

## **The Admission of Foreigners as “Human Resources” The Contradictory Approach of Japan**

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### **Abstract**

Recently, countries around the world have increasingly adopted selective immigration control policies based on attracting “skilled” foreigners. Japan is no exception to this trend. Specifically, the country has adopted two major reforms in the last decade, establishing the Highly Skilled Professional (HSP) and Specified Skilled Worker (SSW) residence statuses. These reforms have largely been framed in skills-based terms, frequently using language related to “foreign human resources.” This article analyzes these two major new skills-based policies, and places them within the context of existing pathways for foreign labor procurement. This analysis finds that both policies function primarily as labor retention systems, with the HSP statuses serving highly skilled, and SSW statuses serving low- and medium-skilled foreign workers. Finally, the concluding argument posits that Japan’s continued framing of foreign workers as human resources – across all skill levels – has produced a multi-layered immigration control regime that struggles to define what the term “foreign human resources” actually means. This underscores a core contradiction in Japan’s approach: while the country ostensibly desires to admit FHR pro-actively, framing this admission in purely economic terms sidesteps a debate on the actionable policies that are required to realize this, including the formation of an immigration policy at the national level.

Keywords: human resources development, immigration control policy, foreign human resources, Japan

## I. Introduction

Despite maintaining its fundamental principle of non-immigration, in the last decade Japan has enacted numerous reforms to its immigration control policy. In doing so, the government has consistently framed a more pro-active approach to the admission of foreigners using economic terms. This trend became especially pronounced during the administration of the late former Prime Minister Abe Shinzo, in office from December 2012 to September 2020. Abe tied his political legitimacy to his plans for the “economic revitalization” of Japan, known generally as “Abenomics” (Song 2020). This focus on economics permeated many pillars of his policies, and policy documents regarding the acceptance of foreigners also reflected this. For instance, the “2015 Basic Plan for Immigration Control” outlined the need to “proactively accept those foreign nationals who contribute to the vitalization of the Japanese economy” (Immigration Bureau, Ministry of Justice 2015). Specifically, the term *kaigai jinzai*<sup>1</sup> (foreign human resources, or FHR) became commonplace in both documents and speeches by policymakers during this time. Abe himself used this term consistently, such as when he discussed the goals of the Specified Skilled Worker system as follows: “(these reforms) are aimed at admitting foreign human resources that can be immediate assets to deal with the current severe labor shortage” (Prime Minister’s Office of Japan 2019).

Considering how the idea of FHR has become the primary reasoning for the admittance of foreigners into Japan, I believe it is prudent to examine the main reforms to the immigration control policy that Japan has enacted in the last decade from this perspective. After summarizing Japan’s modern history of immigration control – focusing specifically on skills-based policies – I will primarily analyze two policies:

1. The points-based Highly Skilled Professional (HSP) status, established in 2012.
2. The launch of the Specified Skilled Worker (SSW) system in 2019.

Since Abe’s return to power in 2012, much has been written about his successive reforms to Japan’s immigration control policy. Following the establishment of the HSP status, successive scholars analyzed the immediate impact of the policy – with many arguing that the high barriers to entry, in addition to structural factors, led to the slow adoption of the new system (Miura 2013; Oishi 2014; Akashi 2014; Green 2015). Similarly, the SSW system also led to a flurry of research among two general themes: how to view its establishment in the broader context of Japanese immigration control policy (Endoh 2019; Akashi 2020; Oishi 2020; Burgess 2020), and how specifically the system is implemented in various economic sectors (Era 2020; Ogawa and Sadamatsu 2020). Among these works, some scholars have begun to examine the “re-framing” of Japan’s policies towards foreign workers and skills-based language, including FHR. For example, Roberts (2018) discussed the “semantics” of Japanese policy, and specifically mentioned the ambiguity among policymakers in the “skilled/unskilled” debate. I will develop these ideas further as they relate to the two specific policies that will be analyzed in this paper. Perhaps the most relevant paper to this analysis is the one cited above by Nana Oishi, where she argues that the “redefinition” of “skilled migrants” led to a “major breakthrough occurring in Japan’s migration policies” (Oishi 2020, 13–14).

This paper goes further than the previous research by examining how we can concretely evaluate this “re-framing” or “redefinition” towards FHR. With the benefit of more time passing since both policies were passed and implemented, I want to reopen the debate on the significance of both the HSP and SSW systems as they relate to Japan’s immigration control regime. First, I will outline their historical context, showing that Japanese officials have consistently used skills-based language to frame policies aimed at foreigners. This is significant as it shows that the HSP/SSW programs are closer to a “doubling down” on such rhetoric, rather than a “re-framing.” Next, I will outline how Japan has defined FHR as it pertains to these reforms specifically, what their nominal aims were, and how effective they have been implemented at the macro level. Based on this, I will then summarize Japan’s approach of admitting foreigners as FHR, and how the HSP

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<sup>1</sup> This article uses modified Hepburn Romanization when transcribing Japanese.

and SSW systems have changed Japan's immigration control policy. Finally, I discuss whether these policies have been effective in alleviating some of the main problems with Japan's policies targeting foreign workers, such as the overreliance on technical interns and working students.

This paper chiefly utilizes primary government documents from relevant institutions,<sup>2</sup> including the Ministry of Justice (MOJ) and by extension the Immigration Services Agency (ISA), the Ministry of Health, Labour and Welfare (MHLW), and other government agencies, to develop my analysis. As necessary, I will add secondary sources such as scholarly articles to augment the analysis. This approach is useful for examining concrete macro level policy outputs, including overall admission numbers, modes of entry, and change in admittance since implementation. In turn, this provides clarity as to how specifically the HSP and SSW systems have changed labor migration to Japan, one of the main goals of this article. Furthermore, statements by politicians and within policy papers will be used to outline and discuss the concept of FHR in the Japanese context. The primary limitation of my approach is that it focuses on only one aspect of the migratory process, i.e., the central government's immigration control policy. While I will address how these policies fit into Japan's *tabunka kyōsei* (multicultural coexistence) framework in my concluding remarks, analyzing the micro- and meso-level effects of the HSP/SSW policies is beyond the scope of this paper.

In my conclusion, I will argue that Japan's continued framing of foreign workers as human resources – across all skill levels – has produced a multi-layered immigration control regime that struggles to define what the term “foreign human resources” means. Far from a “major breakthrough,” the HSP and SSW systems have thus far functioned primarily as auxiliary systems that achieve limited labor retention, but do not represent a fundamental change. This underscores a core contradiction in Japan's approach: while the country ostensibly desires to admit FHR pro-actively, framing this admission in purely economic terms sidesteps a debate on the actionable policies that are required to realize this, including the formation of an immigration policy at the national level.

## II. Background

### Foreigners as human resources and skills-based immigration control policy

In the field of economics, the broad term “resource” is generally defined as something that can create economic value. As such, resources can be further classified into three categories: natural, capital, and human resources. Natural resources are drawn from nature, and comprise minerals, water, or land. On the other hand, capital resources are man-made, and include infrastructure such as office buildings or factories, as well as tools such as heavy machinery or computers. Finally, human resources are, quite simply, people. People, through their education, skills, or abilities, can produce immense economic value, and it is people that make up the labor force of any given business, industry, or even country. In the field of business, the term “human resources” has thus become quite established, with human resources (HR) departments becoming essential in developing, supervising, motivating, and mediating employees. At the societal level, investing in people – whether it be through nutrition, healthcare, or education – is also seen as crucial by policymakers to improve the world we live in. Here, the related term “human capital” is oftentimes used. Human capital generally refers to the knowledge and skills of individuals, while human resources denominate to a set of people (such as employees in a certain industry). It follows then that to improve a given country's society, it is important to develop the human capital of the people living there. Another strategy, which policymakers often choose to employ concurrently for domestic human capital development, is to attract certain human resources from outside their borders. This is done through employing immigration policy.

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<sup>2</sup> The official English-language translation will be used whenever one is available. All translations from Japanese-language texts are done by me.

Immigration policy includes all policies that admit and incorporate foreigners within a country. Broadly, these consist of immigration control policy, which regulates the admittance process, and integration policy, which provides policies to foster a smooth transition into the host society. Traditionally, the former can be further classified into three separate categories: (1) kinship-based policies (e.g., family reunification); (2) humanitarian-based policies (e.g., the asylum process); and (3) skills-based policies. Skills-based policies oftentimes introduce a process of selection based on factors associated with the prospective immigrant's human capital, such as level of education attained, language ability, certifiable skills, or employment history. One widely employed example of a skills-based immigration control policy is the “point system,” which assigns applicants with points based on what the receiving country considers desirable skills. If a threshold of points is cleared, the prospective immigrants can enter the country – oftentimes without the need to have secured employment in the destination country. Points-based acceptance is essentially a supply-side immigration policy, as it aims to increase the stock of employable immigrants based on “general human capital characteristics such as education and experience” (Aydemir 2020). Canada and Australia have historically been the most pro-active in adopting points-based policies, although they have become increasingly popular across the developed world.

However, not all skills-based policies take this route. Demand-side policies, which are based on the specific needs of a certain industry in the host country, can also select prospective immigrants based on their skills. At their core, this type of acceptance is based on having already secured employment in the destination country. Additionally, policymakers can attach conditions such as a cap on total admissions and eligible occupations/industries. In general, demand-side policies are more susceptible to the dynamics of the domestic labor market, selecting immigrants based on skills that satisfy employer demand. Traditionally, the USA and Western European countries have been known to utilize this method of skills-based admission, although it has also been widely employed in East Asia.

### **Japan's modern immigration control policy: A reliance on skills-based language to frame policy**

Japan is no exception to this trend of enacting skills-based immigration control policy. Indeed, the country has consistently explained the admission of foreign workers based on the notion of “skills,” and in recent years added language explicitly referencing human resource development when introducing reforms. As a prelude, the Japanese government generally prefers the term foreign human resources (*kaigai jinzai*) towards related terms such as global human capital (*guro-baru jinteki shihon*). Therefore, I will also use the wording foreign human resources, or the shorthand FHR, going forward. In the following section, I will introduce some of the foreign worker acceptance policies Japan has enacted historically, while taking special care to outline the framing of “desirable” foreign workers in skills-based terms – a trend that has been present since at least 1990.

While Japan has traditionally been seen as a “negative case” of labor migration (Bartram 2000), in 1990 the government enacted an amendment to the Immigration Control and Refugee Recognition Act (hereafter Immigration Control Act) in response to the rapid increase in lower skilled foreign workers, many of which were unregistered. This amendment, in combination with other reforms adopted during this time, established what scholars in Japanese immigration studies call the *kyū jū nen taisei*, or the 1990 system. Below is my definition of what the 1990 system entails, based in part on Komai Hiroshi's work (Komai 2016).

1. In principle, Japan will not admit so-called lower skilled workers.
2. *Nikkeijin*, i.e., 2<sup>nd</sup> and 3<sup>rd</sup> generation Japanese emigrants and their spouses, will be admitted and allowed to work (with limited restrictions to length of stay and type of work).
3. The trainee system will be reorganized (eventually into the TITP in 1993), and more trainees will be admitted.
4. International students will continue to be allowed to seek employment, through the “permission to

engage in activities other than those permitted by the status of residence previously granted.”

5. So-called highly skilled foreign workers will be admitted proactively.

While the aim of this piece is not to give a detailed explanation of each aspect of the 1990 system, it did establish the structures for the admittance of newcomers into Japan based on the notion that highly skilled workers should be pro-actively admitted, while lower skilled workers should not be. One crucial aspect to understand this decision is that the MOJ inherently viewed the admittance of lower skilled labor as akin to allowing permanent settlement by foreigners, which was not deemed to be a desirable outcome as it would constitute an immigration policy (Policy Division, Immigration Bureau, Ministry of Justice 1992, 110). This is also the origin of Japan’s principle of non-immigration, which the country maintains to this day. I would argue that one of the primary results of foregoing the adoption of a formalized immigration policy in 1990 is that it forced policymakers to frame the admission of foreign workers using non-immigrant wording, ultimately leading to the perpetuation of skills-based language including FHR – as well as problematic policy outcomes for the foreign workers themselves.

Based on this direction, the 1990 system institutionalized many of the pathways utilized by foreign workers today. These are summarized in Table 1, which shows the total number of foreign workers by status of residence as of October 2021. Below, I will briefly outline three of the major policies Japan uses for accepting foreign workers, namely admittance of professionals under specialized & technical residence statuses, technical interns, and working students. While there are fundamental differences between these modes of admission, all three have been described using skills-based language by Japanese officials, and today they account for more than 1 million foreign workers – about 60% of the total.

**Table 1: Total number of foreign workers in Japan, by status of residence (October 2021)**

	Total	① Specialized & Technical Residence Statuses		② Designated Activities	③ Technical Intern Training Program	④ Permission to engage in activities other than those permitted by the status of residence previously granted		⑤ Status-based Residence			⑥ Unknown
		Total	Engineer / Specialist in Humanities / International Services			Total	Foreign Students	Total	Permanent Residents	Long-term Resident	
<b>Number of Foreign Workers</b>	<b>1,727,221</b>	<b>394,509</b> (22.8%)	291,192 (16.9%)	<b>65,928</b> (3.8%)	<b>351,788</b> (20.4%)	<b>334,603</b> (19.4%)	267,594 (15.5%)	<b>580,328</b> (33.6%)	345,460 (20.0%)	119,398 (6.9%)	<b>65</b> (0.0%)

Based on data from the MHLW (Ministry of Health, Labour and Welfare 2022)

Firstly, while specialized & technical residence statuses existed before the 1990 system, they were expanded as part of the reforms. The 1990 amendment to the Immigration Control Act added 10 new residence categories for professionals, including what is today known as Engineer/Specialist in Humanities/International Services. As of October 2021, this status accounts for 291,192 (16.9% of the total) foreign workers, generally corresponding to white-collar office work. Furthermore, the amendment underscored that when it comes to the admission of what the government considers to be highly skilled foreign workers, Japan has little institutional barriers to admittance. Statuses corresponding to such professionals, such as Engineer/Specialist in Humanities/International Services, Researcher, Professor, or Business Manager, are demand-side skills-based policies in the simplest terms. Prospective applicants are eligible to obtain one of these statuses as long as they have a standing job offer in Japan with remuneration that is comparable to locals – there are no caps on admittance or labor market tests, for example (Oishi 2014). However, this has not necessarily led to a massive influx of skilled foreign professionals, prompting the 2012 reforms aimed at attracting highly skilled foreign professionals.

One crucial aspect to understand about Japan’s modern immigration control regime, as established through

the 1990 system, is that the country is unique in that it not only describes highly skilled foreign workers using human resources or skills-based language. While the country maintains that it will not admit lower skilled foreign workers *de jure*, it has institutionalized pathways for their acceptance *de facto*. As I mentioned above, two other major categories of foreign workers are participants in the TITP and those holding a “permission to engage in activities other than those permitted by the status of residence previously granted.” The latter permission is most often given to foreign students wishing to work. Today, these two categories account for 351,788 (20.4%) and 334,603 (19.4%) of foreign workers respectively, and scholars generally consider both to be analogous to lower-skilled work. For these two policies, I argue that Japan has chosen to utilize framing devices such as FHR to sidestep questions about the contradictions in the country’s core policy direction.

The TITP was established in 1993, and its fundamental aim is based on the notion of skills transfer. Furthermore, here we can see an early example of the government using the word “human resources.” As the IB’s policy division outlined, the TITP’s goal is to expand “opportunities for foreigners to acquire new skills and knowledge in our country” with the aim of “strengthening relationships between Japan and other countries through the development of human resources, thus contributing to the economies of developing countries” (Policy Division, Immigration Bureau, Ministry of Justice 1992, 112–13). With regards to the TITP, the nominal goal is then to develop human resources within Japan through skills transfer from Japanese companies to the technical interns, which can then contribute to the economy of the sending country. The reality of the program is very different. In the immediate years since its establishment up to the present, many scholars have identified the system as a rotational labor program that relies on forcing workers into a debt trap through brokers in their country of origin. This in turns allows for employment below the minimum wage, limited access to entitlements, no labor mobility, and the curtailing of workers’ rights (Roberts 2018; Iguchi 2002; Komine 2018; Yamanaka 1993). Today, the TITP system is a massive entity, featuring the ISA as an administrative and control agency, the Organization for Technical Intern Training (OTIT) as a monitoring body, and thousands of auxiliary non-governmental organizations. These include foreign brokers recruiting workers, supporting organizations within Japan ostensibly responsible for their basic integration and protection, as well as the employers themselves. This high level of institutionalization, together with limits on eligible occupations, underscores the TITP as a demand-side labor procurement system. Again, the framing of the goal of the TITP in human resource development terms has allowed Japan to forego admitting the fact that it is recruiting lower skilled foreign workers, a taboo under the country’s non-immigration principle.

Japan has used similar parlance to describe increasing the number of international students, which have also become an integral part of the foreign workforce and are possibly one of the least explored aspects of foreign labor migration to the country. The “permission to engage in activities other than those permitted by the status of residence previously granted” is known as *shikakugai katsudō* (or simply *shikakugai*) in Japanese and was also established in 1990. International students are allowed to work up to 28 hours during the school term, and 40 hours during periods of vacation. There are broadly two types of students engaging in work in Japan: those whose primary purpose is education but engage in part-time work to offset education/living costs, and those whose primary purpose is work but utilize the student visa status as a pathway to entry. The latter is especially noteworthy, as it represents another policy to fill the demand for lower skilled labor (Menju 2017). This has led to a third-party support infrastructure of brokers in the countries of origin and Japanese language institutions and other sham vocational schools in Japan for these workers, who find themselves in a legal grey area (as they oftentimes work more hours than their legal allowance) and thus face similar exploitation to that of technical interns (Liu-Farrer and Tran 2019). Nevertheless, the Japanese government has consistently used language referencing FHR when describing its policies to attract more students. For example, as he introduced a plan to increase the number of students to 300,000 in 2008, Prime Minister Fukuda Yasuo noted that “through industry-academia-government collaboration we want to

facilitate the acceptance of talented foreign human resources into our graduate schools and companies” (Suhara 2010).

However, not all immigration control policies Japan adopted as part of the 1990 system were framed in skills-based terms. The establishment of the Long-term Resident status for *nikkeijin*, the descendants of Japanese emigrants primarily coming from South America and the Philippines, can be considered a kinship-based policy. However, many *nikkeijin* took advantage of the newly liberalized regime to come to Japan primarily for the purpose of finding work, and scholars debated over whether the decision to admit them was primarily taken with the goal of ethnic repatriation or labor procurement (Tsuda 1999; Yamanaka 1996). Today, many foreign workers holding status-based residence permits, which comprise the majority of workers outside of the three main categories I highlighted above, are *nikkeijin*. On the other hand, Japan has afforded only a very small number of visas based on humanitarian grounds, and this aspect of immigration control policy has basically been a non-factor throughout Japan’s modern history.

As I hope to have made clear, since the establishment of the 1990 system Japan has consistently used skills-based language in general, and the wording “human resources” specifically, when describing its immigration control policy. Furthermore, Japan is unique in that it describes foreign workers across all skill levels in such terms. This raises questions about what specifically Japan means when it talks about foreign human resources: is it aiming to develop foreign human resources internally to send back to their country of origin? Is the country aiming to attract highly skilled foreigners from abroad to contribute to the domestic economy? Or is it perhaps a combination of the two? While Japan has consistently used FHR to frame the admission of foreigners, the country’s definition of FHR seems to vary greatly by pathway of admission. As mentioned in the outset of this piece, under former Prime Minister Abe Japan has doubled down on such language to describe the two major reforms to its immigration control regime of the last decade. Therefore, to complete my overview on Japan’s skills-based policies, the following two sections will analyze these reforms, namely the points-based system for highly skilled foreign professionals and the Specified Skilled Worker residence statuses.

### **III. The Points-based Visa for Highly Skilled Foreign Professionals**

The points-based visa for highly skilled foreign professionals, which grants the residence status Highly Skilled Professional (HSP), was established in 2012. While the original system was largely developed and put into law by the Democratic Party of Japan (DPJ) government in power from 2009 to 2012, Abe immediately revised the system in 2013, and there have been numerous further reforms since. Firstly, how does Japan define highly skilled professionals under this system? The official definition, still used on the ISA website today, is taken from a 2009 report by the “Assembly for the Acceptance of Highly Skilled Professionals,” which was comprised of various government and non-government actors and was ultimately successful in lobbying for the policy. According to this document, HSPs are “high-quality, irreplaceable human resources who contribute to capital and labor in Japan;” and “human resources who are expected to generate innovation in industries in Japan, promote the development of expert/technical labor markets through their diligence and working with their Japanese colleagues, and increase the efficiency of the labor market of Japan” (Assembly for the Acceptance of Highly Skilled Professionals 2009). Arguably, this definition endures for Japan, which has been consistently vague when it comes to how it defines skills or foreign human resources. However, as the policymaking process continued, the three specific job categories in which the HSPs had to be employed to attain the new status became clear. These are:

1. “Advanced academic research activities” (corresponding to scholars and researchers).
2. “Advanced specialized/technical activities” (corresponding to engineers and ICT workers, for instance).
3. “Advanced business management activities” (corresponding to managerial/executive positions in

business (Immigration Bureau, Ministry of Justice 2017b)).

Compared to Japan's other skills-based policies, HSP offers the status holder eased access to permanent residency, and permission for parents and domestic workers to accompany the status holder in addition to spouses and children. Furthermore, similar to other highly skilled visas, there are no caps on admittance or labor market tests (Green 2015). Now, being a points-based system, to obtain the HSP status the applicant must clear the 70-point hurdle. Analogous to similar systems around the world, points are awarded based on academic background, career experience, annual salary, age, or Japanese language ability (Immigration Bureau, Ministry of Justice 2017b). In 2013, after the program experienced a slow start, Abe's initial revision saw certain criteria softened significantly, especially the points awarded for salary (Immigration Bureau, Ministry of Justice 2013). In 2014, the HSP (ii) status was established. This status can be obtained after being employed while holding the HSP (i) status for three years and grants more flexibility in changing jobs (if employment remains within a highly skilled category). Furthermore, in 2017 the time required before being allowed to apply for permanent residency was reduced from the initial 5 years to 3 years for HSPs that obtained more than 70 points, and 1 year for those having cleared 80 points (Immigration Bureau, Ministry of Justice 2017a). Usually, foreigners must stay in Japan for 10 years to be eligible to apply for permanent residency.

The HSP residence status signifies the first time Japan has opted for a version of a supply-side skills-based immigration control policy, although it does include a demand-side element: applicants must be employed in the sectors specified in the HSP category. Furthermore, Japan's HSP system is fundamentally different from similar supply-side policies as it is merely an auxiliary policy. As Oishi (2014) notes, the inherent objective of the HSP system is different: while countries such as Canada and Australia screen potential immigrants by the skills they desire through points-based systems prior to entering,<sup>3</sup> Japan has instituted this system on top of its other major avenues of acceptance. Japan's system is thus unique in that it does not restrict the admission of foreign workers on points-based considerations, but rather affords additional benefits to those that clear the hurdle. This core policy direction is underscored in the official name of the program, i.e., "points-based preferential immigration treatment for highly skilled foreign professionals." As the name suggests, the idea is to afford "preferential treatment" to HSP status holders, the foremost being fast-tracked access to permanent residency. I would thus argue that the establishment of the HSP status has not necessarily produced a major new pathway for Japan to attract FHR, but rather to retain highly skilled foreign workers already in the country. The numbers show a similar story: from 2015 to 2019, a total of 1,977 *new* foreign workers entered the country as HSPs (Immigration Services Agency of Japan, Ministry of Justice 2020c), while the total number of accepted status holders during the same period was 18,894 (Immigration Services Agency of Japan, Ministry of Justice 2022a). Overall, a total of 31,451 HSPs have been accepted since the program was launched in 2012, and there are 15,735 status holders as of 2021 (Immigration Services Agency of Japan, Ministry of Justice 2022b). This means that HSPs account for less than 1% of the foreign workforce.

#### **IV. The Specified Skilled Worker System**

Arguably the most significant change to Japan's immigration control policy came through the enactment of the 2019 amendment to the Immigration Control Act. The amendment created two new visa categories (Specified Skilled Worker, or SSW, i and ii) for a total of 14 economic sectors identified as having a labor shortage. The SSW statuses were established with the primary goal of alleviating these labor shortages through admitting FHR with a certain level of skills, to be determined through sector-specific aptitude tests (Immigration Services Agency of Japan, Ministry of Justice 2022d). Abe underscored this sentiment when he was defending the pending reforms in the National Diet in 2018, stating that "to combat the severe

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<sup>3</sup> Of course, these countries also have temporary worker programs. However, in terms of percentage of foreign workers, supply-side policies play a far bigger role than in Japan.



shortage of labor [...] Japan will admit foreign human resources with a certain level of expertise while limiting their length of stay” (National Diet Library 2018). Table 2 provides an outline of the two SSW statuses, while Figure 1 gives more detail on the admissions cap by industry. Broadly, the SSW system is a demand-side policy that provides the following legal framework for the admittance of foreign workers:

*Status:* A legal pathway for lower skilled workers, featuring protection under labor laws and access to social and labor insurance. Twelve of the 14 industries selected for the SSW (i) visa overlap with the TITP, accounting for most foreign workers currently employed by that system (see Figure 1).

*Settlement:* Through the SSW (ii) visa, a pathway towards permanent residency and family migration. Furthermore, a pathway for status progression both for students and technical interns to the SSW (i) status, the latter being exempt from both the sector-specific and language examination provided they have completed three years in the TITP. In addition, upon passing the SSW (ii) sector-specific exam, status change from SSW (i) to (ii) is also possible, technically allowing for a path to long-term settlement as well.<sup>4</sup>

*Access:* Although determined by sector-specific exams and language ability, relatively low barriers to entry to the system for workers. However, it must be noted that there is an overall cap on the number of workers to be admitted under the new statuses, which ranges by industry (see Figure 1). The total cap is 345,150 over the first five years from implementation.

Despite the governments framing of the SSW system in familiar FHR terms, one glance at the eligible occupations makes it clear that these reforms target a very different type of foreign worker than that of the HSP program. Indeed, the “Specified Skills” moniker attached to the new visa categories suggests that the government is simply redefining who it considers a skilled worker to fit industry demand for labor. While some have called the amendment a “medium-skilled” worker program (Milly 2020), the overlap with many TITP industries, low language requirement (JFT Basic or JLPT N4, the second lowest level offered), relative easiness of some of the aptitude tests, and lack of cultural training suggest that it is simply reorganizing and institutionalizing many of the lower skilled labor categories previously served by other policies (Oishi 2020).

**Table 2: Outline of the SSW (i) & (ii) visa category specifics**

	Specified Skilled Worker (i)	Specified Skilled Worker (ii)
Period of Stay	Up to 5 years total	Unlimited
Occupational Sector	14*	2*
Skill Level	Determined by sector-specific exams, exempt if Applicant has completed Technical Intern Training (TITP) (ii) (equal to 3 years)	Determined by sector-specific exam
Level of Japanese Language Proficiency	Japanese language skills necessary for day-to-day activities and work, as determined by an exam or the completion of TITP (ii)	Exempt from examination on Japanese proficiency
Accompaniment of Family Members	No	Yes (Spouse and Children)
Path to Permanent Residency	No, although status change to SSW (ii) is possible	Yes

Table created based on MOJ documents (Immigration Services Agency of Japan, Ministry of Justice 2020a)

<sup>4</sup> Additionally, in the case of a foreign worker that completes the TITP program (5 years), changes status to the SSW (i) category, and works for the maximum allowed period of stay (an additional 5 years), they will have stayed in Japan for a total of 10 years. A successive stay of 10 years allows for the application to permanent residency.

**Figure 1: 14 industries selected for the SSW visa category, by responsible ministry**

MHLW:	<i>Care worker (60,000), building cleaning management (37,000)</i>
METI:	<i>Machine parts &amp; tooling industries (21,500), industrial machinery industries (5250), electric, electronics, and information industries (4,700)</i>
MLIT:	<b>Construction industry (40,000), shipbuilding &amp; machinery industry (40,000), automobile repair &amp; maintenance (7,000), aviation industry (2,200), accommodation industry (22,000)</b>
MAFF:	<i>Agriculture (36,500), fishery &amp; aquaculture (9,000), manufacture of food and beverage (34,000), food service industry (53,000)</i>
<p>The number in brackets indicates the government identified shortage of workers and signifies the maximum number of foreign nationals to be accepted over 5 years. Italics indicate sectors currently accepting workers under TITP. Bold indicates acceptance under both the SSW (i) and (ii) category.</p>	

Table created based on MOJ documents (Immigration Services Agency of Japan, Ministry of Justice 2020a).

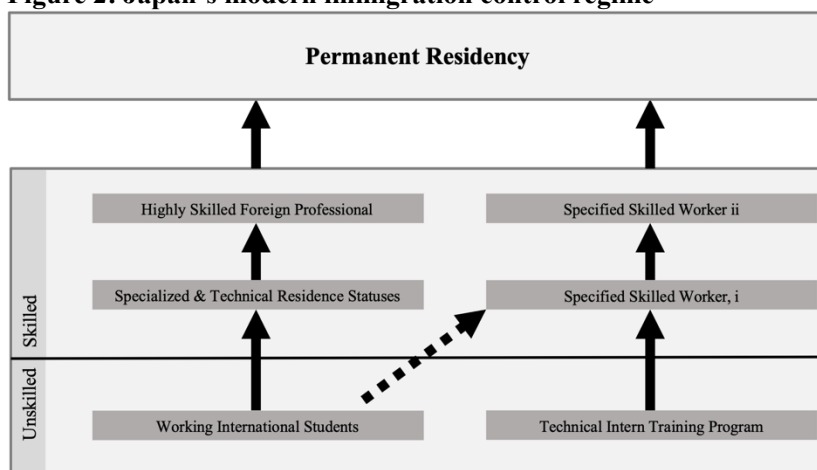
As of June 2022, a total of 87,472 foreign workers have obtained an SSW status (Immigration Services Agency of Japan, Ministry of Justice 2022c). Unless a rapid expansion of the program is achieved, this suggests that the government is set to miss its overall target of 345,150 workers admitted by 2024. Furthermore, looking at the numbers in more detail, one crucial similarity to the HSP is that the primary function of the SSW system is worker retainment, not recruitment. Of the 87,472 status holders, only 14,088 (about 9%) newly entered Japan as an SSW (Immigration Services Agency of Japan, Ministry of Justice 2022c). Indeed, 66,535 foreign workers that have made the switch to the new statuses were previously employed as technical interns.

## V. How has the admission of foreign workers into Japan changed?

Since 2012, Japan has added significant new skills-based policies to its immigration control regime, all with the nominal goal of attracting FHR. While the HSP and SSW programs have not yet replaced existing pathways for foreign labor procurement, they do indicate that Japan has doubled down on framing the acceptance of foreigners within their borders in economic terms, preferring skills-based policies based on FHR over other immigration control policies that are kinship- or humanitarian-based.<sup>5</sup> This has been underscored not just when reading through policy documents, but also in the language of policymakers – headlined by former Prime Minister Abe. Furthermore, in October of 2022 the ISA released a new policy document titled “The admittance of foreign human resources and the realization of a society of co-existence” that clarified the government’s core policy direction when it comes to immigration control policy. I have created Figure 2 based on this document.

<sup>5</sup> Although the preferred access to family reunification that the HSP statuses and SSW (ii) suggests some kinship-based considerations on the part of policymakers.

**Figure 2: Japan’s modern immigration control regime**



Compared to the ISA’s document, I have added the category “working international students” to the unskilled section at the bottom, and the “permanent residence section” at the very top, as well as indicating the primary routes of status progression in bold arrows, and secondary routes in dotted arrows. The essence of Figure 2 is similar to what the ISA presents, however. To welcome FHR to Japan, there are two main tracks, the HSP track and the SSW track. As I have shown through my analysis of both programs, these tracks primarily work under the principle of worker retention. HSPs are primarily recruited from those within Japan holding specialized & technical statuses, while SSWs are primarily recruited from technical interns. Through this process of selection, Japan affords additional benefits to those workers with skills it deems desirable – ultimately ending in permanent residency, which is a status-based residence status outside of skills-based policies. Of course, the lower skilled SSW track is institutionally designed to make progression towards permanent residency more difficult than the HSP track, a point I will come back to in my conclusion. As a final data point, I want to show how specifically this new immigration control regime works in practice, and for this I have compared foreign worker numbers from 2012 and 2021 as part of Table 3 below. I chose 2012 as a starting point as it was both the year the HSP system was introduced, and the year Abe swept back into power for his second term.

**Table 3: The change in admission of skills-based and status-based foreign workers, 2012–2021**

2012				2021			
	Status	Status Holders	Percentage	Status	Status Holders	Percentage	Growth
Total		675,659	100%		1,661,228	100%	246%
Skills-based	Specialized & Technical	124,259	18%	Specialized & Technical	340,437	20%	274%
	TITP	134,228	20%	TITP	351,788	21%	262%
	<i>Shikakugai Katsudou</i>	108,483	16%	<i>Shikakugai Katsudou</i>	334,603	20%	308%
	HSP	-	0%	HSP	15,735	1%	N/A
	SSW	-	0%	SSW	38,337	2%	N/A
Status-based	Total	308,689	46%	Total	580,328	35%	188%

Based on data from the MHLW (Ministry of Health, Labour and Welfare 2013; 2022) & MOJ (Immigration Services Agency of Japan, Ministry of Justice 2022b; 2022c)<sup>6</sup>

Table 3 shows clearly how Japan’s immigration control policy has changed under Abe. While the number of

<sup>6</sup> As the MHLW data does not separate specialized & technical status categories in detail, I have utilized MOJ data for the 2021 numbers of HSP and SSW status holders. They were then subtracted from the specialized & technical category for that year.

foreign workers significantly increased across the board, the highest rate of increase was seen under the various skills-based categories. This has led to the share of status-based foreign workers, of which the *nikkeijin* historically account for a large percentage, to drop to 35% of the total by 2021. Most significantly, those skills-based admission programs corresponding to lower skilled labor increased the fastest, with the TITP and those holding *shikakugai* status seeing growth rates of 262% and 308%, respectively. The trademark policy achievements of the last decade, the HSP and SSW systems, still account for a relatively small number of foreign workers – although the latest data for the number of SSW status holders that I cited above shows a significant spike in growth from 2021 to 2022. This leads into my conclusionary remarks: based on these numbers and my analysis as a whole, how can we evaluate Japan’s doubling down on skills-based immigration control policies under the framework of FHR?

## VI. Conclusion

Throughout this article, I have demonstrated how many of the major pathways that Japan utilizes for the acceptance of foreign workers are framed using skills-based language, specifically the phrase foreign human resources (*kaigai jinzai*). Furthermore, the country is unique in that it uses such language for foreign workers across all skill categories, including those corresponding to lower skilled labor. Since 2012, this trend has been pronounced even further, as the country has transformed its immigration control regime towards an entirely skills-based vision under the leadership of former Prime Minister Abe. As I hope to have shown, the reforms that implemented the HSP and SSW systems signify a doubling down on arguably ambiguous skills-based rhetoric, a trend that has been present since at least 1990. However, as I will argue below, many of the original contradictions of Japan’s system remain in place, especially as they relate to lower skilled workers.

As Japan categorically states that lower skilled foreign workers should not be admitted, it has relied on the so-called back and side door policies to fulfill the clear demand for such labor. Historically, this has included a large share of both unregistered workers as well as repatriated co-ethnics (*nikkeijin*), the latter arguably being a kinship-based policy. Today, Japan relies primarily on policies that are nominally skills-based, although it has oftentimes struggled to provide a clear outline of what these skills entail. This is most problematic for the two pathways for labor procurement that have seen the most rapid growth under Abe: technical interns and working students.

As I described above, the technical intern system is a crucial supply of cheap labor for Japan, and it has been further institutionalized and expanded over the years. Under the guise of developing FHR, Japan has created a pipeline of workers that are placed in a precarious status through debt trapping in their host countries and restrictive access to entitlements in Japan. Now, the SSW system has effectively introduced a mechanism to retain these workers. After three years, technical interns can switch over to this preferable system, which in theory provides an eventual legal pathway to permanent settlement – and thousands of interns have taken advantage of this. While this is undoubtedly a positive step forward, numerous questions remain as to how Japan sees the SSW track going forward. Has Japan abandoned the idea of “skills transfer,” i.e., contributing to the economic development of countries of origin through developing human resources? If so, the TITP has seemingly lost its *raison d’être*. One thing is clear: in its current form, the SSW system appears to be nothing more than an extension to the TITP. Despite the ISA’s clear classification of the SSW track as highly skilled, both the language requirements and skills tests required to gain access to the system objectively do not require a high level of skills at all. Furthermore, the most attractive “rewards” Japan affords SSW status holders – the prospect of long-term settlement, eventual permanent residency, and family reunification under the SSW (ii) status – are limited to workers in specific sectors only. At the time of writing, there are only a total of three SSW (ii) status holders, raising doubts as to whether Japan wants to welcome workers using the SSW track permanently.

In theory, Japan's framing of the continued expansion of the number of international students is correct. Foreigners studying and working part-time in Japan can potentially obtain academic degrees, acquire language skills, as well as work experience in the country. However, there is a large cohort of students that either rely on working close to or over the legal maximum to pay for their education, or who come to Japan with the explicit goal of engaging in labor. Again, here Japan has opened more pathways to retain students, namely through providing access to both the HSP and SSW system. This is in addition to previously existing visa statuses, which were accessible to international students if they had a standing job offer. It is important to remember that both working students and technical interns were inherently placed in rotational systems, meaning many left Japan once their residence status expired. The numbers underscore this assertion: In 2019, a total of 147,615 foreigners with international student and TIPT visa statuses left Japan, forfeiting their residency (Immigration Services Agency of Japan, Ministry of Justice 2020b).<sup>7</sup> Therefore, while creating pathways to remain in Japan for these foreign workers, the status of which is oftentimes precarious, is an important step forward, it remains to be seen how effective retainment is going forward.

Overall, both the HSP and SSW add a new selection process to create a multi-tiered immigration control regime that rewards foreign workers with certain skills, with the HSP track corresponding to highly skilled labor and the SSW track corresponding to low- and medium-skilled labor. However, it is at this point that I would like to underscore the core contradiction between Japan's approach. While the country admits an increasing number of foreign workers under the guise of FHR, it does so only through immigration control policy. One of the core principles of the 1990 system is that Japan does not have an immigration policy, which includes *both* immigration control and integration policies, and is generally defined as adopting policies that seek to welcome foreigners as long-term members of society. While it is true that Japan has created more legal pathways for certain foreign workers to settle in the country, it has not been willing to deal with the fundamental problems of those policies that have seen the most growth over the last decade: working students and technical interns. Through a continued framing of foreigners in these systems as human resources, the government has consistently side-stepped an honest debate as to what they actually are: lower skilled foreign labor in a precarious status stuck in oftentimes highly exploitative systems.

If Japan were serious about developing and attracting FHR, it would welcome foreign workers of all skill levels into the country as immigrants and enact integration policies that foster their success in their new home. As a rule, Japan's central government avoids the word *tōgō* (integration), preferring *tabunka kyōsei* (multicultural coexistence). The term first made it into a major policy document in 2006, when the Ministry of Internal Affairs and Communications (MIC) published its "Plan for the Promotion of Community-based Multicultural Coexistence" – which would be revised again in 2020 (Ministry of Internal Affairs and Communications 2020). This plan aims to support municipalities in adopting multicultural coexistence policies, such as through providing translation services and grants (Aiden 2011). However, it is entirely voluntary in nature and leaves concrete implementation up to the local level, and is therefore lacking in accountability mechanisms. This has resulted in the availability of services that promote integration being highly dependent on where you live, a situation that can be described as "national minimum, local maximum." A recent quantitative study of 106 municipalities found that only a slim majority even adopted *tabunka kyōsei* plans, with large variability among plan quality – concluding that "many of Japan's large cities are not taking broad action to integrate their foreigners" (Green 2021, 422). This suggests that the lack of leadership by the central government has not been adequately covered at the municipal level. Furthermore, as Shiobara (2020) notes, the influence of the MIC's vision for multicultural coexistence has declined in recent years, with the MOJ preferring the more generic term coexistence (*kyōsei*) – especially in the context of coexistence with

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<sup>7</sup> This figure was calculated using MOJ data for the number of departures by visa status for the year of 2019. To arrive at an accurate number, those who obtained a re-entry permit were subtracted from the total (as they were most likely returning home temporarily). Due to the COVID-19 pandemic that began in 2020 restricting international movement, the 2019 numbers were chosen as they more accurately reflect migration trends.

FHR.

The central government's focus on immigration control over integration can also be seen in the two policies analyzed in this paper. For example, the SSW system requires only a minimal level of Japanese, and while the HSP system rewards language ability, it is possible to obtain status without any knowledge of the language. Neither policy features any proactive government-led integration policies that would allow for potential applicants to learn language (or other cultural) skills. This is the problem with maintaining the principle of non-immigration: it allows Japan to explain away its most problematic systems of foreign labor procurement under the FHR façade without investing into policies that would produce a significant number of highly skilled foreigners able to contribute to Japan's economy and society – foreign workers that the country desperately needs. A recent study by the Japan International Cooperation Agency (JICA) estimated Japan would need to quadruple its foreign workforce by 2040 to achieve the government's GDP growth targets (Japan International Cooperation Agency 2022).

Finally, the usage of certain vague definitions of both “skills” and “foreign human resources” throughout Japan's immigration control regime forgets what human resources actually are: real people with their own cultures, identities, and motivations. As long as Japan refuses to come to terms with this fact, both the HSP and SSW systems will remain simply auxiliary policies that produce little fundamental change. This too is the legacy of maintaining the principle of non-immigration. Despite his proactive stance when it came to reforms to Japan's immigration control policy, Abe was not ready to take the next step. When introducing the SSW system in 2018, he began his speech repeating the long-held trope of the Japanese policymaking establishment: “The government is not considering the adoption of a so-called immigration policy” (National Diet Library 2018).

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