

Rethinking Temporary Foreign Workers' Rights:

Living Conditions of Technical Interns in the Japanese Technical Internship Program (TIP)

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1. Foreign Workers' Rights and Labor Problems

This paper examines how the restrictions on temporary foreign workers' rights affect the working lives of technical interns in the Japanese Technical Internship Program (TIP), and how the program transforms the rural workforce into an industrial workforce. It is true that foreign workers have fewer rights that are more limited in scope than those of Japanese citizens and denizens or permanent foreign resident. On the other hand, the modern societies in which we live have a history of protecting the idea that every man should enjoy the same fundamental rights. All democratic states are proponents of the principle of "equal treatment of native and foreign workers." Western countries, which have a long history of taking in immigrants, have revisited this idea of equal treatment on numerous occasions in the past. However, the very fact the same principle continues to be reiterated proves the difficulty of its realization in the modern world.

In the Japanese sociological sphere to which I belong, scholars have recently begun to turn their attention to ethnic studies. Recognizing the social importance of the problems faced by foreign workers, we are ethically driven to study these problems. Even in Japan, whose population has remained relatively homogeneous, the issue of foreign workers' rights has come to the fore of sociological research.

The term "labor problem" may seem to be an anachronism in modern Japan, where workers' rights are established, decent wage levels are guaranteed, and rules for labor-management relations are prescribed. As such, one might ask whether the term "labor problem," which may have been used in the past, isn't hyperbole in modern times. But, we must recognize that foreign workers, especially temporary foreign workers, are subject to legally-prescribed limits in both the public and private spheres. Restriction of

their rights relative to Japanese citizens tends to cause labor problems at a primitive level. Cases of mistreatment of temporary foreign workers, including the non-provision of overtime pay, the breaking of labor contracts, and violation of the minimum wage regulation, are quite common, particularly among employers of technical interns. To our regret, then, we must wipe the dust off the term “labor problem” and apply it to what has unfortunately become status quo practice.

In addition to providing solutions to labor disputes between employers and foreign workers, a significant goal of studying foreign workers’ labor problems is the creation and enhancement of industrial workforce in developing countries. Kiyokawa argues that, in developing countries, labor management is a key factor in the formation of a modern industrial labor force [Kiyokawa, 2003]. Arguably, the role played by labor management in the creation of a disciplined, highly-motivated industrial workforce from rural low-skilled workers is greater in developing countries than in developed countries. Especially in the early stages of industrialization, a disciplined workforce is indispensable for development of the society. This may also be the case for foreign workers from rural areas in their home country who now work in factories in other countries. Through improvements in their working and living conditions, such farmers are able to transform themselves into productive industrial workers.

The reason for focusing on foreign workers’ rights in this paper is the fact that the various labor problems faced by foreign workers are the result of their limited rights. In Japan, the term “foreign workers” typically means ethnic Japanese-Brazilians, technical interns, or illegal (undocumented) workers. Technical interns face greater restrictions under the present immigration law than foreign workers in any other category; as such, monitoring and examination of their rights and living conditions is especially warranted. The problems faced by technical interns are not of an individual nature, i.e. related to the character of individual interns, but have to do with the structure of the TIP system as a whole and with the process by which rural foreign workers are transformed into a modern industrial workforce.

Therefore, in the following section I discuss the various rights extended to foreign technical interns and examine how their disciplinary training and everyday arrangement may lead to various labor problems.

2. Foreign Technical Interns' Rights and Restrictions

(1) Restrictions on length of stay

The TIP was established in 1993, in Japan, a country which has never had a formal immigration policy. Since then, the program has served as a channel for introducing low-skilled workers into the country's labor force. But as the number of interns has increased to almost 20 thousand, various labor problems have occurred. A new visa category, "Technical Intern Training," was established under the Reformed Immigration Control Act in 2010, with the goal of protecting the rights of technical interns. Prior to this revision, technical interns were categorized together with individuals on working-holiday visas under the category of "designated activities." With the introduction of the new visa category, technical interns are now formally recognized and will remain recognized in the future as an important group of foreign workers.

Under the TIP system, interns are permitted to stay in Japan for three years, on the condition that they pass certain technical examinations authorized by the government. However, in contrast to Japanese Brazilians, who are entitled to renew their visa status, technical interns are prohibited from re-entering Japan after the conclusion of their three years. The nominal reason given for this prohibition is that, because the interns come to Japan with the intent of receiving technical training, there is no reason for them to remain in or return to Japan after their training is completed.

These two points, the three-year limit and the prohibition from reentering Japan after completion of the program, constitute the main institutional restrictions of the Technical Internship Program (TIP). Any immigration policy whose intent is to welcome immigrants and to keep them in positions on a temporary basis typically includes such restrictions. Some restriction is necessary to keep the revolving immigration system functioning smoothly and to keep immigrants in temporary workers status.

The history of immigration in other countries, however, informs us that, once immigrants are welcomed into the country, it is hard to restrict or prevent their settlement. In all cases, it has been the case that even though immigrations policies contained such restrictions, these restrictions merely delayed but did not prevent settlement by immigrants. Piore identifies the following common characteristics of the

immigration models of West Germany in the sixties and the United States with respect to Puerto Rican agricultural workers, which are included piecemeal in the immigration policies of various other countries: single-sex recruitment, fixed short-term contracts, isolated housing, and prohibition of reentry (in the German Case) [Piore, 1979:83-4]. Piore argues that institutional barriers are unsuccessful in preventing permanent settlement because of (i) the inherent tendency of people, as social beings, to want to form permanent, structured communities and (ii) high demand in volatile industries for foreign labor to cushion variability and uncertainty. “The settlement processes in both Germany and New England have been the result of these industries seeking out foreign workers who were originally recruited by others. So long as these industries exist and find it advantageous to use migrant labor, it is questionable whether it is possible to maintain the institutional barriers that will forestall settlement for any length of time” [ibid. 85]. That is, Piore correctly points out the difficulty of eliminating “free-rider” employers that utilize foreign workers who are already working in the destination country rather than having to bring in new workers at their own cost.

The issue of free-riders leads to the question of who bears the various costs associated with hosting foreign workers. Low-skilled workers typically cannot cover the cost of transportation to the destination country and other initial costs associated with migration; thus, it is generally the employers that bear these initial costs. Such initial costs include not only transportation but also training in language and customs. Employers who host foreign workers tend to discourage workers from changing jobs, at least until investment costs are recovered; such restrictions may lead foreign workers to feel as if they are working as forced laborers. Foreign workers are, in this sense, denied freedom to choose employment, which is a basic right of any worker. When the desire of foreign workers to change jobs intersects with the demand of employers’ for cheap foreign labor, the escape of workers from the original employers registered with the immigration office becomes a shared interest of both parties. The decision by employers to forego legal channels for obtaining foreign workers, then, may result in increased numbers of escapee or illegal workers.

In order to ensure that the benefits of hosting foreign workers accrue to law-abiding employers, immigration policies often limit the right of foreign worker to change jobs, particularly in the case of short-term stays. In the case of TIP in Japan, interns’ stays were initially limited to two years but was increased to three years in 1997.

Employers, especially in a garment industry, have asked that this time limit be increased to five years. The additional two years of training will enable the garment industry to select experienced technical interns with 3 year's experience for further training as workshop supervisors. Here, we must again consider the problematic aspects of a system that does not permit foreign workers to change employment for three years and the fact that the addition of two more years of employment under the same conditions may constitute an infringement of workers' fundamental rights.

How should we think about this discrete time period during which technical interns are deprived of their basic right to choose employment? TIP's three year time limit is relatively long compared to other immigration programs targeting low-skilled worker. In many developed countries seasonal workers such as farm laborers are permitted to stay in country for less than a year. Even visas for highly-skilled workers are usually capped at three years. The skill level of technical interns is not much higher than that of low-skilled workers; as such, the length of their stay is excessive by international standards, especially given the deprived conditions under which they have to work.

The restriction on technical interns' length of stay is not only related to issue of not being able to change jobs but also has to do with the development of technical skills. Although the TIP was nominally established to promote technology transfer, the degree to which interns' skill levels can be developed in the three years of training is constrained by the fact that employers are reluctant to provide higher training to those workers whom they know will leave in three years. Technical interns stand occupy the same niche as part-time and dispatched workers as members of the marginal labor force and of the secondary labor market.

On the other hand, those interns are expected to work for three years at the same company. They do not change jobs frequently as do young workers or dispatched workers. The interns are not disposable, flexible low-skilled workers, but workers with a certain degree of skill. Given that the employers bear the costs of transportation, accommodation, and initial training, they make reasonable demands on workers to develop the ability to work with a passing level of discipline and efficiency. The three year time limit on their stay means that the interns will develop skills commensurate to three year's training, not more and not less. As such, at the end of their stay, the interns are no longer low-skilled, but also cannot be said to be highly-skilled workers.

(2) Prohibition of Reentry

Technical interns are strictly prohibited from reentering Japan as technical interns. It is a commonly held view among TIP stakeholders that, once interns enter Japan on a “Technical Intern Training” visa, their only chance of subsequently returning is on a student visa¹. Most of the jobs for which technical interns are admitted are not classified as “skilled jobs” in the present visa rubric. The Japanese immigration system currently prohibits entry of foreign workers in manufacturing and construction industries. This has changed the nature of the TIP. Frame and reinforcing workers in the construction industry or lathe and milling machine operators in the manufacturing industry are not permitted to enter Japan on a “skilled jobs” visa, and have had to enter as TIP interns.

Thus, while the TIP, on the one hand, prohibits the reentry of semi-skilled workers who have completed training in Japan, the current Japanese immigration system, on the other hand, does not permit the entry of industrial workers on working visas. These two institutional barriers tend to discourage interns’ motivation to acquire technical skills and employers’ motivation to train workers. Thus, both employers and interns have good cause for supporting the additional two-year training period proposed as an amendment to the present TIP.

If the proposed additional training period or similar extension is adopted, serious consideration should be given to the right of interns to change employment, to bring their families to Japan, as well as the criteria for their potential permanent settlement. Given the strict three year time limit currently in place, most TIP stakeholders do not even contemplate the possibility of permanent settlement, which also opens the door to discussion of escapee and over-stay workers. However, limiting the scope of this discussion to the present TIP, suffice it to say that the issue of permanent settlement of interns should be considered in the long run.

(3) Prohibition on Family Reunion

The right to family reunion is one of the fundamental rights of foreign workers declared in the “1990 UN Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.” But temporary foreign workers are not necessarily considered to be in the same category as

ordinary foreign workers, given their shorter lengths of stay and the presumption that they will return to their home country once their stay is completed. The US's Bracero and foreign workers' programs in both Singapore and Taiwan prohibit family reunion, whereas the US's H-1B program and Germany's Gastarbeiter Program both allow family reunion.

In Japan, Brazilians of Japanese descent are allowed to bring in their families with them, but technical interns are not. In practice, the prohibition of family reunion functions as a disincentive for permanent settlement. Was this prohibition, then, included explicitly to discourage the settlement of foreign workers? Up to this point, I have discussed the unintentional impacts of various migration policies that were adopted in response to employers' demands but with insufficient consideration of the long-term needs of society as a whole.

With regard to the TIP, the permanent settlement of interns is a concern for the government but not for the employers of interns, many of whom are owners of small and medium-sized enterprises (SMEs) that are currently facing stiff competition from China and other emerging economies in the products market. Market pressures force such firms to focus on strategies for survival and not abstractions such as social prosperity. Thus, the future settlement of interns (or lack thereof) is not their concern. Their concern is how to cut labor costs, and prohibition of family reunion is a reasonable strategy from the standpoint of cutting costs. So long as the interns come alone, they can be accommodated in inexpensive, shared housing and can be paid wages appropriate for a single worker.

Ujihara studied foreign workers in Japan in the 1950s [1975:285-7], clarifying the relationship between modern industrial workers in cities and their rural backgrounds. Ujihara theorized that Japanese industrial workers typically could not become independent from their families in rural areas since their wages were insufficient to serve as more than a supplement to household income. This explanation, however, is only applicable to the period prior to Japan's high-growth era.

The employers of small and medium-sized firms today desire a young and unmarried labor force such as were common in the 1950s. Such labor, however, has been scarce since the late 1980s. Their efforts to secure alternative labor led to the establishment of

the TIP, which prohibits interns from bringing their families with them. This prohibition, then, enables employers to secure a workforce similar in character to their desired workforce.

At present in Japan, two discrete groups constitute the low-skilled foreign workforce, Brazilians of Japanese descent and TIP interns. Those in the former group are permitted to bring their families with them and typically work as dispatched workers in large firms in electronics or machinery industries; those in the latter group typically work in SMEs in the garment, electronics, and machinery industries. The productivity of SMEs is such that they cannot afford the high wages required to employ Brazilians of Japanese descent. The growing disparity between regular and irregular workers is seen as one of the major social problems facing Japan. However, TIP intern wages are even lower than those of irregular workers, and their working conditions are more oppressive than those of dispatched workers including Brazilians of Japanese descent. Japan has enjoyed relative affluence since 1970's, and there was once consensus that labor disputes resulting from exploitation of the poor had all but disappeared. However, such labor disputes, thought to be a thing of the past, have once again surfaced with the establishment of the TIP.

How do interns without families live in Japan? Foreign workers typically lead stressful lives, especially when they are separated from their families, experiencing multiple stressors related to health, money, and communication. Being separated from their families for three years is especially difficult for married women, leading many to become homesick. Most affected are young mothers with small children, who feel they have had to sacrifice time with their children to work abroad. Interns living in Japan often lack the comforts and conveniences that allow them to reduce living cost. Furthermore, if they live in remote areas, they are deprived of pleasures such as window-shopping and other comforts that would be available to them in urban areas.

Prohibition of family reunion may be effective in preventing the settlement of interns; on the other hand, the practice's effectiveness is attained at cost of the interns' welfare. The reason why the 1990 UN convention on foreign workers has only been ratified by a small number of countries lies, partly, in the recognition that family reunion tends to lead to the permanent settlement of migrants in the destination country. The prohibition of family reunion in the TIP is necessary for maintaining the inflow (and outflow) of

young and single foreign workers. From the standpoint of today's employers seeking single workers, such a rotation system is highly desirable. However, such disruption of ordinary family life is not sustainable in the long run.

(4) Restrictions on employment type and repatriation of unemployed workers

As the primary goal of the TIP is technology transfer, the jobs for which interns are hired are limited to those classified as skilled and which require skills tests. Immigration policies typically place restrictions on the types of jobs or industries allowed with little relation to the purpose of such immigration, be it technology transfer or foreign aid. The Japanese government does not limit the employment choice of Brazilians of Japanese descent, as they are not classified as "workers" under the present immigration rubric. The same can be said of for eastern Europeans from newly accessed EU countries working in the EU. They are no longer considered foreign workers and, thus, are afforded the same freedom of movement within the EU as other EU members; there is virtually no limit placed on their ability to obtain work permits, save for restrictions on the total number of permits issued. All immigration policies intended to bring in foreign workers place some restriction on acceptable job categories, regardless of skill level. The US's H-1B visa may be a typical example. Such restrictions usually represent a compromise between the needs of business organizations, labor unions, and governments.

Furthermore, all recent immigration policies of Western European and Asian countries targeting foreign workers include some restrictions on eligible job types. Sato (2010: 9) describes the current situation as follows: taking the temporary intake of foreign workers by Western European countries in the 1960s and 1970s as the first phase, Germany and other Western European countries have come to the conclusion that the first phase immigration policies failed in that they led to the settlement of a large proportion of the foreign workers. Therefore, despite the tremendous increase in foreign worker intake since the 1990s, all countries, based on the experiences of the first phase, have shifted to immigration policies targeting specific industries and job types and that also explicitly precluded the possibility of permanent settlement. Such restrictions on eligible industries and job types are deemed necessary to ensure "a compulsory rotation system that strictly prevents the transitioning of workers to permanent settlement." Restriction on job type has become a common feature of the immigration policies of

countries that take in foreign workers.

Considering the restriction on types of jobs available to foreign workers, what difficulties have such restriction caused in the lives of temporary workers (in this case, technical interns) who are subject to such restriction? In the case of technical interns, given that the purpose of their stay is technology transfer, employment in Japan in the same job type as in their home country is a condition for being accepted into the program. However, as this condition has been less-stringently enforced in recent years, it does not function as a substantial obstacle to technical interns.ⁱⁱ As the number of interns has increased in the last ten years, so too has the proportion of technical interns who were previously unemployed or who worked in agriculture; strict adherence to the same-job-type rule while maintaining the restriction on reentry of previous interns would limit the number of potential program enrollees to the point that the program could no longer be effectively executed.

As such, the true impact of the restriction on job type on technical interns is in its limitation of the interns' ability to change jobs once in Japan. This is not especially problematic if the company where the technical intern is employed does not fail during the three year training period. However, if the company downsizes or fails due to unfavorable economic circumstances, the technical intern will become unemployed and be left with no choice but to return to his or her home country.

First, companies that host foreign workers are often marginal companies with limited resources and do not have the ability to pay sufficient wages to employ Japanese workers; such companies are more apt to lay off workers or to fail as a result of unfavorable economic conditions. Second, in so far as technical interns are considered to be part of the secondary labor market and employed in the same capacity as traditional dispatched workers, which is most often the case in the machinery and metal industries, they are subject to the same vulnerability in terms of being first in line to be laid off. The decision of whether to lay off dispatched workers or technical interns first differs from company to company. Examples of companies laying off relatively higher-paid dispatched workers of Japanese descent first, before laying off technical interns have been reported.ⁱⁱⁱ It is likely that there are also cases where the repatriation of technical interns is chosen over the laying off workers of Japanese descent or Japanese dispatched workers. In any case, technical interns in the secondary labor

market enjoy little job security. For technical interns facing such unstable employment, the restriction on job type means increased difficulty in finding new employment in the host country (Japan), if and when they are laid off.

Given that it is typically whole industries, and not just individual companies, that suffer the negative effects of unfavorable economic circumstances, during such times, it is difficult even for native workers to find employment within the same industry. In such situations, vocational retraining is necessary to enable workers to move to other industries or job types. Such vocational retraining is offered by various job training agencies across the country as part of the country's overall employment policy. Technical interns who face restriction in types of jobs in which they may be employed are unable to change job type. Furthermore, the pool of potential new employers is limited those that are certified to host technical interns. As a consequence, technical interns are left with little choice but to repatriate before reaching the end of the three-year training period. Since the global financial crisis that occurred in 2008, companies with the wherewithal to do so have held off on repatriating technical interns already in Japan but have ceased taking in new interns; companies with less reserve capacity have repatriated technical interns as a result of downsizing or forced layoffs due to failure of the business.

In conjunction with enactment of the new immigration law of 2010, the immigration office of the Ministry of Justice announced "guidelines for the entry and residence of technical interns" on March 2009. According to these guidelines, as a means targeting interns "whose training cannot be continued due to company failure, etc.," interns, if they so desire, are permitted to remain in the country under the condition that they will continue their training with another company certified to host technical interns under the TIP program. The guidelines also require that the agency supervising the TIP continually monitor the reserve capacity of companies registered with the program to host foreign workers, reflecting the view that the layoff of interns should not lead to their premature repatriation. These guidelines can be considered a measure to prevent technical interns who have lost their jobs from becoming illegal workers. As long as the ability of technical interns to switch jobs remains restricted, it is only by making the host program responsible for securing new places of work that interns who have lost their jobs will be able to find new employment. In reality, however, technical interns cannot seek new employment at a public employment office (Hello Work) like their

Japanese counterparts, and if they are unable to find employment of the same job type at a company affiliated with the same program, they will be prematurely repatriated.

Given that the early repatriation of technical interns does not increase the domestic unemployment rate, from a macro-economic perspective, it may be seen as a way to protect the domestic labor market. However, from the micro-economic perspective of the individual technical interns, such premature repatriation can represent a significant derailment of life plans. The interns arrive in Japan after having calculated how much they can expect to earn in Japan, how much they can afford to pay and borrow in order to participate in the program, and when any loans need to be repaid. In so far as premature repatriation represents a derailment of such plans, it must be said that loss of employment has a greater impact on technical interns than on their native counterparts.^{iv} Of course, some technical interns who have achieved their savings goal (of 3 million JPY, for example) early (by working overtime) report that being repatriated several months early is a blessing in disguise, as they can get home early; thus, the feelings of individual interns regarding early repatriation may depend, to some extent, on the degree to which they have achieved their savings goals.^v

From the above, it can be seen that job-type restrictions common to almost all immigration policies put foreign workers in a position of disadvantage during economic downturns by restricting foreign workers' movement between jobs in the host country.

(5) Other work conditions

Technical intern wages are subject to minimal wage standards as set forth in the Labor Standards Act. If it can be proved that the overtime wage is lower than the minimum wage, interns can file claims with the local labor standards office and demand that they be paid the difference.^{vi} While the number of cases in which such underpayment is corrected represents a very small portion of the total number of such cases, technical interns are afforded, at least on paper, the same protection under the Labor Standards Act as their Japanese counterparts. In this sense, Japan's law is clearer than that of the US with regard to the H-1 visa or the H-2B visa for farm workers, which states that the wages of workers should not be below the "prevailing wages" for the respective job types. Thus, while there are, in the US case, multiple wage standards for foreign workers depending on the skill, qualification, and technical skills of the worker in

question, in Japan, technical interns are employed at the clearly-defined, unambiguous minimum wage. If technical interns are able to prove that they are being underpaid for overtime, trade unions or NPOs that provide assistance to technical interns can help ensure that the employers pay the difference between what the interns were actually paid and what they should have been paid. The problem, then, does not lie in the law but rather in the fact that technical interns are not always made aware of Japan's laws regarding extra pay for overtime, are unaware of the fact that they are not being paid or are being underpaid, or, even if they are aware of the situation, are prevented from filing or do not know how to file such claims.

In addition, technical interns are eligible to receive workers' compensation and are enrolled in health insurance and welfare pensions. NPOs that assist foreign technical interns have requested that the requirement for enrollment in welfare pensions be waived for technical interns, given the extremely small likelihood that they will receive any benefit from such pensions since it is presumed that they will return to their home countries after completion of their training. The same request is made by business organizations representing the companies that also must contribute to welfare pensions. At present, technical interns are paid a lump-sum severance from the welfare pension upon their repatriation; however, many technical interns have expressed their dissatisfaction with this system because the sum they receive is less than what they paid into the system. This policy needs to eventually be reexamined.

With regard to the other working conditions of technical interns, it can generally be said that what is even more problematic than the appropriateness of the minimum wage standard is the fact that this standard is not being met. This is related to the problem of the technical interns' lack of knowledge, and the fact that some supervising agencies and companies, while cognizant of this lack of knowledge, have not taken any steps to improve the situation. The labor standards office guidelines mentioned above require that newly arriving technical interns are provided information regarding immigration law and the Labor Standards Act during the intake orientation and, further, provide for money to hire judicial clerics and labor management specialists to provide this instruction. Such measures are a first step to improving the current situation.

3. Management of Daily Life

Up to this point, we have examined the restrictions placed on the rights of technical interns in the TIP. We now turn attention to how technical interns spend their days in the workplace and in their private lives. In particular, we will examine the daily management systems put in place by their employers.

(1) Types of housing: Dormitories and boarding houses

Regardless of whether the worker is Japanese or foreign, and regardless of whether the host country is Japan or any other countries, when companies hire single, migrant workers, they must provide them with some kind of housing. This is because migrant workers, by definition, do not reside in the host region.

In countries other than Japan that take in foreign workers, it is rare for foreign workers to stay in hotels that cost money; rather, it is common for workers to stay with friends while they look for work. Workers of Japanese descent typically stay in dormitories provided either by the dispatch company or the company to which they have been dispatched. In the case of technical interns, provision of housing for technical interns is a necessary condition for companies to attain certification to host technical interns. Such housing, which can take the form of dormitories, detached houses, or apartments, etc., is required to provide approximately 6 *tatami* mats worth of space (~100 ft² or 9.2 m²) space per two individuals, bedding, plates, utensils and other furnishing needed for daily life, cooking facilities, and washing facilities. In order to conserve water, some employers make it a point to remove baths, leaving only showers.^{vii} In other words, technical interns need only provide their own clothing and personal items; the host company provides an environment that will enable the workers to live without experiencing any inconvenience. Put another way, businesses must invest in the preparation of such a housing environment if they are to host technical interns. The high cost of training foreign workers is not the only reason for businesses to want to become “free riders” and to employ foreign workers that have escaped. Companies wishing to host foreign workers are required to prepare housing, often at substantial cost, that is deemed adequate by the immigration office, the initial intake organization, and dispatch companies.

While such certification standards exist for the hosting of technical interns, the actual condition of the dormitories and boarding houses provided varies widely. The housing

fees also vary substantially. In general, monthly rent, which is directly deducted from interns' pay along with electricity and water usage fees, is on the order of 30,000 to 40,000JPY.^{viii} According to a survey of foreign workers in the marine goods processing industry, of a monthly salary of 150,000 JPY, 85,000 JPY is saved, leaving an estimated 65,000 JPY for room and board (Miki 2005: 51). Meanwhile, according to a survey conducted by the Japan International Training Cooperation Organization (JITCO) in 2005, on "housing fees collected from technical interns" in group intake-type programs, the total rent collected per person over the two year program (at the time, length of stay was two years not three) was, on average, 399,000 JPY, or a little less than 17,000 JPY per month (JITCO 2005: 52). In certain cases, such as when a garden shed on farm property is converted into intern housing, no rent is collected.

The type of housing provided by companies varies substantially. While companies already possessing dormitories used previously for single Japanese workers can simply convert these to house foreign interns, companies without such existing facilities have had to create housing by various means, including buying and converting disused textile mills, converting upper floors of factories or house attics, setting up temporary housing in parking lots, and renting private apartments.

Such housing can be considered welfare facilities and, as such, represent salary paid in kind. There have been cases of ill-managed small companies hosting technical interns that, in order to cut labor costs, have deducted excessive housing fees from interns' pay while providing substandard housing. In many cases, technical interns' rents are determined unilaterally by companies, in complete isolation from the general housing market. Meanwhile, because utilities are deducted along with rent, some interns feel little incentive to conserve electricity or water, frequently resulting in conflict with the company owners who are responsible for paying for utilities. Given that the use of electricity, water, and gas as well as general housing features such as air conditioning and heating are daily matters, they often are the underlying cause of troubles between workers and employers. The mutual mistrust that arises from such conflicts eventually grows into the larger conflicts regarding overtime pay and non-payment of salaries.

While boarding life presents problems for both business owners and technical interns, the reason why such housing is essential to the TIP can be explained as follows. First, the priority of business owners is to employ technical interns at as low a wage as

possible, and, in order to be able to take advantage of low-wage migrant workers, it is necessary to provide them with housing. Second, by housing interns in or near the factory itself, it is possible to manage their lives throughout the whole day. By monitoring the interns 24 hours a day, it is possible to preempt any insubordination aimed at business owners and attempts to leave without permission. Although the stated reason for housing two or more workers in the same room is to prevent homesickness, there is another reason, namely to create an environment in which the interns watch each other. Third, given that no other housing is available to interns, they cannot invite friends or relatives to stay overnight with them, as in the case of workers of Japanese descent, and their relationships are limited to workers with whom they reside. Naturally, they are not allowed to walk about freely on their own and are required to sign out when leaving the housing, usually in groups of two or more. These measures are to prevent interns from attempting escape.

Because the interns are forced to live in such group housing, their subordination to the company is extensive. As is the case for dispatched workers, for the foreign interns, being laid off means losing their housing; the threat of being laid off or sent home by the company owners is indeed a big one. This is because the interns stand to lose their housing on the very day that they are laid off.

On the other hand, technical interns generally consider boarding life to be desirable. By being limited to life in the factory and in factory housing, they not only are able to save on living expenses but are able to use time that otherwise would be spent commuting to and from work (if their housing was not near their workplace) to work overtime.

There is no doubt that dormitories and boarding houses present certain merits to both business owners and interns. However, because such arrangements do not include potential values that exist in the general housing market and because, under such arrangements, interns do not act as independent agents of their own livelihood, such housing is necessarily accompanied by certain restrictions on the interns' rights and freedoms. Dormitories and boarding houses have come to be avoided by single Japanese workers after Japan's high-growth era. Even though large manufacturing plants have begun to provide dormitories with single rooms, it has become increasingly difficult to recruit young workers to the manufacturing sector where such dormitory life is deemed

necessary. Naturally, it is even more difficult for SMEs that are only able to provide lower-standard housing to recruit workers, so much so that the very term “live-in employee” in shops and small businesses has become all but extinct. This is because Japanese workers have come to despise the lack of freedom in such housing arrangements. To the interns, however, no matter how restrictive such housing might be, there is no other housing available, and they have no choice but to live there. The tradition of the “live-in employee,” which had all but disappeared from Japan, is being revived and carried on by foreign technical interns.

(2) Common rules for workplace and personal discipline

A second characteristic of the management of the technical interns’ daily lives is the fact that both dispatch companies in home countries and host business owners in destination countries try to maintain interns’ workplace and personal discipline with a common set of rules. Personal discipline includes basic rules such as being on time, not lying, not stealing, not committing adultery, cleaning up after one’s self, maintaining one’s personal hygiene, and so on that are necessary when living with others in a group or community. Meanwhile, workplace discipline refers to basic rules such as obeying one’s superiors, not being late, maintaining safety standards, not cheating, etc., necessary in the execution of work and life in the workplace.

In the case of technical interns, rules for personal and workplace discipline are ambiguously combined to form one set of rules. Interns are taught that fundamental rights of workers such as the right to claim a complain about work conditions, join a union, have a cell phone, negotiate work conditions with the employer, etc. and fundamental personal rights such as the right to move about freely are violations of workplace and personal discipline. With such training, it is no wonder that the interns do not have a concept of workers’ rights.

Let us examine, for example, the trainee program eligibility criteria of a large dispatch company in Dalian City, Liaoning Province, China, which sends over 400 technical interns to Japan annually. The criteria comprises a list of “20 ineligibility criteria” consisting of such items as “the applicant has relatives or friends in Japan,” “the applicant’s spouse is applying for dispatch at the same time,” “applicant’s relative(s) is (are) applying for dispatch in the same cohort.” These criteria are intended

to reduce the risk of interns breaking their contracts and staying illegally in Japan. The list also includes other items related to the applicant's character and attitude such as "applicant has a criminal history (pick pocketing, burglary, affray, etc.)," "applicant has bad habits (alcohol, uses foul language, thinks only of personal gain)," "applicant is selfish and self-centered," "applicant exhibits unusual fashion, appearance, and behavior," "applicant lies and is insincere," "applicant is cynical and introverted." Also included are other items related to family circumstances such as "applicant is still single although past the age for marriage," "applicant is a single divorcee," "applicant has family relation problems," "applicant does not show filial piety," "applicant does not fulfill family obligations." Finally, the list includes miscellaneous items such as "applicant does not bear hardship well," "applicant comes from an affluent family, and is accustomed to high income," "applicant is not self-reliant." To summarize, it is individuals willing to suffer any hardship for their families without considering it to be a hardship and individuals who are poor but motivated to work that are selected as interns. Among the list of 20 criteria, there is only one skill-related item, that being "applicant is not suited for technical work." Such criteria bring to mind images of migrant workers from Japan's forgotten past with "good morals and manners."

Actually, in many small-scale sewing factories, interns are instructed to call the owner "Otosan" (father) and the owner's wife "Okasan" (mother). This practice did not start with the intake of interns but, rather, is a traditional practice stemming from the period before the war when young workers from rural areas would come to work in factories. The custom of managing workers by creating a pseudo-family organization in which the antagonist relationship between employers and workers is ambiguated has traditionally been passed down among SMEs. In the present day in which young Japanese workers, who have a distaste for such arrangements, have all but disappeared, the management practice is now being applied to foreign interns.

Naturally, such management style is not seen in large companies involved in the manufacture of vehicle components or electric/electronics; some larger companies place greater emphasis on the acquisition of Japanese language as a means to increase productivity than personal discipline. As such, family-style work management cannot be said to be the daily experience of all interns. However, approximately 60% of companies hosting interns (in 2009) were small-scale businesses with fewer than 19 employees, many of which are believed to practice traditional family-style management

of interns' daily lives.

Interns who are sent by large organizations receive approximately two months of training prior to arriving in Japan. This is even more the case for interns sent by formal dispatch companies, and especially those from China. Such training is not limited to Japanese language instruction. The pre-dispatch training provided by dispatch companies, which as a rule is based around dormitory life, is, in and of itself, a type of life-style training, with veterans of the People's Liberation Army serving as instructors or playing the role of business owners. While this pre-dispatch training involves a certain degree of skills training and physical fitness training, such as long-distance running, in addition to instruction in the Japanese language, its primary purpose is to improve personal discipline.

In China, major pre-dispatch training facilities conduct *rajio taiso* (literally radio exercises), i.e. calisthenics training typical of Japanese workplaces, on a daily basis as part of physical fitness training. In the pre-dispatch training facility in Shandong Province visited by the author, interns were to conduct muscle strength training and run to 3,000 meter twice a week to increase physical strength.^{ix} Such interns-in-training were provided with uniforms similar in appearance to those worn in Japanese factories, with the resulting scene of interns performing calisthenics conjuring up images of a Japanese company at lunchtime. These days, in Japanese factories, workers don't do calisthenics even when the *rajio taiso* music is playing but, rather, sit around on the stairs and chat with each other. There is nothing of the sincere and desperate demeanor of the Chinese pre-dispatch interns. Considering the fact that the instructors are veterans of the Chinese People's Liberation Army, it is easy to think of the interns' physical training as basic military training. In that sense, the interns are "soldiers" being dispatched to Japan. This physical training has two purposes, the first of which is to develop the physical strength needed to work in Japan. The second purpose is to weed out individuals unable to endure the training and, thus, deemed unsuitable for intern program. Such emphasis on physical fitness indicates the shared perception among dispatch companies that the three years of employment in Japan not only means a potential for significant earnings but also requires a high level of physical endurance in day to day life.

There is, of course, a reason why dispatch companies have determined that physical

and lifestyle training is necessary and, thus, have undertaken such training. The Japanese companies taking in these interns want a modern workforce that is committed to improving productivity and to diligently carrying out its responsibilities. However, due to the fact that Japanese immigration policy does not permit the re-entry of previous technical interns, the number of applicants with prior experience and skills in manufacturing has declined steadily and has almost reached bottom. As a result, the majority of dispatch companies' recruits are young people from farming households or internal migrant workers who have come from farm villages to work under temporary contract in factories. If we consider the redundancy of labor in the agricultural sector and deficit of skilled workers in the manufacturing sector typical of the developing countries that serve as sources for foreign workers, it is reasonable to assume that the majority of interns will be unskilled or semi-skilled. Dispatch companies have determined that, in order for such workers to successfully complete their three years in Japan and return having fulfilled their duties, what is even more important than skills training is comprehensive lifestyle training or, in other words, increased management of workers. Work in Japanese factories, because of the higher pay, is faster paced and more intense than factory work and most certainly agricultural work in the interns' developing country of origin.

To be certain, what is needed first and foremost to be able to fulfill factory work in a Japanese factory is personal discipline. However, lumped in with this personal discipline is the prohibition of going outside without permission, prohibition of owning a cellphone, prohibition of filing complaints about working condition, prohibition of contact with the outside, prohibition of negotiations for raises, etc. Furthermore, efforts are made to create arrangements where interns watch each other and make sure personal discipline is observed in dormitory life through the use of award-giving program and collective responsibility system and by establishing competition between groups. Violations of rules result in forced repatriation. Under such strict regulation of daily life, interns rarely focus on their position as workers and think about engaging in disputes or negotiation with business owners.

In summary, with such strong emphasis on personal discipline, work discipline, which usually is considered in a separate category, becomes subordinated within personal discipline and the concepts of workers' rights and respect for workers' private lives, which are supposed to be included in work discipline, vanish into the mist.

Together, these constitute the second problem faced by technical interns living in Japan.

(3) Isolation from the local community

At present, the relationship between interns and local communities is amicable. There appears to be little chance that this relationship will develop into the kind of trouble or violence that is seen in other countries. There are two reasons for this. First, the numbers of interns is small, and they do not compete with Japanese workers in the local labor market; instead, they are seen in a positive light as helping to slow the decline of local communities. The second, less salient reason is that the interns are isolated from the local community, and, as a result, their relationship with the local community is weak.

Let us first examine the first reason. The agriculture, fishing, and manufacturing industries in which the interns are employed are generally situated away from urban areas. The sewing or machinery and metals businesses, and of course the agriculture and fishery businesses, in which large numbers of interns are employed are often located in under-populated areas where labor costs are low. The local young people tend to leave the area, either because they dislike the poor working conditions offered by local businesses, fear that there is little future in staying in the area, or are attracted, as young people are apt to be, to life in the city. In such rural area bereft of young people, although local businesses have been sustained by experienced, elderly male workers and middle-aged part-time female workers, members of these two cohorts have begun to retire. It is this gap, then, that is being filled by the young, foreign interns. In depopulated areas with aging communities, interns account for the majority of young people, and it is by their “youth,” not their appearance, that the interns are identified by members of the local community as being foreigners.

While a detailed examination of the relationship between the depopulation of rural communities and foreign interns is beyond the scope of this paper, it is clear that, under the present circumstances, these interns represent the only young workers in such rural communities. From the standpoint of the labor market, the newly arrived foreign workers do not represent competition for the existing Japanese workforce, but rather a complementary force to compensate for the loss of Japanese workers due to retirement.

As such, it can be said that the inflow of foreign workers is welcomed by rural communities. For example, one of the measures for revitalizing rural areas introduced by the government has been the establishment of “Special Zones for Structural Reform,” which enjoy the relaxation of certain regulations allowing for the proactive intake of foreign workers. One example of special zones for structural reform established since 2003 was for special technical workers, typically IT workers, and foreign technical interns. One such zone for unskilled foreign interns was designated in the Toyo region of Ehime Prefecture, whose local industries are sewing and towel manufacturing and shipbuilding and machine manufacturing; another zone centered around the marine products processing industry was designated in the coastal Okhotsk region (Hokkaido).^x As is evidenced by these policies, the intake of foreign workers is technically linked to the revitalization of rural communities.

The second characteristic of the relationship between interns and local communities is that interns are generally isolated from local communities. Unlike government officials and business owners, the general populations of rural communities do not go about their daily lives thinking about revitalization of the community. As such, it is not surprising that some community members have a sense of wariness regarding the intake of foreign workers. For this reason, except for specific occasions such as festivals, foreign workers are kept isolated from the local community to avoid any unnecessary friction.

First of all, the factories where interns work are typically located on cheap land far from city centers. In such cases, going shopping is inconvenient without a car. Interns must either borrow a bicycle to do so or be taken grocery shopping by the business owner in the business owner’s car. The area around the factories is usually unpopulated. Furthermore, given that many interns work late into the night and on weekends or holidays in order to receive overtime pay, they have very little time to go outside of the factory. As the interns are in Japan by themselves, they also do not experience social interactions with the community as might otherwise if they had to take their children to and pick them up from school every day. The only troubles with local communities experienced by the interns are on a small scale, having to do with the manner in which the garbage is thrown out, etc. In general, the interns’ interactions with the local community are rare in terms of both spatially and temporally.

Furthermore, there are cases in which business owners actively try to isolate the interns from the local community. Reasons for doing so include fears that, if interns interact with each other, they will exchange information and begin to compare wages and other working conditions, resulting in dissatisfaction with the workplace or that, if interns interact with brokers, they will be encouraged to escape or change jobs. In other words, the business owners feel that to allow the interns to interact with the community increases the risk of conflict between workers and employers and risk that the interns will try to escape. The job of brokers is personnel mediation, and, as such, they encourage foreign workers to leave their jobs illegally; the system is structured such that the more frequently foreign workers change jobs, the greater the handling fees earned by brokers.

The interns arrive in Japan without a firm understanding of Japanese companies, the working conditions provided by their host companies, or provisions of the Labor Standards Act or the minimum wages. Thus, it is not at all surprising that the interns, in the process of actually working in Japan, exchange information with other interns regarding working conditions, etc. However, such exchange of information is not necessarily desirable from the business owner's standpoint. There are some business owners that prohibit the possession of cell phones for this very reason. Although JITCO, which oversees and provides guidance to the host companies, prohibits such practices, the prohibition is not strictly enforced.^{xi}

Meanwhile, there are generally negative images associated with companies that hire foreign workers. Such companies are stereotyped as providing such poor working conditions that they can only hire foreign workers and as exploiting foreign workers who are paid meager wages, while the foreign workers, on their part, are stereotyped as being pitiable, often to the detriment of such companies' ability to do business.

Given these circumstances, business owners take the approach of isolating their foreign workers from the local community, both from the practical standpoint of preventing workers from escaping and also from the publicity standpoint of maintaining their public image.

As can be seen from the discussion above, the relationship between the interns and local communities is a complicated one. At the same time that some individuals benefit

from the intake of interns, there are others outside the sphere of benefit that feel wary about or oppose the interns' presence. Under these conditions, the approach of isolating foreign workers from local communities is taken as a means to maintain peaceful worker-management relations. As revealed in interviews with former technical interns from China, the result is that many interns, despite having lived for three years in Japan, experienced only the small area surrounding their place of employment and were completely removed from Mt. Fuji or the cherry blossoms, which they had dreamt about seeing before going to Japan. Not only separated from families and relatives in their home country but also segregated from local communities in Japan, it is evident that the interns live in relative isolation during their tenure in the TIP.

4. Freedom to Change Employment

It is evident from our examination of the individual provisions of the TIP that they represent efforts to prevent the permanent settlement of interns and to maintain the rotational employment system. Similarly, if we look at the management of the intern's daily lives, although not clearly stated in any document, the purpose of such management is to ensure the interns' repatriation and prevent their escape. In either case, the result is a restriction on the intern's ability to change employment while in Japan. While ability to change employment is a fundamental right extended to native workers, countries that take in unskilled foreign workers place restrictions on the movement of these workers. In the case of Japan's TIP, which takes a rotational approach, the movement of interns between employers is not permitted. The program has been revised to make the primary intake agency responsible for matching interns who have lost employment due to involuntary reasons such as failure of or lay off from the company where they were originally employed, enabling change in employment under certain circumstances. However, identification of new employers is difficult, particularly under unfavorable economic conditions, with the result that interns are forced to repatriate. The potential for forcible repatriation, which is built into the present system, represents a chronic threat to interns who are employed, making it difficult for interns to express their views to business owners and to advocate for their own rights.

If we shift our attention from the structure of the program itself and focus on individual host companies, we find that interns' lives are strictly managed and that the interns face severe restrictions in terms of privacy and personal freedom as well as

isolation from located communities. Because their right to change employment is not guaranteed, if interns are dissatisfied with their situation, unlike native workers who have the option of quitting or changing jobs, their only options are to repatriate or run away and continue working in Japan as an undocumented, non-regular workers.

Such problems, more or less, are faced not only by technical interns but by all foreign workers, and especially unskilled foreign workers, who work legally in Japan. What is important to understand, particularly since these issues are shared by foreign workers in general, is that these restrictions on private life and freedom to change employment constitute a violation of these interns' rights. We must recognize once again that foreign interns represent a vulnerable population in terms of the rights extended to them.

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ⁱ From an interview conducted in Weihai City, China on August 6th, 2010, one of the returnee interns who worked for an automobile appliance factory in Toyota City told his future plan. The 28-year-old man said he was eager to return Japan to get lump sum money. It was all right with him to get student visa to reenter Japan. But by hearing from some Chinese dispatch agency, Japanese immigration office has ever admitted former technical interns under different immigration rubric. The intention of the immigration office may in a way reasonable to exclude foreign students who come for work, not for study.

ⁱⁱ In cases where the degree of industrial development differs significantly between the sending and receiving countries, the restriction on workers in the same job type represents a substantial obstacle to the intake of foreign workers. That is because there are not enough workers in the manufacturing sector of the sending country to send to do factory work in the receiving country. In addition, the TIP prohibits the reentry of former technical interns, making the recruiting and selection of qualified workers more difficult each year. The result has been that the same-job-type restriction increasingly exists in name only, and records regarding the experience and job type of interns prior to their arrival in Japan are spurious.

The results of the “Survey on Hiring Practices of Japanese Firms Including the Hiring of Foreign Workers” conducted in March, 2009 by the Nomura Research Institute under commission from the Ministry of Economy, Trade, and Industry (METI) are as follows. When asked what aspects of trainee and technical intern intake require improvement, 60% of manufacturing sector companies (textile, forge and foundry, industrial machinery, electric and electronic equipment, automobile, foodstuff industries, etc.) did not respond; of the responses returned, the most common was “the

intake of unskilled workers“ (13.5%), followed by the “provision of working permits to superior trainees and technical interns” (10.7%), and “the re-entry of former interns” (7.8%), indicating a desire to increase the intake not of technical interns for the purpose of skills acquisition but rather of workers to join the regular workforce. Meanwhile, only 0.1% of companies responded that the previous-employment requirement for trainees (in the case of group intake situations only) should be eliminated, clearly indicating that this requirement was not seen as being effective from the companies’ perspective.

ⁱⁱⁱ (From an interview conducted in Weihai City, China as part of the survey mentioned in endnote 1). The case of a 25 year-old male who worked for an electronic components manufacturer in Toyohashi City, Aichi Prefecture from August, 2006, to March, 2009. Although the worker was laid off due to an economic downturn and repatriated four months early, he was soon rehired by an electronics company in Weihai City. The temporary return to his home country did not create any problems with his life.

^{iv} For example, there was a case in which interns forced to return home early filed a complaint against the dispatch agency in their home country (China) for breach of contract (from an interview of a dispatch agency in Changshu City, Jiangsu Province, China conducted on October 27, 2009). The dispatch agency had no experience of premature repatriation of workers dispatched to the textile industry. However, in 2009, male interns dispatched to the machinery and electrical/electronic device manufacturing industry, which utilizes technical interns in the same manner as dispatched workers as a means to deal with fluctuating manufacturing volumes, were forcibly repatriated before the end of their three-year training period. The 59 repatriated interns brought a suit against the dispatch agency, claiming that the 36-month contract, at a price of approximately 10,000 CNY per month (approx. 130,000 JPY), had not been fully implemented. It is believed that this group decided to file their own lawsuit after exchanging information with other repatriated interns that have filed similar lawsuits against other dispatch agencies. It appears that the situation will be resolved by the return of the management fee collected prior to the interns’ departure to Japan and the payment of settlement fee by the dispatch agency equivalent to 1 to 3 month’s pay. It is perhaps the dispatch agencies’ advertisement to the effect of, “you can earn 3 million JPY in 3 years working in Japan,” that lead to such lawsuits.

^v Regarding the work behavior of foreign workers, Piore (1979) reported that if workers received higher wages, they worked fewer hours to achieve the earnings goal they had previously set. He explained that this behavior stemmed the fact that these foreign workers were “target earners” [Piore 1979: 95-98]. Under favorable economic conditions, temporary migrant workers tend to shorten the length of their stay; and, if their wages decline as a result of unfavorable economic circumstances, they tend to lengthen their stay and move more rapidly towards permanent settlement.

Given the short history of foreign workers in Japan, research on this topic is scarce. Following the global financial crisis of 2008, some workers of Japanese descent returned to their home countries, while others who “couldn’t return even though they wanted to” chose to stay and be unemployed. Technical interns, who had no other choice but to repatriate early, were forced to do so, regardless of the degree to which they had achieved their earnings goals.

^{vi} For more detail regarding such cases, please refer *Gaikokujin Kenshusei Mondai Nettowaku* (2006) and *Gaikokujin Kenshusei Kenri Nettowaku* (2009).

^{vii} See the *Gaikokujin Kenshusei Ginoujisshusei Ukeire Nyumon* [Introduction for the Intake of Foreign Trainees and Technical Interns] (Japan International Training Cooperation Organization 2001: 40-42).

^{viii} The Research Institute for Advancement of Living Standards conducted a survey of 49 technical interns in 2010. Of the 25 interns who responded, mean monthly rent was 40,000 JPY. In many SMEs where technical interns are employed, the technical interns are not provided a payslip, with the result that many interns do not know the details of their payments and deductions.

^{ix} One large primary intake agency that receives technical interns from Indonesia claims, in its advertisements to recruit host companies, that “our technical interns can run 3,000 meters in 15 minutes or less.” Such training is actually implemented in the interns’ home countries, based on the experience that the interns will find it difficult to work in Japan without such training.

^x However, along with intake of increasing numbers of foreign trainees, the Toyo region has experienced an increase in escapes by trainees and technical interns, which has led to increased monitoring of companies by the police and the immigration office; this, in turn, has led to the development and spread of independent arrangements between companies to secure foreign workers through the practice of “name-lending.” In 2008, the number of companies applying for special accommodation in the special zones fell to zero. Meanwhile, the intake of foreign trainees continues in the marine products processing industries in villages and towns such as Sarufutsu and Esashi, in northern Hokkaido. In addition, new special zones are being established in cities such as Wakkanai. The absence of workers other than foreign technical interns in Japan’s under-populated border areas can also be seen from these examples.