans in China. Kajita, Hatano and Higuchi conclude that it was an "unexpected result" for Japanese government, entailing an enormous number of *Nikkei* Latin American such as *Nikkei* Brazilians and their families moving to Japan (Kajita, Hatano and Higuchi, 2005, pp.115-121).

The main point of Kajita, Hatano and Higuchi is that the increase of *Nikkeijin* population in Japan is a "result" of the visa status, *Teiju-sha*, which is different from the "purpose" of creating the visa status, *Teiju-sha*, which was to balance the visa

status between the third generation of Korean living in Japan and *Nikkeijin*. The research raises an important insight by separating the "purpose" from the "result" regarding the creation of the visa status, *Teiju-sha*. However, this is a research about *Nikkei* Brazilians and although it mentions Japanese orphans in China a little, it does not refer to other target groups of the visa status, *Teiju-sha*, such as refugees. The visa status, *Teiju-sha*, has a comprehensive target and not restricted to *Nikkeijin* residing in a certain geographic region. A wide range of groups, such as Japanese orphans in China, refugees and family members who have family permit visa status, are all eligible to apply for the visa status, *Teiju-sha*. Thus significant methodological flaw is bound to occur, if one focuses on one segment of such a broadly defined group—such as *Nikkei* Latin Americans—when trying to understand the origins and purpose of the visa status, *Teiju-sha*.

## 3. Methodology

The approach of this study has been inspired by the theory of Kajita, Hatano and Higuchi, in terms of distinguishing between the purpose of the visa status, *Teiju-sha*, at conception and the result after the creation of the visa status, *Teiju-sha*. On the other hand, this study also aims to improve on the limitations of the theory by Kajita, Hatano and Higuchi: the methodological flaw on only *Nikkei* Latin Americans. Since their research on the visa status, *Teiju-sha*, is one part of research on *Nikkei* Brazilians, it has a limitation as a research on the visa status, *Teiju-sha*. Due to the broad scope of eligibility for the visa status, *Teiju-sha*, this study expands beyond simply considering

*Nikkeijin* of certain region, such as the *Nikkei* Latin Americans as seen previously. Instead, the current study focuses on not only *Nikkeijin* but also other included target groups of the visa status, *Teiju-sha*, in order to understand the visa status, *Teiju-sha*, comprehensively, and considered the meanings of the visa status, *Teiju-sha*.

Based on the perspective above, this study is structured as follows. In order to clarify the history and background regarding the creation of the visa status, *Teiju-sha*, Chapter II describes main change of the immigration control after World War II. The immigration control in Japan reached a turning point on 1982 (Kondo, 2009, p.20). Thus the chapter describes how the change was in 1982 and how the change relates to the amendment in 1990. In order to investigate the institutional change in immigration control in addition to the previous works, the thesis refers to the White Paper on the Immigration Control published by the Immigration Bureau, Ministry of Justice. The White Paper has been published every 5 or 6 years since 1959. This study uses the editions of 1959, 1964, 1971, 1980 and 1993. Also, in order to research the events which affected the immigration control, in addition to previous works, this study also looks into newspaper articles. The newspaper articles were retrieved from the database, Kikuzou II, published by Asahi Shinbun, which is on the three biggest newspapers in Japan. All articles which have relations with the visa status, *Teiju-sha*, between 1970 and 1990 were subjected in the research. Furthermore, in order to look for details and core points regarding amendment of “the Immigration Control Act”, this study refers the minutes of the Diet. The study covers wide subjects of the minutes of the Diet, like

not only the amendment of “the Immigration Control Act” in 1990 but also enactment of “the Special Immigration Act” in 1991 and refugees.

Chapter III aims to clarify what kind of people gained the visa status, *Teiju-sha*, and analyzed the number and nationalities of those who acquired the visa status, *Teiju-sha*, and stayed in Japan. Foreign Resident Statistics were mainly referred for the part. The statistics were published every 2 years since 1991, and every year since 1995 to 2008 by Japan Immigration Association. The statistics from 2009 are in the Web site of the Ministry of Justice.

Based on the description and analysis in chanter II and III, chapter IV considers why the visa status, *Teiju-sha*, was created and how Japanese government regarded and treated *Nikkeijin*. In order to consider these questions, this chapter compares the visa status, *Teiju-sha*, with the Korean visa status, *People of Korean Heritage*, as similar visa status given to those who have roots in the country.

# Ⅱ. Birth of *Teiju-sha Status*

## 1. From "the Immigration Control Order" to "the Immigration Control and Refugee Recognition Act"

"The Immigration Control Order" was enacted in 1951. "The Immigration Control Order" had an important role for about 30 years as the fundamental law of immigration control in Japan until it was revised into "the Immigration Control Act". Why did "the Immigration Control Order" which was made immediately after World War II remained for such a long time, and why was it revised in 1982?

Japan started to require a modern immigration control system after the opening of Japan to the world at the end of Edo era. The immigration control system during prewar time had three features: (1) imperfection in actual and procedural rules in immigration control (2) strong exertion of administrative authority for security maintenance, especially control by the police (3) existence of people from colonies who were Japanese nationals but subjected to immigration control (Oonuma, 1993, p.21). People from colonies, especially Koreans who moved between inland Japan and Korea for work, gradually settled down in cities and regions near factories and coal mine (Immigration Bureau, 1959, pp.9-10). On the contrary, it was also common for Japanese people to emigrate from inland Japan. In 1932, Japan declared the formation of Manchukuo and a lot of Japanese moved there (Inomata, 2009, p.3).

The immigration control system had been changed dramatically by the end of World War II. The right of sovereignty was limited by the Supreme Commander for the

Allied Powers after occupation, and the immigration control was also restricted by SCAP (Hatano, Kurasima, Tanaka, Shigemi and Iwasaki, 2000, p.67). Repatriation was one of the most essential tasks in the immigration control at that time. About 6 million Japanese soldiers and private citizens moved back from overseas to Japan, while Koreans, Taiwanese and Okinawans headed to their native places (Hatano, Kurasima, Tanaka, Shigemi and Iwasaki, 2000, p.70). Many Koreans living in Japan went to harbors with hopes to go back to their own land immediately after the end of the war. On the other hand, the division of Korean peninsula and its poor economic situations caused repatriation to Korea slow down after the spring of 1946, while the number of "illegal" entrance from Korea to Japan increased rapidly. Additionally, cholera broke out in Korean peninsula. Therefore, controlling "illegal" entrants from Korean peninsula and sending them back became the most important task in immigration control (Immigration Bureau, 1959, pp.12-14). On May 2nd, 1947, "the Alien Registration Order" was issued and dispensed in order to find such "illegal" entrance and control Koreans and Taiwanese people living in Japan (Hatano, Kurasima, Tanaka, Shigemi and Iwasaki, 2000, pp.78-79). "The Alien Registration Order" regarded Koreans and a part of Taiwanese as foreigners by Article 11[10], and made them target groups of the order although they had Japanese citizenship (Hatano, Kurasima, Tanaka, Shigemi and Iwasaki, 2000, pp.79-81).

[10] Article 11 "With regard to the application of this edict, Taiwanese specified by the Minister of the Interior and Korean shall be deemed as foreign nationals for a while;"

Other immigration control system were also established under the control of SCAP. The top priority of SCAP was to democratize Japan and it aimed to build a democratic immigration system under a new law, which would take a different form than the prewar system maintained by the police (Immigration Bureau, 1959, p.18). As the first step, in August, 1949, "the Cabinet Order on Management of Immigrants" was issued and the Immigration Bureau[11] was launched in the Ministry of Foreign Affairs (Hatano, Kurasima, Tanaka, Shigemi and Iwasaki, 2000, p.84). The Immigration Bureau covered office work of immigration control, liaison and coordination between related administrative agencies regarding management of illegal entrance and deportation of illegal entrant (Takahasi, 2016, p.67). Then, before the conclusion of the peace treaty, "the Immigration Control Order" was issued on October 4th, 1952, and dispensed on November 1st to prepare for returning to the international society after independence (Hatano, Kurasima, Tanaka, Shigemi and Iwasaki, 2000, p.88). "The Immigration Control Order" was the first integrated law code about immigration control and it defined entrance, landing, residence, departure and deportation of foreigners, and departure and returning of Japanese. Especially introduction of the visa status system was remarkable. "The Immigration Control Order" did not approve entrance at all unless a foreigner held a visa status, and a foreigner who entered the country had to abide by the regulations corresponding to his or her visa status in terms of activities. Also, in the case a foreigner did an activity which was not approved by the

[11] The first Immigration Bureau (shutunyuukoku kanri bu/出入国管理部) was made in the Ministry of Foreign Affairs in August, 1949. The current Immigration Bureau (Nyuukoku kanri kyoku/入国管理局) was created in the Ministry of Justice in August, 1952.

visa status without permission, retributions followed. If a foreigner was found guilty of deliberately attempting an activity unapproved by the visa status without changing to the appropriate status, the person was subjected to deportation (Hatano, Kurasima, Tanaka, Shigemi and Iwasaki, 2000, p.88-89). The strict control of foreigner's activity through visa system endorsed by "the Immigration Control Order" became the basic tenets of postwar immigration control, intended to realize a racially homogeneous nation by reducing foreigners as much as possible.

On April 28th, 1952, the peace treaty was concluded, and this day was a turning point for the legal status of Koreans and Taiwanese people living in Japan. First of all, "the Alien Registration Order" was changed into "the Alien Registration Act" on the day (Immigration Bureau, 1959, p.22). Also, "the Law for Disposition of Orders under the Ministry of Foreign Affairs based on the Imperial Ordinance concerning the Orders to be issued in Consequence of the Acceptance of the Potsdam Declaration" (or, Act No. 126) was issued and dispensed. Due to it, "the Immigration Control Order" became valid as a law without amendment (Immigration Bureau, 1959, p.21). Furthermore, since Article 2 of the peace treaty says that Korea and Taiwan are separated from Japan's land on the day the treaty concluded, Japanese government declared that Korean and Taiwanese people lost their Japanese nationalities and become foreigners on the day (Immigration Bureau, 1959, p.20). However, Koreans and Taiwanese people living in Japan were divided from other foreigners. That is because Japanese government could not apply "the Immigration Control Order" to them since they lived in Japan before the enactment of "the Immigration Control

Order" and did not have any passport with which the home government stand surely for them (Yoshioka, Yamamoto, Kim, 1988, pp.146-147). In order to solve the legal status problem with Korean and Taiwanese people living in Japan, Japanese government created Act No.126 Paragraph 6 of Article 2, which notes that "those can stay without having the status of residence determined by "the Immigration Control Order" for a while until being determined by law" and defined their resident status provisionally (Hatano, Kurasima, Tanaka, Shigemi and Iwasaki, 2000, p.106). The legal status was close to permanent residence at the point that there was no limitation for activities and period of stay (Yoshioka, Yamamoto, Kim, 1988, p.151). Also, children of those who were allowed to stay by Act No.126 Paragraph 6 of Article 2, and who were born after April 29th, 1953, were given the visa status 4-1-16⑫ which was defined by "the Immigration Control Order" based on the ordinance of the Ministry of Foreign Affairs, Paragraph 2 of Article 1 of the Ordinance No. 14 (Yoshioka, Yamamoto, Kim, 1988, p.151). As stated above, the legal status of Koreans and Taiwanese people living in Japan was defined provisionally. The lack of any legal bases for their status had a long way until being addressed.⑬

Postwar immigration control system based on "the Immigration Control Order" which controlled foreigners' entrance and activities by visa status maintained its system for more than 30 years. However, the immigration control system faced a turning point in 1982 due to the Indochinese refugee problem. Due to the political

⑫ The period of stay for the visa status was 3 years.
⑬ In the study, the words "Koreans" and "Taiwanese people" indicate those who came to Japan due to Japan's colonization of their home countries and their descendants.

change in Indochina region in 1975, an enormous number of people escaped the countries and became Indochinese refugees. America accepted a lot of refugees from South Vietnam. However as the opposition to this growing number of refugees increased, American government began to strengthen the pressure on international society to accept more refugees.⑭ Initially, Japanese government was unwilling to take refugees as they were concerned with the potential disruption these refugees will cause to homogeneity of Japanese society. Thus they attempted to respond to the pressure by providing generous financial support for the refugees (Ibuki, 1995, p117). Regardless the attitude of Japanese government, however, Indochinese refugees started to arrive Japan. In May, 1975, two Vietnamese were helped in the offing of Singapore and came to Kita-Kyushu region in Japan (Matsumoto, 1986, p.55). The Ministry of Justice did not allow them to land in Japan.⑮ Although the two Vietnamese hoped to stay in Japan at one point,⑯ eventually they moved to America.⑰ One month later, in June 1975, a ship with 50 Vietnamese visited Nagoya harbor. This time, the Ministry of Justice allowed them to land for the first time and stay temporally.⑱ However, it approved their stay only until they move to the third country (Ibuki, 1995, p109). Criticism from international society to Japanese government which did not accept for Indochinese

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⑭ Nanmin ukeire wo kakkoku ni yousei beikoku. (1975, May, 1). *The Asashi Shinbun*, p.2

⑮ Yahatakou nyuukou no betonamu nanmin houmusho ga jouriku mitomezu. (19 75, May, 12), *The Asashi Shinbun,* p.6

⑯ Kanmonkou no minami betonamu nanmin nihon eiju wo kibou 20sai to 14 sai no kyoudai hakugai osore dasshutu. (1975, May, 13). *The Asashi Shinbun,* p3

⑰ Betonamu nanmin no kyoudai guamutou ni shuppatu he. (1975, May, 30). *The Asashi Shinbun,* p.18

⑱ Betonamu nanmin 50nin nihon jouriku wo kyoka denma-kusen de nagoyako nyuukou. (1975, June 24th). *The Asashi Shinbun*, p.1

refugees to stay at all was rising (Ibuki, 1995, p109). In September, 1977, although Japanese government kept the principle that it does not accept immigrants, this acceptance unveiled the policy direction to approve Indochinese refugees who could not find recipient at all to stay in Japan.⑲ And in April, 1978, Japanese government established the policy to approve for Vietnam boat people who arrived Japan to settle down with the condition to have guarantors by cabinet understanding (Matsumoto, 1986, p.56). It is possible to say that the policy was made because of international pressure since it was made as a countermeasure for coming Japan-US Summit (Suehuji, 1984, p.140). In March, 1979, due to international pressure, coming Tokyo Summit this time, Japanese government decided to accept 500 Indochina refugees (Matsumoto, 1986, p.56). However, Indochinese refugees approved to stay in Japan was just 22, and those who applied was only 96 in July, 1979.⑳ One of the main reasons was that almost no Indochinese refugee staying in refugee reception centers in Japan applied to say. There were mainly three reasons they did not decide to stay in Japan: (1) Western countries are easier to live because there are many Vietnam; (2) Japanese settlement policies would not give them permanent residence status or Japanese nationality; (3) It is uncertain if they can receive enough welfare because they cannot receive national pension, child-care allowance and so on.[21] In order to secure 500 Indochinese refugees, in July, 1979, Japanese government decided by cabinet understanding that Indochinese

⑲ Teiju wo mitomeru houkou betonamu nanmin seihu ga taisaku kentou. (1977, September, 9th). *The Asashi Shinbun*, p.1

⑳ Nanmin taisaku yatto hongoshi seihu renraku tyousei kaigi ga hossoku. (1979, July, 18). *The Asashi Shinbun,* p.2

[21] Zainiti betonamu nanmin no taihan “huan ooi nihon teiju iya” “semaki mon” demo bei nado kibou. (1980, May, 7th). *The Asashi Shinbun*, p.3

refugees staying in Asian countries could move to Japan if they fulfill certain conditions. In August, 1979, Japanese government reorganized Asian orphan welfare education foundation and started to gather Indochinese refugees who hoped to move from South East Asian countries to Japan (Ibuki, 1995, p121).

While Japanese government hesitated to accept Indochinese refugees, the situation of Indochina refugees only worsened and some recipient countries could not endure the burden anymore. In 1979, Malaysia banished Vietnamese refugees who once landed in Malaysia on the sea. In Thailand, the army banished Cambodian refugees. Far from getting resolved, the conflict surrounding Indochinese refugee acceptance only intensified into a more serious and severe problem among South East Asian countries.[22] In addition, Indochinese refugee problem escalated into a big political issue in America as a large number of refugees were constantly entering the country. In this situation, dissatisfaction of Japan which donated expensive money but did not accept Indochinese refugees grew more and more. Therefore, ratifying "the Refugee Convention" and establishing an appropriate framework for accepting Indochina refugees became necessary (Suehuji, 1984, p.140). In order to help the enormous number of refugees resulting from World War II, UN created "the Refugee Convention", or officially "the Convention Relating to the Status of Refugees, or the Refugee Convention" in 1951. This was an attempt to conduct more effective problem solving by the means of organized international cooperation, rather than the

[22] Nanmin teiju waku oohaba ni kakudai he shushou "sinken ni kentou" gaisou no gutaika wo siji. (1979, June, 18th). *The Asashi Shinbun*, p.1

conventional agreements and arrangements.[23] In the second half of 1970s, Japan was left alone as the only country that did not ratify “the Refugee Convention” among the developed nations in league with Western countries.[24] The biggest problem with ratifying “the Refugee Convention” for Japanese government had to do with social welfare. Article 23[25] and 24[26] of “the Refugee Convention” defines social welfare, and it requires treating foreigners, locals, and nationals equally. In order to satisfy the requirement of national treatment, Japanese government had to remove nationality requirements from “the National Pension Act” and “the Child Support Allowance Law” (Hatano, Kurasima, Tanaka, Shigemi and Iwasaki, 2000, pp.149-150). The Ministry of Health and Welfare strongly insisted that the application of “the Refugee Convention” to social welfare laws should be deferred because opening welfare benefits to foreign residents meant more than just extending benefits to refugees, who consisted of a relatively small number. It meant hundreds and thousands of Koreans and Taiwanese

[23] Additionally, in order to help and protect refugees after 1951, “the Protocol Relating to the Status of Refugees” was made and takes a complementary role.

[24] Nanmin joyaku hijun no houkou de kentou housou ga touben. (1975, June, 26th). *The Asashi Shinbun,* p.3

[25] The Refugee Convention, Article 23, “PUBLIC RELIEF”, 'The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.'

[26] The Refugee Convention, Article 24, “LABOUR LEGISLATION AND SOCIAL SECURITY”, '1. The Contracting States shall accord to refugees lawfully staying in their territory the same treatment as is accorded to nationals in respect of the following matters: (b) Social security (legal provisions in respect of employment injury, occupational diseases, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency which, according to national laws or regulations, is covered by a social security scheme), (snip)’

residents and other foreign residents would also enter national pension program and so on.[27]

Nao Sonoda, who was the Minister of Foreign Affairs from November, 1977, to November, 1979, changed the situation dramatically. He became the Minister of Health and Welfare in September, 1980 (Suehuji, 1984, p.152). In October, 1980, Sonoda ordered the Ministry of Health and Welfare to consider revising laws such as "the National Pension Law" in order to open the system to all foreigners and solve "the Refugee Convention" ratifying problem. Thanks to it, Japanese government agreed to introduce the matter of ratifying "the Refugee Convention" to the regular Diet.[28] The legislation by the amendments of "the National Pension Act" and "the Child Support Allowance Law" was done and "the Refugee Convention" came into effect on January 1st, 1982 (Hatano, Kurasima, Tanaka, Shigemi and Iwasaki, 2000, p.143). On the same day, "the Immigration Control Order" was revised into "the Immigration Control and Refugee Recognition Law" (Immigration Bureau, 1959, p.17).

There are mainly three contents in the amendment. First is the legislation of municipal laws for ratifying "the Refugee Convention". Second is to improve and rationalize main system such as the visa status, re-entry permission, and special landing permission. Third is to give general rights of permanent residence by "a special case permanent residence permission (特例永住)" to Koreans and Taiwanese people living in Japan who could not receive the visa status, *Kyoutei-eiju-sha* (協定永住者), and still

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[27] Mikanyu de tadayou kuni ha nihon dake? (1980, March, 10th). *The Asashi Shinbun*, p.1

[28] "Nanmin joyaku" tuujou kokkai he seihu ga teishutu housin gaikokujin ni kokumin nenkin kokuseki youken teppai he houkaisei. (1980, December, 11th). *The Asahi Shinbun*, p.1

did not have the legal status (Immigration Bureau, 1986, introduction). The visa status, *Kyoutei-eiju-sha*, is the right of permanent residence given to the first and second generations of South Koreans living in Japan in 1965. After the conclusion of the peace treaty, Koreans and Taiwanese people living in Japan were left to stay without a visa status. One of the big reasons the situation persisted is that the agreement of Japan-South Korea consultation was delayed (Hatano, Kurasima, Tanaka, Shigemi and Iwasaki, 2000, pp.117-119). Japanese and South Korean governments started the consultation before the conclusion of the peace treaty, and aimed to normalize their diplomatic relations by the conclusion of "the Treaty on Basic Relations between Japan and the Republic of Korea". However, the consultation delayed much more than expected, and finally it was concluded on December 18th, 1965 (Hatano, Kurasima, Tanaka, Shigemi and Iwasaki, 2000, p.111). Some other pacts were concluded with the treaty and one of them was "the Japan-South Korea Legal Status Pact". The pact gave *Kyoutei-eiju-sha status* to the first and second generation of South Koreans living in Japan with some conditions (Immigration Bureau, 1980, pp.89-90). *Kyoutei-eiju-sha status*, which is established by "the Japan-South Korea Legal Status Pact", is different from the general visa status, *Permanent Resident*, which is provided by "the Immigration Control Order". First of all, the two visa statuses have different contents. *Kyoutei-eiju-sha status* is more stable. For example, the potential chances of deportation, according to the conditions of *Kyoutei-eiju-sha status*, was much less than the other (Yoshioka, Yamamoto, Kim, 1988, p.155). Also, there were some arrangement for education, livelihood protection, national health insurance, and takeout

property when they return to Korea and remittance (Hatano, Kurasima, Tanaka, Shigemi and Iwasaki, 2000, p.112). Second of all, the two visa statuses have different licensing requirements. The licensing requirements of *Permanent Resident* are as follows: (1) The alien's behavior and conduct must be good; (2) The alien must have sufficient assets or skills to make an independent living; (3) The alien must be in accordance with the interests of Japan (Yoshioka, Yamamoto, Kim, 1988, pp.156-157). On the contrary, *Kyoutei-eiju-sha status* has different licensing requirements. First of all, applicants have to prove their possession of South Korean citizenship by submitting one of those documents: (1) South Korean passport; (2) Certificate of national registration based on "the Overseas National Registration Act" in South Korea; (3) Statement about taking South Korean nationality (Yoshioka, Yamamoto, Kim, 1988, p.153). Also it was required for Koreans who were staying in Japan prior to the World War II to have remained in Japan past August 15th, 1945 to the date of application. On the other hand, it was required for Koreans who were born after World War II to be lineal descendants and to be born in Japan between August 16th, 1945 and January 16th, 1971, and to keep residing in Japan until the date of application (Yoshioka, Yamamoto, Kim, 1988, p.154). Furthermore, it was required to apply during a certain period (Yoshioka, Yamamoto, Kim, 1988, p.154). *Kyoutei-eiju-sha status* was so beneficial for those who could satisfy the conditions that more than 60% of Koreans living in Japan applied to it at the date of application expiration (Han, 2017, p.207). On the contrary, those who could not satisfy the conditions, who supported North Korea, who did not approve the separation in Korean peninsula and Taiwanese people could

not gain *Kyoutei-eiju-sha status*. Among them, those who entered into Japan from Korea between August 15th, 1945 and April 28th, 1952 were given general *Permanent Resident*. They included both who lived in Japan and once moved to Korea, and who did not live in Japan before and moved to Japan first during the period (Han, 2017, p.177-178). Moreover, "the Japan-South Korea Legal Status Pact" limited its target groups to only the first and second generation of South Koreans living in Japan, thus the visa status of the third generation of South Korean was not decided and left as a problem (Yoshizawa, 2010, p.166). It was decided to negotiate their visa status within 25 years since the date of effectuation of the pact (Yoshizawa, 2010, p.166).

Therefore, there were Koreans who had *Kyoutei-eiju-sha status* and Koreans who did not have legal grounds for their status in the area of "the Immigration Control Order". The treatment for the situation in 1982 was "a special case permanent residence permission". There were three licensing requirements for general *Permanent Resident* as described above. The regulations that Korans and Taiwanese people living in Japan do not need to satisfy the three licensing requirements and could receive *Permanent Resident* only by application was established at the supplementary provisions No.7 to 10[29] of "the Immigration Control Act"—deemed "a special case

[29] the supplementary provisions no.7 "If a foreign national falling under any of the following files the application for acquisition of status of residence during the period up to the day on which five years have passed from the date of enforcement of the Act on Partial Amendment of the Immigration Control Order (hereinafter referred to as a "The Last day of Application Period") as those falling the item14, paragraph 1 of Article 4 of the Act, the Minister of Justice permit it;" (1) "Those prescribed by the paragraph 6 of Article 2 of the Act on the order of related to Ministry of Foreign Affairs based on the order with Potsdam Declaration acceptance (hereinafter referred to as a "those falling the paragraph 6 of Article 2 Act No.126"), and who have continued to live in Japan until the application after signing the

permanent residence permission" (Yoshioka, Yamamoto, Kim, 1988, p.157). Koreans and Taiwanese people who could not gain *Kyoutei-eiju-sha status* acquired the *Permanent Resident* by "the special case permanent residence permission", and it was possible to say that the problem about their legal status and its legal ground was put to an end.

Hence, although "the Immigration Control Order" which aimed to control foreigners severely by visa status existed as the fundamental law for immigration control for more than 30 years, the influx of Indochinese refugees and ratification of "the Refugee Convention" led to revision of "the Immigration Control Act". In the amendment, Koreans and Taiwanese people who could not gain *Kyoutei-eiju-sha status* acquired *Permanent Resident* by "the special case permanent residence permission". Even though there was a problem of lesser stability in comparison to *Kyoutei-eiju-sha status*, the general *Permanent Resident* is meaningful at the point that it gave the rights of permanent resident to those who were Japanese in the past. It is also important at the point that it gave the right of permanent residents to all Koreans and Taiwanese people living in Japan, different from the case of *Kyoutei-eiju-sha status* which was previously given only to Koreans who possessed South Korean citizenship.

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peace treaty as Japan;" (2) "Those born in Japan during the last day of application period from signing the peace treaty as Japan as lineal descendant of those falling the paragraph 6 of Article 2 Act No.126, and have continued to live in Japan until the application;"

## 2. Amendment of “the Immigration Control Act” in 1990 and Creation of *Teiju-sha Status*

### 2-1, Problems about the Legal Status of Settlers in the Second Half of 1980s

Due to ratification of “the Refugee Convention”, “the Immigration Control Act” was enacted in 1982. As a result, Japan became an official host country for refugees. It was a significant change in Japanese immigration control in terms of how the formerly adamant Japanese government agreed to accept foreign refugees and let them settle down in Japan. After 1982, however, the problems of foreigners who wish to reside in Japan resurfaced. The problem was with the permanent return of Japanese orphans in China, occurrence of “fake refugee”, stabilization of the legal status of Koreans and Taiwanese people living in Japan and sudden increase of foreign labor with labor shortage.

First of all, Japanese orphans in China is one of the groups whose residence in Japan became a big issue during the second half of 1980s. Japanese orphans in China are those who were left in China after World War II and could not return to Japan until Japan and China restored the diplomatic relations in 1972 (Inomata, 2009, p.4). Japanese government declared the establishment of Manchuria in 1932 and sent Japanese people to Manchuria in order to solve overpopulation problem in inland Japan and to keep public order in Manchuria (Inomata, 2009, p.5). 270,000 Japanese were sent from inland Japan to Manchurian villages up until August, 1945 (Inomata, 2009, p.3). After the end of the World War II, most of them came back to Japan by the first

group repatriation between May, 1946 to October, 1949, and the second group repatriation between March, 1953 and July, 1958. However, there were about 1 million people who could not join the repatriation with many reasons and were left in China when the group repatriation finished (Inomata, 2009, p.36).

Many of Japanese orphans in China were registered in Chinese family register system as Chinese regardless their desire (Tong, 2007, p.118). In 1957, when there was still no diplomatic relation between Japan and China, Japanese government clarified the policy that Japanese orphans in China cannot renounce Japanese citizenship even if they acquired Chinese citizenship. Thus those who found their biological relations and discovered themselves in Japanese family registers (koseki/戸籍) could return to Japan as Japanese citizen. On the other hand, those whose biological relations were unclear and who could not find their family register in Japan were not recognized as Japanese citizens by Japanese government. Therefore they were prevented from returning to Japan (Tong, 2007, pp.111-112). It is clear that family registers took an important role in determining the possibility of return by Japanese orphans in Chine. However, in 1959, Japanese government established “the Act on Special Measures for Unreturned Person” and gave those who were not confirmed dead during the war, the number of whom amounted to around 33,000, declaration of death by acquiring agreement from their family members, and deleted about 13,600 family registers (Fujinuma, 1998, p.4).

On September 29th, 1972, Japan-China Joint Communique was issued and Japan and China entered into diplomatic relations. Japanese orphans in China started to return to Japan (Fujinuma, 1998, p.4) However, Japanese government judged that there

could be high possibility of Japanese orphans in China having renounced their Japanese citizenship in place of newly acquired Chinese citizenship. This judgment led to an administrative procedure of making citizenship status ineffective for all Japanese orphans in China and acknowledged them under Chinese citizenship on the day of establishment of diplomatic relations regardless individual wills. Since Japanese orphans in China were stolen their Japanese citizenships, their path to return to Japan has been changed from Japanese returning into foreigners' entering (Tong, 2007, p.124) Also, as the conditions to return to Japan, Japanese government required not only Chinese passport and Visa by Japanese government but also guarantors in Japan such as biological relatives.

In March, 1981, the first investigation which invited Japanese orphans in China to Japan was carried out. It was what support groups of Japanese orphans in China demanded for a long time.[30] Those who found their biological relatives in the investigations could return to Japan permanently if their biological relatives became guarantors. On the other hand, there were those who could not see their biological relatives and how they come back to Japan became an issue (Tong, 2007, pp.125-126) Also, many Japanese orphans who moved from China to Japan could not send support money to their adoptive parents, and it became a new problem. In order to solve these problems, in March, 1984, Japanese and Chinese government exchanged verbal note

[30] 21nin ha shitui no mama tyuugoku zanryuu koji ya kikoku (1981, March, 16th). *The Asashi Shinbun,* p.1

regarding Japanese orphans in China problem.[31] The verbal note clarified that the Japanese government accepts all Japanese orphans in Chine who demand to return to Japan regardless whether they found their biological relatives or not. And based on the verbal note, in November, 1984, the Japanese government established the policy that it approve all Japanese orphans whose names were registered in the lists made by Chinese government as unreturned Japanese.[32] Then in February, 1985, two governments agreed that after joining the investigations in Japan, they allow Japanese orphans to move from China to Japan permanently with Chinese nationalities even if they did not find their bold relatives.[33] As a result, more than 1000 Japanese orphans in China and their family members moved to Japan every year since 1985.[34] It asked the Japanese government to tackle with their settlement problem.

Other group Japanese government had to approve settlement was Indochinese refugees. While the problem of Indochinese refugee acceptation came to a conclusion by ratifying "the Refugee Convention" in 1982, it entered a new phase on 1989. In May, 1989, a small fishing boat was found in Nagasaki prefecture, and 107 Vietnam refugees were rescued.[35] Indochinese refugees were discovered on the sea generally,

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[31] Koji mondai nittyuu ga koujougaki koukan he eiju mae ni itiji kityuu youhubo no higeki taisaku huyouhi wo kunibunntann. (1984, March, 17th). *The Asashi Shinbun*, p.1

[32] Tyugoku gawa meibo ni tousai no koji mibun humei demo eijuu kikoku heno miti ouseishou kettei mikikannsha to ninntei. (1984, Norvember, 29th). *The Asas hi Shinbun*, p.1

[33] Mimoto mihanmei no tyuugoku koji eijuu kikoku ni tyohi ukeiresaku nittyuu ga doui. (1085, February, 28th). *The Asashi Shinbun,* p.1

[34] *Tyugoku kikokusha no nendo betu kikoku jyoukyou.* (2016). Retrived December 28th, 2017, from The Support Communications Centers for People Returning from China Web site: https://www.sien-center.or.jp/about/ministry/reference_02.html

[35] ASEAN simedashi saku "ima shika nai" to dasshutu? (1989, May, 31st). *The Asashi Shinbun*, p.3

and it was first time that they arrived Japanese territory directly. After the event, other boats with Indochinese refugees arrived in Japan one after another.[36] The reason Indochinese refugees increased dramatically then was that it was widely known in Vietnam that the subject of Indochinese refugee international conference by UN in Geneva in June, 1989, is screening, and that the conference considers to make qualification exams for refugees more severely.[37] As the prior information, the conference in Geneva decided to institute screening for new Indochinese refugees. The policy to separate new Indochinese refugee into true refugees and economic refugees, and to promote economic refugees to return voluntarily was made (Ibuki, 1995, p.127). Due to the decision, Japanese government started to give screening to Indochinese refugees.[38] However, screening in Japan placed efforts to separate self-professed Indochina refugees into refugees who came from Indochinese countries directly and people who came from China such as Chinese and Indochinese refugees who stayed in China temporary, rather than dividing Indochinese refugees into true refugees and economic refugees. Those who came from China were called “fake refugees”. The Ministry of Justice deported about 2800 “fake refugees” to China.[39] On the other hand, Indochinese refugees were rarely sent back even if they were judged as economic refugees. That was because international society was against to deportation, and

[36] The minutes no.1 of the Diet no.115, the Committee on Judicial Affairs in Upper House, p.1
[37] The minutes no.1 of the Diet no.115, the Committee on Judicial Affairs in Upper House, pp.20-21
[38] The minutes no.1 of the Diet no.115, the Committee on Judicial Affairs in Upper House, p.8
[39] Gisou, aratani 664nin tyuugoku “nanmin” kyou shuuyouujo he. (1989, October, 24th) *The Asashi Shinbun,* p.1

Vietnam showed the attitude to refuse to accept them.[40] Therefore, the Japanese government did not have a choice but to let Indochinese refugees settle down in Japan even if they were economic refugees. It had to accept suddenly increasing Indochinese refugees unless they were "fake refugees".

In addition to Japanese orphans in China and Indochinese refugees, the Japanese government had a problem with Korean and Taiwanese people living in Japan. They acquired the rights of permanent residence by *Kyoutei-eiju-sha status* in 1965 and by "the special case permanent residence permission" in 1982. However, both *Kyoutei-eiju-sha status* and *Permanent Resident* could not be handed down to posterity. It was the result of the Japanese government's policy to stop the cycle of reproduction of foreigners with special treatment at a certain point (Yoshioka, Yamamoto, Kim, 1988, p.160). Thus the legal status of the younger generation Koreans and Taiwanese people living in Japan was less stable (Yoshioka, Yamamoto, Kim, 1988, p.160). The treatment by Japanese government was problematic because it ignored the special characteristics of Koran and Taiwanese people living in Japan such as that the younger generation who grew up in Japan developed deeper roots in Japanese society, that they are descendants of former Japanese nationals, and that most of them did not enter Japan with passports (Yoshioka, Yamamoto, Kim, 1988, pp.143-147). Even if the Japanese government did not hope to increase the number of foreigners with special treatment, reality demanded a preparation of a legal status for new generations.

[40] The minutes no.2 of the Diet no.116, the Committee on Judicial Affairs in Upper House, p.30

In addition to those settlers, the Japanese government had a foreign labor problem too. Labor shortage from 1970s in Japan was running in the background. The Japanese government insisted upon the ethnic homogeneity as a value to be kept and continued to refuse accepting unskilled foreign labor. And it tried to solve the problem by improving domestic productivity and supporting domestic labor. However, it became difficult around the end of 1980s, and the number of foreigners who enter and stay in Japan for working increased rapidly. A lot of *Nikkei* Latin Americans were included in them (Tsuda, 2008, pp.295-296). In 1980s, Latin American countries were confronted with serious economic difficulties, and *Nikkei* Latin Americans moved to Japan and joined Japanese labor market in order to escape from domestic economic crisis (Kajita, Hatano and Higuchi, 2005, p.115). Japanese government had to deal with the sudden increase of foreign labor with many *Nikkei* Latin Americans.

Hence, from the middle of 1980s to the end, Japanese government held several problems regarding settlers. Although each groups had different historical backgrounds, all groups demanded stable settlement in Japan.

## 2-2. Outline of the Amendment in 1990 and the Creation of *Teiju-sha Status*

The fundamental law of immigration control, which was revised from “the Immigration Control Order” to “the Immigration Control and Refugee Recognition Act” in 1982, had another amendment in 1990. In 1987, a team for amendment of “the Immigration Control Act” was established in the Immigration Bureau and it started to draw up a basic proposal for amendments (Kajita, Hatano and Higuchi, 2005, p.115).

On March 28th, 1989, the proposal for amendment of "the Immigration Control Act" passed the cabinet decision and was submitted to the regular Diet no. 114. Due to Recruit scandal, however, there was no practical discussion. Then, the proposal was carried into the extraordinary Diet no. 116, and at the end of 1988, it was approved with majority support in both the Lower House and the Upper House. The amendment was dispensed in June 1st, 1990 (Sakanaka and Takaya, 1991, pp.6-7).

There were two big factors regarding the amendment of the Immigration Control Act: (1) Divergence of activities by foreigners and demand to widen foreign employment (2) Countermeasure to "illegal" foreign labor (Hatano, Kurasima, Tanaka, Shigemi and Iwasaki, 2000, p.155). More and more foreigners started to work in Japan with internationalization, and their types of industry were diversifying. Also, demand from companies to hire superior foreign workers increased. On the contrary, due to the economic gap between Japan and Asian countries and appreciation of yen, the number of "illegal" foreign workers increased (Hatano, Kurasima, Tanaka, Shigemi and Iwasaki, 2000, p.155). Taking these context into account, three main points highlighted the amendment. First point was the maintenance of the visa status system. The visa status of "the Immigration Control Act" before the amendment in 1990 was adjusted a little in the amendment of 1982, but basically remained the same since the enactment of "the Immigration Control Order" in 1951. Thus, the visa status for those who is authorized to stay in Japan by the Minister of Justice was operated flexibly to correspond to the changes in the situation and new demands. However, the visa status was tightly controlled by the Minister of Justice and the precise profile of who would

be approved to enter and stay in Japan remained unclear externally. Thus the amendment created 10 new visa statuses[41] and the total amount of visa statuses became 28 (Hatano, Kurasima, Tanaka, Shigemi and Iwasaki, 2000, pp.155-157). Second point was the clarification of standard for screening and simplification and acceleration of visa inspection entry steps (Hatano, Kurasima, Tanaka, Shigemi and Iwasaki, 2000, p.157). Third point was the maintenance of rules regarding "illegal" foreign labor countermeasures. This point was made mainly to make a system for the Certificate of Qualification for Employment with which employees may check the possible activities, and to establish penalties for employees and brokers of "illegal" foreign labor.[42]

Whether to accept unskilled foreign labor or not was an important issue in the amendment because one of the main points in the amendment was handling the "illegal" foreign labor problems. Japanese government insisted that discussion regarding acceptance of unskilled foreign labor is wide-ranging, and that the impact on Japanese society will be large if we accept them. Therefore, it asked for more in-depth discussion that involves listening to a wider range of opinions and making countermeasures from the long term perspectives; so it was hesitant on making a firm decision on the issue of unskilled foreign labor.[43] It also argued that even though small

[41] Legal / Accounting Services, Medical Services, Researcher, Instructor, Specialist in Humanities / International Services, Intra-Company Transferee, Cultural Activities, Pre-College Student, Spouse or Child of Permanent Resident, and Long-term Resident or *Teiju-sha*

[42] The minutes no.2 of the Diet no.116, the Committee on Judicial Affairs in Lower House, pp.1-2

[43] The minutes no.1 of the Diet no.116, the Committee on Judicial Affairs in Upper House, p.18

and medium-sized businesses have problems with labor shortage, certain areas and ages like the elderly do not have enough job offers; thus, addressing and managing the domestic job market needs must come first. [44]

*Teiju-sha status* was created in the amendment with the list above. *Teiju-sha status* is defined by "the Immigration Control Act" as "those who are authorized to reside in Japan with a period of stay designated by the Minister of Justice in consideration of special circumstance" (Sakanaka and Takaya, 1991, p.148). Consideration by the Minister of Justice would mean that discretion by the Minister of Justice affects stronger. Thus, it is considered that *Teiju-sha status* is unstable.

Next is the relation of *Teiju-sha status* with other visa statuses. "The Immigration Control Act" divides all visa statuses into activity based visa status and family permit visa status. *Teiju-sha status* belongs to family permit visa status. In 1990, family permit visa status included not only *Teiju-sha status*, but also *Permanent Resident*, *Spouse or Child of Japanese Nationals*, and *Children of those who have lost nationality based on the Treaty of Peace*.[45] All family permit visa statuses have no restrictions on activities. It means that those who have a family permit visa status may work in the same way as Japanese (Tani, 1995, p.138). Immigration control system of Japan are marked by visa statuses subdivided into different levels of restrictions on job eligibilities (Kondou, 2009, p.24). Thus many foreign residents of Japan who are engaged in activities approved by the requirements of visa statuses try to change their

[44] The minutes no.1 of the Diet no.116, the Committee on Judicial Affairs in Upper House, p.18
[45] The minutes no.2 of the Diet no.116, the Committee on Judicial Affairs in Lower House, p.34

visa statuses into family permit ones in order to gain the rights to have more variety of occupations. If such circumstance is taken into consideration, having no restrictions on activities is an advantageous condition. On the contrary, *Teiju-sha status* is different from other family permit visa statuses at the period of stay. The period of stay marked by *Permanent Resident* is indefinite. The length of stay allowed by *Spouse or Child of Japanese Nationals* and *Spouse or Child of Permanent Resident* are 5 years, 3 years, 1 year, or 6 months. On the other hand, that of *Teiju-sha status* has two rules; (1) Those with the approval of *Teiju-sha status* may have the period of stay of 5 years, 3 years, 1 year, or 6 months; (2) Those who are approved their status by other ways may have the period of stay less than 3 years which is designated by the Minister of Justice for each individual. Unlike other family permit visa statuses, many aspects of the *Teiju-sha status* is not set but dependent on the decision makings of the Minister of Justice, even including the allotment of granted period of stay. It is possible to say that *Teiju-sha status* is unstable with the point too.

The target groups of *Teiju-sha status* is shown by *Teiju-sha status* notice by the Minister of Justice in advance. Details of *Teiju-sha status* notice in 1990 was as below:

(1) Indochina refugees sojourning in Asian countries who fall under any of the following;

(a), (b), (c) omission

(2) Vietnamese living in Vietnam, who desire to enter Japan to meet their family and who engage in lives as sound members of society based on agreement between United Nations High Commissioner for Refugees and Vietnam Socialist Republic dated on May,30,1979, and who fall under any of the following;

(a), (b), (c) omission

(3) Natural children of those born as the children of Japanese nationals (excluding those falling under the preceding item);

(4) Natural grandchildren of those born as the children of Japanese nationals and once having a permanent domicile as Japanese in Japan (excluding those falling under the preceding item);

(5) The spouses of those who stay with the status of spouse or child of Japanese national and born as the children of Japanese nationals, or the spouses of those who stay with the status of residence of long term resident designated period of stay over one year (excluding those who has been granted landing permission as those falling under this item and were divorce during the period of stay) (excluding those falling under the preceding item);

(6) Natural children who are minors and unmarried of those live by support from those who fall under any of the following, or their spouses who stay with the

status of residence of spouse or child of Japanese national or spouse or child of permanent resident (excluding those who fall under any of Items 1 to 4);

(a) Japanese national;

(b) Those who stay with the status of residence of permanent resident;

(c) Those who stay with the status of residence of the children of those who have lost nationality based on the Treaty of Peace;

(d) Those who stay with the status of residence of "Long-Term Resident", designated period of stay over one year;

(e) Those with permanent residence status based on the Special Act on the Immigration Control with the implementation of the agreement between Japan and Korea about legal status and treatment of Korean nationals living in japan (Act No.46 of 1965);

(f) Those who stay in Japan under the provisions of Article 2 paragraph (6) of the Act on the order of related to Ministry of Foreign Affairs based on the order with Potsdam Declaration acceptance (Act No.126 of 1952);

(7) Adapted children who were less than six years old of those living by support from those who fall under any of (a) to (f) inclusive of the preceding item (excluding those who fall under any of Items 1 to 4);

In summary, (1) and (2) are about Indochinese refugees and their family members. (3) and (4) are the second and third generations of *Nikkeijin*. (5) is about spouses of those who have *Spouse or Child of Japanese Nationals* or *Teiju-sha status*. (6) is about natural children of those who have *Permanent Resident, Children of those who have lost nationality based on the Treaty of Peace, Teiju-sha status* or *Kyoutei-eiju-sha status*. (7) is about adapted children of Japanese and those who have *Permanent Resident, Children of those who have lost nationality based on the Treaty of Peace, Teiju-sha status* or *Kyoutei-eiju-sha status*. Most of those who fall under (b) to (f) of (2) are new generations of people from past Japanese colonies. Thus it is considered that most part of (6) and (7) are new generations of Korean and Taiwanese living in Japan.

Although the contents of *Teiju-sh*a status notice was revised several times until 2015, there was no resource about it. At least, however, it is possible to know the changes by comparing contents in 1990 and in 2015 which were referred in the introduction. First of all, (1) and (2) are revised from Indochinese refugees into Myanmar refugees. That would be because new Indochinese refugees did not appear anymore in the second half of 1990s.[46] On the other hand, (3) and (4) are still about the second and third generations of *Nikkeijin*. Even though there are some minor changes in (5), it is still about spouses of those who have *Spouse or Child of Japanese Nationals* or *Teiju-sha status*. Regarding (6) and (7), the only change involved that

[46] Nihon no nanmin ukeire. (n.d.) Retrieved January 5, 2018, from http://www.rhq.gr.jp/japanese/know/ukeire.htm

*Children of those who have lost nationality based on the Treaty of Peace* and *Kyoutei-eiju-sha status* were put into *Special Permanent Resident* together. On the other hand, (8) which refers Japanese orphans in China and Sakhalin and their families is new.

Hence, in the amendment of "the Immigration Control Act" in 1990 which strengthened the function of locking out "illegal" foreign labor, *Teiju-sha status* was created with contents which ensure the settlement in Japan to some extent by no restriction on activities but with renewable period of stay, not permanent. It is important that *Teiju-sha status* included a variety of people such as Indochinese refugees, *Nikkeijin*, new generations of Koreans and Taiwanese people living in Japan in 1990 when it was created. Such target groups of *Teiju-sha status* has been added and modified since the creation.

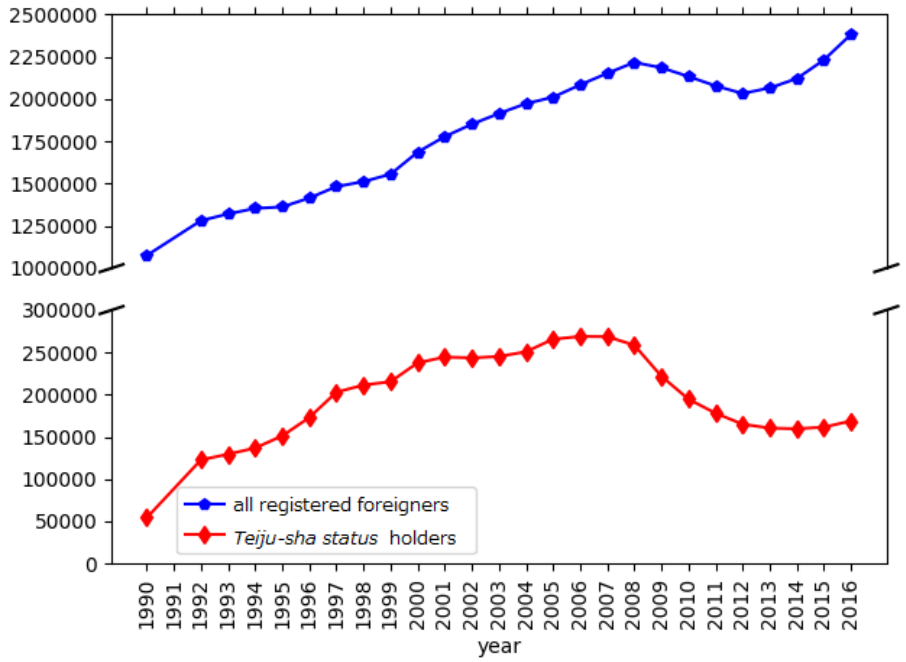
# Ⅲ. *Teiju-sha Status* Holders and its Transition

## 1. Overview

The chapter 2 described the background up to the creation of *Teiju-sha status*. This chapter analyses what kind of people gained *Teiju-sha status*.

Figure 1 shows the transition of number of all registered foreigners in Japan increased until 2008, but reverted to decrease until 2012, then re-increase. The change

**〈Figure 1〉 The change in the numbers of all registered foreigners and *Teiju-sha status* holders**




*Source: Foreign Resident Statistics, 1991-2017*

**〈Table 1〉 The number of all registered foreigners, all *Teiju-sha status* holders and *Teiju-sha status* holders in majority countries and regions**

| Year | All foreigners | *Teiju-sha* | Brazil | China | Peru | Korea | Vietnam | Philipp-ines |
|---|---|---|---|---|---|---|---|---|
| 1990 | 1075317 | 54359 | 12637 | 15263 | 4202 | 10412 | 4027 | 1190 |
| 1991 | — | — | — | — | — | — | — | — |
| 1992 | 1281644 | 122814 | 51759 | 23877 | 14845 | 13775 | 5171 | 2617 |
| 1993 | 1320748 | 129506 | 55282 | 26267 | 14274 | 13361 | 5582 | — |
| 1994 | 1354011 | 136838 | 59280 | 28382 | 14718 | 12804 | 6022 | 4006 |
| 1995 | 1362371 | 151143 | 69946 | 30653 | 15544 | 12468 | 6121 | 4740 |
| 1996 | 1415136 | 172882 | 87164 | 33578 | 16526 | 11855 | 5996 | 5584 |
| 1997 | 1482707 | 202905 | 111840 | 36941 | 18746 | 10868 | 5906 | 6751 |
| 1998 | 1512116 | 211275 | 115536 | 38927 | 19953 | 10416 | 5775 | 8385 |
| 1999 | 1556113 | 215347 | 117469 | 38982 | 20454 | 10028 | 5401 | 10181 |
| 2000 | 1686444 | 237607 | 137649 | 37337 | 21369 | 9509 | 4986 | 13285 |
| 2001 | 1778462 | 244460 | 142082 | 36580 | 22047 | 9243 | 4707 | 15530 |
| 2002 | 1851758 | 243451 | 139826 | 35020 | 21538 | 9091 | 4696 | 18246 |
| 2003 | 1915030 | 245147 | 140552 | 33292 | 21045 | 8941 | 4792 | 21117 |
| 2004 | 1973747 | 250734 | 144407 | 32130 | 20779 | 8751 | 4929 | 23756 |
| 2005 | 2011555 | 265639 | 153185 | 33086 | 21428 | 8908 | 5103 | 26811 |
| 2006 | 2084919 | 268836 | 153141 | 33305 | 20612 | 8891 | 5236 | 29907 |
| 2007 | 2152973 | 268604 | 148528 | 33816 | 20255 | 8803 | 5342 | 33332 |
| 2008 | 2217426 | 258498 | 137005 | 33600 | 18969 | 8722 | 5526 | 35717 |
| 2009 | 2186121 | 221771 | 101250 | 33651 | 16695 | 8622 | 5847 | 37131 |
| 2010 | 2134151 | 194602 | 77359 | 32048 | 14849 | 8374 | 5771 | 37870 |
| 2011 | 2078508 | 177983 | 62077 | 30498 | 13496 | 8288 | 5726 | 39331 |
| 2012 | 2033656 | 165001 | 53058 | 27150 | 11941 | 7774 | 5558 | 40714 |
| 2013 | 2066445 | 160391 | 47903 | 26240 | 11269 | 7636 | 5513 | 42156 |
| 2014 | 2121831 | 159596 | 44559 | 26676 | 10796 | 7636 | 5450 | 43997 |
| 2015 | 2232189 | 161532 | 44827 | 26626 | 10492 | 7413 | 5346 | 45680 |
| 2016 | 2382822 | 168830 | 49542 | 27140 | 10345 | 7348 | 5258 | 47663 |

*Source: Foreign Resident Statistics, 1991-2017*

in the number of the *Teiju-sha status* holders is similar to this at some points, and different from this and the number of those who have *Teiju-sha status*. The number of all registered foreigners at other points. In 1990, the number of the *Teiju-sha status* holders was 54,359 (Japan Immigration Association, 1991, p.7). It was just about 5% of all registered foreigners. This number and rate are very small compared to the number of the *Teiju-sha status* holders after 1990 and the rate of the number of the *Teiju-sha status* holders in the number of all registered foreigners after 1990. That would be because the enforcement of the revised "Immigration Control Order" was on June 1st, 1990, and the period people could apply to *Teiju-sha status* was just about 7 months. Then, although the number of the *Teiju-sha status* holders in 1991 is unclear due to lack of documentation, the number reached 122,814 in 1992 (Japan Immigration Association, 1993, p.7). This is about 10% of all registered foreigners, and significantly different form the rate in 1990. As the number of the *Teiju-sha status* holders had increased, the number increased about 20,000 each year between 1994 and 1997, which is intense increase compared to the period before and after it. The tendency is not seen in the number of all registered foreigners. Then, the number of the *Teiju-sha status* holders was at the level of 240,000 between 2001 and 2003, and that was about 260,000 between 2005 and 2007. The revealed number increased relatively, but at a negligible rate. Then, when the number of all registered foreigners in Japan began to decrease in 2008, the number of the *Teiju-sha status* holders decreased too. The number of all registered foreigners changed into increased again in 2012, but the

number of the *Teiju-sha status* holders kept decreasing until 2014, and even later there is not a significant increase compare to the number of all registered foreigners.

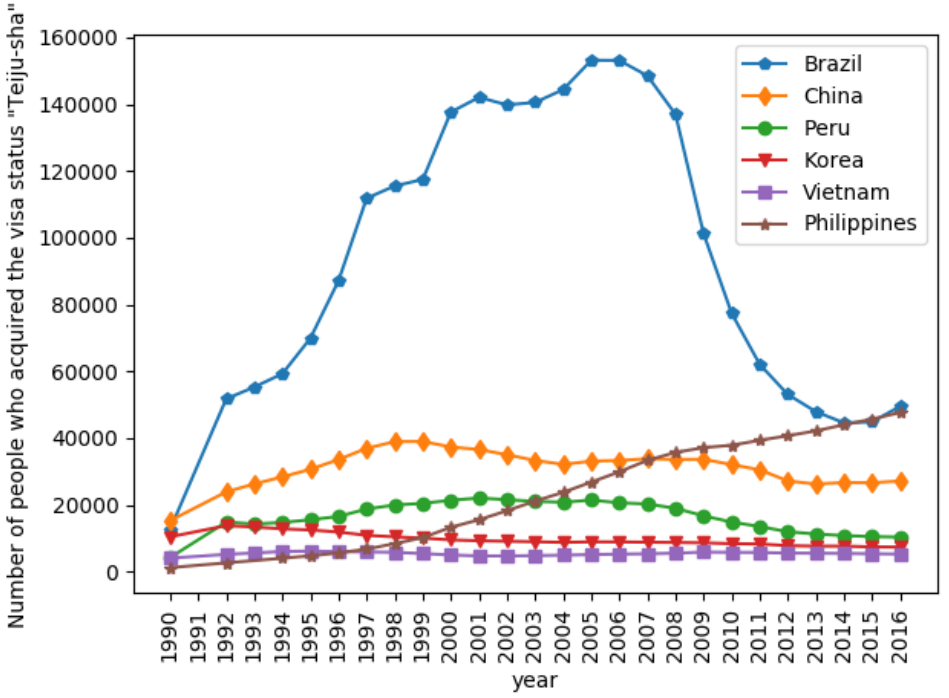
## 2. Background by Nationality

In order to analyze the reason the number of the *Teiju-sha status* holders changed as stated above, this study investigates how the number of the *Teiju-sha status* holders in certain countries and regions changed. Indeed, the nationalities of the *Teiju-sha status* holders diverse. People from more than 130 countries and regions gained *Teiju-sha status* and stayed in Japan.[47] Not everyone from all countries and regions were given *Teiju-sha status* but there were some countries and regions with a large proportion of *Teishu-sha status* acquisition. Figure 2 depicts the major recipient regions and countries of *Teiju-sha status*, along with their changes. Also, table 1 shows the number of all registered foreigners, the total *Teiju-sha status* holders and *Teiju-sha status* holdersin main countries and regions. Based on these information, this section considers the characteristics of backgrounds *Teiju-sha status* holders in main countries and regions gained as well as the backgrounds of those whose applications to *Teiju-sha* was waived.

The number of Brazilians, occupying the largest segment among the *Teiju-sha* recipients, steadily increased over the decade between 1990 and 2001. Especially, it

[47] Zairyu gaikokujin toukei (kyu touroku gaikokujin toukei). (2017). Revised December 28, 2017, from https://www.e-stat.go.jp/stat-search/files?page=1&layout=datalist&stat_infid=000031557945&lid=000001177523

〈**Figure 2**〉 **The change in the numbers of *Teiju-sha status* holders in majority countries and regions**




*Source: Foreign Resident Statistics, 1991-2017*

increased intensively after the creation of *Teiju-sha* in 1990, between 1994 and 1997, and between 1999 and 2000. After 2008, however, the trend reversed to a rapid decrease in number. These changes seems to be related to *Nikkeijin* and their family members who occupied most of Brazilian *Teiju-sha status* holders. They came to Japan for work (Tajima, 1995, p.166). 1980s is called “lost 10 years” in Latin American countries including Brazil since they suffered from economic difficulties. *Nikkei*

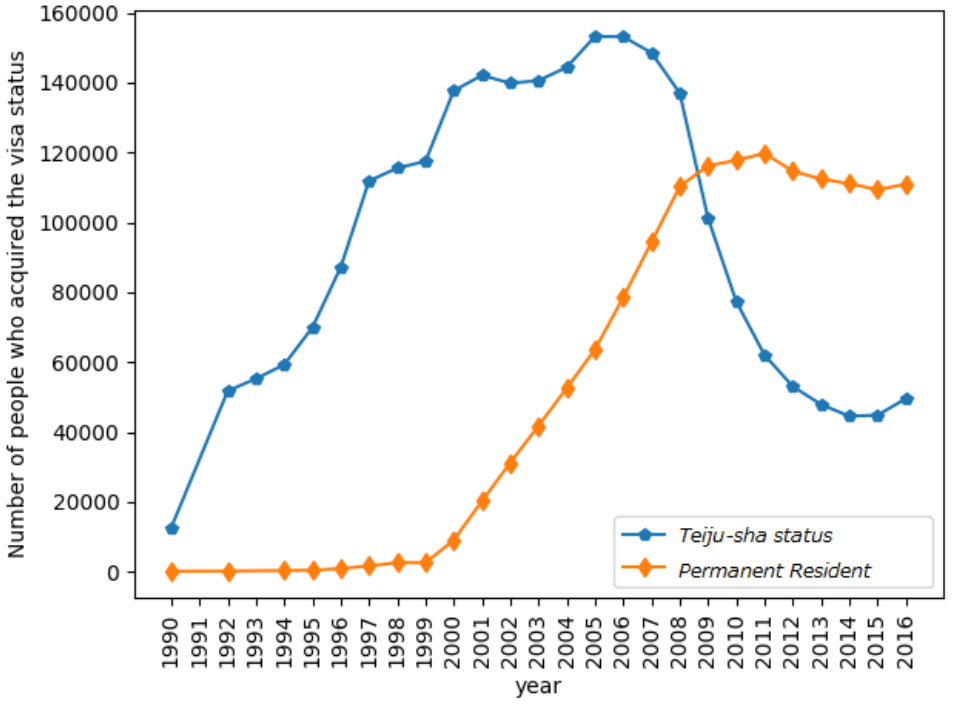
**〈Table 2〉 The numbers of Brazilian *Teiju-sha status* holders**

| Year | 1990 | 1991 | 1992 | 1993 | 1994 | 1995 | 1996 |
|---|---|---|---|---|---|---|---|
| Number | 164 | — | 220 | — | 373 | 474 | 931 |
| Year | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 |
| Number | 1686 | 2644 | 4592 | 9062 | 20277 | 31203 | 41771 |
| Year | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 |
| Number | 52581 | 63643 | 78523 | 94358 | 110,267 | 116,228 | 117,760 |
| Year | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | |
| Number | 119,748 | 114,641 | 112,428 | 111,077 | 109,361 | 110,932 | |

*Source: Foreign Resident Statistics, 1991-2017*

Brazilian and their families who faced the danger of falling from the middle class moved to Japan when *Teiju-sha status* was created in 1990 (Kajita, Hatano and Higuchi, 2005, p.130). This resulted in the increase of Brazilians who gained *Teiju-sha status* in 1990 and late. Next is the part which the number of Brazilians decreased intensively after 2008. The reason for this decrease would be economic crisis originated with Bankruptcy of Lehman Brothers in 2008. After 2008, *Nikkei* Brazilians and their family members who were employed temporary at export industries such as automobile and electoral machinery lost their jobs in large numbers (Higuchi, 2010, p.50). Their unemployment rate was very high compare to that of Japanese (Higuchi, 2010, p.53).

〈**Figure 3**〉 **The change in the numbers of Brazilian *Teiju-sha status* holders and Brazilian *Permanent Resident* holders**




*Source: Foreign Resident Statistics, 1991-2017*

This would result in intensive decrease of Brazilians who have *Teiju-sha status*. Additionally, it is considered that Brazilians who changed their visa status from *Teiju-sha* to *Permanent Resident* affected the decrease (Tajima, 1995, p.165). Table 2 indicates the number of Brazilians who have *Permanent Resident*. Also, figure 3 shows the transition of the number of those who had *Teiju-sha status* and *Permanent Resident*. According to them, the number of Brazilian who have *Permanent Resident* increased

intensively since 2000s. Although the increasing rate became low after 2008, still the number kept increasing until 2011. Also, the number started to decrease after 2012 but it is almost flat. From these features, it is considered that some Brazilians changed their visa status from *Teiju-sha* to *Permanent Resident* in order to gain more stable legal status while their employment became insecure due to Bankruptcy of Lehman Brothers.

Peruvian are also *Nikkeijin* who came to Japan to work. Although the change of the number of Peruvians who have *Teiju-sha status* is not remarkable compare to Brazilians, the reasons of change in Peruvians number are similar to Brazilian. The economic difficulties in Peru is accountable for the increase of Peruvians immediately after the creation of the visa status. The strengthened decreasing tendency after 2008 is caused by the Bankruptcy of Lehman Brothers. Also, the category of *Nikkei* Latin Americans include not only Brazilians and Peruvians but also Argentines and Bolivians whose number is smaller (Tajima, 1995, p.163). While *Nikkei* Latin Americans were from a variety of countries, the number of Brazilians is prominent. In 1994, more than 80% of all *Nikkeijin* and their families who came to Japan were Brazilians (Tajima, 1995, p.166). Behind this number were brokers. According to Toshio Kondo, illegal brokers or brokers navigating the loopholes in the law were born as the Japanese and Brazilian government did not develop a legal system facilitating the movement of labor (Kondo, 2005, p.1). The increase in the number of Brazilians in comparison to the Nikkeijin from other countries of Latin America is likely to have been caused by this system which allows the workers find their employment without personal connections.

**〈Table 3〉 The numbers of Japanese orphans in China who moved to Japan**

| Year | 1990 | 1991 | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 | 1998 |
|---|---|---|---|---|---|---|---|---|---|
| Number | 929 | 750 | 650 | 638 | 870 | 1229 | 1136 | 914 | 622 |
| Year | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 |
| Number | 440 | 322 | 272 | 141 | 99 | 105 | 100 | 91 | 123 |
| Year | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | |
| Number | 266 | 104 | 41 | 24 | 15 | 13 | 9 | 6 | |

Source: Foreign Resident Statistics, 1991-2017

The second biggest group with *Teiju-sha status* holders was Chinese until 2007. Even though the change of number of Chinese *Teiju-sha status* holders would have relation with Japanese orphans in China, it is impossible to know a precise number of Japanese Orphans in China and their families in all Chinese *Teiju-sha status* holders. One of the reasons is that Chinese *Teiju-sha status* holders include not only Japanese orphans in China and their families but also those who gained *Teiju-sha status* by (6) and (7) in *Teiju-sha status* notice in 1990, or natural children or adopted children of those who have *Permanent Resident* or *Teiju-sha status*. Another reason is that some Japanese orphans in China do not take *Teiju-sha status* but stay in Japan with *Spouse or Child of Japanese Nationals*, or other some gain Japanese citizenships. For these reasons, it is difficult to know the precise number of Japanese orphans in China and their family members among all Chinese *Teiju-sha status* holders. However, there are not so many people who gained *Teiju-sha status* as natural children or adopted children of those who have *Permanent Resident* or *Teiju-sha status*. Also, it is very difficult for

Japanese orphans in China and their family members to come to Japan once and to go back to China again, thus they often had to settle down in Japan regardless their individual wills (Kura, 1995, p.39). Therefore, most of Chinese *Teiju-sha status* holders are likely to have been Japanese orphans in China and their families (Ito, 1995, p.166). Table 3 shows numbers of Japanese orphans in China who moved from China to Japan since 1990. The number of Chinese *Teiju-sha status* holders was 15,263 in 1990 when *Teiju-sha status* was created (Japan Immigration Association, 1991, p.7). The number was already quite big. Then the number kept increasing in 1990s, and reached 38,982 in 1999 (Japan Immigration Association, 2000, p.7). After that, the number decreased to 32,130 in 2004 (Japan Immigration Association, 2005, p.7). Then the number slightly increased again between 2004 and 2008, decreased between 2009 and 2013, and stayed flat since 2014. The large number immediately after the creation of *Teiju-sha status* does not simply equate to the number of Japanese orphans in China but also includes their families who came to Japan in 1990 but also those who moved to Japan before 1990 gained *Teiju-sha status*. Similarly, the increasing tendency after 1990 is caused by Japanese orphans in China and their family who moved to Japan during the time and those who were already in Japan. Next is the decrease of Chinese *Teiju-sha status* holders after 2000. It would be because less and less Japanese orphans in China and their families moved to Japan. Then, number of Chinese *Teiju-sha status* holders shows both increase and decrease, but it is flatter than before. That would be because that there was almost no newly coming Japanese orphans in China and their

family members at the time and most of those who arrived Japan already had *Teiju-sha status* or other visa statuses, so there was not a significant change.

Compared to the numbers of Brazilians and Chinese which show a variety of changes, the number of Koreans kept decreasing since 1992 according to the figure 2. What is important here is the change in 1991. Since there was no available resource on the number in 1991, the figure 2 does not have a numerical value in 1991 and the numerical values in 1990 and 1992 are simply connected. In 1991, "the Special Act on the Immigration Control of, Inter Alia, Those who have Lost Japanese Nationality Pursuant to the Treaty of Peace with Japan", or "the Special Immigration Act", was enacted. "The Special Immigration Act" was issued on March 10th, 1991, and dispensed on November 11th, 1991 (Hatano, Kurasima, Tanaka, Shigemi and Iwasaki, 2000, p.162). The gist of "the Special Immigration Act" is establishment of the legal status of Koreans and Taiwanese people living in Japan stable as they were taking deeper roots in Japan (Hatano, Kurasima, Tanaka, Shigemi and Iwasaki, 2000, p.161). There were two points for "the Special Immigration Act". First point was to give the visa status, *Special Permanent Resident*, to all Korean and Taiwanese living in Japan. Not only those who had *Kyoutei-eiju-sha*, those who had the general *Permanent Resident* by "special case permanent residence permission", but also those who stayed in Japan with *Teiju-sha status* acquired *Special Permanent Resident*. Second point was to establish the special case of "the Immigration Control Act". *Special Permanent Resident* had different regulations from those of "the Immigration Control Act" such as

limited grounds for deportation, 5 years term of validity for re-entry, and simplification of screening for landing.[48]

Due to "the Special Immigration Act", most Korean who gained *Teiju-sha status* by (6) or (7) in *Teiju-sha status* notice in 1990 became to acquire *Special Permanent Resident*. Since "the Special Immigration Act" was dispensed on November 11t, there was less than 2 months for applying to *Special Permanent Resident* in 1991. If it is taken into account that their visa statuses are renewed into *Special Permanent Resident* automatically when updating, it is expected that there were not so many Koreans who gained S*pecial Permanent Resident* in 1991. Also, it is considered since renewing the visa status happens automatically after 1992, Korean with *Teiju-sha status* would decreased gradually. On the other hand, there were always a certain amount of Korean with *Teiju-sha status.* That would be caused by the international marriages between Japanese and Korean (Komai, 1995, p.23).

Similar to Koreans, the number of Vietnamese does not show a big change. After the creation of *Teiju-sha status* in 1990, 4027 Vietnamese gained *Teiju-sha status* (Japan Immigration Association, 1991, p.7). Later, the number of Vietnamese *Teiju-sha status* holders increased gradually, and reached 6121 in 1995 (Japan Immigration Association, 1996, p.7). Afterwards, the number stayed around 5000. That would be

[48] The minutes no.9 of the Diet no.120, the Committee on Judicial Affairs in Upper House, pp.2-3.

because new Indochinese refugees appeared until the middle of 1990s, but none in the second half of 1990s. [49]

Lastly, the number of Filipino shows the constant increase tendency, different from others. The increase tendency became more intensive after 1997. The number of Filipino *Teiju-sha status* holders was 47,663 in 2016 and it was very close to that of Brazilians which was 49,542.[50] One of the biggest reasons of the constant increase would be the international marriages between Japanese men and Filipino women (Komai, 1995, p.23). In 1970s, Japan experienced high growth of the economy and got the upper hand to other Asian countries economically. Due to the background, Japanese men visited Philippine for prostitution. Also, Filipino women who entered Japan as dancers and singers flowed into the sex industry in 1980s. These situations prepared the base for international marriages between Japanese men and Filipino women (Ishikawa, 1995, p.81). Additionally, in the second half of 1980s, Filipino women came into agricultural villages of Japan which was experiencing a shortage of female population eligible for marriage. As a result, the international marriages increased rapidly (Ishii, 1995, p.81). Some of these international couples lived happily, but some of them had troubles. The number of consultation regarding such troubles increased especially after 1990 (Ishii, 1995, pp.82-83). Therefore, due to international marriages, childbirth, divorces and so on between Japanese men and Filipino women, t the

[49] Nihon no nanmin ukeire. (n.d.) Retrieved January 5, 2018, from http://www.rhq.gr.jp/japanese/know/ukeire.htm

[50] Zairyu gaikokujin toukei (kyu touroku gaikokujin toukei). (2017). Revised December 28, 2017, from https://www.e-stat.go.jp/stat-search/files?page=1&layout=datalist&stat_infid=000031557945&lid=000001177523

number of Filipino *Teiju-sha status* holders increased at the same time with the Filipino *Spouse or Child of Japanese Nationals* holders. Another factor which affected the number of Filipino *Teiju-sha status* holders would be that overstay Filipino residents were allowed to gain *Teiju-sha status*. In 1996, the Immigration Bureau issued the notification "Treatment parents who are foreigners supporting Japanese natural children". Due to the notice, if children born out of wedlock of overstay Filipino women and Japanese men are affiliated as children by Japanese men and gained Japanese nationalities, Filipino mothers were given *Teiju-sha status* (Takahata, 2015, p.237-238). As a result, the number of Filipino women who gained *Teiju-sha status* increased, and it would be the reason that the increasing tendency of the number of Filipino *Teiju-sha status* holders grew larger.

## 3. Background of Transition

The change in the number of *Teiju-sha status* holders were caused by combination of multiple situations in major related countries and regions as stated above. Depending on the movements in main countries and regions, this section analyzes the changes in the number of all *Teiju-sha status* holders. It begins with the period immediately after the creation of *Teiju-sha status*, and the period the number of all *Teiju-sha status* holders increased between 1990 and 1992. In 1990, 15,263 Chinese, 12,637 Brazilians and 10,412 Koreans gained *Teiju-sha status* (Japan Immigration Association, 1991, p.7 and 25). Regarding the numbers, most of the Chinese nationals who gained Teiju-sha status were Japanese orphans in China and their family members,

most of Brazilian were *Nikkei* Brazilian and their family members, and most of Koreans are new generations of people from past Japanese colonies. Since they stayed in Japan before the amendment of "the Immigration Control Act", they could apply to *Teiju-sha status* during just 6 months application period in 1991. This would be the reason they occupy a big part of all *Teiju-sha status* holders. Regarding the period between 1990 and 1992, figure 2 shows significant increase of Brazilians. While the number of all *Teiju-sha status* holders in 1992 was 122,814, that of Brazilian *Teiju-sha status* holders was 51,759 (Japan Immigration Association, 1993, p.7 and 25). It is clear that the number of Brazilian *Teiju-sha status* holders pushes up the total number. Also, not as significant as Brazilians, the numbers of Chinese and Peruvians pulls up the total number. In 1992, the number of Chinese *Teiju-sha status* holders was 23,877 and that of Peruvian *Teiju-sha status* holders was 14,845 (Japan Immigration Association, 1993, p.7 and 25).

The number of all *Teiju-sha status* holders increased rapidly between 1994 and 1997. Figure 2 shows the significant increase of Brazilians. In particular, the number of Brazilians increased about250,000 between 1996 and 1997. Compare to the Brazilians' tendency, increase of Chinese and Peruvians did not affect the total number of *Teiju-sha status* holder so much. Although the number of Chinese *Teiju-sha status* holders kept increasing during the period, the increased number was less than 10,000. The increased number of Peruvians *Teiju-sha status* holders in the period was less than 5000. Thus, the rapid increase of total number of *Teiju-sha status* holders during the period would be caused by Brazilians.

No significant change in number can be observed between 2001 and 2003, and between 2005 and 2007. The number of Chinese *Teiju-sha status* holders decreased between 2001 and 2003, and the number of Filipino *Teiju-sha status* holders increased in the both period, but other countries and regions were almost flat. In addition, the decrease of Chinese was about 3000, and the increase of Filipino was around 5000 and 6000. Thus, such changes were too small to affect the total number of all *Teiju-sha status* holders which was more than 200,000.

After 2008, the total number began to decrease. Figure 2 indicates that the main cause of the phenomenon was again Brazilians. The number of Brazilian *Teiju-sha status* holders was 137,005 in 2008 (Japan Immigration Association, 2009, p25), but after 2 years, it decreased about 60,000 and became 77,359 in 2010 (Japan Immigration Association, 2011, p25). Although the figure 2 shows that the number of Peruvian *Teiju-sha status* holders decreased too, it was the scale of 4000 and relatively smaller compared to the number of Brazilians. It is the same for the number of Chinese, which decreased less than 2000 within the 2 years.

Last period is after 2014, which indicates little increase. The figure 2 shows that not only Brazilians but also Filipinos made difference in the period. Between 2014 and 2016, Brazilians increased about 5000, and Filipinos increased about 4000. Others kept flat in the period. Thus, the increase of Brazilian and Filipino *Teiju-sha status* holders made the total number increase a little.

The change in the total number of *Teiju-sha status* holders shows overwhelming number of Brazilians, and the existence of other *Teiju-sha status* holders

from a variety of countries were almost hidden by the number of Brazilians. Although *Teiju-sha status* played a role in accepting *Nikkei* Brazilians and their family members indeed, it also plays a part to give legal statuses to those who demanded to settle in Japan, which became a big issue in the second half of 1980s. These groups of settlers predating the activation of *Teiju-sha statu*s often comprised of Japanese orphans in China, new generations of Korean living in Japan and Indochinese refugees. Additionally, the movement of Filipinos indicates that *Teiju-sha status* also deals with foreigners whose settlement problems occurred after 1990. Hence, it is possible to say that *Teiju-sha status* absorbed a variety of people across the timeline of its existence.

# Ⅵ. Category of Japanese in Post War Time

## 1. Japanese and Target Groups of *Teiju-sha Status*

This study started from this question: where is the border between Japanese and non-Japanese? In answering this research question, most attention was paid to *Nikkeijin* as people who exist in the gap between Japanese and no-Japanese. Then this study focused on the feature that the visa status for *Nikkijin* also includes other foreigners such as refugees in its target groups, and chapter 2 and chapter 3 inspected *Teiju-sha status.* This chapter builds on the argument of chapter 2 and 3 in regards to *Teiju-sha status* and considers the treatment for *Nikkeijin*; in other words, how the Japanese government regarded and dealt with *Nikkeijin*.

It is possible to point out the features of *Teiju-sha status* depending on the argument up to here. The first feature is that *Teiju-sha status* targets a variety of people. Licensing requirements for *Teiju-sha status* is defined by *Teiju-sha status* notice as already stated above. *Teiju-sha status* notice in 1990 described Indochinese refugees and their family members in (1) and (2), the second and third generations of *Nikkeijin* in (3) and (4), and family members of those who have family permit visa statuses in (5), (6) and (7) (Sakanaka and Takaya, 1991, pp.149-151). Thus the eligibility for applying to *Teiju-sha status* includes Indochinese refugees, Japanese orphans in China and their families, *Nikkei* Latin Americans, new generations of Korean and Taiwanese people in Japan and so on. How wide the range of the target groups of *Teiju-sha status* can be understood by comparing it with *Spouse or Child of Japanese Nationals*. The licensing

requirements for *Spouse or Child of Japanese Nationals* is marital relations or parent-child relations with Japanese nationals (Sakanaka and Takaya, 1991, p.146). Thus the target group of *Spouse or Child of Japanese Nationals* include only people who have marital or parent-child relations with Japanese. On the contrary, the target groups of *Teiju-sha status* include not only *Nikkeijin* but also refugees who have no relation with Japanese. Therefore, it is clear that *Teiju-sha* has a feature that it is able to given to various people.

Second feature is that the legal status *Teiju-sha status* gives is unstable. The definition of *Teiju-sha status* is "those who are authorized to reside in Japan with a period of stay designated by the Minister of Justice in consideration of special circumstance" (Sakanaka and Takaya, 1991, p.148). First of all, the conditional phrase that "by the Minister of Justice in consideration of special circumstance" in the definition makes *Teiju-sha status* unstable. The definition of *Permanent Resident* also involves the role of the Minister of Justice. In the case of *Permanent Resident*, the definition includes the phrase, "those who are permitted permanent residence by the Minister of Justice" (Sakanaka and Takaya, 1991, p.142). The difference in the definition between the two visa statuses is that the Minister of Justice takes consideration regarding *Teiju-sha status* but just permit about *Permanent Resident*. The word "considerations" in this case means to judge comprehensively with more factors, and the result would be affected more by discretion of the Minister of Justice than permitting. Thus, it is possible to say *Teiju-sha status* is less stable than *Permanent Resident*. Moreover, the part "a period of stay designated by the Minister of Justice" in

definition makes *Teiju-sha status* unstable too. The period of stay for *Teiju-sha status* is 3 years, 1 year or 6 months. Compare to the period of stay for *Permanent Resident* which is indefinite, *Teiju-sha status* is clearly unstable because it has to be updated once in at least 3 years (Sakanaka and Takaya, 1991, p.159). Also, although the period of stay for *Spouse or Child of Japanese Nationals* can be either 3 years, 1 year or 6 months in general, the licensing requirements for the visa status is marital or parent-child relations and the granting of visa status is almost certain as long as the relationship is maintained. Therefore, *Teiju-sha status* with its limited period of stay and uncertainty in regards to visa renewal can be said as unstable.

As *Teiju-sha status* displays characteristics of wide target group range and unstable legal status, it serves a double sided role of allowing a various groups of people stay and settle down in Japan legally, but at the same time giving them a cause to leave due to instability of legal status as a resident. This role of *Teiju-sha status* would have relation with the background why *Teiju-sha status* became to have a wide range of target groups and the target groups' common points.

Koreans and Taiwanese people living in Japan who are one of the target groups of *Teiju-sha status* were Japanese nationals before World War II. Although they were forced to register to the alien registration during occupation, they kept their Japanese citizenships. On April 28th, 1952, when Japanese government concluded the peace treaty, however, they lost Japanese citizenship and became foreigners (Japan Immigration Association, 1959, p.20). Since they lived in Japan before dispense of "the Immigration Control Order" and did not have a passport which the home government

approve to accept them surely, they were divided and treated differently from other foreigners (Yoshioka, Yamamoto, Kim, 1988, pp.146-147). Japanese government decided that they "can stay without having the status of residence determined by "the Immigration Control Order" for a while until being determined by law" (Hatano, Kurasima, Tanaka, Shigemi and Iwasaki, 2000, p.106). Thus they stayed in Japan without any solid ground for their legal status. The situation changed, strangely, by "the Japan-South Korea Legal Status Pact" in 1965. Japanese government gave *Kyoutei-eiju-sha status* which had special treatments to the 1st and 2nd generations of South Koreans living in Japan unless they could satisfy a certain conditions (Hatano, Kurasima, Tanaka, Shigemi and Iwasaki, 2000, p.111). The third and later generations of South Koreans living in Japan could not gain *Kyoutei-eiju-sha status* because Japanese government strongly refused to give special treatments to posterity of Koreans living in Japan (Han, 2017, p.175). As a result, Koreans and Taiwanese people living in Japan who had similar background in history were divided into those who had relatively stable *Kyoutei-eiju-sha status* and those who still did not have a ground for their legal status. The situation was improved by "the special case permanent residence permission" in 1982. Those who could not have *Kyoutei-eiju-sha status* acquired general *Permanent Resident* (Yoshioka, Yamamoto, Kim, 1988, p.157). The gap among Koreans and Taiwanese people living in Japan became smaller, and the legal status problem saw its end.

It took 30 years for Koreans and Taiwanese people living in Japan to gain proper legal status, which happened in 1982, since they had lost their Japanese

citizenship in 1952. Japanese government maintained their adamant refusal against giving special treatments such as the rights of permanent residence to new generations of Koreans and Taiwanese people living in Japan. Due to the attitude, the decision on whether Japanese government give *Kyoutei-eiju-sha status* to the third and later generations of South Koreans living in Japan was carried over in "the Japan-South Korea Legal Status Pact". It was the same with "the special case permanent residence permission" in 1982. Although Japanese government decided to give general *Permanent Resident* to Koreans and Taiwanese people living in Japan, any right of permanent residence could not be inherited to the next generation. It is considered that such attitude of Japanese government were again the same in the amendment in 1990 and as a result, the new generations of Koreans and Taiwanese people living in Japan were given *Teiju-sha status* which is quite unstable.

The target groups of *Teiju-sha status* includes *Nikkeijin* too. Acceptance of *Nikkeijin* was decided in the amendment in 1990 because of the sudden increase of "illegal" foreign labor in the end of 1980s. It was also the biggest reason behind revising "the Immigration Control Act". The "illegal" foreign labor increased tremendously from 1987.[51] It had relation with labor shortage lasting from 1970s. Even though the Japanese government tackled the problem by securing domestic labor and improving productivity, such countermoves became helpless to the inflow of foreign labor from the second half of 1980s (Tsuda, 2008, pp.295-296). Economic

[51] The minutes no.1 of the Diet no.115, the Committee on Judicial Affairs in Upper House, p.17

groups like the Federation of Economic Organizations, and the Chamber of Commerce and Industry started to demand to accept unskilled foreign labor.[52] However, the Japanese government did not think to solve the problem by accepting immigrants. The stance that the Japanese government is unable to approve to accept unskilled foreign labor was shown clearly in the amendment in 1990.[53] Thus, the Japanese government had to achieve both solving labor shortage problem and regulating "illegal" foreign labor in the amendment in 1990. The solution was to accept *Nikkeijin*.

Hidenori Sakanaka, who was a general assistant officer in the Ministry of Justice in 1990, worked for reconsideration of the visa statuses in order to open the way for *Nikkeijin* to work in Japan. Sakanaka played an initiative role while making a system that *Nikkeijin* until the 3rd generations work in Japan by giving *Spouse or Child of Japanese Nationals* to the spouses and children of the first generation of *Nikkeijin* and giving *Teiju-sha status* to the spouses and children of the second generation of *Nikkeijin*.[54] There was mainly two reasons Sakanaka decided to accept *Nikkeijin*. First reason was to secure work force. According to Sakanaka, although *Nikkeijin* do not have any relation with labor in the law and formally, in fact, it has connection with the

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[52] Hideaki Sakanaka. (2015). Houmushou ha zainiti korian, nikkeijin to ikani mukiattanoka. Retrieved January 10, 2018, from NHK sensou shougenn a-kaibusu sengo nihon no ayumi Web site: http://cgi2.nhk.or.jp/archives/shogenarchives/postwar/shogen/movie.cgi?das_id=D0012100417_00000

[53] The minutes no.1 of the Diet no.116, the Committee on Judicial Affairs in Upper House, p.18

[54] Hideaki Sakanaka. (2015). Houmushou ha zainiti korian, nikkeijin to ikani mukiattanoka. Retrieved January 10, 2018, from NHK sensou shougenn a-kaibusu sengo nihon no ayumi Web site: http://cgi2.nhk.or.jp/archives/shogenarchives/postwar/shogen/movie.cgi?das_id=D0012100417_00000

acceptation of labor which was the most important topic in the amendment in 1990.[55] This attempt succeeded and a lot of *Nikkei* Latin American gained *Teiju-sha status* and moved to Japan for working. Second reason was to accept those who have roots in Japan, such as Japanese blood relatives. In 1970s, many countries started to have the immigration control system to give favorable treatments to foreigners who have blood relation or marital relation with their nationals. However, there was no system to accept foreign spouses and children of Japanese forthrightly in Japan. Sakanaka questioned it since 1970s.[56] The idea that the system to accept foreigners who have roots in Japan is general resulted in creation of the system to approv*e Nikkeijin*'s settlement by dividing *Nikkeijin* and other foreigners who do not have any relation with Japanese and giving *Teiju-sha status* and *Spouse or Child of Japanese Nationals* to *Nikkeijin*. Thereafter, it is conceded that acceptation of *Nikkeijin* was realized by two aspects; work force, and blood and culture relation with Japanese people.

Japanese orphans in China are also *Nikkeijin* in definition, but they are different from those who are regarded as labor. Their acceptation progressed in a totally different way from *Nikkei* Latin Americans. Japanese orphans in China started to come to Japan in a big scare after the restoration of diplomatic relations between

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[55] Hideaki Sakanaka. (2015). Houmushou ha zainiti korian, nikkeijin to ikani mukiattanoka. Retrieved January 10, 2018, from NHK sensou shougenn a-kaibusu sengo nihon no ayumi Web site: http://cgi2.nhk.or.jp/archives/shogenarchives/postwar/shogen/movie.cgi?das_id=D00121004 17_00000

[56] Hidenori Sakanaka. (2013). *1990nen no nyuukanhou kaisei – nikkeijin no nyuukoku no tobira wo hiraita.* Retrieved December 30th, 2017, from Ippan shadan houjin imin seisaku kennkyuujo Web site: http://jipi.or.jp/１９９０年の入管法改正一日系人の入国の扉を開/

Japan and China in 1972 (Fujinuma, 1998, p.4). However, the Japanese government deprived their Japanese citizenship from the day of restoration of diplomatic relations (Tong, 2007, p.124). The Japanese government tried to connect their return and the existence of blood relatives by making the condition that they have to have blood relatives as guarantors. This stance reflected to the investigation in Japan which started since 1981, and only those who found their blood relatives and whose blood relatives approved to be guarantors could move to Japan (Tong, 207, pp.125-126). As the Japanese government tried to connect Japanese orphans in China and their blood relatives, it prevented many Japanese orphans in China from moving to Japan. Also, the attitude that Japanese government did not want to accept Japanese orphans in China was shown by slowness in correspondence. For example, Japanese government started the investigation in Japan just from 1981 and began to approve all Japanese orphans in China to move to Japan in 1985, even though the restoration of diplomatic relations with China was in 1972. The stance was the same after 1985, and Japanese orphans in China was given unstable *Teiju-sha status* nevertheless they moved to Japan as permanent residents.

Koreans and Taiwanese people living in Japan, *Nikkei* Latin American and Japanese orphans in China. All of them are target groups of *Teiju-sha status*, and had some sort of relation with Japanese. Koreans and Taiwanese people living in Japan were Japanese nationals before World War II. *Nikkei* Latin Americans are people who moved to Latin America as Japanese and their descents. Japanese orphans in China are Japanese who were left in China because of World War II. All of them lost their

Japanese citizenships at one point in the post war time. Koreans and Taiwanese people living in Japan were striped their citizenships on the day of the conclusion of the peace treaty regardless their wills. It was the same for Japanese orphans in China and they lost Japanese citizenships at the point of restoration of diplomatic relations between Japan and China. Also, since the Japanese government did not approve dual nationalities, *Nikkei* Latin Americans had to waive their Japanese citizenships while they gave up to go to Japan and localizing. Therefore, all of them are people who left the category of Japanese in post war time. Except Indochinese refugees, whom the Japanese government had to accept due to international pressure, the target groups of *Teiju-sha status* were arguably limited to Japanese before World War II but pushed out from the category of Japanese in the post war time.

If the backgrounds and the common point of the target groups of *Teiju-sha status* are taken into account, it become clear that *Teiju-sha status* was mainly made for those who were Japanese in wartime but cut off from the category of Japanese after the war, and plays a role to let them settle down in Japan but to keep the possibility to push them out from Japan. In other words, *Teiju-sha status* is the visa status for Japanese government to control those who were cut away from the category of Japanese in post war time when they needed to settle down in Japan.

## 2. *Nikkeijin* and Japanese

*Teiju-sha status* gathers and targets those who were cut out from the category of Japanese in the post war time. However, it was possible for the Japanese

government to divide them into *Nikkeijin* and other foreigners, and to prepare visa statuses separately. Why did the Japanese government put *Nikkeijin* and other foreigners, like Koreans and Taiwanese people living in Japan and Indochinese refugees, together? In order to answer it, this section focuses on the difference between *Teiju-sha status* and the Korean visa status *People of Korean Heritage* whose target group is only overseas Korean.

South Korea issued "the Overseas Korean Act" on September 2nd, 1999, and dispensed on December 2nd, 1999. "The Overseas Korean Act" targets Korean nationals who stay abroad and non-Koreans of Korean descent. "The Overseas Korean Act" aims to accommodate their stay in South Korea and economic activities (Lee Cheol-woo, 2002, pp.253-254). "The Overseas Korean Act" gives *People of Korean Heritage* to non-Koreans of Korean descent. The period of stay granted to *People of Korean Heritage* is 2 years at most and it is possible to update it. *People of Korean Heritage* holders are allowed to work and do economic activities freely in scope of the law. Also, they have the equal rights with Korean nationals for buying and owing lands, and for using domestic financial institutions such as depositing except some conditions. Furthermore, *People of Korean Heritage* holders who stay in South Korea more than 90 days are applicable to health insurance and pension (Lee Cheol-woo, 2002, p.254).

The enactment of "the Overseas Korean Act" was one of the conclusions of the overseas Korean policy by South Korean government. South Korean government started the overseas Korean policy in earnest since 1990s. There were three reasons: (1) The interaction with overseas Korean in former communist countries became possible

due to the collapse of the Cold War structure, and a lot of overseas Koreans, and especially Korean Chinese moved to South Korea: (2) The employment structure changed in South Korea due to inflation of wages and evasion to a certain occupations: (3) The utilization possibility of overseas Korean expanded because of globalization[57] (Jeon, 2008, pp.100-101). For these reasons, president Young-sam Kim and Dae-jung Kim promoted the overseas Korean policy in 1990s (Jeon, 2008, pp.100-101). In addition to the South Korean government's policy, Korean Americans strongly influenced the enactment of "the Overseas Korean Act". At that time, Korean Americans was displeased with the situation in which they lose their Korean citizenships automatically when they gain foreign citizenships, and also about that they cannot take real estate money out at once (Jeon, 2008, pp.100-101). Thus, they requested to maintain their Korean citizenship and their rights as South Koreans even if they gain foreign citizenships. Korean Americans grew as the biggest overseas Korean group in a short term after the World War II, and also they stayed in America which had the strongest economic impact to South Korea; thus it was difficult for South Korean government to ignore their demand (Jeon, 2008, p.110).

On August 25th, 1998, the Ministry of Justice opened a bill about the legal status of oversea Koreans. It targeted not only Korean nationals who are staying abroad

[57] Yeong-ho Kim explains the meaning of globalization(세계화) advocated by Young-sam Kim as follows; "It is possible to say that what was indicated by "globalization" was to become "first class state" "world center state" by pulling up "national competitive power" in economic transition. South Korean "globalization" by Toung-sam Kim is "national survival and development strategy" which tries to become "first class state" as "winner" in the international competition which is said that "loser" "failure" cannot survive." (Kim Yeong-ho, 2001, p.67)

but also non-Koreans of Korean descent (Jeon, 2008, p.112). Ministry of Foreign Affairs and Trade took objection to it with the reasons that the bill did not fit to international rules, and it may cause friction with China because it interferes Chinese control to Korean Chinese (Jeon, 2008, p.109). The apprehension comes true and Chinese government expressed a sense of regret that the target groups of "the Overseas Korean Act" include Korean Chinese and it would give negative impacts to Chinese domestic control (Jeon, 2008, p.113). Eventually, South Korean government modified the draft of "the Overseas Korean Act" and excluded Korean Chinese from the target of the Act. In December 1998, the target groups of "the Overseas Korean Act" was decided as follows: (1) Korean nationals who stay abroad: (2) Non-Korean having held the South Korean nationality or as their lineal descendants. Therefore, overseas Koreans who moved to former communist counties such as China and Soviet Union and did not have the opportunity to gain the South Korean citizenship were eliminated from the target groups of "the Overseas Korean Act". In other words, the scope of the Act changed from blood relations to citizenship.

Korean Chinese who were already integrated into South Korean society as labor but eliminated from the target groups of "the Overseas Koreans Act" protested to the treatment. It resulted in the constitutional judgment and in November 2001, the Supreme Court judged that it violates the principle of equal in the constitution that "the Overseas Korean Act" eliminates overseas Koreans who are from former communist countries and did not have an opportunity to gain the South Korean citizenship (Lee, Jin-young, 2002, p.135). Therefore, in February 2004, "the Overseas Korean Act" was

revised, and it was applied to the overseas Koreans who went out South Korea before the establishment of South Korean government (Jeon, 2008, p.115). In other words, the range of the target group was extended to cover all overseas Korean who have blood relations with Korean.

At the present, "the Overseas Korean Act" gives *People of Korean Heritage* to Korean Chinese. Korean Chinese people who moved to South Korea as labor before the enactment of "the Overseas Koreans Act" are similar to *Nikkeij* Latin Americans who came to Japan to work before the amendment of "the Immigration Control Act" in 1990. However, while South Korean government accepted Korean Chinese with other overseas Koreans through *People of Korean Heritage*, Japanese government accepted *Nikkei* Latin American with other foreigners by *Teiju-sha status*. The difference would have relation with how these visa statuses were made. *People of Korean Heritage* was newly established in 1999 as a result of request from Korean American since 1980s, and the overseas Korean policy by South Korean government in 1990s. On the other hand, *Teiju-sha status* neither reacted to the opinion of *Nikkeijin*, nor depended on the policy of Japanese government. The influx of *Nikkeijin* started just in second half of 1980s, and Japanese government did not have any remarkable policy for overseas Japanese (Ninomiya, 2006, p.373). It was the economic world such as the Federation of Economic Organizations and the Chamber of Commerce and Industry that affected the acceptation of *Nikkeijin*. The economic world insisted to accept unskilled foreign

labor.[58] The difference of the subjects and necessity which requested the visa statuses between Japan and Korea would resulted in the difference in the roles and purposes between the two visa statuses. In order to actualize overseas Koreans' demands, especially Korean Americans, to grant the rights as Korean nationals, and also to actualize the intention of South Korean government to use overseas Koreans for the national benefit, the understanding that oversea Koreans are "same" Korean even if they have different citizenships was required. *People of Korean Heritage* which targets only overseas Koreans was created based on the understanding. Unlike it, there was neither the remarkable policy to use overseas Japanese for national benefit, nor the movement for *Nikkeijin* to request the right as Japanese. Thus, the understanding that *Nikkeijin* is "same" Japan was not necessary. Additionally, there was no need to regard *Nikkeijin* as "same" Japanese in order to actualize the demand from the economic world to hire foreigners. Therefore, it is considered that the lack of understanding to regard *Nikkeijin* as "same" Japanese is the important reason that Japanese government did not make a visa status only for *Nikkeijin*.

The lack of the understanding to regard *Nikkeijin* as "same" Japanese has connection with Japanese government cutting off *Nikkeijin* from the category of Japanese. Indeed *Nikkeijin* have biological and cultural relations with Japanese people. The Japanese government focused on this point and approved them to settle down in

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[58] Hideaki Sakanaka. (2015). Houmushou ha zainiti korian, nikkeijin to ikani mukiattanoka. Retrieved January 10, 2018, from NHK sensou shougenn a-kaibusu sengo nihon no ayumi Web site: http://cgi2.nhk.or.jp/archives/shogenarchives/postwar/shogen/movie.cgi?das_id=D0012100417_00000

Japan. However, unlike the South Korean government which accepted overseas Koreans with the understanding that oversea Koreans are “same” Korean people, the Japanese government accepted *Nikkeijin* without such understating. Therefore, Japanese government did not recognize *Nikkeijin* as people who have to be given a special visa status because of blood relations with Japanese, but considered they belong to the group for those who are outside of the category of Japanese. As a result, the Japanese government put them into *Teiju-sha status* with other foreigners. Hence, as *Teiju-sha status* is the visa status for those who were excluded from the category of Japanese, it included not only *Nikekijn* but also other foreigners such Koreans and Taiwanese people living in Japan.

# Ⅴ. Conclusion

This study began by questioning the characteristics of the line that separates Japanese from non-Japanese and investigated the nature of *Nikkeijin*. Then it focused on the point that the target groups of a visa status given to *Nikkeijin* includes other foreigners like refugees too, and took a view to *Teiju-sha status.*

The immigration control after the war was characterized by “the Immigration Control Order” which intended homogeneous state and controlled entrance and activities of foreigners severely. Due to the international pressure to accept Indochinese refugees, however, “the Immigration Control Order” was revised into “the Immigration Control Act” and Japanese government started to accept refugees, who were foreigners aiming to settle down in Japan. The tendency to give visa statuses to foreigners was taken over to the amendment of “the Immigration Control Act” in 1990. The Japanese government had to accept and give visa statuses to Indochinese refugees, Japanese orphans in China, the new generations of Koreans and Taiwanese people in Japan and *Nikkeijin* in the end of 1980s. Japanese government solved these multiple problems at once by creating *Teiju-sha status* in the amendment in 1990. Thus, it is considered that the Japanese government’s purpose of creating *Teiju-sha status* was to solve several problems regarding the settlement of foreigners in the end of 1980s at once by establishing the frame for accepting a variety of people and for controlling their settlement to some extent at the discretion of the Minister of Justice.

*Nikkeijin*, who were given *Teiju-sha status*, were to be accepted because of two aspects: relation with Japanese people, and foreign labor. The fundamental principle of the immigration control in Japan is “not to accept immigrants”. Even though the labor shortage problem was serious, the Japanese government did not approve of immigration just for filling the labor demands. It is considered that Japanese government decided to accept *Nikkeijin* because they were not only foreign labor but also possessed deep ties with Japanese people. The acceptation of those who have roots in the country is seen widely all over the world. South Korean government enforced “the Overseas Korean Act” based on the understanding that overseas Koreans are the “same” Korean people. Therefore, South Korean government gives *People of Korean Heritage* to Korean Chinese who are integrated in the South Korean society as labor. On the contrary, although the reason Japanese government decided to accept *Nikkeijin* was biological and cultural relation with Japanese people, it did not have the understanding that *Nikkeijin* are “same” Japanese. Thus, Japanese government could put *Nikkeijin* into *Teiju-sha status* with other foreigners together.

After *Teiju-sha status* which includes *Nikkeijin* was newly created in 1990, a lot of foreigners such as *Nikkei* Brazilians began to live in Japan. Due to this change, it became common for Japanese people to have foreign neighbors, and it increased communication between Japanese people and foreigners. Also, it seems that the rights of foreigner were widened (Kondo, 2009, p.20). These changes may help to develop viewpoints such as that understands the difference among people of various cultural origins and yet tries to live in harmony. However, the assimilation of foreigners such *as*

*Nikkeijin* in the eyes of the Japanese people failed as they continued not to be regarded as one of the "same" Japanese people. Thus it is difficult to consider that these changes affected the border between Japanese and non-Japanese, or the category of Japanese. For example, the South Korean government had the understating to regard overseas Koreans as the "same" Korean people and established *People of Korean Heritage*. It resulted in rewriting the border between Koreans and non-Koreans. On the contrary, although the Japanese government saw biological and cultural relations between Japanese people and *Nikkeiji*, it did not consider *Nikkeijin* as the "same" Japanese people when Japanese government accept them. For these reasons, it is considered that creation of *Teiju-sha status* and acceptation of *Nikkeijin* did not renew the border between Japanese and non-Japanese. Rather, it looks that *Teiju-sha status* works as the frame to accept *Nikkeijin* as the "different" existence form Japanese people.

This study chose *Teiju-sha status* as the research subject. *Teiju-sha status* is used as the visa status for a lot of foreigners to stay in Japan currently, but there is almost no research on it. In this regards, this study focusing on *Teiju-sha status* would be meaningful. Also, this study clarified that the target groups of *Teiju-sha status* are those who were Japanese nationals before the World War II but cut off from the category of Japanese people since the war ended. As of then, they were placed relatively unstable status. These findings are important since they show a new point of view regarding the position of foreigners which have been investigated through researches about Koreans and Taiwanese people living in Japan and *Nikkeijin*. Moreover, the study compared the Japanese visa status, *Teiju-sha status,* with the

Korean visa status, *People of Korean Heritage*, and indicated that Japanese government did not regard *Nikkijin* as the "same" Japanese people even though they recognized the biological and cultural relation between *Nikkijin* and Japanese people. That would be the reason why *Nikkeijin* was put in the target groups of *Teiju-sha status*. It means that even if there is a visa status to accept people who have roots in the country, how the country and society regard and accept them differs depending on the intension, purpose and understanding in the country.

The study had limitations and challenges for the future. First of all, although the study paid attention to the changes in the laws of the immigration control until the creation of *Teiju-sha status*, it rarely dealt with the amendments and revisions after it. Also, the transition between 1990 and 2015 could not be investigated because resources on *Teiju-sha status* notice were available only for the years 1990 and 2015. Thus, details on how the *Teiju-sha status* was operated and what kind of problems it had could not be researched; in this aspect lies the limitation of this study's depth of research.

Second, the transition of *Teiju-sha status* holders were analyzed based on the Foreign Resident Statistics in the chapter 3, and it showed the changes in the scale of states and regions accurately. However, the changes inside the states and regions were only expected due to the lack of specific resources. Thus, the analysis of the study also has limitation. Additionally, although the study focused on only the people from main countries and regions, if the fact that a variety of people gain *Teiju-sha status* and live

in Japan currently is recognized, it is important to research the transition of other countries' people.

Lastly, comparing *Teiju-sha status* with other countries' policies, legal statuses and visa statuses is forthcoming challenges. The chapter 4 included some comparison between Japanese *Teiju-sha status*, and South Korean *People of Korean Heritage,* but it was impossible to explore all aspects of this complicated issue in one limited chapter. Hence, the comparative research from the perspectives which could not be introduced in the study such as detailed revisions and actual applications of these visa statuses remain as future tasks.

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국문초록

# 출입국 관리정책을 통한 일본의 내셔널 아이덴티티의 지원:

## ‘닛케진(日系人)’과 ‘정주자’라는 재류자격

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이 논문은 일본인과 외국인의 경계는 어디에 있는가라는 문제의식에서 시작하여, 일본인과 외국인의 틈에 있는 ‘닛케진(日系人 / 일본계 외국인)’에서 착안했다. 그리고 ‘닛케진’에게 주어지는 ‘정주자(定住者)’라는 재류 자격이 ‘닛케진’ 뿐만 아니라 난민 등 그 밖의 외국인도 취득대상으로 포함하고 있다는 점에 주목하여, 이 ‘정주자’라는 재류 자격을 연구대상으로 설정하였다.

전후의 일본의 출입국체제는 단일민족국가를 지향하여 외국인의 입국과 활동을 엄하게 관리하는 ‘출입국관리령’에 의해 특징지어졌다. 허나 ‘출입국관리령’이 ‘출입국관리 및 난민인정법’으로 개정됨과 더불어, 일본정부는 이주를 목적으로 하는 외국인인 인도차이나 난민을 받아들이게 되었다. 이와 같이 외국인에게 법적 지위를 부여하는 흐름은 1990년 입관법개정까지 이어졌다. 일본정부는 1990년의 입관법개정 때 ‘정주자’라는 재류 자격을 만들어, 1980년대 후반부터 과제가 되고 있던 ‘닛케진’, 중국잔류 일본인, 재일한국조선인・재일대만인 그리고 인도차이나 난민의 정주에 관한 문제를 한번에 해결하였다. 이 ‘정주자’의

재류 자격의 취득 대상이 된 사람들은 인도차이나 난민을 제외하면, 전전 일본인이었으나 전후 일본인의 범주에서 벗어난 사람들이다. ‘정주자’라는 재류 자격은 이 사람들이 일본에 정주하는 것을 허가하면서도, 일본에서 쫓아낼 가능성은 남기면서 재류를 충분히 관리할 것을 목적으로 하고 있다고 생각된다.

‘닛케진’은 난민 등 일본인과 관계가 없는 외국인과는 전혀 별개의 것이다. 그럼에도 불구하고, 그 둘이 일괄되어 다뤄지며 ‘정주자’의 재류 자격이 주어진 것은 일본정부의 인식 때문이라 생각된다. 한국정부는, 동포는 ‘같은’ 한국인이라고 하는 인식으로부터 재외동포재류자격을 설정했다. 이와는 다르게, 일본정부는 ‘닛케진‘이 일본인과 혈연적, 문화적 관계가 있다고 여기며 받아들이기로 결정했지만, ‘닛케진‘이 ‘같은’ 일본인이라는 인식은 갖지 않았다. 그렇기에 일본정부는 ‘닛케진‘을 전후 일본인의 범주에서 벗어난 다른 사람들과 같은 카테고리로 분류하여, 다른 외국인과 함께 ‘정주자’의 재류 자격 취득대상으로 지정했다고 생각된다. 이러한 일본정부의 인식이나 받아들이는 방식 때문에 ‘정주자’의 재류자격이나 ‘닛케진‘의 등장은 일본인과 외국인의 경계에 영향을 주지는 않았다고 생각된다. 바꿔 말하자면, 그 변화로 인해 일본인의 범주를 새로 쓰는 일은 없었다고 생각된다.

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주제어: 일본인, ‘닛케진(日系人 / 일본계 외국인)’, ‘정주자’, 재류 자격, 출입국관리, 외국인

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