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# FOREIGNERS' RIGHTS IN JAPAN

## *Beneficiaries to Participants*

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Yasuo Takao

### Abstract

This article examines the impact of Japanese local government's initiatives for promoting the protection of foreigners' rights. Evident in this study is the premise that local government is the single most important factor for promoting foreigners' rights in Japan.

Japan has always been quite strong in ethnic homogeneity. Indeed, it remains ethnically and racially much less diverse than major Organization for Economic Cooperation and Development (OECD) countries.<sup>1</sup> One would thus expect that Japan would not be driven by an urgent necessity for integrating ethnic noncitizens. Yet, the country has dramatically extended social benefits to foreigners in recent years. By 1986, a wide range of social benefits was available to registered foreigners under 13 different national laws. Direct relief to the poor was the only social service that was not available to foreigners.<sup>2</sup> The momentum behind this policy expan-

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1. According to sources calculated from OECD, *Trends in International Migration: Continuous Reporting System on Migration*, 2000 ed. (Paris: Organization for Economic Co-operation and Development, 2001), as of 1998, registered foreign population as a percentage of total population was 1.2% for Japan, 8.9% for Germany, 6.3% for France (1990), 5.6% for Sweden, 4.7% for the United States (1990), 3.8% for the United Kingdom, and 2.1% for Italy.

2. In the 1980s, to extend social services to foreigners, the Japanese government removed the so-called *kokuseki-joko* (nationality clauses) included in a wide range of national welfare laws, which had exclusively confined the recipients of public services to only Japanese nationals. Perhaps the most significant change was the 1982 removal of a nationality clause in the National

sion was clearly growing. In the early 1990s, exclusive voting rights that the territorial state guaranteed only to its nationals came under close scrutiny, with the debate over foreigners' political participation heating up across the nation. In 1998, lawmakers set a National Diet agenda on foreigners' voting rights at the local level.

International migration brings a new dimension to civil society. The original concept of transnational relations is defined as interactions across state boundaries,<sup>3</sup> but my research on foreigners' voting rights in this study suggests that this definition fails to highlight a transnational phenomenon of international migration. In the case of foreigners' voting rights, the national identities and sense of community both cross borders, even if the transactions do not. The traditional concept is too much wedded to a one-dimensional understanding of actors inside/outside the territorial boundaries. With regard to voting rights for foreigners in their host country, the inside/outside distinction does not relate to the physical location of these individuals, but rather to their rights and obligations. Foreigners' political participation, which transcends non-nationals' socio-political boundaries in their host countries, has a potential for helping to build transnational civil society. This study illustrates the importance of the local government's role played in facilitating such a process.

The status of foreigners' residence in Japan, stipulated by the Immigration Control and Refugee Recognition Act, is classified into 27 types. Foreigners residing in Japan may engage in the scope of activity that is specified by their status of residence. Period of stay is determined by the status of foreigners. All foreigners residing in Japan are obliged to register as foreign residents within 90 days of entering Japan. They must complete Foreign Resident Registration at their local ward or municipal office and receive a foreign resident registration card. This is the key procedure for foreigners to be eligible for social services. One of the largest categories of registered foreigners is the status of "special permanent residents" that is granted to colonial immigrants and their descendants (Koreans and Taiwanese). These residents hold a status with no employment restriction. Another major status category is migrant workers, whose number rose rapidly in the 1990s. These workers increasingly stay longer, and many are illegally staying in Japan beyond the expiration of their authorized term.

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Pension Law whose pension plan excluded all foreigners, including Korean residents. In the same year, it was followed by the removal of those clauses in three child-allowance laws. By 1986, when registered foreigners became eligible for the National Health Insurance, the Japanese government had taken measures to apply to legal foreign workers all national laws relating to social welfare, except the Livelihood Protection Law (direct relief to the poor).

3. Joseph Nye and Robert Keohane, eds., *Transnational Relations and World Politics* (Cambridge, Mass.: Harvard University Press, 1970), pp. x-xi.

Health care is one of the greatest concerns for foreigners living and working in Japan. There are two major types of state-operated medical insurance: the Health Insurance System for company employees and the National Health Insurance System for the self-employed, the latter being the insurance plan most often used by foreigners. Some short-term registered foreigners who are not covered by either insurance plan are often unable to pay medical costs. Many local governments, as this study will describe later, therefore extend their subsidies to foreigners' medical treatment. Today, jobs are available to foreigners in many local governments. Foreigners, if successfully employed, are eligible to join, in place of the two major systems, the Mutual Aid Associations plan, which covers most public service employees. Illegal foreign residents are in principle excluded from this social benefit, but medical practices often choose to look after foreign patients, whether legal or not, and whether solvent or not. In practice, local authorities continue to offer direct relief to foreigners in immediate need who have overstayed their visas.

This current practice leaves Japan a great distance away from the traditionally perceived ideal of racial homogeneity and non-integration. Even as late as 1979, when the Japanese government finally ratified the United Nations international covenants on political rights and on economic and social rights, the traditional image of Japan's exclusionary culture against foreigners appeared to be firmly entrenched. Japan's low profile of human rights activities in the United Nations was contrasted with its zeal in obtaining a permanent seat on the Security Council. The Japanese government had been extremely reluctant to implement international norms into its domestic human rights policies. Before 1982, for example, Korean residents, who had been Japanese nationals during Japan's colonial period, were excluded from the state-operated pension. Given Japan's small noncitizen population and exclusionary political culture in the past, a key question must be raised. Why is Japan now doing so much to protect foreigners' rights? This study seeks to explain the reasons behind the extension of economic and social rights to foreigners, and the initiatives for promoting foreigners' political rights.

No single factor explains the scope of any policy change. Each policy area is distinctive in terms of who participated, what actions they took, and with what effects. Most policy expansions occur in regard to existing programs within the system of national government in an incremental fashion, with little public awareness.<sup>4</sup> In the case of foreigners' rights in Japan, by contrast, decision-making involves not only a new commitment of national re-

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4. See Hugh Heclo and Aaron Wildavsky, *The Private Government of Public Money* (Berkeley and Los Angeles: University of California Press, 1974); Aaron Wildavsky, *Budgeting: A Comparative Theory of Budgeting Processes* (Boston: Little, Brown, 1975).

sources, but also an alteration of the relationships between the state and citizens. A variety of social groups and organizations participate in the process, attracting much public attention.

A combination of international agreements, foreign pressure, and domestic factors associated with increasing foreign migration to Japan has contributed to growing calls for foreigners' rights.<sup>5</sup> International treaties relating to refugees, pressure from the South Korean government, domestic court decisions, noncitizens' social movements, and electoral politics may be considered as contributory factors in explaining the policy expansion and initiatives. But even if we accept these factors as contributing to the cause for extending rights to foreigners, they do not clearly answer the question of what was the major underlying condition for the promotion of foreigners' rights in the 1980s and the 1990s.

This article's central claim is that because the extension of foreigners' rights is a distinctive process, the primary source feeding this process is found in the peculiar role of local government. At the national policy level, foreigners' rights expanded particularly when Japan ratified treaties, such as the 1965 Korea-Japan Legal Status Agreement and the Convention Relating to the Status of Refugees, which were accordingly implemented into domestic law. No doubt, this was an immediate and necessary condition for the nationwide extension of foreigners' social benefits. But the policy area of foreigners' rights also involves a new redistribution of power and resources between the state and citizens. Indeed, policy innovation and initiatives taken by Japanese local governments for the protection of foreigners' rights have made this issue more visible and have helped shape public opinion on reform. While the Japanese national government has been extremely reluctant to engage fully in international norms, Japanese local governments have been cultivating new categories of norms about foreigners' rights. Japanese local governments, while helping legitimate the extension of foreigners' rights at the national level, continue to locally extend foreigners' rights beyond the reach of the state. As this study illustrates, Japanese local authorities and residents at the grassroots level have taken this issue into their own hands to deal with the increasing number of foreigners in their communities. This is

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5. Some scholars argue that it is increasingly important for the state to extend citizenship rights to non-citizens for the protection of immigrants. See Yasemin Nuhoglu Soysal, *Limits of Citizenship: Migrants and Postnational Membership in Europe* (Chicago: Chicago University Press, 1994); David Jacobson, *Rights across Borders: Immigration and the Decline of Citizenship* (Baltimore: Johns Hopkins University Press, 1996). Other studies have attempted to provide empirical evidence of why states allow unwanted migration and even extend rights to non-citizens. See Gary P. Freeman, "Modes of Immigration Politics in Liberal Democratic States," *International Migration Review* 24:4 (Winter 1995), pp. 881-902; Christian Joppke, "Why Liberal States Accept Unwanted Immigration," *World Politics* 50:2 (January 1998), pp. 266-93.

certainly the sufficient condition for the extension of rights to foreigners, as far as local authorities are free to engage in such activities without intervention by the national government.

There are two fundamental reasons for this. First, local government occupies a strategic position straddling the division between the state and citizens. State authority tends to preserve the fixity of nationality, which serves to close off foreigners' public space. Yet, local government has to cope with encounters between Japanese nationality-dominated membership and new multinational political space in local communities. Local government is in a position to develop a safeguard to meet pressing needs beyond the reach of the state. Second, local government acts as an immediate rescue center to assure individuals' security, a place to which local as well as foreign residents resort. This is primarily because the state's inability to manage international migration leaves it up to local communities to deal with the increasing presence of foreigners' needs. Local communities are thus at the forefront of coping with this issue.

This article seeks to examine the course of events relating to the extension of rights to foreigners in order to see the specific role of local government as the major factor and to also examine how this role interrelates with other contributing factors. The following examination is thus organized according to across-the-board factors relevant to any policy area, and potential factors distinctive of the expansion of foreigners' rights.

## Growth in Foreign Population: Demography

At a general level, policy expansion is explained as the government's response to increased needs. Today, the number of registered alien residents in Japan is 1.69 million, with one out of 80 residents in Japan being foreign.<sup>6</sup> Newspapers report that the dramatically increased number of foreigners in Japan is the single most important factor for promoting foreigners' rights.<sup>7</sup> But does this explanation really hold up under close examination? It is true that Japan is becoming more diverse in terms of the growth rate of registered foreigners. The proportion of registered foreigners to total population remained unchanged from 1975 to 1980, increased steadily by 29.8% from 1980 to 1990, and rose rapidly by 52.9% from 1990 to 2000.<sup>8</sup> This trend would indicate the increasing needs of registered foreigners living and work-

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6. See Nyukan Kyokai [Japan Immigration Association], ed., *Zairyu Gaikukujin Tokei* [Foreign resident statistics], 2001 ed. (Tokyo: Nyukan Kyokai, 2001).

7. See, for example, *Asahi Shimbun*, September 22, 1993, November 3, 1994; *Sankei Shimbun*, November 4, 1998.

8. Calculated from materials provided by Immigration Bureau, Ministry of Justice.

ing in Japan to receive social services; however, the extension of social benefits to foreigners has been rather abrupt at the national policy level. By 1986, the current national system of social benefits for foreigners had already been established, although it has been marginally modified since then. As far as political rights were concerned, it was only in 1998 that national politicians in the national Diet began to deliberate about foreigners' local suffrage. The increased presence of foreigners in Japan thus did not directly determine the course of national policy expansion, although this is not to say that the increased needs did not set parameters for policy expansion in the long term. By contrast, the impact of the increasing number of foreigners on policy priorities at the local level was distinct from that at the national level. As examined later in the section on local government, local government was constantly responsive to a range of foreigners' interests that often did not find a voice at the national level.

### *The Bubble Economy: Economic Growth*

Another general explanation for policy expansion is the increase in government revenue. In general, high economic growth creates a larger income-tax base. The government has more freedom in operating a service as its revenue expands. It may even afford a large and new commitment of national resources. The extension of social benefits such as health care and child allowances to foreigners significantly involves a redistribution of resources that average taxpayers would prefer to avoid. Such a redistributive initiative appears to be taken only when the nation is at periods of high economic growth. Between 1987 and 1990, Japan's gross national product (GNP) increased by an average of 5.1% every year in real terms. This boom was known as the "bubble economy." Fiscal years 1988 to 1991 accordingly saw a large government budget expansion, with an average annual growth rate of 6.8%. Nonetheless, the 1982–86 extension of foreigners' benefits ran far ahead of the high budget growth. During the first half of the 1980s, exactly when the policy expansion occurred, alliances of top conservative politicians, led by Prime Minister Nakasone Yasuhiro, joined forces with big business leaders to attack the national bureaucracy for "mindless" growth in government spending. In 1982, the Ministry of Finance indeed began to impose the principle of zero growth on budget requests, and in 1983, that of minus growth. The relationship between resource increases and the policy expansion is far from significant.<sup>9</sup>

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9. Figures in this section are based on Japan, Economic Planning Agency, ed., *Kokumin Keizai Keisan Hokoku* [Report of statistics on national economy, 1955–94] (Tokyo: Zaimusho Insatsukyoku, 1996).

*Weight of Popular Pressure: Public Opinion*

In any democratic nation, one normally expects that the weight of popular pressure and opinion, to some extent, influences the process of decision-making toward policy expansion. Probably the most fundamental condition for the promotion of foreigners' rights is changes in basic social values—in particular, views on foreign residents and workers. But such social value structures are less likely to change abruptly in favor of foreigners' rights in a short period. In other words, popular pressure is a more indirect mode of influence, and thus an inadequate explanation of the policy surge. As a matter of fact, between 1990 and 2000, according to nationwide government surveys, Japanese people's concerns with the issues of foreign workers remained almost unchanged.<sup>10</sup>

Interestingly enough, this study found that the trend of opinion about foreign workers does not correlate to that about local suffrage for foreigners. Nationwide opinion polls show a significant change during the 1990s in eligible voters' attitudes toward foreigners' political participation. From the mid-1990s to 2000, voters' support for foreigners' local suffrage increased by nearly 40%.<sup>11</sup> Since the level of general public concern toward foreign workers remained essentially unchanged, yet public concern about foreigners' political participation changed significantly in the second half of the 1990s, the continuously increasing number of foreigners explains neither the unchanged opinion nor the abruptly changed opinion. It is most likely that this change is due in significant part to frequent public exposure via local government actions promoting foreigners' political participation, and to the resulting media coverage of foreigners' local suffrage. The upward trend of pro-local suffrage among voters coincides neatly with growth in local government calls to grant foreigners' voting rights—and in related newspaper articles. In 1993, for the first time in Japan, 16 local governments passed resolutions calling for foreigners to be allowed to vote in local elections, and

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10. The Cabinet Office of the Japanese government conducted two nationwide surveys on foreign workers (one administered in 1990 with 3,681 respondents out of 5,000, the other administered in 2000 with 2,070 respondents out of 3,000). Both the surveys asked the question, "Are you interested in the issues of foreign workers in Japan?" The results were as follows: interested, 48.6% (9.5% with great interest, 39.1% with fair interest) in 1990; 48.8% (8.2% with great interest, 40.6% with fair interest) in 2000; not interested, 49.9% (18.1% with the least interest, 31.8% with not much interest) in 1990; and 50.9% (18.1% with the least interest, 32.8% with not much interest) in 2000.

11. The *Asahi Shimbun*, for example, conducted two nationwide opinion polls of 3,000 eligible voters (one administered in 1994 to 2,318 respondents and the other administered in 2000 to 2,147 respondents). The 1994 nationwide opinion poll, which had surveyed attitudes toward foreign residents' right to vote in local elections, showed that nearly 47% of all respondents favored the idea, while over 41% did not, but the 2000 one indicated more than 64% for the idea and only 28% against it.

in the next year, another 172 local governments passed similar resolutions. By 2001, 1,439 local governments had passed such resolutions, representing 73% of Japan's total population.<sup>12</sup> The number of articles devoted to foreigners' local suffrage in two major national newspapers, the *Asahi Shimbun* and the *Nikkei Shimbun*, dramatically increased from only nine articles in 1987–93 to 104 articles in 1994–2000.<sup>13</sup>

### *Noncitizens' Rights: Historical Legacies*

Historically, the notion of foreigners' rights can be traced to the Roman *jus gentium* (law of nations), which was believed to be of universal application (especially to non-Romans) in the sense that its principles must be observed anywhere and by anyone. Medieval writers, drawing on Cicero, imported the principles into their notion of natural rights in the universalistic terms of Christendom. Cicero stated that the law of nature applies to "all men" equally.<sup>14</sup> To protect such universal norms, modern political thinkers, such as Hobbes, Locke, and Rousseau, developed the modern concept of citizenship. Ironically, this concept became relevant only to the practices of the territorial sovereign state.<sup>15</sup> The source of natural rights lay not outside the nation state in a universalistic way but increasingly within the exclusive jurisdiction of modern states in positivist terms.<sup>16</sup> The nation-state essentially claimed to be exclusive of all the aliens on its territory. In the West, from the seventeenth century to the end of the nineteenth century, national citizenship was central to the state-building that sought uniform people speaking uniform languages. In this sense, a citizen became identical with a national; citizenship rights belonged exclusively to nationals.

The relationship between citizenship and nationality is thus tightly linked along historical paths. Today, this historically specific link seems to be prob-

12. Calculated from materials provided by International Bureau, Korean Residents Union in Japan.

13. Figures from *Asahi Shimbun*, Digital News Archives, 1984–2002 and *Nikkei Shimbun*, Nikkei Telecom 21.

14. Marcus Tullius Cicero, *De Legibus*, Book 1, trans. and ed. C. W. Keyes (London: Loeb Classical Library, 1928), pp. 1, 10, 28–29.

15. In contrast to national citizenship, it should be noted here the Kantian conception of world citizenship. However, all the historical experience of citizenship has predominantly been of national citizenship; world citizenship has so far been as significant in a normative sense. See Immanuel Kant, "Idea for a Universal History from a Cosmo-political Point of View," in *The Theory of International Relations: Selected Texts from Gentili to Treitschke*, eds. M. Forsyth, H. M. A. Keens-Soper, and P. Savigear (London: Allen & Unwin, 1970), p. 206.

16. According to Locke, the legitimacy of state power does not exist if natural rights are violated, and thus citizens have the right to reconstitute sovereign power. In this sense, he regarded the shift (from a condition of universal norms to the territorial authority of the modern state) as a natural transformation. See John Locke, *Two Treatises of Government*, ed. Peter Laslett (New York: Cambridge University Press, 1988), pp. 412–18.

lematic because it tends to ignore the greater prominence of foreign residents in local communities. Especially over the last two decades, the growth of international migration has been propelled by economic differentials, domestic political disorganization, and transnational networks of communication and transportation. It has generated conflicts and tensions within states and among states. These factors have increased an upsurge of right-wing anti-migrant movements throughout Western Europe. Nonetheless, many states have increasingly extended rights to noncitizens. But why did states extend foreigners' rights when they did? The historical relationship between rights and nationality does not directly explain why, but it explains under what circumstances it occurred. It is an environmental factor.

*Japan's Colonial Path: Legal and Moral Obligations*

In Japan, the contradiction between nationality and citizenship grew out of specific historical paths. In 1910, after its victory in the Russo-Japanese War, Japan annexed Korea. Koreans were forced to become Japanese citizens. Japan's colonial rule over Korea created an influx of Korean laborers to Japan. Between 1939 and 1945, many Koreans were forcibly brought to Japan to be mobilized into the war effort. This led to the formation of Korean communities within Japan. Korean men who resided in Japan were eligible both to vote and to stand for public office. By the end of the war in August 1945, there were nearly 2.3 million Korean residents of whom 500,000 to 600,000 decided to remain in Japan.<sup>17</sup>

Shortly after Japan's surrender in the Pacific War, conservative forces, like Speaker of the House of Representatives Kiyose Ichiro, that wished to keep intact existing imperial ties between the throne and the Japanese people, strongly insisted on excluding Korean residents from political participation, in anticipation of the opening of a new Diet under a new constitution.<sup>18</sup> In December 1945, the National Diet stripped Koreans residing in Japan of their suffrage by revising the Election Law. When the San Francisco Peace Treaty went into effect in April 1952, the Japanese government unilaterally deprived Korean residents of their Japanese nationality. It argued that Korea was now no longer part of the Japanese state and thus Koreans in Japan would cease to have their nationality.<sup>19</sup>

In 1945, the League of Korean Residents was established in Japan to facilitate migration to their home country. Yet, the movement the league embod-

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17. Figures provided by International Bureau, Korean Residents Union in Japan.

18. Suh Yong-Dal, "Naze Ima Teijyugaikokujin ka" [Why now permanent alien residents?], in *Ushio* [Tide] 503 (January 2001), p. 149.

19. This argument derives from the legal criteria of *jus sanguinis* for obtaining nationality through naturalization. According to the criteria, children automatically obtain their nationality from the country to which their parents belong as nationals.

ied was destined to reflect the geopolitical and ideological divide in the Asia-Pacific region. Following the partitioning of the Korean Peninsula, the league split up into two organizations: the pro-Seoul Korean Residents Union and the pro-Pyongyang General Association of Korean Residents. As soon as the Republic of Korea was formed in 1948, it recognized the Korean Residents Union of Japan as an official organization. In 1955, after the Korean War, the General Association of Korean Residents, whose leaders saw South Korea as an American-controlled puppet state, was created in contradistinction to the Korean Residents Union. One-quarter of Korean residents in Japan, loyal to Pyongyang, retained North Korean nationality. Social movements by Korean residents in early post-World War II Japan focused predominantly on their desire to rebuild and return to a unified home country. First-generation Koreans in Japan intended to be essentially temporary residents, assuming that they would eventually return to Korea. With this backdrop, their major concerns were focused on asserting their ethnicity's rights of free assembly and free association in the face of Japanese government obstructions, rather than on their rights as residents to seek improved infrastructures for daily life and local political participation.<sup>20</sup> Meanwhile, the municipal government continued to provide public services based on the Residents' Basic Register, from which foreign residents, including Koreans, were excluded in accordance with a nationally imposed rule, i.e., Article 39 of the Residents' Basic Register Law.<sup>21</sup>

In 1964, South Korea and Japan signed a treaty normalizing their relations, which made Korean residents eligible for permanent resident status. This shift was widely considered to be a practical instrument reflecting the ideological divide of the Cold War. Those North Koreans who refused to acquire South Korean nationality were not eligible for permanent residency. In the early 1970s, however, the driving force of the Korean residents' movement shifted from the first generation to the second, many of whom decided to reside permanently in Japan. The new generation of Korean residents increasingly felt an attachment to Japan, and spoke Korean less frequently in daily life.<sup>22</sup> The political climate consequently led Korean residents' move-

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20. For the historical development of social movements by Korean residents in postwar Japan, see Suh Yong-Dal, ed., *Kankoku/Chosenjin no Genjo to Mirai* [The situation and future of South and North Koreans] (Tokyo: Hyoronsha, 1987).

21. Article 10 of the Local Autonomy Law, regarding foreigners as "residents," stipulates foreign residents' taxation liability. Yet, Article 39 of the Residents' Basic Register Law identifies "residents" with Japanese nationality only, excluding foreign residents from the Register, which provides the basis for delivering public services.

22. According to a survey conducted by the Japanese government, 42.4% of the marriages of Koreans registered in 1970 were intermarriages with Japanese; the ratio rose to 82.5% in 1991. Cited in Fukuoka Yasunori, "Koreans in Japan: Past and Present," in *Saitama University Review* 31:1 (1996), p. 12.

ments to focus on grassroots politics rather than ideological and interstate politics.

### *Turning to the Law*

The use of litigation as a conflict-solving mechanism has become more prominent among Korean activists without electoral resources. Still, recourse to lawsuits is unlikely to transcend the confines of the existing legal system, although litigation may have a considerable impact on the climate of public opinion. Such actions are less likely to lead to a new policy or a policy surge; at most, they will generate a constitutional “reinterpretation” in the judicial process that might legally force government to change the scope of policy. The lawsuit against Hitachi, brought in 1970 by Korean resident Park Jong Suck, was the first to call for the elimination of job discrimination. It was followed by a variety of litigation filed by Korean residents against the government and business sectors, seeking judicial remedies for real social problems such as public housing discrimination, mandatory fingerprinting, no eligibility for government jobs, discriminatory access to higher education, and others. The course of these events led to a key 1990 lawsuit filed by 11 Koreans in Osaka regarding foreigners’ suffrage, which was eventually brought to the Supreme Court. In 1995, the Supreme Court issued a landmark decision designed to clarify or “reinterpret” the Constitution and stating that the Constitution does not forbid foreign residents’ political participation at the local level, and that suffrage of foreign residents at that level should be left to the National Diet to legislate.<sup>23</sup>

This decision precluded a judicial solution for the issue of foreign residents’ voting rights, although it found foreigners’ local suffrage to be constitutional. Instead, the ruling opened up possibilities for a political solution, i.e., national legislation. Major Korean organizations, in the early aftermath of the ruling, seemed to prefer not to exercise the option of recourse by calling for such national legislation.<sup>24</sup> The Korean Residents Union, although it passed a pro-suffrage resolution in 1986, took no steps until 1989 toward a plan to petition local authorities across Japan for voting rights. Even worse, internal divisions within the Union delayed implementation of this plan. It was not until 1994, when Shin Yong Sang was elected head of the Korean Residents Union after campaigning on a promise to realize local suffrage, that the organization’s campaign for local voting rights finally got under way. Interestingly, the pro-Pyongyang General Association of Korean Residents

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23. Third Petty Bench, Supreme Court, February 28, 1995, no. 163.

24. From 1975 to 1978, Rev. Choi Chang Hwa and his group called for Koreans’ voting rights in Kitakyushu City, Fukuoka Prefecture, and the national government. Yet, his initiative did not diffuse among other Korean organizations.

was not in favor of local suffrage. Official statements by the General Association viewed such suffrage as a policy of assimilation, designed to deny ethnic Koreans their rights to establish a unified home country.<sup>25</sup> In April 1996, the Association urged the Social Democratic Party of Japan to stand against foreigners' suffrage.

*International Agreements and Norms:  
External Factors*

Article 1-1 of the 1965 Korea-Japan Legal Status Agreement stipulated that Korean residents in Japan who applied for permanent resident status within five years after the accord was implemented would be granted it. Like Japanese nationals, these persons would begin to receive medical benefits covered by National Health Insurance. This example of implementation of international agreements illustrates their potential for direct impact on the extension of rights to foreigners.

Once agreed, the state not only has an obligation to implement international agreements into domestic law but also needs to amend a wide range of existing laws to adjust domestic interests. One such example is the case of the Convention Relating to the Status of Refugees and the Protocol Relating to the Status of Refugees. Ironically, when Japan ratified this treaty in 1982, the Japanese government was forced to remove the *kokuseki-joko* (nationality clauses) (see footnote 2) in four welfare laws. If not removed, political refugees would have been entitled to more and better public services than long-time foreign residents. This was an externally imposed reform toward a coherent system of foreigners' social benefits. In local government's view, however, as examined later in this article, the enforcement of the international agreement simply confirmed and even legitimized the existing practice of many local authorities.

Some scholars argue that international norms play a key role in extending rights to foreigners, while others emphasize that international norms do not automatically diffuse but rather go through agents.<sup>26</sup> For example, it is through non-governmental organizations (NGOs) and immigrant activists' ef-

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25. Lee Jin-Kyu, *Zainichi Chosenjin Sorengokai Chuo Inkaei Dai-juurokki Dai-sanji Kaigi Kakudai Kaigi Bunkenshu* [Central Committee, General Association of Korean Residents, documents of the third conference of the sixteenth term] (Tokyo: Kugatsu Shobo, 1993), pp. 26–27; *Chosen Shoko Shimbum* [Korean Commerce and Industry Newspaper], December 6 and 20, 1994. Nonetheless, a 1984 survey conducted on responses from 866 North/South Korean and 161 Chinese residents by Kanagawa Prefecture found that both North and South Korean nationals in the prefecture equally acknowledged the necessity of local suffrage, with their support ratio of 79.0% and 82.4%, respectively.

26. For the direct relationship between international norms and state behavior, see Soysal, *Limits of Citizenship*, pp. 42, 131–32. For the necessity of norm diffusion mechanisms, see Joppke, "Why Liberal States Accept Unwanted Immigration," p. 269.

forts that international norms can be diffused to expand noncitizen rights and benefits domestically.<sup>27</sup> In fact, academics (e.g., Korean scholar Suh Yong-Dal, local governments (e.g., Kawasaki City), and pro-immigration groups (e.g., the Tokyo Bar Association) have all been promoting the extension of foreigners' rights, citing international norms. Norms are thus one of the resources mobilized to achieve advocacy objectives. In the Japanese context, norms help legitimate advocacy causes and have become a benchmark for extending rights to foreigners. But it is unlikely that norms alone can explain the considerable scope of policy surge.

More important, if international norms result from common practice, then the international standards of noncitizens' suffrage are far from established. International norms are a pattern of state behavior that is common or usual in accordance with a given value system. They are technically non-binding as a matter of international law, but a high level of compliance among states sets standards that states should promote. This encourages states to codify the norms in a form of international agreements. There are norms directed toward the protection of economic and social rights extended to noncitizens; these are, to a large extent, embodied and codified in international agreements such as the Convention Relating to the Status of Refugees and the Council of Europe Convention on Migrant Workers. By contrast, the extension of political rights to noncitizens has yet to become common practice among states.

In this respect, the Scandinavian countries and Finland were the pioneers of foreigners' voting rights. In 1975, Sweden extended universally to all foreign residents both local voting rights and the right to stand for local public office. This new policy was followed and adopted by Norway (1978), Denmark (1981), and then by Finland (1992). A notable non-Scandinavian case is Ireland, where foreign residents have been able to vote and stand for local public office since 1964. The Netherlands has also granted such rights to foreign residents since 1984.<sup>28</sup> According to Article 8 of the 1992 Maastricht Treaty, nationals in any member state are citizens of the European Union (EU), who are granted local voting rights on the basis of residence. Implementation of this provision by member states remains valid only among EU members.

It is important to note here the controversial granting to foreigners of voting rights for *national* elections. Only New Zealand and Chile have granted

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27. Jacobson, *Rights across Borders*, p. 9; Amy Gurowitz, "Mobilizing International Norms: Domestic Actors, Immigrants and the Japanese State," *World Politics* 51:3 (April 1999), pp. 413-45.

28. In some cases, voting rights of foreigners are only granted at local elections. In 1991, Tacoma Park, a town in Maryland, U.S.A., decided to allow foreign residents to vote, but not to stand for public office, in municipal elections. Estonia has granted such rights since 1993.

such voting rights to their foreign residents. Even the Scandinavian countries, while extending foreigners' political rights in recent years, have not been willing to allow foreigners to vote at the national level. The republican views of such a voting right still prevail among nearly all states,<sup>29</sup> owing to concerns that foreigners might lack national loyalty and might not participate in civic duties. More specifically, the argument is that foreigners are less likely to volunteer for public service, are not required to participate in civic duties such as jury service, and especially, do not have an obligation to military service. Given this perception of responsible citizenship, David Miller believes that foreigners who do not share the common good will undermine the community's interests and even national security.<sup>30</sup>

In the absence of solid international norms regarding foreigners' political participation, external pressure to adopt local suffrage for foreign residents in Japan has been highly politicized, yet unsuccessful. The 1991 Korea-Japan Memorandum, concerning the legal status of Korean nationals residing in Japan, urged the Japanese government to allow South Korean residents in Japan to vote in local elections.<sup>31</sup> Japanese politicians lingered over their response until President Kim Dae Jung's visit to Japan in 1998. Carefully matching their timing to his visit, the Democratic Party of Japan and the parliamentary group Heiwa-Kaikaku [Peace-Reform] jointly submitted a legislative proposal in October 1998 at the 143rd National Diet that would have given permanent residents of foreign nationality voting rights on a local government level. During his visit, Kim publicly stated that he wished to see the bill passed during that Diet session, saying, "Korean residents have paid taxes and contributed greatly [to Japanese society], and I hope the Japanese government will grant local suffrage to them."<sup>32</sup> Yet, the bill was carried over to the next Diet sessions in the following year.

Surprisingly enough, in September 1999, South Korea's Ministry of Home Affairs announced a plan to grant local suffrage to foreign residents before the 2002 nationwide local elections. This action brought pressure on Japanese conservative politicians who had argued for local suffrage—providing home countries agreed to reciprocate. The conservatives came to realize that the principle of reciprocity would not serve as a *de facto* denial of local suf-

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29. See John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993); David Miller, "Bounded Citizenship," in *Cosmopolitan Citizenship*, eds. Kimberly Hutchings and Roland Dannreuther (London: Macmillan, 1999), pp. 60–80.

30. Miller, "Bounded Citizenship," pp. 60–80.

31. The South Korean government has been a strong source of pressure on the Japanese government to improve the individual welfare of Korean residents in Japan. The January 1991 Korea-Japan Memorandum between South Korea and Japan, which resulted from this effort, also urged Japanese local government to allow Korean residents to take the Teacher Entrance Examination and to employ them on a full-time basis.

32. *Asahi Shimbun*, October 9, 1998.

frage for permanent residents in Japan. The conservative argument against local suffrage then shifted from the reciprocity issue to statist's idea that favored the state's exclusive right to articulate rights and obligations within its sovereign territories.<sup>33</sup> To hold the anti-suffrage moves in check, at the Korea-Japan Summit meeting of November 1999 in Manila, Kim Dae Jung urged Prime Minister Obuchi Keizo to reach an agreement on Koreans' voting rights by the end of the following year. The prime minister failed to do so.

*Local Government's Initiatives: Its Strategic Position*

Local policy innovation in Japan has actively cultivated the establishment of international norms of foreigners' economic and social rights by influencing state stances toward foreigners' rights at international forums. Common practice among states then provides the Japanese government with a critical source of international standards for extending rights to foreigners. Nonetheless, major pressures for protecting foreigners' rights came directly from local governments themselves that hoped to solve urgent community problems related to the rapidly growing number of foreign residents.

By the early 1970s, as mentioned earlier, temporary direct relief to insolvent foreigners was an unavoidable practice by local authorities, who spearheaded the expansion of social benefits to foreigners. As Japanese-born Koreans opted to reside permanently in Japan, local governments dealing with the issue had to confront it head-on. In 1971 Kawasaki, Sapporo, Yokohama, and other cities began to provide, against the wishes of the national government, the National Health Insurance to all foreigners, including North Korean residents, who were registered at the local level.<sup>34</sup>

In 1954 one of the directives from the Social Bureau chief of the Health and Welfare Ministry to prefectural governors stated, "An application 'by unregistered foreigners' for direct relief shall be rejected unless it is urgent and not negligible."<sup>35</sup> Local governments reinterpreted and extended this or-

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33. *Yomiuri Shimbun*, September 9, 1999.

34. Yamada Takao, "Zainichi Gaikokujin to Fukushi" [Foreign residents in Japan and welfare], *Toshi Mondai* [Municipal Problems] 87:2 (February 1996), pp. 36-37; Takafuji Akira, "Gaikokujin to Shakai Hoshō" [Foreigners and the social security], *Toshi Mondai* 87:2 (February 1996), pp. 3-13.

35. *Sha-hatsu* [ministerial notice], no. 382, May 8, 1954. Interestingly enough, the 1946 Livelihood Protection Law actually applied to foreigners, but the current Livelihood Protection Law, which was enacted in 1950, excludes foreigners from its direct-relief scheme. As the government explained it, the amended law was based on Article 25 (of the 1947 Constitution), which stated the right to maintain the minimum standards of living. It argued that foreigners did not have the right to claim such a right from the government. See Tokyo District Court, March 31, 1978, in "Tokyo Metropolitan Adachi Welfare Office Director Case" in *Gyosai Shu* [Collection of Administrative Court Cases] 29:3, p. 473.

der to mean that direct relief could be provided to short-stay or overstay foreigners in immediate need. In the 1960s and 1970s, considering the negligible number of such foreigners in Japan, the ministry neither condoned nor condemned this local practice. On February 10, 1990, the ministry, now worried that the increasing number of overstay foreigners was becoming a major policy concern, instructed welfare specialists in local welfare offices to exclude short-stay and overstay foreigners from direct relief applications. But most local governments continued the assistance practice anyway. The ministry tried to prevent this embarrassing situation by arguing that it was a misappropriation of public funds. In September 1991, 12 government-designated cities formally called for withdrawal of the ministry's 1990 instructions.<sup>36</sup>

Since 1976, the ratio of Korean residents to all registered foreigners (86.4% in 1976) has continued to drop, and by 1995, for the first time slipped to less than half (48.9%). Newcomers from various countries have continued to arrive since the late 1980s, when the strong yen drastically widened the wage gap between that paid in their home countries and that paid in Japan, and when small manufacturers in Japan faced an acute shortage of labor.<sup>37</sup> In 1989, the Japanese government decided to relax immigration polices, amending the Immigration Control and Refugee Recognition Act to permit foreigners of Japanese descent to enter Japan to work as unskilled workers. The number of workers of Japanese descent, especially from Brazil and Peru, rose rapidly from 7,200 in 1990 to 234,000 in 1998. The massive influx of these foreigners into local communities resulted in a wide range of discriminatory practices relating to labor, medical care, housing, and education.<sup>38</sup>

The Japanese government eventually implemented the codification of some international norms, such as the Convention Relating to the Status of Refugees, into domestic law. The protection of foreigners was far from adequate. While the national government refused to apply the 1950 Livelihood Protection Law (which provides direct relief to the poor) to foreign residents, in 1990 the city of Kobe decided to carry medical expenses for an overseas student who had become critically ill. A grassroots group in Kobe accordingly sued the national government for failing to apply the Livelihood Protection Law to the student and refusing to cover legally defined three-fourths of the medical expenses. The suit was rejected on procedural grounds by the

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36. This section is based on materials provided by the Japanese Federation of Bar Associations.

37. The term "newcomer" is used to differentiate those foreign residents from "oldcomers" who were born in former Japanese colonies and once held Japanese nationality, or who are their direct descendants.

38. The figures in this section are calculated from Nyukan Kyokai, ed., *Zairyu Gaikukujin Tokei*, 2001 edn.

Kobe District Court, but it achieved prominent exposure of the national government's lack of action in the matter. To solve community divisions and conflicts in which foreign residents were involved, local governments could no longer simply treat foreign residents on strictly legal terms. The most urgent issue involved medical expenses that foreigners were unable to pay. In 1993, the Gunma prefectural government adopted a policy of providing subsidies for foreigners' medical treatment. The idea quickly spread to other prefectures: Kanagawa in 1993, Hyogo in 1994, and Chiba, Saitama, and Tokyo in 1996.

In 1986 the Ministry of Health and Welfare began to apply the National Health Insurance Law to registered foreigners, yet in 1992 their eligibility was conditioned on the proof of residence of at least one year. Some short-term registered foreigners of less than one year's residence subsequently were unable to enter the insurance plan. "Overstay" or illegal foreign residents were completely excluded from this process. The Ministry of Justice had refused to extend the National Health Insurance Law to illegal foreign residents, since, officials argued, such an extension would "encourage" foreigners to overstay in Japan.<sup>39</sup> In response to the realities of the unprotected de facto residents, local government's partnership with local grassroots groups was taking place. One highlighted example involved the medical expenses of overstay foreigners who were victims of the 1995 Kobe earthquake. According to a provisional national law, a gift of money was to be handed to all victims, without regard to nationality. But Health and Welfare Minister Ide Shoichi denied this benefit to overstay foreigners by saying: "As for illegal foreigners, we can't recognize that they legally have residence in Japan."<sup>40</sup> By contrast, in March 1995, the Hanshin Earthquake Local NGO Rescue Liaison Conference organized a rescue network for foreigners, requesting that the Hyogo prefectural government support noncitizen victims. The prefectural government immediately responded that it would apply the Natural Disaster Rescue Law and cover some of the medical expenses, without discrimination on the basis of nationality and legality.<sup>41</sup> Non-profit organizations (especially the Japan Red Cross), Hyogo Prefecture, and the city of Kobe extended some direct financial relief to foreigners in this manner.

Some local government officials went further to publicly argue that local government should apply the Employees' Insurance, the National Health Insurance System, and the Livelihood Protection Law to foreign workers who overstay their visas. In their view, there was a vacuum in the state adminis-

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39. House of Councilors, National Diet, *Minutes of Committee on Judicial Affairs*, May 6, 1999.

40. House of Councilors, National Diet, *Minutes of Committee on the Budget*, February 8, 1995.

41. *Mukuge Tsushin* [Mukuge Correspondence] 148/149 (March 1995).

tration of such public services; however, the national laws did not explicitly deny local government the legal power for service delivery.<sup>42</sup>

At the grassroots level, from the mid-1980s to the mid-1990s, predominantly Japanese citizens organized and operated grassroots support groups as service providers to foreigners. One such example is the large number of study support groups for foreigners' schoolchildren. In 1998, there were 146 study support groups in Kanagawa Prefecture alone.<sup>43</sup> Their members were company workers, housewives, university students, teachers, and retired elderly who helped improve the learning environment beyond the scope of public education, offering a practical contribution toward a viable multiethnic society.<sup>44</sup> By the mid-1990s, as foreigners' need for assistance often exceeded the grassroots' capacity, compatriotic foreigners began to establish their own networks for mutual aid, such as the Association Liaising with Resident Foreigners (Kawasaki), the Latin America Friendship Association (Kawasaki), the Kanagawa City Union (Kawasaki), and the Asian People's Friendship Society (Tokyo). Portuguese- and Spanish-language newspapers for foreigners of Japanese descent, such as the *International Press*, began developing a comprehensive information system.<sup>45</sup> Today, there are estimated to be over 100 ethnic newspapers and magazines in 15 different languages. In the present study, it was found that progressive local governments, such as Kawasaki City, strove to provide local and foreign residents with a common social base, creating a new public sphere that would bring them together as participants in community development. In 1993–94, the focus of policy debate shifted from foreigners' received community membership to their direct participatory undertakings.

Such support groups in Kawasaki tended to see foreign residents, including longtime Korean residents, as beneficiaries of help rather than participants in local decision making.<sup>46</sup> The municipal government, coordinating with citizens' groups that acted as co-investigators, conducted an extensive survey (1993) on and interviews (1995) with foreign residents about their problems and needs. This type of coordination played a key role in bridging the gap

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42. See Yamada, "Zainichi Gaikokujin to Fukushi," pp. 45–46.

43. Figures provided by the Kanagawa Prefecture International Exchange Association.

44. According to a nationwide survey on primary and junior high schools conducted by the Ministry of Education in September 1991, 1,973 schools that responded required a program of Japanese language as a second language, yet 18% of those schools had no teachers in their employ for this task, and 27% did not pay specific attention to language education.

45. The *International Press* distributes about 30,000 copies of each issue in Portuguese and about 15,000 copies in Spanish across metropolitan areas in Japan.

46. Kawasaki City, Investigation Committee for Foreign Residents' Perception, *Kawasakishi Gaikokuseki Shimin Ishiki Jittai Chosa Hokokusho: Jirei Mensetsu Hen* [Report on investigation into the actual condition of foreign residents' perception: Case studies and interviews] (Kawasaki: Kawasaki City, 1995), p. 15.

between local and foreign residents. In Kawasaki, by the mid-1990s, some citizens' groups began to emphasize equal partnerships between foreign and Japanese citizens. Support groups for promoting Japanese literacy among foreign residents, for example, viewed Japanese language skills as a means to represent foreigners' interests, not a forced assimilation process.<sup>47</sup> These support groups began to encourage foreign residents to participate in the process of community development.

Kawasaki's experience implies that citizenship has increasingly assumed an international dimension, weakening the identification of political rights with nationality. In the past, as described earlier, foreign residents' economic and social rights had seen significant enhancement and protection, while their political rights in Japan had been virtually untouched, in the sense that foreign residents were neither entitled to vote nor eligible to run for office. Political rights had remained territorially grounded on the basis of nationality. In Japan, the right of equal participation in political processes had been extended to eliminate domestic national exclusions, such as those of women and minorities, but not immigrants or foreigners. But today, as foreign residents stay longer and pay taxes, exclusive political rights have been called into question.

As the number of registered foreigners in Kawasaki began to double within five years from the 1989 change in immigration policy, the city attempted some forms of inclusion of foreigners within the city's administrative programs. It provided foreign residents with access to participation in a system monitoring city services, consultation meetings of the city, and councils attached to city departments. Yet, this was far from the institutionalization of foreigners' voices. As it did for voting rights, national law continued to set exclusive limits for Japanese nationals for positions such as the Civil Liberties Commissioner, the Social Welfare Commissioner, and membership on the Board of Education. In 1994, the municipal assembly of Kawasaki passed a resolution demanding immediate measures by the national government to grant foreign residents the right to vote and run in local elections. In the same year, the city established the Investigation Committee on the Establishment of a Kawasaki City Representative Assembly for Foreign Residents.<sup>48</sup> In October 1996, the concept of a foreigners' assembly proposed

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47. See Kawasaki City, Promotion Committee on Regional Japanese Language Education, *Kyosei Machizukuri o Mezasu Nihongo Gakushu no Arikata* [The ideal of Japanese language learning for making one community] (Kawasaki: Promotion Committee, 1997).

48. In this proposal, the Committee developed the concept of "foreigners' citizenship." See Investigation Committee on the Establishment of a Kawasaki City Representative Assembly for Foreign Residents, *Kawasakishi Gaikokujin Shimin Daihyosha Kaigi Chosa Kenkyu Hokokusho* [Investigation report on a Kawasaki City Representative Assembly for Foreign Residents] (Kawasaki: Kawasaki City, International Office, 1996), p. 1.

by this committee led the municipal assembly to unanimously pass an ordinance for the implementation of the public forum for foreigners.

The Kawasaki City Representative Assembly for Foreign Residents consists of 26 foreign residents who are recommended by ethnic groups and determined by a selection committee. Decisions made by this consultative group come with no legal binding force.<sup>49</sup> Since 1995, the assembly has proposed a wide range of measures to solve community problems such as housing discrimination against foreigners, the issuance of municipal reports and bulletins in Japanese only, foreigners' limited eligibility for university entrance examinations, and restricted welfare pensions for the alien elderly. Similar assemblies were established by the Tokyo Metropolitan Government in 1997 (known as the Assembly for "Foreigner-Citizens" of Tokyo, comprising a committee of 25 foreign residents); by Kyoto city in 1998 (named the Forum of Kyoto City's Policy for Foreign Residents and consisting of seven foreigners and five local academics); by Kanagawa Prefecture in 1998 (as the Kanagawa Assembly for Foreign Prefectural Residents, comprising 20 foreigners), and by Mitaka city in 1999 (called the Mitaka Internationalization Roundtable, with seven foreigners and seven municipal government officials or leaders of citizens' groups).

In May 1996, Kawasaki became the first government-designated city to eliminate the nationality clause for hiring city employees. The Ministry of Home Affairs immediately questioned the legality of this action. In early post-World War II Japan, there were no specific legal provisions for hiring foreigners as local civil servants. In 1953, the Cabinet Legislation Bureau stated that Japanese nationality would be required for their work entailing "the exercise of public authority or the formation of nation's will." In 1973, the Ministry of Home Affairs extended and applied this interpretation to local government employees by referring to "the formation of local public entities' will" instead of nation's will. The ministry continued to instruct local authorities not to hire foreigners in principle, although in 1986, the Cabinet Legislation Bureau issued a notice stating that Japanese nationality would not be required for such technical and specialized jobs as public health workers, midwives, and nurses (regulated under the Law for Public Health Workers, Midwives, and Nurses).<sup>50</sup> A 1990 nationwide survey conducted on 722 local governments by the major newspaper *Mainichi Shimbun* showed that one-

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49. There are some critical problems in operating the foreigners' forum. First, except for some "oldcomers" groups, foreigners' networks are not well organized enough to articulate and aggregate their interests at the foreigners' forum. Second, although not having legal binding force, proposals by the foreigners' forum are to be "respected" by the mayor; this moral obligation leaves the forum's relations with the mayor and the municipal assembly ambiguous.

50. This section is based on materials provided by the Japanese Federation of Bar Associations.

third of those local governments were implementing a policy of complete exclusion of foreigners from employment.<sup>51</sup> By 1996, however, a follow-up survey on the nationality requirement showed that 45% favored the elimination of the requirement, with less than 20% against it.<sup>52</sup> In defiance of the Ministry of Home Affairs, Kawasaki city made all city job categories (except firefighting) available to foreigners. In June 1996, the ministry warned local chief executives against the elimination of the nationality requirement. Yet, Kawasaki's practice of foreigners' participation in the public sector was diffused among other local governments with astonishing speed. In November 1996, this "informal" practice at the local level forced Home Affairs Minister Shirakawa Katsuhiko to admit that the decision of whether to eliminate the nationality requirement should indeed be left to local discretion.<sup>53</sup> By January 2002, such an elimination measure was adopted by all government-designated cities except for Chiba and Tokyo, and by 11 out of 47 prefectural governments.<sup>54</sup>

As Kawasaki's policy toward foreigners progressed, a new pattern of relationships among residents and the city authority began to emerge in the mid-1990s.<sup>55</sup> Ethnic groups, especially "old-comers," i.e., long-term Korean residents, were now more trusted as partners in Kawasaki. Although "newcomers" were not yet well enough organized to represent their own interests, Korean ethnic groups took full advantage of the institutionalization. The Korean groups participated in municipal decision-making efforts such as revitalization of the multiethnic Oohin district and the organization of a "Korea Town" in Hama-cho.<sup>56</sup> This mutual trust would open the door to further cooperation in the future.

By officially calling for the granting of foreigners' local suffrage, nearly half the local governments in Japan have now challenged the statist's claim that only states can specify individual rights within their sovereign territories, and that citizenship cannot exist apart from nationality. They expect that the highly publicized municipal assemblies for foreigners will act as stepping-stones to comprehensive national legislation. Mayor Takahashi Kiyoshi of Kawasaki city, for example, stated in 1994 that the creation of the municipal assembly for foreigners would be an attempt to eventually persuade the na-

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51. *Mainichi Shimbun*, May 18, 1990.

52. *Ibid.*, May 2, 1996.

53. *Asahi Shimbun*, November 22, 1996.

54. Figures provided by the Korean Resident Union.

55. Higuchi Naoto, "Taiko to Kyoryoku" [Resistance and cooperation], in *Gaikokujin Shimin to Seiji Sanka* [Foreign citizens and political participation], ed. Miyajima Takashi (Tokyo: Yushindo, 2000), pp. 26–27.

56. Yamada Takao, "Kawasaki ni okeru Gaikokujin tonu Kyosei no Machizukuri no Taido" [Signs of town-making coexistent with foreigners in Kawasaki], *Toshi Mondai* 89:6 (June 1998), pp. 58–63.

tional government and National Diet to embrace and expand this practice of foreigners' voting rights, through national legislation.<sup>57</sup>

The claim for foreigners' local suffrage in Japan derives primarily from three sources: the principle of "no taxation without representation," the close association of foreign residents within their local communities, and specific historical paths of Korea-Japan relations. Applying the principle of no taxation without representation, Ooita Prefecture Governor Hiramatsu Morihiko, for example, strongly argues that those foreign residents who pay taxes as Japanese nationals do should have a right to vote at the local level.<sup>58</sup> The second source argues that foreigners who have a close relationship with local communities should be granted a local voting right. This can be seen in *ikensho* [opinions on the matter], which were submitted by local governments to the Cabinet and subsequently adopted by the 1995 Supreme Court decision. The court decision states that the provision of livelihood-related public services should be secured in accordance with the will of local residents. It argues further that it is not constitutionally forbidden to grant local suffrage to foreign residents, especially to permanent residents, who are closely associated with a local community's daily life and local government.<sup>59</sup> As for the third source, the local governments' partnership with the Korean Residents Union has continued to assert the voting rights of Korean residents on the grounds of Japan's specific colonial paths. As seen above, Kawasaki is leading such partnerships in an exploration of new forms of multiethnic communities.

#### *Non-Decision Making: Electoral Interests*

Some political parties saw foreigners' suffrage as a way to enhance their support base. In 1994, the Shimane branch of the Harbinger Party, for the first time among Japanese political parties, decided to allow foreign residents to become party members. Two months later, the central committee of the Clean Government Party also adopted this practice. Other parties, such as the Social Democratic Party and the New Frontier Party, quickly followed suit. After the 1995 Supreme Court decision to leave the matter of foreigners' local suffrage to the National Diet to legislate, the debate heated up among political parties. A survey of all Diet members conducted by the Federation of Korean Resident Youths of Commerce and Industry in 1995 indicated that over 88% of respondents were in favor of foreigners' local suffrage, with

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57. Takahashi Kiyoshi, Mayor, speech delivered to the Municipal Assembly of Kawasaki City, March 18, 1994.

58. *Asahi Shimbun* (Osaka edition), December 9, 2000.

59. Third Petty Bench, Supreme Court, February 28, 1995, no. 163. The *ikensho*, submitted to the Cabinet by the Tokyo Metropolitan Assembly in 1995, for example, demanded immediate measures to extend local suffrage to foreign residents on the same ground.

only 3% opposed.<sup>60</sup> This led lawmakers to set a National Diet agenda on foreigners' voting rights in 1998. But conservative politicians such as Okuno Seisuke and Murakami Ichiro of the Liberal Democratic Party (LDP) argued that "foreigners should be naturalized as Japanese if they want the right to vote."<sup>61</sup> Advocates of local suffrage for foreign residents have had a tough battle with the powerful conservative forces. At the time of this writing, legislation for foreigners' rights to vote at the local level has yet to be passed in the National Diet.

The 1998 legislative proposal to extend local voting rights to permanent residents was carried over to the 1999 Diet sessions. In October 1999, a new ruling coalition of the LDP, the Liberal Party, and the New Komeito began efforts with an accord calling for the three parties to work toward passing the bill. In January 2000, the Liberal Party and the New Komeito, in a bid to persuade the reluctant LDP, submitted a compromise bill to grant voting rights to permanent residents from countries with which Japan had diplomatic relations. Those affiliated with North Korea, to which Japan would not extend diplomatic recognition, would be barred, under the proposed legislation, from voting. Many pro-suffrage grassroots groups were outraged by this exclusive proposal, saying that it would deny voting rights to a subgroup that was equally resident in Japan.<sup>62</sup> In April 2000, the Liberal Party, led by Ozawa Ichiro, left the three-party coalition. His departure split the Liberal Party into two parts, one of which became the Conservative Party, which then joined the ruling coalition. The coalition of the LDP, the New Komeito, and the Conservative Party inherited the three-parties accord. In July 2000, the New Komeito and the Conservative Party, influenced by the weight of popular pressure, decided to remove the stipulation of excluding North Koreans and jointly submitted a bill of local suffrage for all permanent residents.

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60. On March 10, 1995, the Federation of Korean Resident Youths of Commerce and Industry announced the results of a questionnaire it administered to all 749 parliamentary members. Out of the 315 responses, the results were: those who agreed with allowing foreigners' voting rights at local elections, 88.3%; those who agreed with their rights to both vote and run for local elections, 56.2%; those who agreed with their voting rights yet thought the idea premature, 5.1%; and those who disagreed, 2.9%. Considering the number of Diet members who had participated in anti-foreigners-suffrage groups, a majority of those Diet members were more likely to have decided not to respond to this survey.

61. In November 2000, a super-partisan parliamentary group, headed by Murakami Ichiro, was established to oppose bills granting foreigners a right to vote in local elections.

62. Lee Young Hwa, who had unsuccessfully filed applications to be a candidate in a total of six national and local elections, 1992–98, said, "Most of us Koreans do not act for the benefit of the countries we belong to, but for the benefit of ourselves on a daily basis. . . . Our major concern is, for example, how tax and welfare issues affect our daily lives, just like those of many Japanese." Cited in *Asahi Evening News*, November 3, 1999.

As the New Komeito publicly pressed the LDP to follow through on the accord, a group of conservative legislators led by the LDP argued for conditional local suffrage, to be reciprocated by home countries. In the author's view, countries in the Third World, from which most "newcomers" came, were less likely to take similar steps toward foreigners' political participation. Despite the conservatives' tactics, Korea's announcement of its plan for granting local voting rights to foreign residents was unexpected, and a blow to the conservative forces. Some conservative LDP politicians, such as Eto Takami, thus began to argue directly against foreigners' political participation. In their view, extended suffrage would work against the interests of Japanese citizens in areas such as national security and education. They warned that local suffrage for foreigners could eventually lead to extending such a right to the national level.<sup>63</sup> In December 2000, the National Diet session ended, once again carrying the bill over to the next session.

The Koizumi Junichiro Cabinet took office in April 2001 and won popularity among voters. Nonetheless, Prime Minister Koizumi was very reluctant to extend voting rights to foreign residents, and instead suggested the possibility of easing legal requirements to be naturalized in Japan.<sup>64</sup> This suggestion began to be seen as an alternative to the local suffrage bill, and anti-suffrage LDP politicians, seizing the opportunity, argued that time had come to discard this bill once and for all.

While national politicians brought the issue of foreigners' political participation to a standstill, local government initiatives continued to evolve and transform politics at the grassroots level. "To help ensure the future progress of this region," Mayor Muranishi Toshio of Maibara town in Shiga Prefecture said, "it is vital that residents of other nationalities also have a sense of fruitful participation in community development."<sup>65</sup> This statement was made in January 2002, when the town passed a public referendum ordinance for merger with neighboring communities, which would recognize voting rights for permanent foreign residents. Never before had there been such direct recognition of foreigners' political participation in Japan.

## Conclusion

Increasingly, Japan is an important destination for international migration, being seen as an economic power that provides a great volume of job opportunities despite its decade of economic woes. As Japanese society ages—faster than any other country—and the number of work-capable young peo-

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63. *Ibid.*; *Kanagawa Mintoren News* [Kanagawa Federation of Civic Struggle News], September 26, 2000.

64. *Asahi Shimbun*, April 14, 2001.

65. *Ibid.*, January 27, 2002.

ple declines, the country depends and will depend increasingly on the participation of both foreigners and Japanese women in the work place. Migrant workers, both legal and illegal, continue to come to Japan. Considering the future role of migrant workers as necessary for sustaining an aging Japanese society, national policy needs to focus on foreign residents' membership and participation in Japanese society. Yet, the national government's approach continues in piecemeal fashion, with a reiterated traditional notion of homogeneity. Ad hoc decisions such as the 1989 relaxation of immigration policy, which permitted only foreigners of Japanese descent to migrate to Japan, confirmed the central authority's intention to exclude foreigners when possible and to maintain the "homogeneous" nation.

By contrast, political forces at the grassroots level have been the most important factor for promoting the protection of foreigners' rights and participation in Japanese society. Well-organized policy coalitions and networks among foreign and local residents and local authorities have developed beyond the reach of the national administration. Local forces, by coping with problems at the grassroots level, simultaneously apply pressure on Diet members and the national government to be accountable and responsive to their needs. As seen in this study, local government occupies a position that straddles the division between the absolutes of territorial governance at the national level and the pressing need of solving non-territorial problems, such as international migration, at the grassroots level. Holding such a strategic position allows local government to help create a diverse political space toward transnational citizenship. Japanese local government is the most regulated in the world, yet it has been shaping collective life beyond the confined political space exclusively based on nationality.

This study has sought to explore the various factors contributing to the extension of rights to foreigners in Japan. It suggests a list of plausible factors that created necessary conditions, in the sense that the effect would not have occurred if those factors had not been present. These factors are increased numbers of foreigners, public support, special historical relationships (that created legal and moral obligations between Japan and its former colonies), international agreements (that would obligate the state to implement the narrowly specified scope of expansion into domestic law), and electoral interests. But these necessary conditions were not in and by themselves sufficient to directly cause the initiatives and extension in an automatic fashion. Rather, they provided political actors with opportunities for policy initiatives and expansion. On the one hand, national bureaucrats (of Home Affairs and Justice) tended to minimize, if possible, the extension of rights to foreigners, and Diet members tended to handle the matter indecisively, in an opportunistic manner. On the other hand, local chief executives and assemblies strongly exploited such an environment to present reforms as an effort to cope with

encounters between Japanese nationality-dominated citizenship and new multinational political space in local communities. The actions of local officials were not simply a reactive response to the environment that the necessary conditions created, but rather, involved local authorities making strategic choices about what needed to be done, thus providing a source of cohesion amid all the divisions between the Japanese state and its citizens (including non-nationals). In this sense, local governments acted as the ultimate factor for political transformation.