



## Policy Brief No. 5 / November 2021

# JAPAN'S SPECIALIZED SKILLED WORKER VISA SCHEME

## Same Old Story or Something New

### Summary

Recent years have shown a shift in Japan's position on welcoming migration, most reflected in its change in immigration policies. As a more homogenous and insular country, Japan had a reputation of being rigid concerning immigration. It was difficult for foreigners to migrate and work in the country. However, Japan's varying social conditions, most notably its decreasing and aging population, has necessitated for it to be more open when it comes to immigration. The Specified Skilled Worker Visa (SSWV) scheme, put into effect in April 2019, is historical as a product of this shift to more open immigration policies. It parallels an existing program, the Technical Intern Training Program (TITP), which is aimed at transferring skills for developing countries. While mainly different in purpose, there are similarities in their processes and at the level of impact felt by the migrants. Many issues intersect between the SSWV and the TITP, demanding more sensitivity and accountability from respective stakeholders to promote the welfare and rights of migrant workers that enter the country.

Migrant Forum in Asia facilitated an online consultation with Solidarity Network with Migrants Japan last September 2021 for its members to help understand the nuances of the new scheme. Hatate Akira presented an overview of the new scheme, its comparisons to TITP, along with their gaps.

### Japan at Present

The rapid population decline in Japan, attributed to its declining fertility rate and reduction in increasing life expectancy, is a condition that many experts are examining and accommodating in their policy recommendations. The implications of Japan's declining population impacts the country's socioeconomic conditions, including the labour force. To counter the demographic changes of Japan, replacement migration is one policy response that is often brought up and studied.<sup>1</sup>

As of 2019, around 2.93 million immigrants reside in Japan, accounting for 2% of the 126 million population. It has grown from 2.09 million migrants at the beginning of

<sup>1</sup> Tsuya, N., The Impacts of Population Decline in Japan: Demographic Prospects and Policy Implications, Reexamining Japan in Global Context

the decade (Figure 1). Japanese population is projected to lose nearly 40 million people in 50 years, around one-third of its current population. If it were to accept foreign workers, it could mean significant effort in trying to stem the loss of around 780 thousand people in the overall population every year. The decline in population therefore poses a heavy burden on Japan's labour force and economic development.



Figure 1. Number of registered foreign residents living in Japan from 2010 to 2019 (Statista)

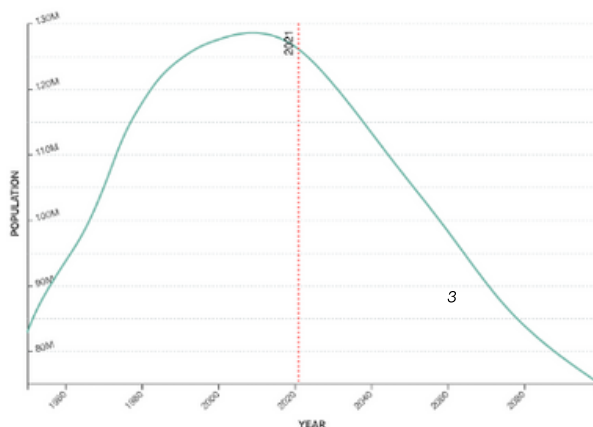


Figure 2. Japan Population (World Population Review)

While Japan's decreasing population has been a longtime concern, it was in 2018 that immigration reform was considered as a response. It led to a wider door in immigration law through the creation of a new visa scheme to attract new foreign workers and address the labour shortages in key sectors.

However, the COVID-19 pandemic impeded the possible growth in population and labour. If it were not for the

COVID-19 pandemic, Japan's number of immigrants would have possibly surpassed 3 million. Instead, Japan saw its largest decline in population since 2013. The population dropped to around 126.654 million from the previous year, a 0.38% decrease equaling to 483,789 people.<sup>4</sup> The strict border restrictions and increase of foreigners leaving the country has led to this sharp decline in population for Japan.

### Japan's Specialized Skilled Worker Visa Scheme

In December 2018, Japan introduced immigration reform when the country's parliament passed a policy that would allow semi-skilled workers to enter the country. The SSWV is a significant shift because prior to its passing, working visas were predominantly given to people belonging to high-skilled professions such as lawyers and doctors. With a goal of enlisting 345,000 migrant workers in the first five years, this policy reform and introduction of a new scheme makes it possible for migrant workers to reside and work in Japan. The SSWV covers occupations from the 14 different industries as listed:

1. Nursing care
2. Building cleaning
3. Material Processing industry
4. Industrial machinery manufacturing industry
5. Electric and electronic information related industry
6. Construction
7. Shipbuilding and ship-related industry
8. Automobile maintenance
9. Aviation
10. Lodging
11. Agriculture
12. Fisheries
13. Food and beverages manufacturing industry
14. Food service industry

The SSWV came into effect in April 2019, introducing a new status of residence that will accept migrant workers under two types of specified skills visas, Specified Skilled Worker (i) and Specified Skilled Worker (ii). The difference between the two is in the industries which the visa covers. The former is applicable to all fourteen industries, characterized by migrant workers engaged "in work requiring skills that need considerable degree of knowledge or experience belonging to the specified industrial field." Meanwhile, the latter is a residency status applicable only for those who plan to work in the two

<sup>2</sup> Statista, [Number of registered foreign residents living in Japan from 2010 to 2019](#), 2020

<sup>3</sup> World Population Review, [Japan Population](#), 2021

<sup>4</sup> The Japan Times, [Japan's population drops by record number to 126.65 million amid pandemic](#), 2021

industries of Construction and Shipbuilding and ship-related industry because these industries are considered specified industrial fields.<sup>5</sup>

Apart from the industries covered, the difference between the two types of visa is apparent in the worker's period of stay and accompaniment of family, amongst other areas. Those holding a Specified Skilled Worker (i) visa can reside in Japan for five years of its implementation, with renewals every year, six months, or four months. They are not permitted to bring their families to Japan. Those with a Specified Skilled Worker (ii) visa are allowed to stay indefinitely, and are able to bring their families along.

Japan has entered into bilateral agreements on the SSWV with several countries which include the Philippines, Cambodia, Nepal, Myanmar, Mongolia, Sri Lanka, Indonesia, Vietnam, Bangladesh, Uzbekistan, Pakistan, Thailand, and India. Memoranda of Cooperation (MOC) were created for sending countries to properly facilitate the employment of specialized skills workers (SSWs) in Japan. These MOCs specify the different procedures for dispatching SSWs since the procedures are based on the sending country's domestic regulations.<sup>6</sup>

The SSWV is not to be confused with the TITP given their differing purposes. The SSWV aims to facilitate the entry of foreign workers to offset the labour shortage Japan is facing due to its decreasing and ageing population. Established in 1993, the TITP had the goal of assisting developing countries in their economic development through knowledge and skills transfer from working in Japan for a limited period subject to a maximum of 5 years. While there are differences in its purpose, there are commonalities in its processes and systems. Similarly, there are vulnerabilities for migrants under these systems as they work in Japan.

### Issues and Gaps on the Ground: How are migrant workers impacted?

From recruitment and application to actual stay in Japan for work, there are lived realities by migrant workers that reveal the gaps in the system of SSWV along with TITP. TITP has long faced criticism domestically and internationally and, while still new in implementation, the early months of SSWV in effect has shown that there are recurring issues from TITP that are also embedded in the system of SSWV.<sup>7</sup>

	SSWV	TIT
Laws	Immigration Control and Refugee Act	Act on Proper Technical Intern and Protection of Technical Intern Trainees
Purpose	Labour shortage response	Transfer of skills and knowledge
Period of Stay	5 years max	3 or 5 years
Memorandum of Cooperation	○	○
Sending Organisation Requirement	×	○
Notice of Rights	×	○
Family Accompaniment	○ (SSW2)	×
Restriction on Business' Accepting Number	×	○
Transfer and Change of job	○	×
Possibility of Debt	○	○
Possibility of forced repatriation	○	○

Figure 3. Comparison of SSWV and TIT<sup>8</sup>

Technical intern trainees (TITs) wishing to enter Japan need the aid of sending organizations for the processing of their application. SSW are not required to come from sending organizations, however, because of complex conditions SSWs are often coming from sending organisations. Migrant workers are vulnerable to abuse from these organizations due to the high costs of the services offered. There have been times when migrant workers were left with large debts even before they begin working in Japan.

The information provided to SSWs and TITs about their rights from the time they arrive is also an issue. TITs have a handbook that informs them of their rights. However, while they receive this information, the reality is that not

<sup>5</sup> Japan International Trainee and Skilled Worker Cooperation Organization, [What is a "Specified Skilled Worker" Residency Status?](#), n.d.

<sup>6</sup> Immigration Services of Japan, [Memorandum of Cooperation \(Bilateral Agreement\) regarding specified skilled workers](#), n.d.

<sup>7</sup> Milly, D., [Japan's Labor Migration Reforms: Breaking with the Past?](#), 2020

<sup>8</sup> Akira, H., Presentation, Consultation between Migrant Forum in Asia and Solidarity Network with Migrants Japan on Specialized Skilled Worker Visa Scheme, September, 2021



everyone is equipped with the full understanding of their rights for them to be able to exercise it. On the other hand, there is no requirement for SSWs to be notified of their rights. They are left without knowledge of their rights as workers in Japan. This leaves them vulnerable to exploitation or abuse at the hands of employers. Information is a necessary, powerful tool in safeguarding the rights of migrants while staying in a foreign country.

Furthermore, not everyone is permitted to bring their families to the country. Between the three types of residency, only specialized skill workers (ii) are permitted to have family members with them while working in Japan. Considering the restriction of the visa to only two industries, this privilege is limited to a small number of migrant workers. This affects the longevity of migrants stay in Japan as it does not attract foreigners to working in the country. Such policies can be conflicting with the goal of combatting the declining population of Japan, along with being contrary to human rights standards concerning migrant workers and their families.

The transfer and change of occupation are also of special attention when it comes to this system. TITs are not allowed to change their work or field while SSWs can but there are special conditions that need to be met. SSWs can transfer companies if it is within the same industry. On paper, it is guaranteed but in reality, it is not functioning. There is no information system that provides job listings for SSWs hence there is no access to information that will allow them to transfer jobs. There were strict regulations concerning job transfer. With the pandemic, however, more support has been given to migrant workers. Many in the internship program, for example, were stranded due to job loss or non-renewal of contracts from certain industries. As a response, the Immigration Services Agency has permitted trainees and foreign workers to transfer jobs.<sup>9</sup>

The issue also brings into discussion forced repatriation. While contracts are supposedly strictly followed in Japan for TITP and SSWV, there is also no provision in the Technical Intern Training Act that prohibits forced repatriation. There is little safeguard for migrant workers when employers unfairly get rid of them. There have been cases of women signing contracts that prohibit them from becoming pregnant while they are employed. Once the employers are informed of the pregnancy of the migrant workers, they are no longer allowed to work. The dismissal of workers due to pregnancy is prohibited in the “Act on

Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment.” However, it has been slipping out of authorities’ eye and is widespread. This becomes difficult as it causes irregularities in the residency or working status of female migrant workers. Similarly, there are unexpected cases where companies are left with no choice but to let go of workers, like at this time of a global pandemic. Many have been left without work since industries are negatively hit.

### **Shaping Responsive Policies for Promoting Migrants’ Welfare**

As Japan continues to rely on migrant workers in addressing the country’s labour shortage, it struggles in embracing true structural immigration reform. Japan cannot attempt to secure a workforce without creating conditions which make long-term settlement possible.<sup>10</sup> Part of this is taking on the challenge of protecting rights of the migrant workers. These struggles and difficulties faced by migrant workers are reflective of the gaps in the system. The TITP has long been in effect for some time now yet there is little effort in addressing the recurring problems of migrant workers. Similarly, migrant workers experience the same persisting issues under the SSWV such as lack of information, access to justice, and more. Given the parallels of both systems, more significant efforts need to be made in responding to the practical realities faced by migrant workers.

In the consultation arranged with Solidarity Network with Migrants Japan, Hatate Akira shared about the steps that still need to be taken in addressing the gaps to safeguard migrants that work in Japan. Starting from the migrant workers’ pre-departure, safety mechanisms must be put in place especially in relation to sending organizations through whom migrant workers apply for the working visas of Japan. This demands cooperation and accountability between sending countries and Japan, along with the private sector. The MOCs established between Japan and sending countries can not only be an instrument to properly facilitate the sending of SSWs in terms of logistics but also be an instrument to ensure the rights of migrant workers during the pre-departure and post-arrival stage.

Similarly, integrating a rights-based approach into the current models of the TITP and SSWV will allow for the needs of migrant workers to be better addressed. This involves the right to information at all stages of the migrant

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<sup>9</sup> Kyodo News, [Unemployed foreign tech interns in Japan to be allowed to switch jobs](#), 2020

<sup>10</sup> Milly, D. Japan’s Labor Migration Reforms: Breaking with the Past?, 2020

workers' journey from origin country to destination country and then for their safe return. With the TITP long facing gaps in upholding fair labour practices, stronger efforts are needed to ensure that under the SSWV and TITP, fair labour practices are better promoted. There must be accountability mechanisms to ensure that fair working hours, workplace safety and overtime pay of migrant workers are given. Migrant workers must also have access to justice amongst other rights during their stay in Japan.

The relief support that has been given during this pandemic is indicative of how policy revisions and efforts to safeguard migrant workers are possible. Previously strict policies have been adjusted such as the restriction to change employers. The effort to consider the larger varying social conditions that have not been recognized before is gaining momentum. With the SSWV still being relatively new and pandemic response support being continually given, there is an opportunity to structurally

redesign and build an environment that safeguards and promotes the welfare of migrant workers in Japan.

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Image from Carrigan, L., [New Specified Skills Visa for Japan](#), Gaijin Pot Blog

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