

**Immigrants' Rights and Responsibilities in East Asia:  
Framing Low-Skilled Labour Migrants in the Politics  
of Japan and South Korea**

Kyunghwan Kim

Doctor of Philosophy

University of York

Social Policy and Social Work

June 2019

## ABSTRACT

The aim of this thesis is to understand and explore the rights and responsibilities of immigrants in East Asia. Specifically, it focuses on two East Asian welfare states, Japan and South Korea, and explains cross-national similarities and differences from a more comprehensive perspective by adopting a mixed methods methodology.

The analysis of this thesis consists of three parts, answering three different—but interrelated—questions. The first part conceptualises immigrants' rights and responsibilities in terms of an intersection between welfare and immigration regimes, and then uses fuzzy set ideal-type analysis to analyse 27 OECD countries' welfare and immigration regimes and immigrants' rights and responsibilities. Thereby, the two East Asian cases are viewed from an international comparative perspective, showing that they are different not only from Western welfare states but also from each other. Second, the analytical focus is narrowed into a comparison between the rights and responsibilities of low-skilled labour migrants in Japan and Korea and concentrated on discussing the developments of welfare and immigration regimes, and furthermore, of the rights and responsibilities of low-skilled labour migrants from a historical perspective. Its findings interestingly indicate that Japan and Korea, although having similar institutional foundations of welfare and immigration regimes, have demonstrated somewhat different paths regarding the rights and responsibilities of low-skilled labour migrants. The last part employs comparative historical analysis to analyse and compare their similarities and differences in terms of three aspects: socio-economic challenges facing the societies, the politics of inclusion and exclusion and policy ideas (legacies and emerging alternatives). Behind their different developments, there are three decisive factors: different political opportunity structures, different political leverage of civil society organisations and different policy influence of alternative ideas.

Overall, this thesis contributes to our empirical comparative understanding about the development of immigrants' rights and responsibilities in welfare states—specifically, of low-skilled labour migrants in two East Asian welfare states, Japan and Korea. Additionally, it theoretically and methodologically shows a more comprehensive approach in four aspects: first, showing bidirectional interactions between formal and substantive citizenship; second, taking note of responsibilities, another side of membership, in conceptualising immigrants' rights and responsibilities while taking welfare and immigration regimes together into consideration; third, considering ideas and their interaction with institutions as a decisive factor in explaining their historical development; and lastly, adopting a mixed method methodology combining fuzzy set ideal-type analysis and comparative historical analysis.

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## ABBREVIATIONS AND NON-ENGLISH TERMS

ALMP	Active labour market programmes
APW	Average (manual) production work
AW	Average worker
EPL	Employment Policy Legislation Index
EU	The European Union
FSITA	Fuzzy set ideal-type analysis
GDP	Gross domestic product
ICRI	Indicators of Citizenship Rights for Immigrants
IMF	International Monetary Fund
JP	Japan (used to distinguish Japanese interviewees in analysis)
KR	Korea (used to distinguish Korean interviewees in analysis)
LTCI	Long-term care insurance
MIPEX	Migrant Integration Policy Index
NGO	Non-governmental organisation
NRR	Net replacement rate
OECD	Organisation for Economic Co-operation and Development
SMEs	Small and medium-sized enterprises
UK	The United Kingdom
US	The United States
WTO	World Trade Organization

### **Japan**

DPJ	Democratic Party of Japan
EPA	Economic Planning Agency
<i>Ijuren</i>	Solidarity Network with Migrants Japan
JITCO	Japan International Training Cooperation Organisation
JMETI	Ministry of Economy, Trade and Industry, Japan
JMHLW	Ministry of Health, Labour and Welfare, Japan
JMIC (or MIC)	Ministry of Internal Affairs and Communication, Japan
JMITI	Ministry of International Trade and Industry, Japan
JMLIT	Ministry of Land, Infrastructure, Transport and Tourism, Japan
JMOFA	Ministry of Foreign Affairs, Japan
JMOHW	Ministry of Health and Welfare, Japan
JMOJ	Ministry of Justice, Japan
JMOL	Ministry of Labour, Japan
<i>Keidanren</i>	Japanese Business Federation

<i>Keiretsu</i>	Japanese economic conglomerates
LDP	Liberal Democratic Party
<i>Nikkei-jin</i>	Ethnic Japanese immigrants
OTIT	Organization for Technical Intern Training
<i>Rengo</i>	National Confederation of Trade Unions
<i>Tabunka kyōsei</i>	Japanese-style multiculturalism (“multicultural coexistence”)
TITP	Technical Intern Training Programme
<i>Zainichi</i>	Japan-born immigrants

### **South Korea**

BOP	Basic old-age pension
CCEJ	Citizen’s Coalition for Economic Justice
<i>Chaebol</i>	Korean economic conglomerates
<i>Damunhwa</i>	Korean-style multiculturalism (“multicultural”)
CIS	Commonwealth of Independent States
EITC	Earned Income Tax Credit
EMS	Employment Management System
EPS	Employment Permit System
FKTU	Federation of Korean Trade Unions
<i>Goryeo-in</i>	Ethnic Koreans from the CIS countries
ITTS	Industrial and Technical Training System
JCMK	Joint Committee of Foreign Migrant Workers in Korea
<i>Joseon-jok</i>	Ethnic Korean Chinese
KCTU	Korean Council of Trade Unions
KFSB	Korea Federation of Small and Medium Business
KIN	Korean International Network
KMOCIE	Ministry of Commerce, Industry and Energy, Korea
KMOGEF	Ministry of Gender Equality and Family, Korea
KMOHW	Ministry of Health and Welfare, Korea
KMOJ	Ministry of Justice, Korea
KMOL	Ministry of Labour, Korea
MFSA	Multicultural Family Support Act
MTU	Migrants Trade Union
NBLSS	National Basic Livelihood Security System
OKA	Overseas Koreans Act
VES	Visiting Employment System

## **ACKNOWLEDGEMENTS**

I owe many people a great debt of gratitude for their help in various ways. First and foremost, I am sincerely grateful to my supervisors, Professor Peter Dwyer and Professor John Hudson, who have always let me take my own way with great passion, warm support and encouragement and invaluable advice and guidance. I am indeed fortunate to have you as my advisors and mentors!

I would like to thank my thesis advisor, Dr Naomi Finch. I have considered and approached my research from different angles through your helpful feedback and questions in several TAP meetings.

I want to acknowledge the time and effort that interviewees dedicated to my research. They willingly provided me with not just information on the policy making of low-skilled labour migrants in Japan and South Korea but also on their valuable experiences and interpretations of it, which form a central pillar of evidence for this research.

Special thanks go to my family for the constant love and never-ceasing support that you have shown me. Youngone, no words can express what your love, encouragement and dedication have meant to me. My PhD journey would never have been so joyful and rewarding without you! Illa, I cannot imagine the world without you. You are the best blessing to us!

Lastly, I thank God for allowing me to start and to finish this journey.

## **DECLARATION**

I declare that this thesis is a presentation of original work and I am the sole author. This work has not previously been presented for an award at this, or any other, University. All sources are acknowledged as References.

## **CHAPTER ONE**

### **Introduction**

The relationship between the welfare state and international migration has undoubtedly become one of the most fascinating themes in interdisciplinary policy research. As Sainsbury (2012) points out, numerous scholars have concentrated on the impact of immigration and immigrants on the welfare state, particularly its welfare system and societal values to preserve the system. In recent years, however, the number of studies on the membership of immigrants and their rights in host welfare states has gradually increased. This thesis belongs to the latter—that is, the membership and rights of immigrants in welfare states—but has a different research focus from them—that is, the rights and responsibilities of immigrants living in East Asia, especially Japan and South Korea (hereafter Korea). This introduction chapter briefly specifies the research background, the objectives, research questions and scope, the research methodology and potential contributions to knowledge, before presenting the structure of this thesis.

#### **1.1. Research background**

East Asian nation-states have shown dramatic and dynamic developments and divergences of state welfare provision and immigration control and immigrant integration policy. Specifically, many early studies on East Asian welfare regimes underlined a particular form of welfare provision commonly observed in these countries, taking note of their socio-cultural or politico-economic aspects (Holliday, 2000; Jones, 1993). Over the last two decades, however, East Asian countries have expanded state welfare provision both quantitatively and qualitatively, thereby gradually moving beyond the past residualist and productivist features. In this regard, issues of welfare developments and the subsequent divergences within East Asian welfare regimes have become prominent in the welfare state literature (see Hwang, 2011b; Peng and Wong, 2008).

Since the early 1990s there has been a significant influx of foreign-born populations into East Asian nations, especially Japan and Korea. Although the proportion of immigrants has still remained below 5 percent of the total population, these countries have already changed “from being countries of origin to being destination of international migration” (Lee, 2011b, p. 117). The early research on immigration and immigrant policy changes in East Asian nation-states was mainly interested in their strongly restrictive stance towards immigration within

the ethnically homogeneous societies (Castles and Davidson, 2000). However, while East Asian countries have adopted more liberal and inclusive approaches towards issues of immigration control and immigrant integration, many international migration studies have gradually dealt with their policy responses to increasing immigrant populations and divergences within the region (see Massey et al., 1998; Seol and Skrentny, 2009b).

While East Asian nation-states have shown the simultaneous development and divergence of state welfare provision and immigration control and immigrant integration policy over the last two decades, the number of studies addressing immigrants (i.e. their membership and rights) in East Asia has gradually increased, although it is still relatively small (e.g. Chung, 2010a; Seol, 2012; Tsuda, 2006a). However, there have been very few scholarly attempts to compare and explain different or divergent developments of the membership of immigrants—and their rights and responsibilities—within the region, and furthermore, to comprehensively analyse it by investigating both East Asian welfare and immigration regimes together (for exceptions see Kim, 2017; Song, 2015; Takenoshita, 2015).

## **1.2. Research objectives, research questions and scope of the study**

This thesis has three research questions under the overall research objective of understanding and explaining immigrants' rights and responsibilities in two East Asian welfare states, Japan and Korea, as follows:

RQ1: How are immigrants' rights and responsibilities in Japan and Korea similar to and different from Western counterparts?

RQ2: What are the similarities and differences between the Japanese and Korean welfare states in respect of immigrants' rights and responsibilities?

RQ3: Why do Japanese and Korean welfare states diverge on immigrants' rights and responsibilities?

Specifically, this research examines and compares the two cases from a longitudinal perspective. This case selection is partly determined by data availability—that is to say, cross-national comparable data (on welfare and immigration regimes) is not available for other East Asian cases aside from Japan and Korea, but theoretical and empirical aspects are also taken

into consideration. Many comparative studies about East Asian welfare regimes often exemplify five cases, including Japan, Korea, Taiwan, Hong Kong and Singapore, and point out some shared underlying values and principles (i.e. Confucianism or productivism) in addressing common phenomenon (e.g. subordinating social policy to an economic and industrial end) (see Holliday, 2000; Jones, 1993). However, it is necessary to note that Japan and Korea are known as highly ethnically homogeneous societies with the relatively recent experience of significant level of immigration, whereas others have somewhat different histories of immigration and/or ethno-cultural diversity within their societies (see Kaur, 2010; Lee, 2011b). Moreover, the two city-states of Hong Kong and Singapore are theoretically regarded to demonstrate somewhat different features of social policy development—thereby, belonging to different sub-groups of “productivist welfare capitalism” (Holliday, 2000), and empirically being different in several aspects, particularly economy, demography and political system (Izuhara, 2013). Of the East Asian cases, for these reasons, Japan and Korea are not only highly comparable to one another, but also interesting to compare in terms of the institutional foundations and recent developments of immigrants’ rights and responsibilities.<sup>1</sup>

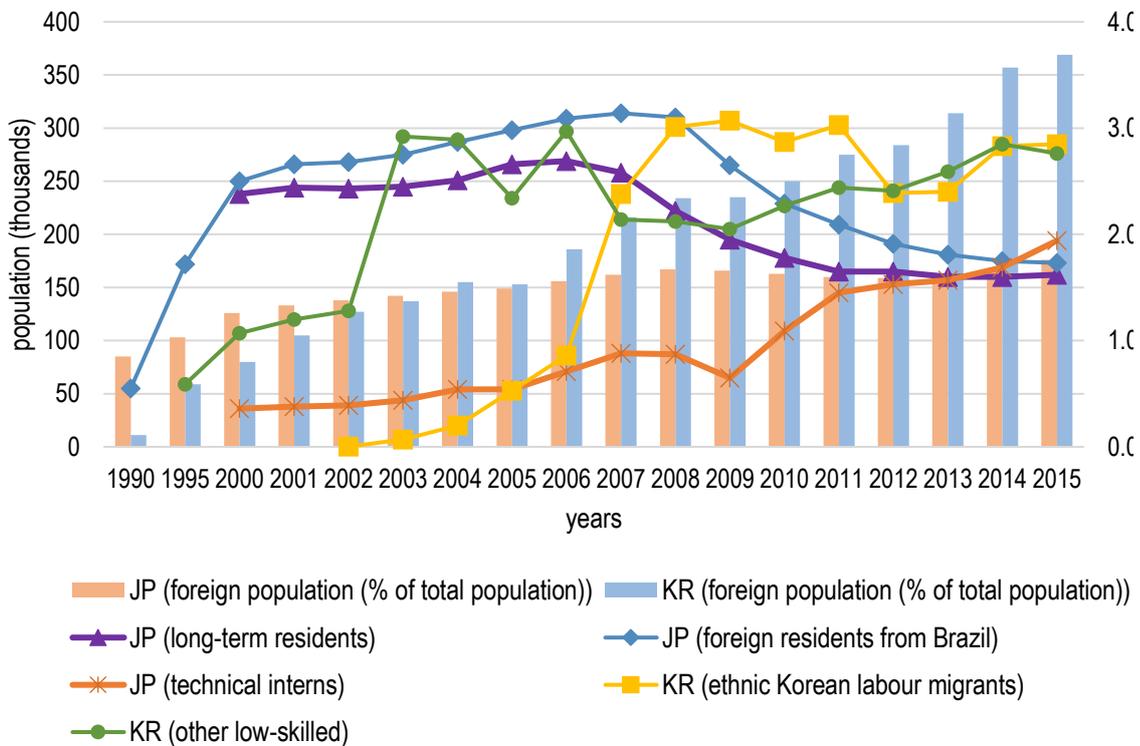
In relation to the second and third research questions the research analyses the rights and responsibilities of low-skilled labour migrants in Japan and Korea over a long time period (1990-2016). Of several types of immigrants, low-skilled labour migrants, including both co-ethnic and others, represent the numerical majority of the recently increasing foreign-born population in East Asia (see Figure 1.1).<sup>2</sup> Additionally, they are generally in “the lowest position in the ladder of immigrant status” (Seol, 2012, p. 132)—that is to say, may be the most excluded in the host societies. Furthermore, it can be said that the formal separation of them into two sub-groups (i.e. co-ethnic and others) reflects a strong sense of ethnic nationalism—or ethnic homogeneity—in these two East Asian nation-states. In this regard, focusing on the two groups of low-skilled labour migrants is expected to cast light upon the comprehensive understanding of the rights and responsibilities of immigrants in Japanese and Korean welfare states.

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<sup>1</sup> However, it does not mean that Japan and/or Korea are not comparable to other East Asian cases, but just that in terms of immigrants’ rights and responsibilities—the main theme of this thesis—these two nation-states show high comparability. Their diverse patterns and development paths (of welfare and immigration regimes) within the region can rather raise the possibility of a variety of intra-regional comparative research depending on research aims and scope of the study.

<sup>2</sup> Since the early 1990s Japanese and Korean societies have been experiencing a significant influx of foreign-born populations, although the numbers remain small. As shown in Figure 1.1, specifically, growing populations of low-skilled labour migrants stand out, aside from ethnic Japanese immigrants (long-term residents and/or foreign residents from Brazil) whose numbers have shrunk since the late 2000s. Although the Japanese government does not take a census of this specific immigrant group, its population trend can be calculated indirectly through two statistical figures—that is, long-term residents and/or foreign residents from Brazil. This is because most low-skilled ethnic Japanese immigrants have come from Brazil (and other Latin American countries) with the long-term residence status exclusively issued to them.

**Figure 1.1 Demographic changes in the foreign-born population (%), co-ethnic labour migrants and others (thousands) in Japan and Korea (1990-2015)**



Source: IBJ (various years); KIS (various years); and own calculations.

### 1.3. Methodology

Exploring and answering the above research questions calls for mixed methods research. This section sets out the research methodology and design. First, a mixed methods approach is introduced along with its advantages and philosophical basis. This is followed by a description of the research design, combining fuzzy set ideal-type analysis and comparative historical analysis.

#### 1.3.1. Mixed methods research

There has been a long-standing methodological dispute in the social sciences over the relative merits of quantitative and qualitative research (Morgan, 2007). These “two cultures” are distinguished from each other in terms of how to see the nature of reality (i.e. ontology) and the nature of knowledge (i.e. epistemology; including how to view the relationship between the knower and the known and what types of evidence can be used for making claims about reality)

(see Creswell and Plano Clark, 2007; Teddlie and Tashakkori, 2009), leading to differences in research design, data collection and analysis, concepts and causal inference (Goertz and Mahoney, 2012). Over the last few decades, however, it has become increasingly clear that there an alternative approach which sits between these two may be possible as the third major research culture (or paradigm)—that is to say, mixed methods research.

Mixed methods research, although gradually gaining popularity, has been defined in somewhat different ways by various scholars. Johnson, Onwuegbuzie, and Turner (2007) attempt to draw a general definition of it from a variety of definitions by leaders in the field. Identifying five definitional themes—including what is mixed, when/where to be mixed, the breath of mixed methods, the purpose(s) and the orientation—they define mixed methods research as follows:

“Mixed methods research is the type of research in which a researcher or team of researchers combine elements of qualitative and quantitative research approaches (e.g., use of qualitative and quantitative viewpoints, data collection, analysis, inference techniques) for the broad purposes of breadth of understanding and corroboration” (p. 123).

This definition implies that collecting and analysing multiple data with different approaches and methods can be conducted both within a single study and across a set of studies.

Mixed methods research via the combination of elements of quantitative and qualitative research helps researchers to “obtain a more comprehensive view and more data about the problem than either the quantitative or the qualitative perspectives” since the strengths of one perspective can complement the weaknesses of the other (Creswell, 2015, p. 15). In general, quantitative research (data) is likely to be favourable for external validity (or generalising results) by drawing its conclusions from a large number of cases, whereas qualitative research (data) satisfies internal validity (or context-bounded results) by concentrating on detailed analysis of a small number of cases (Gerring, 2007; Morgan, 2007). In this regard, mixed methods research can be a useful tool for researchers to enhance their conclusions with better and stronger inferences, although some theorists point out that the issue of its validity or trustworthiness needs to be discussed further (Onwuegbuzie and Johnson, 2006; Teddlie and Tashakkori, 2009).

The philosophical foundation of mixed methods research is pragmatism. Many scholars advocating it stress that pragmatism turns down the either/or choices involved in the paradigm disputes by focusing on what works instead of ontological questions about the nature of reality

(Tashakkori and Teddlie, 2003). Furthermore, Morgan (2007) comprehends it as a method alternative to a quantitative approach based on positivism and post-positivism and a qualitative on constructivist approach (see Table 1.1). This pragmatic approach can offer a technical and practical logic and an epistemological justification in mixing different methods, and even a bridge between the methods used for producing knowledge and the nature of knowledge produced (Johnson and Onwuegbuzie, 2004; Johnson et al., 2007; Morgan, 2007).

**Table 1.1 A pragmatic alternative to the key issues in social sciences research methodology**

	Qualitative approach	Quantitative approach	Pragmatic approach
Connection of theory and data	Induction	Deduction	Abduction
Relationship to research process	Subjectivity	Objectivity	Inter-subjectivity
Inference from data	Context	Generality	Transferability

*Source: Morgan (2007, p. 71).*

### 1.3.2. Research design

This thesis utilises two main methodological approaches: fuzzy set ideal-type analysis and comparative historical analysis. Before outlining the research design, it is necessary to note that in light of the research objectives mentioned earlier (that is, positioning and comprehending the East Asian cases in a bigger and more varied picture), these two different methods—and their combination—are reasonable, particularly because of their assumptions of cases as whole entities with multifaceted complexity (for more details, see Section 3.2 (fuzzy set ideal-type analysis) and Section 6.1 (comparative historical analysis)). More specifically, the reason for choosing fuzzy set ideal-type analysis rather than conventional statistical analysis is concerned with the cross-national equivalence of concepts, measures and data, one of the key issues of cross-national public policy research (Kennett, 2001; Mabbett and Bolderson, 1999). This makes it harder for scholars to locate the East Asian cases in an inter-regional context, going beyond intra-regional comparison (see Hwang, 2015); it is even more so given the lack of comparable data on East Asian welfare states with Western counterparts—apart from Japan and Korea (Hudson and Kühner, 2011). As fuzzy set ideal-type analysis is able to not only analyse a larger number of cases with quantitative data but also look into the multiple—even conflicting—components of cases all together, it may be of great help to deal with such issues.

First, following the literature review and conceptualisation of immigrants' rights and responsibilities, fuzzy set ideal-type analysis is utilised to answer the first research question—that is, comparing the contemporary rights and responsibilities of immigrants in Japanese and Korean welfare states with those in Western welfare states. The concept of immigrants' rights and responsibilities is said to contain multiple dimensions, being underpinned by two different institutions, the welfare and immigration regimes (see Chapter Two). In this regard, it would hardly be possible to adequately compare immigrants' rights and responsibilities in different countries through an analysis of only either of the two. By taking account of their key dimensions—drawn from welfare and immigration regimes—together, this research is expected to present an international comparative understanding on them.

After comparing the East Asian cases with Western counterparts, this thesis proceeds to analytically describe and explain similarities and differences in immigrants' rights and responsibilities between Japan and Korea (the second and third research questions), especially through comparative historical analysis. To do so, this research firstly discusses the development of Japan and Korea's welfare and immigration regimes, and then examines and compares the rights and responsibilities of low-skilled labour migrants in these two nation-states. This comparison includes the present similarities and differences between the two, as well as the past, and thereby demonstrates how the two East Asian welfare states have diverged in terms of several policy areas relating to low-skilled labour migrants such as entry/residence, access to labour market, entitlements to social benefits and so on. In order to explain why they have diverged, this research sets up an analytical framework centring on the politics of inclusion and exclusion alongside policy ideas. Establishing it reflects a review of the literature on two main institutions of immigrants' rights and responsibilities—the welfare and immigration regimes—and related policy changes.

#### **1.4. Contributions to knowledge**

This thesis theoretically deals with the multidimensionality and complexity of the membership of immigrants in a host welfare state by taking note of not only their formal status and rights but also their responsibilities and duties. While critically reviewing the relevant literature, it shows a conceptualisation of immigrants' rights and responsibilities that helps appropriately examine their elements or changes long overlooked in the existing studies. Additionally, it argues that alongside political dynamics, policy ideas are also an important factor behind the formation and development of immigrants' rights and responsibilities. Methodologically, the

mixed methods methodology is adopted to gain a comprehensive understanding on the rights and responsibilities of immigrants in East Asia. This methodological approach proves the analytical advantages of combining two different comparative research studies—fuzzy set ideal-type analysis (medium-N research) and comparative historical analysis (small-N), enhancing the validity and trustworthiness of the research findings. Empirically, lastly, this thesis is the first attempt to longitudinally and macroscopically analyse and compare the (membership) rights and responsibilities of immigrants, particularly low-skilled labour migrants, in East Asian countries in terms of an intersection between their welfare and immigration regimes. It offers multidimensional empirical findings not only on how similar and different Japan and Korea are, but also on why some parts of them are similar while others are not.

### **1.5. Structure of the thesis**

This thesis consists of three main parts; and each part is dedicated to answer each research question. Following this introduction chapter, Part One (Chapters Two and Three) builds up the conceptual and theoretical grounding of immigrants' rights and responsibilities—the main theme of this thesis—and analyses them from an international perspective. Specifically, Chapter Two reviews the existing literature regarding the membership and rights of immigrants in welfare states, and then conceptualises immigrants' rights and responsibilities. Arguing that this concept is interdisciplinary, the literature review covers a variety of studies on citizenship (and membership), the welfare state and international migration, as well as recent changes in welfare and immigration regimes. Chapter Three conducts the fuzzy set ideal-type analysis to compare the rights and responsibilities of immigrants in East Asian welfare states with those in Western welfare states, including a total of 27 OECD countries. It demonstrates cross-national differences in the welfare and immigration regimes and immigrants' rights and responsibilities, thereby providing a meaningful empirical basis for the following parts.

Part Two (Chapters Four and Five) looks into the empirical contexts in relation to immigrants' rights and responsibilities in East Asia and analyses the Japanese and Korean cases in a comparative perspective, with a focus on low-skilled labour migrants. Chapter Four provides the empirical grounding of this research by reviewing the literature on East Asian welfare and immigration regimes and reframing the earlier conceptualisation—of immigrants' rights and responsibilities—into the context of Japan and Korea. It also examines the recent

changes and challenges facing both regimes in the region, thereby revealing theoretical and empirical gaps of the existing studies that this research aims to fill. Chapter Five analytically describes the rights and responsibilities of immigrants in the two East Asian nation-states. It firstly deals with their welfare and immigration regime developments respectively. Within their own contexts, the rights and responsibilities of (two groups of) low-skilled labour migrants are then analysed and compared.

Part Three (Chapters Six to Nine) presents and discusses empirical explanations about similarities and differences in the rights and responsibilities of low-skilled labour migrants in Japan and Korea from a comparative and historical perspective. Chapter Six briefly introduces comparative-historical analysis as a methodology to help analyse them. Drawn from a review of the theories of social and immigration policy changes, it establishes an analytical framework, and specifies methods of data collection and analysis. Chapters Seven and Eight explain the Japanese and Korean cases respectively based on the earlier suggested analytical framework. Chapter Nine compares and discusses key findings from the two previous analytical chapters, and thereby shows why these two East Asian countries have diverged on the rights and responsibilities of immigrants—particularly, low-skilled labour migrants. Finally, Chapter Ten presents a summary of the findings of this thesis, reflects on their wider—that is, theoretical, methodological and empirical—contributions and limitations and makes suggestions for future research.

## **PART ONE**

### **Introduction**

As mentioned in Chapter One, this thesis consists of three parts. Three parts present their own empirical findings by answering three different—but interrelated—research questions on immigrants' rights and responsibilities in two East Asian welfare states, Japan and Korea.

The first part of this thesis is dedicated to find answers to the first research question, how immigrants' rights and responsibilities in Japan and Korea are similar with and different from Western counterparts. To do so, first, Chapter Two conceptualises immigrants' rights and responsibilities as the theoretical grounding, following the literature review on social citizenship in welfare states, immigration control and immigrant integration policy and immigrants' citizenship and rights. Drawing on the conceptualisation, Chapter Three undertakes fuzzy set ideal type analysis to examine welfare regimes, immigration regimes and immigrants' rights and responsibilities, especially in Japan and Korea, using an international comparative perspective. It specifically analyses multiple dimensions of the rights and responsibilities of immigrants in welfare states together, thereby suggesting significant empirical findings on the East Asian cases—and implications on their distinctiveness.

## **CHAPTER TWO**

### **Immigrants' rights and responsibilities in the welfare state**

Although the modern welfare state and international migration has emerged and developed around the same time (post-World War II), these two themes have been dealt with separately within their own academic realms. However, witnessing continuous migratory movements of people into Western welfare states within the globalised era, a number of theorists have studied the phenomena of immigration and welfare state development together theoretically and empirically (e.g. Carmel, Cerami and Papadopoulos, 2012; Sainsbury, 2012; Soysal, 1994). They take into account a variety of academic areas, including social citizenship, the welfare state (regime) immigration control and immigrant integration policy, and so on. This chapter reviews the related discussions, and thereby establishes the theoretical and conceptual backgrounds of this thesis on immigrants' rights and responsibilities.

Immigrants' rights and responsibilities are a composite concept based on several concepts—social citizenship (or membership), welfare rights and immigration control and immigrant integration—and their interactions. Thus, it is necessary to have a clear comprehension on these included concepts. The first section about citizenship and social rights in the welfare state starts with T. H. Marshall's theory of social citizenship, which is a highly influential account on the theme, and then reviews the research about how social citizenship has been materialised in the context of political economy surrounding the welfare state, that is, the welfare regime. In succession, the recent discussions about social citizenship along with welfare reforms are dealt with. The next section looks into immigration control and immigrant integration in the welfare state, especially welfare states' responses to immigration and immigrants and civic integration as an emerging approach to immigrant integration. In section three, the existing literature about the membership and rights of immigrants in welfare states is examined in terms of an interface between the two different academic strands. It then moves on to the core of this chapter and conceptualises immigrants' rights and responsibilities as a key concept of this research by examining shortcomings found in the earlier reviewed literature.

#### **2.1. Citizenship rights and responsibilities in the welfare state**

Social citizenship or membership is a valid concept to not only evaluate and determine whether and to what extent certain individuals or groups are regarded as members of a society and eligible to specific rights and responsibilities, but also to examine the levels and causes of

inequality depending on different socio-economic dimensions (e.g. class, gender, race, disability, age, etc.) (Dwyer, 2000). In this regard, the concept of social citizenship or citizenship rights and responsibilities, although highly contentious when conceptualised as a universal definition or description (Oliver and Heater, 1994), has consistently been used as an analytical lens to investigate various social phenomena relating to the modern welfare state.

### **2.1.1. Social citizenship in the welfare state**

Amongst the diverse attempts to define social citizenship, T. H. Marshall's seminal writings on the concept of citizenship, in particular of social rights, and its relation with social class have been widely regarded as classics. In his prominent work, *Citizenship and Social Class* (1949/1992), Marshall (1992, p. 18) accounts for citizenship as "a status bestowed on those who are full members of a community", and thus, "all who possess the status are equal with respect to the rights and duties with which the status is endowed". His understanding about citizenship is clearly noteworthy in terms of embracing a series of rights and duties attached to a status, leading to his original three-pronged scheme of citizenship that is composed of civil, political and social elements. With this scheme, he analyses the impact of citizenship on social classes "by history"—not "by logic"; for example, civil rights in the eighteenth century, political in the nineteenth and social in the twentieth respectively (p. 8).<sup>3</sup>

These three elements of social citizenship are presented in terms of specific sets of rights alongside social institutions through which the rights are exercised (Marshall, 1992, p. 8). The civil element of citizenship contains the rights for individual freedom, such as "liberty of the person, freedom of speech, through and faith, the right to own property and to conclude valid contracts, and the right to justice", within the courts of justice, and the political refers to the rights of political participation—"as a member of a body invested with political authority or as an elector of the members of such a body"—within the parliamentary institution. The social element includes "the whole range from the right to a modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life of a civilised being according to the standards prevailing in the society". It is concretely exemplified by social security systems, including social insurance and social assistance, and health and education services in one of Marshall's later writings, *Class, Citizenship, and Social Development* (1964).

Of Marshall's analyses, the most significant is the social element and its impact on social

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<sup>3</sup> As Barbalet (1988) points out, however, this periodisation cannot be regarded as indicating an evolutionary assumption of Marshall's ideas about citizenship rights, as he identifies that these periods are necessary to be "treated with reasonable elasticity" and somehow overlapping each other, especially between political and social elements (Marshall, 1992, p. 10).

class, because only through its addition to citizenship in the twentieth century “citizenship and the capitalist class system have been at war” (Marshall, 1992, p. 20). Particularly, it is often regarded as being distinctive and separate from the other two because of its emphasis on redistribution of material resources—going beyond individual freedoms—and thereby substantially contributes to enhancing egalitarianism in a community (Oliver and Heater, 1994).<sup>4</sup> Furthermore, as Twine (1994, p. 104) points out, the “three-legged stool of citizenship” is not sustainable without being backed up by social rights. Specifically, in welfare capitalism in which individuals are commodified, citizenship without substantial (social) rights to economic, health and education support may not have a substantial meaning for all citizens. In this respect, such interdependence of citizenship elements centring on the social is a key aspect of Marshall’s work (Castles and Davidson, 2000).

Marshall (1981) notes that the welfare state is an expression of spirit—not structure—of social citizenship; especially, in terms that the liberal-democratic welfare state enables citizens as full members of a society to enjoy the prevailing standard of life in the society (Kymlicka and Norman, 1994). With the historical development of Western welfare states, the principle of social citizenship has been embodied primarily through social policy development (Twine, 1994).<sup>5</sup> In other words, it can be said that social rights are typically presented in terms of a variety of welfare programmes such as social insurance, social assistance and social services (Bottomore, 1992; Oliver and Heater, 1994). In particular, Bottomore (1992, p. 69) interprets social rights in a broad sense by taking account of “access to education, health care, employment, and adequate housing, and in addition provision for the special needs of particular groups”.<sup>6</sup>

However, Marshall (1992, p. 40), although stressing that citizenship rights can “not be a proper matter for bargaining”, clarifies that there is no universal principle for citizenship in terms of what rights and duties should be included. In his idea, social citizenship—particularly

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<sup>4</sup> Such different characteristics of the social element, however, have led to some criticism that it is insufficient as one of the three elements of citizenship (Barbalet, 1988; Dean, 2001). Notably, Barbalet (1988, p. 67) argues that social rights cannot be citizenship rights because they are “a means of facilitating citizenship” are “only meaningful when they are substantive”, and “always conditional upon an administrative and professional infrastructure, and ultimately upon a fiscal basis”. Nonetheless, Dwyer (2000) clearly points out that the conception of social rights as a salient and universal element of citizenship has received widespread support from the academic community and even from the public.

<sup>5</sup> The concept of the welfare state often contains the normative idea that the welfare state should provide citizens with a certain standard of social security as a right against social contingencies (or risks)—for example, old age, unemployment, sickness and so on (Briggs, 1961; Pierson, 1998; Wilensky, 1975).

<sup>6</sup> However, it is noteworthy that the relationship between social citizenship and social policy is not so straightforward, because there could be the discrepancy between these two both analytically and empirically (Barbalet, 1988). In a similar vein, Esping-Andersen (1999) points out that social policy can exist without the welfare state, the core idea of which is constituted by social rights, but the converse cannot be.

social rights—is not an abstract entity far removed from the reality, but rather “embedded in developing social institutions and material conditions” (Dwyer, 2000, p. 51). In this respect, his conception can be contestable within different—and changing—contexts, because it is embedded in a particular context; England’s welfare state development spanning three centuries, the eighteenth, the nineteenth and twentieth. In other words, the conception of social citizenship can be understood as socially constructed, and thus, could be materialised diversely by country depending on its own political economy (see Mann, 1987).

### **2.1.2. Understanding social citizenship within the welfare regime**

Marshall (1992), as mentioned earlier, postulates the possibility of different conceptions and embodiments of citizenship rights within different societies. Moreover, in *The Right to Welfare and Other Essays* (1981), he sees the modern capitalist society as a “hyphenated society”, which consists of three systems of capitalist economy, political democracy and the welfare state. That is to say, social rights are placed in an inextricable—inevitably tense—relationship between equality of the democratic welfare state and inequality of the capitalist economy. In order to comprehend how different welfare states have developed and materialised social citizenship into their welfare outcomes, including social policy, in this respect, it is necessary to take their different political and economic contents into consideration.

Esping-Andersen’s approach with his path-breaking work, *The Three Worlds of Welfare Capitalism* (1990), although not the first attempt to understand welfare states systematically (see Titmuss, 1958; Wilensky and Lebeaux, 1958), has comprehensively explained and compared their different developments and materialisation of social rights by taking the perspective of the “welfare (state) regime” going beyond the welfare state.<sup>7</sup> The welfare state regime cannot simply be regarded as an accumulation of individual social policies and programmes, because it has been established and developed upon “the principles for which the historical actors have willingly united and struggled” (Esping-Andersen, 1990, p. 32). Thus, Esping-Andersen (1999, pp. 34-35) understands it as historically developed and constructed, namely “the combined, interdependent way in which welfare is produced and allocated between state, market, and family”.

In Esping-Andersen’s (1990) theory of welfare capitalism, the nature of welfare

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<sup>7</sup> Although Esping-Andersen adopted the term welfare regime in his later book of *Social Foundations of Post-Industrial Economies* (1999), his original use (1990) of “welfare state regime” postulates that the state tends to stand out against other two actors, market and family; albeit both situated in the welfare mix (Gough, 2004b). According to Gough (2004b, p. 26), ‘welfare regime’ is “a more generic term, referring to the entire set of institutional arrangements, policies and practices affecting welfare outcomes and stratification effects in diverse social and cultural contexts”.

provision of different welfare regimes is assessed by three key criteria, “de-commodification”, “stratification” and “welfare mix” between the state, market and family. First, the notion of de-commodification refers to the quality of social rights, evaluating the extent to which state welfare provision ensures a decent standard of living for individuals regardless of participation in market relations. Accordingly, it can be realised “when a service is rendered as a matter of right, and when a person can maintain a livelihood without reliance on the market” (Esping-Andersen, 1990, p. 22). The second notion of stratification reveals the effect of de-commodifying social policy (e.g. its principles, aims and practices) over the structure of inequality (i.e. market distribution), by answering what kind of social stratification system is generated by a series of social welfare policies or to what extent social solidarity is built by state welfare provision. Lastly, welfare mix shows the particular arrangement between three main welfare providers, the state, market and family, in terms of “how social risks are managed and distributed” between these three (Esping-Andersen, 1999, p. 36).

Based on these three criteria, Esping-Andersen (1990; 1999) classified Western welfare regimes into three different types of welfare capitalism: the liberal, the conservative-corporatist and the social democratic (see Table 2.1). First, the liberal welfare regime, characterised by means-tested social assistance and modest levels of universal income transfer and social insurance schemes, is found in the United States, the United Kingdom, Canada and Australia. This welfare model puts its primary emphasis on the market’s role in welfare provision, whereas the state guarantees only a minimum level of welfare to a specific group of people, mainly the poor. Accordingly, its welfare outcome often demonstrates a low degree of de-commodification and a very highly stratified system of social security. The second type of welfare capitalism, the conservative-corporatist, is distinctive in the way it maintains status differentials by attaching social entitlements to class or status. Its archetypical countries are Germany, France, Austria and Belgium. Along with the principle of “subsidiarity”, the state of the conservative-corporatist welfare model takes part in welfare provision only when the family is not capable of providing its own welfare. Its subsequent welfare outcome presents the moderate level—but only for breadwinners, the high level—of de-commodification and strong social stratification. The third cluster of countries, such as Sweden, Finland, Denmark and Norway, belongs to the social democratic welfare regime type. Central to this model is the principle of universalism and social rights. In other words, social policy (or state welfare provision) aims at providing generous and highly (re)distributive benefits to individuals regardless of their class and status, resulting in a high degree of de-commodification and marginal social stratification.

**Table 2.1 Key attributes of three welfare state regimes**

Regime attributes	Liberal	Conservative-corporatist	Social democratic
Main welfare provider	Market	Family (and state)	State
Dominant mode of solidarity	Individual	Kinship/Corporatism/ Etatism	Universal
Welfare state:			
Claiming principle	Need	Work/family need	Citizenship
Main beneficiary	Poor	Male breadwinner	All citizens
Objective	Poverty alleviation	Income differentiation	Equality/income maintenance
Degree of social rights (de-commodification)	Minimal	High (for breadwinner)	Maximum
Degree of social stratification	Unequal	Less unequal	Equal

*Source:* adapted from Esping-Andersen (1999, p. 85) and Scharpf and Schmidt (2000, p. 11).

### 2.1.3. Contested social citizenship in the “new” welfare state

Social citizenship has been a highly contested concept across numerous theorists because of its vague definition (Powell, 2002). Even Marshall’s (1992) three-pronged citizenship scheme is often criticised for “its failure to specify the level, form and content of social rights” (Twine, 1994, p. 106). In this regard, the concept of social citizenship has been in an iterative process of interpretation and reinterpretation, for example, in relation to the historical development (periodisation) of social citizenship, equality of status or opportunity, welfare responsibilities, global (or transnational) citizenship, etc. (see Bulmer and Rees, 1996; Powell, 2002; Rees, 1995a; 1996; Twine, 1994). It is not this research’s intention to examine all the related discussions systemically here, but two dualities of social citizenship, inclusion/exclusion and rights/duties, need to be taken into consideration for research interest of this thesis. They are not mutually exclusive conceptually, but rather tightly interwoven with each other within the recent trend of welfare restructuring towards a “new” welfare state.

First, the discourse (of the objective and emphasis) of social citizenship has recently changed from equality of status to social inclusion/exclusion. Marshall’s account is definitely concerned with equality of social citizenship against inequality of social class. However, it accentuates equality of status more than equality of redistributive welfare provision or outcome (Bulmer and Rees, 1996; Marshall, 1992). He acknowledges that it is difficult to achieve “absolute equality” under the coexistence of two conflicting principles (i.e. equality of social citizenship and inequality of the capitalist class system), pointing out that social citizenship should aim at eliminating “inequalities which cannot be regarded as legitimate” (Marshall, 1992, p. 45). In this respect, equality of status had long been centred in the discourse

of social citizenship.

Along with the growing number of people excluded from mainstream society for several reasons (e.g. class, gender, race, disability, etc.), however, a number of scholars have gradually reconsidered social citizenship in terms of social inclusion/exclusion and equality of opportunity and participation rather than equality of status (Levitas, 1996; 1998; Lister, 1990; 1998; 2007; Twine, 1994). Specifically, Lister (1990, p. 31) argues that social citizenship cannot be understood in isolation from the “wider social and economic context and the inequalities of power, resources and status that permeate it”; because being “left behind” and “excluded from” the substantive exercise of citizenship rights may be caused by economic, social and cultural factors of the excluded, not by whether or not they possess the citizenship status or (formal) rights.

However, recent welfare reforms have demonstrated changing—somewhat narrower—understandings of the socially excluded, who are unable to sufficiently exercise and enjoy social citizenship due to barriers such as poverty, poor educational opportunity, racial minority and so on (Collins, 2003). According to Levitas (1998), there are three major discourses of social exclusion: redistributionist discourse (RED), moral underclass discourse (MUD) and social integrationist discourse (SID). First, RED points to poverty or material inequality as the main cause of social exclusion, thus emphasising a redistribution of resources and power for resolving it. Second, MUD focuses on behaviours and values of the excluded themselves rather than the socio-economic structure, thereby making an issue of their “dependency” upon welfare benefits. Lastly, SID exclusively puts emphasis on fostering social cohesion through paid-work participation by defining social inclusion and exclusion in terms of labour market participation. The latter two discourses are established upon the narrower notions of social citizenship—namely, emphasising economic and cultural causes of social exclusion respectively, in comparison with RED which takes account of the social, economic, political and cultural aspects. As the focus of the social exclusion discourse has recently shifted from RED to a combination of MUD and SID, the discourse of social citizenship has gradually centred around “work”—namely, labour market participation through paid-work, crowding out redistributive concerns (Levitas, 1998; Lister, 1998).

Another duality of social citizenship is concerned with rights and duties. According to Selbourne (1994), social citizenship had long been misunderstood as “dutile rights”. Although Marshall (1992), who greatly contributed to setting the vision of the modern welfare state, saw citizenship as a status of duties as much as rights,<sup>8</sup> more recent scholars have been

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<sup>8</sup> Nevertheless, Dwyer (2000) points out that Marshall’s primary concern is the development of rights rather than obligations in his own theory of citizenship.

dealing with it in terms of (citizenship or social) rights rather than considering duties also found in his approach together. These arguments appear to be based on a premise that citizenship rights, especially social rights, are unconditional (Powell, 2002), and thus, are not a matter of *quid pro quo* in relation to obligations (Dahrendorf, 1996). Such an approach can also be observed in Esping-Andersen's (1990) concept of de-commodification, which contains the idea that social citizenship does not depend upon an individual's performance at all, especially in the market. However, Marshall (1992) clearly outlines that essential duties embody the duty to pay taxes and insurance contributions, the duty of education and military services and, most importantly, the duty to work. His emphasis on the essential duty, especially "to put one's heart into one's job and work hard" (p. 46), manifests that "the individual citizen has a duty whenever possible to recognise a responsibility for themselves and the wider communities that they inhabit" (Dwyer, 2000, p. 57).

Since the mid-1970s the then prevalent idea of dutiless rights has been considerably challenged in Western welfare states, facing the growing pressure for fiscal austerity. Particularly, the inclination to underestimate another side of social citizenship, the duties, has been criticised for promoting the culture of passive welfare dependency by many commentators investigating the relationship between citizenship rights and duties (Dwyer, 2000; 2016). In the meantime, an emphasis on welfare responsibilities has gradually been identified in both the principles and practices of social citizenship. For example, Selbourne (1994) argues that access and entitlement to social benefits and services should be the potential privileges of dutiful members of a society, but not the natural concessions universally accompanied by a citizenship status. Such discussion has reframed the conception of social citizenship in contemporary welfare states towards the individualisation of welfare responsibilities; thereby, individuals' welfare rights have directly and closely been associated with personal responsibilities and behaviours (Taylor-Gooby, 2009).

These two discourses of social citizenship—that is, emphasising social inclusion/exclusion and rights/duties—have significantly contributed to changes in the characters, functions and policies of contemporary welfare states. First, Western welfare states have recently transformed from the old-style "Keynesian Welfare National State" to the "Schumpeterian Workfare Post-National Regime" or the "new" welfare state (Bonoli and Natali, 2012a; Esping-Andersen, 2002). They can be characterised by three social policy issues: primary concerns on labour market flexibility and economic competitiveness, spatial re-scaling towards post-national systems and welfare service delivery mechanisms based on a "welfare society" including market and civil society. Thereby, more emphasis is on obligations as workers—particularly participation in the market—than on rights as citizens (Jessop, 2000).

Second, new welfare states have “actively” managed new—unpredictable—social risks, going beyond “passively” tackling traditional—predictable—social risks (e.g. retirement, unemployment, sickness and disability) through collective state welfare provision. The individual citizen faces new social risks with considerable uncertainty and insecurity, because the risks are often beyond the control of individual nation-states (Edwards and Glover, 2001). In addition, the risks have primarily been generated by the process of socio-economic transformation (e.g. post-industrialisation, the tertiarisation of employment and the increasing labour market participation of women), and thereby have jeopardised the welfare of citizens, particularly those insufficiently protected by traditional welfare policies such as younger people, women and the low-skilled (Bonoli, 2006). In order to cope with the unpredictable risks, new welfare states have stressed labour market participation and strengthened the connection between different policy areas including employment, fiscal, education and social policies; for example, by adopting strategies of welfare retrenchment and cost-containment in reforming their social security system and/or additionally introducing new welfare policies such as parental leave, child care and in-work benefits (Bonoli and Natali, 2012a).

Contemporary welfare states have encountered a two-sided test: to simultaneously enhance the international competitiveness of their economies while maintaining political support for collective state welfare provision (Taylor-Gooby, 2009). In other words, they have simultaneously promoted the quality of human capital through investments and incentives and responded sufficiently to the welfare demands of citizens in a cost-effective way. For achieving the former objective, active labour market or employment policy under the principle of “Third Way” or “flexicurity” has gradually encouraged workers and potential workers to become more active and prepared for paid-work. For the latter, liberalisation and deregulation in established social security systems (e.g. public pension and health care) have been initiated along with a greater reliance on market mechanisms with the reduction of state responsibility. Such tendency has also been witnessed in the form of a “social investment state” across advanced welfare states, reorienting social spending towards “preparing” rather than “repairing” by pursuing equality of opportunity to work and education (Morel, Palier and Palme, 2009, p. 16).

Overall, since Marshall (1992) presented his original conception of social citizenship in terms of three elements—that is, civil, political and social, it has constituted the “post war idea of the welfare state based on the principle of universal entitlement derived from citizenship” (Cox, 1998, p. 3). Along with the emergence of new welfare states, however, its focus has gradually shifted towards the discourses of social inclusion/exclusion in relation to labour

market participation and welfare responsibilities.<sup>9</sup> While considering the recently changing context of “the transition to a new welfare state addressing new social risks”, in this regard, Taylor-Gooby (2009, pp. 6-8) reframes social citizenship as “rights and duties in relation to benefits and services designed to meet social needs and enhance capabilities set in the context of the cultural beliefs and assumptions that influence their practical operation”.

## **2.2. Immigration and immigrants in the welfare state**

Many international migration studies have delineated the relationship between migration and the nation-state—particularly, as a destination of migratory movements, noting that international migration can challenge national identity and political institutions in many ways (Castles and Miller, 2009).<sup>10</sup> That is to say, the movements of people with different ethnic and cultural backgrounds across borders may bring a fundamental challenge to nation-states by potentially affecting changes of their territorial, organisational and conceptual boundaries and furthermore, “ways of thinking about ‘us’ and ‘them’” (Geddes, 2003b, p. 2). In general, the nation-state has sovereignty over citizens within its given territory and thereby has legitimacy in providing citizens with social protection (or state welfare provision) in exchange for their loyalty; thus, immigrants have been questioned in terms of the exchange between their political loyalty and welfare claims (Bommes and Geddes, 2000).<sup>11</sup> In this regard, Western nation-states have initiated a variety of policies to cope with growing multi-ethnic, multi-cultural and transnational issues within their societies caused by the significant inflow of newcomers since the mid-twentieth century.

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<sup>9</sup> Many theorists assess emphasis on social inclusion and duties as a significant qualitative shift in the principles and practices of social citizenship (Dean, 2002; Dwyer, 2004) or even the decline of social citizenship in contemporary welfare states (Mishra, 1999). On the other hand, some others point out that it is hardly assumed as diminishing social citizenship while taking the complexity and historical contextuality of social citizenship into account (Powell, 2002).

<sup>10</sup> International migration research can be categorised into two separate strands: studies on the causes of international migration and its consequences (Castles and Miller, 2009; Massey et al., 1998). The former research has focused on “the determinants, processes and patterns of migration”, identifying the economic, political and social forces which generate and sustain the migratory movements. On the other hand, the latter has studied “the ways in which migration brings about change in both sending and receiving societies” (Castles, 2007, p. 352).

<sup>11</sup> Several theorists have focused on some tension between immigration and the welfare state, especially the trade-off between heterogeneity and redistribution or between recognition and redistribution (e.g. Banting, 2000; Banting and Kymlicka, 2006b). However, no empirical work exists to prove these hypotheses (Banting and Kymlicka, 2003; Soroka, Banting and Johnston, 2006; Taylor-Gooby, 2005b), but rather Kymlicka and Banting (2006) argue that multiculturalism policies can promote national social solidarity in welfare states in three ways: first, by containing a destigmatising dimension; second, supplementing nation-building policies; and lastly, being integrated into a national narrative of collective identity.

### 2.2.1. Governmental responses to immigration and immigrants

Hammar (1985, pp. 7-10), classifies Western nation-states' responses to immigration-related issues into two types: "immigration regulation and aliens control" and "immigrant policy". The former policy area is concerned with the control of admission and residence of immigrants and even the granting of permanent status, whereas the latter with their (social, economic and political) incorporation into a host society. Although he points out that these two parts of immigration-related policies work together in practice, a number of researchers have followed his original distinction in examining Western nation-states and figuring out their certain patterns of immigration control and/or immigrant integration policy (Boucher and Gest, 2015; Sainsbury, 2012).

Looking first at immigration control, several scholars have attempted to classify Western countries by immigration policy—namely, its history and characteristics (Freeman, 1995; Hammar, 1985). Freeman (1995) suggests three categories of immigrant-receiving countries, centring on immigration politics that have emerged through their particular immigration histories: first, English-speaking settler societies as the traditional immigration countries (Australia, Canada, New Zealand and the US); second, Western European states with post-colonial and temporary labour migration systems (Belgium, France, Germany, the Netherlands, Sweden, Switzerland and the UK); and third, new immigration countries (Greece, Italy, Portugal and Spain). Other immigration typologies, although slightly different in criteria or labels, also seem to show similar patterns: settler states (Australia, Canada, New Zealand and the US), European states introducing guest-worker programmes in the post-war period (France, Germany and the UK) and new immigrant-receiving nations (Greece, Italy and Spain) (Boucher and Gest, 2015).

An alternative way to grasp how nation-states control and admit immigrants may be to examine the way in which citizenship as a legal status (i.e. nationality) is conferred (on immigrants). Brubaker (1990, p. 380) points out that the nation-state is "a distinctive way of organising and experiencing political and social membership", and thus, the notion of citizenship requires the notion of nationhood—that is, "what it means, and what it ought to mean, to belong to a nation-state". In other words, the relationship between citizenship and membership is inextricable in the nation-state, because citizenship has been defined as a status conferred on those with *full* membership of a given community (Marshall, 1992) and at the same time historically membership has exclusively been defined through citizenship status with a given state (Tilly, 1995). It means those without full membership (e.g. immigrants or

their descendants) are excluded from a formal status of citizenship.<sup>12</sup>

The works of Brubaker (1990; 1992; 2010a) on the relationship between citizenship and nationhood in France and Germany demonstrate how the historically constructed understanding of nationhood affects who is included in or excluded from citizenship status. According to his analysis (1992), French citizenship has an expansionary definition, caused by the republican and assimilationist understanding of nationhood, and thus, adopts the principle of *jus soli* (nationality upon birth) in determining nationality, under which second and third generations of immigrants can be granted citizenship status automatically. On the other hand, German citizenship is based on the ethno-cultural and differentialist understanding of nationhood, and thus, has the principle of *jus sanguinis* (nationality by descent), under which immigrants are treated differentially by their ethnicity, namely, open to ethnic German immigrants but closed to non-German.

In a similar vein, Castles and Miller (2009) distinguish four ideal types of citizenship across different nation-states: first, the “imperial” model to allow the integration of various people in multi-ethnic empires (e.g. the UK until the National Act of 1981 or the former Soviet Union); second, the “ethnic” model to exclude minorities with different ethnicity from citizenship (e.g. Germany until the 2000 new citizenship legislation); third, the “republican” model to focus on compliance with the constitution and laws (e.g. France); and lastly, the “multicultural”—or pluralist—model to recognise distinctive cultures and ethnic communities (e.g. Australia, Canada and Sweden in the 1970s and 1980s). Koopmans and Statham (2000) show a slightly different typology of citizenship by employing two dimensions, formal basis and cultural obligations: first, “ethnic-segregationism” to maintain a nation-state’s ethno-cultural background and discourage the assimilation of immigrants into the majority cultures (e.g. Switzerland and some of the German federal states); second, “ethnic-assimilationism” with ethno-cultural basis and cultural assimilation (e.g. Germany until the 2000 new citizenship legislation); third, “civic-republicanism” with the civic-territorial notion of formal citizenship and without recognition of cultural differences (e.g. France); and lastly, “civic-pluralism” with multicultural approaches to culture (e.g. the Netherlands and the UK).

The above examined discourses of citizenship and immigration control (regimes) necessarily relate to ones of immigrant integration. Castles and Miller (2009) argue that the process of incorporating immigrants into a host society is based on its historical experience of nation-state formation, and thus is closely connected with its citizenship model, presenting three types of incorporation. The first model of incorporation is “differential exclusion”—or

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<sup>12</sup> In this respect, Isin (2005) points out that there is a tension between two—inclusive and exclusive—sides of citizenship, mentioning “the idea of inclusion [which] relentlessly produces exclusion” (p. 381).

“guest-worker”—model (e.g. Austria, Germany and Switzerland), in which immigrants are often temporarily incorporated into certain areas, mainly the labour market, but excluded from others. Second, the “assimilation” model (e.g. France) means that immigrants could be incorporated into society by abandoning their own culture and adapting to its mainstream culture. Lastly, the “multiculturalism” model (e.g. Canada, the UK, the Netherlands and Sweden) enables immigrants to be incorporated with their own culture, religion and language once conforming to certain key values of the society.

According to Boswell (2007), there are two overlapping themes in migration policy studies. The first theme is about the failure of states to effectively control or manage the migratory movements of people. In fact, most European countries have consistently maintained a restrictive stance on immigration control since the early 1970s, but the inflow of immigrants has continued. There is certainly a conspicuous gap between the rhetoric and the reality—namely, between the goals of immigration policy and the outcomes. Regarding this gap, Castles (2004a; 2004b) presents some possible factors that hinder European nation-states from effectively addressing immigration-related issues. These factors vary considerably from direct ones within their political systems to indirect ones, generating and sustaining the international migratory process. In particular, complex—sometimes contradictory—interest conflicts in politics are often observed in relation to the issues of immigration and immigrants.

The second theme is about the growing tendency of inclusive migration policies across countries—in terms of both immigration control and immigrant integration. Gary Freeman (1995; 2006) argues that liberal democratic states show an inherent inclination to be expansionary in the politics of immigration. Immigration policy making is necessarily determined by the relative power weighting of organised interests (i.e. “client politics”), and thus, its results appear to have an “expansionary bias”. Some other theorists attribute such tendency to institutional structures as the “liberal constraint” (Boswell, 2007, p. 79), for example, the “political opportunity structure” (Koopmans and Statham, 2000), the central role of courts and domestic legal orders (Guiraudon, 2000; Hollifield, 2000; Joppke, 2001) and even international norms of human rights (Jacobson, 1996; Soysal, 1994).

Along with the recent emergence of European migration policy at the European Union (EU) level, complexity has grown in understanding immigration policy, taking additional actors and institutional structures into account (Menz, 2009). Going beyond the national-level legal and political control, the European level perception of immigration control have been formed and developed since the mid-1980s, especially through the 1985 Schengen Agreement, the 1997 Treaty of Amsterdam and the 1999 Tampere Principles laying the foundations for free movement within the region (Castles, 2004b; Geddes, 2003b). Guiraudon (2000; 2003)

interprets the internationalisation of migration policy from the perspective of “venue shopping”, that is, the change of policy domain from the domestic level to the international, maintaining that a change in policy domain where immigration-related issues have been discussed can lead to the adjustment of rules and actors engaged in the migration policy-making process. Furthermore, Geddes (2000) notes the potential emergence of “Europeanised denizenship” as European integration gradually influences national welfare states. However, a variety of studies indicate that national-level interests and preferences are still very significant in the development of European migration policy, as seen in the EU’s decision-making process of anti-discrimination legislation—particularly, the Racial Equality Directive (RED) passed in 2000 (Dwyer, 2005; Givens, 2007).

### **2.2.2. Civic integration as a new strategy of immigrant integration**

In general, it has been said that European countries have their own immigration regimes, for example, the “differential exclusionist” in Germany, the “assimilationist” in France and the “multiculturalist” in the UK, the Netherlands and Sweden (see Castles and Miller, 2009), and these have originated from the historically and socio-culturally constructed notion of nationhood (see Brubaker, 1992). However, the commonly alleged failure of immigrant integration regardless of their established approaches has brought about the simultaneous introduction of a new approach to immigrant integration, “civic integration”, across Europe. The idea underpinning this emerging strategy is that the successful integration of immigrants “rests not only on employment (economic integration) and civic engagement (political integration), but also on individual commitments to characteristics typifying national citizenship, specifically country knowledge, language proficiency and liberal and social values” (Goodman, 2010, p. 754). In this regard, its most noticeable feature is the introduction of *civic*—and/or cultural—requirements such as language and knowledge of the country in obtaining a legal status of citizenship (nationality) or permanent residence (settlement), adding to the established economic and financial requirements and restrictions for immigration (e.g. the “no recourse to public funds” requirement and the minimum earnings requirement).

Joppke (2007c, p. 247) takes note of the emerging features of European immigrant integration in terms of “a peculiar coexistence of civic integration and antidiscrimination”. The former policy treats immigrants as individuals who are responsible for their own integration, whereas the latter views them as a group of individuals victimised by mainstream society. The coexistence of seemingly conflicting policy approaches has been presented as “two separate one-way processes”, consisting of a preceding demand of civic integration from the host society to the individual immigrant and another succeeding demand of anti-discrimination from the

immigrant to the society (p. 248). In other words, individual immigrants have obligations (of integration) to earn the rights of full membership before the host society guarantees an anti-discriminatory societal environment to them. In this respect, civic integration policy emphasising immigrants' obligations is often regarded as an "illiberal backlash" or "restrictive turn" in citizenship liberalisation (Joppke, 2007a; 2008)<sup>13</sup> or the "return of assimilation" (Brubaker, 2001). On the other hand, Goodman (2010) understands it as another dimension—the "depth" or contents—of citizenship alongside access to citizenship, stressing that there are national variations in civic integration requirements, especially "in terms of scope (across various legal statuses), sequencing (which legal statuses are targeted first), and density (the difficulty of requirements)" (Goodman, 2012, p. 661). However, it is noteworthy that like other theorists arguing increasing convergence of immigration policy across European countries, she also acknowledges that European nation-states have shown a significant tendency to emphasise immigrants' obligations for integration in recent years.

Furthermore, Baldi and Goodman (2015) take civic integration policy into account in examining the stratified membership of immigrants in Western nation-states. They introduce the framework of "membership conditionality structures" (MCS), reflecting "a spectrum of institutional frameworks, policy legacies, and political calculations and serve to advance, restrict, and/or define specific membership standings for newcomers at all stages for legal status acquisition" (p. 1155). Each country demonstrates its distinct membership conditionality structure, which can be examined by three different policy areas, status access (formal status access rules), civic integration requirements (mandatory requirements of language and national knowledge) and social benefits eligibility (in relation to the recent "social downturn" caused by emphasis on self-reliance). For example, social benefit contraction and civic integration requirements have been observed in both Britain and Germany, but are differently operated in inducing immigrants to obtain citizenship status (e.g. as incentives to naturalise in Britain while as distinctive disincentives in Germany).

Overall, Western nation-states have different notions of nationhood historically and socio-culturally constructed, on which they have developed their own systems of immigration control and immigrant integration (e.g. the differential exclusionist regime, the assimilationist and the multiculturalist). Regardless of differences in immigration policy (regime), they have commonly experienced growing openness and inclusiveness towards immigrants. However, the policy failure of immigrant integration has recently led many European countries to introduce civic integration policy, imposing integration responsibilities (e.g. requirement of

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<sup>13</sup> However, Joppke (2007a; 2008) points out that the term "illiberal backlash" or "restrictive turn" would be misleading because the restrictive trend or nature of citizenship policy has always existed and has often been counterbalanced by the liberalising framework.

language and knowledge of the country) on immigrants.

### **2.3. Immigrants' membership and rights in the welfare state**

Academic interest on the membership and rights of immigrants in welfare states has gradually been growing, especially employing the principle of “inter-disciplinarity”—“building on and integrating the insights” of different approaches—for a better understanding of migratory phenomena (Castles, 2007, p. 353). The related literature can be categorised mainly into two (albeit highly interconnected) strands: the (citizenship or membership) rights of immigrants in the welfare state and the exercise and enjoyment of their rights. In other words, they respectively relate to the “formal” citizenship rights of immigrants, what kinds of membership rights they are able to claim to the host country, and the “substantive” aspect, to what extent they can effectively exercise (social) rights and thereby participate in the society.

Before reviewing these two strands of research, it is necessary to distinguish the (formal) status of citizenship and the rights of citizenship. The former is a membership status of a nation-state (Brubaker, 1992), whereas the latter refers to “an array of civil, political, and especially social rights, involving also some kind of participation in the business of government” (Bottomore, 1992, p. 66) and may even include “their substantive acceptance as full members of a putatively national ‘society’” (Brubaker, 2010b, pp. 64-65). Particularly, Brubaker (1992, p. 182) takes note of a common phenomenon found in both France and Germany whereby many non-citizen immigrants—without formal citizenship status—have been able to participate in the societies’ social and economic domains, thereby distinguishing two dimensions of citizenship, the (formal) status and rights. In this regard, he defines the rights of non-citizen members of the host society as “membership without citizenship” in terms of three elements: first, the right to reside (including family reunification) as access to immigrant status; second, the right to work (including freedom of occupation, public sector employment and self-employment); and lastly, the right to welfare (including entitlement to social insurance, social services and other welfare provisions) (Brubaker, 1989; 2010a).

The first strand of research on the (citizenship or membership) rights of immigrants primarily studies an empirical anomaly across Europe in the late twentieth century. These studies show that many non-citizen immigrants appear to have already enjoyed a broad range of economic and social rights in two similar ways (see Baldwin-Edwards, 1991; Brubaker, 1992; Faist, 1995; Hammar, 1990). First, these early studies are based on a shared view that the citizenship (or social) rights of immigrants had gradually been expanding, and thereby did not

differ at the margin from those of citizens. Second, they typically enumerate all sorts of citizenship rights legally conferred on immigrants regardless of the formal status of citizenship as evidence for their standpoints. For example, Hammar (1990) interprets this apparent anomaly through his original concept of “denizen”, referring to a non-citizen who enjoys extensive social—and sometimes political—rights normally conferred on a citizen. Baldwin-Edwards (1991) points out that non-European (or third country) nationals have almost as many rights as European migrants, aside from a few areas such as state-subsidised housing, free movement within Europe and political activities. Faist (1995) compares the US and German cases, primarily focusing on the social rights of immigrants (e.g. access to old age pensions, social assistance programmes, unemployment insurance and workers’ compensation, education, housing and special programmes), and considering the type of immigration (e.g. permanent residents, labour migrants, refugees and undocumented migrants). According to his analysis, access to social services significantly differs depending on not only groups of immigrants—between regular migrants and irregular except for refugees as a special category, but also types of social security funding—between contributory programmes and non-contributory. Specifically, the undocumented are entitled to very few rights, and full access to social benefits financed by general tax revenue is not allowed to most immigrants.

Second, several theorists employ a new approach in examining the (membership) rights of immigrants in welfare states, especially adopting the perspective of “regime” to consider social, economic and political institutions surrounding them together (see Hemerijck et al., 2013; Morissens, 2008; Papadopoulos, 2012; Sainsbury, 2012; Soysal, 1994).<sup>14</sup> Specifically, Soysal’s (1994) study, although being one of the early studies on the empirical anomaly, delineates a series of immigrant integration policies in relation to membership rights through the term “incorporation regime”. The incorporation regime, referring to “the patterns of policy discourse and organization around which a system of incorporation is constructed”, helps expose the complexity and variety of immigrants’ rights by analysing “the officially stated policy goals and language; the specific policy instruments and budgets; the administrative and organizational structures for the formulation and implementation of policy; the legal framework defining the status and the social, economic, political, and cultural rights of migrants; and the migrants’ associational and participatory schemes” (p. 32). According to her analysis, the formal citizenship status is not a prime determinant of their incorporation in terms of socio-economic rights, and their rights differ marginally from citizens; albeit still somewhat questioning “a discrepancy between formal rights and their praxis” (p. 134).

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<sup>14</sup> Regime refers to “a set of rules, institutions and structured interests that constrain individuals through compliance procedures”, and “tends to produce themselves through time as a result of the way that interests are defined and structured”. (Gough, 2004b, p. 22).

Simultaneously, however, it makes clear that the scope and inventory of non-citizens' social rights vary fairly by country in accordance with each country's own institutionalised conception of social rights underpinning the welfare system.

The succeeding studies are concerned with the substantive rights of immigrants in terms of "incorporation regime" or "migrant integration regime", and furthermore, their interplay with the welfare regime. For example, Papadopoulos (2012, p. 37) claims that the social inclusion of immigrants in the national political economy is determined by the (national) migrant integration regime, which is embedded in the interaction of three main elements: "social welfare policies, citizenship and immigration policies, and labour market policies and practices shaping the formal/informal employment mix". Sainsbury (2006; 2012) compares immigrants' social rights in Western welfare states in terms of a configuration of welfare regime, incorporation regime and the type of immigration. Immigrants' social rights include access to state welfare provision—depending on welfare regime types and entry categories, and additionally consider various immigration and immigrant policies as follows: "citizenship acquisition; the residence and work permit system; family reunification; special reception measures and settlement programs directed to newcomers; anti-discrimination legislation with respect to national origins, ethnicity, race, or immigration status; and granting or limiting non-citizens' participatory rights" (2012, pp. 16-17). Her analysis shows that immigrants' social rights are different across countries due to different configurations of welfare and immigration regimes, and even can be expanded or contracted by welfare and immigration politics. Hemerijck et al. (2013) also takes welfare and incorporation regimes into consideration in comparing the social inclusion and exclusion of immigrants in four European welfare states.

In addressing and comparing the rights and social integration of immigrants in welfare states, there is another interesting approach to consider policy outputs, thereby developing worldwide indicators (Boucher and Gest, 2015). For example, the Multiculturalism Policy Index (MPI), introduced by Banting and Kymlicka (2006a; 2013), is designed to measure the character, strength and evolution of multicultural policies in 21 Western democracies at different points in time. This index includes eight public policy indicators to monitor to what degree multicultural policy ensures positive recognition, accommodation and support for immigrant minorities. In addition, Koopmans, Michalowski and Waibel (2012) compare immigrant rights both cross-nationally and diachronically with the Indicators of Citizenship Rights for Immigrants (ICRI), measured by several policy areas such as nationality acquisition, family reunification, expulsion, anti-discrimination, public-sector employment for non-citizens, political rights for non-citizens, cultural rights in education, cultural and religious rights. Lastly,

the Migrant Integration Policy Index (MIPEX) attempts to provide a comprehensive view on governmental efforts to integrate immigrants across Europe and the world, including all EU member states plus Australia, Canada, Iceland, Japan, Korea, New Zealand, Norway, Switzerland, Turkey and the US (Huddleston et al., 2015). The MIPEX takes account of integration-related policies, integration outcomes and other contextual factors in eight policy areas relating to immigrant integration. A summary overview of the above examined literature is presented in Appendix 1.

However, these two strands of research on the citizenship (or membership) rights of immigrants in welfare states may demonstrate some conceptual shortcomings, especially in terms of social inclusion/exclusion and rights/duties. Many earlier studies, although focusing on the membership rights of non-citizen immigrants going beyond the formal status, are not sufficient to tackle their social exclusion from the substantive exercise of rights, namely practical access to, possession and enjoyment of rights granted to them as members of a nation-state (Baldwin-Edwards, 1991; Brubaker, 1992; Faist, 1995; Hammar, 1990). That is to say, these studies pay insufficient attention to the distinction between having formal entitlements to citizenship rights and having capability to exercise them in practice, thereby neglecting to some extent that many non-citizens (e.g. immigrants, indigenous peoples and other minority groups) have still experienced “special forms of exclusion in the legal, economic, spatial, social and cultural spheres” in their everyday lives (Castles and Davidson, 2000, p. 83). Furthermore, their primary focus on the expansion of immigrants’ membership and rights across Western welfare states fails to appropriately investigate how the membership and rights have changed and developed—sometimes contracted—in different politico-economic contexts.

The following studies approach the social inclusion (or rights) of immigrants in terms of an interplay between different regimes (Hemerijck et al., 2013; Morissens, 2008; Papadopoulos, 2012; Sainsbury, 2012), assuming that it lies at the centre of “socio-economic transformation underway in European societies and their political economies” (Papadopoulos, 2012, p. 37). Accordingly, this regime approach can properly delineate the historical development of immigrants’ rights, what kind of and through what pathway immigrant rights have been constituted—expanded and/or contracted—across countries. However, it is necessary to note that social citizenship consists of not just rights but also duties. In this regard, this strand of research could be insufficient to understand the formal and substantive membership of immigrants in welfare states comprehensively by putting emphasis only on one side of social citizenship, such as rights to reside, work and welfare. Some theorists would even understand the introduction of welfare (and integration) conditionality in the new welfare state as a main cause and aspect of contraction of social rights (see Sainsbury, 2012). Arguably,

however, duties as another side of social citizenship need to be taken into account distinctive from (social) rights, because the social inclusion and incorporation of immigrants depends on not only changes in the scope and level of formal entitlements to citizenship rights, but also ones in duties/responsibilities affecting the entitlements.

#### **2.4. Conceptualising immigrants' rights and responsibilities in contemporary welfare states**

In order to simultaneously remedy some conceptual shortcomings of the existing related literature and provide a more comprehensive understanding on the social incorporation of immigrants, this section reconsiders the rights and responsibilities of immigrants in terms of three aspects: interdependence of membership elements, social inclusion/exclusion and rights/duties. Prior to this, it is necessary to revisit T. H. Marshall's (1949/1992) classical definitions of social citizenship. Citizenship is "a status bestowed on those who are full members of a community", and all those with the citizenship status "are equal with respect to the rights and duties with which the status is endowed" (Marshall, 1992, p. 18). Especially, he defines its social element as "the whole range from the right to a modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life of a civilised being according to the standards prevailing in the society" (p. 8). Such his account does still give fruitful insights into reconsidering immigrants' rights and responsibilities.

##### *Interdependence of membership elements*

The rights and responsibilities of immigrants in the welfare state can hardly be explained without consideration of the interdependence of membership elements. The distinction between formal and substantive membership (citizenship) may exist in two different dimensions: first, between legal membership status and legal access to rights; and second, between civil and political elements of citizenship and its social element. With respect to the first division, citizenship as status has long been accounted as a powerful means of both territorial and membership closure against those without citizenship status, and thereby as "a prerequisite for the enjoyment of certain rights, or for participation in certain types of interaction" (Brubaker, 1992, p. 31). However, membership rights and duties have no longer been determined exclusively by formal citizenship status. While studying the anomalous phenomenon in Western welfare states that immigrants without citizenship status appeared to have enjoyed socio-economic rights as much as citizens, many scholars point out that their

legitimate residency status and other socio-economic positions matter more than citizenship status (see Brubaker, 1989; Soysal, 1994).

The second division between civil and political elements of citizenship and its social element may stem from their different natures. Specifically, Oliver and Heater (1994) view social rights as distinctive from the first two elements in terms of their emphasis on redistribution of goods and services, and thereby their stance against the capitalist system. Additionally, they have often been regarded as a facilitator for members of a society to participate in furthering civil and political rights (Barbalet, 1988; Rees, 1995b; Twine, 1994). Simultaneously, however, Twine (1994, p. 105) highlights the interdependence of three elements of citizenship, clarifying that “each must be the protector and sustainer of the civil, political and social rights—the citizenship—of all”. For the socially excluded (e.g. immigrants or ethnic minority groups), for example, lack of access to social security and services may lead to restrictions on their substantive exercise of civil and political rights, and then the weakened civil and political rights potentially undermine their social rights to encourage their social inclusion into a given society (Lister, 1990).

In order to comprehend immigrants and their social incorporation into welfare states, this research considers the rights and responsibilities of immigrants going beyond their formal status. Furthermore, although a social element of citizenship is often regarded as most salient, it is necessary to take all three—civil, political and social—elements together into account. As Twine (1994) points out, the social inclusion and incorporation of members of a society cannot be guaranteed effectively without it, and vice versa. Given such interdependence of membership elements, the rights and responsibilities of immigrants need to include not only their social entitlement to social benefits and services, but also civil and political rights in relation to their entry/residency and franchise. As for non-citizens’ political rights, it is noteworthy that many countries have often allowed immigrants to take part in local elections, but not in national ones. This could potentially provide immigrants with political chances to promote their rights and responsibilities.

#### *Social inclusion and exclusion*

Social inclusion and exclusion, the second aspect of immigrants’ rights and responsibilities, are concerned with the socially excluded who experience the *de facto* deprivation of equal participation in a given community because of various (economic, social and cultural) barriers. Immigrants’ substantive exercise of membership rights can be restricted not only by whether they legally possess these rights, but also by their socio-economic circumstances. Social

citizenship and membership (rights), as Lister (1990, p. 31) points out, cannot be viewed in isolation from the “wider social and economic context and the inequalities of power, resources and status that permeate it”. With respect to immigrants’ rights and responsibilities, social inclusion and exclusion are often understood in two different—but not separate—ways; the narrow and broad senses.

Social inclusion and exclusion have been interpreted somewhat narrowly, particularly in terms of labour market participation. While a number of theorists have paid more attention to the relationship between social exclusion and relative poverty (Levitas, 1996; 1998; Lister, 1990; Twine, 1994), social inclusion through paid-work participation has gradually been considered as a central part of social citizenship. For immigrants and ethnic minority groups, participation as paid-workers in the economy has played an essential role in their social welfare, even “in the period of the large-scale recruitment of immigrant workers” (Castles and Davidson, 2000, p. 111). However, many of them have still experienced difficulty in attaching to the labour market, often causing their relatively restricted access to social security system and low-level benefit level (see Morissens and Sainsbury, 2005). In this regard, access to the labour market—including accessibility itself (e.g. right to work and freedom of occupation) and labour rights (e.g. the right to unionise, of collective bargaining and collective action)—needs to be considered as a main contributor to the social inclusion of immigrants in the new welfare state.

However, social inclusion and exclusion are not only restricted to such narrow perspectives. Marshall’s (1992, p. 8) definition of a social element of citizenship contains both extreme understandings: that is to say, “economic welfare and security” at the *minimalist* end and “the full in the social heritage” and “the life of a civilised being” at the *maximalist* end (Powell, 2002). However, the minimalist understanding seems to be hardly compatible with Marshall’s (1964; 1975) own view that social citizenship embraces health care, education and housing going beyond social security and welfare services; but rather it is considered to be nearer to the maximalist end, equal participation in a national community. In a similar vein, Lister (1990, p. 66) asserts that “a key element in the post-war vision of citizenship was participation in the life of the community of which one is a member”. Bulmer and Rees (1996, p. 272) also argue that “Marshall’s social citizenship is about inclusion and exclusion, even though he does not use these terms in *Citizenship and social class*, preferring instead to talk of ‘equality’ and ‘inequality’”, because “Marshall’s typology traced the progressive incorporation of the working classes into mainstream society through the extension of citizenship rights to them”. In order to appropriately understand the social inclusion of immigrants, thus, it is necessary to cover a variety of policy attempts to eliminate the barriers hindering their participation in the host society.

Furthermore, the exercise and enjoyment of membership rights of immigrants can be influenced considerably by a variety of immigration-related policies and programmes within the immigration regime, regulating and/or facilitating their social inclusion and exclusion (Hemerijck et al., 2013; Papadopoulos, 2012; Sainsbury, 2012; Soysal, 1994). For example, Sainsbury (2012) notes that some special programmes for immigrant incorporation, multicultural policies and anti-discrimination legislation contribute to enhancing the possibility for immigrants to participate in various public spheres and/or eliminating unequal opportunities. In addition, their accessibility to permanent residence status, including acquisition of citizenship (naturalisation), could help ameliorate immigrants' experience of social exclusion to some extent, because despite its diminishing importance a formal citizenship status is still crucial for any significant political engagement (Soysal, 1994) and even other privileges outside the political sphere, which are not granted to non-citizens (Brubaker, 1989). Thus, the concept of immigrants' rights and responsibilities in terms of social inclusion and exclusion needs to address their legal access to the labour market as well as citizenship rights, and furthermore, consider a variety of immigration and immigrant policies enabling them to substantively participate in the host society.

### *Rights and duties*

Lastly, the concept of immigrants' rights and responsibilities should be dealt with in terms of both rights *and* duties. The individual citizen in the post-war welfare state has long been regarded as "a rights-claimer" (Roche, 1992, p. 31). However, it is noteworthy that Marshall (1992) clarifies that what is attached to citizenship status is duties as well as rights, and he makes mention of the duty to pay taxes and insurance contributions, the duty of education and military services and the duty to work. As Twine (1994) points out, social benefit claims have never been unconditional, especially in terms of a number of commonly used rules of eligibility. Furthermore, the perspective of social citizenship as dutiless rights has gradually become less valid along with the recently (re)constructed principles and practices of social citizenship, directly linking individual members' rights to welfare to their responsibilities.

With respect to the rights and responsibilities of immigrants, as examined earlier, the tendency to emphasise duties and obligations has recently been witnessed in two aspects: first, in the discourse of social citizenship to accentuate (welfare) responsibilities of all citizens as much as rights (Dwyer, 1998; 2000; Powell, 2002; Taylor-Gooby, 2009). Second, many Western welfare states have recently required immigrants' compliance with liberal-democratic principles as a main condition for integration going beyond established conditions of permanent residency and naturalisation (e.g. the period of residence, minimum financial

threshold, good character and absence of conviction) (Brubaker, 2001; Goodman, 2010; 2012; Joppke, 2007a; 2008). These two recent approaches may affect the integration and incorporation of immigrants by connecting their entitlements to social benefits and services to efforts to search for paid-work in labour market, and/or by making the acquisition of secure status (e.g. permanent residency or naturalisation) more difficult.

In this regard, it is necessary to investigate both sides of membership of non-citizen immigrants across various spheres, including entry and (permanent) residency, paid-work participation, access to social benefits and others, as well as their recent changes. For example, its obligatory side includes not just the established responsibilities and duties (e.g. economic and fiscal standards for immigration, settlement and naturalisation, the rules of eligibility on social security systems, etc.), but also the newly introduced labour market participation and civic integration requirements—namely, “knowledge tests, language and civic-orientation courses, modules for role-playing society interaction, and naturalization ceremonies” (Goodman, 2012, p. 660). This side of rights notably takes account of the recent trend of continued welfare retrenchment (e.g. reducing the replacement rate of social benefits and introducing or expanding private-funded schemes) and the introduction of (labour market) activation policies (Bonoli, 2006; Bonoli and Natali, 2012a).

In sum, the concept of immigrants’ rights and responsibilities is concerned with the following three aspects: first, *interdependence of membership elements* in terms of an array of civil, political and social elements; second, the *social inclusion and exclusion* of immigrants in terms of their access to labour market and social benefits as well as several immigration and immigrant policies helping substantively participate in the host society; and lastly, *rights and duties* as a twosome, especially reflecting the recent trend to emphasise obligations, welfare conditionality and civic integration. It is noteworthy that these three aspects of immigrants’ rights and responsibilities are overlapped and interwoven to some extent in practice. Within recent welfare state restructuring to introduce the welfare-to-work scheme or welfare conditionality, for example, the labour market participation of immigrants is not only a primary way for achieving their minimum level of social inclusion, “a modicum of economic welfare and security” (Marshall, 1992, p. 18), but also a primary condition for earning their entitlements to welfare. This is in line with Marshall’s (1992) view on paid-work as an essential duty of members of a society as well as one of basic rights. In conclusion, being based a comprehensive understanding on two different regimes, welfare and immigration regimes, an analysis of immigrants’ rights and responsibilities encompasses a variety of relevant policy areas, specifically rights and duties in social welfare, immigration control and immigrant integration policy.

## 2.5. Concluding remarks

This conceptual chapter has conceptualised the rights and responsibilities of immigrants in the welfare state. To do so, it has departed from T. H. Marshall's (1992) understanding of social citizenship, viewing citizenship as membership status with rights and duties and its social element to encourage and guarantee the substantive inclusion and incorporation of members, and then reviewed the existing discussions about welfare and immigration regimes, two main institutional foundations of immigrants' rights and responsibilities, and the membership and rights of immigrants. Specifically, two significant changes in emphasis of social citizenship—namely, from equality and rights to social inclusion/exclusion and welfare responsibilities—have stood out within the context of recent welfare state transformation. Additionally, an emerging approach to impose civic integration requirements to the integration of immigrants has recently been witnessed in many Western welfare states.

Several theorists have attempted to study the membership and rights of immigrants in welfare states in diverse ways. Particularly, some of them take note of the expansion of socio-economic rights of immigrants by enumerating the membership rights legally granted to them. Others look into not only the expansion of immigrant rights but also their contraction from the perspective of the immigration regime and its interplay with the welfare regime. However, they all, although revealing some important aspects of immigrants' rights and responsibilities, are more or less unsuccessful in comprehensively explaining them.

Following critically reviewing the literature, therefore, this chapter conceptualises immigrants' rights and responsibilities in terms of three aspects, interdependence of membership elements, social inclusion/exclusion and rights/duties. This conceptualisation provides the theoretical groundings of this research to empirically look into an intersection between welfare and immigration regimes, that is, the rights and responsibilities of immigrants. Thus, it moves onto the following chapter to answer the first research question of this thesis, how Japanese and Korean welfare states are similar with and different from Western welfare states in terms of immigrants' rights and responsibilities, from an international comparative perspective.

## **CHAPTER THREE**

### **Analysing immigrants' rights and responsibilities from an international perspective**

Immigrants' rights and responsibilities, as suggested in Chapter Two, are a composite concept based on several components (e.g. interdependence of membership elements, social inclusion/exclusion, and rights/duties) and their interactions. In this regard, most comparative studies concerning immigrants' social citizenship and/or rights have been restricted to the case-oriented method using a small number of countries (e.g. Sainsbury, 2012), and few studies conduct systematic analyses (see Eugster, 2018; Morissens and Sainsbury, 2005; Römer, 2017). For example, Morissens and Sainsbury's (2005) research, although covering only six countries (Denmark, France, Germany, Sweden, the UK and the US), makes an attempt to analyse the social rights of ethnic minority migrants using the data from the Luxembourg Income Study. For capturing cross-national differences in immigrants' social rights, they compare their economic outcomes in different welfare states through the percentage of households above the poverty line.

This research, however, goes beyond such a minimalist perspective of the social element of membership, that is, a modicum of economic welfare and security. This is because immigrants' rights and responsibilities are explicitly not only defined by access to labour market and social welfare programmes but also by immigration and immigrant policies (Sainsbury, 2012). Rather, this approach seems to be more compatible with more maximalist understandings of Marshall's (1992, p. 8) definition of social rights—that is, “the whole range from the right to a modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life of a civilised being according to the standards prevailing in the society”. Furthermore, the focus here is not just the social rights of immigrants, but both their rights and responsibilities.

This chapter undertakes fuzzy set ideal-type analysis (FSITA) to examine immigrants' rights and responsibilities using an international comparative perspective. In conducting this analysis, two main institutions of immigrants' rights and responsibilities, the welfare regime and the immigration regime, are employed. The first section looks into these two institutions and their relationship with immigrants' rights and responsibilities theoretically. Section two about research methodology introduces fuzzy set theory and FSITA, and constructs the concepts and ideal types of welfare and immigration regimes. It then moves onto the empirical analysis, which reveals diversity welfare regimes, immigration regimes and immigrants' rights

and responsibilities. The conclusion offers some key findings and implications (especially, in relation to East Asian cases).

### **3.1. Welfare regimes, immigration regimes and immigrants' social citizenship**

It could be said that the rights and responsibilities of immigrants are embedded mainly in two institutions, the welfare regime and the immigration regime. Several theorists dealing with the citizenship and social rights of immigrants consider both institutions' influences together (Hemerijck et al., 2013; Morissens, 2008; Sainsbury, 2006; 2012). The welfare regime refers to the structured institution of collectivised welfare provision in which its claiming principle between universalism and selectivity (recently adding conditionality), distributional composition between cash transfers and services, and organisational governance configuration are arranged (Starke, 2006). It can determine immigrants' possession and exercise of (social) rights and responsibilities by answering to who deserves social benefits, what kind of benefits and to what extent. The immigration regime involves laws and regulations controlling and admitting the entry, residency and naturalisation of non-citizens, and even their integration, including access to work and welfare, into the host country (Boucher and Gest, 2015).<sup>15</sup> It can influence their enjoyment—i.e. substantive exercise—of rights and responsibilities by addressing the questions of nationhood and belonging, namely, what it means—or ought to—mean, who belongs to a nation-state and what principles or standards determine political and social membership (Brubaker, 1990).

The welfare state, as Geddes (2003a, p. 152) notes, is certainly a powerful institutional force encompassing “ideas and practices associated with inclusion, exclusion, membership, belonging, entitlement and identity; that is, the classic boundary issues that concern migration scholars and policy-makers”. In particular, the welfare regime typology of Esping-Andersen (1990; 1999) has been employed by a number of scholars conducting comparative analysis on immigrant citizenship and rights (Geddes, 2003a; 2005; Hemerijck et al., 2013; Menz, 2006; Morissens, 2008; Morissens and Sainsbury, 2005; Sainsbury, 2006; 2012). They assume that different welfare regime attributes—in terms of basis of entitlement, main beneficiaries, benefit construction, type and source of funding, caring and social services and objective—

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<sup>15</sup> Drawn from a classical distinction of Hammar (1985) between immigration control and immigrant integration, some studies distinguish between the immigration policy regime and the incorporation regime (e.g. Sainsbury, 2012). In reality, however, as Sainsbury (2012) notes, they are not easily separable, and in a broad sense the term immigration policy is often used to embrace both areas (Rosenblum and Cornelius, 2012).

generate different patterns of inclusion and/or exclusion, and thereby lead to different implications for the (social) rights of immigrants. For example, Geddes (2003a), studying the dynamics between migration and welfare states, argues that emphasis on self-reliance in the liberal welfare regime and corporatism linked to occupational status in the conservative-corporatist have promoted attempts to exclude “unwanted” migrants placed mostly in lower income and status from the community of legitimate receivers of welfare provision. On the other hand, the principle of welfare egalitarianism in social democratic welfare states has rather engendered attempts to restrict the influx of new—additional—immigrants, the potential recipients of social benefits, because these countries have often provided the higher level of universal and redistributive benefits to the already settled migrants. Sainsbury’s (2012) study is along the same lines, contending that social democratic welfare states pursuing the maximum level of de-commodification are highly likely to ensure immigrants a socially acceptable standard of living compared to other welfare regime types. In addition, she asserts that different welfare retrenchment strategies depending on the type of welfare regime do also matter.

With respect to the immigration regime, there are several approaches with different scopes and focuses (Brubaker, 1990; 1992; 2010b; Castles and Miller, 2009; Koopmans et al., 2012; Koopmans and Statham, 2000; Koopmans et al., 2005). However, they all agree that the type of immigration regime constructed through historical experiences of nation-state formation can regulate and define who is included in and/or excluded from the political, economic and social territory of a nation-state, and even the way in which non-citizens are incorporated to some extent. In particular, Brubaker’s (1992) comparative research describe how different conceptions on nationhood (e.g. assimilationist in France and ethno-cultural and differentialist in Germany) have brought about different patterns of immigrant incorporation—for example, the principle of *jus soli* (nationality upon birth) and the principle of *jus sanguinis* (nationality by descent) respectively in granting the citizenship status. In this regard, different immigration regimes connote different understandings about relations between society and nation, and between civic belonging and national identity—by implication, between immigrants and citizens (Castles and Miller, 2009).

Different immigration regime attributes can significantly affect the rights and responsibilities of immigrants by regulating and/or supporting their actual and potential possibilities of social inclusion and/or exclusion. For example, an ethnicity-based nationhood can produce a system of “differential inclusion” primarily giving preferential treatment to co-ethnic migrants, and the others are likely to experience social exclusion in almost all spheres of life regardless of their labour market performance and educational attainment (Kaiser and Paul,

2011). Moreover, as seen in Sainsbury's (2012) comparative study, restrictive immigration policies (e.g. rigorous naturalisation requirements) can not only strengthen differentiation between citizens and non-citizens in access to social welfare programmes, but also circumscribe immigrants' possibilities to acquire nationality or permanent residency necessary for better economic, political and social participation.

Notably, it is necessary to consider the recent salient shifts in both welfare and immigration regimes, which may significantly affect the rights and responsibilities of immigrants in diverse ways. With the emergence of the "new" welfare states, their preventive and active measures in tackling "new" social risks and even promoting economic productivity have been highlighted, alongside continuous welfare retrenchment (Bonoli, 2006; Bonoli and Natali, 2012a). As for immigrant integration, mandatory language and country-knowledge requirements have been introduced under the label of "civic integration" in many European countries (Goodman, 2010; 2012; Joppke, 2007b). The emphasis on individuals' responsibilities, which is recently prominent in both welfare and immigration regimes, can act as a restriction over immigrants' rights and responsibilities; for example, by connecting the access to social benefits to individuals' efforts to search for jobs or participation in labour market, and/or by making the acquisition of permanent residence and/or nationality more conditional.

## **3.2. Research methodology**

This research aims to analyse and compare the rights and responsibilities of immigrants in different countries by taking both welfare and immigration regimes into account. To do this, it employs the method of FSITA, which can not only simultaneously assess their quantitative and qualitative changes, but also overcomes some of the methodological issues at play in other conventional analyses for classifying cases—as discussed in detail below.

### **3.2.1. Fuzzy set theory and fuzzy set ideal-type analysis**

A fuzzy set can be understood as "a continuous variable that has been *purposefully calibrated* to indicate degree of membership in a well-defined and specific set" (Ragin, 2008, p. 30; italics in original). This approach originates from an attempt to understand social phenomena in terms of sets and set relations, namely, treating them as consisted of "sets or categories in which cases—or observations—can have membership, including perhaps partial degrees of

membership” (Goertz and Mahoney, 2012, p. 18). In other words, the fuzzy set theory understands cases as configurations of multiple dimensions, covering both “diversity” in kind and in degree (Ragin, 2000). Thereby, this allows researchers to study these two facets of differences at the same time.

According to Ragin (2000), fuzzy sets have simultaneously both qualitative and quantitative elements; all fuzzy sets demand two qualitative datum points, full non-membership and full membership, and between these two—that is, 0 (fully out) and 1 (fully in)—the quantitative variation exists. As shown in Table 3.1, individual cases can take fuzzy set scores anywhere in the interval from 0.0 to 1.0, and fuzzy sets distinguish between “more out” and “more in”, by using a crossover point (0.5), neither in nor out. In setting up these breakpoints along with raw data, particularly, it is very important for researchers to consider the theoretical and empirical knowledge (Ragin, 2008). For example, Kvist (2003) establishes two qualitative thresholds of generosity of unemployment benefits based on substantive knowledge of cases; a replacement rate of 90 percent or more of previous earning is meant to be fully generous because most welfare states grant tax exemptions and allowances of approximately 10 percent before unemployment benefits are reduced. Also, a replacement rate below 20 percent is regarded as fully non-generous because national income studies show that individuals cannot maintain any attained standards of living if their income is reduced to 20 percent. This indicates that variation above the “fully in” point (i.e. 90 percent) or below the “fully out” (i.e. 20 percent) means little in analysing the related sets, and thus, challenges the implicit assumption of many conventional social science research that all variation is meaningful (Ragin, 2008).

**Table 3.1 Fuzzy set scores**

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1 = fully in
$0.5 < x_i < 1$ = degree of membership is more ‘in’ than ‘out’
0.5 = cross-over; neither in nor out (maximum ambiguity)
$0 < x_i < 0.5$ = degree of membership is more ‘out’ than ‘in’
0 = fully out

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*Source:* adapted from Ragin (2008, p. 31).

FSITA is an ideal-type analysis based on fuzzy set theory. The ideal type is an analytic yardstick, albeit absent in reality, which enables researchers to evaluate the degree to which empirical phenomena are similar with or different from it—and its conceptual purity (Weber, 1949). FSITA has a number of advantages over other conventional analyses for classifying cases, such

as Z-scores, cluster analysis and factor analysis, including being able to not only answer what ideal type and to what degree the cases belong to, but also simultaneously demonstrate the multiple dimensions that they have (see Hudson and Kühner, 2010). All these other approaches rely significantly on statistical information, including mean, average and standard deviation, and a linear assumption of a “relationship between variables that can mask important elements of cross-national diversity” (Hudson and Kühner, 2010, p. 169). Accordingly, they are susceptible to the existence of an outlier case. For example, a case with one exceptionally strong or weak dimension may have an undesirable impact on classifying cases. On the other hand, FSITA can control the outlier effects by determining analytic thresholds based on theoretical and empirical knowledge, and avoid the compensation effects of statistical means (e.g. one weak aspect can be compensated by another strong dimension) by looking into multiple—even conflicting—components of cases all together (Hudson and Kühner, 2009).

In order to explore and assess different configurations of different cases, FSITA mainly utilises two principles of Boolean logic: logical NOT (the negation principle, indicated by symbol  $\sim$ ) and logical AND (the intersection or minimum principle, indicated by the symbol  $*$ ) (Ragin, 2000). Through these two operations, the logically possible combinations with multiple aspects can be formulated as the “property space”, and their possible number in a property space depends on how many aspects are under consideration. In other words, with  $k$  being the number of fuzzy sets, there are  $2^k$  possible configurations; the ideal types. Consider, for example, social citizenship with two attributes, accessibility (A) and generosity (G) (adapted from Kvist, 2007). Its property space has a total of four types ( $2^2$ ): social democratic ( $A*G$ ), labour ( $A*\sim G$ ), conservative ( $\sim A*G$ ) and liberal ( $\sim A*\sim G$ ). If Country A scores 0.9 in A and 0.2 in G, its combined score is 0.2 because of the logical AND (the lowest membership score between the used fuzzy sets), and thus it cannot be a member of the social democratic type ( $A*G$ ) because of its non-generous character no matter how accessible it is. Instead, it belongs to the labour type ( $A*\sim G$ ) with its combined score of 0.7. Here, the logical NOT can be applied to the calculation of its membership score in the fuzzy set NOT G by subtracting its score in the set G from 1 ( $\sim G = 1 - G$ ). Thus, Country A’s score for  $\sim G$  is 0.7 under the negation principle, and its combined score for the labour type ( $A*\sim G$ ) is 0.7 under the minimum principle.

### **3.2.2. Configurations of welfare and immigration regimes**

For capturing and comparing immigrants’ rights and responsibilities in different countries, their two key institutions, welfare and immigration regimes, are assessed. This research has developed three fuzzy sets respectively for the welfare regime, income protection, employment protection and activation; and for the immigration regime, individual equality, cultural

difference and citizenship conditionality. Selecting and conceptualising these dimensions reflects the theoretical discussions about both regimes, as well as the relevance with immigrants' rights and responsibilities, the main theme of this thesis.

Specifically, this research has selected income protection through unemployment benefits, employment protection regardless of the type of employment (regular and temporary) and activation through active labour market programmes as three main dimensions of the welfare regime. In most welfare states, the two main sources of income for both citizens and immigrants are market income and social transfers. In comparison with citizens, however, immigrants (and immigrant households) are more likely to not only face a higher risk of becoming unemployed and relying on welfare benefits, but also have poorer access to the labour market and social security system for several reasons (e.g. the level of skill and education, the immigration status, etc.) (Kemnitz, 2003; Morissens and Sainsbury, 2005). Moreover, one of the biggest social risks of immigrants over the life cycle (or the "migration cycle") is unemployment (see Baldwin-Edwards, 2004); it is even more so these days when many welfare benefits become conditional upon individuals' participation for paid-work.

In selecting the first two dimensions of the immigration regime, individual equality and cultural difference, it is taken into consideration that the immigration regime often embraces two components, immigration control policy and immigrant integration. The first component, immigration control, is generally concerned with how and with what criteria membership status is conferred to non-citizens; and many theorists distinguish two major models of immigration control by the notion of citizenship (and nationhood)—i.e. the civic-territorial understanding of nationhood and the ethno-cultural (see Brubaker, 1992). The second, immigrant integration, is to do with to what extent and how immigrants are incorporated into a host society, identifying three models by the extent of integration and the recognition of ethno-cultural difference—e.g. differential exclusion, assimilation and multiculturalism (Castles and Miller, 2009). As for the last dimension, citizenship conditionality, the recent "civic integration" approach, emphasising immigrants' obligations for integration (see Goodman, 2010; Joppke, 2007c), can be understood as simultaneously a means of immigration control and a criterion of immigrant integration.

### *The welfare regime*

Income protection, the first dimension of the welfare state regime, has been regarded as a key criterion for characterising and categorising welfare states (see Esping-Andersen, 1990; 1999; Scruggs, 2007). It has particularly been more so since the publication of Esping-Andersen's

(1990) *The Three Worlds of Welfare Capitalism*. He conceptualises the quality of social rights as de-commodification, defined in terms of the extent to which an individual can call upon substantive social rights to maintain his/her livelihood regardless of labour market participation, and develops a de-commodification index, taking account of replacement rates of pension, sickness insurance and unemployment insurance and their eligibility rules and restrictions. Henceforth, the welfare regime modelling literature has followed his way, especially by identifying welfare states by the varying degree of their de-commodifying impact over individuals' welfare.

Second, employment protection refers to the institutionalised employment security from dismissal, and its importance as one indispensable axis of welfare states has been found in the literature of welfare production regimes (Estevez-Abe, Iversen and Soskice, 2001; Iversen, 2005; Iversen and Stephens, 2008). The welfare production regime literature examines complementarities between the social protection system, the vocational educational system and the production regime (e.g. coordinated and liberal market economies), contending that welfare states have developed within the “politics of markets” rather than the “politics against markets” (Iversen, 2005, p. 8; italics in original). This approach uses employment protection alongside income protection for measuring and comparing cross-national differences in social protection systems (see Estevez-Abe et al., 2001). This dimension has increasingly regarded as salient in the welfare state literature, including quantitative research for analysing welfare state regimes (e.g. Powell and Barrientos, 2004) and FSITA (e.g. Hudson and Kühner, 2009; 2011; 2012; Vis, 2007).

Lastly, activation has also become significant in the literature of the emergence of new welfare—or active welfare. New welfare states take note of the productive role of social policy by emphasising individuals' obligations to work and reorienting social policies towards the promotion of labour market participation (see Bonoli and Natali, 2012a; Esping-Andersen, 2002; Taylor-Gooby, 2004b). This dimension may stand out the most in the recent welfare regime transformation from the “Keynesian Welfare National State” to the “Schumpeterian Workfare Post-National Regime” (Jessop, 2000), and thus, has been utilised widely in studying welfare restructuring (e.g. Hudson and Kühner, 2009; Powell and Barrientos, 2004; Vis, 2007). For example, Vis (2007), studying radical changes from welfare to “workfare” in 16 advanced welfare states, uses the concept of activation for capturing workfare's features.

### *The immigration regime*

As for the immigration regime, there are a variety of attempts to establish the typology, including both immigration control and immigrant integration (see Boucher and Gest, 2015). In spite of differences in their labelling and emphasis, however, they appear to share similar aspects. Of those, specifically, Koopmans et al.'s (2005) typology of immigration regimes is employed. Their model, initially introduced by Koopmans and Statham (1999; 2000), has widely been used and accepted in the international migration literature (Ruedin, 2015).

This model is two-dimensional with the legal and cultural dimensions, that is, individual equality and cultural difference (Koopmans et al., 2005). Individual equality is its first dimension, concerning equal access to citizenship rights regardless of race, ethnicity or cultural background, and considers nationality acquisition, citizenship rights for foreign nationals and anti-discrimination rights. It classifies countries into two types: the ethnic type and the civic-territorial. Cultural difference as its second dimension includes cultural requirements for naturalisation, allowances for religious practices outside public institutions, cultural rights and provisions in public institutions, political representation rights and affirmative action in the labour market. Drawing on these two dimensions, Koopmans and his colleagues (2005) suggest the following four ideal types: first, "segregationism" to encourage cultural pluralism (or discourage assimilation to the majority cultures) along with an ethnic understanding of citizenship; second, "assimilationism" with an emphasis on ethnic background and cultural assimilation; third, "universalism" with a civic-territorial notion of citizenship and without recognition of cultural differences; and fourth, "multiculturalism", understanding citizenship and rights in terms of civic-territorial perspective and cultural pluralism.

The last dimension of the immigration regime, citizenship conditionality, reflects various requirements of legal citizenship for foreign nationals. This includes not just established conditions for permanent residency and naturalisation (e.g. the period of residence, minimum financial threshold, good character and absence of conviction) (Weil, 2001), but also civic integration requirements recently observed in Western European immigration regimes. The civic integration trend can be understood as an attempt to impose a series of responsibilities for integration (e.g. mandatory requirements of knowledge of national history and language and even loyalty oaths) to individual immigrants, especially in acquiring permanent residency and nationality (Goodman, 2010; 2012). The second criterion of immigration regime, cultural difference, although containing some cultural requirements for naturalisation, mainly concerns "differential rights based on group membership" (Koopmans et al., 2005, p. 51). In this regard, an additional dimension, namely citizenship conditionality,

needs to be taken into consideration for capturing the obligatory aspect of immigrants’ rights and responsibilities in terms of “under what conditions does someone with eligibility obtain citizenship?” (Goodman, 2010, p. 757).

**Table 3.2 Property spaces for welfare and immigration regimes**

Welfare regime				
Ideal types	Income protection (I)	Employment protection (L)	Activation (A)	Model
Active-protective	IN	IN	IN	(I*L*A)
Protective	IN	IN	OUT	(I*L*~A)
Active-income protective	IN	OUT	IN	(I*~L*A)
Income protective	IN	OUT	OUT	(I*~L*~A)
Active-employment protective	OUT	IN	IN	(~I*L*A)
Employment protective	OUT	IN	OUT	(~I*L*~A)
Active welfare	OUT	OUT	IN	(~I*~L*A)
Weak	OUT	OUT	OUT	(~I*~L*~A)
Immigration regime				
Ideal types	Individual equality (E)	Cultural difference (D)	Citizenship conditionality (C)	Model
Conditional-multiculturalist	IN	IN	IN	(E*D*C)
Multiculturalist	IN	IN	OUT	(E*D*~C)
Conditional-universalist	IN	OUT	IN	(E*~D*C)
Universalist	IN	OUT	OUT	(E*~D*~C)
Conditional-segregationist	OUT	IN	IN	(~E*D*C)
Segregationist	OUT	IN	OUT	(~E*D*~C)
Conditional-assimilationist	OUT	OUT	IN	(~E*~D*C)
Assimilationist	OUT	OUT	OUT	(~E*~D*~C)

Based on the above understanding, there are two property spaces—of the welfare and immigration regimes—with a total of eight ideal types respectively (see Table 3.2). Each type is named for ease of reference. For welfare regime ideal types, the *active-protective* type shows high scores on all three elements, income protection, employment protection and activation, and the *protective* type has high scores on the former two elements but low scores on the latter. Welfare regimes that score low only on income or employment protection belong to the *active-employment protective* type or the *active-income protective* respectively. Those with a high score only on income or employment protection are the *income protective* type or the *employment protective*. The *active welfare* type scores low on both income and employment protection but high on activation, and the *weak* type has low scores on all the elements.

For immigration regime ideal types, partly followed by Koopmans et al.'s (2005) labelling, the *conditional-multiculturalist* type has high scores on all three elements, individual equality, cultural difference and citizenship conditionality, and the *multiculturalist* type shows high scores on the former two elements but score low on the latter. Countries that score low only on individual equality or cultural differences belong to the *conditional-segregationist* or the *conditional-universalist* type respectively. Those with a high score only on individual equality or cultural difference are the *universalist* type or the *segregationist*. The *conditional-assimilationist* type has low scores on both individual equality and cultural difference but high scores on conditionality, and the *assimilationist* type scores low on all the elements.

It is noteworthy that one of the obvious weaknesses of simultaneously analysing two different regimes in this way may be the trade-off between explanatory parsimony and conceptual validity; that is to say, lessening the number of dimensions (of the welfare and immigration regimes) can lead to validity issues, whereas increasing it can sacrifice explanatory parsimony. Utilising three dimensions respectively for analysing welfare regimes (i.e. income protection, employment protection and activation) and for immigration regimes (i.e. individual equality, cultural difference and citizenship conditionality) is to balance between explanatory parsimony and conceptual validity. Nevertheless, it is likely that countries with somewhat different characteristics of welfare and/or immigration regimes are classified in the same ideal type. In this case, however, examining and comparing their fuzzy set scores could be of great help in identifying distinctiveness between them.

### **3.2.3. Operationalising the fuzzy sets of welfare and immigration regimes**

In order to investigate immigrants' rights and responsibilities, as explained before, it is necessary to examine two related institutions, the welfare and immigration regimes, together. This analysis is set up to include as many cases and cover as long time period as possible. It would be straightforward to find detailed and comparable data on welfare regimes, of which the Organisation for Economic Co-operation and Development (OECD) data are widely used.<sup>16</sup> Data for immigration regimes, however, are relatively rare despite various approaches that seek to capture citizenship models and immigrant policies (Ruedin, 2015). Of those, the most widely used is the Migrant Integration Policy Index (MIPEX), which has measured policies for immigrant integration in 38 countries (as of June 2017) since 2007. Thus, this analysis uses the

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<sup>16</sup> Scruggs, Jahn, and Kuitto's (2014) *Comparative Welfare Entitlements Database* (CWED I and II) have also recently become popular, but the availability of CWED II is much more limited than OECD data in terms of both the number of countries and time; in particular, it is not available after 2010. Furthermore, it could not be easy to suggest theoretical grounds on qualitative breakpoints in using CWED II in fuzzy set analysis, because this is calculated based on z-scores with mean and distribution (Scruggs, 2014).

data from the OECD and the MIPLEX, and considers all the OECD member states as of 2007, the starting time point for analysis. Given the data's restrictions, it analyses the welfare and immigration regimes of 27 OECD countries on three time points: 2007, 2010 and 2014 (for more details, see Appendix 1). The time frame could be a limitation of the analysis, but is likely to help identifying meaningful changes in both regimes, considering that their trends to emphasise individuals' responsibilities have largely been observed since the early to mid-2000s (see Bonoli, 2006; Joppke, 2007a).

For the first set of welfare regimes, income protection is measured by the net replacement rate (NRR) of unemployment benefits (OECD statistics).<sup>17</sup> The NRR, utilised here, is of a long-term single unemployed person without any children, formerly earning 67 percent of average worker (AW) wage, after tax and including social benefits. Its breakpoints are set at a net replacement rate of 20 percent as fully out of the income protection set and at 90 percent as fully in, following the existing literature (Hudson and Kühner, 2009; 2011; 2012; Kvist, 1999; 2007; Vis, 2007). Analysing the NRR of long-term single unemployed people can provide more valid information about the protective intent of welfare regimes, because this group often receives the lowest level of income support (Hudson and Kühner, 2009). In addition, the rationale behind considering the 67 percent of former earnings, not 100 percent, is related to the shift of the way to measure earnings from APW (average manual production worker) to AW. The OECD has used AW as a new and more comprehensive measure of earnings, instead of APW, since publishing the 2005 edition of *Taxing Wages* (2006). By extending the coverage to workers employed in a variety of industry sectors, the AW earning level includes both manual and non-manual workers (OECD, 2006), and thereby in the majority of countries the average earnings with the AW definition are higher than those of the previous APW (OECD, 2007). This has led to differences between average gross earnings in-work calculated by AW levels and APW levels and eventually differences of NRR. In this regard, it could be more appropriate to employ 67 percent of AW rather than 100 percent, considering that the existing literature mostly uses the 100 percent APW level.

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<sup>17</sup> The income protection set of the welfare regime may be measured by (the NRR or coverage of) different welfare programmes such as pensions and social assistance. As mentioned earlier, however, not only the theoretical understandings about welfare regimes, but also the relevance with immigrants' rights and responsibilities are taken into consideration in selecting and conceptualising the fuzzy sets. Specifically, pensions and social assistance are not available in practice to some groups of immigrants (e.g. the low-skilled, the undocumented, etc.) (Baldwin-Edwards, 2004). Given the focus of this chapter on investigating the institutional foundations of immigrants' rights and responsibilities in a general sense—but not on identifying the rights and responsibilities of certain groups of immigrants such as permanent residents, it would be more appropriate and relevant to use (the NRR of) unemployment benefits in measuring the income protection set.

The second set, employment protection, is measured by the OECD Employment Policy Legislation (EPL) index (Version 1, based on 14 items), which indicates the strictness of employment protection against dismissals for regular contracts and even for temporary. Considering that many immigrants are often in fixed-term (temporary) employment, the index used in this analysis includes not just EPL scores for (a) regular (against individual and collective dismissals) employment but also for (b) temporary employment, and is calculated by the mean of both. Determining its qualitative breakpoints follows the rationale of Vis (2007) choosing 0.5 (fully out) and 3.0 (fully in); an EPL score of 0.5, receiving a high score on one of the 14 indicators, refers to it being relatively easy and cheap for employers to dismiss employees, whereas a score of 3.0 or higher, receiving a high score on at least half of the 14 indicators, refers to it being much harder and more expensive to dismiss them.

Activation, the last set of welfare regimes, is measured by a ratio of public expenditure on active labour market programmes (ALMP) against on passive measures such as unemployment benefits (OECD statistics). However, this research does not follow the examples of Vis (2007) or Hudson and Kühner (2009)—that is, the total spending on ALMP as a percentage of GDP ( $\times 100$ ) divided by the unemployment rate for the former or the spending on productive programmes within ALMP divided by non-productive by the latter—because what it is interested in is the relative importance of activation strategies in tackling social risks that welfare regimes have recently encountered. One thing to note is that no OECD country has yet to initiate active measures, nor replaced the traditional passive measures with those completely. In this vein, one would expect a 40:60 split of the spending on active measures in labour market programmes against passive ones as an equal focus between both. The first breakpoint, fully out of the activation set, is set at 0.2, because if the spending on active measures costs less than half their equal share this can be interpreted as having relatively weak intent to pursue activation strategies. With similar reasoning, the second breakpoint is set at 0.7, because if the spending on passive measures cost less than half their equal share this can be understood as having a relatively strong inclination for activation.

For the first two sets of immigration regimes, individual equality and cultural difference, this research follows the example of Ruedin (2015), which concerns both reliability and validity of citizenship or immigration model by combining theoretical background with Koopmans et al.'s (2005) citizenship model and empirical knowledge with the MIPEX data. One of the distinct advantages of using the MIPEX data is its relatively wider coverage of countries than other approaches to capture citizenship and immigration policies (Ruedin, 2015). Each policy area in MIPEX consists of several sub-indicators, which are assessed with three values, 0, 50 and 100. Higher scores indicate inclusion for immigrants in the specific sections.

The first set of the ethnic-civic dimension is measured by the mean of seven sub-indicators; (a) permanent residence: eligibility, (b) political participation: electoral rights, (c) political participation: political liberties, (d) access to nationality: eligibility, (e) access to nationality: security of status, (f) access to nationality: dual nationality and (g) anti-discrimination. Also, the second set of the monistic-pluralistic dimension is measured by the mean of six sub-indicators; (a) labour market mobility: targeted support, (b) political participation: consultative bodies, (c) political participation: implementation policies, (d) family reunion: conditions for acquisitions of status, (e) permanent residence: eligibility and conditions for acquisitions of status and (f) access to nationality: conditions for acquisition. Their first breakpoint (fully out) is set at 25, because if a country receives a medium score (50) on at most half of their sub-indicators this can be interpreted as its relatively weak adherence to the civic-territorial notion of citizenship and the recognition of cultural differences respectively. The second breakpoints (fully in of the individual equality set and the cultural difference set) are set at 85.7 and 83.3 respectively. This is because if a country receives a high score (100) on at least six of seven sub-indicators (of the ethnic-civic dimension) and five of six sub-indicators (of the monistic-pluralistic dimension), this can be understood as its strong orientation towards civic-territorial notion and cultural pluralism. Establishing these qualitative thresholds adopts Vis's (2007) reasoning, as examined earlier, behind those of employment protection.

Citizenship conditionality, the last set of immigration regime, is measured by the mean of two sections; (a) permanent residence: condition for acquisition of status and (b) access to nationality: conditions for acquisition. Each comprises three and six sub-indicators respectively, covering residence period, personal requirements (e.g. criminal records and good character) and economic conditions (e.g. financial minimums and costs of application) to civic integration requirements (e.g. language and national knowledge requirements). Its qualitative breakpoints are 25 (fully out) and 77.8 (fully in). The rationale behind these points is similar to that for the previous sets of immigration regimes; a score of 25, receiving a medium score on at most half of its sub-indicators, refers to the relatively low level of conditionality in acquiring permanent residence and nationalisation, whereas a score of 77.8, receiving a high score on at least seven of nine sub-indicators (two of three and five of six respectively), refers to the relatively high level of conditionality.

### 3.3. Results of fuzzy set ideal-type analysis

The FSITA results are shown in Figure 3.1, Figure 3.2 and Figure 3.3. The first two figures illustrate 27 OECD countries' fuzzy set membership scores of the welfare regime and immigration regime ideal type in 2014, and Figure 3.3 simultaneously shows how the countries' memberships of the two regime types have changed in the period between 2007 and 2014.

#### 3.3.1. Findings about welfare regimes

Interestingly, as shown in Figure 3.1 and Figure 3.3, this analytical result may match Arts and Gelissen's (2010) argument that Esping-Andersen's typology of welfare regimes and kindred models (e.g. the Mediterranean, the Eastern European or the East Asian models, etc.) have still provided valid and reliable standpoints for welfare modelling despite several methodological drawbacks relating to conceptualisation and operationalisation.

First off, the ideal type in which the greatest number of countries are placed in 2014 is the employment protective type. The majority of its members are those usually known as the conservative welfare type (Austria, France and Germany) and the Mediterranean (Greece, Italy, Portugal and Spain), and they have remained stable with relatively strong protection and/or regulation over the labour market throughout the time period for analysis. It partly supports Esping-Andersen's (1999) view that the Southern European welfare regimes are a sub-type of the conservative welfare type, but there is a clear distinction of fuzzy membership scores between these two groups of countries. Specifically, it needs to be noted that the conservative welfare states, although being also "more out" of the income protection set, show the medium level of income protection (an average of 0.44), higher than the Mediterranean welfare states (an average of 0.05).

All the Anglophone countries (Australia, Canada, New Zealand, the UK and the US), mostly in the liberal welfare type, have been placed stably in the active welfare or the weak type, except for the UK in 2007. These countries can be interpreted as having relatively weak intent to protect individuals' income and employment from several social risks, and even a comparatively passive inclination to use activation strategies. The UK's case is interesting because of its moves from the active-income protective (.54) in 2007 to the active welfare (.51) in 2010 and the weak type (.52) in 2014. It is necessary to be more cautious in concluding the UK's membership if considering its fuzzy scores, which are all very close to the crossover point (.5). However, this demonstrates to some extent that the UK has become less protective of income within its pervasive trend towards activation, and can match Clasen's (2011)

understanding on the recent unemployment protection in the UK; gradually embracing means-testing rather than contributory principles in dealing with the risk of unemployment.

On the other hand, most Scandinavian countries with the social democratic welfare tradition show a contrast with the Anglophone countries. Denmark, Norway and Sweden have all tended to be protective and at the same time active. While Denmark has remained stable in the active-productive type, the latter two have moved to the active-employment protective and the active-income protective type respectively since 2007. Such attributes in their welfare regimes would reflect their increasing emphasis on “social investment” (Hemerijck, 2012b) and their continuous retrenchment; for example, unemployment protection in Sweden has become less generous with stricter eligibility and reduced coverage (Sjöberg, 2011). However Finland, one of the most controversial in the welfare modelling literature, appears to belong to the productive type with a low level of activation intent. The possible rationale for its seemingly passive attribute is the introduction of an additional pillar—means-tested support—in its unemployment insurance in 1994, through which Finland in comparison with the other Nordic countries has maintained the relative importance of passive measures in addressing unemployment (Lorentzen et al., 2014).

The last interesting finding from this analysis is seen in the East Asian cases, especially Japan and Korea. Ever since Holliday’s (2000) argument of the productivist welfare regime in East Asia, both countries had been widely observed under the same welfare type. However, they have shown different trajectories in the period from 2007 to 2014; Japan is a member of the income protective type in 2007 and later the active-income protective, whereas Korea is of the employment protective type in 2007 and later the active-employment protective. This, although hardly answering to whether the productivist thesis is still valid in East Asia (see Choi, 2013b), can provide empirical evidence for evaluating how different their current social protection systems look like and implicatively for prospecting which direction they have been moving towards.

**Figure 3.1 Fuzzy set ideal-type country memberships of welfare regime (2014)**



Note: Numbers in brackets are the fuzzy set membership scores.

### 3.3.2. Findings about immigration regimes

This analysis, as shown in Figure 3.2 and Figure 3.3, could call forth an additional challenge to the conventional understandings on immigration regimes (see, for immigration control, Hammar (1985) and Freeman (1995); for immigrant integration, Castles & Miller (2009)); for example, the “segregationist” Germany and Switzerland, the “assimilationist” France and the “multicultural” UK, Netherlands and Sweden (Castles and Miller, 2009). The majority of the 27 OECD countries are found in two types of immigration regime; the multiculturalist with the civic-territorial notion and recognition of cultural difference and the conditional-assimilationist types with the ethnic background, cultural monism and conditionality for secure status such as nationality. This matches Ruedin’s (2015) two-dimensional analysis on immigration regimes; most are in either the multiculturalism model or the assimilationism model.

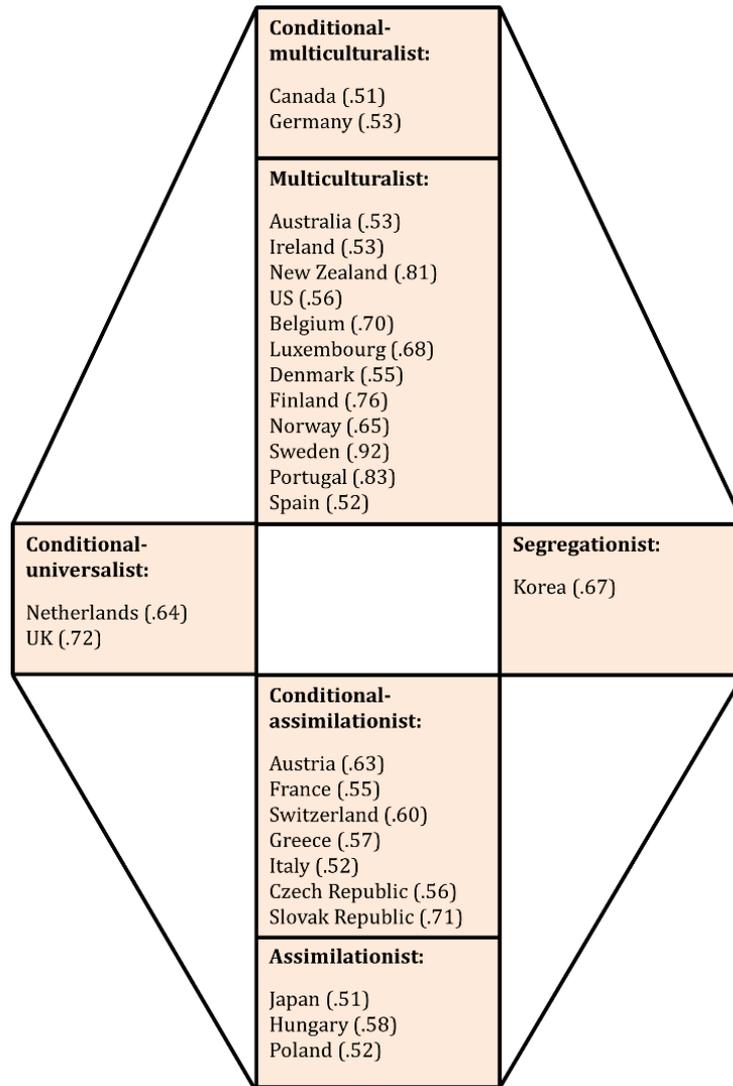
Looking into individual cases, it yields several interesting findings. First, the civic-pluralistic type, labelled as the multiculturalist, is in which the greatest number of countries are placed; including the classic immigration countries (Australia, New Zealand and the US), the Scandinavian countries (Denmark, Finland, Norway and Sweden) and some of the Southern European countries (Portugal and Spain). A noticeable case from this list of countries may be Denmark, which moves from the conditional-universalist to the multiculturalist in 2014. Denmark is known as traditionally having a restrictive and nationally oriented stance on foreign nationals and recently strengthening “civic integration” requirements for permanent residency and nationality (Goodman, 2012). However, its change to the multiculturalist type may reflect that since 2012 its centre-left government has stirred its tough citizenship and residence legislation towards a more liberalistic direction; for example, lessening the language requirement (Meer et al., 2015).

One more thing to note is that Germany and Canada, placed in the conditional-multiculturalist, stand out from these countries in terms of their recent tendency towards strengthening citizenship conditionality, although they are similar in terms of sharing the civic-territorial notion and cultural pluralism. In particular, Germany, known for its adherence to the ethno-cultural base (see Brubaker, 1992), has significantly changed from the conditional-segregationist type to the conditional-multiculturalist during the period from 2007 to 2014. This is attributed to the liberalisation of its nationality principle from *jus sanguinis* to *jus soli* since the 1990s and the introduction of civic integration requirements since the mid-2000s (Baldi and Goodman, 2015). Considering their membership scores, close to the cross-over point, however, it is necessary to be more cautious in interpreting these changes.

On the other hand, they contrast with those in the (conditional) assimilationist type with the relatively strong emphasis on ethnicity and cultural monism. This type can be found in many Continental European countries like Austria, France and Switzerland, including the Eastern European (Czech Republic, Hungary, Poland and Slovak Republic) and some of the Southern European countries (Greece and Italy). Comparing the German—in the conditional-multiculturalist—and French cases—in the conditional-assimilationist—is intriguing, considering Brubaker’s (1992) argument that historically Germany has the ethno-cultural notion of nationhood whereas France has the republican definition. Notably, as seen in Figure 3.2, the Netherlands and the UK are members of the conditional-universalist. Both countries adopted multiculturalism between the 1970s and 1990s (Castles and Miller, 2009), but started to move away from this in the mid-1990s (Kymlicka, 2010). This process of change can also be found in Figure 3.3; the UK is placed in the conditional-multiculturalist type in 2007 and later in the conditional-universalist. Their retreat from multiculturalism significantly relates to their recent pursuit of civic integration strategies in citizenship and immigration policy (Joppke, 2004).

Lastly, this analysis can also provide interesting findings on immigration regimes in East Asia. Some East Asian countries such as Japan and Korea had tended to be significantly homogenous ethnically and culturally, and demonstrated the strong adherence to ethno-cultural monism in their citizenship and immigration regime; for example, their main principle is the patriarchal *jus sanguinis* (Chung, 2014; Lee, 2011b). These similar natures were maintained for a while even after becoming “recent countries of immigration” due to the increasing number of migrant workers and family immigrants since the 1990s (Castles and Miller, 2009; Cornelius and Tsuda, 2004; Lee, 2011b). However, Figure 3.2 shows a clearly different picture of the recent East Asian immigration regimes; while Japan is still characterised by its maintenance of ethnic background and cultural assimilation (i.e. the assimilationist type), Korea is by an emphasis on ethnicity but recognition of cultural difference (i.e. the segregationist type).

**Figure 3.2 Fuzzy set ideal-type country memberships of immigration regime (2014)**



*Notes:* 1) Numbers in brackets are the fuzzy set membership scores; and 2) this figure excludes two immigration regime ideal types, universalist and conditional-segregationist, which no country belonged to in 2014.

### 3.3.3. Findings about immigrants' rights and responsibilities

By investigating the FSITA results about welfare and immigration regimes together, this analysis can provide more insight about the rights and responsibilities of immigrants. It is necessary to integrate and further configure two sets of welfare regime and immigration regime ideal types in order to comprehend the multidimensionality—and complexity—of immigrants' rights and responsibilities.

The first step is to rearrange the eight ideal types of the two regimes into four ideal types respectively, based on the respective FSITA results on welfare and immigration regimes. The newly arranged ideal types of welfare and immigration regimes are named by numbers and letters respectively. For welfare regime ideal types, the number 1 includes the active-(income or employment) protective types, 2 is the (income) protective, 3 is the employment protective and 4 is the active and weak types; and for immigration regime ideal types, the letter A includes the (conditional) multiculturalist types, B is the (conditional) universalist, C is the (conditional) segregationist and D is the (conditional) assimilationist. The two sets of four ideal types are then combined into a new configuration of sixteen ideal types; for example, those belonging to the 1A type have the active-protective welfare type and the multiculturalist immigration type. The newly analysed FSITA result is found in Figure 3.3.

First, there are several countries with conspicuous membership shifts during the analysed time period (2007 to 2014). For example, Denmark and Luxembourg moved towards the 1A type in 2014 by adopting a multicultural approach to immigration control and immigrant integration, and Germany with a shift towards the 3A (the employment protective welfare and the conditional-multicultural immigration) type for the same reason. The Netherlands gradually weakened its emphasis on active welfare, and thereby became a member of the 2B (the protective welfare and the conditional-universalist immigration) type in 2010. The most notable case is the UK showing qualitative changes in terms of both regimes, and thereby shifting from the 1A to 4B (the weak welfare and the conditional-universalist immigration) type in 2010.

While the majority of the countries included in this analysis remain nearly unaltered in fuzzy set membership, the analysis clearly shows some clusters of countries. There is a similar pattern in Scandinavian countries, particularly Denmark, Norway and Sweden. All three countries belong to the 1A type in 2014; with welfare regimes emphasising both (income and/or employment) protection and activation and with immigration regimes advocating the civic-territorial notion and group rights based on cultural difference. In this regard, their still strong protective welfare attributes and liberal stances on foreign nationals are highly likely to provide immigrants more inclusive social rights (and responsibilities) both formally and

substantively compared to other countries. It could reflect that by and large they have recently emphasised immigrants' responsibilities through employment and social participation, but simultaneously acknowledged structural and institutional discrimination mechanisms in their societies (Brochmann and Hagelund, 2011).

Being members of the 4A (the active or weak welfare and the (conditional) multiculturalist immigration) type, most of the Anglophone countries share the immigration regime type with Scandinavian countries in terms of their (conditional) multiculturalist natures, but are in contrast with those in terms of their active or weak welfare regime type. Eugster's (2018) also points out that the two clusters show decisive differences in immigrants' access to social welfare programmes. In other words, the substantive rights and responsibilities of immigrants in the Anglophone countries can be relatively less inclusive because of their weak intent to protect individuals' income and employment in spite of their fairly liberal approach to immigration control and immigrant integration. On the other hand, the UK (4B type since 2010) is a member of the active or weak welfare type, like other Anglophone countries, but at the same time is the conditional-universalist type, unlike them. Accordingly, the universalist and conditional natures of its immigration regime can show a different complexion, such as a new status of "probationary citizenship" (Wilkinson and Craig, 2011).

The welfare regimes of Continental European countries (e.g. France and Germany), as mentioned earlier, can be distinguished from those of Southern European countries (e.g. Italy and Spain) in terms of their fuzzy membership scores, although they are all classified as members of the employment protective welfare type. Looking into these countries along with their immigration regimes, however, France may rather be more similar with Italy in terms of the conditional-assimilationist type (i.e. the 3D type), and Germany may share much with Spain in terms of the (conditional) multiculturalist type (i.e. the 3A type). In this regard, Germany and Spain, which guarantee immigrants more liberal access to permanent residency and nationality both ethnically and culturally, can grant immigrants more inclusive rights than France and Italy. It is noteworthy that the rights of immigrants in France and Italy have recently been circumscribed by their similar restrictive immigration policy reforms (Cinalli and El Hariri, 2011), whereas in Germany a series of nationality law amendments including dual citizenship have substantively improved immigrants' social inclusion (Hailbronner and Farahat, 2015).

**Figure 3.3 Fuzzy set ideal-type country memberships of immigrants' rights and responsibilities (2007-2014)**

<b>1A</b> Norway, Sweden and the UK		<b>2A</b>	
	<b>1B</b> Denmark and the Netherlands	<b>2B</b> Belgium, Finland and Ireland	
<b>1C</b> Luxembourg	<b>1D</b> Czech Republic, Poland and Switzerland	<b>2D</b>	<b>2C</b>
<i>Germany, Italy and Spain</i> <b>3C</b>	<i>Austria, France, Greece and Italy</i> <b>3D</b>	Hungary and Slovak Republic <b>4D</b>	<b>4C</b>
Portugal and <i>Spain</i> <b>3A</b>	<b>3B</b>	<b>4B</b>	Canada <b>4A</b>

2007

<b>1A</b> Norway and Sweden		<b>2A</b>	
	<b>1B</b> Denmark	<b>2B</b> The Netherlands	Belgium, Finland, Ireland and Luxembourg
<b>1C</b> <i>Czech Republic and Korea</i>	<b>1D</b> <i>Czech Republic, Japan, Poland and Switzerland</i>	<b>2D</b> <i>Switzerland</i>	<b>2C</b>
<i>Germany</i> <b>3C</b>	<i>Austria, France, Italy and Slovak Republic</i> <b>3D</b>	Hungary <b>4D</b>	<b>4C</b>
<i>Germany, Portugal and Spain</i> <b>3A</b>	Greece <b>3B</b>	The UK <b>4B</b>	Australia, Canada, New Zealand and the US <b>4A</b>

2010

<b>1A</b> Denmark, Luxembourg, Norway and Sweden		<b>2A</b>	
	<b>1B</b>	<b>2B</b> The Netherlands	Belgium, Finland and Ireland
<b>1C</b> Korea	<b>1D</b> Czech Republic, Japan, Poland and Switzerland	<b>2D</b>	<b>2C</b>
<b>3C</b>	<i>Austria, France, Greece, Italy and Slovak Republic</i> <b>3D</b>	Hungary <b>4D</b>	<b>4C</b>
<i>Germany, Portugal and Spain</i> <b>3A</b>	<b>3B</b>	The UK <b>4B</b>	Australia, Canada, New Zealand and the US <b>4A</b>

2014

Notes: 1) Italicised countries are at the cross-over point; 2) the 2007 memberships of some countries including Australia, Japan, Korea, New Zealand and the US are not included, because the MIPEX data for them is not available for the year; 3) welfare regime ideal types: 1 = active-(income or employment) protective type, 2 = (income) protective, 3 = employment protective and 4 = active and weak; and 4) immigration regime ideal types: A = (conditional) multiculturalist type, B = (conditional) universalist, C = (conditional) segregationist and D = (conditional) assimilationist.

Lastly, East Asian countries, Japan and Korea, are especially noteworthy because of their peculiarities. Their configurations of immigrants' rights and responsibilities are distinctive from any other countries included in this analysis, and also from each other. Although these two countries are often known as sharing the Confucian and/or the productivist policy legacies in their welfare regimes (Holliday, 2000; Jones, 1993) and the ethno-cultural homogeneity in their immigration regimes (Castles and Miller, 2009), this analysis suggests that Japan has a welfare regime type with a strong intent to protect income and an immigration regime type with a strong adherence to ethno-cultural homogeneity (i.e. the 1D type), whereas Korea has a welfare regime type with a strong intent to protect employment and an immigration regime type with a continued adherence to ethnicity but recognising cultural difference (i.e. the 1C type). Despite their commonality of emphasis on ethnicity, these different attributes in both regimes can produce significantly different configurations of immigrants' rights and responsibilities between Japan and Korea, and even between them and the others.

#### **3.4. Concluding remarks: implications for immigrants' rights and responsibilities in East Asia**

Among a number of advantages that FSITA has (see Kvist, 2007; Vis, 2007), it is noteworthy to illustrate two particular points in analysing immigrants' rights and responsibilities; first, fuzzy sets reflect theoretical knowledge of the welfare and immigration regimes relating to immigrants' rights and responsibilities, and thereby enhance validity on conception and measurement. Second, this analysis considers the multidimensionality of both regimes, and ultimately of immigrants' rights and responsibilities by analysing simultaneously and systematically quantitative and qualitative differences across time and across cases.

The FSITA results, investigating the welfare and immigration regimes as two main institutions underpinning immigrants' rights and responsibilities, suggest several implications for immigrants' rights and responsibilities. First of all, understanding immigrants' rights and responsibilities requires taking account of both the welfare regime and immigration regime together. For example, France and Germany are members of the same welfare type, the employment protective, but they are likely to show different patterns of immigrants' rights and responsibilities because of their different approaches to immigration control and immigrant integration, the conditional-assimilationist and the conditional-multiculturalist respectively. Another implication is that the rights and responsibilities of immigrants have not been static, but rather dynamic. In particular, findings about several countries, such as Denmark, France,

Germany and the UK, reasonably deviate from the conventional understandings on welfare regimes (e.g. Esping-Andersen, 1990) and immigration regimes (e.g. Castles and Miller, 2009; Freeman, 1995). Furthermore, it would be even more so in recent years via the significant shifts in both welfare and immigration regimes; for example, the emergence of the new welfare states along with the new social risks and the introduction of the civic integration requirements.

The last and most important implication for immigrants' rights and responsibilities, the main theme of this thesis, is about East Asia. East Asian countries have experienced dramatic socio-economic transformations over the last two decades, which have led to continuing alterations in their welfare and immigration regimes. As a consequence, it has gradually become common to examine differences, instead of similarities, of welfare and immigration regimes between East Asian countries (see Choi, 2012; Chung, 2014). The findings from this analysis are in line with this tendency. In other words, Japan and Korea are placed in different types of welfare and immigration regime; Japan has the active-income protective welfare type and the assimilationist immigration regime type, whereas Korea has the active-employment protective type and the segregationist type in the 2010s. These characteristics of East Asian countries are also distinctive from any other countries.

Overall, this chapter has attempted to reveal cross-national differences in two main institutions, welfare and immigration regimes, and thereby explore and compare immigrants' rights and responsibilities in different countries. According to Schneider and Rohlfing (2013), the set-theoretic method, including the FSITA used here, can be a systematic approach for selecting cases for in-depth case study. Going beyond significant empirical findings and implications for the relationship between welfare regimes, immigration regimes and immigrants' rights and responsibilities, therefore, these results analysed in this chapter can be a meaningful basis for further in-depth research of the following two parts on the rights and responsibilities of immigrants, especially low-skilled labour migrants, in East Asian welfare states.

## **PART TWO**

### **Introduction**

The aim of this thesis is to understand and explain the rights and responsibilities of immigrants in two East Asian welfare states, Japan and Korea. In terms of welfare and immigration regimes, as examined in the previous fuzzy set ideal-type analysis (Chapter Three), these two nation-states are different not only from their Western counterparts, but also from each other. Accordingly, drawing on the conceptual lens established in Part One (especially, Chapter Two), this part answers the second research question, how they are similar with or different from each other in the rights and responsibilities of immigrants. Specifically, Chapter Four establishes the empirical groundings in their socio-cultural and politico-economic contexts, reviewing the literature on East Asian welfare and immigration regimes as well as the citizenship and/or rights of immigrants in the region. Chapter Five briefly profiles Japan and Korea's welfare and immigration regime developments, and then analyses and compares the rights and responsibilities of immigrants across several policy areas, centring on two groups of low-skilled labour migrants (including co-ethnic and others). This comparison includes the present similarities and differences between these two countries, as well as the past, and thereby demonstrates how they have diverged.

## **CHAPTER FOUR**

### **East Asian welfare and immigration regimes**

Over the last two decades, East Asian countries have demonstrated the simultaneous development of state welfare provision and immigration policy, including both immigration control and immigrant incorporation policy. In this regard, the issues of welfare development and recent restructuring in East Asian welfare regimes have become prominent in the welfare state literature (see Hwang, 2011b; Peng and Wong, 2008), and the significant inflow of foreign-born populations into these nation states and the subsequent governmental responses to it in the international migration literature (see Massey et al., 1998; Seol and Skrentny, 2009b). Such growing interest in East Asian welfare and immigration regimes has highlighted not only their distinction from Western counterparts but also intra-regional divergence; these points have empirically been explored in the analytical results of the previous chapter.

This chapter sets an empirical background for analysing and comparing the rights and responsibilities of immigrants in East Asia. First, it explores debates about East Asian welfare regimes, including whether a distinctive welfare model beyond Esping-Andersen's (1990) three ideal-type worlds exists in the region, whether this understanding is still valid along with the recent welfare state development, and then how social rights in East Asian welfare regimes are presented and developed. The following section deals with immigration control and immigrant integration in East Asian nation-states, especially given their recent transition from countries of emigration to immigration. Following the review of existing studies about the citizenship and/or rights of immigrants in East Asia, section three stresses the necessity of a more comprehensive approach, introduced in Chapter Two, in grasping immigrants' rights and responsibilities in East Asia, and then shows how it is applied to analysing them across different policy areas.

#### **4.1. East Asian welfare regimes**

T. H. Marshall (1992), tracing the historical development of social citizenship in Britain, alludes to the possibility that different conceptions of rights and responsibilities can exist within different societies by emphasising that "there is no universal principle that determines what those rights and duties shall be" (p. 18). This understanding has become more apparent through many comparative welfare state researchers analysing how differently social rights and responsibilities have developed and materialised across different welfare regimes. Of these

the academic interests in social welfare in East Asia have dramatically increased in recent years. These have generated a great deal of insightful analyses on East Asian welfare regimes and their developments, and ultimately social rights and responsibilities in East Asia.

#### **4.1.1. East Asian exceptionalism: Confucianism and productivism as main policy legacies driving welfare development in East Asia**

Debates about whether East Asian welfare states can constitute a model distinct from Western counterparts correspond to ones about whether there are different forces driving welfare development in the region (Hudson and Hwang, 2013). Much of the early academic interest in exploring the East Asian welfare regimes started with the critique of Esping-Andersen's classification (Hudson and Hwang, 2013; Hwang, 2015). It assumes that the East Asian model is different from the European and North American model. However, White and Goodman (1998, p. 20), some of the early theorists dealing with the East Asian welfare model, reckon this difference is in terms of the relationship between "developed" and "underdeveloped", as the East Asian welfare experience by the late 1990s resembled the "West's past" more than "its future". In a similar vein, Esping-Andersen (1997) makes a tentative conclusion on Japan's welfare state regime—and by implication, East Asian welfare regimes—within his three-type typology that it shows combined characteristics of the liberal-residual and the conservative-corporatist types. The reason why he is against adding a fourth regime is that the Japanese model is "still in the process of evolution; that it has not yet arrived at the point of crystallization" (p. 187). However, Kwon's (1997) work on East Asian welfare systems emphasises that the historical and political backdrops of East Asia—and even the welfare systems that originated from these backdrops—are distinct from Western countries. Although having a viewpoint of a late-coming welfare state, Kim (2009c) also argues that the East Asian experiences (representatively, Korea)—namely, "the simultaneous development of formation and restructuring of a welfare state"—are distinguishable from the historical development of the West. This precondition on the distinctiveness of East Asia has led to a number of attempts to capture key features or driving forces commonly found in the region over the last two decades, in order to identify the East Asian welfare model as a fourth world of welfare capitalism separated from the existing three worlds. They could be categorised mainly into two strands: cultural and politico-economic forces.

##### *Confucianism in East Asian welfare regimes*

The first strand is the cultural approach to the East Asian exceptionalism. One of the initial

attempts is through the notion of the “Confucian welfare state” demonstrated by Catherine Jones (1993), developed from “Oikonomic welfare state” in her earlier research (1990). Confucianism, in her observation, has operated as an embedded ideology within the political economy of East Asian nation-states, and thereby shaped their welfare states, particularly, for what purposes social policies serve and how they are provided. For these East Asian countries, unlike Western welfare states, state welfare provision, including social security systems, health services and education, is not regarded as an end, but as a means to build a community—and simultaneously sustain economic growth—for securing traditional Confucian virtues such as order, discipline, loyalty, stability, collective and self-help. Jones (1990; 1993) concludes that East Asian welfare capitalism is based on the “household economy” run by the traditional extended family, that is, a Confucian welfare state, and could be shaped by “conservative corporatism without (Western-style) worker participation; subsidiarity without the Church; solidarity without equality; laissez-faire without libertarianism” (1993, p. 214).

In a similar vein, Rieger and Leibfried (2003) also emphasise that Confucian culture is the fundamental impetus to welfare state development in East Asia. According to their argument, many social policy institutions in East Asia seemingly resemble Western welfare states, but their different roles of complementing the economy and society in the overall system of social welfare production separates the East Asian model from the European and Northern American models. This different orientation towards social policy cannot be explained by existing theories based on Western welfare development such as the time lag in socio-political development or the absence of labour parties and unions, but rather be understood in terms of East Asia’s particular social-political path of development. In this regard, they contend that Confucian values may form, as Judaeo-Christian values in the West, “standards for legitimate political action and the substantive criteria of rational social policy”, and thus, can be observed throughout the substance of social policy of East Asian countries (p. 334).

However, this cultural approach to welfare development in East Asia has not gained wide support (Wilding, 2008), and has been criticised by several scholars due to its inability to explain social changes and dynamics within East Asian welfare states and its ambiguousness in the notion of Confucian welfare state (see Walker and Wong, 2005b; White and Goodman, 1998). Walker and Wong (2005a) acknowledge that Confucianism is undoubtedly a key component for East Asian nations in building their welfare regimes, but at the same time point out that this can mostly be found in the political rhetoric used by authoritarian governments as a convenient excuse for their poor responses to various social welfare demands.

Regarding the role of culture in East Asian welfare regimes, however, Jo (2013) shows a somewhat different approach in order to overcome the shortcomings listed above. In his

earlier research, he makes an attempt to conceptualise and measure culture as a context for social policymaking at an “in-between” level, that is, “between concrete public opinion and abstract basic human values” (2011, p. 8). According to this understanding, it is over-simplistic to comprehend East Asian welfare regimes only through the notion of a Confucian welfare state. In this regard, his empirical analysis is carried out in terms of which aspects of the cultural context matter in which aspects of East Asian welfare rather than Confucianism matters in East Asian welfare. He thereby identifies that the East Asian cultural contexts, especially the Japanese and Korean, are distinct from those of Western welfare states in two aspects: the primary role of family or household in welfare provision; and elite-led welfare politics or welfare without political bargaining.

### *Productivist welfare regimes*

Another significant strand is seen through the term “productivist welfare capitalism” (Holliday, 2000), based on analysis of East Asian political economy. The emergence of the productivist approach relates considerably to a “developmental” paradigm clearly witnessed in the dramatic growth of East Asian economies (Hudson and Hwang, 2013). Developmentalism concerns the state’s intention and role in (re)building the nation and promoting economic growth as a salient means for maintaining its developmental regime, whereas productivism regards the state-driven strategies as a means for economic growth as an end (Choi, 2013b). Nonetheless, both approaches commonly take note of one phenomenon in East Asia that social welfare development had been subordinated to economic development.

As for developmental welfarism, primarily affected by the notion of the developmental state by Chalmers Johnson (1982), it emphasises state-driven economic development by prioritising economic growth and productivity instead of enhancing social welfare (Kwon, 2005; Tang, 2000). The then authoritarian governments in this region had strongly supported this strategy in which social policy had been defined only for a sole objective, achieving successful economic growth that was crucial for gaining political legitimacy. In particular, Tang (2000) summarises East Asian welfare development with the following three characteristics: first, a small amount of public spending on social welfare; second, relatively high flexibility of labour markets; and lastly, the instrumental role of social security to benefit politically important groups such as public officials, the military and teachers.

Similarly, Ian Holliday (2000), setting forth productivist welfare capitalism in East Asia, describes its two essential features as “a growth-oriented state and subordination of all aspects of state policy, including social policy, to economic/industrial objectives” (p. 709). Notably,

social policy in the productivist model is “an extension of economic policy” overall shaped by economic purposes, and even its “quintessentially unproductive domain”, such as building basic social safety nets, is also mobilised for maintaining social order and managing the labour market easily (2005, p. 148). It does not matter whether social provision is minimalist or maximalist, but achieving economic objectives is most important; thus, the form of social policy within the productivist welfare capitalism can differ by country. In this regard, East Asian countries are classified into three distinctive clusters, depending on how social policy is formed and what outcome it brings, placing Japan, Korea and Taiwan in the developmental-universalist, Hong Kong in the facilitative and Singapore in the developmental-particularist type.

For Holliday (2000; 2005), East Asia’s productivist welfare capitalism, although not largely different from the Western welfare capitalism in terms of sharing objectives of social solidarity and regime legitimacy, is distinctive in terms of the “ways in which they pursue that objective that set them apart” (2000, p. 716). He questions one of Esping-Andersen’s (1990) key assumptions that only advanced welfare states under advanced capitalist orders can be included in the universe of welfare capitalism. However, he does not maintain the distinctiveness of East Asian welfare system by adding a fourth “welfare state regime”, but a fourth “welfare regime” as a distinctive world to Esping-Andersen’s three worlds of the welfare state regime (Hwang, 2015). In a similar vein, Ian Gough (2004a), through the new vertical framework examined earlier, defines East Asian countries as the “productivist” “welfare” regime, differentiated from their Western counterparts. He argues that these countries are the “welfare” regimes in terms of the extended welfare mix and welfare outcomes, and simultaneously the “productive” welfare regimes in terms of the following signals: first, social policy’s subordination to economic growth; second, emphasis on social investment in education and health rather than social security; third, the preoccupation with nation-building and regime legitimation, and lastly, the role of state as a regulator rather than a welfare provider.<sup>18</sup>

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<sup>18</sup> Some theorists (e.g. Gough, 2003; Shin, 2000) clarify the productivist features of East Asian welfare regimes through comparison with Western welfare regimes; especially, the relatively strong emphasis on education and health within the low level of public social expenditure and the substantial family and market share of social welfare. According to Gough (2003), for example, East Asian countries spent 2.2 percent, 3.4 percent and 1.2 percent of their gross domestic product (GDP) on social security, education and health respectively (average percent in 1990-96/97), compared to 22.3 percent, 5.0 percent and 6.8 percent in the EU 15. In addition, Shin (2000) notes that as of 1995 Korean households spent 5 percent and 10 percent of their income on health and education respectively, compared to 1.3 percent and 1.4 percent in the UK.

#### **4.1.2. Challenges against East Asian exceptionalism**

The idea that East Asian countries have their own distinctive welfare model, especially the productivist approach, has been challenged in mainly two aspects: its “conceptual ambiguity” and “significant changes to social policy that have taken place in the region” (Hwang, 2015, p. 231). The former critique is about whether productivism is peculiar and restrictive to East Asian welfare regimes. Several theorists rather insist that it may be found in other regions, including even Western advanced welfare states, going beyond East Asia. Bonoli and Shinkawa (2005) point out that all welfare states could be productivist in a way that emphasising economic growth and productivity has always been one of the most important accounts in the social welfare-related debates. This particularly appears to be more convincing within the recent change of welfare states from the old-style “Keynesian Welfare National State” to the “Schumpeterian Workfare Post-National Regime” (Jessop, 2000). Furthermore, Rudra’s (2007) research demonstrates that productivism, which is regarded as unique in East Asia, is applicable when explaining the Latin American cases. Notably, the comparative work of Hudson and Kühner (2009) on 23 OECD countries makes this point as well, showing that some of the Anglophone countries are more likely to be productive than any others. Without understanding East Asia’s particular politico-economic choices and structures, however, it would be difficult to appropriately comprehend its productivist model of welfare (Hudson and Hwang, 2013). Obviously, it is necessary to note that alongside the productive role of social policy for nation building and economic growth East Asian countries had effectively adopted and performed the productivist strategy under authoritarian political regimes. Thus, such interwoven aspect of two elements, productive welfare and the authoritarian political structure, should not be overlooked in examining East Asian welfare regimes.

The latter challenge is about whether the productivist thesis is still valid within the political reform and social welfare expansion of East Asia in recent years. That is to say, the recent welfare development and restructuring in East Asia countries, caused by their dramatic socio-economic changes including political realignments and financial crisis, seem difficult to be accounted for solely by the existing explanations like Confucianism and productivism. For example, Peng (2004) notes that they have universalised their existing social security systems and stretched to new welfare demands (e.g. social care for the elderly and children), and these developments have resulted from the interactive process of domestic political dynamics and economic post-industrial pressures such as economic globalisation and demographic changes. Considering the modest state welfare provision during the period of nation building and industrialisation, the recent growth of social welfare spending may suggest that East Asian welfare states are on the “route to modernity” followed by advanced welfare states (Hort and

Kuhnle, 2000, p. 179). In addition, the works of Hudson and Kühner (2009; 2011; 2012) also bring the East Asian productive welfarism of the 2000s into question.

Along with such welfare expansion, the gradually increasing divergence of social policies between East Asian welfare regimes since the mid-1990s—specifically, Korea and Taiwan on one side and Hong Kong and Singapore on the other (Ramesh, 2004)—have led to conflicting opinions on East Asian welfare development (Choi, 2013b; Wilding, 2008). On the one hand, many of those who put forth the productivist perspective in East Asia at the early stage have constantly retained their initial position despite their noticeable welfare expansion (e.g. Holliday, 2005; Kwon, 2005; Kwon and Holliday, 2007; Wong, 2004; Wood and Gough, 2006). Holliday (2005) and Kwon and Holliday (2007) understand the recent changes as a different way to pursue productivist welfarism in terms of enhancing labour market flexibility or national competitiveness. In a similar vein, Kwon (2005) suggests that welfare developmentalism still remains as an economic and social principle in their societies; although Korea and Taiwan have experienced moving towards “inclusive developmental welfare states”. For Wood and Gough (2006), East Asian nations have transformed from an informal security regime into a welfare state regime through the recent welfare development, but sustained their productivist bent which is distinctive from others.

On the other hand, many theorists have argued that East Asian welfare states are moving away from the developmental or productivist paradigm (e.g. Choi, 2007; 2012; 2013b; Hudson and Hwang, 2013; Kim, 2008b; Peng and Wong, 2008; Wilding, 2008). Kim (2008b), studying recent welfare reforms in Korea, identifies that a series of welfare reforms often regarded as evidence of productivism could not substantively be different from some measures found in the “liberal” welfare regimes. Accordingly, Choi (2012) describes that East Asian countries are on their own way to the “post-productivist” welfare regime, in particular Korea moving towards the liberal. More importantly, some scholars take note of a shift in the governments’ intent behind social welfare expansion (Choi, 2007; Peng and Wong, 2008). For example, Peng and Wong (2008, p. 74), examining changes in Korea and Taiwan’s social security schemes in the late 1990s and the 2000s, conclude that their intentions and objectives of social provision have altered from the principles of selectivity and political legitimacy to the “more inclusive principles of universalism and socioeconomic redistribution”.

Besides the discussions about whether to be productivist or post-productivist in East Asia, there are two noteworthy alternative explanations in the recent welfare development in East Asia: neoliberalism and the welfare politics. The first alternative, neoliberalism, is deeply linked to globalisation and the economic crisis. Specifically, the 1997-98 Asian financial crisis and the subsequent social policy reforms have greatly impacted East Asian welfare regimes

(Croissant, 2004; Holliday, 2005). According to Kwon and Holliday's (2007) research on the Korean welfare state, for example, the financial crisis, although causing serious socio-economic problems, was "paradoxically" an opportunity for the then opposition party in the following four ways: first, the increasing expectations and demands for change of policy as well as government; second, the changing political leadership; third, the more open policy process through the participation of progressive civil society organisations and the tripartite Employees-Employers-Government committee; and lastly, the weakened roles of key stakeholders. In addition, neoliberalism, primarily advocated by the International Monetary Fund (IMF), has permeated throughout economic and social reforms of East Asian welfare states; for example, Korea and Taiwan's welfare restructuring following the financial crisis was led by neoliberal economists (Peng and Wong, 2008). Suzuki et al. (2010) also argue that the Japanese traditional welfare institutions—namely, welfare provision substituted by private corporations and guided by bureaucrats—had fundamentally been dismantled by globalisation and neoliberal policies.

Another alternative explanation is the emergence of welfare politics. As Haggard (2005, p. 156) points out, "democracy is clearly not a necessary condition for expansion of social commitments, but democratic governments have greater incentives to respond to total pressures than authoritarian ones, *ceteris paribus*". In this respect, the democratisation in the late 1980s has provided a new political environment in East Asia, especially Korea and Taiwan, in which politicians increasingly find it difficult to ignore diverse public demands for social welfare despite the weak leftist party tradition (Croissant, 2004; Haggard and Kaufman, 2008). Aspalter (2006) also takes note of increasing party competition as a central reason for significant welfare expansion in Japan, Korea and Taiwan in contrast to Hong Kong and Singapore. In a similar vein, Choi (2012) argues that the socio-political foundation of Korea's productivist welfare regime was already being eroded in the late 1980s and early 1990s, when its authoritarian political institutions changed to democracy and pluralist politics, in spite of the appearance of substantive welfare development in the late 1990s.

Presumably, one main reason behind different viewpoints and prospects on East Asian welfare regimes is that, as Choi (2013b) points out, East Asian welfare regimes have still been in the process of transition process; as quoted earlier, they have "not yet arrived at the point of crystallization" (Esping-Andersen, 1997, p. 187). In this respect, none of them may deny that the term productivism has played a significant role in accounting for East Asian welfare development and even rashly conclude that East Asian welfare states have made a thorough breakaway from the productivist attributes.

### 4.1.3. Social rights and responsibilities in East Asian welfare regimes

East Asian welfare regimes, as examined above, have been under the interwoven influence of two main policy legacies, Confucianism and productivism (or developmentalism), and thus, could be summarised as productivist welfare regimes with a Confucian culture. In addition to the two, neoliberalism in relation to globalisation and welfare politics in relation to democratisation have exerted a considerable influence over their welfare expansion since the mid-1990s. Such a configuration of key driving forces makes East Asian welfare regimes distinct from Western counterparts in terms of welfare institutions, social outcomes and the welfare mix, especially the underlying principle of welfare provision, that is, social rights (and responsibilities) (see Table 4.1).

Welfare provision in East Asian welfare regimes is often considered to be modest and residualist. In other words, the idea of state-provided welfare as of rights is not widely accepted in the region (see Kwon, 1998; White and Goodman, 1998). This shared nature of East Asian welfare regimes is found in both the literatures on cultural approach and politico-economic approach (i.e. Confucian and productivist welfare capitalism); albeit with a different understanding of its rationale. Catherine Jones (1993, pp. 191-95; italics in original), characterising and categorising East Asian countries as Confucian welfare states, points out that their social provision is not underpinned by the idea of “*statutory social provision*” based on “*citizen’s rights*”, but rather by the pragmatic intent to (re)build a community based on traditional Confucian virtues. Confucian values—especially, its two key components, “*hierarchical conception of state-society relationships and the primacy of (patriarchal) kin relations in private life*”—have been utilised as the ideological basis for obstructing the extension of citizenship rights and even of public welfare provision (Chang, 2012b, pp. 79-80). Furthermore, Ian Holliday (2000), theorising productivist welfare capitalism, notes that the notion of public welfare provision as social rights remains comparably weak in East Asia. While social policy is steered towards economic and industrial objectives in terms of the principle of selectivity for imperatives of economic growth and political legitimacy such as public officials, the military and teachers, the state plays the role of a regulator rather than a welfare provider (Gough, 2004a).

**Table 4.1 East Asian welfare regimes in comparative perspective**

Regime attributes	East Asian welfare regimes	Liberal	Corporatist	Social democratic
Social rights	Productive social rights	Clientelistic social rights	Performative social rights	Universal social rights
Underlying logic of welfare provision	A right to social investment; A moderate right to social security	A limited right to social insurance and charity welfare provision	A right to social insurance, plus charity welfare provision	Social rights based on citizenship
Welfare mix (leading instruments)	Occupational social security; Universal social investment in education and health care	Means-tested welfare benefits; Private savings and insurance	Occupational social security; Corporatism in social service provision	Universal social security and welfare services
Emphasis on:				
State	Increasing	Weak	Strong	Strong
Market	Decreasing	Strong	Weak	Weak
Family	Strong	Weak	Strong	Weak
Individual	Weak	Strong	Weak	Strong
Countries/regions that belong to this group	East Asia (e.g. Japan and Korea)	Anglo-Saxon countries (e.g. the US and the UK)	Continental Europe (e.g. Germany and France)	Scandinavia (e.g. Sweden, Norway and Finland)

*Source:* adapted from Aspalter (2006, p. 299; 2011, pp. 738-39).

As to whether social rights and responsibilities have recently become entrenched in East Asian welfare states, however, there are conflicting viewpoints as in the debates as to whether East Asian welfare states are still productivist. On the one hand, the recent social policy development in East Asia—e.g. developing the existing pension and health insurance programmes and introducing various social protection schemes, including unemployment insurance and social assistance programmes—has been regarded as an improvement in terms of social rights and responsibilities (Kim and Choi, 2014), and thereby has led to a prospect that these countries have entered into the welfare state regime that goes beyond an informal security regime (e.g. Kwon, 2005; Ramesh, 2004; Wood and Gough, 2006). Emphasis on social rights rather than traditional values and/or economic productivity can be observed in the old-age pension and healthcare provision of Taiwan (Aspalter, 2006) and Korea’s newly introduced social assistance scheme, the National Basic Livelihood Security System (NBLSS) (Kim, 2008b). Especially, the NBLSS is regarded to recognise “the social rights of citizens to a minimum living standard” (Kwon, 2003, p. 76). Furthermore, what laid behind the social policy changes might be a change in political coalitions for welfare politics. Contrary to Hong Kong and Singapore, the emergence of political coalitions concerned with social rights and redistribution-related issues in Japan, Korea and Taiwan has significantly undermined the institutional foundations

of their developmental states. Thereby, rights-based claims for redistributive welfare policies could be reflected in their social policy making (Kim, 2008b; Kwon, 2005).

On the other hand, Holliday (2005) admits to some extent that social rights and responsibilities have increasingly been considered as one important principle of welfare provision in East Asia. Simultaneously, however, he doubts its actual content, because their social security systems have still been restricted, showing an instrumental intention. In other words, social rights and responsibilities are still confined to economic productivity by directing social policy towards promoting the labour market participation and investing human capital development, such as education, health and housing, and even to political stability and legitimacy (Aspalter, 2006; 2011). This emphasises that a productive role for social policy can be found even in Korea's social assistance scheme, the NBLSS, embracing the notion of "workfare" (Kwon and Holliday, 2007). In this regard, Chang (2012a, pp. 197-99) concludes that the Korean welfare state presents "developmental citizenship" despite the recent dramatic expansion of welfare provision, pointing out that neoliberalism—or the neoliberal perspective towards economic efficiency and against welfare expansion—has reinforced and complemented the "developmentalist suppression of social citizenship".

Overall, East Asian welfare regimes demonstrate a clear progress of social rights and responsibilities in that their social security schemes have recently moved towards being more inclusive and rights-based, in comparison with the past restricted welfare provision exclusively given to several imperatives relating to productive activities; albeit still showing the productivist bent to some extent. In grasping its natures, however, more caution is needed; because, as Esping-Andersen (1999, p. 88) notes, "there will always be slippery or ambiguous cases, and one programme does not define a regime". It is even more so in East Asia, since East Asian welfare regimes have been evolving dynamically and experiencing "the simultaneous development of formation and restructuring of a welfare state" as late-coming welfare states (Kim, 2009c).

## **4.2. East Asian immigration regimes**

Castles and Miller (2009, pp. 10-12) identify six general trends in the recent international migration as follows; first, the "globalization of migration", with more and more countries are considerably affected by international migration. The second trend is the "acceleration of migration" in terms that a quantitative growth of migrants in all major regions leads to both urgency and difficulty in their governmental responses, and the third the "differentiation of

migration” in terms that most countries experience a whole range of immigration, not simply one type of immigration, simultaneously. The “feminization of migration”, the fourth, refers to female migrants that play a significant role in all regions and in almost every migratory movement, and the “growing politicization of migration”. The fifth is domestic politics, whereby bilateral and regional relations and global governance are increasingly affected by international movements of people. Lastly, the “proliferation of migration transition” means some countries change from countries of emigration to ones of transitional migration and even immigration.

East Asian nation-states have no longer been irrelevant to these tendencies of contemporary international migration. The recently growing number of immigrants in East Asia has brought about significant challenges to the societies—especially, those previously characterised by ethno-cultural homogeneity (e.g. Japan, Korea and Hong Kong). The governments have thereby initiated various policies to address issues of immigration control and immigrant integration.

#### **4.2.1. “Latecomers to immigration”: from countries of origin to destination in international migration**

Many scholars take note of recently increasing foreign-born populations in East Asian nation-states, which in the early decades of the post-World War II period rarely experienced any noticeable level of immigration (see Hollifield, Martin and Orrenius, 2014). In comparison with Southeast Asian countries, such as Hong Kong and Singapore, that have already been receiving foreign workers since the early 1960s (Kaur, 2010), Northeast Asian countries, such as Japan, Korea and Taiwan, have recently changed “from being countries of origin to being destination of international migration”, particularly during the last two decades (Lee, 2011b, p. 117). These countries had long been regarded as countries of emigration sending temporary labour migrants to the traditional immigration countries (e.g. the US, Canada, Australia and New Zealand), Western European countries and Gulf countries in the mid and late twentieth century (Castles and Miller, 2009). Since the 1980s, however, movements of people across borders have spread not just into Japan but also into other newly industrialised East Asian countries, including Korea (Massey et al., 1998). In this regard, Hollifield, Martin and Orrenius (2014) label these nations as “latecomers to immigration”.<sup>19</sup>

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<sup>19</sup> Alongside these East Asian nations, Southern European nations, such as Italy and Spain, are also considered as “latecomers to immigration” (Hollifield et al., 2014). They all have recently transited from countries of emigration to countries of net immigration due to their similar socio-economic contexts, especially the increasing economic and demographic needs. However, Seol and Skrentny (2009b) argue that East Asia is different from Southern Europe in terms of very few migrant settlements, and Koff

The East Asian latecomers to immigration demonstrate several similarities in terms of the social circumstances that they have been facing and the general patterns of immigration and immigrant policy; albeit in recent years they have gradually diverged in terms of their policy direction towards immigration control and the integration of foreign-born populations (see Chung, 2014; Kim and Oh, 2011; 2012; Lee, 2011b; Skeldon, 2006; Skeldon, 2007). First, one of the main forces behind the growth in the foreign-born population is labour shortage, mainly caused by the demographic transition within the context of rapid economic growth (Lee, 2011b; Skeldon, 2007). It has been reckoned as a continued challenge on their economic and social systems. The ageing population along with the declining fertility rate in East Asian countries has dramatically changed their population age structures (Lee and Mason, 2011), and thereby increased demands for immigrants since the 1980s and 1990s, primarily as a cheap foreign labour force in certain industrial sectors shunned by local labour (e.g. manufacture, construction, agriculture or fishing) (Castles and Miller, 2009; Rahman, 2012; Tsuda, 2006b).

Immigration policy in East Asia tends to explicitly prohibit low-skilled labour migrants, comprising the numerical majority of foreign-born populations, from settling down, whereas encouraging the (permanent) residence of high-skilled or professional workers, who are still a relatively small part (Skeldon, 2007). Their popular recruitment system for the low-skilled is a “guest-worker system”, employed in several European countries during the early decades of the post-war period (Castles and Miller, 2009), under which governmental agencies regulate the entry and return of migrant workers through limited-term permits. However, many of them often fall into an undocumented status by remaining after their visa expires, instead of returning to their home countries, despite various governmental measures to discourage their settlement (Lee, 2011b). Thus, some East Asian governments, such as Korea and Taiwan, have utilised bilateral agreements with countries of origin of workers in order to effectively manage the low-skilled foreign labour force (Skeldon, 2006).

In addition, East Asian nation-states are distinct in terms of increasing movements of co-ethnic (or return) migrants and female marriage migrants. Notably, there has been the exceptional treatment of co-ethnic migrants in common, for example, ethnic Japanese migrants mainly from Latin America (*Nikkei-jin*) in Japan, ethnic Korean Chinese (*Joseon-jok*) and overseas Koreans in Korea, and ethnic Chinese in Taiwan (Lee, 2011b). Although Taiwan has not allowed any low-skilled workers from mainland China, the Japanese and Korean governments have provided them with relatively better opportunities for residency and

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(2006) mentions that one of the major differences between these two is whether or not regional institutions are present (e.g. the Treaty on European Union, the Treaty of Amsterdam or the Schengen Accords).

employment compared to other low-skilled migrant workers. In addition, one of the salient characteristics found in East Asia is the growing number of immigrants through cross-border marriages, where most of them are between a male national and a female migrant. Skeldon (2006) points out that these female marriage migrants with different cultural backgrounds, who are often expected to perform the traditional female roles as a wife and domestic carer, have profoundly influenced the national identity of their societies, especially those with ethno-cultural homogeneity.

#### **4.2.2. Immigration control in East Asian countries**

These recent countries of immigration in East Asia (e.g. Japan, Korea and Taiwan), in comparison with other countries of immigration, are often considered to have a highly restrictive immigration policy based on an ethno-cultural notion of nationhood. Regarding the main principle of citizenship and immigration policy, they have maintained the *jus sanguinis* principle, instead of introducing elements of *jus soli*, in spite of the increase in foreign-born and/or non-citizen populations including the permanently settled and the second generation of immigrants (Chung, 2014). Castles and Davidson (2000, pp. 188-89) point out the relation of the ethnicity or blood-based principle with emphasis on family, implicitly based on Confucian values, noting that it may “be sustained by the very ethnic homogeneity of some states, which encourages a blood familial notion of the nation itself”. For East Asian nation-states, accordingly, the entry and settlement of foreign-born populations have still been considered to some extent as serious challenges to socio-cultural order and stability of their highly ethnically and culturally homogeneous society rather than as part of their national identity (Chung, 2014; Tsuda, 2006b).

Where this perspective is dominant, it may not be surprising to find a highly restrictive stance towards those with different ethno-cultural backgrounds, especially low-skilled immigrants who are looked upon to be highly likely to bring socio-cultural and even economic challenges (Seol and Skrentny, 2009b). Although the increasing demands for foreign labour caused by a severe labour shortage in the East Asian economies led them to allow entry of low-skilled foreign-born populations in the 1990s, their governments had officially maintained the closed-door immigration policy. However, not all East Asian nations have consistently adhered to their established restrictive approach to the low-skilled; for example, Korea has recently taken a more liberal and inclusionary stance in comparison with Japan (Chung, 2014; Yamanaka, 2010). Nonetheless, Japan and Korea both have still retained their ethnic homogeneity to some extent amid fears that a huge inflow of foreign-born populations different racially and culturally from nationals may generate social disorder (Hollifield et al., 2014),

The East Asian immigration control policy for low-skilled foreign-born populations primarily aims at addressing the domestic demand for the low-skilled labour and at the same time prohibiting their settlement. In this regard, it could be characterised as considerably restrictive by the two following aspects: first, the short-term and temporary immigration system; and second, the exceptional—more favourable in Japan and Korea—treatment of co-ethnic migrants (Chung, 2014; Lee, 2011b). Apart from these groups of immigrants, however, the governmental stance on other groups, such as professionals, foreign students or marriage migrants, is more inclusive. Of those female marriage migrants would stand out the most. East Asian nation-states have rarely taken restrictive approaches to their entry, residence and even naturalisation, but rather at times implemented very liberalised measures—e.g. simplifying a series of procedures regarding their visa application and issue (Kim and Oh, 2011). In their societies, cross-border marriages have been considered to some extent as a potential solution to the rapidly decreasing fertility rate and the shortage of marriageable women—particularly in rural areas—and thereby reproductive labour force (Lu and Yang, 2010).

Low-skilled foreign labour policy in East Asia, although being different across countries in terms of how it is operated and implemented (e.g. using bilateral agreements in Taiwan and adopting the trainee-based system in Japan), is commonly based on the short-term and temporary immigration system, which is the *de facto* guest-worker system strictly controlling migrant workers' entry to return. Under this system, they provide their labour to specific industrial sectors that are suffering from a labour shortage, for a specific contract period until they are required to return to their home country. They have often been insufficiently protected by labour-related legislation because of their precarious legal status upon the temporary contract—officially not recognised as legitimate workers (but trainees) until recently. Such precariousness has easily exposed them to human rights violations and unfair treatment (e.g. unpaid wages and employer abuse), and occasionally led them to voluntarily become undocumented prior to the expiration of contracts (Lee, 2011b; Seol, 2000; Wang, 2011). In particular, Japan has utilised this system as its “side door” for recruiting the imperatives for the low-skilled industry, while officially maintaining the closed-door immigration policy for low-skilled foreign-born populations (Kajita, 1998; Kondo, 2002).

For East Asian nation-states whose citizenship policy is based on the *jus sanguinis* principle, the ethno-cultural background of immigrants, especially co-ethnicity or ethnic ties with their nations, is certainly one of the most important considerations in controlling immigration. However, the way to deal with it differs significantly: on the one hand, the strict control of low-skilled co-ethnic migrants in Taiwan and on the other hand, the preferential treatment for them in Japan and Korea. The Taiwanese government has strictly prohibited the

inflow of low-skilled workers from mainland China on the grounds of national security (Wang, 2011). However, Japan and Korea have regarded ethnic return migrants as necessary for economic and industrial developments. According to Kondo (2002), the preferential treatment for them considerably reflects the conception of ethnic nationalism, because the rationale behind this is a presumption that those with the same ethnic background are less likely to pose threats to social stability based on ethnic homogeneity (Chung, 2014). Ethnic Japanese migrants and their descendants (i.e. *Nikkei-jin*) have been granted the right to reside and work in Japan since the 1990 revision of the Immigration Control and Refugee Recognition Act. In addition, ethnic Koreans have exclusively been granted nearly all the economic and social rights of Korean citizens along with the 1999 enactment of the Overseas Koreans Act (OKA); however, it is noteworthy that the Korean government had not established any preferential programmes for low-skilled ethnic Koreans (mostly *Joseon-jok*) before the early 2000s (Skrentny et al., 2007).

Since the mid-2000s, however, the governmental approaches towards foreign-born populations, particularly low-skilled and co-ethnic migrants, have gradually diverged, and their existing restrictive natures have been diluted to some extent in some East Asian countries. With respect to (low-skilled) foreign labour policy, although the governments' intent to prevent low-skilled labour migrants from settling down has still been found, Korea and Taiwan made the established guest-worker system more liberalised in comparison with Japan in terms of their legal status and residence period. Specifically, Japan's Technical Intern Training Programme (TITP) has remained almost intact, whereas in the mid-2000s Korea's Industrial and Technical Training System (ITTS) was replaced with the Employment Permit System (EPS), under which low-skilled labour migrants have officially been recognised as legitimate workers, no longer as trainees (Yamanaka, 2010). In addition, the maximum period for them to reside has increasingly been extended in Korea and Taiwan (i.e. up to nine years eight months and nine years respectively), and this, as Wang (2011) points out, has somewhat challenged their short-term and temporary migration system of low-skilled foreign labour.

The preferential approach to co-ethnic migrants has also diverged between East Asian nation-states. This divergence can be summarised as follows: "Taiwan's ban on low-skilled workers from mainland China may be characterised as suspension; the Japanese policy on *Nikkei-jin* may be regarded as a retraction; but the Korean policy appears to be an expansion" (Lee, 2011b, p. 127). In the case of Japan, the mass layoffs of *Nikkei-jin*, who mostly were on non-regular employment contracts, triggered by the 2008 global economic crisis came into potential pressures on the labour market and even the social security system (especially, unemployment insurance). Accordingly, the Japanese government implemented a repatriation programme to encourage them to return to their home countries (Ogawa, 2011). On the other

hand, the Korean government has rather treated low-skilled ethnic Korean migrant workers more favourably than others; for example, by creating a new visa category exclusively for them based on the Visiting Employment System (VES) initiated in 2007 and easing the permanent residency regulations and requirements for them in 2009 (Seol and Lee, 2011).

#### **4.2.3. Immigrant integration in East Asian countries**

Along with the recent politicisation of immigration-related issues, however, the gradually increasing population of foreign residents, such as marriage migrants and co-ethnic migrants, has led to a shift in their exclusive stance on the integration of those with diverse ethno-cultural backgrounds to being inclusive (Castles and Miller, 2009, p. 292). East Asian nation-states demonstrate some similarities in the recent development of immigrant integration policy, for example in a way to bifurcate foreign-born populations into potential citizens (or at least long-term residents) and those temporarily staying for specific purposes such as technical interns; simultaneously, however they differ in terms of the practical way to incorporate them into the societies.

The initial approach of East Asian nation-states to the incorporation of immigrants—until the mid-2000s—could be characterised as the “differential exclusion” model (or the guest-worker model), in which foreign nationals are often allowed to be “temporarily incorporated into certain areas of society (above all the labour market) but denied access to others (especially citizenship and political participation)” (Castles and Miller, 2009, p. 247). Despite the continuous inflow of low-skilled labour migrants, there had still been low migrant settlement in East Asian countries compared to other countries of immigration (Seol and Skrentny, 2009b). This is because they had provided opportunities for permanent settlement and family reunification primarily to some specific groups of immigrants (e.g. professional workers or marriage migrants; but exceptionally also to *Nikkei-jin* in Japan), but not at all to those employed in low-skilled industrial sectors.

Considering their immigration control principle to not allow the settlement of low-skilled labour migrants comprising the majority of foreign-born populations in their societies (and relatively small numbers of the high-skilled allowed residing for the long term), it may not be surprising that the initial governmental efforts for incorporating immigrants had hardly been observable, apart from some issues relating to specific groups of them. Of these the most prominent was about the frequent infringement of human rights from which many low-skilled migrant workers had often suffered. They had been deprived of legal status as workers and even basic labour rights, such as the right to unite, collective bargaining and strike, and thus,

had been exposed to precarious situations such as industrial accidents, unpaid wages and employer abuse (Chung, 2014).

Against this backdrop, the then immigrant integration policies focused mainly on ensuring the (partial) protection of human rights or legal protections of low-skilled labour migrants as workers, but still neglected to provide measures for their social integration as residents (Seol and Skrentny, 2009b). This was because the low-skilled labour on temporary contracts, the then largest group of immigrants in East Asian countries, was regarded as necessary for industrial demands but unwanted due to their latent impact over national identity and socio-cultural order (Chung, 2010b; Tsuda, 2006b). For example, the Japanese government attempted to address the related issues (especially, of undocumented workers) by introducing the TITP in 1993, guaranteeing the minimum wage and granting entitlements to the national health insurance and workers compensation insurance. However, while cases of human rights violations and unfair treatments on technical interns repeatedly occurred under the TITP, the government often attributed them to certain employers' improper behaviours with further measures. In the case of Korea, a series of demonstrations by foreign trainees and civil society in the mid-1990s led the government to formally recognise them as workers under labour-related legislation in the late 1990s, eventually resulting in the EPS introduced in 2004. Under the new system, low-skilled migrant workers are granted the legal status of workers, no longer trainees, with the same rights and treatment in the labour market as Korean nationals (Castles and Miller, 2009).

After the mid-2000s, however, the governments in East Asia have shown a different—more inclusive than before—approach in incorporating foreign-born populations, which was highly relevant to the increasing foreign resident population (e.g. *Nikkei-jin* in Japan and female marriage migrants in Korea). Regarding their recent immigration integration policy development, there are several noticeable features in terms of policy direction and target. First, a clear endorsement of multiculturalism has been found in common. For example, the Korean government declared a “transition into multi-cultural and multi-ethnic society” in 2006, through which the focus of immigrant-related discourses has changed from structural disadvantages experienced by foreign nationals to their integration into Korean society (Kim, 2014; Lee and Kim, 2011b; Watson, 2012b). This was accompanied and complemented by the 2007 Basic Act on the Treatment of Foreigners in Korea and the 2008 First Basic Plan for Immigration Policy, which has four main objectives: first, enhancing national competitiveness with proactive immigration policy; second, pursuing quality social integration; third, establishing an orderly immigration administration; and lastly, protecting the human rights of foreigners (KMOJ, 2009). However, as many scholars point out (Kim and Oh, 2011; Nagy, 2013;

Watson, 2012a; 2012b), East Asian nations, including Japan, Korea and Taiwan, have still used the assimilationist approach as the primarily preferred method for the social integration of immigrants despite the prevalent usage and adoption of the term multiculturalism in their societies.

Second, East Asian nation-states' recent inclusive incorporation initiatives have strategically targeted a few specific groups of immigrants (e.g. co-ethnic migrants and female marriage migrants and their families), and thereby excluded the largest group of immigrants, namely, low-skilled migrant workers. In this regard, the extent of welfare provision and protection for social inclusion is often distinguishable according to the type of immigration (Chung, 2014; Wang and Bélanger, 2008). For example, the Korean immigrant integration policy, as Chung (2014, pp. 411-412) notes, has had different aims across different groups of immigrants as follows: "social inclusion for marriage migrants" and "preferential entry and employment rights for co-ethnic immigrants", whereas just "human rights protection for migrant workers". In addition, the Japanese-style multicultural approach known as "multicultural coexistence" (*tabunka kyōsei*), although not specifying any preferential immigrant groups, has significantly excluded low-skilled labour migrants (i.e. technical interns) from a variety of incorporation policies (Chung, 2014). In this regard, it is noteworthy that the East Asian immigrant integration policy has generally provided more opportunities for foreign-born populations to be incorporated into the societies, but those employed in low-skilled industrial sectors have still been deprived of opportunities in comparison with others.

In spite of such similar immigrant integration policy development towards a more inclusive approach, however, the practical initiatives vary considerably across countries. According to Chung's (2014) comparative research on Japan and Korea's immigration and immigrant policies, the Japanese immigrant integration policy is less formal and centralised than the Korean. That is to say, the Korean government has focused on the national-level provision and protection for foreign-born populations through centralised policies and programmes, whereas the Japanese government has been reluctant to make national-level policies for their incorporation. Rather, the Japanese approach (i.e. *tabunka kyōsei*) has emphasised local-level support for foreign residents and their participation in local communities through decentralised governance between local governments, civil society and themselves (Tsuda, 2006a; 2008)

In sum, East Asian immigration regimes as "latecomers to immigration" can be characterised as having relatively restrictive citizenship and immigration policy and exclusive incorporation policy in comparison with other as "nations of immigrants" and/or "countries of immigration" (Hollifield et al., 2014). Looking into their policy developments over the last

couple of decades, however, three prominent changes could be observed; first, the governments in East Asia have taken more liberal and inclusive approaches to issues of immigration control and immigrant integration. Second, East Asian immigration regimes have diverged in terms of to what extent they are inclusive and how to deal with increasing diversity in the society. Lastly, specific groups of immigrants (particularly, low-skilled migrant workers with different ethno-cultural backgrounds) have still been excluded and disadvantaged to some extent from the recent—liberalised and inclusive—policy development of the region.

### **4.3. Reconsidering immigrants' rights and responsibilities in East Asia**

The number of studies focusing on the citizenship and/or rights of immigrants in East Asia has gradually increased, albeit still relatively few in number. However, their prime areas of interest are mostly changes in policies relating to immigrants, including citizenship, immigration control and immigrant integration policy (e.g. Chung, 2014; Kaneko, 2009; Lee, 2011b; Nagy, 2013). This section reviews the related literature and then reframes discussion of the rights and responsibilities of immigrants in East Asia in terms of several policy areas, taking account of the interaction between East Asian welfare and immigration regimes.

#### **4.3.1. Immigrants' membership and rights in East Asia**

The research on citizenship and/or rights of immigrants in East Asia can be categorised into three strands. The first strand of research tends to enumerate the list of rights formally granted to immigrants in East Asian nation-states within the context of gradually growing foreign populations (Hanami, 1998; Kondo, 2001; Seol, 2012; Takao, 2003), being reminiscent of the early studies on the Europe cases (e.g. Baldwin-Edwards, 1991; Brubaker, 1989; Faist, 1995). These studies, for example, examine different types of formal status of foreign nationals—e.g. permanent and temporary alien residents in Japan (Kondo, 2001) and different types of foreign workers in Korea (Seol, 2012), describing their different access to permanent residency and nationality and entitlement to citizenship rights (i.e. civil, political and social rights). They thereby reveal what kind of rights and to what extent different groups of immigrants are entitled. For example, Seol (2012), defining the citizenship of migrant workers in terms of both its formal and substantive aspects, concludes that less-skilled workers, including the undocumented, have been excluded from Korean incorporation policies more than any other groups, resulting in a precarious status.

Another approach is to investigate the citizenship and/or rights of immigrants from the

perspective of “regime” (e.g. incorporation regime) (Chung, 2010a; 2010b; Tsuda, 2006a). The works of Tsuda (2006b; 2008), although not specifying the usage of the term regime, address the social incorporation of foreign workers in a broad sense, by considering local-level integration programmes and practices going beyond the national-level immigration and immigrant policy. He suggests the concept of “local citizenship” in order to illuminate foreign workers’ enjoyment of citizenship rights as local residents—and local citizens—in local communities regardless of the restrictive and exclusive national-level immigration policy. Specifically, this includes “local governments’ immigrant social integration programs and policies, immigrant services offered by local NGOs, and local activism to demand and secure basic rights for immigrants” (2006b, p. 7). In addition, Chung’s (2010a) work, analysing the citizenship and rights of immigrants (mainly, permanent foreign residents) in Japan, demonstrates their exclusion from Japanese society rather than social inclusion through the “incorporation regime”. This consists of three parts: first, citizenship policies determining the boundaries of membership in a society; second, particular rights and duties for noncitizens; and lastly, formal and informal institutions for incorporating immigrants into the community. According to her, the Japanese immigrant incorporation regime along with the political struggle of permanent foreign residents (born in Japan) has resulted in migrants’ marginalisation in Japanese society.

Lastly, despite the simultaneous development of state welfare provision and immigration control and immigrant integration policy in East Asia over the last couple of decades, a very small number of scholars have paid attention to an interaction between these policy dimensions. In particular, there are very few studies about foreign-born populations and their integration into East Asian societies, that take into account developments in both East Asian welfare and immigration regimes simultaneously (Kim, 2017; Song, 2015; Takenoshita, 2015). For example, Takenoshita (2015) examines policy changes in the integration of labour migrants—especially, *Nikkei-jin*—into Japanese society before and after the 2008 global economic crisis. According to his argument, this depends considerably on the institutional arrangement of relevant policies, such as welfare, employment and immigrant integration policies, alongside the labour market structure. In addition, Song (2015) and Kim (2017) also stress the nexus of welfare care and immigration regimes in comprehending the politics and policies of foreign care workers in East Asian countries.

These three strands of research, however, hardly provide satisfactory explanations about the formation and development of the rights and responsibilities of immigrants in East Asia, the interest of this thesis. The first may insufficiently take the historical and politico-economic contexts into consideration surrounding them. The second, although somewhat

accounting for the historical development of the formal status and associated entitlements of immigrants, may not be successful in creating comprehensive understandings of them by overlooking East Asian welfare regime developments. The third approach looking into both East Asian welfare and immigration regimes gives most attention to changes in the scope and extent of the legal entitlements of immigrants, but not much to changes in regulations and requirements (i.e. responsibilities) significantly affecting their rights.

#### **4.3.2. Reframing immigrants' rights and responsibilities in East Asia**

This research takes account of the conceptualisation of immigrants' rights and responsibilities, presented in Chapter Two, in reframing immigrants' rights and responsibilities in East Asian welfare states. Prior to this, however, it is necessary to identify how relevant the discussion of social citizenship and membership of non-citizens are to the context of East Asia—particularly, Japan and Korea, which had been regarded to have their own systems and experiences of social protection and immigration, different from Western counterparts. Specifically, Japan and Korea have been developing their welfare systems based on the idea of social citizenship (or rights) rather than considerations of national economy and social order, prioritised in the former days. In addition, they have recently been experiencing ethnic and cultural diversity, dealing with the social inclusion of foreign-born populations. In this regard, these two East Asian cases can be understood and explained within the discussion of social citizenship and membership (of non-citizens). It is even more so when considering the fact that the conception of social citizenship can be understood as socially constructed, and thus materialised diversely by country depending on its own political economy (see Mann, 1987).

In addition, the recent development of East Asian welfare and immigration regimes may enable East Asian countries to be analytically comparable to Western welfare states and/or the traditional immigration countries. The fuzzy set ideal type analysis in Chapter Three clearly show that East Asian welfare states, specifically Japan and Korea, can be examined and discussed within a wider framework of welfare and immigration regimes, drawn from the literature of social citizenship and membership of non-citizens in welfare states. Its results argue that their welfare and immigration regimes—and thereby potentially the rights and responsibilities of immigrants—are different not only from those of their Western counterparts, but also from each other.

In understanding and analysing the rights and responsibilities of immigrants—specifically, low-skilled labour migrants—in the Japanese and Korean welfare states, thus, this research takes account of three aspects: interdependence of membership elements, social inclusion/exclusion and rights/duties (as suggested in Chapter Two). In other words, it

examines and analyses immigrants' rights and responsibilities firstly by looking into not just a social element of their membership but also civil and political ones. In addition, it considers their entitlements to social benefits and several integration programmes, going beyond labour market participation. Alongside such rights, lastly, associated duties and obligations are also taken into consideration within immigrant's rights and responsibilities.

An analysis of immigrants' rights and responsibilities in East Asia encompasses investigations of the relevant policy areas, including entitlements and duties/obligations in policies for welfare provision, immigration control and immigrant incorporation. In this research, immigrants' rights and responsibilities mainly consists of five policy areas (see Table 4.2): entry/residency, access to the labour market, access to social benefits and integration programmes, political participation and anti-discrimination. The first policy area regarding immigrants' entry and residency takes account of their maximum residence period, applicability to permanent residency and nationality and family reunification as rights, and associated regulations and restrictions as responsibilities. The second area relating to access to labour market concerns accessibility itself (e.g. the right to work and freedom of occupation) and labour rights (e.g. the right to unionise, of collective bargaining and collective action) as rights and associated constraint conditions as responsibilities.

Third, access to social benefits and integration programmes refers to access to social security systems (e.g. public pensions, public insurance systems, social assistance systems, health care and social welfare services) and immigrant integration policies. The social rights of immigrants are considered alongside the relevant responsibilities, including conditions of category (e.g. different rules and regulations on recourse to public funds according to immigration status), circumstance (e.g. eligibility rules for state welfare provisions) and conduct (e.g. behavioural requirements). In addition, immigrant integration policies considerably affecting the social inclusion of immigrants include a variety of reception measures and settlement support programmes, such as language and cultural programmes, with different orientations such as multiculturalist, assimilationist or exclusionist.

The fourth policy area is political participation. Although political rights are commonly regarded as essential in citizenship in terms of empowerment, most immigrant-receiving countries have restrictive rules for non-citizens' political participation in comparison to citizens; for example, their voting rights are often allowed only at the local level. Given the fact that the political franchise of immigrants may contribute to further promotion of their rights and responsibilities by making collective claims in politics, it would be appropriate to take account of political participation as a part of immigrants' rights and responsibilities. The last policy area is anti-discrimination. The related legislation can help immigrants to substantively

exercise their rights and responsibilities by prohibiting unequal treatment in relation to labour market and social welfare provision.

Overall, a more comprehensive approach to take account of both East Asian welfare (state) regimes (i.e. the Confucian and/or productivist forces) and East Asian immigration regimes (the differential exclusionist and/or assimilationist bents) as well as their recent developments is crucial in analysing immigrants' rights and responsibilities in East Asia. Most of the existing studies about immigrants' citizenship and/or rights in the region are found in the literature on citizenship and international migration, apart from very few dealing with them in terms of an intersection between East Asian welfare and immigration regimes. Undoubtedly, investigating East Asian immigration regimes can provide a great deal of understanding about immigrants' social inclusion into and exclusion from the host societies (see Chung, 2010a; Tsuda, 2006a). Without looking into East Asian welfare regime developments together, however, it could be insufficient in grasping the rights and responsibilities of immigrants in East Asian welfare states; because they are primarily embedded in two institutions, the welfare and immigration regimes, and more importantly, established upon its three aspects, interdependence of membership elements, social inclusion/exclusion and rights/duties.

**Table 4.2 Policy areas of immigrants' rights and responsibilities**

Areas	Policies and programmes	
	Rights-related	Responsibilities-related
Entry/residency	Residence period, acquisition of permanent residency and nationality and family reunification	Established standards and civic integration policy
Access to labour market	Accessibility itself (e.g. right to work and freedom of occupation) and labour rights (e.g. the right to unionise, of collective bargaining and collective action)	Restrictions to immigrants
Access to social benefits and integration programmes	Entitlements to social security system (e.g. public pensions, other insurance systems, social assistance systems and health care and social welfare services) and immigrant integration policies (e.g. reception measures and settlement support programmes, etc.)	Conditions of category (e.g. different rules on recourse to public funds according to immigration status), circumstance (e.g. eligibility rules for state welfare provisions) and conduct (e.g. behavioural requirements)
Political participation	Voting rights (e.g. at local level)	
Anti-discrimination	Related legislations	

#### **4.4. Concluding remarks**

This chapter has reviewed the existing literature on the socio-cultural and politico-economic contexts behind the rights and responsibilities of immigrants in East Asia, that is, East Asian welfare and immigration regimes, as well as on immigrants' citizenship and/or rights. Many studies have increasingly taken note of the intra-regional divergence of state welfare provision and immigration control and immigrant integration policy; which has empirically been explored in the analytical results of Chapter Three. East Asian welfare regimes, long regarded as the productivist (or developmentalist) welfare regimes with Confucian culture, have gradually diverged along with the recent welfare developments in the region, mainly influenced by the welfare politics alongside neoliberalism. In addition, East Asian nations have shown some differences between immigration policies, including both immigration control and immigrant integration, within the recently increasing foreign-born population. Specifically, the Korean immigration regime has become more liberal and inclusive in comparison to the Japanese; although both have been based on the ethno-cultural notion of nationhood.

The welfare and immigration regime developments, as discussed in Chapter Two, have significant implications on the rights and responsibilities of immigrants. However, there have been very few scholarly attempts to comprehensively analyse them by investigating both East Asian welfare and immigration regimes together. Taking account of the literature review, the following chapter answers the second research question of this thesis, to what extent Japanese and Korean welfare states are similar with and different from each other in the rights and responsibilities of immigrants, in terms of an interplay between the welfare and immigration regimes and a specific investigation of relevant policy areas.

## **CHAPTER FIVE**

### **Profiling immigrants' rights and responsibilities in East Asia**

Over the last two decades, East Asian nation-states, especially Japan and Korea, have experienced dramatic socio-economic transformations, and accordingly, developed their social welfare policies as well as immigration control and immigrant integration policies. As implied by the analytical findings in the fuzzy set ideal-type analysis of Chapter Three, however, their trajectories of policy change are distinct from Western countries in terms of the institutional foundations of immigrants' rights and responsibilities (i.e. the welfare and immigration regimes), and furthermore, are significantly different from each other.

Against this backdrop, this chapter details two East Asian cases of the rights and responsibilities of low-skilled labour migrants so as to investigate their similarities and differences. The first two sections are dedicated to studying the Japanese and Korean cases respectively. Each case profile firstly describes social policy changes within the welfare regime, and then immigration control and immigrant integration policy changes within the immigration regime. These two parts contribute to a general understanding of each country's institutional foundations in understanding the rights and responsibilities of low-skilled labour migrants. Focusing on two different groups of the low-skilled (i.e. co-ethnic migrants and others), the last section analyses their rights and responsibilities across several policy areas (cf. Table 4.2), before concluding with some comparisons between the two East Asian cases.

#### **5.1. Immigrants' rights and responsibilities in Japan**

The first section regarding immigrants' rights and responsibilities in Japan briefly describes the Japanese welfare and immigration regime developments respectively. It then moves on to looking into the rights and responsibilities of low-skilled labour migrants in Japan.

##### **5.1.1. Japanese welfare regime development**

The Japanese welfare regime had been characterised by the relatively significant roles of informal and occupational welfare within the residualist and productivist state welfare provision (Esping-Andersen, 1997; Goodman, 1998). Before the 1990s, these characteristics of the Japanese welfare model were justified by the utilisation and reproduction of Confucian values and productivism (Choi, 2012; Kono, 2005). The current socio-economic changes that

Japanese society has been facing, however, made it difficult to maintain its particular social protection system based on the lifetime employment system and the male breadwinner model, and a series of welfare reform measures have brought about the restructuring of the Japanese welfare regime (Suzuki et al., 2010).

Although social policy development in Japan is often considered to have originated from the modernisation of the mid-19th century, the Japanese welfare state substantively began to be formed with the proclamation of the “First Year of the Welfare” in 1973 (Goodman, 1998; Takegawa, 2013). This policy commitment to developing a Western-style welfare state was a political response to increasing public pressure (Peng, 2000; Takahashi, 1997; Takegawa, 2013). The established welfare system, although institutionalised with the universal national pension and health insurance system throughout the 1950s and 60s, did not sufficiently cope with the then social-economic issues caused by rapid economic growth, thereby undermining political support for the ruling Liberal Democratic Party (LDP). On this account, the LDP-led government emphasised a shift of policy focus “from economic growth to welfare”, and implemented several important welfare reforms, such as increasing the old-age pension benefits and making healthcare free for the elderly. Along with a steady rise in social expenditure, the reforms significantly affected the subsequent social welfare policy development in Japan (Peng, 2000).

As the first oil crisis of 1973 resulted in the sudden end of high economic growth in Japan, however, the policy commitment to welfare expansion was replaced before long by an idea of the “Japanese-style welfare society”. Although the dramatic deterioration of the Japanese economy did not immediately lead to a cutback of the social welfare budget, a different viewpoint to reconsider state welfare expansion had gradually gained public attention and support since the mid-1970s (Peng, 2000; Takahashi, 1997). In particular, the idea was officially adopted by the LDP-led government as a new social policy direction, explicitly through its policy report of 1979 entitled *Japanese-style welfare society (Nihon-gata fukushi shakai)*. Thereby, the Japanese welfare regime started to accentuate individual self-help, family mutual support and occupational welfare with modest public welfare provision (Kono, 2005).

During the 1980s emphasis on the market and informal sectors in terms of welfare provision had been sustained under the slogan “welfare society with vitality”, considerably affected by the idea of the Japanese-style welfare society (Takahashi, 1997; Vij, 2007). It could be understood as a policy effort to simultaneously keep Japan’s social expenditure low and maintain its economic competitiveness in changing economic circumstances, demonstrating the relative importance of the productivist agenda in the Japanese welfare regime. Along with

an emerging influence of neoliberalism over social policy making, the trend of welfare retrenchment was reinforced so as to tackle the large state budget deficit increasing since 1973 (Takegawa, 2013). Specifically, reforms of the national pension and health insurance stood out; for example, the restructuring of the national pension into a two-tier system, the abolition of the free health care services for older people and the introduction of 10 percent user fees in health insurance. In a similar vein, a new consumption tax was introduced in 1988. However, it led to significant backlash in the society, and thus the then ruling LDP lost its majority in the Upper House (Hudson and Hwang, 2013).

Within the prolonged economic recession since the early 1990s—the so-called “Lost Decade”, the mounting pressure of socio-economic shifts (e.g. population ageing, post-industrialisation and globalisation) called for a redesign of the Japanese-style welfare system (Peng, 2000; 2004; Takegawa, 2013; Vij, 2007). While a basic trend of welfare retrenchment was continuously retained along with the 1996 relaxation of labour laws, the challenges brought the notion of welfare expansion back. They led the government to substantively promote the social care system, including two areas of childcare and elderly care. Specifically, the long-term care insurance (LTCI) scheme introduced in 1997 (i.e. the Chronic Care Insurance) socialised care services for elderly, symbolising a significant shift in financial responsibility from family to state (Hudson and Hwang, 2013). Given that a major reason for its introduction was implicitly containing the surging costs of care services, it hardly means that the roles of informal and corporate welfare in the Japanese welfare regime began to be replaced by state welfare provision (Campbell and Ikegami, 2003).

In the late 1990s and 2000s a series of market-friendly reforms notably stood out despite some welfare expansion measures (Kono, 2005; Takegawa, 2013). As neoliberalism engendered privatisation and deregulation and market-friendly mechanisms exerted significant influence over a variety of policy areas, the LDP-led government continuously pursued self-help and private initiatives in welfare provision (Cho, 2006; Hiraoka, 2006; Takegawa, 2006). For example, the national pension reforms were carried out in a way to reduce benefits and increase contribution rates, and the health insurance reforms to raise user fees and introduce a contributory scheme. The 2005 LTCI reform aimed at raising premiums. Furthermore, two labour market reforms—in 1999 and 2003—considerably increased labour market flexibility with non-regular (temporary) employment growth. It implies that Japan’s own system of social protection based on the full employment of core (male) workers has no longer been sustainable (Hanami, 2003; Hudson and Hwang, 2013; Watanabe, 2015).

Such extensive neoliberal reforms, especially carried out by the Koizumi administration (2001-2006), led individuals and families to take more responsibility for their

own welfare, thereby resulting in escalating inequality and poverty in Japanese society (Steinmo, 2010; Watanabe et al., 2009). To cope with the issues, the succeeding LDP-led administrations attempted to change policy emphasis to some extent: for example, the Abe administration (2006-2007) stressed work-life balance, the Fukuda administration (2007-2008), promoted “better-functioning social security” and the Aso administration (2008-2009) relaxed the continuous welfare retrenchment trend (Takegawa, 2013). However, these attempts could not stop a clear defeat of the ruling LDP-led coalition by the centre-left Democratic Party of Japan (DPJ) in the 2009 election. Along with the further relaxation of social expenditure, the newly elected DPJ government pledged several social policy developments, such as the improvement of family allowance and childcare (Estévez-Abe and Kim, 2014; Steinmo, 2010). Under the economic downturn caused by the 2008 global economic crisis and the earthquake and subsequent tsunami in 2011, however, many of the pledges were left unimplemented.

With few social policy achievements the DPJ gave way to the LDP in the 2012 election. Against Japan’s public debt reaching over 200 percent of gross domestic product (GDP) in the early 2010s, Prime Minister Shinzo Abe (2012-present) has advocated a far-reaching policy reform called “Abenomics”. This was designed to revive the sluggish Japanese economy through “three arrows”: fiscal consolidation, more aggressive monetary easing and structural reforms to boost Japan’s economic growth and competitiveness (Yoshino and Taghizadeh-Hesary, 2014). In this vein, the Abe administration accelerated labour market flexibility with the 2013 amendment of the Labour Contract Act and the 2015 revision of the Worker Dispatch Act (Cho and Choi, 2017). By contrast, policy attention to welfare and social protection has been on the wane, with a primary emphasis on economic recovery; in this regard, Shinkawa and Tsuji (2014, p. 207) label it as “a renewed version of the production-first policy”.

In sum, the Japanese welfare regime has continuously gone through the process of welfare restructuring to cope with socio-economic challenges that Japanese society has been facing. Since the emergence of the idea of a Japanese-style welfare society in the late 1970s, the governments, mostly dominated and led by the LDP, have restructured social security system in ways to maintain its nature of residualist state welfare provision. Although the idea of welfare expansion has occasionally drawn considerable attention in social welfare policy making (e.g. the LTCI and childcare), the growing influence of neoliberalism— specifically, through labour market reforms—has reinforced the tendency of welfare retrenchment while still emphasising economic growth and productivity. In this regard, the development trajectory of the Japanese welfare regime can be summarised by the restructuring process of the Japanese-style welfare society.

### 5.1.2. Japanese immigration regime development

Although the Japanese government has officially announced that Japan is not a country of immigration, hardly deniable is that it has become a recent country of immigration along with a recent gradual increase in the foreign-born population (Chung, 2014). Japan's strong sense of ethnic nationalism, however, has still made the Japanese immigration regime strongly restrictive in terms of both immigration control and immigrant integration.

In Japan, the significant inflow of immigrants from the late 1980s has contributed to the foreign population growth, but one of the largest immigrant groups has still been former colonial subjects and their descendants mainly from the Korean peninsula, namely, *zainichi* Koreans (i.e. Korean residents in Japan) (Chung, 2010a; 2014; Kashiwazaki, 2013).<sup>20</sup> For a more comprehensive understanding of the Japanese immigration regime, it is thus necessary to note the previous two major enactments of immigration controls, greatly affecting and shaping the current Japanese immigration regime based on the 1990 revision of the Immigration Control and Refugee Recognition Act. First, after the end of the World War II, the Japanese government newly enacted the Immigration Control Act in 1952. As its aim was to make colonial subjects and their families either return to their home countries or become naturalised with Japanese names,<sup>21</sup> the then citizenship and immigration policies were considerably exclusive and discriminative. Second, following ratifying several international human rights conventions in the 1970s and 1980s, the Immigration Control and Refugee Recognition Act was enacted in 1982. The 1982 enactment contributed to improvements in the rights of foreign residents and refugees by pursuing their inclusion through assimilation than exclusion, albeit still restrictive (Chung, 2010a; Kondo, 2015).

Within Japan's "bubble economy" of the late 1980s and the early 1990s—that is, surging real estate prices along with the Japanese currency's sharp appreciation, a considerable labour shortage in the low-skilled industrial sectors brought about a swell in the undocumented immigrant population peaking at around 300,000 in 1993 (Chung, 2014; Kondo, 2015). The Japanese government revised the Immigration Control and Refugee Recognition in 1990 so as to address the issue of labour shortage and continuously prevent the admission and settlement of low-skilled immigrants, especially the undocumented (Chung, 2010a). While

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<sup>20</sup> Immigrants entering Japan from the late 1980s are generally called "new-comers" in contrast with the so-called "old-comers" who migrated to Japan before the post-war period (Kashiwazaki, 2013).

<sup>21</sup> During the period of Japanese colonialism (1919-1945), more than two million colonial subjects migrated from colonial territories, including the Korean peninsula and Formosa (currently Taiwan), to Japan as workers, students or wartime conscript (forced) labour. After the end of World War II, about one-third of the population remained in Japan—for example, approximately 600,000 of *zainichi* Koreans (Chung, 2014).

imposing sanctions against employers hiring undocumented workers, the new legislation instituted two loopholes in terms of low-skilled foreign labour (Chung, 2014; Kondo, 2002; 2015). The first loophole is the long-term (or quasi-permanent) resident status for ethnic Japanese migrants mainly from Latin America (i.e. *Nikkei-jin*). This visa grants them renewable three-year residency with unrestricted employment rights and some social entitlements (Surak, 2008). Although the *Nikkei-jin* exception policy nominally aims at providing opportunities to learn and explore their cultural heritage as ethnic Japanese, the vast majority of them have been working in the manufacturing and construction sectors (Tsuda, 2003; 2009).

The second policy response to the low-skilled labour shortage was the introduction of the Technical Intern Training Programme (TITP) in 1993. The government established a quasi-governmental organisation called the Japan International Training Cooperation Organisation (JITCO) in 1991, and authorised it to take charge of the TITP (Kamibayashi, 2010). Under the TITP, however, technical interns, initially permitted to reside for a maximum of two years, were given legal protection by the labour-related legislation and entitlements to health insurance and workers' compensation insurance only for the second year after completing the first year of training—but even then somewhat restrictively. This is because they, although in practice treated as low-skilled labour, are not formally recognised as workers in accordance with its stated purpose of technology transfer. Accordingly, many technical interns have often experienced serious human rights violations such as unpaid or overdue wages and the confiscation of passports and bankbooks (Bhattacharjee, 2014).

The differential approaches to two groups of low-skilled labour migrants based on ethnicity had strongly been sustained before the mid-2000s. As Japan's citizenship principle of *jus sanguinis* was extended to foreign nationals with ethnic ties to the nation, *Nikkei-jin* had constantly received preferential treatment over others in terms of almost all policy areas including citizenship, immigration, employment and social welfare. In particular, the Second Basic Plan for Immigration Control in 2000 made it easier for long-term residents including *Nikkei-jin* to acquire permanent residency by shortening the existing ten-year residence criterion to five years (Komine, 2018; Tai, 2009). On the other hand, technical interns, although their two-year residence period was extended to three years in 1997, had still easily been exposed to employer abuse and exploitation (Yamanaka, 2010). Against the recursive exploitation of technical interns, a nation-wide networking organisation, the Solidarity Network with Migrants Japan (*Ijuren*), was established in 1997 to advocate and support labour migrants as well as foreign residents (Milly, 2006; 2014). Despite some achievements in locally practical issues of the TITP, however, its advocacy efforts had not been successful in changing national policies for labour migrants' rights.

Within the absence of a national immigrant integration policy, during the same period, some local governments started to be concerned with the integration of foreign residents (Chung, 2010a; 2014; Milly, 2014; Tegtmeier Pak, 2006; Yamanaka, 2010). As a sudden inflow of foreign-born populations in local communities imposed substantial administrative and financial pressures on local authorities, thirteen cities with large numbers of foreign residents, mostly *Nikkei-jin*, established the Conference of Cities with Concentration of Foreign Residents in 2001. In the first statement of Hamamatsu Declaration, the Conference of Cities called upon the central government's policy contribution for incorporating foreign residents into local communities (Conference of Cities, 2001). Before long, the Ministry of Internal Affairs and Communication (JMICA) issued the Plan for Multicultural Coexistence Promotion in Local Communities (hereafter MIC Plan), the first national-level immigrant integration policy in Japan, thereby nationally addressing issues of immigrant integration.

Based on the Japanese-style multiculturalism, namely, multicultural coexistence (*tabunka kyōsei*), the MIC Plan had four major goals: firstly, "supporting (foreign residents') communication"; secondly, "providing daily life assistance"; thirdly, "developing multicultural coexistence communities"; and lastly, "establishing the multicultural coexistence promotion system" (JMICA, 2006). Serving as a national-level guideline for local-level immigrant integration, it encouraged several local governments to make and implement *tabunka kyōsei* policy plans (Chung, 2014; Tai, 2009). However, the central government's attitude towards the integration of immigrants into Japanese society has remained lukewarm, and accordingly there has been no further immigrant policy development at the national level. To date, thus, social provision and support for foreign residents have primarily been provided by local governments in cooperation with civil society organisations instead of the central government (Kashiwazaki, 2013; Tsuda, 2006a).

After the global economic crisis in 2008, however, the government's policy preference for two groups of low-skilled labour migrants began to gradually change. Regarding *Nikkei-jin*, the related policies, although already evaluated as a policy failure in the early 2000s, had rarely been criticised due to their ethnic ties with the nation (Tian, 2018). However, the economic downturn of the late 2000s led to mass layoffs of *Nikkei-jin* employed as temporary workers, and thereby the increasing number of claims for unemployment benefits. It was considered to put considerable pressure on Japan's labour market as well as the social security system (Ogawa, 2011; Tian, 2018). In 2009, accordingly, some integration programmes targeting them such as language and vocational training programmes were initiated. Simultaneously, however, the government initiated a repatriation programme for them to return to their home countries with a certain amount of funding (Takenoshita, 2015).

While the *Nikkei-jin* population has been declining since 2008, the number of technical interns has steadily increased along with two major revisions of the TITP—respectively 2009 and 2016 (Tian, 2018). Specifically, its 2009 revision make technical interns subject to the labour-related legislation for their whole residence period, implying that they started to be recognised as low-skilled labour (Watanabe, 2010). More importantly, the government enacted the Act on the Proper Implementation of Technical Intern Training of Foreign Nationals and the Protection of Technical Interns (hereafter Technical Intern Training Act) in 2016, deciding to double acceptable number of technical interns (JMOJ and JMHLW, 2016; Tian, 2018). Under the new legislation technical interns became eligible for a maximum of five years (including the intermediate period of returning to their home countries for more than one month) or re-entry one year after visa expiration.

Overall, the Japanese immigration regime has constantly maintained its differential and exclusive nature based on ethnic nationalism despite the recent development of somewhat locally inclusive integration policies. In terms of low-skilled labour migrants, especially, the TITP has been remained almost intact. Thus, non-ethnic Japanese labour migrants have still had a precarious status as technical interns rather than legitimate workers. Although the government's stance towards *Nikkei-jin* has seemingly become less favourable since the mid-2000s, they have still been regarded as those who need to be integrated in local communities.

### **5.1.3. The rights and responsibilities of low-skilled labour migrants in Japan: persistent ethnic differentiation**

The rights and responsibilities of low-skilled labour migrants in Japan have consistently demonstrated the differentiation between two different groups; *Nikkei-jin* and technical interns. This part elaborates on the persistent ethnic differentiation of labour migrants by examining the relevant policy areas (rf. Section 4.3), including entry/residency, access to labour market, access to social benefits and integration programmes, political participation and anti-discrimination legislation (see Table 5.1).

#### *Entry/residency*

Under the current Immigration Control and Refugee Recognition Act revised in 1990, the two groups of low-skilled labour migrants in Japan have been affiliated to different categories of immigration, that is, *Nikkei-jin* through the 'long stay' residence status without any restrictions on activities and technical interns through the 'short stay' (Kondo, 2001; 2015). First, the long-term residence status privileges *Nikkei-jin* in terms of entry, residency and even family

reunification. *Nikkei-jin* are granted a three-year residence permit, which is practically unlimitedly renewable due to the relatively easy process of renewal (Kondo, 2002). As their entry and residency are nominally permitted for reasons of family or ethnic ties rather than economic reasons, moreover, their spouses and children are also allowed to reside in Japan with the same long-term residence visa (Surak, 2008). Surprisingly, the Second Basic Plan for Immigration Control in 2000 shortened the ten-year residence criterion of permanent residency to five years exclusively for long-term residence visa holders, thus *Nikkei-jin* and their families have more easily applied for permanent residency (Komine, 2018; Tai, 2009).

Since the early 2000s the *Nikkei-jin* programme has been negatively evaluated and criticised because of its potentially high social costs, but directly tackling or contracting such privilege has not been taken into consideration. Even after the economic downturn caused by the 2008 global economic crisis, the government provided financial support for *Nikkei-jin*'s voluntary repatriation in addressing the related issues such as their failure to integrate and rising unemployment (Tian, 2018). Although those who returned to their home countries under this program were stipulated to be unable to apply for the special *Nikkei-jin* visa for the next three years (Ogawa, 2011; Takenoshita, 2015), the preferential treatment for ethnic Japanese migrants in terms of entry and residency has been constantly maintained.

On the other hand, the entry and residency of technical interns under the TITP have been regulated by stringent restrictions. Their residence period was initially set at a maximum of two years, and in 1997 was extended to a maximum of three years, including one year of training and another two years of technical internship (Kamibayashi, 2013). Until recently, technical interns had not been able to apply for a visa renewal and re-entry into Japan after completing three years of internship because of the TITP's strong short-term rotation principle (and Japan's "no immigration" principle) to prohibit low-skilled migrants from settling down in Japan—thereby potentially bringing their families as well.

Along with a recently changing governmental preference for technical interns, however, their entry and residency has improved to some extent. The recent revisions of the TITP (e.g. the Technical Intern Training Act enacted in 2016) enabled them to be eligible for an additional two-year renewal—thus, a maximum of five years stay—or a re-entry (JMO and JMHLW, 2016; Tian, 2018). However, it is hardly considered to substantively contribute to technical interns' rights in terms of family reunification and applicability to permanent residency and nationality. Specifically, three major requirements of permanent residency (i.e. good behaviour and conduct, sufficient skills or assets for independent living and ten-year continuous residence) thoroughly eliminate the possibility of technical interns to apply for the permanent residency (see Kondo, 2001; Tian, 2018).

### *Access to the labour market*

There has been a stark difference between the two groups of low-skilled labour migrants in terms of access to the labour market. Under the current Immigration Control and Refugee Recognition Act *Nikkei-jin's* legal status as long-term residents is defined by the identity or position of ethnic Japanese (or Japanese descendants)—but not by specific activities, thus they have no restrictions on any economic activities (Hayakawa, 2010). In other words, they are able to freely engage in any kind of employment and receive the same legal protection by the labour-related legislation such as the Labour Standard Act and the Minimum Wage Act as Japanese nationals. However, it is noteworthy that in practice most of them have worked as temporary (dispatched or subcontracted) workers at small and medium-sized enterprises (SMEs) in the manufacturing and transport industries because of a lack of Japanese language and technical skills (Shipper, 2008). On this account, recent labour market reforms, especially the 2003 enactment of the Worker Dispatch Act, have consigned them to unfavourable employment contracts to some extent despite their unrestricted right to work (Ogawa, 2011).

On the contrary, technical interns have highly restrictive access to labour market in terms of freedom of occupation and legal protection by the labour-related legislation, because they are not legally recognised as workers. After the 2003 Worker Dispatch Act, technical interns, usually employed in SMEs, began to be employed as *de facto* temporary or dispatched workers at large-sized enterprises in the garment and manufacturing industries (Kamibayashi, 2010). Without substantive freedom to change their job and where they work, however, technical interns are still expected to work only for the employer specified on their internship contract (Kamibayashi, 2013). Prior to the 2009 revision of the TITP, furthermore, they had not been given legal protection by the labour-related legislation during the whole three years of internship, but only for the last two years after completing one year of training. This often forced those in the first year of their internship to receive low wages below the statutory minimum wage level (Ogawa, 2011). Such an institutional environment has easily made technical interns vulnerable to exploitation, human rights violations and employer abuse such as unpaid or overdue wages, excessive overwork and the confiscation of passports and bankbooks (Bhattacharjee, 2014).

### *Access to social benefits and integration programmes*

In Japan, conventionally, social entitlements had not been granted to foreign residents (Kondo, 2001).<sup>22</sup> After ratifying several international human rights in the 1970s and 80s, however, the government enabled them to access the Japanese social security system by eliminating nationality requirement clauses from social welfare legislation such as the National Pension Act, the Health Insurance Act, the Child Dependency Allowance Law and the Child Allowance Law (Gurowitz, 2004). In particular, access to the national health insurance system, which previously had been up to local governments' discretion, has been available to all foreign nationals with a residence status of one year or more (Milly, 2014; Takao, 2003).

Prohibited from bringing their families to Japan, however, technical interns' formal entitlements to social welfare have been restricted only to the national pension, health insurance and workers' compensation insurance (Bhattacharjee, 2014; Kamibayashi, 2013). Even before the 2009 TITP revision such limited welfare rights had been guaranteed to them just after completing the first year of training (Komine, 2018). As for the national pension, especially, receiving pensions is virtually impossible for technical interns who are supposed to return to their home countries after completing the specified period of internship, thus they can receive a lump sum payment from the national pension plan upon application within two months of their departure from Japan. As the payment is smaller than the amount they paid into the plan, however, it has been criticised that the enrolment of foreign workers for the national pension is mandatory (Kamibayashi, 2013).

Furthermore, technical interns may have substantively been excluded from the recent social welfare and immigration policy developments (e.g. social care services or the MIC Plan). Although the government's stance towards technical interns has recently become somewhat favourable, it has primarily been confined to foreign labour policy to deal cost-effectively with the issue of labour shortage depending on Japan's economic and industrial situation. This is because they are neither still considered as members of Japanese society nor residents in a local community who need to be integrated, but rather sojourners often isolated from the community (Chung, 2014; Kamibayashi, 2013).

In contrast, *Nikkei-jin* with long-term residency have enjoyed *de facto* full social entitlements, including medical care, public health services and even social assistance programmes under the Livelihood Protection Act (Kondo, 2001; Shipper, 2008). In addition, central and local authorities both have implemented various immigrant policies and

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<sup>22</sup> Although Japan's Constitution (Article 25(1)) stipulates that "all people shall have the right to maintain the minimum standards of wholesome and cultured living", the term "people" had been narrowly interpreted to include only those with Japanese nationality (Kondo, 2001).

programmes to help their integration into Japanese society. In the early 1990s, for example, the Ministry of Labour (JMOL) established employment service centres for *Nikkei-jin*, and initiated counselling and assistance programmes (Shipper, 2008). In the early 2000s several local-level incorporation policies, such as interpretation and consultation services and financial support, started to be provided for foreign residents, mostly *Nikkei-jin*, later resulting in the MIC Plan at the national level (Chung, 2014; Tegtmeier Pak, 2006; Tsuda, 2008).

Along with the increasing number of *Nikkei-jin* receiving unemployment benefits, however, their mass layoffs after the economic downturn caused by the 2008 global economic crisis were regarded to put considerable pressure on the Japanese labour market as well as the social welfare system (Ogawa, 2011; Tian, 2018). In 2009, accordingly, the government initiated a repatriation programme for *Nikkei-jin* to return to their home countries with a certain amount of funding, while not directly tackling or contracting their social entitlements. Simultaneously, however, the Ministry of Health, Labour and Welfare (JMHLW) began to implement some integration programmes that targeted them, such as language and vocational training programmes. Furthermore, an additional allowance was introduced to financially support those participating in vocational training programmes after the expiration of the unemployment benefit duration, including the unemployed *Nikkei-jin* (Takenoshita, 2015).

#### *Political participation and anti-discrimination legislation*

In Japan, low-skilled labour migrants, including both *Nikkei-jin* and technical interns, are significantly deprived of political participatory rights. Foreign nationals' rights of political participation, although neither guaranteed nor prohibited in the Constitution, are conventionally not acknowledged at both the national and local levels (Kondo, 2001). An issue of granting local suffrage to foreign residents has been publicly debated several times, and some local authorities have allowed foreign residents to participate in local politics as a consultative committee, and even to vote in local referenda (Takao, 2003; Tegtmeier Pak, 2006). However, no foreign nationals, including even permanent residents, have the right to vote in or run for any levels of elections (Kondo and Yamawaki, 2014). This is likely to stem from public concern that the extension of the franchise to them would detrimentally affect Japan's national interests.

In addition, any anti-discrimination legislation has not yet been enacted despite the constitutional article on prohibition of racial discrimination and the 1995 ratification of the International Convention on the Elimination of All Forms of Racial Discrimination (Kondo and Yamawaki, 2014). Instead, it is noteworthy that in response to the surging racist rallies against

foreign residents, mainly *zainichi* (Japan-born) Koreans, the government enacted the Hate Speech Elimination Act in 2016. While criticised as inadequate and ineffective due to its unenforceable nature (Kotani, 2018), however, it may be hard to expect any substantive contribution to social inclusion of low-skilled labour migrants within Japan’s differential exclusive immigrant incorporation system.

**Table 5.1 The rights and responsibilities of low-skilled labour migrants in Japan**

Areas	Rights (and responsibilities)	
	<i>Nikkei-jin</i> (ethnic Japanese migrants)	Technical interns
Entry/Residency:		
Residence period; and re-entry	Three years; and easily renewable	A maximum of five years (from 2017); or able to re-enter one year after visa expiration
Acquisition of permanent residency or naturalisation	Yes (if satisfied with moderate conditions— e.g. a five-year residence criterion of permanent residency)	No
Family reunification	Yes (granting the same long-term resident permit to their spouses and children)	No
Access to labour market:		
Labour rights	Yes	Yes
Freedom of occupation	No restriction	Highly limited (only in case of business bankruptcy or downsizing)
Access to social benefits and integration programmes:		
Social security system	Full access to social security system (even a social assistance scheme)	Partial (only entitled to some social insurances)
Immigrant integration policies	Fully (e.g. the MIC Plan and various local-level policies targeting them)	Highly limited
Political participation	No	No
Anti-discrimination	No	No

## 5.2. Immigrants’ rights and responsibilities in Korea

The second section deals with the Korean case. Like the previous section on the Japanese case, it delineates brief historical reviews of the Korean welfare and immigration regime developments, and then examines the rights and responsibilities of low-skilled labour migrants in Korea.

### 5.2.1. Korean welfare regime development

The Korean welfare regime before the late 1990s had been under strong influences of Confucian values and productivism. Throughout the period of nation-state building and industrialisation, state welfare provision remained modest and moreover, was often served as a means to maintain political legitimacy and facilitate economic and industrial productivity (Hudson and Hwang, 2013). After democratisation in the late 1980s, however, a series of welfare reform measures began to be carried out in earnest, and led to the institutionalisation of welfare provision based on social citizenship (Choi, 2011).

The democratisation of Korean society created a new political environment, in which the government found it hard to ignore public demands for collectivised social welfare provision (Croissant, 2004; Haggard and Kaufman, 2008). Following the political transition, a series of social policies had been newly introduced or significantly changed—specifically, in terms of the coverage of the social security system (Choi, 2011). For instance, national pensions and employment insurance were introduced respectively in 1988 and 1995. In addition, the coverage of several welfare provisions had gradually been expanded even to individuals or groups who had not been regarded as imperative for economic development. During the period of the late 1980s to the mid-1990s, however, the residualist and productivist features were still maintained strongly (Yang, 2008).

The Korean welfare regime demonstrated a paradoxical phenomenon in the late 1990s, which was the expansion of social policy at a time of economic crisis—that is, the 1997-98 Asian financial crisis (Shin, 2000). The financial crisis greatly worsened the Korean economy with a negative economic growth rate for the first time in around twenty years, and subsequently led to the deterioration of employment conditions and economic inequality (Kim, 2009c). However, the crisis rather created a window of opportunity to form a welfare state (Kwon and Holliday, 2007). During this period, the progressive (centre-left) government (1998-2002), elected for the first time from the opposition party after nearly 40-years ruling by the authoritarian and conservative governments, carried out significant reforms in social security system both quantitatively and qualitatively under the slogan “productive welfare” (Choi, 2011; Kim, 2009c; Kim, 2008b).

Welfare reforms and developments carried out by the newly elected Kim Dae-jung government can be identified in three important ways (Lee, 2006). First and foremost, in 1999 the existing social assistance scheme was replaced with the National Basic Livelihood Security System (NBLSS), which established a basic living standard as a universal right. Second, the government emphasised the principle of social solidarity in reforming state welfare provision. For example, by extending the scope of recipients of major social insurance programmes (i.e.

national pensions, health insurance, employment insurance and industrial accident compensation insurance) and integrating the national health insurance divided by the job category into a unified system. Lastly, the above welfare developments brought about a dramatic increase in total welfare state expenditures, nearly doubling from 1996 to 1999.

However, the social security system of the period had been regarded as “still very conservative with regard to its functions and welfare outcomes” (Aspalter, 2006, p. 293). The surge of public social expenditures in the late 1990s stemmed partly from mass unemployment and private bankruptcies triggered by the financial crisis. The 1999 pension reform, although expanding coverage of national pension system, lowered its income replacement rate from 70 percent to 60 percent with the gradual increase in its contribution rate from 3 percent to 9 percent. The employment insurance and the NBLSS incorporated the “workfare” elements. Furthermore, the employment system deteriorated in terms of job security along with the neoliberal labour market reforms. Specifically, the 1998 New Labour Standard Act increased labour market flexibility by allowing collective dismissals and non-regular employment (Kwon and Holliday, 2007). Nonetheless, the then Korean welfare regime had shown a transformation towards an institutionalised welfare state regime based on social citizenship, that is, towards the post-productivist welfare regime (Choi, 2011; 2012).

Welfare development under the succeeding Roh Moo-hyun government (2003-2007) could be considered have continued with the “productive welfare” of the previous government (Choi, 2011; Kim, 2009c). The welfare expansion conducted by the second progressive government with the slogan “participatory welfare”—later “social investment state”—could be observed in the social insurance and social assistance fields in terms of maturation of social insurance programmes (e.g. raising the benefit level and stabilising financing) and expansion of the NBLSS (e.g. easing the eligibility and initiating an emergency assistance scheme) respectively. Against the rapidly changing demographic issues, in addition, the government introduced several programmes in the social service sector, overlooked until then, with the First Basic Plan for Low Birth-Rate and Population Ageing (Estévez-Abe and Kim, 2014). Of those the two most prominent were the introduction of the LTCI, which provides care services for elderly, and the expansion of childcare services.

The transition to a post-industrial economy with an ageing population began to become a serious challenge to the sustainability of the Korean welfare state, and thereby led to welfare restructuring while expanding state welfare provision (Hwang, 2011a; Kim, 2009c). For instance, the second pension reform in 2007 dropped once again its income replacement rate from 60 percent to 40 percent in spite of the coverage expansion and the additional introduction of the Basic Old-Age Pension scheme (Choi, 2008). The newly introduced Earned

Income Tax Credit (EITC) strengthened the tendency of workfare and accelerated the re-commodification of labour rather than de-commodification. Lastly, social service programmes including the LTCI and childcare services were privatised by incorporating market mechanisms (Kim, 2009c).

When the conservative government of Lee Myung-bak (2008-2012) stepped in, his well-known pro-business sentiment created concerns regarding strong welfare retrenchment or privatisation based on neoliberalism (Kim and Nam, 2011). With the slogan “active welfare”, in fact, the new president proclaimed a pursuit of market-friendly welfare rather than redistribution-oriented welfare by putting a great emphasis on economic growth (Kim, 2009c; Shin, 2009). Following the 2008 financial crisis, the proportion of active labour market policy in labour market programmes became very high—around 74 percent in 2009 and 2010—in terms of public expenditure. Income support measures were carried out with means-testing—that is, under the principle of selectivity. With respect to childcare services, in addition, the government attempted to make its delivery system more market-friendly.

Taking into account the governmental responses to the financial crisis, however, social policy development under the new government were not far from predecessors’ welfare-expansionary—but at the same time restructuring—tendency (Kim and Nam, 2011; Shin, 2009). For recovering economic and employment conditions affected by the crisis, a large amount of public spending had been committed to labour market policy and income support policy. Several welfare reforms planned and established by the previous progressive government, including the Basic Old-Age Pension (BOP) scheme, the LTCI and the EITC, were implemented without any postponement or alternation. Along with deepening concerns over the ageing population with a declining fertility rate, furthermore, childcare services were further emphasised and enlarged by expanding their beneficiaries and introducing an additional childcare allowance. In this regard, despite a pursuit of market-friendly welfare, welfare development of the period could be considered as ‘path-dependent’ from the two preceding governments rather than ‘path-breaking’ in terms of the simultaneous process of welfare expansion and restructuring.

Such a welfare development tendency was fairly well maintained within the following conservative government of Park Geun-hye (2013-17). The government carried out several welfare reforms including the BOP scheme, childcare services and the NBLSS. Its insistence on welfare without a tax increase, however, led to increasing doubts and criticisms regarding their effectiveness (Choi, 2016; Lee and Kim, 2016). In effect, the universal childcare service for children aged 0 to 5 years, one of the Park government’s major electoral pledges, was not implemented as planned because the government reduced the budget and transferred the

related financial responsibility to local governments. Furthermore, there has been a concern that the 2014 NBLSS reform, which split a unified benefit into several credits with different levels of income standard for eligibility, may curtail its coverage rather than expand it.

Looking back on the development trajectory of the Korean welfare regime, it had been institutionalised mainly by state-led development with Confucian values and productivism. Afterwards, however, the intensified welfare politics with the competition of ideas between the policy legacies and alternatives, such as social rights and neoliberalism, stood out. There has been continuity and discontinuity in welfare policy changes. It could be regarded to be continuous in terms of welfare expansion by establishing the foundation of the Korean welfare state, substantialising the established social security system and introducing additional social welfare programmes and services. However, at the same time, welfare restructuring has constantly been found during the same period; for instance, the pension reforms, the labour market reforms and the incorporation of several workfare or market-friendly measures. Within a socio-economic shift towards a more economically liberalised, post-industrial and ageing society, in this regard, the Korean welfare regime has simultaneously experienced the process of welfare expansion and restructuring.

### **5.2.2. Korean immigration regime development**

Along with recently increasing foreign-born populations, Korean society has changed from a country of origin to destination in terms of international migration (Lee, 2011b). This has brought about a shift in the Korean immigration regime, which had been known for its highly restrictive citizenship and immigration policy based on an ethno-cultural notion of nationhood, towards a comparatively more liberal and inclusive system.

Prior to the 1991 introduction of the Industrial and Technical Training System (ITTS), there had not been any official immigration policies in Korea. The then governments were somewhat passive in addressing immigration-related issues, because such issues had not been regarded as salient socio-economic agendas in Korean society. However, the *de facto* guest-worker programme based on the short-term rotation principle was introduced to meet increasing demands for labour from business organisations such as the Korea Federation of Small and Medium Business (KFSB) and at the same time maintain its closed-door immigration policy based on the principle of *jus sanguinis* (Chung, 2014; Seol, 2000). The formally imported workforce under the ITTS nominally to learn industrial and technical skills was not officially recognised as workers protected by labour-related legislation. While their residence period, initially a maximum of one year, was gradually extended to three years, their legal status

remained unaltered, continuously leaving them vulnerable to human rights violations and unfair treatment (Seol, 2000).

Against the accumulating cases of human rights violations under the ITTS, civil society organisations, such as the Citizen's Coalition for Economic Justice and the Joint Committee of Foreign Migrant Workers in Korea, began to advocate the protection and promotion of migrant workers' rights in earnest since the mid-1990s. The migrant worker advocacy groups' activities, including mass demonstrations and legislative petitions, drew public attention and widespread support, and thereby led to significant policy changes (Kim, 2011a; Seol, 2000; 2003). For instance, trainees were granted some labour rights and social entitlements in 1995. Along with the establishment of the National Human Rights Commission in 2001, moreover, the first progressive government of Kim Dae-jung revised the ITTS in a way to—albeit partially—acknowledge the legal status of trainees as workers. The endeavours of civil society organisations to replace the ITTS with a work permit system, however, ended up failing because of severe opposition, principally from opposition parties and the KFSB under the worsening economic circumstance caused by the 1997-98 Asian financial crisis (Chung, 2014; Kim, 2011a).

In addition to the ITTS, the government enacted the Overseas Koreans Act (OKA) in 1999 which grants nearly all the economic and social rights of Korean citizens exclusively to overseas Koreans. The OKA has not only economic purposes to attract foreign professionals and investors and thereby revitalise the Korean economy hit hard by the financial crisis, but also demonstrate a strong attachment to ethnic nationalism (Chung, 2014; Park and Chang, 2005). However, there were societal disputes over the OKA because it excluded ethnic Koreans from less-developed countries, especially China (*Joseon-jok*) and the Commonwealth of Independent States (CIS) countries (*Goryeo-in*) (Kim, 2008a; Skrentny et al., 2007). Although the Constitutional Court ruled it as unconstitutional along with continuous revision demands of many civil society organisations such as the Korean International Network (KIN), its differential feature had been somewhat maintained for a further few years.

In the Korean immigration regime, characterised by the differential exclusivism, the year of 2004 was pivotal as Korea officially started to open its borders to low-skilled labour migrants along with the introduction of the Employment Permit System (EPS) (Chung, 2014; Kim, 2011a; Yamanaka, 2010). Within civil society organisations' persistent demands based on human rights, the second progressive Roh Moo-hyun government initiated the EPS despite the KFSB's strong opposition. The newly introduced system, although operated under the short-term rotation principle, grants migrant workers almost the same labour rights as Korean citizens. The existing trainee-based system terminated in 2006, and since then all the policies

relating to low-skilled labour migrants have been unified into the EPS. The government revised it in 2009 so that migrant workers were able to be employed for a maximum of four years ten months depending on the request of the employers. Furthermore, subsequent initiatives such as the 2012 Re-entry System for Faithful Workers have gradually made the Korean immigration policy, especially for low-skilled labour migrants, more liberalised. In particular, the Re-entry System, which allows them to reside in Korea just with a gap of three months for nearly a decade, is regarded as the *de facto* abolishment of the short-term rotation principle (Choi, 2013a).

With respect to policies for co-ethnic migrants, the government initiated the Visiting Employment System (VES) in 2007, which advantages low-skilled ethnic Korean migrant workers with a special work and residence permit by ensuring easier access to the Korean labour market (Kim, 2008a; Seol and Lee, 2011). The VES, like the EPS, was a governmental response to civil society activism, because since the 1999 enactment of the OKA many civil society organisations, including the KIN, had consistently claimed equal treatment for all ethnic Koreans regardless of their nationalities and skill levels. Since the introduction of the VES, Korean (low-skilled) foreign labour policies have fallen into two categories, namely, the VES for ethnic Korean migrant workers and the EPS for non-ethnic Koreans.

During the mid-2000s the gradually growing foreign population, especially marriage migrants, led to widespread societal concerns over their integration into the ethnically and culturally homogeneous Korean society along with growing interests in “multiculturalism” (Watson, 2012a; 2012b). After years of debates with civil society, the Roh government enacted the Basic Act on the Treatment of Foreigners in Korea (hereafter Basic Act) in 2007, which was the first governmental attempt to address the issues of immigrant incorporation beyond immigration control, taking into account its stated purpose of promoting immigrant integration in Korean society and mutual respect between foreigners and Korean nationals (Chung, 2014; Kim, 2011b). It specifically stipulates to establish the Foreigner Policy Committee to coordinate all immigration and immigrant policies and draw up a basic plan for immigration policy every five years.

The succeeding conservative government of Lee Myung-bak set the First Basic Plan for Immigration Policy (2008-2012; hereafter Basic Plan) in 2008 along with the enactment of the Multicultural Family Support Act (MFSA). The First Basic Plan, which encompassed a variety of policy areas for foreign residents in Korea, had four major goals: firstly, “enhancing national competitiveness with a proactive openness policy”; secondly, “pursuing quality social integration”; thirdly, “enforcing immigration laws”; and lastly, “protecting human rights of foreigners” (KMOJ, 2009, p. 13). In addition, the MFSA could be understood as another inclusive

immigrant integration policy, but is somewhat different from the Basic Act in terms of exclusively targeting the so-called “multicultural families” (i.e. marriage migrants and their families) and their integration (Lee and Kim, 2011a).

However, the First Basic Plan, although embracing nearly all the types of immigrants and concerning their social integration, appeared to significantly favour certain groups of immigrants; for instance, marriage migrants over migrant workers, as well as ethnic Korean migrant workers over others (Chung, 2014; Watson, 2012a; 2012b). Of its four policy goals, for instance, the only one relevant to migrant workers is the fourth of human rights protection, whereas marriage migrants are favourably treated across all the areas necessary for social integration not just with the First Basic Plan but also with the MFSA. The differential tendencies have not been materially altered in the following conservative government of Park Geun-hye which set the Second Basic Plan for Immigration Policy (2013-2017). In this regard, there have been some controversies over the nature of the so-called “multicultural policies” carried out principally by the conservative governments (see Watson and Jeong, 2010).

Overall, the Korean immigration regime has certainly become liberalised and inclusive in terms of both immigration control and immigrant integration. In particular, a series of immigration policy changes such as the replacement of the trainee-based system with the EPS in 2004 and the enactment of the Basic Act in 2007 have significantly affected its differential exclusivist features. However, at the same time, there has still been an inclination to stress its ethnic nationalism, taking into account policies for ethnic Korean migrant workers, including the VES, and even several multicultural policies. These have led to a somewhat hierarchical system of immigration; in other words, “social integration for marriage migrants, preferential entry and employment rights for co-ethnic immigrants, and human rights protection for migrant workers” (Chung, 2014, pp. 411-412). Therefore, the Korean immigration regime can be regarded to be liberalised and inclusive, but hierarchical.

### **5.2.3. The rights and responsibilities of low-skilled labour migrants in Korea: from differential exclusion to ethnically hierarchical inclusion**

Looking into Korea’s social welfare and immigration policy changes in terms of the rights and responsibilities of low-skilled labour migrants, a shift from differential exclusion to ethnically hierarchical inclusion has been demonstrated. In this part, as in the previous part of Japan, this is elaborated in terms of the relevant five policy areas, including entry/residency, access to labour markets, access to social benefits and integration programmes, political participation and anti-discrimination legislation (see Table 5.2).

### *Entry/residency*

Low-skilled migrant workers were able to formally enter and reside in Korea through the ITTS introduced in 1991 (Chung, 2014; Lee and Kim, 2011b; Seol, 2000). Under the trainee-based system, their residence period was initially set at a maximum of one year, but was gradually extended to two years and then three years in 1994. However, its short-term rotation principle hardly allows them to be further employed and even re-enter Korea after the certain contract period.

When the Korean government introduced the EPS in 2004, the residence period was still the same as granted to trainees, a maximum of three years (Lee and Kim, 2011b; Seol, 2012). However, its revision in 2009 enabled labour migrants to be employed further—but less than two years—by the request of employers; thereby, they can reside for a maximum of four years and ten months. Under the EPS, furthermore, a re-entry into Korea was allowed to them. The restriction period for re-entry was initially set at one year after the termination of the first employment contract, but shortened to six months and then to three months by the request of employers within the Re-entry System for Faithful Workers in 2012 (Choi, 2013a).

With respect to acquisition of nationality or permanent residency, low-skilled migrant workers have been highly excluded (Seol, 2012). They have not been able to apply directly for a secure residence status due to several socio-economic requirements. Specifically, a five-year residence criterion (without interruption) of the permanent residency requirements practically obstructs the applicability of labour migrants permitted to reside for only up to four years ten months. Although there is an alternative path via acquiring a residence or specific activity visa with less stringent conditions (Choi, 2013a), however, the higher level conditions for permanent residency or nationality still remain as substantial obstacles given the fact that most of them are employed in low-paid industrial sectors.

Since the introduction of the VES in 2007, the preferential treatment for ethnic Korean migrant workers has distinctly been found in terms of entry and residency as well as, potentially, family reunification; before then, they were practically able to enter and reside in Korea through the same route as other migrant workers—that is, the ITTS and the EPS (Chung et al., 2013; Seol, 2012; Seol and Lee, 2011). The entry of those under the VES is not necessarily conditional upon employment contracts in contrast with those entering Korea only after making an employment contract. As the permanent residency requirements for them were eased in 2009, furthermore, they have been able to apply directly for permanent residency. In the following year, the government allowed them to acquire the overseas Koreans visa under

the OKA with more generous conditions. Potentially, the policy changes have significant implications for family reunification, because one with the permanent residence or overseas Koreans visa can apply for family invitation and settlement in Korea.

#### *Access to the labour market*

Access to the labour market is not granted to all the foreign-born population. Amid societal concerns over Korean nationals' employment opportunities, it is significantly restrictive in terms of labour rights and freedom of occupation, apart from some immigrant groups such as naturalised immigrants, permanent residents and marriage migrants (Seol, 2012).

The introduction of the EPS substantially contributes to the access to labour markets of low-skilled migrant workers by formally recognising them as workers protected by labour-related legislation (Lee and Kim, 2011b). Under the previous trainee-based system, it was hard for them as trainees to protect themselves against human rights violations and unfair treatments such as unpaid wages and employer abuse (Seol, 2000; 2003). The EPS, however, grants them legal protection by labour-related legislation, including the Labour Standard Act and the Minimum Wages Act, equal to Korean nationals. Thereby, they can legally possess three primary rights of labour (i.e. the right to unionise, of collective bargaining and collective action). Regarding freedom of occupation, however, the EPS still contains somewhat exclusive regulations (Seol, 2012). It stipulates that migrant workers are required to make an employment contract before being permitted to enter Korea, and the change of business or workplace is specified as three times within three-year residency. Although the 2009 EPS revision grants them two more opportunities to change workplace with the extension of the residence period up to four years ten months, in principle they are encouraged to continue to be employed in the workplace where they make the first employment contract (Choi, 2013a).

Ethnic Korean migrant workers have been relatively preferable to others in terms of freedom of occupation. Within the Employment Management System (EMS), introduced in 2002 and later incorporated into the EPS, they have been able to be employed in service sector industries, such as restaurants, cleaning services and social welfare services, which are not permitted to others (Youn and Jin, 2011). As the residence and work permit of those under the VES is not directly associated with the employment condition, in addition, they are able to freely make an employment contract within several low-skilled industrial sectors, as well as change employers without any restrictions (Seol and Lee, 2011).

### *Access to social benefits and integration programmes*

Along with the simultaneous development of welfare and immigration policy, social rights have been extended to the foreign-born population. However, some groups of immigrants, especially low-skilled labour migrants, have still been somewhat less included compared to other groups including marriage migrants. In the Korean social security system, access to social welfare provisions is primarily determined by the entry categories of immigration (Kim, 2016; Ku et al., 2009; Seol, 2012); for instance, the non-contributory social assistance system including the NBLSS is available only for marriage migrants of all the immigrants in Korea. Low-skilled migrant workers, both co-ethnic and others, are guaranteed entitlement to the social insurance system and some social services (e.g. the medical care support service).

Within the strong residualist and productivist tendencies of the Korean welfare regime before the late 1990s (see Choi, 2013b; Yang, 2008), it is obvious that any entitlements to social benefits and services had not been regarded to belong to immigrants, particularly low-skilled foreign labour. However, societal concerns on their social protection, which gradually arose in the mid-1990s, led to the relevant policy changes; they became entitled to industrial accident compensation insurance and health insurance in 1995, and before long, also to national pensions and employment insurance (Kim, 2011a; Seol, 2003). Considering that the Korean welfare state started to be formed in the mid-1990s along with substantial expansion of the social insurance system, the governmental responses can be understood as significantly inclusive.

Low-skilled migrant workers' access to the social security system was further solidified with a series of foreign labour policy changes—especially the EPS—by enabling them as legitimate workers to lay claims to social welfare provision. The EPS initially specified their enrolment for four major social insurances as compulsory. Of the insurances, however, employment insurance later became voluntary because of criticism that monthly contributions to employment insurance exceeded the benefits (Seol, 2012). The government implemented the medical care support service in 2005 so as to support those with inadequate access to health and medical services, including migrant workers. In addition, several foreign worker support centres were established in 2007 to provide legal counsel, Korean language education and health care services (Kang, 2009).

In spite of continuous welfare expansion, liberalised immigration control and inclusive immigrant integration policies, however, there has hardly been any conspicuous development of labour migrants' social rights since the mid-2000s. Of the welfare development of the period, first, the social service sector, for instance the introduction of the LTCI and childcare services, stood out (Choi, 2011; Kim, 2009c). Taking account of restrictions on residency and family

reunification of low-skilled labour migrants (Seol and Skrentny, 2009b), however, these policies have seldom contributed to their social inclusion until change is made to their precarious legal status. In addition, they have been somewhat excluded from the recent immigration policy development, such as the Basic Act, the subsequent Basic Plans and the MFSA, compared to others, specifically marriage migrants (Chung, 2014; Kim, 2016; Kim, 2011b). Two successive Basic Plans hardly paid sufficient policy attention to migrant workers apart from human rights protections. It significantly contrasts sharply with marriage migrants who are entitled to various social incorporation services such as education and vocational training, as well as maternity-related health care and childcare services (Song, 2009). In addition, the government established a number of multicultural family support centres following the MFSA, which was legislated exclusively for “multicultural families”.

#### *Political participation and anti-discrimination legislation*

As clearly stipulated in the Immigration Control Act, political participatory rights are not considered to be deservedly granted to immigrants. However, the Korean government has acknowledged the voting rights of foreign residents in local elections since 2004 (Kong, Yoon and Yu, 2010; Seol, 2012). In particular, permanent residents have been able to take part in local elections, resident referenda and public recall votes three years after acquiring the status.

Given a small proportion of permanent residents in Korea’s foreign-born population, however, the policy changes have not substantially affected social inclusion of most of the immigrants (Hwang, 2014; Seol, 2012). In particular, low-skilled migrant workers are considerably deprived of opportunities for political participation, as it is very difficult for them to be permanent residents compared to others like high-skilled and marriage migrants. Furthermore, it is even more so for non-ethnic Korean workers bound to more restrictive immigration policy than ethnic Koreans which makes them less likely to apply for permanent residency.

Of additional significance to the social rights of immigrants is anti-discrimination legislation in terms of enhancing the possibility for them to participate in various public spheres and/or eliminating unequal opportunities for them. There has not yet been any comprehensive legislation to prohibit all forms of discrimination within Korean society, including political, economic, social and cultural areas. Regarding discrimination against migrant workers, however, the EPS-related legislation has an article of anti-discrimination in the workplace; that is, employers ought not to discriminate against foreign workers. In addition, the two Basic Plans included the related issues as one of their major policy goals

(KMOJ, 2012a; 2012b). However, there is some doubt about the level of influence of the relevant legislations over the social inclusion of migrant workers within Korea's hierarchical immigrant incorporation system (see Chung, 2014; Lee and Kim, 2011b).

**Table 5.2 The rights and responsibilities of low-skilled labour migrants in Korea**

Areas	Rights (and responsibilities)	
	Ethnic Korean migrant workers	Others
Entry/residency:		
Residence period; and re-entry	A maximum of 4 years and 10 months; and allowed to re-enter one year later visa expiration (shortened to 3 or 6 months by the request of employers)	The same
Acquisition of permanent residency or naturalisation	Allowed (if satisfied with moderate conditions—e.g. four years of continuous employment in the same sector)	No effective rights (because of very strict conditions—e.g. five years of continuous residence)
Family reunification	No (but possible if changed to the more secure status—e.g. overseas Koreans visa)	No
Access to the labour market:		
Labour rights	Yes	Yes
Freedom of occupation	Somewhat limited (but freely making employment contracts within low-skilled industrial sectors)	Limited (not allowed employment in the service sector; nor change of workplace more than 5 times)
Access to social benefits and integration programmes:		
Social security system	Partial (only entitled to social insurances and some social services, but not to social assistance)	The same
Immigrant integration policies	Partial (e.g. support programmes for ethnic Korean migrants)	Limited (no more than basic human rights protection)
Political participation	No (but possible if changed to the more secure status)	No
Anti-discrimination	Anti-discrimination in workplace	The same

### **5.3. Concluding remarks: similar institutional foundations, but different paths of the rights and responsibilities of low-skilled labour migrants**

This chapter has looked into the two East Asian cases of immigrants' rights and responsibilities by examining the trajectories of their welfare and immigration regime developments and then analysing social welfare and immigration policy changes in relation to the rights and responsibilities of low-skilled labour migrants. The Japanese and Korean welfare and immigration regimes have both been considerably affected by legacies of Confucian values and

productivism and ethnic nationalism respectively. Interestingly, however, the two countries have shown different policy developments regarding two groups of low-skilled labour migrants, thereby resulting in divergent paths in terms of their rights and responsibilities.

The rights and responsibilities of low-skilled labour migrants in Japan can be summarised by persistent ethnic differentiation. While the Japanese welfare regime has been restructured in ways to constantly emphasise a productive role of state welfare provision within the growing importance of private and informal sectors, its immigration regime's differential and exclusive nature has remained almost unchanged within the developments of a locally inclusive integration system. In the meantime, the differences between the rights and responsibilities of *Nikkei-jin* and technical interns has not been narrowed at all. Despite a recently changing governmental stance towards the two, exclusive privilege has still been given to *Nikkei-jin* on the grounds of ethnic ties, whereas technical interns have persistently been excluded from Japanese society.

On the other hand, the Korean case shows a gradual shift from differential exclusion to ethnically hierarchical inclusion of low-skilled labour migrants. In the Korean welfare regime, the roles of state and market have comparatively become important within the simultaneous process of welfare expansion and restructuring. Its immigration regime has been liberalised and became inclusive in terms of both immigration control and immigrant integration, but is ethno-culturally hierarchical. Thereby, ethnic Korean migrant workers and others both have been more included in Korean society, but differentiated in terms of the extent of social inclusion. Since separately recruiting the two groups of low-skilled labour migrants based on ethnicity, the preferential treatment for ethnic Korean migrant workers has gradually become more explicit across several policy areas.

The two different paths of Japan and Korea in the rights and responsibilities of low-skilled labour migrants will be analysed in the following part. Following Chapter Six introducing a methodology for the analysis, Chapter Seven and Chapter Eight investigate the Japanese and Korean cases respectively by focusing on political interactions between different actors with different policy ideas within the given political institution. Then, Chapter Nine examines and compares what particular combination of factors has led to similarities and/or differences in immigrants' rights and responsibilities between these two East Asian countries.

## **PART THREE**

### **Introduction**

After conducting a fuzzy set ideal-type analysis of welfare and immigration regimes (Part One) and profiling and comparing immigrants' rights and responsibilities in Japan and Korea (Part Two), this thesis proceeds to answer to the last research question: why have these two East Asian welfare states have diverged on the rights and responsibilities of low-skilled labour migrants? Specifically, Chapter Six sets out and introduces a methodology and analytical framework for the comparative analysis. Drawing on the analytical framework, the next two chapters analyse Japan's trajectories of persistent ethnic differentiation of low-skilled labour migrants (Chapter Seven) and Korea's shift from differential exclusion to ethnically hierarchical inclusion (Chapter Eight) respectively. Chapter Nine discusses key points from these two cases studies in a comparative perspective, thereby illuminating what factors (or configuration of factors) have brought about their similarities and differences in the rights and responsibilities of two groups of low-skilled labour migrants.

## CHAPTER SIX

### Methods: Comparative historical analysis

This chapter briefly introduces comparative-historical analysis as a methodology to help comprehend why different patterns of the rights and responsibilities of low-skilled labour migrants in Japan and Korea have emerged despite their similar institutional legacies in terms of welfare provision and immigration control and immigrant integration. It begins with an overview of comparative historical analysis, followed by descriptions of narrative comparison and process tracing as its comparative and within-case methods. Section two examines theories of social and welfare policy changes, centring political dynamics within political institutions and policy ideas. Applying the theoretical approaches into the East Asian context, the following section sets up an analytical framework. It then moves on to the last section of outlining how data is collected and analysed.

#### 6.1. Comparative historical analysis: combining comparative and within-case methods

Comparative historical analysis has made significant contributions to theoretical and empirical understanding in the social sciences (Thelen and Mahoney, 2015). It has been developed and used as an effective research approach—rather than a specific theory or method—by many scholars with a variety of academic, theoretical or methodological perspectives (Amenta, 2003). Amenta (2003) points out that comparative historical analysis is distinct in terms of “comparative”—studying single or multiple cases in a comparative context—and at the same time “historical”—studying the process, timing and historical trajectories of the cases. In this regard, Mahoney and Rueschemeyer (2003) also assert that this approach is distinguishable from other social science research approaches, such as historical sociology or the comparative method tradition, despite overlapping in some aspects.

Although there is no single theory or understanding to define comparative historical analysis, Thelen and Mahoney (2015, p. 5; italics in original) suggest that its core defining features are: the “*macroconfigurational orientation*” for explaining macro-level political, economic and social outcomes; the “focus on problem-driven *case-based research*”; and the “commitment to *temporally oriented analysis*”. First, comparative historical analysis is fundamentally concerned with causal explanations of large-scale outcomes which are configured by multiple events and processes. In addition, it can be viewed as case-based research because of its primary interest in investigating “real-world puzzles”—that is,

observed outcomes in the specific context—and identifying the specific causal configuration of the cases. The last core feature of comparative historical analysis is to consider the temporal structure of events and processes in examining cases, as well as the timing of events relative to others (and/or their intersections) which can have a decisive impact over the outcomes (see Mahoney and Rueschemeyer, 2003; Thelen and Mahoney, 2015).

Mahoney and Rueschemeyer (2003) make clear that comparative historical analysis is not defined and characterised by any single method of descriptive and causal inference. In this vein, Lange (2013) takes a more practical perspective on comparative historical analysis, under which it is defined as inherently combining comparative methods (e.g. causal narrative, process tracing and pattern matching) with within-case methods (e.g. for large-N comparison, statistical and Boolean comparison; for small-N comparison, Millian and narrative comparison). In other words, comparative historical researchers have employed various combinations of comparative and within-case methods in a single analysis, depending on their research inquiries and interests.

In aiming to examine and compare immigrants' rights and responsibilities in East Asian welfare states, this research uses narrative comparison as a comparative method and process tracing—especially, explaining-outcome process tracing (i.e. causal narrative)—as a within-case method. Narrative comparison with explaining-outcome process tracing offers in-depth insight into the determinants of particular cases, and has the following advantages: “taking a more holistic account, comparing the actual sequences leading to the outcomes and noting the influences of events” (Lange, 2013, p. 96).

### **6.1.1. Comparative method: narrative comparison**

Comparative method has been a salient tool of analysis in the social sciences, and its legitimacy has been achieved more securely along with the rising popularity of comparative historical analysis (Collier, 1993). Narrative comparison is one of the most widely used small-N comparisons (Lange, 2013). In general, small-N comparison, despite its limited generalisability compared to large-N comparison, can provide the more context-based insight by focusing on more specific details of cases as well as the causal processes. Of several small-N comparison methods, additionally, narrative comparison can be distinctive—in particular, from Millian comparison—in terms of comparing holistic phenomena, instead of analysing relationships between variables, and thereby exploring the influential factors within causal processes and events.

Millian comparison has been considered as the main method to alleviate the methodological problem of analysing only a few cases, that is, “many variables, small number of cases” (Lijphart, 1971, p. 685).<sup>23</sup> Lijphart (1971) proposes four possible strategies of minimising this problem: first, increasing the number of cases; second, reducing the number of variables; third, focusing on the comparison between comparable cases; or lastly, focusing on the comparison between key variables. The latter two solutions—especially, comparable cases—are closely related to the term “controlled comparison” (George and Bennett, 2005, p. 151; fn.1). Accordingly, adopting the controlled comparison—mainly in the form of Mill’s methods (e.g. the methods of agreement and difference)—has been suggested as a complementary way to conduct better comparative studies by many scholars (e.g. George and Bennett, 2005; George and McKeown, 1985).

As for whether drawing valid causal inferences from small-N comparative studies through Mill’s methods is possible, some theorists have taken a negative stance for several reasons. First and foremost, a deterministic attribute of Mill’s methods may make it more difficult for researchers to appropriately analyse social phenomena of interest (Goldstone, 1997, cited in Lange, 2013; Mahoney, 2007); since in general, social phenomena—observed outcomes in the specific context—often have multiple causes or combinations of causes rather than a single determinant (i.e. causal complexity). Furthermore, different configurations of factors are likely to lead to the same outcome (i.e. equifinality or multiple causality) (George and Bennett, 2005; Goertz and Mahoney, 2012).

In this regard, narrative comparison which uses narratives to compare cases as whole entities can be a more appropriate alternative in dealing with the issues of causal complexity and equifinality than Mill’s methods which operationalise variables and explore the relationships between them. This is because it takes a more holistic perspective of outcomes, rather than a variable-centric, which helps researchers to keep paying attention to the possibility that a given causal condition can be found in different ways across cases (Ragin, 2000). Thereby, narrative comparison allows them to be able to make more detailed comparisons of what configurations of factors there are and even contrast the processes of how the configurations have led to certain outcomes (Lange, 2013).

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<sup>23</sup> Millian comparison refers to comparative methods outlined by John Stuart Mill, and is regarded as the essential logic of controlled comparison (George and Bennett, 2005). It is generally characterised by two main methods, that is, the “method of agreement” and the “method of difference”. The method of agreement is a method to compare cases with the same outcome (or dependent variable) for identifying a single cause of several causal factors to bring about the shared outcome, whereas the method of difference is to compare cases with different outcomes for recognising a single cause to the different outcomes.

### **6.1.2. Within-case method: process tracing**

Within-case analysis has long been used by qualitative researchers as a way to pursue the causal inference by analysing a specific case (or phenomena) in terms of context or mechanism (Mahoney, 2007). Of several within-case methods, in particular, process tracing has recently been attracting much attention due to its peculiar focus on “the intervening causal process—the causal chain and causal mechanism—between an independent variable (or variables) and the outcome of the dependent variable” (George and Bennett, 2005, p. 206). It has been more so within comparative historical research given that it can be defined partly to analyse sequences of events and/or processes that occur within cases (Mahoney, 2004). Furthermore, Lange (2013) notes that within research the process-tracing method is usually matched with the narrative (or process-oriented) comparison method highlighting inter-case differences by contrasting causal processes with different outcomes.

Drawing on the literature about process tracing, Bennett and Checkel (2015, p. 7) define process tracing as “the analysis of evidence on processes, sequences, and conjunctures of events within a case for the purposes of either developing or testing hypotheses about causal mechanisms that might causally explain the case”. This definition particularly put emphasis on the “causal mechanism”. Although there is a lack of consensus on whether causal mechanisms are observable in reality (see, for an understanding of them as observable, Beach & Pedersen (2013); for unobservable, Bennett & Checkel (2015)), they can be commonly understood as “a system of interlocking parts that transmits causal forces from X to Y” (Beach and Pedersen, 2013, p. 29). Beach and Pedersen (2013) clarify some underlying understandings of causality in the method of process tracing. Causal mechanisms are not only more than just a series of empirical events between X and Y in terms of the possibility to be more generally operated beyond a given case, but also more than just sets of intervening variables in terms of an explicit focus on opening up the black box of causality (i.e. the causal linkages). Furthermore, they can exist at both the micro/actor and macro/structural levels.

According to Beach and Pedersen (2013), this method has three broad purposes: to test whether a theorised causal mechanism is present in a given case (theory-testing); to theorise a general causal mechanism from empirical evidence where theory is less developed (theory-building); or to provide a minimally sufficient explanation of an intriguing outcome (explaining-outcome). In other words, process tracing can provide strong within-case inferences—causal mechanisms—either by testing or building a generalisable theorised mechanism or by concentrating on explaining a particular puzzling outcome. In this regard, the first two purposes of process tracing are understood as theory-centric, whereas the latter as largely case-centric. However, these three variants of process tracing cannot be clearly

separated when applying them to practical analysis. For example, the explaining-outcome approach can provide a significant point of departure for the two theory-centric approaches, and theorised causal mechanisms are often used as reliable instruments for crafting a sufficient explanation of an outcome in question.

Considering that there are very few established studies on immigrants' rights and responsibilities in East Asia, the main interest of this thesis, the explaining-outcome process tracing method could be most appropriate for identifying and explaining certain patterns of them in East Asian welfare states. Explaining-outcome process tracing can present the causal mechanisms to sufficiently explain them by ensuring the more detailed and holistic analysis and taking account of the configuration of multiple causes as well as their sequence (see Beach and Pedersen, 2013; Lange, 2013). However, Beach and Pedersen (2013) and Lange (2013) all point out that it may lack theoretical parsimony because of its interest in a case-specific explanation involving multiple causes, and thereby somewhat questioning its generalisability to a broader population of relevant cases. In this regard, this case-specific research additionally takes some elements of the theory-testing or -building process-tracing methods into consideration. Specifically, it addresses the issue of limited parsimony by taking account of a systematic (theory-based) approach to causal mechanisms. The systematic analysis is carried out with an analytical framework (see Section 6.3). In addition, the issue of sufficiency across the population is expected to be ameliorated by adopting narrative comparison as a comparative method.

## **6.2. Theories of social and immigration policy changes**

This section investigates the existing literature on public policy changes. It takes both theories of social and immigration policy changes into consideration in relation to changes in immigrants' rights and responsibilities, which are established primarily upon two institutions; welfare and immigration regimes (rf. Chapter Two). To do this, the political approach is considered, and then complemented by the ideational approach.

### **6.2.1. Political dynamics within political institutions**

Focusing on political interactions between actors within political institutions has been regarded as a highly convincing approach in examining the trajectories of public policy changes regarding immigrants' rights and responsibilities. According to this political perspective, public

policy is “not—or at least, not only—the results of socio-economic shifts but rather of political struggles” of the related policy decisions (Starke, 2006, pp. 107-108). This strand of research examines the politics of inclusion and exclusion, answering how and why a particular arrangement of immigrant’s rights and responsibilities has been formed and developed. Therefore, it is necessary to review both academic areas of the welfare (state) regime and the immigration regime (including immigration control and immigrant integration) (see Sainsbury, 2012).

In the literature on the welfare state there have been two dominant “politics-matters” approaches, power resource theory and new politics theory, and recently an alternative in relation to the “new” welfare state. First, power resource theory, which explains the dynamics of welfare state expansion by taking note of social classes as the main political agents over distributional welfare outcomes (Korpi, 1980; 1983), has long been regarded as central to the discussions. In this theory, the working class relatively vulnerable in labour market attempts to make an ally with left-wing parties, while furthering political struggles against the employers. The class-based struggle affects the bargaining position of workers and employers, and thereby contributes to the growth of state welfare provision. Put differently, variations in the welfare regime—by implication, (social) rights and responsibilities—decisively depend on class mobilisation, class coalitions and the relative strength of the leftist parties and interest groups such as trade unions. However, this theory may not fully account for the “post-Golden Age” development of welfare states, that is, welfare retrenchment observed since the late 1970s. This is because, as Pierson (1996) argues, the extent of cutbacks in social programmes had been moderate in spite of the emergence of new circumstances where the relative power of organised labour and left-wing parties have gradually faded.

The “new politics of the welfare state” theory presented by Pierson (1994; 1996) could be another archetype in the “politics-matters” approach, especially to welfare retrenchment and “welfare state restructuring” (Pierson, 2001; 2002). A series of events happened since the mid-1970s, including two world-wide economic crises and the subsequent increases in welfare beneficiaries and deterioration in national financial conditions, led welfare states into the era of “permanent austerity”. The welfare politics in this period is fundamentally “new”, distinct from the preceding “Golden Age” in two aspects: the shift in both political goals (from welfare expansion to cutbacks) and political context (the emergence of powerful groups of welfare beneficiaries in interest-group politics). According to Pierson (1994; 1996), this new politics leads politicians to pursue “the politics of blame avoidance” rather than credit claiming by forbearing highly visible attempts for radical cutbacks (see Weaver, 1986).

Pierson draws a common phenomenon of the “relative stability of the welfare state” (Pierson, 1996, p. 174) from two comparative studies between the British government of Margaret Thatcher and the American government of Ronald Reagan (1994) and between four welfare states adding Germany and Sweden to the two (1996). According to his analyses, there are two noteworthy political factors behind this phenomenon: the political structure and political—electoral—costs. In general, the democratic political systems prevailing in most advanced welfare states have conservative natures, where distribution of political power between different actors is already stable. Given this political circumstance, radical reforms that shake up the status quo of state welfare provision are difficult. Additionally, high electoral costs would make politicians reluctant to radically change the existing social security system. Welfare beneficiaries—often well-organised—tend to punish politicians for cutbacks more than general taxpayers. Thus, politicians are highly likely to seek welfare retrenchment to the extent of not damaging their re-election prospects by using blame-avoiding strategies.

Lastly, the recent socio-economic change to post-industrial societies—alongside an ageing population (Hemerijck, 2012a)—has resulted in the emergence of “new social risk policies” within the new welfare states, and thereby questioned whether the existing political approaches mentioned above can still provide valid explanations (Bonoli and Natali, 2012a; Taylor-Gooby, 2004a). Since new social risks, which are prevalent in post-industrial societies, are more likely to jeopardise some specific groups of individuals such as women, younger persons and those with low-level skills (Bonoli, 2006), the governmental efforts for addressing them are primarily associated with family (and gender) issues and labour market changes, going beyond reforms of social security systems (Taylor-Gooby, 2004a).

The ways to recognise and cope with new social risks, however, significantly vary by country (Taylor-Gooby, 2004a). The different responses to new social risks can be explained by revisiting the existing political approaches with different configurations of relevant variables (Bonoli, 2006; Bonoli and Natali, 2012a). In this vein, Taylor-Gooby (2004c) takes note of the political influence of new policy actors aside from the established powerful political actors such as political parties, employers and trade unions. While employers and unions no longer present united political forces, those who are most affected by new social risks (e.g. women, younger persons and those with low-level skills) have come into spotlight. Such changes within the new welfare states have facilitated a variety of political alliances between different groups, affecting the direction and substance of welfare reforms. Bonoli (2006) also argues “power resources of the would-be beneficiaries” as a salient account for the development of post-industrial social policies, alongside socio-economic pressures and political institutions. Their leverage, however, may be relatively weak because they not only less actively take part in the policy-making

process but also are less represented. Nevertheless, it is necessary to stress that the diversification of actor realignments and coalitions resulting from new social risks have an important impact on post-industrial welfare reforms (Häusermann, 2012).

In international migration research, on the other hand, political economy accounts of complex—sometimes contradictory—interest conflicts surrounding immigration and immigrant policy have developed primarily in two ways: emphasising political interactions between actors and highlighting political structure as the rules of the game in their political conflicts. The first approach of political dynamics focuses on who key actors are in the politics of immigration, such as the central role of courts in protecting and promoting immigrant rights within domestic legal orders (Guiraudon, 2000; Hollifield, 2000; Joppke, 2001) and welfare bureaucracies (Guiraudon, 2000; 2003). The activism by non-citizen migrants and migrant rights activists is also regarded as a contributor (Nyers and Rygiel, 2012). Furthermore, Menz (2009) notes that there are different key actors in different fields of immigration policy, such as trade unions and employer associations in labour migration policy and humanitarian NGOs in asylum and refugee policy.

Of the studies concerned with the political dynamics behind immigrant-related policy, particularly, the works of Gary P. Freeman (1995, 2006) have been considered as one of the most convincing accounts (Boswell, 2007; Sainsbury, 2012). By noting the relationship between immigration policy and the politics of immigration, Freeman (1995) asserts that the immigrant-related policies in liberal democracies are determined by the immigration politics based on participants' calculations of the benefits and costs caused by immigration. In this regard, immigration politics is usually characterised as "client politics", as the benefits from immigration are concentrated on relatively well-organised groups, such as business or pro-migrant NGOs, whereas the costs are dispersed on the general public.

In one of his later studies, Freeman (2006) extends his original theory by encompassing four different types of immigration politics, including client, majoritarian, interest group and entrepreneurial politics. The mode of politics is closely associated with the type of policy with the different pattern of benefits and costs—namely, whether benefits and costs can be concentrated or diffuse. For instance, the "concentrated distributive policies" with concentrated benefits and diffuse costs, such as quota systems for permanent residence, provide certain incentives to small interest groups, and thereby produce client politics. On the contrary, the "diffuse distributive policies" with diffuse benefits and costs, such as non-immigrant visas for purposes other than work, have little benefits for interest groups, thus bringing about majoritarian politics. In the case of "redistributive policies" with concentrated benefits and costs, such as non-immigrant visas for work or welfare benefits for non-citizens,

interest-group politics emerges, especially when beneficiaries and cost-bearing groups are not identical. Lastly, the “regulatory policies” with diffuse benefits and concentrated costs, such as asylum and refugee policy, generate entrepreneurial politics. Arguably, politics matters in the immigrant-related policy making, although its mode depends on the type of policy.

Several studies take a somewhat distinctive approach focusing on political structure surrounding political dynamics in the formation of immigration policy. In addition to whose organised interests are stronger in the politics of immigration, this alternative approach attempts to explain variations of migration policies by uncovering under what conditions particular groups’ claims can be successful (Boswell, 2007). Specifically, Koopmans and Statham (2000) suggest a “political opportunity structure” approach to analyse the way in which collective claims made by migrants and ethnic minorities are reflected in public policies. The main assumption is that collective claims may not directly reflect the nature of socio-political problems and circumstances, but rather be shaped by political environment (Koopmans et al., 2005). According to this approach, political opportunities for making claims heard can be significantly affected by political structural configurations, including political systems and power relationships between political actors.

### **6.2.2. Ideas, framing and discourse in politics**

Within the research analysing social welfare and immigration policy changes, the number of studies focusing on ideas as an essential influential factor remains relatively small, but has gradually increased (Béland and Cox, 2011). In general, the ideational approach, which deals with framing, ideas or discourse, is often presented as a substitution or supplement to institutionalism’s inability or difficulty in explaining policy change (Starke, 2006). It views the dynamics of the policy process in terms of interactions between different ideas and beliefs. Using and drawing on certain ideas, political actors formulate or reshape a (new) meaning on the existing policy, namely, its objectives or related situations, and deliver it to other actors. According to this approach, the policy process can be understood as a process in which political actors, who have their own interests based on certain ideas and beliefs, are involved in the policy process. It has been applied to an analysis of social policy change (and the politics of welfare retrenchment) (e.g. Béland, 2005; Cox, 2001; 2004; Green-Pedersen, 2002; Levy, 1999; Schmidt, 2003; Taylor-Gooby, 2005a), as well as policy configurations of immigration control and immigrant integration at the national level (e.g. Hollifield, 2000; Koopmans et al., 2005; Scholten, 2011; Soysal, 1994).

In spite of the gradually growing literature dealing with the role of ideas in policy change, there has been some ambiguity about what is meant by “ideas” in the social sciences. Béland and Cox (2011) present a broad definition of ideas as causal beliefs: namely, products of interpretation of connections between people and/or matters. Ideas shape the ways socio-political problems and challenges are constructed, and provide guides for strategies to handle them, and thereby lead to particular actions. In this regard, they are found at different levels, from institutions to people’s interests. Institutions are considered to be established upon ideas, and reinforced or changed by the ideas reproduced via the interaction of people within the institutions (see Cox, 2004). In addition, people’s interests can be understood as socially constructed rather than objective entities (see Hay, 2011).

Regarding the role of ideas within social policy, Cox (2001) views it as the salient reason to facilitate successful welfare reforms in some welfare states compared to others, for example, political culture, history and institutions. According to his comparative analysis, while Denmark and the Netherlands adopted major reforms with the new framing of issues—e.g. emphasising the traditional value of collective responsibility in Denmark and justifying the labour market flexibility (“flexicurity”) in the Netherlands—which helped to restructure the interests and preferences of political actors and even of the general public, Germany was not successful in introducing welfare reform due to the absence of a far-reaching consensus on its necessity. In comparison with Cox’s analysis putting primary emphasis on the role of ideas, the studies of Schmidt (2003), Béland (2005) and Taylor-Gooby (2005c) regard this as additional but significant, stressing the importance of politico-institutional consideration or power resource accounts. Schmidt (2003) acknowledges that an issue regarding welfare state adjustment—i.e. “a process of internal negotiation and compromise between states and citizens about whether, how, and to what end to alter existing practices” (p. 129)—is not just about interests but also about ideas and values, but simultaneously clarifies that ideas are not easily separable from the interests of political actors and furthermore from institutional interaction and cultural norms. These studies highlight ideational factors in explaining social policy change, arguing that they help promote policy change by providing “both cognitive arguments about the logic and necessity of a particular policy programme and normative arguments about its appropriateness” (p. 134).

In addition, some welfare state studies put significant emphasis on external pressures, such as economic globalisation (Starke, 2006). Economic globalisation has often been presented in the forms of neoliberalism as well as international financial organisations, such as the World Trade Organization (WTO), the International Monetary Fund (IMF) and the World Bank (Alber and Standing, 2000; Clarke, 2004; Deacon, 2000). Deacon (2000) claims that

economic globalisation based on neoliberalism has led individual welfare states to shift their social policy towards a residualist or privatised model and even to pursue the strategy of social dumping. In spite of some disagreement about its causal effects on welfare state retrenchment (or restructuring) (Starke, 2006), permanent austerity has more or less been characterised by neoliberalism (see Farnsworth and Irving, 2015b), “with its emphasis on relaxing regulations on capital and flexibilising labour” (Farnsworth and Irving, 2015a, p. 38).

The ideational approach has also been employed in many migration studies. For example, Hollifield (2000), addressing the French immigration policy, clarifies that immigration control is not purely a function of markets, economic interests or national security, but is rather heavily dependent on the interplay of ideas, institutions and civil society. In this respect, a convergence in strategies for immigration control and immigrant incorporation of Western countries can be summarised as the result of grand bargaining between anti- and pro-immigration forces—including ideas, institutions and culture—as well as certain segments of civil society. In a similar vein, Scholten (2011; 2013) also takes note of ideas and values behind immigrant integration policy—specifically, of the Netherlands, emphasising that a mode of immigrant integration has often been formed upon specific nation-state conceptions. He points out that the immigrant-related policy may depend largely on how problem situations relating to immigrant integration are framed, including the use of specific discourses or languages on what the problems are, who are involved, why they occurred and what could and should be done for solving them.

One of the most explicit ideational explanations on immigration policy would be international norms of human rights (see Jacobson, 1996; Soysal, 1994). Jacobson (1996) and Soysal (1994) point to the international human rights discourse (or regime) as a prominent principle and a decisive apparatus that legitimises immigrants’ claims to rights above and beyond national belonging, arguing that it has somewhat weakened the nation-state’s ability to exert its sovereign power over immigrants. This account, although criticised for overvaluing its impact on national immigration policy making (Boswell, 2007), is found to be persuasive in several migration studies. They demonstrate that international human rights norms have contributed to the expansion of immigrant rights in wide-ranging areas, including family reunification, access to labour markets and welfare provision and protection via the anti-discrimination legislation (Koopmans et al., 2012), or at least to promoting more progressive interpretations of the existing system and policy (de Sousa Santos, 2002).

Furthermore, for analysing the politics of immigration and ethnic relations which was found differently in five European countries (Germany, France, Britain, the Netherlands, and Switzerland), Koopmans et al. (2005) consider discursive opportunity structures in addition to

institutional opportunities drawn from the political opportunity approach. The discursive opportunity structure tackles the question of “which collective identities and substantive demands have a high likelihood to gain visibility in the mass media, to resonate with the claims of other collective actors, and to achieve legitimacy in the public discourse” (p. 19). Thereby, it can compensate for three major drawbacks of the political opportunity structure approach: first, difficulty in answering the question of why some actors constitute particular collective identities and aims; second, ignorance on distinctive characteristics of particular fields and collective actors of relevance to migration and ethnic relations; and lastly, insufficient appreciation of dynamic interactions surrounding the identities, aims and strategies of collective actors.

Lastly, Sainsbury’s (2012) research on immigrant rights, drawing on the literature on both welfare state and international migration, stresses the role of framing, ideas and ideological traditions in the politics of inclusion and exclusion. She also regards these to be interpreted in relation to political actors who utilise these within political structures. According to her analysis, differences in framing and ideational traditions are as crucial in explaining dissimilar policy responses to immigrants between advanced welfare states as different institutions of social welfare provision. For example, Sweden and Denmark, although both being considered to have social democratic welfare traditions, have shown different developments in immigrant rights. The Swedish government has improved the rights of newcomers by framing them as potential settlers with equal rights along with its ideational traditions emphasising mutual respect and tolerance; whereas the Danish government has curtailed immigrants’ social benefits in many ways by framing them as temporary foreign workers.

### **6.3. Analytical framework in the East Asian context**

An analytical framework for studying immigrants’ rights and responsibilities in Japan and Korea is set up by synthesising the previous discussions and findings (see Figure 6.1).<sup>24</sup> As noted in Chapter Four, a few studies are concerned with the rights and responsibilities of immigrants in these two countries, and fewer in analysing their welfare and immigration

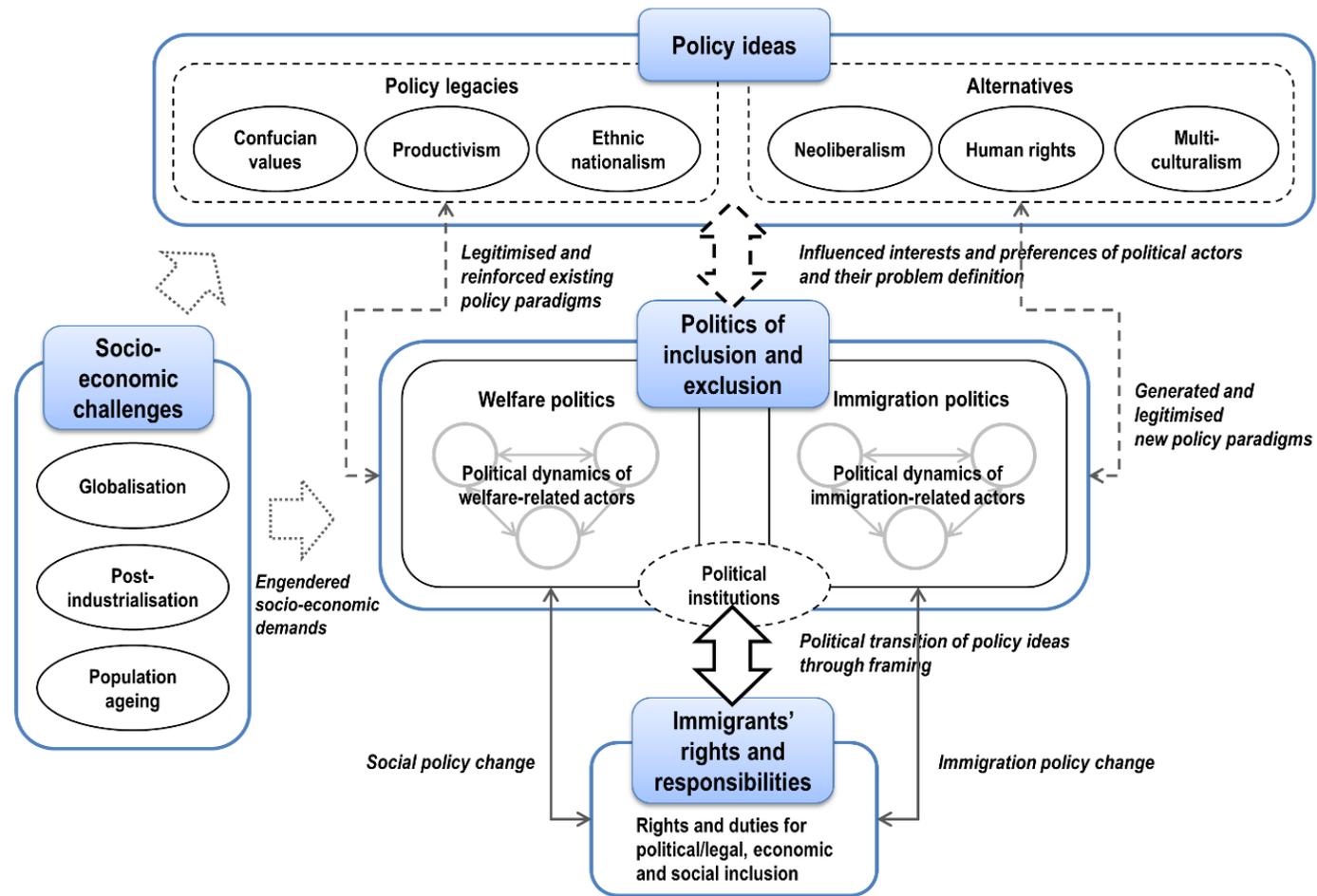
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<sup>24</sup> In this figure, the shape, size and line weight of factors can vary depending on their policy influence. Additionally, solid-line arrows show direct and explicit influential sequences, whereas dash- or dot-line arrows indicate indirect and implicit ones. For example, a relationship between politics of inclusion and exclusion and policy ideas, presented with a dash-line arrow, is two-way with each implicitly affecting the other. Lastly, inside the politics of inclusion and exclusion, there can be different policy-making coalitions.

regimes together. Thus, the analytical framework introduced in this research simultaneously draws on the existing —above examined—research on social and immigration policy changes of Western welfare states and reflects the peculiarities of East Asian welfare states (cf. Chapter Three).

This analytical framework investigates the formation and development of rights and responsibilities of low-skilled labour migrants in Japan and Korea, as suggested in Chapter Four, centring on policy changes in five areas: entry/residency, access to the labour market, access to social benefits and integration programmes, political participation and anti-discrimination. The politics of inclusion and exclusion is regarded as the primary dominant factor behind the relevant policy changes and diversities between these two countries. As immigrants' rights and responsibilities are established upon two institutions, welfare and immigration regimes, it is necessary to look into both the welfare politics and immigration politics in relation to low-skilled labour migrants. In understanding and comparing political dynamics of various actors in Japan and Korea, policy ideas, including policy legacies and emerging alternatives, are assumed to play a complementary—but important—role in ways to affect political actors' understandings and interests surrounding social welfare and immigration-related issues and justifying their claims. Socio-economic challenges that East Asian countries have been facing are also taken into account in terms of their influence on socio-economic demands in the societies. The flow also works the other way round. For example, improved rights and responsibilities of immigrants potentially influence the political leverage of actors and thereby relevant political dynamics. Additionally, political actors can change the meanings and ways of application of policy ideas.

Figure 6.1 Analytical framework of immigrants' rights and responsibilities in East Asia



### **6.3.1. Socio-economic challenges: globalisation, post-industrialisation and population ageing**

Contextual challenges alone cannot create and change policies, but the emergence of new challenges have often led to the introduction of a new policy and the alternation of existing policies by engendering new needs and demands in a society (Bonoli, 2006). In this respect, social and immigration policy changes need to be viewed in the light of socio-economic transformations and problem pressures within a society; because these challenges may significantly shape its policy environment (Hemerijck, 2012a). Thus, they are interpreted as the contextual factors behind social and immigration policy making.

With respect to immigrants' rights and responsibilities in East Asia, there are three main socio-economic challenges: globalisation, post-industrialisation and population ageing. They have occurred almost simultaneously, interwoven to some extent with each other. First, globalisation is often portrayed as an economic process within increasing global connectedness (see, in the international migration research, Castles and Miller, 2009; in the welfare state research, Gough, 2001). Here, economic globalisation refers to economic openness and connectedness in terms of trade competition, capital mobility and the internationalisation of production and financial systems (Gough, 2001). In this research, globalisation is assumed to affect the socio-economic demands of political actors such as business, and—sometimes when combined with an economic crisis—to elevate social risks in East Asian welfare states. Considering that the influence of globalisation is mediated by national politics, it is appropriate to understand it as an external constraint on social and immigration policy changes in Japan and Korea.

Second, post-industrialisation, referring to de-industrialisation, the tertiarisation of employment and increasing female participation in the labour market (Bonoli, 2006), is assumed to lead to new social risks, especially for specific social groups such as women and low-skilled workers, and thereby may open up an opportunity for political realignment. Accordingly, it is regarded as a generator of socio-economic demands in Japan and Korea's post-industrial economies; though its pressure and policy influence could differ. Lastly, an ageing population is also considered to present significant challenges to welfare states, specifically for East Asian welfare states with relatively more emphasis on the role of family in welfare provision (see Fu and Hughes, 2009); due to not only the increasing dependant population in need of care but also the decreasing proportion of economically active population and the subsequent labour shortage in the societies. Furthermore, population ageing and the subsequently changing demographic structure of Japan and Korea are considerably influential

in immigration policy making in terms of growing demands for foreign-born populations, especially the low-skilled in certain industrial sectors (Lee, 2011b).

### **6.3.2. Politics of inclusion and exclusion within political institutions**

In this analytical framework, the politics of inclusion and exclusion is the major force behind the formation and development of the rights and responsibilities of low-skilled labour migrants in East Asia. By focusing on it, this research is expected to shed light on which actors have been involved in the related social and immigration policy-making processes (and thereby in forming a particular pattern of immigrants' rights and responsibilities), what political claims they have made and how they have interacted with each other. It is noteworthy that analysing political dynamics requires an investigation into the interface of the politics of social welfare and immigration policy making (Sainsbury, 2012), given that the rights and responsibilities of immigrants are significantly underpinned by welfare and immigration regimes.

As for social policy making in East Asian welfare regimes, its political (electoral) competition has gradually become intensified since the 1980s (Hwang, 2011a). By being a topic of wider political debates, social policy making is no longer dominated by a small number of conservative political elites (or elite bureaucrats), but rather significantly affected by a variety of political actors with different social welfare demands and their political coalitions. In both the cases of Japan and Korea, democratic governments as well as political parties have great incentives to respond to public demands for social welfare for gaining electoral support—or at least avoiding blame (Hudson and Hwang, 2013). Along with increasing party competition, civil society organisations and social welfare advocates may clamour more strongly for substantive welfare commitments by the governments. In addition, it is necessary to consider business influences in welfare politics. Particularly, while state autonomy in East Asia has gradually been limited by democratisation and globalisation, business with its own preferences, such as employers' confederations, routinely attempts to intervene in the social policy-making process.

The recent growth of the foreign-born population in East Asia has generated socio-political disputes about border control, national identity and social order within their societies, and moreover led to the political mobilisation of those concerned with issues of immigration control and immigrant integration (Chung, 2014). In the immigration politics of Japan and Korea, whose central governments had long maintained a highly restrictive and exclusive stance towards the issues, some political actors such as local governments, business and pro-migrant NGOs stand out. For example, business has clearly expressed its own interests, lobbying for liberalising immigration control policy—that is, seeking easier access to low-

skilled foreign labour. Local governments and civil society organisations have had different policy priorities from business, such as enhancing immigrant rights and providing some basic services and programmes for foreign-born populations.

In this research, additionally, the political opportunity structure within national political institutions is taken into consideration, because, as Koopmans and Statham (2000) note, competitive collective claims made by business or civil society organisations may not be reflected directly in the politics of inclusion and exclusion, but through the political opportunity structure. Estévez-Abe and Kim (2014) point out that the political opportunity structure shapes the possible range of policy alternatives, arguing that Korea's more open political system has led its political leaders to be relatively more responsive to new social demands than Japanese leaders. In a similar vein, Yamanaka (2010) notes different political opportunities for civil society organisations between Japan and Korea have contributed to their divergence in foreign labour policy.

### **6.3.3. Policy ideas: policy legacies and alternatives**

Policy ideas have a decisive effect on the way political actors see and respond to socio-political issues of social welfare and immigration and immigrants, and thereby lead them to make particular political claims. In other words, they are assumed to shape the problem definition, interests and policy preferences of stakeholders in social and immigration policy making, and to be often used in supporting and justifying particular policy paradigms. Especially, political leaders and parties actively utilise policy ideas in the public decision-making process so as to claim political credit and/or reduce blame. However, it is noteworthy that the policy ideas are often framed and transited into the politics of inclusion and exclusion in accordance with the interests and preferences of actors who use them, and thereby are reflected in policy making regarding the rights and responsibilities of immigrants.

In this framework, there are mainly two types of policy ideas in relation to the rights and responsibilities of low-skilled labour migrants: policy legacies and alternatives. First, policy legacies here refer to the core values and shared principles behind the development of East Asian welfare and immigration regimes. There are three policy legacies, Confucian values, productivism and ethnic nationalism, which are assumed to be utilised in legitimising and reinforcing Japan and Korea's existing restrictive and exclusive policy paradigms regarding low-skilled foreign-born populations. The former two legacies, Confucian values and productivism, have been regarded as cultural and politico-economic driving forces in East Asian welfare development (see, for productivism, Holliday (2000); for Confucianism, Jones

(1993). Confucian values in East Asian welfare regimes—presented primarily in two aspects, the primary role of family in welfare provision and the elite-led welfare politics (or welfare politics without political bargaining) (Jo, 2013)—stand out as “a symbol to limit social policy to residualist, familistic mould” (Walker and Wong, 2005a, p. 218), whereas productivism is characterised by social policy’s subordination to economic growth as an end (Choi, 2013b). The latter, the idea of ethnic nationalism, is prevalent in the Japanese and Korean immigration regimes (Castles, de Haas and Miller, 2014; Chung, 2014). Their ethno-cultural notion of nationhood produces a societal perception of those different—racially and culturally—from nationals as serious challenges to social order and stability in the ethnically and culturally homogeneous societies, and thereby their restrictive policy approaches towards them.

Second, alternative policy ideas are assumed to challenge the existing policy paradigms based on policy legacies by legitimising and generating new ones. In the East Asian context, there are three alternatives: in relation to social policy change, neoliberalism and in relation to immigration policy change, human rights and multiculturalism. Neoliberalism has been commonly presented as the market orientation in welfare provision in connection with economic globalisation (Walker and Wong, 2005b). It is often strongly advocated by some policy makers who support the priority and primacy of economic development over welfare development and the residualist state welfare provision. With respect to immigration and immigrant policy, many civil society organisations are inspired by international norms of human rights (Seol and Skrentny, 2009b). The norms have been used to legitimise their pro-migrant claims against Japan and Korea’s existing restrictive and exclusive policies on low-skilled foreign-born populations. Lastly, multiculturalism, which is a way to recognise and incorporate ethno-cultural diversity in a society (Kymlicka and He, 2005), has been identified in the public discourse of East Asian nation-states (Kim and Oh, 2011). It is assumed to contribute to the social inclusion of immigrants in Japanese and Korean societies by challenging their strong sense of ethno-cultural homogeneity based on ethnic nationalism and encouraging an improvement in the recognition and protection of rights for non-citizen immigrants.

#### **6.4. Methods of data collection and analysis**

For this comparative historical analysis of Japan and Korea, data is mainly retrieved from two sources: documentary materials and expert interviews. These two data sources are considered as most appropriate for this research, considering its central focus on examining and comparing the nearly three decades of Japan and Korea’s policy changes regarding the rights

and responsibilities of low-skilled labour migrants, centring on dynamics of political actors and policy ideas. A variety of documentary materials constitute the primary source of evidence, and the data from expert interviews are used complementally for increasing the credibility of the research by cross-checking through multiple sources (i.e. the triangulation strategy) (see Bryman, 2016; Tansey, 2007). This section explicates how the two types of data have been collected and analysed, and discusses their technical and ethical issues involved.

#### **6.4.1. Documentary material**

Given the historical-descriptive nature of this research, its primary evidence is presented through documentary analysis. Document analysis examines and interprets documentary material, and thereby helps researchers to “elicit meaning, gain understanding, and develop empirical knowledge” of what they want to explain (Bowen, 2009, p. 27). In this regard, it has been considered as “one of the most reliable methods open to political researchers and provides an opportunity for the production of authoritative studies” (Burnham et al., 2008, p. 212).

##### *Types of documentary material*

The documentary data comprise a wide range of documents, such as governmental publications, non-governmental publications, academic research and media outputs. First, governmental publications include policy-related documents written by the central and local governments (e.g. Basic Plans, policy reports or national surveys), legislation (e.g. Korea’s Multicultural Family Support Act), political party manifestos, press releases of governmental agencies and statements of political leaders (e.g. presidents or prime ministers). They provide the detailed information about changes in public policies relating to the rights and duties of low-skilled labour migrants, and furthermore, reveal what policy emphasizes and future direction government (or governmental bodies) and (ruling and opposition) political parties have had and even how they have understood and interpreted social welfare and immigration-related issues.

Second, non-governmental publications refer to reports (e.g. policy evaluations or proposals) and statements produced by non-governmental political actors such as business organisations, trade unions and civil society organisations. These documents are also important in the way they explicitly and/or implicitly demonstrate what perspective and demand they have had on the issues regarding the rights and responsibilities of low-skilled labour migrants and how they have interacted with other political actors. Third, academic

books and articles are utilised not just for establishing the theoretical and empirical groundings on immigrants' rights and responsibilities in East Asia and setting up an analytical framework, but also for gaining insight on meaningful causal inferences in analysing them. Lastly, English-language daily newspapers of Japan and Korea (i.e. the Japan Times, the Korea Times and the Korea Herald) are added to the documentary data sources. As low-skilled foreign-born populations have publicly been addressed as a major societal issue in both Japan and Korea, media outputs are of significant help to identify the stances of political actors involved in the related policy making and understand the contextual circumstances.

### *Collection and analysis of documentary materials*

The documentary material mentioned above has mostly been collected online through the websites of governmental agencies, political parties, business organisations, civil society organisations, newspapers and search engines (e.g. Google and Google Scholar). News articles have been accessed additionally through the electronic archives of the Japan Times, the Korea Times and the Korea Herald, which are available through the University of York Library website. Some of the documentary data have been collected offline during the fieldwork in Japan and Korea.

All the collected documents have been analysed via thematic analysis, skimming (superficially examined) and/or reading (thoroughly examined) and then categorising thematically and chronologically for analysis. Thematic analysis, although hardly defined in terms of some specific steps or techniques, is a generic method “for systematically identifying, organizing, and offering insight into patterns of meaning (themes) across a data set” (Braun and Clarke, 2012, p. 57). A search and find function of software such as Acrobat Reader, Microsoft Word and Google Chrome has often been used to easily recognise and highlight key concepts, issues and ideas presented in the documents.<sup>25</sup> This research has thereby been able to examine and compare different views, claims and strategies of different political actors in Japan and Korea's policy making process of low-skilled labour migrants. In addition, it has been of great help to draft and revise questions for expert interviews.

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<sup>25</sup> Examples of the key words used in this research are as follows: for the Japanese case, technical interns (技能実習生), *Nikkei-jin* (日系人), ageing (高齢化) and multiculturalism (多文化 or 多文化共生); and for the Korean, foreign trainees (외국인 산업연수생), overseas Koreans (동포), ageing (고령화) and multiculturalism (다문화 or 다문화주의).

### *Technical issues in conducting and analysing documentary materials*

This research pays particular attention to two technical issues in collecting and analysing documentary material. First, it assumes that documents contain socially constructed facts produced to serve for certain purposes, and thus, are not neutral from those releasing and distributing them or the social, economic and political environment at the time when they were produced and used (Atkinson and Coffey, 2011; May, 2011). In general, the document producers “are likely to have a particular point of view that they want to get across” (Bryman, 2016, p. 553). In this regard, it is necessary to take careful account of the original (intended) purpose, target audience and contextual background of documents (Bowen, 2009; Burnham et al., 2008). For example, the immigration-related Basic Plans of Japan and Korea implicitly demonstrate and promote specific perspectives and values of governments towards different groups of foreign-born populations. Additionally, the documents published by non-governmental actors often target public decision makers to effectively deliver their voices. However, it is noteworthy that such a context-specific nature of documentary material can put a restriction on their authenticity, credibility, accuracy, and representativeness, and therefore, an analysis of documents needs to be evaluated against other sources of data (Bowen, 2009; Bryman, 2016). In order to address it, this research complementarily uses data collected from expert interviews.

Another issue of documentary analysis is concerned with language. This research is written in English, but utilises documentary material written in three different languages, English, Japanese and Korean. Translation of Japanese and Korean words into English requires careful attention, because it may insufficiently convey their original meanings. In addition, some governmental and non-governmental organisations of Japan and Korea provide the English website and/or the official English translation version of documents, but their English translations occasionally turn out to be somewhat inaccurate or inconsistent across documents and organisations. In order to adopt appropriate English expressions, thus, this research compares varied sources of documents with each other, including the original and English-language versions of official documents and academic publications written in English.

#### **6.4.2. Expert interviews**

Within this research, interviewing experts is employed as a way to supplement or triangulate the findings from the documentary analysis. An expert is commonly defined as a person who “has technical, process and interpretative knowledge that refers to a specific field of action”, and their knowledge “consists not only of systematized, reflexively accessible knowledge relating to a specialized subject or field, but also has to a considerable extent the character of

practical or action knowledge” (Bogner and Menz, 2009, p. 54). The notions of the expert and the elite, as Littig (2009, p. 106) notes, are very similar in terms of “the knowledge and the power at their disposal”; because experts often exert a practical influence through their knowledge on the public decision-making process. In this respect, interviewing these two cannot be clearly distinct from each other, especially on a practical level (e.g. access to the field and actual interaction in the interview) (Littig, 2009).

Accordingly, it is important to know what experts (and elites) know and think, how they interpret an event (or series of events) and what they have done (Aberbach and Rockman, 2002). Tansey (2007) argues that interviewing those who have knowledge of events or privileged access to relevant information can contribute to the credibility of a process-tracing approach to case-oriented research in terms of being able to corroborate information from other sources, to compensate for the lack of documentary evidence and to gather information about the underlying context of the related processes from first-hand participants.

#### *Conducting the expert interviews*

The interview data has been collected by semi-structured in-depth interviews with those who have knowledge of relevance to Japan and Korea’s politics and policy changes regarding the rights and responsibilities of low-skilled labour. Specifically, this method incorporates “both open-ended and more theoretically driven questions, eliciting data grounded in the experience of the participant as well as data guided by existing constructs in the particular discipline within which one is conducting research” (Galletta, 2013, p. 45).

An information sheet, a consent form and a topic guide were drafted prior to undertaking semi-structured interviews with potential interview participants (see Appendix 3, Appendix 4 and Appendix 5). The topic guide included questions about Japan and Korea’s immigration and immigrant policy developments in general, specific immigration-related policy-making processes and socio-economic circumstances and political situations surrounding issues of immigration and immigrants.

This research has taken a two-stage approach in the sampling of prospective interviewees. First, the initial list of them was drawn up and identified by examining various documentary materials, which may contain the information of key actors and their specialised knowledge in the related policy making process. Their contact details were found via the internet (e.g. visiting the websites). Emails and telephone calls were mainly used to approach and ask them to participate in a face-to-face interview with an information sheet and a consent form. Second, a snowball sampling strategy was adopted to identify additional potential

participants (and their contact details) via the interviewees who had already taken part in the research.

A total of nine face-to-face interviews were conducted in the UK, Japan and Korea between April 2017 and May 2018, and all were audio-recorded with the permission of the interviewees (for more detailed information, see Appendix 6). Five interviews focused on the Japanese case, and of those, three were carried out in English, one in Korean and one in Japanese with an English interpreter. The interpreter was a colleague of the interviewee, speaking English as her second language. All the four interviews about the Korean case were conducted in Korean.

### *Analysis of expert interviews*

As in documentary analysis, analysing the interview data employs thematic analysis, especially with a thematic framework. The framework approach is one strategy of thematic analysis to construct a matrix of central and sub-themes in ordering, synthesising and interpreting qualitative data (Bryman, 2016). The process of thematic analysis utilising a framework matrix, including labelling, sorting and synthesising the data, is often time-consuming and laborious, but enables researchers to gain a comprehensive and detailed understanding of what they aim to analyse and explain (Ritchie, Spencer and O'Connor, 2003).

All the audio-recordings of interviews were transcribed verbatim in the language that interview participants used (i.e. English, Japanese or Korean). The interview transcripts were read carefully and repeatedly, and then any wordings indicating and containing the information about political dynamics of actors and ideas were highlighted. The highlighted wordings were pulled out and re-organised into a matrix of thematic categories. This matrix consisted of three major themes (i.e. socio-economic challenges, political dynamics and policy ideas) and several sub-themes, derived from the analytical framework suggested in Section 6.3. For example, a central theme of policy ideas has six sub-themes, including Confucian values, productivism, ethnic nationalism, neoliberalism, human rights and multiculturalism. The findings from the interview data were utilised as complementary evidence for the comparative historical analysis of Japan and Korea by comparing and cross-checking with the findings from documentary analysis. Quotes from interviews transcribed in Japanese and Korean have been translated into English by the author.<sup>26</sup> Direct quotations of the interview data are inserted within the body of text, and wordings indirectly quoted are presented in footnotes.

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<sup>26</sup> As in the section on documentary analysis, this research refers to various types of documentary material in order to appropriately translate Japanese and Korean wordings into English.

### *Ethical issues in conducting and analysing expert interviews*

Bryman (2016, p. 125; italics in original) highlights four particular risks to undertaking ethically informed social research, drawn from Diener and Crandall's (1978) work: first, "whether there is *harm to participants*"; second, "whether there is a *lack of informed consent*"; third, "whether there is an *invasion of privacy*"; and lastly, "whether *deception* is involved". This study mitigated these risks in the following ways. First, this research ensures the anonymity of interviewees by using anonymised numbers and generic terms to research respondents (e.g. an academic or KR01). In addition, the transcriptions of interviews have been completely anonymised. Second, at the first point of contact, interviewees were given an information sheet and a consent form via email. Sending these documents in advance gave potential interviewees enough time to consider whether or not to participate in the research by reading and understanding the details of this research; the documents included what the research is about, what their participation in the research involved, what potential risks there may be, what rights they have and how their information was to be managed and used. Third, the consent form clearly stated that they have the right to refuse to answer any questions and to cease the interview at any stage, and this was re-emphasised to the participants just before the interview commenced. Fourth, with respect to the issue of deception, interviewees were given the right to request a copy of the transcript to check for accuracy of interpretation. In the case of indirect quotations, additionally, wordings of interviewees which this research refers to are all presented in footnotes. Lastly, the fieldwork element of this research—specifically, conducting the expert interviews—was ethically reviewed and approved by the Ethics Committee of the Department of Social Policy and Social Work, the University of York in April 2017.

### **6.5. Concluding remarks**

This chapter has set out the methodology, the analytical framework and the methods of data collection and analysis for studying and comparing the rights and responsibilities of immigrants in East Asia. Specifically, this comparative historical analysis combines narrative comparison—as a comparative method—and process tracing—as a within-case method. The analytical framework focuses on the political dynamics of actors surrounding the inclusion and exclusion of low-skilled labour migrants, complemented by relevant policy ideas. Socio-economic challenges are also considered as a contextual factor. This research utilises two data sources, documentary materials and expert interviews. The following chapters analyse the

formation and development of the rights and responsibilities of low-skilled labour migrants in Japan and Korea by looking into political interactions between different actors with different policy ideas within the political institution structure (Chapter Seven and Chapter Eight), and then reveal what particular combination of factors lead to their similarities and/or differences between the two East Asian nation-states (Chapter Nine).

## CHAPTER SEVEN

### **Explaining the persistent ethnic differentiation of low-skilled labour migrants in Japan**

Looking into Japan's social welfare and immigration policy changes in terms of the rights and responsibilities of low-skilled labour migrants, as examined in Section 5.1, the differentiation based on ethnicity has distinctly been demonstrated. Despite the recent social care policy developments, the Japanese welfare regime has on the whole pursued relatively modest public welfare provision along with an emphasis on individual self-help, family support and occupational welfare since the emergence of the idea of the "Japanese-style welfare society" in the late 1970s. Despite the recent (local-level) integration policy developments, the Japanese immigration regime has still remained ethnically differential and exclusivist.

This chapter explains the persistent ethnic differentiation of two groups of low-skilled labour migrants in Japan (i.e. ethnic Japanese and others) by analysing the related social welfare and immigration policy making.<sup>27</sup> As suggested in the previous chapter, in particular, its analysis has three focuses, that is, socio-economic challenges, politics of inclusion and exclusion within political institutions and policy ideas. The first section regarding the emerging socio-economic challenges facing Japanese society examines how they have generated and changed socio-economic demands in the society and thereby affected the public policy making. After briefly introducing Japan's political institutions in terms of the type of government, electoral system and major political actors, the following section investigates the politics of inclusion and exclusion surrounding two groups of low-skilled labour migrants. It then moves onto the last section of policy ideas which considers their impacts on political actors' interests and interpretations on related issues, thereby helping comprehensively understand the relevant political dynamics.

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<sup>27</sup> It is necessary to note here that the analysis of the rights and responsibilities of low-skilled labour migrants in Japan (Chapter Seven) and Korea (Chapter Eight) addresses the related policy changes and surrounding policy making, and thereby focuses on the formal and legal dimensions of change rather than the "lived experience" of low-skilled labour migrants (for example, looking into the day-to-day lives of low-skilled labour migrants or depicting the gaps between their formal and substantive rights and responsibilities).

## 7.1. Socio-economic challenges

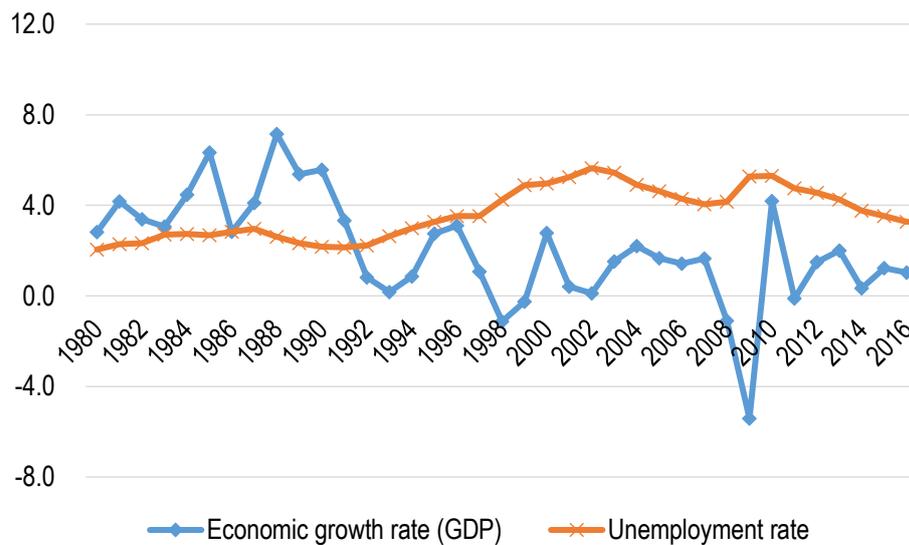
Before the 1990s Japan's state welfare provision had been modest alongside the relative importance of informal and occupational welfare (see Kono, 2005; Suzuki et al., 2010), with immigration control and immigrant integration policies remaining highly restrictive and exclusivist (see Chung, 2010a). The recent socio-economic challenges such as globalisation, post-industrialisation and population ageing, however, have largely affected the policy environment relating to low-skilled labour migrants, bringing about significant social welfare and immigration policy changes in Japan.

Japanese society has rapidly increased global openness and connectedness. Globalisation—particularly, global economic fluctuations and crises—have not only considerably influenced governmental policy making but also directly contributed to an influx of low-skilled labour migrants into the highly ethnically homogeneous Japanese society. This could already be witnessed in the 1970s. In responding to a slowdown in economic growth following the first oil crisis of 1973, for example, the then government adopted an idea of the Japanese-style welfare society, and conducted a campaign for internationalisation in the 1980s so as to enhance its competitiveness and influence in a globalising world economy (Chung, 2010a; Vij, 2007). In addition, the increased connectedness to global markets during the period of high economic growth between the mid-1970s and the early 1990s made the Japanese economy attractive to migrant workers from neighbouring Asian countries. Specifically, the bubble economy of the 1980s resulting in the devaluation of the Japanese currency (yen) increased labour costs and labour shortage in certain low-skilled industrial sectors (e.g. manufacturing, construction, agriculture, etc.). Thereby, many small and medium-sized enterprises (SMEs) started to take account of employing cheap foreign labour to cope with the intensified international competition (Cooke and Jiang, 2017; Douglass and Roberts, 2000; Weiner, 2000).

Japan's social welfare and immigration policies had to change to adjust to the global economic pressures and challenges. Although officially stating a closed-door immigration policy, the government decided to utilise low-skilled migrant workers, including ethnic Japanese migrants from Latin America (i.e. *Nikkei-jin*) through the 1990 revision of the Immigration Control and Refugee Recognition Act and technical interns through the 1993 introduction of the Technical Intern Training Programme (TITP) (Chung, 2014; Tsuda, 1999). Additionally, after the so-called "Lost Decade" of the 1990s following the bubble economy burst, Japan's particular social protection system based on the lifetime employment of core (male) workers began to be undermined along with neoliberal (or pro-market) policy reforms

emphasising privatisation, deregulation and labour market flexibility (Cooke and Jiang, 2017; Kono, 2005; Suzuki et al., 2010). As the labour market gradually became bifurcated into regular and irregular workers or Japanese national and immigrant workers, business's demand for migrant workers as a cheap labour force had remained relatively constant, even during the decade of economic recession (see Weiner, 2000).

**Figure 7.1 Key economic indicators in Japan: economic growth rate (GDP) and unemployment rate (%), 1980-2016**



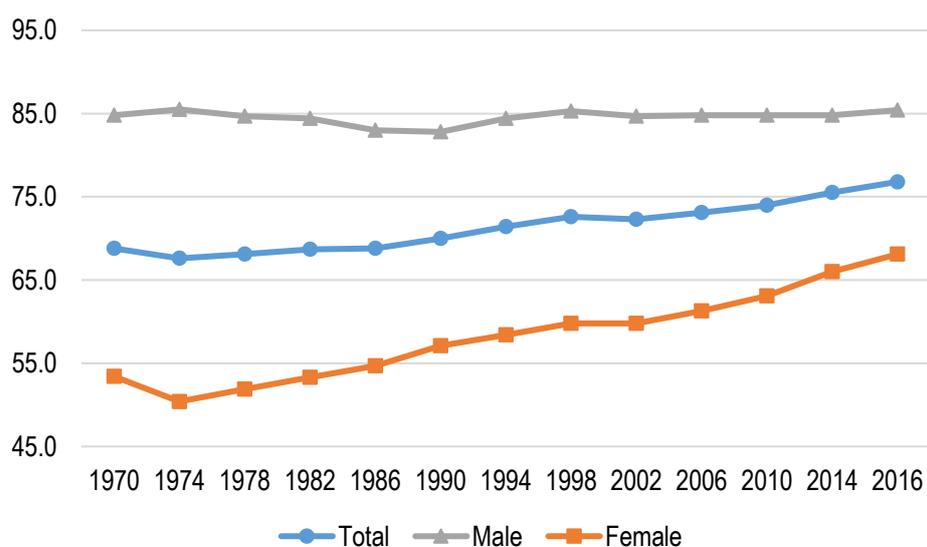
Source: OECD (2017a; 2017b).

The Japanese economy, which had recovered during the early to mid-2000s, substantially deteriorated once in the midst of the global economic crisis of 2008 (see Figure 7.1). With the crisis and the subsequent economic downturn as a momentum, the government started to change policies relating to low-skilled labour migrants which had remained nearly unaltered since it was introduced (Takenoshita, 2015; Tian, 2018). The bankruptcy or downsizing of businesses employing low-skilled labour migrants left many of them unemployed, and the mass layoffs—particularly, of *Nikkei-jin*—put considerable pressure on Japan's labour market as well as its social security system. The government then implemented a voluntary repatriation programme for *Nikkei-jin*, and simultaneously several immigrant integration policies targeting those still remaining in Japan. Since the late 2000s, additionally, the TITP has been expanded as a cost-effective means to address the labour shortage and maintain Japan's industrial competitiveness.

As another important socio-economic context surrounding the policy making relating to low-skilled labour migrants, Japan's transition to a post-industrial economy has clearly been

demonstrated in changes in the labour market force participation rate (see Figure 7.2). While male labour force participation has remained high over the past four decades, female labour force participation rate has dramatically increased from 50.4 percent in 1974 to 68.1 percent in 2016. This is partly attributed to governmental efforts to alleviate the growing labour shortage in the labour market. For further increasing female labour market participation, for example, the current government of Shinzo Abe (2012-present) has endeavoured to improve social care services—especially, childcare—as a growth strategy of “Abenomics” (see Estévez-Abe and Kim, 2014; Yoshino and Taghizadeh-Hesary, 2014). Within the traditionally strong employment protection of (male) regular workers and the recent trend of increased labour flexibility, however, it is noteworthy that the rise in female labour market participation has closely been associated with the growing number of temporary or part-time workers with a relatively high level of job insecurity (see Jung and Park, 2011).

**Figure 7.2 Total, male and female labour force participation rate in Japan (aged 15-64, %), 1970-2016**

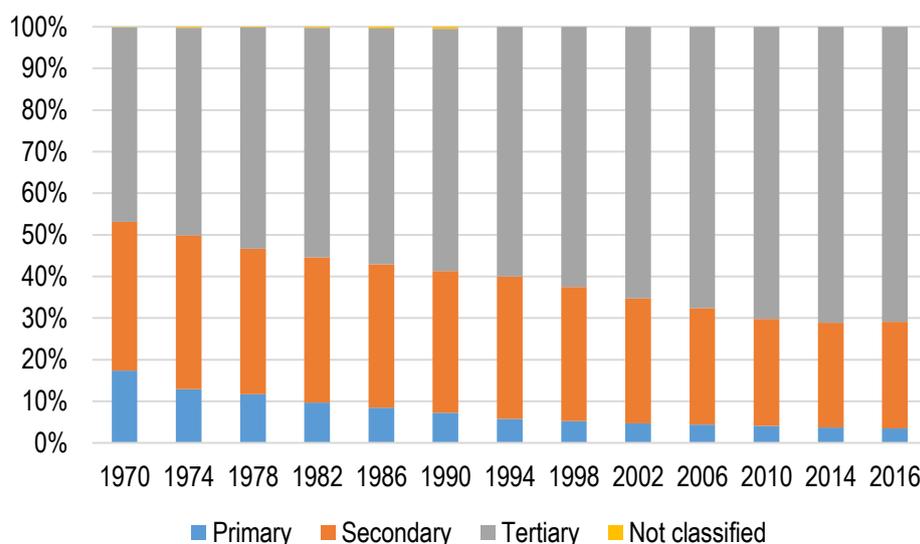


Source: ILO (2017).

Furthermore, as shown in Figure 7.3, the post-industrialisation of the Japanese economy has led to a steady increase in the service sector employment, reaching over 70 percent in 2010. On the other hand, the importance of the secondary sector has gradually declined to less than 30 percent since the mid-2000s. Encountering the intensified competition associated with globalisation, the government made a significant industrial policy change in the early 1970s to foster knowledge-intensive industries and services (Lee, 2011a). Alongside the process of de-industrialisation, the internationalisation strategy of the 1980s encouraged many large-sized enterprises to transfer their production facilities overseas for price competitiveness in the

global economy (Abella, 2012; Vij, 2007). Practically available to most SMEs and subcontractors without overseas facilities, however, was only the short-term and temporary employment of migrant workers so as to contain production costs and increase labour flexibility (Cooke and Jiang, 2017; Tsuda, 1999).

**Figure 7.3 Employment rate by industry sector in Japan (as % of the total employment), 1970-2016**



Source: ILO (2017).

Lastly, an ageing population has raised many issues such as the productivity and competitiveness of the Japanese economy (or labour market) and financial sustainability of the social security system, and thereby created considerable socio-economic constraints on social welfare and immigration policy making in Japan (see Ogawa, 2011; Tokoro, 2009). The total population of Japanese society, widely known as one of the fastest ageing societies in the world, has gradually been declining after peaking at slightly over 128 million in 2008 (NIPSSR, 2017). During the period between 1970 and 2010 the fertility rate decreased from 2.13 to 1.39, and life expectancy went up from 72.0 years to 82.9 years (see Table 7.1). Accordingly, the proportion of the elderly population surged from 7.1 percent to 23.0 percent, and is projected to reach over 30 percent in 2030 within the continuous depopulation.

The Japanese government has been seriously concerned and dealt with population ageing and the associated declining working population by repeatedly reforming its social security and immigration systems. For example, recent social policy changes for the elderly have highlighted self-reliance through continued participation in labour market (e.g. the 2004 change of the statutory retirement age from 60 to 65 years) (Tokoro, 2009). In addition, the social care expansion of the 1990s and 2000s (e.g. the long-term care insurance (LTCI) scheme

implemented in 2000) partly aimed at further encouragement of female labour market participation by reducing their caring responsibilities (Fleckenstein and Lee, 2017; Song, 2015). More importantly, the utilisation of migrant workers, although still relatively less prioritised, has gradually been taken into consideration as a practical—and potentially unavoidable—measure to address the issue of labour shortage accelerated by population ageing (Menju, 2015; Ogawa, 2011; Peng, 2016).

**Table 7.1 Population indicators and projections in Japan, 1960-2060**

Years	Total population (thousands)	Fertility rate (%)	Life expectancy (years)	Median age (years)	Share of elderly (%)	Old-age dependency ratio (%)
1960	93,419	2.00	67.8	25.6	5.7	8.9
1970	103,720	2.13	72.0	29.1	7.1	10.2
1980	117,060	1.75	76.1	32.5	9.1	13.5
1990	123,611	1.54	78.9	37.7	12.1	17.3
2000	126,926	1.36	81.1	41.5	17.4	25.5
2010	128,057	1.39	82.9	45.0	23.0	36.1
2020	125,325	1.43	84.5	48.7	28.9	48.9
2030	119,125	1.43	85.6	52.4	31.2	54.0
2040	110,919	1.43	86.5	54.2	35.3	65.6
2050	101,923	1.44	87.2	54.7	37.7	72.8
2060	92,840	1.44	87.9	55.6	38.1	73.9

Source: NIPSSR (2017).

Notes: 1) Projections (based on medium-fertility and medium-mortality) by the National Institute of Population and Social Security Research for the period between 2016 and 2065; 2) Fertility rate: the total number of children that a woman can expect to bear during her reproductive years (aged 15 to 49); 3) Share of elderly: the proportion of person aged 65 or over in the total population; and 4) Old-age dependency ratio: the ratio of persons aged 65 or over to the population aged 15 to 64.

In short, the recently emerging socio-economic challenges such as globalisation, post-industrialisation and population ageing created important contextual constraints and/or opportunities behind the policy changes regarding the rights and responsibilities of low-skilled labour migrants in Japan. Arguably, their impacts are inextricably linked to each other. Specifically, a combination of the fertility crisis, the declining (working) population, the degraded conditions of the secondary sector employment caused by de-industrialisation and the intensified international competition facing the Japanese economy engendered and accelerated labour shortage in certain low-skilled industrial sectors, thereby calling for a significant shift in the Japanese welfare and immigration regimes.

## **7.2. Politics of inclusion and exclusion within political institutions**

This section analyses the politics of inclusion and exclusion in Japan behind the persistent ethnic differentiation of low-skilled labour migrants. It first discusses the key characteristics of Japanese political institutions, and then moves to analyse how the rights and responsibilities of two groups of low-skilled labour migrants have been established and changed by political dynamics of various political actors within the political institutional structure.

### **7.2.1. Characteristics of Japanese political institutions**

In the literature of comparative social policy and international migration, political institutions (or structural configurations) are often regarded as the rules of the game of political conflicts, potentially affecting and shaping how and to what extent certain collective claims or demands are reflected in public policies (see Koopmans et al., 2005; Starke, 2006). Thus, this part looks into Japan's political institutions in terms of the type of government, electoral system and political parties and major political actors involved in policy making regarding low-skilled labour migrants.

#### *The type of government*

Japan has a parliamentary system of government. The Japanese National Diet consists of the lower House of Representatives and the upper House of Councillors, but the lower house is substantially more powerful in terms of its priority over the selection of the prime minister, budget bills and treaties (Krauss and Pekkanen, 2015). The prime minister has a right to dissolve the House of Representatives and call an election at any time, and the National Diet can call for a vote of no-confidence in the prime minister and cabinet.

The Japanese system of parliamentary government, although mostly based on the British Westminster model, is often considered as “un-Westminster” due to the comparatively weak prime minister and cabinet as well as (informal) diffusion of power within the National Diet and the ruling party (George Mulgan, 2003).<sup>28</sup> However, the policy-making influence of the

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<sup>28</sup> According to George Mulgan (2000), there are two informal structures behind Japan's weak executive: the bureaucracy and the ruling party. In addition to the bureaucracy functioning as an independent policy authority, the ruling party is not subordinate to the executive with its own locus of policy-making authority—for example, the Policy Affairs Research Council of the LDP.

prime minister and cabinet has increased following the electoral and administrative reforms of the mid-late 1990s (Krauss and Pekkanen, 2015).

**Table 7.2 Japan's general election results, 1990-2017**

Years	First parties	Share of seats (%)	Governments (characters)	Prime Ministers (term of office)
1990	LDP	46.1%	LDP (right-wing)	Kaifu, Toshiki (1989-1991)
				Miyazawa, Kiichi (1991-1993)
1993	LDP	36.6%	Japan New Party-led coalition (centre-right)	Hosokawa, Morihiro (1993-1994)
			Japan Renewal Party-led (centre-right)	Hata, Tsutomu (1994-1994)
			Japan Socialist Party-led (centre-left)	Murayama, Tomiichi (1994-1996)
1996	LDP	32.7%	LDP-led (centre-right)	Hashimoto, Ryutaro (1996-1998)
				Obuchi, Keizo (1998-2000)
				Mori, Yoshiro (2000-2001)
2000	LDP	28.3%	LDP-Komeito (centre-right)	Koizumi, Junichiro (2001-2006)
2003	LDP	35.0%		
2005	LDP	38.2%		
2009	DPJ	42.4%	DPJ-led (centre-left)	Hatoyama, Yukio (2009-2010)
			DPJ-People's New Party (centre-left)	Kan, Naoto (2010-2011)
				Noda, Yoshihiko (2011-2012)
2012	LDP	27.6%	LDP-Komeito (centre-right)	Abe, Shinzo (2012-present)
2014	LDP	33.1%		
2017	LDP	33.3%		

Source: CPRO (2018); and IPU (2018).

### *Electoral system and political parties*

Prior to the first post-war transition of power in 1993, Japanese politics had been dominated by one party, the Liberal Democratic Party (LDP) (see Table 7.2). This was largely attributed to Japan's past unique electoral system of multi-member districts with single non-transferable votes,<sup>29</sup> leading to a lack of policy differences between political parties and thereby political

<sup>29</sup> In the past system each voter casts one vote for one candidate, but each district was represented by multiple representatives.

indifference of the public. However, the 1994 electoral reform towards a mixed-member system of single-member districts and proportional representative tiers has somewhat increased electoral competition based on policy differences, by giving considerable incentives for minor parties to unite to gain a plurality in local districts (Krauss and Pekkanen, 2011).

Along with the new electoral system, the opposition coalition led by the Democratic Party of Japan (DPJ) came into power in the 2009 election, pledging to produce policies different from the existing LDP-led governments (Lipsky and Scheiner, 2012). With few notable policy changes, however, the DPJ-led coalition gave way to the LDP-led government of Shinzo Abe in the 2012 election.

### *Major political actors in policy making*

Japan's public decisions are often made by negotiations and/or compromises between the ruling party (mostly the LDP), the bureaucracy and big business, thus characterised by "patterned pluralism" (Muramatsu and Krauss, 1987). Bureaucrats usually do not consider themselves accountable to their ministers (and the cabinet), but rather as independent policy authorities (George Mulgan, 2000). In this respect, governmental bodies have a relatively high level of policy discretion. Specifically, the Ministry of Justice (JMOJ), the Ministry of Foreign Affairs (JMOFA), the Ministry of Economy, Trade and Industry (JETI; merging the Ministry of International Trade and Industry (JMITI) with economy-related agencies from other ministries such as the Economic Planning Agency (EPA) in 2001), the Ministry of Health, Labour and Welfare (JMHLW; merging the Ministry of Health and Welfare (JMOW) and the Ministry of Labour (JML) in 2001) and the Ministry of Internal Affairs and Communication (JMICA) stand out in policy making regarding low-skilled labour migrants (see Milly, 2014; Peng, 2016); and furthermore, local governments in terms of the integration of foreign residents (see Tsuda, 2006a).

Within the strong tradition of the developmental (or productivist) state, a close relationship between business—especially the Japanese conglomerates (*keiretsu*)—and government—principally economic ministries—has remained nearly constant (see Johnson, 1982; Johnson, 1987). This has been markedly manifested in decision making on immigration policy. Representing the interests of businesses, for example, the Japanese Business Federation (*Keidanren*), the largest association of employers, has been a powerful voice strongly supporting the increasing intake and utilisation of migrant workers (Vogt, 2007). On the other hand, Japan's labour unions centred on regular workers are generally lukewarm to some extent over migrant workers' rights. The National Confederation of Trade Unions (*Rengo*), the largest

nationwide labour union organisation, has not actively been engaged in related policy making (Lee, 2012; Moon, 2002).

Lastly, Japanese civil society has become increasingly active in immigration and immigrant policy making at both the national and local level. Migrant worker advocacy movements, initially focusing mainly on local-level problems, began to be enlarged in cooperation with *zainichi* (Japan-born) Korean activities long engaging in issues of ethnic minorities' rights. Against the recursive exploitation of technical interns under the TITP, especially, a nationwide networking organisation—namely, the Solidarity Network with Migrants Japan (*Ijuren*)—was established in 1997, closely connected with locally based member organisations. Despite its lack of financial resources and political connectedness to key policymakers, *Ijuren* has engaged in a nationwide proactive advocacy and support for labour migrants as well as foreign residents going beyond a locally reactive approach (Milly, 2014; Shipper, 2008; Vogt and Lersch, 2007).

### **7.2.2. Political dynamics surrounding the rights and responsibilities of low-skilled labour migrants**

Along with the strong ethno-cultural notion of nationhood, issues of immigration and immigrant incorporation have rarely been addressed publicly in Japan (Menju, 2015). However, the large inflow of foreign-born populations since the late 1980s has become a substantial challenge to the highly ethnic Japanese society. In the meantime, political interactions—often conflicts—between governmental ministries, political parties, business and civil society within the political institutions resulted in considerable social and immigration policy changes regarding low-skilled labour migrants; albeit still ethnically differentiated (see Chung, 2010a).

#### *Ethnically differential treatment of labour migrants*

An official principle of Japan's immigration policy prohibiting admission of low-skilled migrant workers had constantly been confirmed by the government—for example, in the 1988 Five-Year Economic Plan and the 1989 Cabinet Forum on the Problem of Foreign Workers (Komai, 1995; Tai, 2009). Following the bubble economy of the mid-late 1980s, however, a surge of undocumented workers and a labour shortage in some industries caused a public dispute on whether or not Japanese society should be open to the immigration of low-skilled migrant

workers (interview JP02; Kondo, 2015).<sup>30</sup> As many SMEs already started to take on undocumented migrant workers, business consistently called for an immigration policy change to legally utilise the cheap foreign workforce. On the other hand, labour unions, especially *Rengo*, strongly opposed any opening up of the labour market to them, insisting that foreign labour can take away Japanese nationals' jobs (Sellek, 2001).

Given the patterned pluralism of Japanese politics (see Muramatsu and Krauss, 1987), however, the decision making was largely driven by a few stakeholders, including relevant governmental ministries, business and the LDP, the then ruling party. The most important of which were the intra-governmental debate, competition and compromise (Surak, 2008; Tai, 2009). There were two conflicting camps within the executive; the JMOJ and the JMOL adhered to the closed-door immigration policy, whereas the JMOFA and economic ministries favoured the open-door policy. For example, the JMOL's Sixth Basic Plan for Employment Policy of 1988 reconfirmed the existing governmental principle on low-skilled labour, and the JMOJ's 1989 report argued that it was premature to discuss this issue due to the lack of a national consensus (Komai, 1995).

By contrast, the JMOFA took a positive stance towards accepting low-skilled labour migrants on the grounds of Japan's role (or responsibility) as a globally major economic power. Other governmental agencies relating to the economy (e.g. the EPA, the JMITI and the Ministry of Agriculture, Forestry and Fisheries) referred to the improvement of economic and industrial competitiveness on behalf of business interests. Specifically, the EPA's 1989 report firstly mentioned the feasibility of a partial opening to foreign labour, albeit adding the proviso of strong governmental control over numbers, periods of residence and occupational categories (Komai, 1995; Milly, 2014). In the 1989 White Paper on Small- and Medium-Sized Enterprises, additionally, the JMITI took note of the (SMEs') necessity of low-skilled labour migrants to cope with the deepening labour shortage (JMITI, 1989).

The intra-governmental competition, although not coming to a complete consensus, led to the 1990 revision of the Immigration Control and Refugee Recognition Act. Officially maintaining the existing principle of restricting work permits only to high-skilled foreigners, the revision introduced criminal penalties for those recruiting and hiring undocumented workers, and more importantly, created a new visa category of "long-term residents" exclusively for *Nikkei-jin* (Milly, 2014; Yamanaka, 2000). This can be considered as a political compromise to take account of conflicting views inside the government as well as the

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<sup>30</sup> An academic clarified that the immigration-related public debate and the subsequent 1990 revision of the Immigration Control and Refugee Recognition Act are "mostly based on the economic boom of the late 1980s" (interview JP02).

electorate's interests. Particularly, the legal admission of *Nikkei-jin* with an unrestricted employment right alluded to the then LDP-led government's political considerations to alleviate labour shortage facing SMEs, an important electorate group, and simultaneously hold up the conservative agenda of ethnic homogeneity in Japanese society. The two-fold intentions were well expressed in the JMOJ's First Basic Plan for Immigration Control of 1992, aiming at "the promotion of smooth exchanges of personnel" and "measures against illegal foreign workers" (JMOJ, 2000).

In spite of the influx of *Nikkei-jin* under the 1990 immigration system, the accompanied regulations of recruiting and hiring undocumented workers still left many SMEs suffering from a serious labour shortage, eventually bringing about the 1993 introduction of the TITP. As in the 1990 legislative revision, there had been disagreements among stakeholders (Komai, 1995; Sellek, 2001). While economic ministries and business organisations such as *Keidanren* demanded the importation of foreign labour in the form of trainees or similar positions, the JMOJ and the JMOL alongside *Rengo* expressed concerns about its negative impacts such as wage stagnation in the labour market or financial pressure on the social security system. In order to avoid the related political controversy, the TITP was established upon an ordinance by the JMOJ rather than through legislation. Moreover, five relevant governmental agencies including the JMOJ, the JMOL, the JMOFA, the JMITI and the Ministry of Construction (currently the Ministry of Land, Infrastructure, Transport and Tourism (JMLIT)) jointly set up and authorised the Japan International Training Cooperation Organisation (JITCO) as a quasi-governmental organisation supervising the TITP.

Since the bubble economy burst of the early 1990s, however, the issues of low-skilled migrant workers had suddenly been out of public debate and controversy. During the following decade of economic recession, accordingly, the highly restrictive principle on them had officially been reiterated—for example, through the EPA's 1999 report, the Second Basic Plan for Immigration Control of 2000 and the JMHLW's 2002 report (Tai, 2009; Tsuda, 2006b). Nonetheless, business demands for low-skilled labour migrants still remained nearly intact (Sellek, 2001). Under the continued demographic and economic challenges, SMEs further relied on comparatively cheap foreign labour. It was considerably reflected in the 1997 revision of the TITP, extending the residence period of technical interns from a maximum of two years to three years, as well as the Second Basic Plan, easing the requirements of long-term residents such as *Nikkei-jin* for permanent residency (JMOJ, 2000).

Primarily originating from the *zainichi* Korean activism of the 1970s, social movements for immigrant rights gradually expanded to "new-comers" migrating to Japan from the late 1980s, including *Nikkei-jin* and technical interns (see Chung, 2010a; Yamanaka, 2010).

Throughout the 1990s, however, civil society organisations' activities had not been led to substantial policy changes regarding the rights and responsibilities of low-skilled labour migrants, especially technical interns, mainly for three reasons. First, as Pekkanen (2006) characterises Japanese civil society as “members without advocates”, there were few national-level advocacy organisations in comparison with a large number of locally based groups to support immigrant populations. These local groups' activities were concentrated on providing services such as language or cultural programmes and legal counselling. Given the exclusive politics of Japan, second, most civic organisations lacked political connectedness to key policy makers such as the LDP-affiliated politicians or relevant bureaucrats. Lastly, the initial focus of migrant worker advocacy groups was on the (residence and labour) rights of undocumented workers and later the social inclusion of foreign residents and their families, principally the undocumented and *Nikkei-jin* (see Lee, 2009; Milly, 2014; Yamanaka, 2006).

Recognising the necessity of collective actions and claims going beyond their locality, a nationwide networking organisation of *Ijuren* was established in 1997 to coordinate the locally based NGOs' expertise, knowledge and resources for more systematic advocacy and lobby in the national-level politics. Since firstly having a meeting about migrant workers with public officials of the JMOL in 1997, *Ijuren* has endeavoured to create a connection with the bureaucracy and politicians, especially of the DPJ, for better interest representation. Additionally, against the Japanese government's highly restrictive stance on immigration, it has consistently appealed to international norms of human rights to legitimise their pro-immigrant position (interview JP05; Milly, 2014; Moon, 2002).<sup>31</sup> Before the mid-2000s, however, *Ijuren's* advocacy efforts within the limited political opportunities had not been successful in bringing about substantial changes in the national immigration and immigrant policy; though its locally based member organisations had been making some local-level achievements in a close partnership with local governments (Shipper, 2008).

Although partial access to the social security system (e.g. the national pension and health insurance) became available to foreign residents following the social movements of the 1970s and 1980s (see Chung, 2014; Takao, 2003), the social entitlements of low-skilled labour migrants had not largely mattered in the related policy making. Furthermore, as the decade of economic recession strengthened the tendency of welfare retrenchment and neoliberal reforms in the Japanese welfare state (see Takegawa, 2013; Vij, 2007), their socio-economic situations were rather worsened to some extent. Along with several labour market reforms of the 1990s and 2000s increasingly making the fixed-term (or temporary) contract system

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<sup>31</sup> In addition to specific cases of human rights violations, a civic group representative pointed to “global standards, particularly of the UN” as a key basis of their migrant worker advocacy (interview JP05).

common, particularly, many of them, mostly *Nikkei-jin*, started to be employed as temporary workers with relatively weak social and employment protection (Sellek, 2001). Despite the governmental concerns on the ageing and declining population and the social security system's financial sustainability, the incorporation of low-skilled labour migrants into the system had not significantly been considered—albeit prioritising *Nikkei-jin* over technical interns in terms of access to labour market and social entitlements.

#### *Persistent ethnic differentiation of labour migrants*

Unlike the comparative indifference of central government to the inclusion of foreign nationals in Japanese society, local authorities started to care about their foreign residents in the 1990s. A sudden inflow of foreign-born populations into local communities gave rise to several socio-cultural problems like conflict with existing local residents, imposing substantial administrative and financial pressures on the local authorities (interviews JP03 & JP04).<sup>32</sup> Accordingly, they initiated some integration services for the new-comers such as multilingual information provision and educational programmes in cooperation with local NGOs. Furthermore, after the 2001 statement of Hamamatsu Declaration, the Conference of Cities with Concentration of Foreign Residents continued to demand the central government to initiate policies to help incorporating foreign residents into local communities—in terms of employment, education, social security and a registration system for foreign residents (Conference of Cities, 2001).

Consistent advocacy efforts of local governments and civil society organisations for policy changes led the JMIC to issue the Plan for Multicultural Coexistence Promotion in Local Communities (hereafter MIC Plan) in 2006. Particularly, while meeting regularly for sharing related information and policy measures, the Conference of Cities had held a hearing from central bureaucrats. In addition, *Ijuren* came up with a comprehensive policy proposal to the JMIC, recommending the creation of guidelines for building a multicultural society (Milly, 2014). In response, the JMIC established a relevant study group in June 2005, and issued the MIC Plan in March 2006 on the basis of the study group's report (Yamawaki, 2009). After being presented to the then Prime Minister Koizumi Junichiro (2001-2006) in the Council on Economic and Fiscal Policy in May 2006 (see CEFP, 2006), “multicultural coexistence” (*tabunka kyōsei*), the key term of the MIC Plan, has been widely used within the Japanese government—

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<sup>32</sup> With regard to local-level immigrant policies already implemented in the 1990s, an academic pointed out that “in some cases local residents complained about the trouble when the number of foreign citizens increased, such as garbage or parking lots or some noises in the weekend” (interview JP03), and a think tank researcher also noted that “after *Nikkei-jin* came in, many troubles arose in local communities and were constantly reported as problems in local newspapers” (interview JP04).

for example, the 2006 report of the Liaison Council of the Ministries and Agencies on the Issue of Foreign Workers under the succeeding Abe administration (2006-2007) (see Cabinet Secretariat, 2006).

The MIC Plan as the first national-level guideline for local-level immigrant integration, however, has neither led to further national-level integration policy development, nor substantively contributed to the social inclusion of low-skilled labour migrants, especially technical interns, mainly for three reasons. First, the political leverage of local governments and civic organisations, major advocates for multiculturalism, did not reach other central ministries beyond the JMIC, thus it did not bring about additional relevant policy changes. Second, the MIC Plan was an initiative by a single ministry, not a consensual decision made by the Cabinet or the National Diet. On this account, although the issue of immigrant integration had been discussed in an inter-ministerial council of the cabinet, different ministries and decision makers still had different understandings and interests behind it (Menju, 2015). Lastly, more importantly, the central government as a whole had prioritised immigration control rather than immigrant integration, constantly holding firm to the highly restrictive control policy regarding low-skilled migrant workers. Since the early 2000s the low-skilled, particularly undocumented workers, had often been portrayed as a threat to national security and public order in the ethnically homogenous Japanese society within the governmental or political discourses (Johnston, 2003; Vogt, 2011).

Until the mid-2000s there had still been dispute over how the issues of the low-skilled labour shortage should be dealt with. Within the government, the JMOFA and the JMETI espoused more labour migration to Japan with reference to the shrinking working population, whereas the JMHLW continued to raise an objection for reasons of its potentially detrimental impact over the employment conditions of Japanese nationals (Vogt, 2007). Outside the government, *Keidanren* presented a policy proposal for a more liberal foreign labour policy. With respect to the TITP, especially, it suggested extending the residence period of technical interns from a maximum of three years to five years, allowing their re-entry for the purpose of re-training and broadening the occupational categories under the TITP to nursing going beyond the manufacturing industry (Keidanren, 2003; 2004). However, *Rengo* called *Keidanren's* proposal into question, arguing that it may rather exacerbate the employment environment of youth, women and elderly people, gradually employed as temporary workers (Rengo, 2004).

As concerns over the declining (both total and working) population had been inching towards reality in the mid-late 2000s, however, the government's restrictive attitude towards

low-skilled labour migrants moderated to some extent, as demonstrated in the Third Basic Plan for Immigration Control of 2005:

“Accepting foreign workers in fields that are not valued as professional or technical at present will also be given consideration in light of the decrease in the productive population, while also taking into account the need to maintain Japan's economic vitality and national living standards, the public consciousness and the existing conditions of the nation's economy and society” (JMOJ, 2005).

Along with the gradually changing governmental view on low-skilled labour migrants, several stakeholders actively called for a reconsideration of relevant policies. For example, the JMOJ's 2006 report recommend replacing the TITP with an employment permit system alongside the establishment of a more comprehensive immigration system (JMOJ, 2006). In 2007 the JMHLW and the JMETI respectively issued proposals regarding the revision of the TITP (see Watanabe, 2010). In response to these two, *Keidanren* once again emphasised the necessity for the liberalisation of foreign labour policy through its second policy suggestion of 2007 (Keidanren, 2007). Furthermore, in 2008 the LDP's project team on issues of foreign workers made a bold proposal titled the “Japanese-style immigration policy” to create a new guest-worker system instead of the trainee-based system while increasing the proportion of foreign residents to 10 percent of the total population in the next fifty years (Ito, 2008). The LDP's 2008 proposal, although not leading to a specific legislative proposition due to the strong opposition of right-wing organisations that are a key support group for the party (interview JP04),<sup>33</sup> had been endorsed by about eighty LDP-affiliated Diet members and *Keidanren* (Milly, 2014; Oishi, 2012).

The systematic misconduct and corruption surrounding low-skilled foreign labour policy further provoked demands to review it. The mass media repeatedly reported cases of human rights violations and unfair treatment on technical interns (Hanai, 2008; Hongo, 2007; Wijers-Hasegawa, 2003). Although the government often attributed the cases to certain employers' improper behaviours, NGOs including *Ijuren* endeavoured to publicise the trainee-based system's inherent absurdity, and strongly claimed its abolishment to the government (Godoy, 2010). Additionally, a political (bribery) scandal of 2001 was disclosed that two LDP-affiliated politicians had received millions of yen from a SMEs-related business organisation in return for the 1997 TITP-related revision, which extended the then two-year technical training

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<sup>33</sup> A think tank researcher noted that “a LDP-affiliated member of the National Diet who spoke about that [the Japanese-style immigration policy] terribly received a bashing from right-wing organisations” (interview JP04).

period to three years (Carlson and Reed, 2018). Ending in their convictions (Wijers-Hasegawa, 2004), it made it much harder for the government to dismiss the reconsideration claims.

The continued demands for a more liberal and inclusive immigration policy from several stakeholders led the LDP-led government to amend the Immigration Control and Refugee Recognition Act on July 2009, bringing about a significant revision of the TITP (implemented in 2010). However, it is noteworthy that despite the political regime change of 2009 towards the (centre-left) DPJ-led government the earthquake and subsequent tsunami in 2011 further brought the voices of immigration policy reform to a halt (Kondo, 2015). Nonetheless, the 2009 legislation manifested a momentous shift in the governmental policy direction on two groups of low-skilled labour migrants (Tian, 2018). In other words, the government decided to utilise technical interns rather than *Nikkei-jin* as the major means to deal with the labour shortage in certain industrial sectors. A civic group representative made this point:

“[Prior to the 2009 amendment, the government had] adopted the *Nikkei-jin*-centred policy. From 2010 onwards, the TITP basically appears to become the centre. So, the government created the residence status of ‘technical intern training’ in 2010. [...] [The government’s] attitude over which to mainly utilise is apparent from here. Then, I think that going for the TITP is the current situation” (interview JP05 (civic group representative)).

Although already found in several governmental documents from the early 2000s (e.g. JMHLW, 2002),<sup>34</sup> the less favourable stance on *Nikkei-jin* started to explicitly be revealed only after the 2009 legislative amendment. Following the 2008 global economic crisis, many *Nikkei-jin* workers—usually employed as temporary (dispatched) workers—were unemployed and received welfare benefits. The government was thus concerned with the subsequently aggravated pressure on the Japanese labour market and social security system. In 2009, accordingly, the JMOJ initiated a repatriation programme to provide a certain amount of founding to *Nikkei-jin* voluntarily returning to their home countries but simultaneously disallowing them to enter Japan for the following three years (Takenoshita, 2015). In this vein, the Fourth Basic Plan for Immigration Control of 2010 stressed that *Nikkei-jin* should perform “their duties as a member of Japanese society” (JMOJ, 2010, p. 24), and furthermore, any

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<sup>34</sup> Implicitly evaluating the *Nikkei-jin* exceptional policy as a policy failure, for example, the JMOJ’s 2006 report proposed the establishment of language and economic requirements for livelihood maintenance rather than the existing unconditional admission only on the grounds of ethnic ties with Japan (JMOJ, 2006).

mention of them could not be found in the Fifth Basic Plan for Immigration Control of 2015 (see JMOJ, 2015).

However, the 2009 legislation (and the subsequent MOJ initiative) did not substantially change *Nikkei-jin*'s privilege in terms of unrestrictive access to the labour market and social entitlements. It has been potentially perilous for the government and/or politicians to directly address the "high social costs" of the *Nikkei-jin*-related policy, which may admit their fault behind the policy failure (Tian, 2018). Furthermore, *Nikkei-jin*, once politically inactive, had collectively made political claims regarding their employment, social protection and children's education (interview JP04).<sup>35</sup> For these reasons, those continuously remaining in the society were able to participate in the active labour market policies newly introduced for the unemployed during the economic downturn of the late 2000s. Especially, some of the policies were established solely for enhancing *Nikkei-jin*'s employability such as language courses and vocational training programmes (Takenoshita, 2015).

Since the 2009 legislation, on the contrary, the government has actively utilised the TITP as the *de facto* major low-skilled foreign labour policy. Nonetheless, the government consistently showed reservations on opening the border to the low-skilled, as demonstrated in the Fourth Basic Plan for Immigration Control:

"[S]ince the complete overhaul of the scheme is closely related to the issue of the acceptance of foreign nationals who do not belong to professional and technical fields, in this regard, taking into account case examples from other countries and national consensus, consideration will also be given to solutions to the problem of foreign nationals who do not belong to professional and technical fields" (JMOJ, 2010, p. 27).

This somewhat conservative policy change seems to primarily reflect the interests of a few major stakeholders—namely, governmental ministries and business. For example, the revised TITP was very similar to the JMETI's 2007 proposal, stressing that the expansion of occupational categories for technical training rather than the systematic overhaul as *Keidanren*'s two policy recommendations of 2004 and 2007 did (see Watanabe, 2010).

It is hardly deniable that migrant worker advocacy movements contributed to the partial entitlement of technical interns to labour legislation (e.g. the Labour Standards Act, the Minimum Wages Act, etc.) (see Godoy, 2010), but their political influence has still been

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<sup>35</sup> A think tank researcher pointed out that "*Nikkei-jin* organised a nationwide group [...] and actively made claims in political gatherings or rallies where politicians attended, such as 'please actively support children education', 'please keep our job security' or 'it is so hard to make our livelihood'" (interview JP04).

relatively weak within the still exclusive political opportunity structure. As there has not been a substantial difference in understanding and addressing immigration-related issues between major political parties, that is, the LDP and the DPJ (interviews JP01 & JP04),<sup>36</sup> civil society organisations could rarely find opportunities to carry their demands—particularly, to abolish the trainee-based system—into policy making. However, it is noteworthy that while publicly raising the issues of low-skilled labour migrants, they continuously endeavoured to build up a close relationship with politicians, especially of the DPJ. Along with the political regime change of the late 2000s, accordingly, *Ijuren*-affiliated activists have been invited to parliamentary committee hearings to testify for the organisation’s stance, for example, as witnesses for committee deliberations in relation with the 2009 immigration legislation (Milly, 2014).

Passing through the economic downturn caused by the 2008 global economic crisis and the 2011 earthquake and tsunami, the DPJ-led governments (2009-2012) did not make significant social welfare and immigration policy changes relating to low-skilled labour migrants. The (centre-right) LDP-Komeito coalition then returned to power in 2012. Along with *Keidanren*’s constant demand for the TITP’s expansion (e.g. Keidanren, 2011), the Abe administration’s primary emphasis on economic growth and competitiveness (i.e. Abenomics) made increasing numbers of low-skilled foreign workers as a part of its “Japan Revitalisation Strategy” revised in 2014 (JMOJ, 2014). Furthermore, in responding to the pressing demand for construction labour caused by the city of Tokyo’s 2013 successful bid for the 2020 Summer Olympics, the JMLIT brought in an emergency measure in 2014 to allow technical interns working in the construction industry to stay (or re-enter) for up to two (or three) more years (JMLIT, 2014). Before long, the government extended the three-year technical intern training period to a maximum of five years through the 2016 enactment of the Act on the Proper Implementation of Technical Intern Training of Foreign Nationals and the Protection of Technical Interns (hereafter Technical Intern Training Act) (JMOJ and JMHLW, 2016).<sup>37</sup>

Despite such a dramatic expansion of the TITP during the 2010s, however, the Japanese government has continued to officially maintain the closed-door policy on low-skilled labour migrants (see JMOJ, 2015). While public opinion that is unfavourable to immigration has persisted (Takahata, 2015), the topic of immigration has been regarded as taboo in Japanese

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<sup>36</sup> A former British Ambassador to Japan stated that “this [immigration] is not a major issue in terms of radical division of view between parties. [...] I don’t think there is a big debate going on about immigration as an issue between government and opposition” (interview JP01), and a think tank researcher also mentioned that as for immigration-related issues “[the LDP-affiliated] politicians cannot be active, and the opposition is passive about them” (interview JP04).

<sup>37</sup> Under the 2016 legislation, the JMOJ and the JMHLW initiated a watchdog for the TITP, the Organization for Technical Intern Training (OTIT), to grant an accreditation of technical intern training and supervise the whole process, replacing parts of the JITCO’s role. However, the OTIT has also been somewhat unsuccessful in tackling human rights violations under the TITP (Osumi, 2018).

politics (interviews JP02 & JP04; Menju, 2015).<sup>38</sup> For example, in the Council on Economic and Fiscal Policy held in April 2014, where the JMLIT's emergency measure was discussed and approved, the Prime Minister Abe Shinzo commented that it needs to "take care that the discussion today is not misunderstood as an immigration policy" (CEFP, 2014, p. 22). In the 2014 general election manifesto, the LDP clarified that there is "no immigration policy", but just a strategy of "utilising foreign talent" for Japan's labour force competitiveness and economic growth (LDP, 2014, p. 10).

Overall, the rights and responsibilities of low-skilled labour migrants in Japan have been formed and developed within the relatively narrow political realm, specifically political debates and/or conflicts among governmental ministries, businesses and the ruling party (mostly the LDP). Going through the fluctuating politico-economic circumstances of the mid-late 2000s and the subsequent welfare and immigration policy reforms, the *Nikkei-jin*-centred foreign labour policy has shifted towards the technical interns. Given Japan's exclusive political structure, however, voices of migrant worker advocacy groups have not been heard in national-level policy making, thereby ethnic differentiation of low-skilled labour migrants has persisted.

### 7.3. Policy ideas

As analysed in the previous section, the policy-making process regarding two groups of low-skilled labour migrants has largely been dominated by a few politically powerful stakeholders. Simultaneously, however, it is noteworthy that relatively uninfluential voices in national politics such as civil society organisations and local governments have made some achievements in some areas, especially immigrant integration policy. Why and how have some political claims or policy proposals then been reflected in policy changes, whereas others have not? Being supplementary to the previous analysis of political dynamics, the ideational explanation in this section helps comprehend developments in the rights and responsibilities of low-skilled labour migrants over the last two decades.

The initial formation of low-skilled labour migrants' rights and responsibilities in Japan was mostly affected by three policy legacies: Confucian values, productivism and ethnic nationalism. In terms of social welfare policy, while adhering to the tradition of self-reliance and mutual aid (i.e. Confucian values), an adoption of the idea of the Japanese-style welfare

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<sup>38</sup> An academic expressed the term immigration as "a prohibited word in Japanese society" (interview JP02), and a think tank researcher also noted that the society "places it under taboo" (interview JP04).

society in the late 1970s aimed at fostering economic growth (i.e. productivism) by restricting social expenditure growth (see Shinkawa and Tsuji, 2014). In terms of immigration policy, a strong sense of ethnic nationalism kept the Japanese welfare state so stubborn in dealing with whether to open the border to foreign-born populations, especially the low-skilled (see Tsuda, 2006a). Interestingly, ethnic nationalism, which is closely connected with—and expressed through—the discourse of Japanese-ness (*Nihonjin-ron*) or uniqueness of Japanese nation and culture (see Lie, 2000), had often been regarded as a determinant behind the country's high economic growth (Yamanaka, 1993).

Looking into the relevant policy changes of the 1990s, specifically the 1990 immigration legislation and the 1993 introduction of the TITP, the Japanese economy's productivity was principally taken into consideration. Concerns about productivity deterioration caused by a labour shortage in certain industry sectors could be found in several governmental documents (see Komai, 1995). For example, the JMITI, an ardent advocate for the open-door immigration policy, pointed out that many SMEs stood for legally utilising low-skilled foreign labour in the industrial sectors shunned by Japanese national workers so as to sustain (price) competitiveness in the global market, though stating the necessity to carefully examine it in terms of the domestic labour market, social security and national security (JMITI, 1989). With respect to the TITP, more directly, a public official of the JMOFA mentioned that “this kind of activity will contribute to their [SMEs'] global business strategy in the long run” (Utsunomiya, 1993).

Although not explicitly expressed in the governmental documents and statements, however, ethnic nationalism was another—or probably more fundamental—basis for the policy changes. Specifically, the 1990 governmental decision to grant a wide range of privileges to *Nikkei-jin* was legitimised on the grounds of their ethnic ties with the Japanese (interview JP05; Sellek, 2001; Tsuda, 2006b).<sup>39</sup> An academic similarly pointed out the then governmental policy assumption that it would be “easier to control and to govern [their assimilation] into Japanese society, since they have the same ethnicity” (interview JP02). Furthermore, the Second Basic Plan for Immigration Control implied that ethnic nationalism came first in immigration policy making in the face of global economic and demographic challenges as follows:

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<sup>39</sup> A civic group representative noted that “the Japanese government viewed *Nikkei-jin* as Japanese. [...] The government had not wanted to allow immigration of foreign-born populations [...] but those who do not seem to be foreigners, so decided to accept *Nikkei-jin*” (interview JP05).

“The Japanese society is now witnessing a rapid progress in internationalization and globalization [...] with the population rapidly aging with less childbirth [...] However, if you trace back the history of Japanese society and give thought to the Japanese people’s perception of society, culture and their sensitivity, it would not be realistic to suddenly introduce a large number of foreign labor” (JMOJ, 2000).

Against the two major policy legacies of productivism and ethnic nationalism underpinning Japan’s restrictive and exclusive approach to immigrants, civil society organisations started to refer to international norms of human rights. As the government ratified several international human rights conventions in the 1970s and 1980s, this alternative idea seemed to contribute to the social inclusion of foreign residents in Japan (see Gurowitz, 2004). However, it was not so influential in the rights and responsibilities of newcomer immigrants, specifically technical interns, mainly for two reasons. First, as migrant worker advocacy movements initially focused on undocumented workers and *Nikkei-jin*, the term human rights was framed in the way to simultaneously embrace these two different groups, thus putting emphasis on their rights as local residents (Lee, 2009; 2012). On this account, the residency-based approach was not able to sufficiently address issues facing technical interns. Second, more importantly, the perceptions of the government and general public on increasing foreign-born populations were consistently not favourable, deeming them as a threat to national security and social order (Johnston, 2003). According to the two nationwide surveys on the issue of foreign workers, conducted by the Cabinet Office in 1990 and 2004 (Cabinet Office, 1990; 2004), for example, the majority (70.6 percent and 64.9 percent respectively) of respondents were somewhat reluctant to accepting low-skilled labour migrants. Additionally, the biggest reason for the opposition was concern over the deterioration of Japan’s security (54.0 percent and 74.1 percent).

Furthermore, while neoliberalism gradually became influential over several public policy areas, policy development regarding the rights and responsibilities of low-skilled labour migrants was significantly restricted. In Japan, neoliberalism has often been considered—and legitimised—as an imperative for enhancing its economic efficiency and competitiveness; thus, understood as an extension of production-first policy (i.e. productivism) (see Shinkawa and Tsuji, 2014; Takegawa, 2013). The neoliberal policy reforms peaked during the Koizumi administration, particularly in the labour market policy. Specifically, as the 2003 Worker Dispatching Act amendment allowed dispatched workers in the manufacturing industry, more and more *Nikkei-jin* were employed as temporary (and dispatching) workers, thereby finding it difficult to be socio-economically integrated in Japanese society (Ogawa, 2011; Sellek, 2001). *Keidanren*, a strong advocate for neoliberalism, consistently called for extensive regulatory

reform—e.g. “economic regulation is principally free, and social regulation is necessary minimum” (Keidanren, 2000). In a similar vein, the organisation repeatedly demanded that the government eliminate restrictions of labour market and immigration control, arguing that more immigration and the utilisation of foreign workers can bring a dynamic of diversity into society and thereby enhance economic competitiveness and industrial productivity (Keidanren, 2003; 2004).

In the meantime, another alternative idea of multiculturalism began to be adopted by (locally based) civil society organisations to advocate the social inclusion of foreign nationals newly settling in their local communities—mainly *Nikkei-jin*. This idea has gradually been used as an umbrella term to address a variety of issues facing ethno-culturally diverse groups of immigrants in Japanese society and create a cooperative environment for both Japanese and non-Japanese (Kashiwazaki, 2013; Tegtmeier Pak, 2006). Valuing their economic and socio-cultural contributions to the local community, the Conference of Cities also manifested a clear endorsement of the multicultural approach to foreign residents in its 2001 Hamamatsu Declaration as follows:

“While Japanese residents and foreign residents deepen mutual understanding and respect for their own culture and values, we, thirteen cities, proceed with the formation of a veritable symbiotic society on the basis of the respect for rights and the fulfilment for duties” (Conference of Cities, 2001).

However, the Japanese-style multiculturalism, although attaching importance to the socio-cultural diversity that foreign residents bring in, has not sufficiently tackled the persistent ethnic differentiation of low-skilled labour migrants. This could be attributed firstly to the residency-based approach of migrant worker advocacy movements. In addition to the human rights framing, civil society organisations framed multiculturalism in relation to immigrant populations’ residency rather than nationality so as to effectively persuade local governments to provide integration programmes (Chung, 2010a; Kashiwazaki, 2013; Tegtmeier Pak, 2006). This strategy has ironically excluded foreign nationals with non-residence visas (i.e. especially technical interns) from Japan’s immigration integration policy (interviews JP03 & JP04).<sup>40</sup>

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<sup>40</sup> An academic noted that “*tabunka kyōsei* [multicultural coexistence] plan is more for *Nikkei-jin* rather than *kinoujishusei* [technical interns]” (interview JP03), and a think tank researcher also mentioned that “technical interns are hardly the object of multicultural coexistence of local authorities” (interview JP04). Looking into a list of regulatory reform requests of the Council of Cities in 2009, in this vein, most of the requests are concerned with the rights and responsibilities of *Nikkei-jin* (see Conference of Cities, 2009).

Furthermore, the government's usage of the term (i.e. multicultural coexistence) has rather reinforced the sense of ethnic homogeneity in Japanese society. It has not only been established upon the conventional (ethnic) dichotomy of Japanese and non-Japanese residents,<sup>41</sup> but also taken less care of socio-economic inequality and discrimination facing low-skilled labour migrants by putting so much emphasis on ethno-cultural diversity (Kashiwazaki, 2013; Lee, 2012). Similarly, a think tank researcher pointed out that the multicultural coexistence policy does not substantively address their social inclusion, explaining the result of its own 2017 survey of multicultural coexistence, targeting local officials in charge, as follows:

“After all, multicultural coexistence that local governments suppose is concerned with how to provide services [to foreign residents], and it took the most important place even in the frame that the JMIC presented in 2006” (interview JP04 (think tank researcher)).

Since the late 2000s a policy legacy of productivism (or alternatively neoliberalism) has explicitly taken into consideration in not just social welfare policy making but also immigration policy making, whereas ethnic nationalism has been redefined in a somewhat narrow sense. Encountering the (total and working) population decline alongside the economic downturn, the government has approached the issue of whether to accept low-skilled labour migrants thoroughly from the viewpoint of economic productivity (interview JP04).<sup>42</sup> For example, the current Abe administration's 2014 revision of the Japan Revitalisation Strategy, “the third arrow” of Abenomics, stressed not only the industrial necessity for the TITP's expansion, but also the “perspective of sustainable [economic] growth” in contemplating a new employment system for certain sectors requiring urgent responses (JMOJ, 2014, pp. 48-50). The Fifth Basic Plan for Immigration Control reiterated this point as follows:

“[Regarding low-skilled labour migrants] it is necessary to [...] verify the economic effects brought about through acceptance, but a consideration is also required from wide-ranging perspectives such as the social costs of education, welfare, etc., the

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<sup>41</sup> In this sense, an academic prefers to interpret the *tabunka kyōsei* policy as “inter-cultural” rather than “multi-cultural” (interview JP03).

<sup>42</sup> A think tank researcher pointed out that the government has viewed low-skilled labour migrants “from the perspective of labour force”, and had “a standpoint of how it can restrictively and efficiently accept them in the sectors where labour entirely lacks just now [...] whilst the population declining in the long term” (interview JP04).

situation of efforts to secure Japanese workers, the impacts on the industrial structure” (JMOJ, 2015, p. 27).

On the other hand, ethnic nationalism, which was expansively applied to *Nikkei-jin* along with the 1990 immigration legislation, has been reconsidered. In particular, the JMOJ and *Keidanren*'s proposals of the mid-2000s challenged a sense of Japanese-ness solely based on ethnicity or blood by arguing to connect the entry and residency of *Nikkei-jin* with certain requirements of language or employment (see JMOJ, 2006; Keidanren, 2004). Since then, not only the Japanese ethnicity but also the linguistic and cultural understandings—or at least efforts (or duties) to understand the language and culture—have gradually been taken into account with respect to what Japanese-ness means or who are Japanese (see JMOJ, 2010). In this context, the seemingly contradictory *Nikkei-jin*-related policies of the late 2000s can be understood; specifically, the government implemented two-fold policy measures simultaneously encouraging those without language (and employment) skills to return to their home countries and supporting the others' integration into Japanese society.

Interestingly, such a redefinition of ethnic nationalism alongside the broad application of productivism has brought about the de-ethnicisation of foreign labour policy, but simultaneously the re-ethnicisation of immigration control and immigrant integration policy (interview JP03; Tian, 2018).<sup>43</sup> Since 2009 the TITP has continuously been expanded for reasons of cost efficiency and competitiveness. However, the government has intentionally avoided adopting the term “immigration (*imin*)”, repeatedly clarifying the “no immigration policy” principle (see CEF, 2014; LDP, 2014). Ethnic nationalism, although recently redefined narrowly, has still been dominant in the immigration-related discourse. A civic group representative made this point as well:

“Japan has not still made a statement of an [ethnically] single nation. However, the LDP-led governments and the LDP-affiliated politicians nonchalantly [say] single nation, single nation [...] and the businessmen use only the term single nation [...] the current mainstream executives of *Rengo* [also stand by] the single-nation-state” (interview JP05 (civic group representative)).

Under the circumstances, the human rights framing of civil society organisations appears to be less effective in making their voices heard regarding technical interns, primarily abolishing the

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<sup>43</sup> An academic emphasised that “the 2006 [MIC] Plan was more general for [immigrant] integration, but in 2009 and 10 the government came up with a new policy just to focus part of foreigners. [...] It was a very, from my point of view, very narrow-minded policy change looking at just *Nikkei*” (interview JP03).

trainee-based system and guaranteeing their freedom of occupation. In this regard, the rights and responsibilities of technical interns have not substantively changed.

In short, Japan's policy-making process regarding two groups of low-skilled labour migrants has involved the dynamics of not only political actors, but also policy ideas. Several ideas have been adopted and framed for the sake of interests of stakeholders. Civil society organisations in cooperation with local governments have employed alternative ideas such as human rights and multiculturalism so as to challenge the social exclusion of foreign-born populations. However, policy legacies such as productivism and ethnic nationalism strongly advocated by bureaucrats and policymakers have still significantly been influential, firmly buttressing the established policy paradigms ethnically differentiating foreign-born populations, especially the low-skilled.

#### **7.4. Concluding remarks**

This chapter has traced and analysed the trajectories of social welfare and immigration policy changes relevant to the rights and responsibilities of low-skilled labour migrants in Japan over the last two decades. Drawing on the analytical framework of immigrants' rights and responsibilities in East Asia (cf. Figure 6.1), the Japanese case can be presented in Figure 7.4.<sup>44</sup>

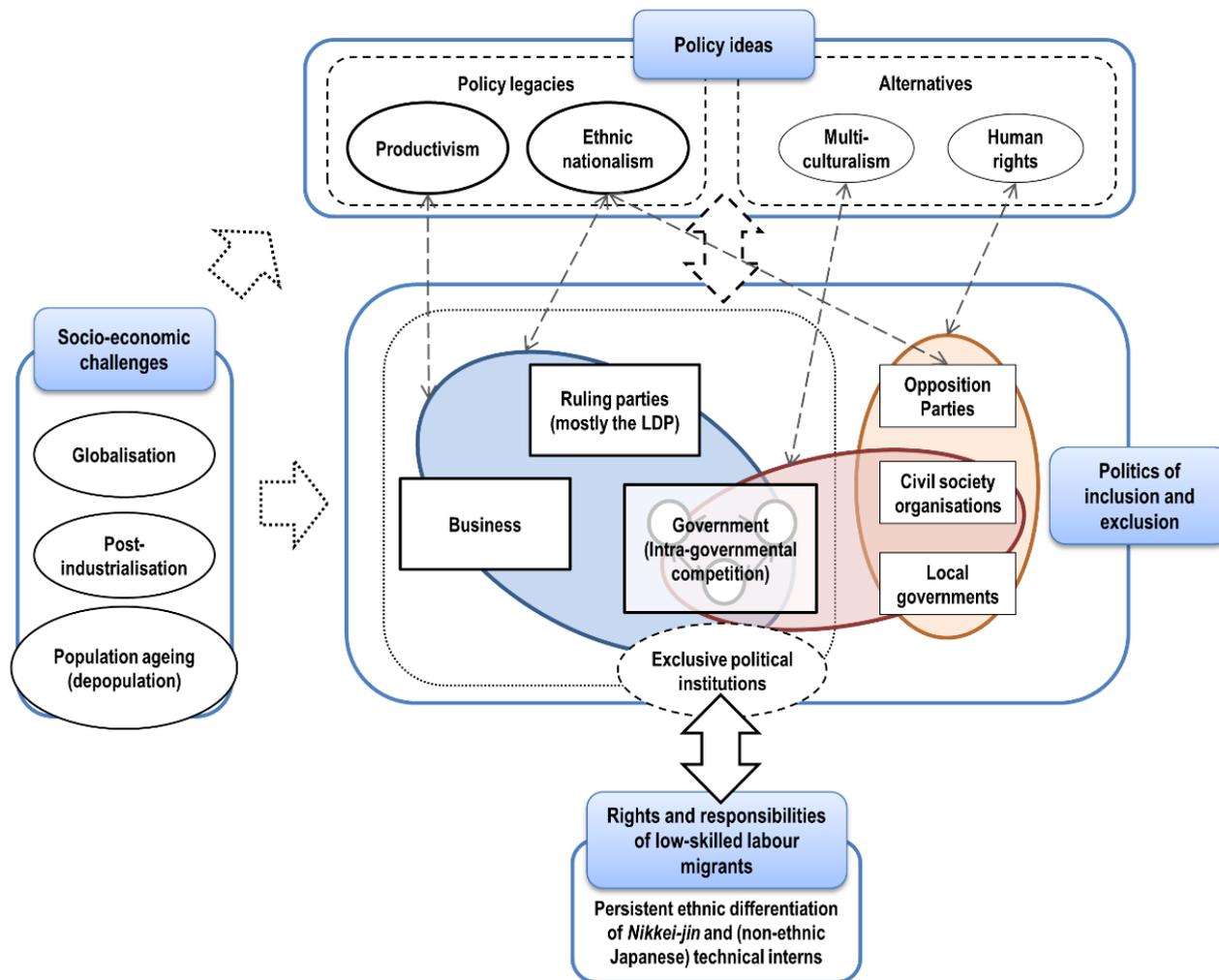
The emerging socio-economic challenges such as globalisation, post-industrialisation and population ageing have conditioned and restrained the relevant policy-making process. Within the challenges, especially the very urgent demographic pressure (i.e. the ageing and declining population), a variety of political actors including the (central and local) governmental bodies, political parties, business and civil society have interacted and competed to make their interests reflected in the public policy making. Central ministries, the LDP and business organisations have not only adhered to old policy ideas (e.g. productivism and ethnic nationalism) but also reframed the (old and new) ideas so as to legitimise the established system differentially treating low-skilled labour migrants according to ethnicity. On the other hand, local authorities and civil society organisations have advocated the further inclusion of

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<sup>44</sup> In this figure, the shape, size and line weight of factors differ depending on their policy influence. For example, two policy legacies (productivism and ethnic nationalism) are presented with bigger-size and thick-line shapes than two alternatives (human rights and multiculturalism), implying that the former two are more influential than the latter two. Additionally, solid-line arrows show direct and explicit influential sequences, whereas dash- or dot-line arrows indicates indirect and implicit ones. For example, a relationship between the politics of inclusion and exclusion and policy ideas, presented with a dash-line arrow, is two-way with each implicitly affecting the other. Lastly, inside the politics of inclusion and exclusion, three different colour ovals covering different actors signal three different policy-making coalitions.

foreign-born populations into Japanese society through new policy ideas (e.g. human rights and multiculturalism), but their political leverage has been restricted within the exclusive political structure. Such the interplay of socio-economic challenges, political dynamics and policy ideas has led to the persistent ethnic differentiation of low-skilled labour migrants in Japan.

**Figure 7.4 Japan's development of the rights and responsibilities of low-skilled labour migrants**



## **CHAPTER EIGHT**

### **Explaining the ethnically hierarchical inclusion of low-skilled labour migrants in Korea**

Over the last two decades, the rights and responsibilities of low-skilled labour migrants in Korea, as examined in Section 5.2, have shifted from differential exclusion to ethnically hierarchical inclusion along with the dramatic developments of the Korean welfare and immigration regimes. The Korean welfare regime, once characterised by the residualist and productivist welfare provision, has continuously pursued welfare expansion both in quantitative and qualitative terms—albeit whilst facing some welfare restructuring pressures. The Korean immigration regime has gradually become liberalised and inclusive—and simultaneously segregationist to some extent.

Drawing on the analytical framework suggested in Chapter Six, this chapter explains Korea's social welfare and immigration policy making relating to low-skilled labour migrants and comprehends the shift of their rights and responsibilities. The first section explores the emerging socio-economic challenges facing Korean society, and their impact on social-economic demands and thereby the related policy making. The following section covers the politics of inclusion and exclusion by identifying Korea's political institutions in terms of the type of government, electoral system and major political actors and then investigates how political dynamics between different actors led to the ethnically hierarchical inclusion of low-skilled labour migrants. The last section is about policy ideas, clarifying how political actors used them and/or they affected actors' interests and problem definitions in the related policy-making process.

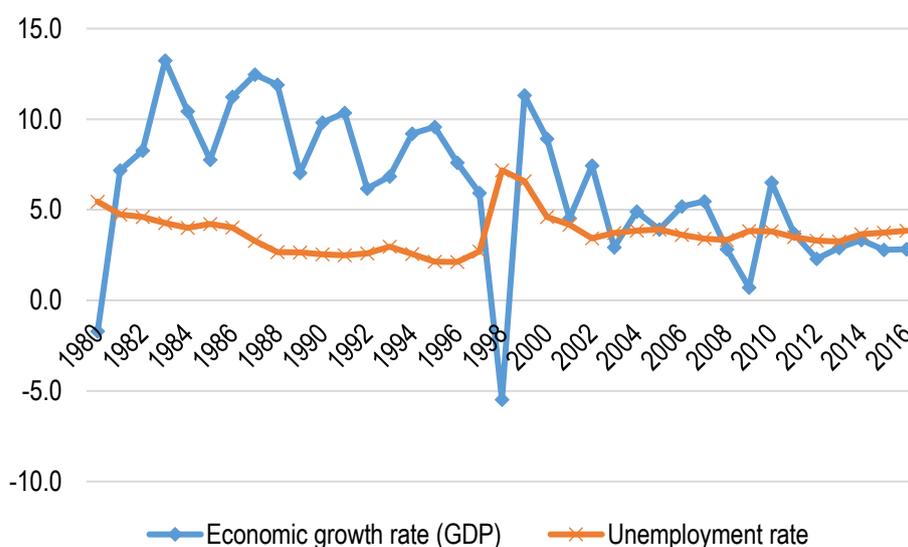
#### **8.1. Socio-economic challenges**

For the Korean welfare state that had concentrated on nation building and industrialisation under the authoritarian and developmental regimes of the 1960s to 1980s, emerging contextual challenges, specifically globalisation, post-industrialisation and population ageing, have considerably affected and shaped its policy environment as external constraints and/or opportunities surrounding issues of social welfare and immigration.

First, globalisation is often understood to have significantly influenced social welfare and immigration policy making of nation-states (e.g. Castles and Miller, 2009; Gough, 2001); especially for the Korean welfare state with a history of rapid economic growth relying highly

on the export-oriented industrialisation strategy. The deepening inclusion into the global markets made the Korean welfare state more susceptible to global market competition, and thereby more vulnerable to global economic crises (Croissant, 2004). The Korean governments have acknowledged it as an irreversible trend; thus, since the early 1990s have consistently pursued “internationalisation strategies” as a way to become a developed country (Kim, 2009b).

**Figure 8.1 Key economic indicators in Korea: economic growth rate (GDP) and unemployment rate (%), 1980-2016**



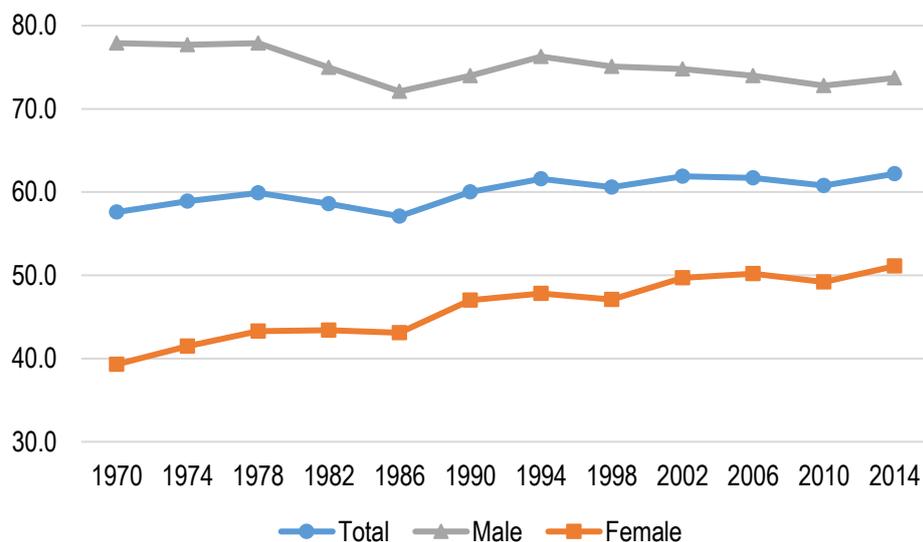
Source: OECD (2017a; 2017b).

With respect to the influence of globalisation over the Korean welfare and immigration regimes, global economic crises, including the 1997-98 Asian financial crisis and the 2008 global economic crisis, stand out (see Figure 8.1). Particularly, the 1997-98 Asian financial crisis substantially deteriorated the Korean economy (e.g. a surge in unemployment rate and a worsening of the Gini coefficient and poverty rate) (Kim, 2009c). Low-skilled migrant workers—mostly “trainees” under the Industrial and Technical Training System (ITTS) during the period—were also hit hard by the financial crisis. Shortly after the outbreak of the crisis, the low-skilled foreign-born population began to decline for the first time since the trainee-based system was introduced in 1991 (Lim, 1999; 2003). More importantly, its impacts can be found in the related policy making. For example, migrant worker advocacy groups had constantly urged the government to replace the ITTS with an employment permit system, and their strong appeal had earned the support of the general public as well as major political parties (Lee and Park, 2005). However, as the financial crisis significantly worsened the Korean

economy, the issue was overtaken by growing concerns over unprecedented nation-wide lay-offs (Kim, 2011a).

Paradoxically, however, the economic crises paved the way for social welfare and immigration policy developments in Korea. The government, although carrying out neoliberal labour market reforms in exchange for an emergency loan from the International Monetary Fund (IMF), implemented significant reforms across nearly all the social welfare areas so as to address socio-economic problems caused by the financial crisis of the late 1990s (see Kwon, 2003; Kwon and Holliday, 2007). Following the 2008 global economic crisis, additionally, state welfare provision was further enlarged with an increase in public expenditure (Kim and Nam, 2011; Mok, 2011; Shin, 2009). Such welfare developments can be considered to indirectly—but substantially—contribute to the social rights of migrant workers by bringing about the foundation and expansion of the Korean welfare state. In terms of immigration policy development, furthermore, the government introduced an immigration policy exclusively for ethnic Korean migrants in 1999, that is, the Overseas Koreans Act (OKA), noticeably with not only a strong ethnic preference but also an economic intent to attract foreign professionals and investors. With the financial crisis as momentum, the Korean immigration regime has simultaneously become liberalised and ethnicised (Kim, 2008a).

**Figure 8.2 Total, male and female labour force participation rate in Korea (aged 15+, %), 1970-2014**

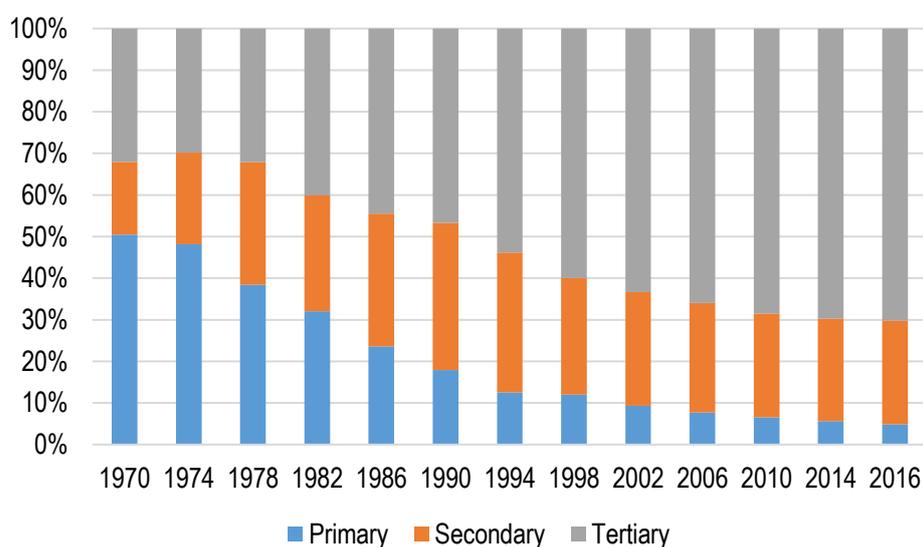


Source: KOSTAT (2017).

Another noteworthy socio-economic challenge facing Korean society is post-industrialisation (for its characteristics, see Bonoli, 2006). Over the past three to four decades the Korean

economy has demonstrated the general trend of post-industrialisation (Lee, 2011a); for example, female labour market participation has sharply grown along with its rapid economic development since the 1970s. The figure increased from 39.3 percent in 1970 to 51.1 percent in 2014 (see Figure 8.2). The increase in female labour market participation has coincided with a change in the role of women in the Korean welfare regime, which conventionally expected women to be principally responsible for the care of children and the elderly. In responding to such changes, the government has initiated and expanded related social care programmes since the mid-2000s (Estévez-Abe and Kim, 2014; Kim and Choi, 2013).

**Figure 8.3 Employment rate by sector of industry in Korea (as % of the total employment), 1970-2016**



Source: ILO (2017).

Furthermore, the secondary sector employment, as shown in Figure 8.3, has gradually declined since the early 1990s, whereas the tertiary sector has become the main source of employment—specifically, over 70 percent in the mid-2010s. Along with the productivist (or developmental) regime, Korea’s dramatic economic growth of the 1970s and 1980s had been largely dependent on the conglomerates (*chaebol*), to which a number of small and medium-sized enterprises (SMEs) were connected or subordinate in many ways (Choi, 2013b). While the Korean economy has gradually become de-industrialised within intensified global competition, the labour market segmentation between the conglomerates and SMEs has been accelerated (Kim, 2009a). Thereby, SMEs—especially, in the manufacturing sector—have become less attractive to Korean national workers, and thus faced serious labour shortages since the late 1980s (Lee and Kim, 2011b). In this regard, the post-industrialisation of the

Korean economy has worked as an important backdrop for the government to continuously allow the entry of low-skilled migrant workers from the introduction of the ITTS onwards.

Lastly, population ageing has had a great impact on Korean society as one of the crucial socio-economic challenges. While most advanced welfare states have been experiencing demographic change, the Korean welfare state has recently become one of the fastest ageing societies in the world (Hwang, 2009). The process of population ageing in Korea has primarily been driven by dramatic changes in the fertility rate and life expectancy. During the period between 1970 and 2000, as Table 8.1 shows, the fertility rate plunged from 4.53 to 1.47, while life expectancy increased from 62.3 years to 76.0 years. More remarkable is the ageing projection. According to the Statistics Korea (KOSTAT, 2016), the proportion of the elderly population is expected to reach 32.8 percent—and nearly 60 percent of the old-age dependency ratio—in 2040.

**Table 8.1 Population indicators and projections in Korea, 1960-2060**

Years	Total population (thousands)	Fertility rate (%)	Life expectancy (years)	Median age (years)	Share of elderly (%)	Old-age dependency ratio (%)
1960	25,012	-	-	19.0	2.9	5.3
1970	32,241	4.53	62.3	18.5	3.1	5.7
1980	38,124	2.82	66.1	21.8	3.8	6.1
1990	42,869	1.57	71.7	27.0	5.1	7.4
2000	47,008	1.47	76.0	31.8	7.2	10.1
2010	49,554	1.23	80.2	37.9	10.8	14.8
2020	51,974	1.24	83.2	43.6	15.6	21.8
2030	52,941	1.32	85.2	48.8	24.5	38.2
2040	52,198	1.38	86.9	53.0	32.8	58.2
2050	49,433	1.38	88.3	56.4	38.1	72.6
2060	45,246	1.38	89.5	58.9	41.0	82.6

Source: KOSTAT (2016).

Notes: 1) Projections by the Statistics Korea for the period between 2015 and 2065; 2) Fertility rate: the total number of children that a woman can expect to bear during her reproductive years (aged 15 to 49); 3) Share of elderly: the proportion of person aged 65 or over in the total population; and 4) Old-age dependency ratio: the ratio of persons aged 65 or over to the population aged 15 to 64.

This demographic transition and projection has put a considerable strain on the Korean welfare state due to its combined effect on the younger population and the aged (see Fu and Hughes, 2009). In other words, the ageing population combined with the extremely low fertility rate diminishes the future working population and at the same time increases the cost of social welfare for older people. Although the decreasing fertility rate and increasing life

expectancy was already observed in the 1980s and 1990s, the issue only recently started to be tackled. Amid the fear that the rapidly ageing population may largely weaken the nation's potential for economic growth, the government has initiated various social welfare and immigration policies such as the 2005 establishment of the Committee on Low Fertility and Population Ageing Policy (Hwang, 2009; Seol, 2015).

It is noteworthy that these three socio-economic challenges—i.e. globalisation, post-industrialisation and population ageing—have had some interwoven effects on Korean society. For example, increased global connectedness—and thereby more engagement with intense international competition—brought about an acceleration of post-industrialisation in the Korean welfare state. Post-industrialisation, especially increasing female labour market participation, coincided with the ageing population. The demographic change and projection, which may undermine Korea's economic potential, have contributed to the labour shortage that many SMEs suffer from within the competitive global market. It is hard to say if the intertwined challenges in their entirety drove the expansion—and restructuring—of social policy and the liberalisation—and ethnicisation—of immigration policy in Korea. However, it is undeniable that they have at least shaped the policy environment surrounding low-skilled migrant workers as external constraints and/or opportunities.

## **8.2. Politics of inclusion and exclusion within political institutions**

This section analyses the politics of inclusion and exclusion in Korea behind the ethnically hierarchical inclusion of low-skilled labour migrants by first discussing the key characteristics of the Korean political institutions. It then moves on to analyse how their rights and responsibilities have been established and changed by the political dynamics of various political actors within the political institutional structure.

### **8.2.1. Characteristics of Korean political institutions**

In understanding political interactions and/or conflicts surrounding low-skilled labour migrants, it is of great help to briefly look into Korean political institutions, including the type of government, the electoral system and political parties and major political actors in related policy making.

### *The type of government*

The Korean governmental system is established upon a presidential system. The Korean presidency is often called as “imperial presidency” because of its superior status and enormous influence in administering affairs of state (Horiuchi and Lee, 2008). Influenced by authoritarianism during the 1960s to 1980s, a relatively strong presidency tradition has been maintained to some extent even after democratisation (Ringen et al., 2011).

In Korean politics, the president and the National Assembly’s members are elected separately with non-concurrent elections (see Figure 8.4). Depending on the results of the elections, the political environment can vary considerably (Hix and Jun, 2009). For example, when there is a “unified government”, where a certain political party—or coalition—holds the Presidency and the majority of the National Assembly simultaneously, the overall policy making can be easily dominated by the ruling party. On the other hand, in the case of a “divided government”, where the two entities are held respectively by different parties or coalitions, opposition parties with the majority of the National Assembly are likely to exercise substantial political leverage in the executive’s decision making.

**Figure 8.4 Korea’s presidential and legislative election results after democratisation, 1987-2017**

Status of government	Presidential elections		Years	Legislative elections	
	Presidents (votes (%))	Parties (characters)		First Parties (characters)	Share of seats (%)
Unified government	Roh, Tae-woo (36.6%)	Democratic Justice Party (conservative)	1987	1988	Democratic Justice Party (conservative) 41.8%
Unified	Kim, Young-sam (42.0%)	Democratic Liberal Party (conservative)	1992	1992	Democratic Liberal Party (conservative) 49.8%
Divided	Kim, Dae-jung (40.3%)	National Congress Party (progressive)	1997	1996	New Korea Party (conservative) 46.5%
Divided → Unified	Roh, Moo-hyun (48.9%)	Millennium Democratic Party (progressive)	2002	2000	Grand National Party (conservative) 48.7%
Divided → Unified	Lee, Myung-bak (48.7%)	Grand National Party (conservative)	2007	2004	Uri Party (progressive) 50.8%
Unified → Divided	Park, Geun-hye (51.6%)	Saenuri Party (conservative)	2012	2008	Grand National Party (conservative) 51.2%
Unified	Moon, Jae-in (41.1%)	Democratic Party (progressive)	2017	2012	Saenuri Party (conservative) 50.7%
				2016	Democratic Party (progressive) 41.0%

Source: NEC (2017).

### *Electoral system and political parties*

In the post-democratisation era, Korean politics, although strongly demonstrating regionalism, can be characterised by an ideological division and competition between conservative and progressive parties (Hix and Jun, 2009).<sup>45</sup> The election of (centre-left) President Kim Dae-jung (1998-2002) stood for the first transition of power to the opposite party after nearly forty years of rule by authoritarian and conservative governments (Kim, 2009c; Ringen et al., 2011). The progressive political forces further secured their own political foundations with the victory of the progressive candidate Roh Moo-hyun (2003-2007) in the succeeding presidential election. As the conservative forces had continuously been the first party of the National Assembly throughout the 1990s and 2000s—except for the 2004 legislative election, however, it was difficult for the two progressive governments to have an influence in public policy making.

After the ten-year rule by progressive governments, the conservative governments of Lee Myung-bak (2008-2012) and Park Geun-hye (2013-2017) stepped in again. Along with the majority of the National Assembly in the 2008 and 2012 elections, the conservative forces exerted significant power over Korean politics until the latest presidential and legislative elections.

### *Major political actors in policy making*

Apart from political parties, some major political actors, including civil society organisations, labour unions, business and governmental ministries, stand out in the policy-making process relevant to low-skilled migrant workers. First, Korean civil society has played a crucial role in improving the rights of labour migrants. Shortly after the introduction of the ITTS in 1991, some progressive citizen groups—e.g. the Citizen's Coalition for Economic Justice (CCEJ)—started to pay attention to the precarious status of foreign labour (Lim, 1999). The advocacy of civil society led to the formation of the first umbrella organisation for migrant workers, the Joint Committee of Foreign Migrant Workers in Korea (JCMK). Afterward, however, this organisation experienced internal division into several civic organisations including the

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<sup>45</sup> Hix and Jun (2009) clarify that the conservative-progressive dimension in Korean politics is not equivalent to how it is defined in most Western politics. The dimension is often more apparent in terms of three policy areas: national security policy (mainly in relation with North Korea), economic policy (e.g. corporate governance and the rights of workers) and social welfare policy.

Migrants Trade Union (MTU) and the Korean International Network (KIN) (Kim, 2003a; Kim, 2008a).<sup>46</sup>

Labour unions, which were one of the leading powers behind the democratisation of Korea, can also be regarded as a major actor in the relevant policy making. Since the Tripartite Committee, a forum for consultations among labour, business and government, was initiated in 1998 by the then President Kim Dae-jung, their political leverage has become more substantive (Ringen et al., 2011). Most labour unions in Korea are affiliated with one of two nationwide organisations: the Federation of Korean Trade Unions (FKTU) and the Korean Council of Trade Unions (KCTU).

In Korean politics, business—especially, the conglomerates—has been a prominent interest group with a close relationship to government, principally economic bureaucrats, since the period of the authoritarian and developmental regimes putting economic development at the top of the agenda (Ringen et al., 2011). Of the major economic organisations, the Korea Federation of Small and Medium Business (KFSB) is renowned in connection with issues of low-skilled labour migrants (Kim, 2011a; Lim, 2003).

Lastly, it is noteworthy that public bureaucracy is not a homogeneous entity, but rather consists of different ministries with different interests on specific policy issues. In the policy making relating to low-skilled labour migrants, there are several ministries, including the Ministry of Labour (KMOL; reorganised to the Ministry of Employment and Labour in 2010), the Ministry of Justice (KMOJ), the Ministry of Commerce, Industry and Energy (KMOCIE; reorganised to the Ministry of Knowledge Economy in 2008 and then the Ministry of Trade, Industry and Energy in 2013), the Ministry of Gender Equality and Family (KMOGEF), the Ministry of Health and Welfare (KMOHW) and so on (see Kim, 2011a; Lee, 2008).

### **8.2.2. Political dynamics surrounding the rights and responsibilities of low-skilled labour migrants**

Traditionally a country of emigration, Korea had a very small foreign-born population, and thus issues of immigration and immigrants within the border held less importance than the emigration of Koreans to foreign countries. Despite the continuous pursuit of internationalisation strategies since the early 1990s, additionally, an ethnic-cultural notion of nationhood partly contributed to the then Korean government's passive approach to the issues

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<sup>46</sup> It is noteworthy that migrant worker advocacy movements have been dominated by Korean civil activists, mainly due to the restrictive inclusion of migrant workers in the socio-political spheres of Korean society (Lee and Kim, 2011b).

(Kim, 2009b; Seol, 2000). The rights and responsibilities of low-skilled labour migrants in Korea have changed from differential exclusion to ethnically hierarchical inclusion through political interactions—often conflicts—between political parties, business and civil society, and even within the executive.

### *Differential exclusion of labour migrants*

The Korean government, although long defined Korea as a country without immigration, decided to accept low-skilled foreign-born populations with the introduction of the ITTS in 1991, and the trainee-based system was henceforth gradually expanded—e.g. extending the one-year industrial training period to three years (Chung, 2014; Lim, 2002). However, its gradual expansion did not coincide with an improvement in legal treatment for foreign trainees. Their precarious status as trainees—not workers—made them highly vulnerable to human rights violations and unfair treatments (e.g. unpaid wages and employer abuse) because of a lack of socio-economic resources and legal channels to make their own voices heard. In response, many civil society organisations started to turn their attention to foreign trainees under the ITTS and endeavoured to tackle the issues by offering a variety of activities such as legal counselling and labour rights advocacy (Kim, 2003a; 2011b).

Korean civil society is often regarded as confrontational; this propensity was moulded throughout the process of democratisation against military authoritarianism (see Kim, 2004). It was also manifested in engaging in the advocacy of low-skilled migrant workers (Lim, 1999; 2003; Yamanaka, 2010). For example, the CCEJ, one of the largest pro-democracy NGOs, was behind the 1995 protest of thirteen Nepali trainees at the Myeongdong Catholic Cathedral, which has been evaluated as the *de facto* first political activism on behalf of migrant workers in Korea. Through several follow-up demonstrations with somewhat confrontational campaign strategies (e.g. street demonstrations, sit-ins and hunger strikes), migrant worker advocacy movements successfully drew public attention and support. In response, the KMOL established Guidelines on the Protection and Management of Foreign Industrial and Technical Trainees in 1995 to improve the legal treatment of trainees—for example, granting protection by a few articles of labour-related legislation and entitlements to the health insurance and industrial accident compensation insurance (KMOL, 2000).

Throughout the 1990s and the early 2000s, there had been two major political controversies surrounding whether to replace the ITTS with a new foreign labour policy (e.g. an employment or labour permit system) going beyond addressing individual cases of human rights violations. Looking into the first dispute of the mid-late 1990s, some governmental

bodies, particularly the KMOL, started to make mention of the employment permit system since the governmental measure of 1995 (National Assembly Secretariat, 1995; The Korea Times, 1996b). In addition, migrant worker advocacy groups drafted a related policy proposal and petitioned the National Assembly for its legislation in 1996, strongly demanding the government to “introduce a work permit system and make the procedure for bringing in the migrant workers transparent for the public” (The Korea Times, 1996a). While the general public and labour unions became supportive of issues of low-skilled labour migrants, major political parties—both conservative and progressive—submitted similar legislative bills to the National Assembly respectively (Seol, 2000).

The first attempt to initiate the employment permit system, however, was not successful, especially within the deteriorated economic status and outlook after the Asian financial crisis. Against the vigorous advocacy of civil society organisations, the KFSB issued the White Paper on the Industrial and Technical Training for Foreigners in December 1996, arguing that societal issues related to foreign labour mostly stemmed from undocumented workers, but not from institutional problems of the trainee-based system. Additionally pointing out that the employment or work permit system could hinder SMEs’ productivity and furthermore the Korean labour market’s flexibility, this organisation affirmed that “what we actually need is not the legislation to enact a special act for foreign workers per se, but the efficient management of the [trainee-based] system” (KFSB, 1996, p. 140). In a similar vein, the KMOJ expressed some reservations, noting that it was still premature to initiate the new foreign labour policy (The Korea Times, 1997). Encountering nationwide business bankruptcy and mass lay-offs in the late 1990s, more decisively, the public opinion favouring low-skilled labour migrants turned somewhat lukewarm. The general public’s attention was dispersed with greater concerns over their own employment status and conditions and growing fear that a comparatively cheap foreign labour force could take away their jobs (Lim, 2003). Accordingly, the related issues were given less priority than other economic issues in the National Assembly, thus ended in strengthening the KMOL’s 1995 measure (see KMOL, 2000).

As the Korean economy recovered to some extent from the devastating aftermath of the economic crisis, the issues relating to the acceptance and legal treatment of low-skilled labour migrants came to the fore again. In March 2000, the JCMK sent its own report on the White Paper on the Human Rights of Foreign Industrial and Technical Trainees directly to the then President Kim Dae-jung, a former human rights activist (Kim, 2011a; Lim, 2003). The following month, the President immediately instructed relevant ministries and his own political party to draw up measures to protect and enhance the human rights of trainees. Shortly after, the KMOJ announced to create a related committee, including civil activists, and

take account of extending the industrial and technical training period to a maximum of five years—i.e. two more years as regular workers (Chang, 2000). The ruling party and the KMOL issued a joint statement to submit a legislative bill of employment permit system to the National Assembly (Lee, 2000). In July, the National Assembly Human Rights Forum, a sub-organisation of the National Assembly, held a symposium on the issues, where key political actors including the KMOJ, the KMOL, the KFSB and civic groups shared their own stances and suggestions (see NAHRF, 2000).

The second legislative attempts, however, also did not come to a consensus in making foreign labour policy due to strong dissent from relevant stakeholders. Against the 2000 legislative bill of employment permit system, for example, five major economic organisations, including the KFSB, issued a counter-arguing joint statement, arguing that the employment permit system would sharply weaken the nation's overall export competitiveness by dramatically increasing SME's production costs. They added that "human rights violations are mainly limited to illegal workers" and the rights of foreign workers "are fully protected by the current system" (The Korea Herald, 2000a). Particularly, the KFSB held a couple of demonstrations in front of the National Assembly building to put pressure on the related decision making (see KFSB, 2000). Furthermore, under the political environment of divided government, conservative political coalitions holding the majority of the then National Assembly withdrew their preceding endorsement, rather expressing an objection for the sake of the interests of business, an important group of their electorate. There was also opposition within the governmental ministries. The KMOCIE was concerned with the employment permit system's debasing impact on the Korean economy and business, and the KMOJ persistently stressed effective control over low-skilled migrant workers (Lee and Park, 2005; Lim, 2003).

Passing through the Asian financial crisis, the then President Kim Dae-jung concentrated on policy reforms across all public policy areas so as to promote recovery of the deteriorated Korean economy and cope with the subsequent prevalent unemployment and poverty (see Kim, 2009c; Kwon and Holliday, 2007). With respect to the rights and responsibilities of low-skilled labour migrants, particularly, two policy developments stand out. First, the progressive government established the foundation of the Korean welfare state by extending the scope of major social insurance programmes and introducing a new social assistance programme based on citizenship—i.e. the National Basic Livelihood Security System (NBLSS). Although the short-term rotation principle behind Korea's foreign labour policy had made welfare debates mostly irrelevant to low-skilled labour migrants, the welfare expansion of the late 1990s and the early 2000s could (indirectly) contribute to their rights and responsibilities. In 2000, for example, existing health insurance programmes were integrated

into the national health insurance as a unified system, and the application of industrial accident compensation insurance was expanded to all firms irrespective of the number of employees. These welfare reforms made more foreign-born populations able to legally access the social security system—albeit still with some restrictions.

Second, more directly, after the 1999 enactment of the OKA ethnic Korean migrants started to be preferentially treated. Interestingly, however, it provoked societal disputes over “Korean ethnicity”, that is, who are (overseas) Koreans, by excluding ethnic Koreans from less-developed countries, including China (*Joseon-jok*) and the Commonwealth of Independent States (CIS) countries (*Goryeo-in*) (Park and Chang, 2005; Seol and Skrentny, 2009a). Some civil society organisations such as the KIN urged the government to revise the OKA in a way to ensure equal treatment for all overseas Koreans, and filed a constitutional appeal over its constitutionality (The Korea Herald, 2003b). Regarding its differential feature, however, an academic pointed out that:

“At first, [the OKA] did not intend to differentiate, but in fact, to recognise overseas Koreans’ dual nationality or facilitate their inbound investment. However, this act came into the fore because of an issue of discriminating against overseas Koreans in China and the CIS countries. It thereby led to the community gathering of overseas Koreans or their union with NGOs—currently still influential” (interview KR01 (academic)).

Behind the introduction of the OKA, as mentioned above, an economic perspective was principally taken into consideration. The KMOJ officially stated its primary goal in terms of attracting foreign professionals and investors and thereby revitalising the economy hit hard by the crisis (KMOJ, 1999). However, the socio-political debates over the OKA and Korean ethnicity brought about internal division of migrant worker advocacy movements (Kim, 2008a), thereby largely affecting the ethnically hierarchical inclusion of low-skilled labour migrants in Korea since the mid-2000s.

#### *Ethnically hierarchical inclusion of labour migrants*

With the 2002 presidential election ahead, the socio-political atmosphere surrounding the issue of low-skilled migrant workers changed to a large extent. While migrant worker advocacy movements received considerable support from the general public, political parties could no longer neglect the growing demand for the protection of trainees’ human rights. Presidential candidates from two major parties both pledged to initiate an employment permit system (Kwak, 2002). Submitting its comprehensive report to the newly elected President Rho Moo-

hyun's transit team in January 2003, the KMOL pledged to obtain the National Assembly's approval of an employment permit system before the new President's inauguration in late February (Kim, 2003d).

The KFSB, however, continued to announce counter-arguments, resorting to national interests—e.g. economic costs, social disorder and potential threats to national identity (see KFSB, 2002). In April 2003, particularly, the organisation held a press conference to denounce that the government's legislative effort thoroughly disregarded and distorted voices of SMEs practically utilising foreign labour, whilst arguing that the employment permit system was not able to be a "panacea" for the related issues (e.g. labour shortage, trainees' human rights and undocumented workers) (KFSB, 2003). Although some SMEs expressed support for the government-proposed system, vehement opposition from several business organisations led the government to take a step back, deciding to test-operate it in a limited number of industrial fields rather than fully implementing it (The Korea Herald, 2003d).

In close cooperation with the new President Roh Moo-hyun, a former human rights lawyer, nonetheless, the unremitting struggle of migrant worker advocacy groups resulted in the enactment of the Act on the Employment of Foreign Workers in August 2003—and the Employment Permit System (EPS) was implemented in August 2004. Reflecting the interests and concerns of different voices—e.g. civil society organisations and migrant workers themselves, Korea's foreign labour policy, which once mainly represented the interests of business, has become liberal compared to the previous trainee-based system. The new system, however, was not as liberal as originally proposed by migrant worker advocacy groups (see Kim, 2008a). Especially, its complete replacement of the ITTS was postponed until 2007; meanwhile, the two ran in parallel. This may stem partly from the then political environment of divided government. As the majority of the National Assembly was held by opposition political parties, considerably lobbied by the KFSB, the government and the ruling party made a political compromise of the parallel implementation in return for the legislative passage (Kim, 2003c).

Since then, however, migrant worker advocacy movements have been relatively less prominent. Although some civic organisations like the MTU were still discontented with the EPS and constantly demanded more liberal foreign labour policy (Kim, 2003b), such voice to grant low-skilled labour migrants more rights (e.g. family reunification or long-term residency) going beyond human rights has not been as lively as before. First, as the foremost goal of migrant worker advocacy movements was somewhat satisfied through the introduction of the EPS, there has no longer been notable interest and support from the general public and even

civil society (interview KR04).<sup>47</sup> Losing the umbrella goal holding diverse civic groups together, furthermore, they have gradually shown many disagreements on specific issues regarding low-skilled labour migrants (Kim, 2008a; Kim, 2007). With respect to advocacy of ethnic Koreans, specifically, the movements have been divided into two groups; that is, one endorses their better treatment, whereas another supports more liberalisation of foreign labour policy in general.

The debates over “Korean ethnicity” prompted by the 1999 enactment of the OKA have brought about widespread public sympathy for ethnic Koreans who were excluded from the OKA, and thereby many civil society organisations began to concentrate particularly on the improvement of their legal status and rights (interview KR01).<sup>48</sup> They filed a constitutional appeal over the OKA’s constitutionality, and in 2001 the Constitutional Court ruled the act as unconstitutional, ordering the government to revise it by the end of 2003 (The Korea Herald, 2003b). Rather than granting the overseas Koreans visa to low-skilled ethnic Koreans from China and the CIS countries, however, the KMOJ decided to give somewhat preferential treatments in terms of entry, residency and access to the labour market (KMOJ, 2004; The Korea Herald, 2003c).<sup>49</sup>

In responding to civil society activism, however, the progressive Roh government introduced a foreign labour policy exclusively for ethnic Korean migrant workers, the Visiting Employment System (VES), in 2007. It implied that they started to be gradually considered as part of the “Korean diaspora” going beyond being a mere foreign workforce. The KMOJ clarified that the new policy “enabled [Korean society] to not only make the policy of overseas Koreans in accordance with the national sentiment embracing [low-skilled] overseas Koreans rather than controlling [...] but also prepare for a low-birth and ageing society” (KMOJ, 2006a, p. 3). Such changing—favourable—governmental and public attitudes towards them provided grounds to justify carrying out the differential system of social inclusion by ethnicity afterwards (interview KR03).<sup>50</sup> However, conflicts of opinion inside civil society were found in

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<sup>47</sup> A senior researcher noted that “people entering [Korea] through the EPS have become complicated, and the rights and interests of those cared for [by NGOs] have been improved, and thus, [NGOs’] roles have decreased” (interview KR04). In addition, an academic pointed out that “long-term economic hardships of civil activists” as a secondary—but very practical—reason why many of them have left the movements (interview KR01).

<sup>48</sup> An academic noted that the OKA “differentiated ethnic Koreans in the US and Japan from those in the former Soviet Union countries and China. [...] It led [the latter] ethnic Koreans to unite themselves and with NGOs” (interview KR01).

<sup>49</sup> This decision making may be affected partly by a diplomatic controversy with China, which expressed concern over its sovereignty over Korean-Chinese (The Korea Herald, 2003a).

<sup>50</sup> A public official mentioned that after the mid-2000s there has been “growing attentions of civil society organisations to ethnic Koreans”, and the then Roh government had “a basic policy direction to embrace ethnic Koreans” (interview KR03).

the debate over the VES, as in ones on the OKA and the EPS; some NGOs like the KIN assessed it as an improved overseas Korean policy, whereas others like the MTU criticised it as another discriminatory foreign labour policy which differentiates between ethnic Korean migrant workers and the others (Kim, 2008a).

The Basic Act on the Treatment of Foreigners in Korea (hereafter Basic Act), enacted in the same year, was also a governmental decision that reflected the demand and interest of civil society. Since the early 2000s, some civic organisations turned their attention to the growing numbers of (female) marriage migrants. Unlike low-skilled labour migrants, their status as long-term residents led to widespread concern over how to integrate foreign-born populations into the ethnically and culturally homogeneous Korean society. Civil society organisations actively used the term “multiculturalism” particularly in advocacy for their social inclusion, distinguished from the human rights framing for migrant workers (Watson, 2012a; 2012b). After years of discussion with them, the government decided to create the so-called “multicultural” (*damunhwa*) societal environment by enacting the Basic Act, demonstrated in pre-announcement of the legislation:

“[The purpose of the Basic Act is] to help foreign residents in Korea quickly adapt to Korean society by treating them appropriately according to their legal status, and to contribute to the nation’s development and social integration by fostering a social environment where Korean nationals and foreign residents understand and respect each other’s culture and history” (KMOJ, 2006b, p. 1).

Although taking the social inclusion and integration of immigrants into consideration, the First Basic Plan for Immigration Policy (hereafter Basic Plan), set by the succeeding conservative Lee Myung-bak government based on the Basic Act, induced some segregation within the groups of immigrants. That is to say that it not only adhered to the ethnic differentiation of low-skilled labour migrants, clearly demonstrated in the foreign labour policy development, but interestingly also excluded both groups to some extent in comparison with marriage migrants, the main policy target.<sup>51</sup> Such a comparative exclusion of migrant workers seemed to result from three following reasons. First, negative publicity over low-skilled labour migrants—and their settlement—was gradually expanded in terms of social disorder and labour market competition. After the 2008 global economic crisis, especially, more and more people

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<sup>51</sup> However, a civic group representative rather argued that ethnic Koreans are “not comparable [with other groups of immigrants]” in terms of their applicability to permanent residency and naturalisation and local suffrage (interview KR02).

expressed worries that they may encroach on Korean national workers' employment opportunities, and moreover worsen crime figures in Korean society (Na, 2012).

From the government's perspective, second, granting more citizenship rights (e.g. long-term residency) to migrant workers was considered to put significant pressure on the Korean labour market and social security system (interviews KR02 & KR04).<sup>52</sup> Under the pro-market (or pro-business) government of Lee Myung-bak, particularly, it was not sufficiently taken into deliberation, whilst rather subordinating the issues of human rights to economic considerations (interview KR01; Lee and Kim, 2011b).<sup>53</sup> Such a viewpoint was reflected in the First Basic Plan. It clearly stated that "the areas and ways of opening are decided on the basis of national interest through cost-benefit analysis" because an increase in the low-skilled foreign-born population is likely to generate "social problems from a larger low-income class, conflicts between local nationals and immigrants" (KMOJ, 2009, p. 11).

Lastly, more importantly, there were several strong advocates for the social inclusion of female marriage migrants unlike relatively weakened migrant worker advocacy movements, and thus they became central to the current policy discourse of immigrant incorporation in Korea (Chung, 2014; Lee, 2008). As marriage migrants and their families became a sizeable group of the electorate, first and foremost, the conservative governments of Lee Myung-bak and Park Geun-hye and their ruling parties actively embraced the so-called "multicultural families" as their political supporters. Accordingly, they enthusiastically initiated several social welfare and immigration policies intentionally targeting them (e.g. the First Basic Plan, the 2008 enactment of the Multicultural Family Support Act (MFSA), etc.). A public official mentioned that:

"The interests at that time were entirely on marriage migrants, even so in politics. [...] [Politicians] treat marriage migrants well, and gain [the] votes of their husbands. There are also their parents-in-law. [...] There is of no use for politicians to treat foreign workers well, because they don't have votes. [...] However, marriage migrants are different. They have families, that is important" (interview KR03 (public official)).

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<sup>52</sup> A civic group representative mentioned that the government has been "concerned with [low-skilled labour migrants'] encroachment on [Korean nationals'] jobs", adding that when migrant workers are granted more rights "SMEs are not able to survive the competition" (interview KR02). With regard to ethnic Korean migrant workers, particularly, a senior researcher pointed out that "while [the population of] ethnic Koreans is ageing, who takes care of these ageing people, the issue of social security spending [has emerged]" (interview KR04).

<sup>53</sup> An academic stated that the Lee government "cared nothing [about human rights groups]. [...] Businesses raised some issues, and then the government immediately accepted them from the perspective of deregulation" (interview KR01).

The political environment of unified government during the ruling of the two conservative governments enabled them to make the relevant policies to their political advantage without great difficulty.

The development of “multicultural policies” (or the Korean-style multiculturalism) was also partly due to different—often conflicting—interests of governmental ministries. In the policy making regarding foreign-born populations, two major ministries stood out: the KMOJ in charge of overall affairs of immigration control and the KMOL with a specific focus on low-skilled labour migrants (see Kim, 2011a). Since the mid-2000s, however, the KMOGEF has become the principal ministry of immigrant integration by taking charge of affairs of marriage migrants (see Lee, 2008; Watson, 2012b). The KMOGEF, relatively small in number of employees and budget, found it necessary to aggressively expand multicultural policies for the sake of its own survival:

“The thing is that the KMOJ aims at every foreigner, whereas the KMOGEF targets only multicultural families and children according to the law [i.e. the MFSA]. [...] The KMOGEF has only that, no other things. [...] In a word, it is said that the KMOGEF can be dissolved. So [the KMOGEF] eagerly encourages [multicultural policies] so as to justify its existence” (interview KR02 (civic group representative)).

Not surprisingly, additionally, the number of NGOs supporting (and advocating) multicultural families and their social inclusion has dramatically increased in comparison with migrant worker advocacy organisations (see Yoon, 2008). Along with the multicultural policy development, the conservative governments encouraged civil society organisations to participate in the relevant policy delivery system as government-funded service providers (Watson, 2012b). On this account, some NGOs, initially beginning with advocacy of low-skilled labour migrants, shifted or expanded their interest to the issues of female marriage migrants and their children—occasionally for financial reasons (interview KR03).<sup>54</sup> In recent days, interestingly, it drives more civil society organisations to show a cooperative attitude towards the governmental policy direction—especially, of immigrant integration in favour of multicultural families, in contrast with the past adversarial relationship between the state and civil society over foreign labour policy making.

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<sup>54</sup> A public official mentioned that “there are [civil society] groups receiving the governmental funding [for supporting multicultural families] [...] Civil society organisations supporting [low-skilled] immigrants are economically very hard, whereas those supporting marriage migrants are well off” (interview KR03).

During the late 2000s and the early 2010s, the hierarchical inclusion of labour migrants depending on ethnicity has remained nearly unaltered as observable in the Second Basic Plan set by the Park government (see KMOJ, 2012b). In the case of non-ethnic Korean migrant workers, there has not been any noticeable improvement in terms of their rights and responsibilities, except for the extension of the residence period through the EPS's subsequent revisions such as the 2009 revision and the 2012 Re-entry System for Faithful Workers (Choi, 2013a). In addition to the above-mentioned internal division of migrant worker advocacy movements, this can be attributed to weakening support from the public on migrant workers—and their social inclusion. They have been regarded as a temporary workforce which should be protected by human rights, but not as legitimate residents who need to be integrated into Korean society. A public official made this point:

“[Non-ethnic Korean migrant workers are] those who were initially required to return [to their home countries] after three years according to the short-term rotation principle. A policy for immigrant integration can hardly exist there. [...] In fact, they need to be integrated to the extent to work for three years. [...] It is not a sort of integration as members of our society” (interview KR03 (public official)).

Furthermore, the political regime change of 2008 from the progressive to the conservative governments could be a contributing factor (interview KR01).<sup>55</sup> Under the conservative government of Lee Myung-bak, a former business man, his pro-business sentiment had considerable impact on foreign labour policy making in a way to reflect the needs and interests of business more than others (e.g. migrant worker advocacy groups) (Lee and Kim, 2011b). However, civil society organisations comparatively lacked political connections and access to the conservative governments, and thereby hardly exerted any political influence over the relevant policy making.

In the midst of sensational journalism on cases of crime and murder by some ethnic Korean-Chinese, Korean attitudes towards ethnic minorities—particularly, low-skilled ethnic Koreans—have gradually changed from compassionate to apathetic, and even to xenophobic (interview KR04; Yoon, 2016).<sup>56</sup> Compared with non-ethnic Koreans, however, they have

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<sup>55</sup> An academic said that under the progressive Roh government “migrant worker advocacy groups made voices in the policy-making process”, but “while the government changed [to the conservative Lee government] the voices rapidly trailed away” (interview KR01).

<sup>56</sup> A senior researcher mentioned that in the mid-2000s the public was “favourable to [low-skilled] ethnic Koreans”, but recently “the image on ethnic Koreans is the most negative [among groups of immigrants]” (interview KR04).

already become an influential political group in local politics (interview KR02);<sup>57</sup> it has been more so since the government eased some regulations for them to easily apply for permanent residency in 2012. An academic also pointed out their active political participation as follows:

“Ethnic Korean migrant workers are different [from non-ethnic Koreans]. They have rather consistently made [...] new claims, and furthermore, on their own as main agents to raise their voices. For example, they attended public conferences or seminars and voiced [...] Korean-Chinese have already been well-organised [...] and well known [in] the policy-making process that [they] can change policies by lobbying and putting pressure on the Constitutional Court, the KMOJ or the KMOL” (interview KR01 (academic)).

In this regard, political parties gradually found it difficult to be lukewarm about their political demands, and rather presented various policy pledges to facilitate their social integration into Korean society in terms of permanent residency and social entitlements. Specifically, some conservative politicians publicly argued to permit ethnic Korean workers from China and the CIS countries to settle down in Korean society as a means to cope with the dramatically ageing population (Yeo, 2016).

In the meantime, the Korean welfare state has demonstrated continuous welfare expansion—in spite of some restructuring—within the intensified welfare politics (cf. Section 6.2.1). Along with the development of immigrant integration policy, foreign-born populations’ access to social benefits and services began to be discussed in the political realm. In particular, it has been noticeable in relation to social care policy development such as the long-term care insurance (LTCI) scheme and the universal childcare service along with the three Plans for Ageing Society and Population (see KMOHW, 2015). Unlike female marriage migrants, however, both groups of low-skilled labour migrants have still been excluded from the relevant discussions. Although the government made some social service programmes developments available to them, such as the medical care support and the establishment of several foreign worker support centres, these policies could be understood in terms of protecting human rights rather than promoting social integration into society (see KMOJ, 2007).

Overall, the rights and responsibilities of low-skilled migrant workers have been shaped and changed by not only political conflicts and/or debates between business and civil

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<sup>57</sup> A civic group representative viewed low-skilled ethnic Koreans as politically influential, mentioning that “there is the OKA on ethnic Koreans, [...] the government and the Democratic Party have recently been active in establishing an agency for ethnic Koreans [...] and granted [local] suffrage. [They are] not comparable [with other groups of immigrants]” (interview KR02).

society, but also mediations between political parties and within the government. Before the mid-2000s, migrant worker advocacy groups alongside the then progressive political forces stood out as influential actors in the related policy making. After then, however, migrant worker advocacy movements experienced internal divisions, and thereby did not contribute to further noticeable policy developments. On the other hand, many civil society organisations started to particularly advocate ethnic Korean migrant workers and their integration into Korean society going beyond human rights, and thus, they have gradually been preferentially treated to some extent.

### **8.3. Policy ideas**

The preceding analysis concentrating on political dynamics convincingly explained the trajectories of the rights and responsibilities of two groups of low-skilled labour migrants in Korea. However, it needs to additionally account for why certain actors have argued for or against specific policies or proposals, and how some of them have successfully earned public support whereas others have failed. The ideational explanation is of help to comprehensively understand the relevant social welfare and immigration policy making over the last two decades.

Traditionally the rights and responsibilities of labour migrants in Korea were largely underpinned by three policy legacies: Confucian values, productivism and ethnic nationalism. In terms of social welfare policy, authoritarian and conservative governments maintained a residual approach to social security by gearing it towards economic growth (i.e. productivism) and/or emphasising the primary role of family in welfare provision (i.e. Confucian values) (see Kim and Choi, 2013). In terms of immigration policy, strong ethnic nationalism left the Korean welfare state closed to immigration of foreign-born populations (see Chung, 2014). Looking into the ITTS-related policy-making process of the early 1990s, productivism was valued the most, taking into account the demands of business for a foreign labour policy that appeared to be contradictory to the closed-door immigration policy based on ethnic nationalism. The trainee-based system, exploiting migrant trainees without any legal protection or entitlements as workers, could be legitimised under the then Korean government's growth-first strategies, which prioritised economic considerations over others (see Choi, 2013b). However, ethnic nationalism was also highlighted to some extent in its institutional design. Of its operation principles, most prominent was the short-term rotation principle, under which labour migrants were supposed to leave Korea after a certain contract period. This principle was

partly backed up by the public attitude towards foreign-born populations, who were regarded as unwelcome members of the ethnically homogeneous Korean society (Lee and Kim, 2011b).

Against the differential exclusive treatment of labour migrants under the ITTS, civil society organisations adopted an alternative policy idea of international human rights norms. The human rights framing turned out to be effective, stirring up nation-wide public attention and support for low-skilled labour migrants. In the 1995 Nepalese protest at the Myeongdong Cathedral, for example, migrant worker advocacy groups endeavoured to define the situation generally facing trainees in the frame of human rights. Thirteen Nepali trainees “humanised” themselves by shouting slogans such as “We are not animals”, “We are not slaves” and “Do not beat me” (JCMK, 2000; Kim, 2007; Lim, 2002). This reminded the general public of the social movement against authoritarianism in the 1970s and 1980s, which often legitimised labour exploitation and political repression under the guise of national and economic development. The slogans used in the protest considerably resembled the ones used in the past movement such as “We are not machines” and “Do not exploit workers” (see Chung, 2014; Kim, 2007). In this regard, the government or business found it difficult to portray them just as economic and socio-cultural threats to Korean society.

The human rights framing, furthermore, stimulated the then Korean society’s desire for internationalisation and/or globalisation. In the 1990s, internationalisation, often regarded to be required to enhance national competitiveness, was symbolised to be a part of the club of developed countries such as the Organisation for Economic Cooperation and Development (OECD) (Kim, 2011a; Kim, 2009b). In this regard, Korean society was susceptible to international perspectives and reputations. Such an inclination could be identified in several statements of the then presidents in relation to low-skilled labour migrants. In 2001, for example, the President Kim Dae-jung stated “it is shameful for a country that values human rights to allow human rights violations and discrimination against foreign workers”, instructing the ruling party and the KMOL to cope with increasing violations of their human rights (The Korea Herald, 2000b). In 2003, additionally, the President Rho Moo-hyun called upon the National Assembly to enact the EPS-related legislation as follows:

“The introduction of the employment permit system for foreigners can no longer be deferred. The legitimate introduction of foreign workforce is necessary for SMEs’ smooth and reasonable staffing. If [we] stigmatise them as criminals, [we] cannot be honourable as a nation of human rights in the era of openness” (Rho, 2003).

Under the circumstances, the human rights framing of civic organisations had a broader appeal to the general public and government, thereby significantly contributing to the 2004 introduction of the EPS.

The policy-making process of the EPS, however, had not been solely dominated by the discourse of human rights, but instead, demonstrated an intense competition of two policy ideas between human rights and productivism combined with neoliberalism. The human rights-based demand of migrant worker advocacy movements for a new foreign labour policy had effectively been impeded for nearly a decade by the vehement opposition of business emphasising industrial competitiveness (see Lee and Park, 2005). Business organisations had persistently made counter-arguments from the perspective of economic costs and benefits (e.g. The Korea Herald, 2000a). Arguing that the human rights violations under the ITTS were not caused by the trainee-based system itself, for example, the KFSB made a statement in 2002 that:

“With the introduction of an employment permit system, there will be much more that the Korean economy loses than it gains, and its aftermath can be a stumbling block to the nation's economic development and cause serious social problems. [...] Going beyond higher wages, their [migrant workers'] demands will extend to all areas of daily life such as family reunification, children education, health insurance, housing and settlement. The Korean economy is not ready to accept all the demands” (KFSB, 2002).

The discourse of economic growth and productivity was further buttressed along with a new idea of neoliberalism following the Asian financial crisis of the late 1990s. Neoliberalism, usually advocated by economic bureaucrats, put emphasis on economic efficiency and competitiveness, thus leading to the industrial structure adjustment policy accompanied by deregulation or flexibility of the labour market (Lee, 1999). Within the then strong influence of neoliberalism, the exploitation of a cheap foreign workforce was regarded and justified as the imperative necessary for Korea's industrial (price) competitiveness in the intensified global competition from the perspective of the government and business (interview KR02).<sup>58</sup> Additionally, the urgent governmental tasks of the late 1990s and the early 2000s to overcome the economic downturn through neoliberal policy reforms took priority over any other issues including the protection of foreign trainees' human rights (see Kim, 2008a).

The policy discourse centring on economic interests, although somewhat overwhelmed by the discourse of human rights during the 10-year ruling of the pro-human rights

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<sup>58</sup> A civic group representative noted that when migrant workers are granted more rights “SMEs are not able to survive the competition”, adding that “the state regards immigration policy as economic policy, and thus, has no choice but to control [it] from an economic perspective” (interview KR02).

governments of Kim Dae-jung and Roh Moo-hyun, have still remained very influential in the relevant policy-making process. The economic-growth-first framing has regained legitimacy, particularly under the politico-economic circumstances of the late 2000s, including the inauguration of the pro-business President Lee Myung-bak and the outbreak of the 2008 global economic crisis. While the discourse of relaxation of regulation or deregulation became the centre of the governmental decision making, the human rights framing increasingly lost legitimacy (interview KR01).<sup>59</sup> Furthermore, although the short-term rotation principle of the EPS, strongly preserved from the ITTS onward, is often evaluated to be virtually abolished through its recent revisions (e.g. the 2012 Re-entry system for Faithful Workers) (Choi, 2013a), the government (and relevant ministries) has still hesitated to admit it by reason of societal concerns over the potential economic and financial pressure on Korean society (interview KR03).<sup>60</sup> Such a perspective can also be found in the three successive Plans for Ageing Society and Population, forecasting that low-skilled labour migrants are likely to live on benefits once they grow old (see KMOHW, 2015).

In the meantime, the Korean immigration regime has not only been liberalised, but also ethnicised by gradually expanding the connotation of ethnic nationalism. Interestingly, however, it has been taken into account in the relevant policy making alongside productivism (i.e. economic considerations). For example, the 1999 introduction of the OKA mirrored how Korean ethnic nationalism, once excluding all those with foreign nationality, was extended into an idea to selectively include specific groups of ethnic Koreans potentially contributing to Korea's economic growth and national competitiveness (interview KR01; Park and Chang, 2005; Seol and Skrentny, 2009a).<sup>61</sup> Against the selective inclusion, many NGOs endeavoured to redefine—and further expand—ethnic nationalism. Particularly, they argued the OKA intentionally excluding ethnic Koreans in China and the CIS countries neglected a historical context of the Korean nation, pointing out that many of them are descendants of emigrants during the period of Japanese colonial rule (1910-1945) (interview KR04; The Korea Herald, 2003b).<sup>62</sup>

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<sup>59</sup> An academic stated that the Lee government “cared nothing [about human rights groups]. [...] What to do to relax labour or environment regulations for business men became the centre of the public discourse” (interview KR01).

<sup>60</sup> A public official stated that “if [the government] recognises [low-skilled labour migrants] as the object of integration [...] they become able to be naturalised or permanently reside, and then it will come up against [...] the future welfare burden” (interview KR03).

<sup>61</sup> An academic pointed out that the OKA was intentionally introduced “to recognise overseas Koreans’ dual nationality or facilitate their inbound investment” (interview KR01).

<sup>62</sup> A senior researcher mentioned that “this superior concept of ethnic Koreans [...] stems from that these people are mainly our people when casting back to the period of the Japanese colonial rule. There is basically the public sentiment feeling sorry for them” (interview KR04).

In responding to the NGOs' persistent advocacy, the Roh Moo-hyun government decided to embrace low-skilled ethnic Koreans as overseas Koreans; but by introducing the VES rather than eliminating the OKA's differential element. Although some civic organisations criticised it as a discriminatory foreign labour policy between (low-skilled) ethnic Korean workers and others (Kim, 2008a), the differentiation has been justified by the widely interpreted ethnic nationalism despite the recently growing negative public publicity over them (interview KR04).<sup>63</sup> With the pressing need to cope with the demographic challenge, one of the grounds behind the current overseas Korean policy development is that ethnic Koreans are likely to bring less social disorder than those with different cultural and ethnic backgrounds, and thereby smaller economic costs in integrating them into Korean society (e.g. KMOJ, 2009; Yeo, 2016).

Since the mid-2000s, an alternative policy idea of multiculturalism has increasingly dominated the development of Korean immigrant integration policy. Although the policy idea was initially adopted by civil society organisations to generally advocate the social inclusion of foreign nationals in society, the government's (especially, the KMOGEF's) usage of it (i.e. *damunhwa*) has been restricted to the so-called multicultural families (interviews KR02, KR03 & KR04).<sup>64</sup> For example, the MFSA enacted in 2008 specifies targetting multicultural families, stipulating that: "to improve the quality of life of members of multicultural families and contribute to their social integration" (KMOHW, 2008).

Surprisingly, without serious political disputes the Korean-style multiculturalism, although potentially challenging the established strong sense of ethnic homogeneity in Korea, has been implanted by the conservative forces into the related policy-making process. In addition to the then political environment of unified government, it could be attributed to their framing, emphatically asserting that multicultural policies are rather suitable to correspond with policy legacies such as Confucian values, productivism and ethnic nationalism. In terms of Confucian values and ethnic nationalism, first, Korean-style multiculturalism defines female marriage migrants in terms of spouses of Korean nationals, future parents of Korean children and potential (naturalised) Korean citizens (Watson, 2012a; 2012b). Thereby, they are regarded to play the traditional role of women within a Korean family, not imposing serious

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<sup>63</sup> A senior researcher stated that although "the public attitude towards ethnic Koreans started to largely become negative", there has still been a general perception that "[it has to be] just favourable to ethnic Koreans" (interview KR04).

<sup>64</sup> A civic group representative expressed the term multicultural families as "a ghettoed tag", mentioning that "if a foreign woman comes into a Korean family, [they] as a whole become a multicultural family" (interview KR02). A public official also pointed out that in Korean society "immigration policy is misunderstood to equal multicultural policies and then marriage migrant policies" (interview KR03). Additionally, a senior research noted that "the KMOGEF is in charge of multicultural policies [...] but not interested in non-multicultural families" (interview KR04).

threats to the Korean national identity and tradition. These assumptions can be easily found in the eligibility rules of some welfare programmes. Of all immigrants in Korea, for example, only female marriage migrants are eligible for the NBLSS, but their eligibility is dependent upon whether or not they bring up children with Korean nationality (KMOHW, 2006). In terms of productivism, additionally, multiculturalism is supposed to contribute to Korea's national competitiveness to a large extent by bringing in cultural diversity within Korean society. Within the recent socio-economic challenges such as globalisation and population ageing, accordingly, multicultural policies are justified by primarily aiming at nurturing and training children of multicultural families as potential global leaders, as well as enhancing Korea's international reputation as a country that respects diversity (see KMOJ, 2012b).

In short, Korea's policy-making process relevant to two groups of low-skilled labour migrants has considerably been affected by interactive competitions of relevant policy ideas. Alternative policy ideas such as human rights and multiculturalism initially adopted by the progressive political forces and civil society organisations have distinctly contributed to their social inclusion by challenging the existing differential exclusive policy institutions deeply embedded in policy legacies such as Confucian values, productivism and ethnic nationalism. Reframing and/or obstructing further—both practical and semantic—expansion of the alternatives, however, the policy legacies often advocated by the conservative forces and business have still been influential in the related policy making, thereby reinforcing the established—productivist and ethnicised—policy paradigms.

#### **8.4. Concluding remarks**

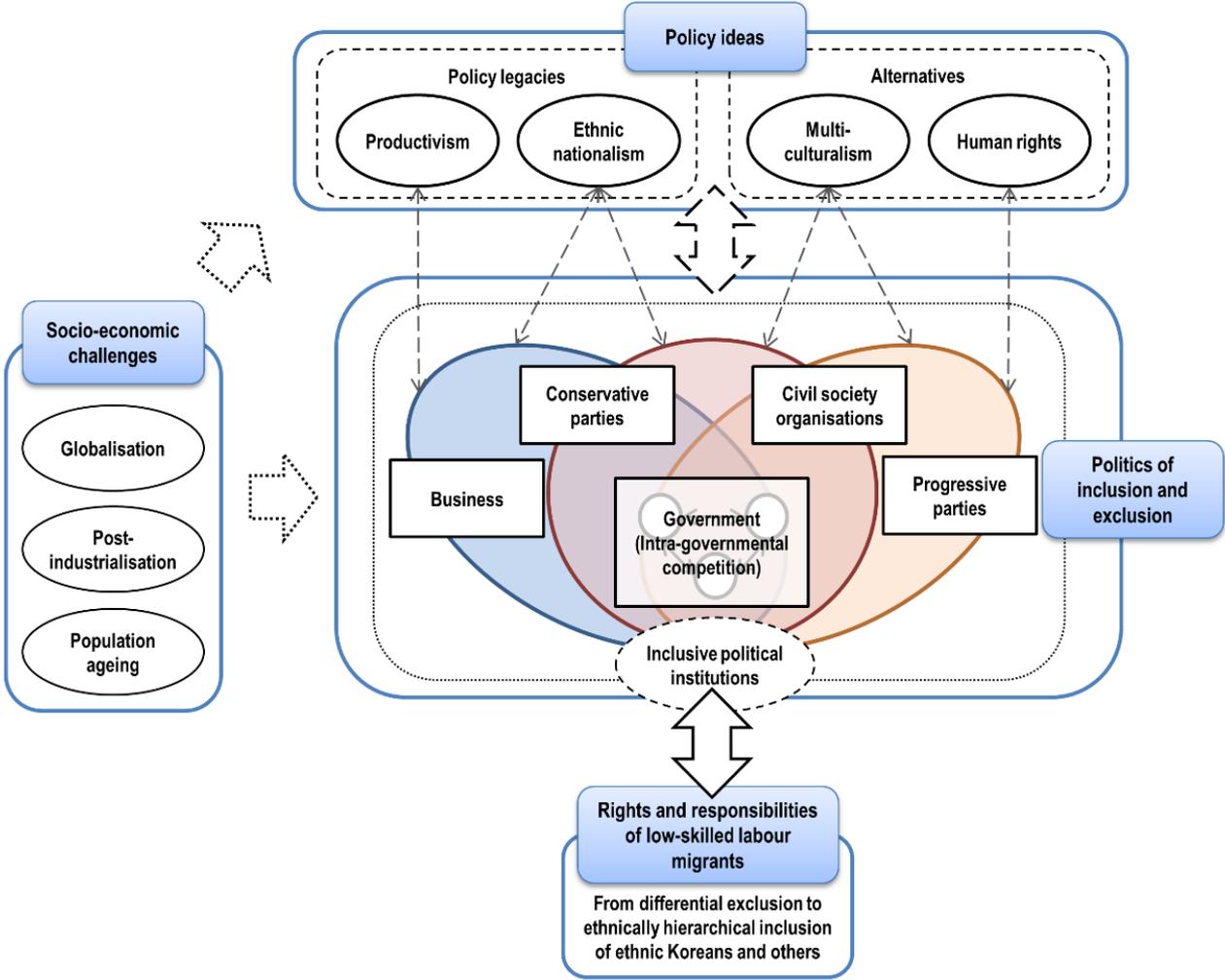
This chapter has analysed the trajectories of the rights and responsibilities of labour migrants in Korea over the last two decades by tracing the related social welfare and immigration policy-making process. The rationale behind their dramatic change from differential exclusion to ethnically hierarchical inclusion can be found in the socio-economic challenges facing Korean society, the politics of inclusion and exclusion and the interactions of policy ideas (see Figure 8.5).<sup>65</sup> The emerging socio-economic pressures such as globalisation, post-industrialisation

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<sup>65</sup> In this figure, the shape, size and line weight of factors are evenly drawn. This means that their policy influences do not vary significantly in policy making regarding low-skilled labour migrants. Additionally, solid-line arrows show direct and explicit influential sequences, whereas dash- or dot-line arrows indicate indirect and implicit ones. For example, a relationship between politics of inclusion and exclusion and policy ideas, presented with a dash-line arrow, is two-way with each implicitly affecting the other. Additionally, inside the politics of inclusion and exclusion, three different colour ovals covering different actors signal three different policy-making coalitions.

and population ageing have engendered and changed the socio-economic needs and demands of Korean society. Within the contextual challenges, progressive parties and civil society have earned public support on the issues of low-skilled labour migrants through alternative challenging ideas (e.g. human rights and multiculturalism), thus contributing to the improvement of their rights and responsibilities to some extent. On the other hand, conservative parties and business have strongly advocated their ethnically differential inclusion by simultaneously adhering to policy legacies (e.g. productivism and ethnic nationalism) and redefining the alternatives (particularly, multiculturalism). Such an interplay of socio-economic challenges, political dynamics and policy ideas has led to the ethnically hierarchical inclusion of low-skilled labour migrants in Korea.

Figure 8.5 Korea's development of the rights and responsibilities of low-skilled labour migrants



## CHAPTER NINE

### **Discussing immigrants' rights and responsibilities in East Asia from a comparative perspective**

Over the last two decades, as examined in Chapter Five, Japan and Korea, although sharing similar institutional foundations in terms of welfare and immigration regimes, have shown somewhat divergent paths of social welfare and immigration policy developments. They have shaped and developed different patterns of the rights and responsibilities of low-skilled labour migrants, persistent ethnic differentiation and ethnically hierarchical inclusion respectively. Drawing on the analytical framework suggested in Chapter Six, the previous two chapters have analysed their trajectories in terms of three factors, that is, socio-economic challenges, political dynamics and policy ideas.

This chapter discusses and identifies key points from the previous chapters studying these two East Asian cases from a comparative perspective, thereby finding an answer to the last research question of this thesis; what combination of factors has led to their similarities and/or differences in immigrants' rights and responsibilities. Before making the comparison, however, it is helpful to re-specify the relationship between immigrant's rights and responsibilities, socio-economic challenges, the politics of inclusion and exclusion and policy ideas, presented in the analytical framework (cf. Section 6.3). Socio-economic transformation and pressures engender new demands in a society, and thereby (re)shape the social welfare and immigration policy environment. However, the contextual challenges alone cannot lead to policy change, but behind which political dynamics of related actors are rather the key force. Different political actors interact and conflict with each other within political institutions according to their policy interests and preferences. Policy ideas considerably influence the actors' interests and preferences, as well as their definition (or interpretation) of socio-economic challenges. While policy legacies are utilised by them to legitimise and reinforce existing policy paradigms, emerging alternatives are adopted to legitimise and generate new policy paradigms. Such flow also works the other way round. For example, improved rights and responsibilities of immigrants potentially influence the political leverage of actors and thereby relevant political dynamics. Additionally, political actors can sometimes change the meanings and ways of application of policy ideas.

The structure of this chapter is organised by factors, as presented in the analytical framework (see Figure 6.1). The first section compares socio-economic challenges facing Japanese and Korean societies and their policy influences, followed by a comparison of the politics of inclusion and exclusion within political institutions (section two) and policy ideas

(section three). Thereby, this comparative discussion highlights the factors (or configurations of factors) that have brought about similarities and differences in the rights and responsibilities of low-skilled labour migrants in Japan and Korea.

### 9.1. Socio-economic challenges

Similar trends of socio-economic challenges have been found both in Japan and Korea (cf. Sections 7.1. and 8.1): globalisation, post-industrialisation and population ageing. The Japanese and Korean economies have increasingly been open and connected to the global market, and experienced rapid economic growth—until the early 1990s and late 1990s respectively—and global economic crises. While the process of economic tertiarisation has gradually developed, the societies have encountered a demographic crisis caused by the decreasing fertility rate and increasing life expectancy. The contextual factors have considerably influenced the policy-making process regarding low-skilled labour migrants by greatly generating and changing related social-economic demands in Japan and Korea, where there had practically been no immigration policy before the 1990s, mainly in three ways.

First, the changing socio-economic contexts have given rise to a serious labour shortage in low-skilled industrial sectors, thereby triggering the introduction of low-skilled foreign labour policies in the early 1990s in both Japan and Korea. Specifically, deepening globalisation (and intensified international competition) put considerable pressure on businesses to continuously keep labour costs low and maintain price competitiveness in the global market. Moreover, as their labour markets were bifurcated between the economic conglomerates (*keiretsu* and *chaebol*) and small and medium-sized enterprises (SMEs), SMEs—especially in low-skilled industries—struggled to internally find cheap low-skilled labour sources. Faced with the mismatch between labour supply and demand, the Japanese and Korean governments allowed the immigration of low-skilled foreign-born populations; albeit officially insisting on a closed-door immigration policy.

Second, economic crises and the subsequent recessions have engendered the necessity to expand low-skilled foreign labour policies by increasing economic and industrial demand for cheap foreign workers. However, as the two global economic crises of 1997-98 and 2008 raised issues of competitiveness, employment and financial sustainability of Japanese and Korean societies, the expansion was restricted primarily to the annual intake of trainees, periods of residence and occupational categories, rather than granting more rights to them. Going beyond the labour demand, third, the accelerating ageing of the Japanese and Korean

populations has necessitated more foreign-born populations as residents, accompanied by governmental initiatives for their social integration. In particular, Japan's Basic Plans for Immigration Control and Korea's Basic Plans for Immigration Policy both refer to "the declining birth rate and population ageing" as a key background to their recent immigration integration policy developments.

However, it is noteworthy that Japan and Korea have experienced the socio-economic challenges differently in terms of their pace and extent, thus bringing about some differences in policy responses. For example, the 1997-98 Asian financial crisis and the 2008 global economic crisis deteriorated both nations' economies; however, the former crisis caused severe damage particularly to Korea, whereas the latter had a bigger negative impact on Japan (see Figure 7.1 and Figure 8.1). The 1997-98 Asian financial crisis served as a momentum of the ethnicisation of Korean immigration policy, introducing the Overseas Koreans Act (OKA) in 1999. On the other hand, the 2008 global economic crisis de-ethnicised Japan's low-skilled foreign labour policy, shifting the government's focus from *Nikkei-jin* to technical interns.

In comparison with Korea, moreover, Japan appears to have been in a much more serious and urgent need of more foreign-born populations as not only to populate the low-skilled labour force but also as residents. The Japanese economy has been de-industrialised since the 1970s—earlier than the Korean which started in the early-mid-1980s. Japan has already experienced sub-replacement fertility (the fertility rate below 2.1 children born per woman) since the mid-1970s—much earlier than Korea since the late 1980s, furthermore, undergoing the declining (total) population since the mid-2000s. In this regard, Japan's local governments already began to implement policies for integrating foreign residents into their local communities in the 1990s; albeit not sufficiently expanding to central-level policies.

Overall, the three socio-economic challenges recently facing Japanese and Korean societies have worked as external policy opportunities and/or constraints, encouraging more liberal immigration control and more inclusive immigrant integration policy developments in both Japan and Korea. Interestingly, however, Japan, although appearing to have faced more severe and pressing challenges than Korea, has shown less frequent and somewhat gradual policy changes regarding low-skilled labour migrants. In other words, the Japanese government has still been reluctant to change the existing policy structure regarding their rights and responsibilities (i.e. ethnic differentiation) despite seemingly being under more urgent socio-economic pressures, whereas the Korean government has dramatically changed its approach to being more inclusive; albeit simultaneously being hierarchical according to ethnicity. In order to sufficiently such explain similarities and differences between these two

countries, therefore, it is necessary to take account of how political actors have interacted with each other under the changing socio-economic contexts.

## **9.2. Politics of inclusion and exclusion within political institutions**

This section reveals how the similarities and differences between Japan and Korea's politics of inclusion and exclusion within political institutions have influenced their divergent paths of the rights and responsibilities of low-skilled labour migrants. Within similar socio-economic challenges and demands, different political actors in these two countries have identified different opportunities for and/or constraints on relevant policy changes. Supporting or opposing an existing or new policy (proposal) for the sake of their own interests, they have cooperated and competed with each other within certain political institutional structures.

These two East Asian countries' politics of inclusion and exclusion are different primarily in three aspects: first, how active and interactive political actors have been in the policy making of low-skilled labour migrants; second, how attentive the society has been to related issues; and lastly, how open political opportunity structure has been to non-decision makers. Before comparing these points, however, it is necessary to note that the intra-governmental debate, competition and compromise have stood out in common in Japan and Korea's politics of inclusion and exclusion. In Japan, for example, it came out for the first time from the public debate of the late 1980s on whether to open its borders to low-skilled foreign-born populations. While the Ministry of Economy, Trade and Industry (JETI) and several economic-related agencies supported the open-door immigration policy, the Ministry of Justice (MOJ) and the Ministry of Labour (MOL) expressed considerable concerns. There have been conflicting opinions among ministries in subsequent debates on the issues—e.g. surrounding the 2009 revision of the Technical Intern Training Programme (TITP). However, they have mostly been mediated inside government through ministerial meetings (e.g. the Liaison Council of the Ministries and Agencies on the Issue of Foreign Workers), recently reaching a policy compromise more easily than before.

Korea's governmental bodies have also actively interacted—and often conflicted—with each other for their own particular interests. They have had their policy preferences on issues of immigration control and immigrant integration, being reflected in the recent immigration and immigrant policy developments. For example, the Ministry of Gender Equality and Family (MGEF) has taken the lead in multicultural policy development, strongly advocating multicultural families. In Korea's policy-making process regarding the two groups

of low-skilled labour migrants, particularly, confrontations between the Ministry of Justice (KMOJ) and the Ministry of Labour (KMOL) have constantly been found. As for the introduction of the Employment Permit System (EPS), for example, while the KMOL made proposals several times to replace it with a new foreign labour policy based on employment permits, the KMOJ expressed opposition on all such occasions, upholding the established trainee-based system. Interestingly, however, the KMOJ diligently advocated the introduction of the Visiting Employment System (VES), which favourably treats low-skilled overseas Koreans, particularly in terms of entry/residence and employment.

As for how active non-governmental actors have been in the political realm, however, Japan has shown much fewer dynamic political interactions involving non-governmental actors than Korea. Particularly, civil society organisations in Japan have not substantially been politically influential, whereas in Korea they have played a decisive role in the relevant policy-making process. Japan's civil society organisations have lacked political connectedness to key policy makers such as the politicians of the Liberal Democratic Party (LDP) or bureaucrats. Moreover, there have been few national-level advocacy organisations in comparison with a large number of locally based groups to support the socio-cultural integration of immigrants (mainly undocumented workers and *Nikkei-jin*). Many of their resources have still been concentrated on local-level supporting activities (e.g. language and cultural programmes or individual counselling services) rather than (national-level) advocacy for migrant worker rights.

On the other hand, Korea's civil society organisations have been very influential in policy making regarding low-skilled labour migrants. In order to effectively deliver their voices, they have not only focused on national-level advocacy activities, but also actively joined with governmental ministries and political parties. With respect to the EPS, for example, migrant worker advocacy groups put pressure on the government by regularly holding mass demonstrations with somewhat militant strategies such as street demonstrations, sit-ins and hunger strikes. Their insistent advocacy in cooperation with progressive political forces, although frustrated several times by business's strong opposition through counter-arguing statements and demonstrations, led to the monumental immigration policy change. Afterwards many civic groups have continuously been involved in relevant policy making such as the VES, the Basic Act and the Multicultural Family Support Act, working closely with governmental ministries—e.g. the KMOJ for issues of (low-skilled) overseas Koreans or the KMOGEF for multicultural families.

Second, Japan and Korea's politics of inclusion and exclusion differ in terms of public attention and support, which may significantly affect the activeness of political parties in

agenda setting. Immigration-related issues have not generally received considerable political attention in Japan, whereas in Korea they have drawn nationwide attention and controversy, thereby enabling more dynamic policy changes in relation to the rights and responsibilities of low-skilled labour migrants. In Japanese society they have long been considered as socio-political taboo, and thus, not sufficiently discussed in the political realm. While the general public's unfavourable stance towards low-skilled foreign-born populations has persisted, the current government of Abe Shinzo has rather announced that there is no immigration policy despite the recent development of local-level multicultural coexistence policies. In Korean politics, on the other hand, the issues have gradually become important—and simultaneously controversial. The migrant worker advocacy movements of the 1990s and the early 2000s aroused nationwide public sympathy and support for foreign trainees. In the 2002 presidential election, accordingly, two major candidates both pledged to change the existing restrictive immigration control policy, resulting in the 2004 introduction of the EPS. Since then, additionally, relevant political debates have been expanded to topics of immigrant integration (e.g. who are members of Korean society and how they can be well integrated into the society), and thus, brought the marked development of multicultural policies.

Lastly, different political opportunity structures between Japan and Korea—i.e. more exclusive in Japan than Korea—have significantly affected the frequency and extent of policy changes regarding low-skilled labour migrants—i.e. less frequent and dramatic in Japan than Korea. Collective voices—interests and preferences—of actors cannot directly be reflected in the process of public policy making, but rather are often shaped by political institutions (cf. Section 6.3). In other words, political institutions have a considerable effect on their political opportunity structures—namely, which collective claims are made by certain political actors, to what extent or how they are prioritised and reflected in the relevant policy-making process. Before explaining the linkage, thus, it is necessary to examine Japan and Korea's "rules of the game", namely how different their political institutions are. These two countries, although having different types of government—the parliamentary and presidential systems respectively—had shown public policy making centring on a few stakeholders such as conservative political forces, (economic) bureaucrats and business under the tradition of the "developmental state". However, Korea's democratisation in the late 1980s and the revisions of the administrative and electoral systems in the 1990s have not only intensified electoral competition, but also introduced and strengthened external control of bureaucrats along with increasing public participation in the policy-making process. On the contrary, Japan's policy-making process has continuously been kept somewhat closed despite the administrative and electoral reforms of the 1990s, and is thus still characterised by "patterned pluralism".

Not surprisingly, political claims of non-governmental actors in these two countries are very similar; for example, business organisations (e.g. *Keidanren* and the KFSB) have constantly demanded to cost-effectively utilise low-skilled labour migrants in ways to increase their intake or maintain existing foreign labour systems, whereas civil society organisations (e.g. *Ijuren* and JCMK) have advocated for an improvement in their status and rights in ways to grant them legal protection or abolish the trainee-based systems. After the democratisation of the late 1980s, however, Korea's political (electoral) competition in public policy making has gradually intensified, and accordingly, government and political parties have had greater incentives to respond to the demands of non-governmental actors for gaining their political support—or at least avoiding blame. Within recurrent political regime changes between conservative and progressive political forces, not only businesses but also civil society organisations in Korea have been able to find opportunities to make their voices heard in the policy making of low-skilled labour migrants.

Within the patterned pluralism of Japanese politics, on the other hand, Japan's business has been in close connection with the government and the ruling party (mostly the LDP), and thus, its demands for cheap foreign labour have relatively easily been reflected in public decision making. However, although the advocacy voices of civic groups have increasingly been strengthened, they have still rarely found opportunities to sufficiently deliver their voices to public decision makers. It is even more so in the situation where there has been no difference in the understanding of immigration-related issues between the ruling and opposition parties.<sup>66</sup>

In sum, Japan and Korea's different political dynamics in terms of civil society's active advocacy, national (political) attention and political opportunity structure have brought about their different trajectories in the policy changes regarding low-skilled labour migrants—and more frequent and dynamic policy changes in Korea than Japan. The Japanese politics of inclusion and exclusion have often been restricted to debates and compromises among a few stakeholders, particularly intra-governmental competitions, whereas the Korean have extended to include non-governmental actors, especially civil society organisations. In comparison with Japan, many immigration-related civic groups in Korea have actively engaged in national-level advocacy activities, drawn nationwide attention and support from the general public and major political parties, and thereby significantly influenced the relevant policy

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<sup>66</sup> A think tank researcher made this point in comparison with the Korean case as follows: “[the current Japanese civic groups’] advocacy does not appear to be different from the Korean. [...] It can be said that what’s weak is not civil society’s advocacy per se, but rather its effectiveness. It may be because the Japanese political system itself is very inflexible in accepting such voices of civic groups” (interview JP04).

making given the more open political opportunity structure. However, these politics-centred explanations may be insufficient to explain Japan and Korea's different approaches towards two different groups of low-skilled labour migrants; for example, why Japan has constantly had a strong policy preference for *Nikkei-jin* over non-ethnic Japanese migrant workers in terms of both immigration control and immigrant integration from the initial passage of importing low-skilled foreign labour, whereas it is only recently that Korea has been more favourable towards ethnic Korean migrant workers than others within the development of liberal immigration control and inclusive immigrant integration policies. Thus, it is necessary to complementally compare Japan and Korea's dynamics of policy ideas surrounding two groups of low-skilled labour migrants.

### 9.3. Policy ideas

With regard to the formation and development of the rights and responsibilities of low-skilled labour migrants in Japan and Korea, as mentioned in Chapter Six, there have been two types of policy ideas: policy legacies and alternative ideas. Policy legacies such as Confucian values, productivism and ethnic nationalism have legitimised and strengthened the existing policy paradigms of low-skilled foreign-born populations—ethnic differentiation and differential exclusion respectively, whereas alternative ideas such as neoliberalism, human rights and multiculturalism have reinforced and/or challenged them, encouraging different approaches—i.e. ethnically hierarchical inclusion in Korea.

In both Japan and Korea, the initial formation of the rights and responsibilities of low-skilled labour migrants was significantly affected by policy legacies, specifically productivism and ethnic nationalism. Ethnic nationalism backed up a very strict control on (low-skilled) foreign-born populations or differentiated them according to ethnicity, valuing ethno-cultural homogeneity within their societies. Productivism underpinned the cost-effective utilisation of them for national economic development, restricting their access to the labour market and social security system. As for which was taken into consideration first, however, these two countries differed; Japan prioritised ethnic nationalism, whereas Korea prioritised productivism. In Japan, for example, although a labour shortage in certain low-skilled industrial sectors was a key background for the 1990 immigration legislation, the government created the long-term residence status for *Nikkei-jin* alongside the technical intern training status for non-ethnic Japanese migrant workers. The *Nikkei-jin* exceptional policy was readily legitimised, because it was considered that their shared ancestry made it easier for them to be

integrated into society. On the contrary, Korea's ethnic nationalism initially came out in a way to exclude all types of foreign nationals regardless of ethnicity, but rather economic and industrial considerations led to the 1991 introduction of a trainee-based system as a means of simultaneously tackling the low-skilled labour shortage and minimising socio-economic costs potentially caused by the inflow of the low-skilled.

Under the changing socio-economic contexts Japanese and Korean societies have been faced with emerging policy ideas. However, Japan's existing policy paradigm of low-skilled labour migrants (i.e. ethnic differentiation) has not been significantly challenged, whereas Korea's policy paradigm has changed from differential exclusion to ethnically hierarchical inclusion within more dynamic interactions—and competitions—between policy legacies and alternatives. First, neoliberalism closely associated with (economic) globalisation has been considered in common in Japan and Korea to emphasise privatisation and deregulation for enhancing economic efficiency and competitiveness—often accompanied by macroeconomic structural adjustments; and to be closely associated with productivism in a way that economic productivity comes first. Economic bureaucrats and business organisations started to strongly advocate it to defend the legitimacy and necessity of their trainee-based systems or the increasing intake of low-skilled labour migrants from an economic perspective. While these two economies have gone through two global economic crises in the late 1990s and the late 2000s, neoliberalism has been so persuasive to effectively hinder the human rights-based advocacy from being reflected in public policy making.

Second, Japan and Korea's civil society organisations both started to utilise international norms of human rights, primarily drawn from international human rights conventions to effectively deal with the unlawful and unfair treatment of low-skilled labour migrants. However, the human rights framing has been very influential in Korea's relevant policy making, but not in Japan. In Korea, for example, it stirred up nation-wide public attention and support for low-skilled labour migrants by reminding the public of the pro-democracy movement of the 1970s and 1980s. Thus, the voices of migrant worker advocacy movements gained legitimacy, leading to the trainee-based system's replacement with the EPS. In Japan, on the other hand, the discourse of human rights has not sufficiently contributed to improving the rights and responsibilities of low-skilled labour migrants, especially technical interns. At first Japan's movements focused on undocumented workers and *Nikkei-jin*, and thus, human rights were framed centring on them—and as the rights of local foreign residents—rather than technical interns. Such a framing was unable to sufficiently arouse the general public's sympathy and support for technical interns, ultimately not influencing the ethnic differentiation between the two groups of low-skilled labour migrants.

Lastly, multiculturalism, initially adopted by civil society organisations, has been used as an umbrella term to advocate for the social inclusion of diverse groups of foreign-born populations in Japanese and Korean societies. However, its interpretation and application in public policy making is somewhat different between these two nation-states. The Japanese-style multiculturalism (*tabunka kyōsei*), which originated to address local community conflicts between Japanese and foreign residents, has rather reinforced the sense of ethnic nationalism by reproducing the conventional ethno-cultural dichotomy of Japanese and non-Japanese residents. Moreover, its local residency-based approach has ended up neither leading to further national-level immigrant policy going beyond the Ministry of Internal Affairs and Communication (JMICA)'s 2006 Plan for Multicultural Coexistence Promotion in Local Communities (MIC Plan) nor embracing foreign nationals with non-residence visas, particularly technical interns. On the contrary, the Korean-style multiculturalism (*damunhwa*) has challenged ethnic nationalism to some extent by including nearly all the types of foreign-born populations into national-level immigrant policy (e.g. the 2007 Basic Act and the subsequent Basic Plans). Simultaneously, however, while conservative political forces have actively advocated it, its connotation has been extended to partly embrace values of policy legacies such as Confucian values, productivism and ethnic nationalism. Thereby, Korean-style multiculturalism hierarchically favours certain groups of immigrants: specifically, marriage migrants (or multicultural families) over low-skilled labour migrants, as well as ethnic Korean migrant workers over non-ethnic Koreans.

Along with such challenges of emerging alternative ideas, the importance of policy legacies in Japan and Korea has gradually changed. In Japan, specifically, the policy influence of productivism has been growing while ethnic nationalism is still dominant. In Korea, on the other hand, the dominant position of productivism has been diminishing in the policy development relating to low-skilled labour migrants whereas ethnic nationalism has been gradually prioritised. For example, the substantial policy influence of ethnic nationalism in Japan could be markedly observed in the fact that the *Nikkei-jin* exceptional policy has remained nearly intact despite a changing governmental stance towards ethnic Japanese migrants since the mid-2000s. Surprisingly, the Japanese government has evaluated the related policies as a failure, viewing that many of *Nikkei-jin* could rarely be integrated (or assimilated) into Japanese society. Furthermore, they have gradually been found out to be socio-economically onerous within the Japanese welfare regime's continuous welfare retrenchment trend. While not politically addressed, nonetheless, the preferential treatment for *Nikkei-jin* over others has been maintained across all policy areas of social rights and responsibilities.

Simultaneously, however, the productivist consideration has gradually become important in the related policy changes. Under the recent financial difficulties caused by the 2008 global economic crisis, the government decided to recruit more technical interns for economic and financial reasons instead of explicitly pursuing more immigration of *Nikkei-jin* along with the 2009 repatriation programme. The short-term and temporary nature of the TITP has been regarded as a flexible and cost-effective way to effectively and efficiently deal with an issue of labour shortage depending on Japan's economic situation, thereby becoming an important part of "Abenomics", the Abe cabinet's revitalisation strategy. Although the recent revisions of the TITP contributed to technical interns' rights in terms of re-entry, longer residency and some legal protection by the labour-related legislation, in this regard, they are still the least privileged in Japanese society.

The Korean case has shown a different complexion to a certain degree. Although the introduction of the EPS is evaluated to considerably liberalise Korean immigration policy, there has hardly been any conspicuous development ever since in terms of labour migrants' social rights and responsibilities. Furthermore, the EPS grants them somewhat restricted social entitlements—practically only to health insurance and industrial accident compensation insurance. Interestingly, it is reminiscent of the productivist welfare approach of the past Korean welfare regime, which provided state welfare provision only as much as needed for economic development. On the other hand, it was not until the mid-2000s that ethnical nationalism began to sufficiently be taken into account in related policy making. Low-skilled ethnic Koreans had been allowed to be employed in Korea through the same visa category with non-ethnic Koreans (i.e. the past industrial trainee programme or the EPS). The VES introduced in 2007, however, explicitly privileges ethnic Koreans in terms of applicability to permanent residency—and potentially family reunification—and relatively extensive access to the labour market. Within the immigrant integration policy development since the late 2000s, in addition, they have gradually been regarded as those necessary to be integrated into Korean society. Considering that the preferential treatment has not extended to social entitlements to the NBLSS or social care services, however, ethnical nationalism hardly yet seems dominant over productivism in the social welfare and immigration policy changes relating to low-skilled labour migrants.

To sum up, Japan and Korea have shown different dynamics of policy ideas. Similar policy legacies considerably shaped and affected the initial formation and development of the rights and responsibilities of low-skilled labour migrants. In Japan, however, ethnic nationalism was dominant in the related social and welfare policy making, whereas in Korea productivism was taken into consideration first. Against existing policy paradigms based on

policy legacies, pro-migrant actors in Japan and Korea both have utilised emerging ideas such as human rights and multiculturalism. In Korea, these alternatives have legitimised different policy paradigms by drawing nationwide political support and sympathy for low-skilled labour migrants, but Japan's local-residency approaches have not. In the meantime, the existing policy legacies have still exerted a great influence; albeit their policy influence has changed to some extent. Along with such different dynamics of policy ideas, while Japan has maintained its two-pronged system of privileging *Nikkei-jin* but excluding technical interns, Korea has adopted a more liberal and inclusive approach, more favourably treating low-skilled ethnic Koreans.

#### **9.4. Rights and responsibilities of low-skilled labour migrants**

Along with different interactions of socio-cultural and politico-economic factors such as socio-economic challenges, political dynamics and policy ideas, as discussed earlier, Japan and Korea have shown seemingly similar but divergent paths of the rights and responsibilities of low-skilled labour migrants—that is, persistent ethnic differentiation and ethnically hierarchical inclusion respectively. Before presenting a comparative overview of the factors, however, it is necessary to identify how (the welfare and immigration regimes of) Japan and Korea have actualised the rights and responsibilities of low-skilled labour migrants by revisiting the discussion of social citizenship and membership of non-citizens, presented in Chapter Two. It is generally said that the rights and responsibilities of immigrants are significantly underpinned and affected by the welfare and immigration regimes. The welfare regime is concerned with social rights and responsibilities, that is, the kind of welfare benefits and services available and the conditions attached to receipt and continued eligibility to receive them. The immigration regime is focused on allied questions of nationhood and membership, that is, who belongs within a particular national community and subsequently enjoys the substantive rights to entry, residence, work and welfare that full membership bestows. Thus, an intersection of the two regimes defines the rights and responsibilities granted to those with full, partial or non-membership.

Considering that the welfare and immigration regimes have materialised diversely in different settings, what kind of answers have Japan and Korea yielded to the questions of inclusion and belonging? As for their welfare regimes—that is, who deserves what and to what extent, social entitlements, once selectively granted to the imperatives for economic development and political legitimacy (e.g. public officials, the military and teachers), have expanded to every citizen along with the recent welfare expansion based on the idea of social

citizenship. However, they have still shown the productivist bent to some extent—particularly, in Japan, re-emphasis on economic growth and competitiveness through Abenomics. As for their immigration regimes—that is, who are members of the society and to what extent, Japan’s strong sense of ethnic nationalism has not recognised those ethnically different as legitimate members of the society, whereas Korean society has gradually moved towards being more inclusive under the influence of human rights and multiculturalism—albeit still affected by ethnic nationalism.

Such different developments of Japan and Korea’s welfare and immigration regimes have brought about different paths and patterns of the rights and responsibilities of two groups of low-skilled labour migrants. Japan has thoroughly differentiated two groups of low-skilled labour migrants by ethnicity. For example, *Nikkei-jin* have been granted *de facto* full access to the labour market and social security system, whereas technical interns have been excluded from many—social, economic and political—realms of the society. On the other hand, low-skilled labour migrants in Korea have recently been included in the society, but the extent of inclusion differs by ethnicity. Especially, ethnic Koreans have gradually been recognised as members of Korean society, and their relatively easier access to more secure status (e.g. permanent residency and naturalisation) have led to their potentially further social inclusion in comparison with non-ethnic Koreans.

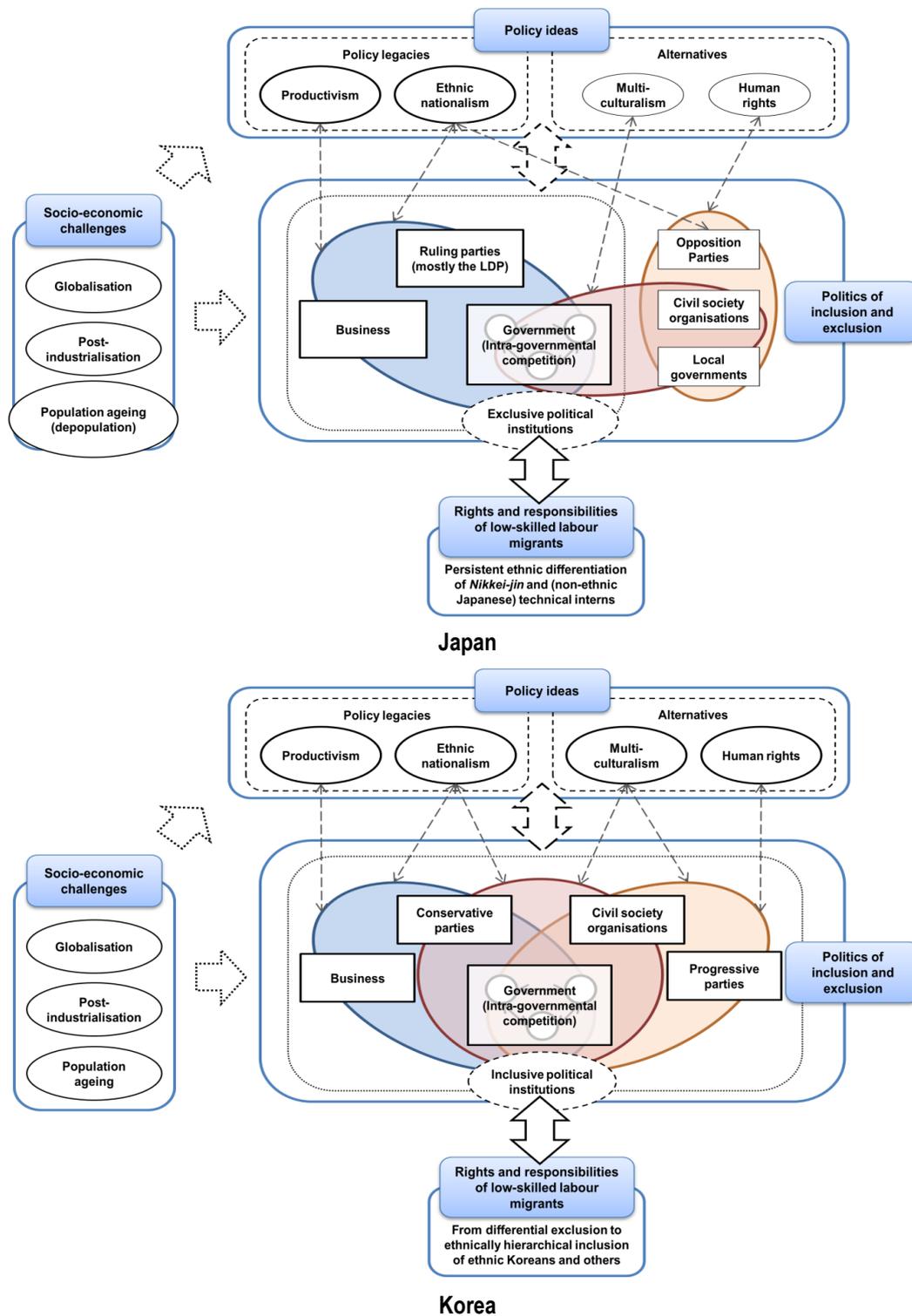
## 9.5. Concluding remarks

This comparative discussion chapter has examined what factors (or configurations of factors) have brought about similarities and differences in the formation and development of the rights and responsibilities of low-skilled labour migrants between Japan and Korea—specifically, in terms of three factors, socio-economic challenges, political dynamics within political institutions and policy ideas. To make comparison easier, this section presents the two earlier presented flowcharts (Figure 7.4 and Figure 8.5) together in Figure 9.1 and suggests a comparative overview of factors behind Japan and Korea’s (diverged) developments of the rights and responsibilities of low-skilled labour migrants—that is, persistent ethnic differentiation and ethnically hierarchical inclusion respectively (Table 9.1).<sup>67</sup>

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<sup>67</sup> In this figure, the shape, size and line weight of factors differ depending on their policy influence. In the case of Japan, for example, two policy legacies (productivism and ethnic nationalism) are presented with bigger and thicker line shapes than the two alternatives (human rights and multiculturalism), implying that the former two are more influential than the latter two. In the case of Korea, however, their shape, size and line weight are evenly drawn. This means that their policy influences do not vary

**Figure 9.1 Japan and Korea's diverged developments of the rights and responsibilities of low-skilled labour migrants**



significantly. Additionally, solid-line arrows show direct and explicit influential sequences, whereas dash- or dot-line arrows indicates indirect and implicit ones. For example, a relationship between the politics of inclusion and exclusion and policy ideas, presented with a dash-line arrow, is two-way with each implicitly affecting the other. Lastly, inside the politics of inclusion and exclusion, three different colour ovals covering different actors signal three different policy-making coalitions.

**Table 9.1 Comparative overview of factors behind Japan and Korea's diverged developments of the rights and responsibilities of low-skilled labour migrants**

Factors	Japan	Korea
<b>Socio-economic challenges</b>		
Globalisation	Indirectly influential (generating the explicit demand for low-skilled foreign labour); especially, depopulation since the mid-2000s	Same; but comparatively less urgent and serious
Post-industrialisation		
Population ageing		
<b>Politics of inclusion and exclusion</b>		
Political institutions	Exclusive (dominated by a few stakeholders)	Inclusive
Political actors:	Constantly dominant	Very influential → influential
Central ministries		
Conservative (or ruling) parties		
Business	Comparatively weak; and somewhat inactive	Comparatively weak → influential
Progressive (or opposition) parties		
Civil society organisations (and local governments)	Limited (centring on support activities rather than nation-level advocacy); but gradually growing influence	Influential (based on very strong advocacy)
<b>Policy ideas</b>		
Policy legacies:	Influential; and growing influence	Dominant; but somewhat diminishing influence
Productivism		
Ethnic nationalism	Dominant	Influential; and gradually prioritising
Alternatives:	Somewhat limited (mainly adopted at local level)	Very influential → comparatively weak
Human rights		
Multiculturalism		Influential (but implicitly excluding non-ethnic Korean migrant workers)

Three main points for further discussion emerge from the comparison. The first point is concerned with three decisive factors behind their different developments: different political opportunity structures, different political leverage of civil society organisations and the different policy influences of alternative ideas such as human rights and multiculturalism. First, as shown in Figure 9.1 and Table 9.1, Japan and Korea's different opportunity structures, mainly stemmed from different political institutions, have considerably affected to what extent collective claims of non-decision makers, particularly civil society organisations, have been reflected in the decision making regarding low-skilled labour migrants. Japan has constantly shown the established exclusive politics centring on the ruling party, bureaucrats and business; whereas other actors such as opposition parties and civil society organisations have found it hard to be directly involved in the policy-making process. On the other hand, electoral

competition in Korea's politics has gradually become intensified. In this regard, public decision making has not been dominated by a few actors, thereby being more responsive to public opinion and demand.

Second, Japan and Korea have shown different political leverage of civil society organisations. Korea's civic groups have actively criticised the existing policies discriminating against low-skilled labour migrants and called for changes through a variety of advocacy activities (e.g. mass demonstrations). Additionally, they have closely interacted with governmental ministries and (both conservative and progressive) political parties—depending on policy issues, thereby producing significant policy changes. However, Japan's migrant worker advocacy movements have primarily been restricted to local-level policy making in close cooperation with local governments. Given the more closed political opportunity structure, moreover, Japan's central government and political parties—especially, the ruling party (mostly the LDP)—have comparatively lacked incentives to respond to their demands, and persistently shown adherence to the established policy paradigm that ethnically differentiates low-skilled labour migrants.

Lastly, emerging policy ideas (e.g. human rights and multiculturalism) mainly advocated by civil society organisations have not sufficiently appealed to influential politicians (of the LDP) as well as Japanese society that still values ethno-cultural homogeneity. In Korea, however, they have drawn nationwide attention and support of the general public as well as decision makers, thereby significantly challenging the established policy paradigm of differential exclusion primarily based on productivism. Within the intensified political (electoral) competition, Korea's governments and political parties adopted and advocated these new ideas alongside the policy legacies to legitimise their stance and approach on low-skilled foreign-born populations and win more political support. The configuration of these three factors has made Japan and Korea divergent in the rights and responsibilities of (two groups of) low-skilled labour migrants.

The second comparative point is that Japan and Korea have commonly experienced the expansion and ethnicisation of the rights and responsibilities of low-skilled labour migrants. For example, they have had two different systems of low-skilled labour migrants according to ethnicity. In addition, although co-ethnic immigrants (e.g. *Nikkei-jin* and overseas Koreans) have been treated more favourably than others, it is hardly deniable that both groups' rights and responsibilities have gradually improved. The commonalities may be adequately explained by similar socio-economic challenges and the still strong influence of policy legacies such as productivism and ethnic nationalism. Although being different to some extent in terms of their pace and extent, recent socio-economic transformations—and the subsequent serious

low-skilled labour shortage—have put considerable pressure on the Japanese and Korean governments to introduce more liberal immigration control policy and then extend the social rights (and responsibilities) of immigrants through more inclusive social welfare provision and immigrant integration policy. Moreover, their public decision making has constantly been affected by the discourses of economic competitiveness and ethnic homogeneity, particularly in a way to extend or reduce their connotations and the policy implications of emerging ideas such as human rights and multiculturalism.

Lastly, this reflective discussion comparing the two East Asian cases against the analytical framework emphasises the importance of a multi-dimensional and historical approach to (comparative) policy analysis. Existing social and immigration policy theorists, as discussed in Chapter Six, explain related policy changes in terms of political dynamics surrounding social policy making (Armingeon and Bonoli, 2006; Bonoli and Natali, 2012b; Korpi, 1980; 1983; Pierson, 1994; 1996) and immigration policy making (Freeman, 1995; 2006), political opportunity structure (Koopmans and Statham, 2000; Koopmans et al., 2005) or ideas (Béland and Cox, 2011; Koopmans et al., 2005; Schmidt, 2011; Scholten, 2011; Soysal, 1994). This research has drawn a multi-dimensional framework from the literature review, taking account of the politico-economic and socio-cultural context of East Asian welfare states. According to it, three major socio-economic challenges (i.e. globalisation, post-industrialisation and population ageing) have aroused demands for policy changes in Japanese and Korean societies. Along with the changing contexts, various actors have made (collective) political claims for the sake of their own interests, and compromised interests within political institutions have been reflected in social and immigration policy making. The claims—and interests—of actors have been affected and/or justified by policy ideas—that is, policy legacies (i.e. productivism and ethnic nationalism) and alternatives (i.e. human rights and multiculturalism). However, it is noteworthy that the influence of two policy ideas (i.e. Confucian values and neoliberalism), initially included in the analytical framework, are relatively marginal in the policy making regarding low-skilled labour migrants; hence, they are not included in Figure 9.1 and Table 9.1. The interactive and recursive processes of these three factors have led to Japan and Korea's own developments of social and immigration policy making, and thereby diverged the rights and responsibilities of immigrants.

## **CHAPTER TEN**

### **Conclusion**

Going beyond the empirical analysis of immigrants' rights and responsibilities in East Asia, this final chapter presents a discussion of the wider contribution and limitations of this thesis, and makes suggestions for future research. The first section provides a brief summary of the research aims, design and key findings by looking back on the research questions raised at the start of this thesis. The second section highlights what theoretical, methodological and empirical contributions this research makes to relevant research fields, and then reflects on its limitations. Lastly, this thesis concludes with suggestions for potential future research agendas.

#### **10.1. Summary of research aims, design and findings**

The aim of this thesis has been to understand and explain the rights and responsibilities of immigrants in East Asia. More specifically, it has examined and compared the rights and responsibilities of low-skilled labour migrants in Japan and Korea. To do so, it has been composed of three parts, being dedicated to answer one question for each as follows:

RQ1 (Part One): How are immigrants' rights and responsibilities in Japan and Korea similar with and different from Western counterparts?

RQ2 (Part Two): What are the similarities and differences between the Japanese and Korean welfare states in respect of immigrants' rights and responsibilities?

RQ3 (Part Three): Why do Japanese and Korean welfare states diverge on immigrants' rights and responsibilities?

In Part One, in order to conduct the comparative research, this thesis has firstly conceptualised the rights and responsibilities of immigrants as its theoretical grounding, arguing that they are underpinned and affected significantly by two institutions, welfare and immigration regimes (Chapter Two). Drawing on T. H. Marshall's (1949/1992) conception of social citizenship as membership status with rights and duties, it has critically reviewed how (the notion of) membership has been actualised in different national contexts of welfare and immigration regimes (e.g. Brubaker, 1992; Castles and Miller, 2009; Esping-Andersen, 1990; 1999; Hammar,

1985; Papadopoulos, 2012; Sainsbury, 2012), and increasingly changed to emphasise the social inclusion/exclusion and obligations of individuals along with recent welfare restructuring and civic integration (e.g. Bonoli and Natali, 2012b; Dwyer, 2000; Goodman, 2012; Joppke, 2007a; 2008; Taylor-Gooby, 2009). Reflecting the literature review, the rights and responsibilities of immigrants have been conceptualised to consider the three following aspects (see Section 2.4): first, interdependence of membership elements in terms of an array of civil, political and social elements; second, the social inclusion and exclusion of immigrants in terms of their access to the labour market and social benefits as well as several immigration and immigrant policies helping substantively participate in the host society; and lastly, rights and duties as a twosome, especially reflecting the recent trend to emphasise obligations, welfare conditionality and civic integration.

Based on such a conceptualisation, Chapter Three has undertaken fuzzy set ideal-type analysis to answer the first research question, that is, to examine Japan and Korea's welfare regimes, immigration regimes and immigrants' rights and responsibilities from an international comparative perspective. This research has developed three fuzzy sets respectively for the welfare regime, income protection, employment protection and activation; and for the immigration regime, individual equality, cultural difference and citizenship conditionality. Selecting and conceptualising these dimensions has reflected the theoretical discussions about both regimes and relevance to immigrants' rights and responsibilities (Bonoli and Natali, 2012b; Esping-Andersen, 1990; 2002; Goodman, 2010; 2012; Iversen, 2005; Koopmans et al., 2005). Utilising the data from the OECD and the Migrant Integration policy Index (MIPEX), this research has analysed 27 OECD countries' fuzzy set memberships of the welfare and immigration regime ideal types. It has then integrated and further configured the analysis results about welfare and immigration regimes into one set of the ideal types of immigrant's rights and responsibilities, thereby trying to comprehend their multidimensionality—and complexity.

According to the analysis, Japan and Korea are distinctive not only from the other countries involved in the analysis in terms of welfare and immigration regimes and thereby the rights and responsibilities of immigrants, but also from each other. During the analysed time period between 2007 and 2014, specifically, Japan's welfare regime type has changed from the income protective type to the active-income protective, whereas Korea has been a member of the employment protective type and later the active-employment protective. In other words, Japan shows a relatively strong intent to simultaneously protect individuals' income from several social risks and encourage their labour market participation. On the other hand, Korea is comparatively protective of employment within a trend towards activation.

They have also shown a clearly different picture in terms of immigration regimes. While Japan has been characterised by its maintenance of ethnic background and cultural assimilation (i.e. the assimilationist type), Korea has had an emphasis on ethnicity but with recognition of cultural difference (i.e. the segregationist type). This analysis has suggested that these distinctive attributes of welfare and immigration regimes can produce significantly different configurations of immigrants' rights and responsibilities between Japan and Korea, and even between them and the others. These findings have led this thesis to answering the second question.

Part Two has firstly established the empirical groundings within the socio-cultural and politico-economic contexts of East Asia, and then analysed the rights and responsibilities of immigrants in Japan and Korea, centring on two groups of low-skilled labour migrants—including co-ethnic and others. As discussed in Chapter Four, East Asian nation-states are often known as sharing similar institutional traditions in welfare and immigration regimes—namely, Confucian culture, productivism and ethno-centric nationhood (see Choi, 2013b; Chung, 2014; Holliday, 2000; Jo, 2013; Jones, 1993; Seol and Skrentny, 2009b; Skrentny et al., 2007). However, the Japanese and Korean welfare regimes have gradually diverged along with the recent welfare developments in the region, mainly influenced by the welfare politics alongside neoliberalism (Aspalter, 2006; Choi, 2012; Croissant, 2004; Wilding, 2008). Their immigration regimes have also shown some distinctions of immigration and immigrant policies within the recently increasing foreign-born population (Chung, 2014; Lee, 2011b). In order to practically apply the earlier established concept of immigrants' rights and responsibilities to such East Asian contexts, this research has taken five policy areas into consideration: entry/residency, access to labour market, access to social benefits and integration programmes, political participation and anti-discrimination (see Table 4.2).

Chapter Five has concentrated on answering the second research question, comparing Japan and Korea's welfare and immigration regime developments and the rights and responsibilities of two groups of low-skilled labour migrants across the five policy areas. First, the rights and responsibilities of low-skilled labour migrants in Japan can be summarised by persistent ethnic differentiation (see Section 5.1 and Table 5.1). Exclusive privilege has still been given to ethnic Japanese migrant workers (*Nikkei-jin*) on the grounds of ethnic ties, whereas non-ethnic Japanese (technical interns) have persistently been excluded from Japanese society. *Nikkei-jin* as long-term residents have been treated favourably in terms of their entry/residence, access to the labour market and social entitlements, and gradually considered as those who need to be integrated into Japanese society, particularly along with the 2006 Plan for Multicultural Coexistence Promotion in Local Communities (MIC Plan). By

contrast, technical interns have had considerably limited rights and responsibilities because of their precarious status of technical intern and training—they are not legitimate low-skilled workers, and thus are exposed to human rights violations. They have been granted partial legal protection by the labour-related legislation since 2009, but still not a legal status as workers.

The Korean case has shown a gradual shift from differential exclusion to ethnically hierarchical inclusion of low-skilled labour migrants (see Section 5.2. and Table 5.2). Ethnic Korean migrant workers and others have both been more included in Korean society, but differentiated in terms of the extent of social inclusion. At the initial phase low-skilled labour migrants—officially trainees, but not workers—had not been reckoned to have labour and/or welfare rights. Since the mid-2000s, however, they have officially been recognised as legal workers, formally enjoying better access to the labour market and social security system. Low-skilled ethnic Koreans have recently been given some privilege over others in terms of entry/residence—especially, applicability to permanent residency and naturalisation—and access to the labour market. Since the 2007 Basic Act on the Treatment of Foreigners in Korea (hereafter Basic Act), additionally, the preferential treatment for them has gradually become more explicit across several policy areas.

Over the last two decades, interestingly, the policy changes relating to the rights and responsibilities of low-skilled labour migrants in Japan have occurred much less frequently and dramatically than Korea. From the beginning, Japan set up two different policies of low-skilled labour migrants according to ethnicity: the long-term residence status for *Nikkei-jin* and the Technical Intern Training Programme (TITP) for technical interns. Its two-pronged approach has remained nearly intact without major institutional reforms. The Japanese government, although temporarily implementing a repatriation programme for *Nikkei-jin* in 2009, has consistently granted considerable privilege to them. The TITP has been revised a few times since the late 2000s, but is still underpinned by the principle to rotate technical interns—not workers—on a regular basis—that is, for short-term period. The MIC Plan, although considering issues of immigrant integration at the national level, has mainly been focused on the local-level integration of *Nikkei-jin*, and furthermore, not led to the national legislation.

On the other hand, Korea has carried out major policy reforms. Its foreign labour policy had initially centred on the Industrial and Technical Training System (ITTS), under which low-skilled foreign-born populations were unexceptionally recruited as foreign trainees, regardless of ethnic background. After going through several revisions after the mid-1990s, however, the trainee-based system was replaced with the Employment Permit System (EPS) in 2004. Moreover, the EPS's revisions of the late 2000s and 2010s have left its key principle of short-term rotation in name only. Along with the Visiting Employment System (VES) introduced in

2007, meanwhile, the government started to distinguish low-skilled ethnic Koreans from others, and practically allowed their settlement by easing the permanent residency requirements exclusively for them in 2009. It is noteworthy that the 2007 Basic Act and the subsequent Basic Plans for Immigration Policy, although still more favourably treating ethnic Korean migrant workers than others to some extent, have embraced nearly all the types of immigrants and dealt with their social integration.

Part Three has unravelled the last puzzle of this thesis, why Japan and Korea, although having similar institutional legacies in terms of welfare provision, immigration control and immigrant integration, have diverged on the rights and responsibilities of immigrants, especially low-skilled labour migrants. This research has adopted comparative historical analysis (Lange, 2013; Mahoney and Rueschemeyer, 2003; Thelen and Mahoney, 2015), helping take a more holistic comparative perspective on the actual sequences between events (or causes) leading to certain outcomes (Chapter Six). For systematic (comparative) analysis, it has reviewed the theories of social and immigration policy changes (Bonoli and Natali, 2012b; Freeman, 1995; 2006; Koopmans and Statham, 2000; Koopmans et al., 2005; Pierson, 1994; 1996; Taylor-Gooby, 2004b), and then set up an analytical framework on the relationship between immigrant's rights and responsibilities, socio-economic challenges, the politics of inclusion and exclusion within political institutions and policy ideas (see Figure 6.1), arguing that particular configurations of the three factors have led to certain patterns and developments of immigrants' rights and responsibilities. The data for the comparative historical analysis of Japan and Korea has mainly been retrieved from documentary materials and expert interviews and analysed via thematic analysis (see Section 6.4).

Drawing on the analytical framework, Chapter Seven has explained Japan's persistent ethnic differentiation of the rights and responsibilities of low-skilled labour migrants. Given the recently changing socio-economic contexts—and the consequent severe labour shortage in low-skilled industrial sectors, the government established a two-pronged system of low-skilled labour migrants in the early 1990s, granting exclusive privilege to *Nikkei-jin* in comparison with technical interns. Central ministries, the ruling party (mostly, the conservative Liberal Democratic Party (LDP)) and business organisations have constantly supported the established policy paradigm primarily underpinned by policy legacies such as productivism and ethnic nationalism, whereas local governments and civil society organisations have advocated the further inclusion of foreign-born populations, even including technical interns, into Japanese society by utilising emerging policy ideas such as human rights and multiculturalism. However, the exclusive nature of Japanese politics has made it very hard for the alternative voices—mainly, of civic groups—to be heard and reflected substantively in the

public decision-making process. Along with the depopulation crisis beginning in the mid-2000s the government has been increasing the annual intake of non-ethnic Japanese labour migrants (i.e. technical interns) and their residence period, but are still reluctant to acknowledge them as legitimate workers-cum-residents.

In Chapter Eight, Korea's shift in the rights and responsibilities of low-skilled labour migrants from differential exclusion to ethnically hierarchical inclusion has been analysed in terms of the three factors, as in the previous chapter. Against emerging socio-economic pressures accompanied by a low-skilled labour shortage, the government introduced a trainee-based system in 1991 in accordance with business demands for a cheap foreign workforce. In the mid-1990s many civil society organisations started to use the human rights framing to raise an issue of its inherent absurdity, easily leading to human rights violations against foreign trainees. Despite intense opposition from conservative political parties and business organisations, their strong advocacy and activism was very effective in the 2004 introduction of an employment permit system, the EPS, by earning broad support from progressive political parties as well as the general public. Since then, however, the political leverage of civic groups has weakened to some extent, mainly because of their internal division by whom and whose rights and responsibilities to advocate (e.g. the so-called "multicultural families", overseas Koreans or non-ethnic Korean migrant workers). In the meantime, the conservative forces have constantly stressed policy legacies such as productivism and ethnic nationalism and simultaneously reframed emerging policy ideas such as multiculturalism, thereby significantly contributing to generating an ethnically hierarchical inclusion system of low-skilled labour migrants—particularly, via the VES and the Basic Act both introduced in 2007.

Lastly, Chapter Nine has provided an answer to the last research question by comparing the findings of the previous two chapters from the perspective of the analytical framework set up in Chapter Six. The socio-economic challenges similarly facing Japanese and Korean societies have gradually increased their economic, industrial and demographic demands for foreign-born populations not only as low-skilled workers but also as (local) residents. Additionally, policy legacies such as productivism and ethnic nationalism have still underpinned their comparatively preferential treatment of co-ethnic migrant workers over others in several aspects of rights and responsibilities. Nonetheless, these two East Asian welfare states have obviously diverged on the right and responsibilities of low-skilled labour migrants—and more frequent and dynamic policy changes in Korea than Japan. There are three decisive factors: different political opportunity structures, different political leverage of civil society organisations and different policy influence of alternative ideas (see Figure 9.1). Specifically, the Japanese public decision-making process has still centred on a few

stakeholders such as the ruling party, bureaucrats and business, whereas the Korean decision-making process has increasingly opened up to public participation. Moreover, advocacy activities of civic groups in Korea have been much more active and thereby politically more influential in comparison with Japan. Furthermore, emerging policy ideas such as human rights and multiculturalism have considerably appealed to the general public as well as decision makers in Korea, but not sufficiently in Japan. In conclusion, the configuration of these three factors has brought about different paths of the rights and responsibilities of low-skilled labour migrants between Japan and Korea.

## **10.2. Contributions and limitations**

The findings of this thesis contribute to relevant research fields theoretically, methodologically and empirically. They have theoretical implications for the literature on not only citizenship—and membership—and immigrants in welfare states, but also related social and immigration policy changes. First, the focus of this research on those without a formal citizenship status has shown that there are dynamic and bidirectional interactions between two aspects of citizenship, the membership status and the rights and responsibilities of members. This thesis further illustrates, as many existing studies point out (e.g. Brubaker, 1992; Faist, 1995), that they do not exist independently of each other, but rather are mutually connected—and complementary. In other words, an improvement in the rights and responsibilities of immigrants helps them move to a more secure status, and in turn this improved status reinforces their rights and responsibilities. Second, while taking account of welfare and immigration regimes together as main institutional foundations, recent studies of immigrants' membership have taken note of the expansion and contraction of their membership rights along with welfare restructuring and civic integration policy (see, for example, Sainsbury, 2012). However, given the multidimensionality and complexity of membership, the conceptualisation and analytical findings of this thesis on immigrants' rights and responsibilities have implied that the recent common tendency to emphasis individuals' obligations cannot be comprehended as the contraction of the membership rights of immigrants, but rather as emphasis on their responsibilities, another side of membership. Third, drawn from the theories of policy changes, this research has established a multi-dimensional framework, primarily combining the perspective of political dynamics and institutions with the competition of policy ideas. Particularly, the ideational approach has helped appropriately explain why certain actors have argued for or against changes of particular policies, why some actors' understanding of socio-economic challenges and policy

preference have changed over time and how some political claims have successfully earned public support whereas others have failed.

Methodologically, the mixed methods methodology adopted by this thesis has analytical advantages in studying immigrants' rights and responsibilities in East Asia from various angles. In general, small-N research is of help to gain internal validity (or context-bounded results), whereas external validity (or generalising results) is confirmed by studying a larger number of cases (Lange, 2013). Thus, the mixed methods methodology combining elements of different research approaches—in this thesis, fuzzy set ideal-type analysis and comparative historical analysis—can complement the weaknesses of each other. Specifically, fuzzy set ideal type analysis has shown that East Asian cases are distinctive from Western counterparts in terms of (combinations of) institutional foundations of immigrants' rights and responsibilities. Comparative historical analysis has explained how and why two East Asian nation-states have diverged on the rights and responsibilities of immigrants, especially low-skilled labour migrants, in spite of similar institutional legacies. This methodological approach has contributed to enhancing the validity and trustworthiness of the analytical findings of this thesis with better and stronger inferences.

Lastly, this thesis is empirically important as significant comparative research to analyse the substantive membership of immigrants in East Asia in a broad and historical sense. Most (comparative) case studies on it have enumerated the legal status of immigrants and associated rights, primarily exploring immigration and immigrant policy changes—sometimes alongside formal entitlements to social benefits (e.g. Kondo, 2001; Seol, 2012; Tsuda, 2006a). However, this thesis has viewed, conceptualised and analysed the rights and responsibilities of immigrants in East Asia from the viewpoint of an intersection between East Asian welfare and immigration regimes, assuming that they are never static, but rather dynamic. Thus, they cannot be grasped without a clear understanding of how East Asian welfare and immigration regimes have historically developed and interacted within the changing socio-economic contexts. Specifically, the rights and responsibilities of low-skilled labour migrants in Japan and Korea have shown divergent pictures, affected by different politico-economic and socio-cultural factors that are closely related to their own welfare and immigration regimes.

Despite these theoretical, methodological and empirical contributions, this thesis has some limitations. First, it has undertaken a historically oriented analysis of macro-level outcomes that are comprised of multiple policies and events. Such case-specific orientation, although being of great help to trace the formation and development of the rights and responsibilities of low-skilled labour migrants in East Asia longitudinally and macroscopically,

may raise an issue of generalisability and parsimony. The formation and development of immigrants' rights and responsibilities vary across countries, depending on the social, economic and political contexts of social and immigration policy making. In this regard, it is necessary to be cautious in extending the findings of this thesis to different types of immigrants (e.g. marriage migrants, the high-skilled, the undocumented, refugees and asylum seekers) or other East Asian and even Western nation-states. Nonetheless, it is noteworthy that their generalisability and parsimony can potentially be improved by applying the systematic (theory-based) approach used in this research—the analytical framework on the relationship between immigrant's rights and responsibilities, socio-economic challenges, political dynamics and policy ideas—to studying the other cases.

In addition, the fuzzy set ideal-type analysis of this thesis might have technical limitations in sufficiently measuring and analysing the multi-dimensionality of immigrants' rights and responsibilities. Specifically, it needs to be noted that given the limited time frame its findings are tentative, and moreover, its specific focus on comparing different countries' institutional arrangements does not capture other determinants such as the type of immigration; albeit that the following case studies have considered it by focusing on low-skilled labour migrants. Nonetheless, these would not appear to seriously undermine its analytical conclusion that different configurations of welfare and immigration regime types across countries arguably bring about different policy patterns and logics of inclusion and exclusion over immigrants.

### **10.3. Areas for future research**

The findings of this thesis provide the basis for further future research. First, the aim of this thesis has been to understand and explain the rights and responsibilities of immigrants in East Asia, but the comparison has had specific research targets (i.e. low-skilled labour migrants and their rights and responsibilities in Japan and Korea) for methodological and practical reasons. As implied above, it could be expanded to other cases; for example, including other groups of immigrants in Japan and Korea or other East Asian welfare states (e.g. Taiwan, Hong Kong and Singapore). Furthermore, it would be interesting to go beyond the region, making a comparison with European nation-states. The existing comparative studies of East Asia and Europe, although being numerically few in both the welfare state (see Hudson and Kühner, 2009; Schröder, 2013) and international migration research (see Seol and Skrentny, 2009b; Skeldon,

2007; Skrentny et al., 2007), show the potential comparability of immigrants' rights and responsibilities between these two regions.

Another area of research relevant to the findings of this thesis is concerned with the role of civil society organisations in the social inclusion and integration of immigrants (see Moon, 2002; Tsuda, 2006a; Yamanaka, 2010). This research has mainly emphasised civil society activism as advocates in social and immigration policy making, thus noting its different political influence between Japan and Korea. In fact, however, civic groups in both countries have played another significant role of service providers in the context of governance—in cooperation with local governments or national immigration and welfare authorities. With respect to the rights and responsibilities of immigrants, however, comparative research between these two about the role of civil society in their whole public policy process, including policy making, implementation and evaluation, is relatively scarce, and thus, further (comparative) exploration of it could contribute to the existing knowledge of relevant policy changes in East Asia.

Last but not least, the role and policy influence of (policy) ideas, particular policy legacies, in East Asian welfare and immigration regimes can also be an interesting area to study. Given the recent social welfare and immigration policy developments of East Asian nation-states, many studies question the validity of policy legacies of East Asian welfare and immigration regimes (see Chung, 2014; Hwang, 2011b). However, this research has argued that policy legacies such as producticism and ethnic nationalism have still been influential in Japan and Korea's policy making relating to low-skilled immigrants, changing their connotations while competing with emerging policy ideas. It could leave room for further studies (re)considering their role and influence in East Asian countries' social and immigration policy making.

## APPENDICES

### Appendix 1: Summary overview of the existing selected literature on the citizenship (or membership) rights of immigrants

Author(s) (year)	Framework and/or definition	Policy areas considered	Specific immigrant groups and/or countries considered
Brubaker (1989)	Membership without citizenship; defined in terms of economic and social rights of non-citizens	Access to labour market, access to immigrant status, public sector employment, self-employment and small business formation, economic status of non-citizens and social rights (access to social services)	Northern American and Western European states
Baldwin-Edwards (1991)	Immigrants' rights; defined in terms of socio-political rights of immigrants	Rights of employment, family reunification, other fundamental rights (education and housing), free movement in the EC, privileged treatment, citizenship acquisition and civil and voting rights	Immigrants of EC and non-EC and the undocumented in EC member states
Soysal (1994)	Membership of migrants; defined in terms of "incorporation regime", referring to "the patterns of policy discourse and organization around which a system of incorporation is considered" (p. 32)	Considers the organisation and articulation of immigrant integration policy and membership rights	Guest-workers in six European states
Faist (1995)	Immigrants' social citizenship; defined in terms of social rights of non-citizen immigrants, following Marshall's (1992) definition of social rights	Entitlements to old age pensions, social assistance programmes, unemployment insurance and workers' compensation, education and attendance at general secondary schools, housing and special programmes (job training and language courses)	Four groups of immigrants (permanent residents, labour migrants, refugees and undocumented) in Germany and the US
Papadopoulos (2012)	Integration of migrants; defined in terms of "migrant integration regime", focusing on the institutional dimension of social integration processes	Considers social welfare policies, citizenship and immigration policies and labour market policies and practices; and their relations within national political economies and	23 EU member states

	between various levels of governance across different policy domains	migrant integration regimes of the EU	
Sainsbury (2012, 2006)	Social rights of immigrants; configured by three aspects (welfare regime, incorporation regime and entry categories of immigration)	Access to social security and diverse immigration and immigrant policies (i.e. incorporation regime)	Six American and European states
Hemerijck et al. (2013)	Migrants' social rights; defined in terms of social inclusion and exclusion, impinged on by welfare regime, incorporation regime and welfare recalibration	Access to social security, social assistance and other welfare systems	Four European states
MIPEX (Huddleston et al., 2015)	Integration of immigrants; defined in terms of "civic citizenship", considering the concept of equal opportunity in both socio-economic and civic aspects	Measured by eight policy areas: labour market mobility, family reunion, education, political participation, long-term residence, access to nationality, anti-discrimination and health	(As of 2015) 38 countries across the world

## Appendix 2: Operationalising the fuzzy sets of welfare and immigration regimes

Variables	Operation	Notes	Sources
Welfare regime			
Income protection	Net replacement rates (NRR) for long-term single unemployed with no children; an average of cases with previous earnings in 67% of average worker (AW) level; after tax and including unemployment benefits, social assistance, family and housing benefits in the 60th month of benefit receipt; and its breakpoints (full out/fully in): 20/90		OECD Benefit and Wages: Statistics, accessed at: <a href="http://www.oecd.org">http://www.oecd.org</a>
Employment protection	Employment Protection Legislation Index (EPL Version 1); measured by the mean of EPL scores for (a) regular (against individual and collective dismissals) and (b) temporary employment; and its breakpoints (full out/fully in): 0.5/3.0	No data available for 2014 (except for the UK); substituted by EPL scores for 2013; and data available for Luxembourg: 2008, 2010, 2013	OECD Indicators of Employment Protection, accessed at: <a href="http://www.oecd.org">http://www.oecd.org</a>
Activation	Relative importance of active measures in labour market programmes; measured by public expenditure (as a percentage of GDP) on active measures divided by total expenditure of labour market programmes (including both active and passive measures); and its breakpoints (full out/fully in): 0.2/0.7	Data available for Ireland and Spain: 2007, 2010 and 2013; for the UK: 2007, 2010 and 2011; and Eurostat data was used for Greece (2007, 2010 and 2014) and Poland (2014)	OECD Employment Database, accessed through OECD statistics at: <a href="http://www.oecd.org">http://www.oecd.org</a> Eurostat data and own calculations, accessed at: <a href="http://ec.europa.eu/eurostat">http://ec.europa.eu/eurostat</a>
Immigration regime			
Individual equality (ethnic-civic dimension)	Measured by the mean of (a) Permanent residence: eligibility (5.1), (b) Political participation: electoral rights (4.1), (c) Political participation: political liberties (4.2), (d) Access to nationality: eligibility (6.1), (e) Access to nationality: security of status (6.3), (f) Access to nationality: dual nationality (6.4) and (g) Anti-discrimination (7.1–7.4); and its breakpoints (full out/fully in): 25/85.7	Data for Australia, Japan, Korea, New Zealand and the US is only available for 2010 and 2014	Migrant Integration Policy Index (MIPEX) website, accessed at: <a href="http://www.mipex.eu">http://www.mipex.eu</a>

<p>Cultural difference (monistic-pluralistic dimension)</p>	<p>Measured by the mean of (a) Labour market mobility: targeted support (1.3), (b) Political participation: consultative bodies (4.3), (c) Political participation: implementation policies (4.4), (d) Family reunion: conditions for acquisitions of status (Pre-entry and post-entry integration requirements) (2.2: 28 and 29), (e) Permanent residence: eligibility (Residence period and permits considered) and conditions for acquisitions of status (LTR language requirement) (5.1: 80 and 81, 5.2: 84) and (f) Access to nationality: conditions for acquisition (Naturalisation language and integration requirements) (6.2: 104 and 105); and its breakpoints (full out/fully in): 25/83.3</p>		
<p>Citizenship conditionality</p>	<p>Measured by the mean of (a) Permanent residence: conditions for acquisition of status (5.2) and (b) Access to nationality: conditions for acquisition (6.2); and its breakpoints (full out/fully in): 25/77.8</p>		

## Appendix 3: Information sheet

Department of Social Policy and Social Work

UNIVERSITY *of York*

### Research Study on Immigrants' Social Citizenship in East Asia

I am Kyunghwan Kim, a Doctoral Researcher in the Department of Social Policy and Social Work at the University of York. My research aims at understanding and explaining the social citizenship of immigrants in East Asia, where foreign population has significantly risen during the last two decades. I want to study the recent changes in the immigrant-related policy and political dynamics surrounding it. This research will help understanding how immigrants' social citizenship in East Asia has developed and towards what direction to head in the future.

#### Invitation

I would like to invite you to take part in an interview for this research about immigrants' social citizenship in East Asia. This interview will be a chance to express your insight and experiences as an expert directly and/or indirectly involved in the immigrant-related policy making process. You will be given an opportunity to ask me any questions about the research before deciding whether to take part or not. Participation is completely voluntary and you have the right to withdraw from the interview at any time, which includes 1) to stop your participation at any time; and 2) to refuse to answer or respond to a certain question.

#### The interview

If you decide to take part in an interview for this research, I will arrange to conduct a face-to-face interview with you at a mutually agreeable time and place. Your interview will last about one hour. While interviewing, I will ask some questions about your direct and/or indirect involvement in making policies relating to immigrants and your views. The interview will be audio recorded under your permission. If you do not want to be recorded, however, I would like to take notes instead.

When beginning the interview, firstly I will briefly explain the purpose of the interview. If you have anything to ask, please do not hesitate to do so. Secondly, I will ask you to fill out a Consent Form for the interview, which is a necessary document to be submitted to the Ethical Committee at the University of York.

I expect that only one interview will be asked. In case that additional information is necessary for clarification, I will contact you by e-mail or phone within a year after the interview.

### Privacy

Your personal data and everything you tell me (incl. audio record and the transcript) will be accessible only to me and my supervisors, and remain strictly confidential by keeping them in a safe – password-locked – location at the University of York. The transcript may be given to you upon request. The interview data will be securely stored and may be used for further research purposes, such as journal publications, conference papers and presentations.

I may use anonymised information and/or anonymised direct quotes from the interview data in reporting the results of the research. Although the data will be anonymised with a pseudonym, this does not always secure your absolute anonymity because readers of research outputs may be able to recognise who was interviewed due to your distinctive insights and ideas. To minimize the risks to confidentiality, no personal identification details except your professional information will be recorded. In addition, any interview questions that may reveal your identity and sensitive information will be excluded if you ask me to do so.

### Contact

If you have any questions about this research, please contact:

**Kyunghwan Kim** (Doctoral researcher)

Email: [kk852@york.ac.uk](mailto:kk852@york.ac.uk)  
Address: Research Centre for Social Sciences  
6 Innovation Close,  
University of York,  
York, UK  
YO10 5ZF

You can also contact my supervisors:

**Prof. Peter Dwyer**

Email: [peter.dwyer@york.ac.uk](mailto:peter.dwyer@york.ac.uk)  
Address: Department of Social Policy and Social Work  
University of York,  
York, UK  
YO10 5DD

**Prof. John Hudson**

Email: [john.hudson@york.ac.uk](mailto:john.hudson@york.ac.uk)

## Appendix 4: Consent form

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### Research Study on Immigrants' Social Citizenship in East Asia

#### Consent Form for Interviews

Thank you for reading the information sheet (24 April\_ version 1.1) about the research, which is to understand and explain the social citizenship of immigrants in East Asia. If you would like to take part, please read and initial the appropriate box indicating whether you answer Yes or No to the following statements. One copy of this form is for you to keep.

I agree to take part in the research (This means I will be interviewed).	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
I agree to you recording the interview so that a written transcript can be produced (You can still take part without being recorded).	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
I understand that my participation in the research is voluntary.	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
I understand that I can refuse to answer or response to any questions and can withdraw from the interview at any time.	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
I have been given an Information Sheet about the research and have been told what this research is about.	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
I have had the opportunity to ask questions about the research.	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
I understand that if the researcher thinks that I or someone else might be at risk of harm, he may have to contact the relevant authorities (or another person). But he will try and talk to me first about the best thing to do.	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
I understand that I can request a copy of the transcript upon request.	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
I understand that anonymised information and/or anonymised direct quotes may be used in reporting the results of the research	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
I understand that even if I am allocated a pseudonym my absolute anonymity cannot be guaranteed due to my own insights and ideas.	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
I have been informed that my anonymous data (i.e. the recording and the transcript) will be safely archived at the University of York.	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>

Participant signature (Date): \_\_\_\_\_ ( dd / mm / yy ) Agreed identifier: \_\_\_\_\_

Researcher signature (Date): \_\_\_\_\_ ( dd / mm / yy ) Researcher name: \_\_\_\_\_

For office info only.  
Respondent ID

Version: consent\_1.1 (24 April 2017)

## Appendix 5: Topic guide

Research Study on Immigrants' Social  
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### Topic Guide for Interviews

<b>1. Administration (5 minutes)</b>
<ul style="list-style-type: none"><li>• Introduction (incl. thank an interviewee for taking part in the research)</li><li>• Explain what the research is about (incl. reassuring anonymity and confidentiality)</li><li>• Ask the interviewee about any questions or concerns on the research</li><li>• Complete an informed Consent Form</li><li>• Check how much time the interviewee is prepared to spare</li></ul>
<b>2. Opening development phase (5 minutes)</b>
<p>Q1. Would you mind giving me a brief overview of your – direct or indirect – involvement in the immigrant-related policy making process?</p> <p>Q2. How long have you been involved in the process?</p> <p>Q3. What led you to participate in the process? (Or is there anyone who recommended you to do that?)</p> <p>Q4. Can you explain how the social circumstances or political situations surrounding immigration and immigrants were around 2000? (Or can you explain any similarities and/or differences in social circumstances or political situations surrounding immigration and immigrants between the 1990s and the 2000s?)</p>
<b>3. Central Core Phase (35-40 minutes)</b>
<p>[Specific policy making process (e.g. the 2004 Employment Permit System in South Korea or the 2006 multicultural coexistence plan in Japan)]</p> <ul style="list-style-type: none"><li>• What do you think motivated the government to reconsider the established immigration (or immigrant integration) policy?</li><li>• What was your claim about the introduction or abolishment of [specific policy] and on what account?<ul style="list-style-type: none"><li>○ What measures did you use in order to effectively deliver your argument?</li></ul></li><li>• Who else do you think had involved as key actors in introducing or abolishing [specific policy]?<ul style="list-style-type: none"><li>○ Do you remember what they claimed and on what account?</li><li>○ What measures did their use for effectively delivering their arguments?</li></ul></li><li>• Can you explain how different arguments from different actors were managed and reflected in the introduction and/or design of [specific policy]?</li></ul>

<ul style="list-style-type: none"> <li>○ Why do you think an argument of [specific actors] was more reflected in the introduction and/or design of [specific policy]?</li> <li>○ Why do you think the other's views were less reflected in it? (Or why was the other (or their views) excluded from the process?)</li> <li>● Do you remember how the public attention or opinion about the related issues was at that time? <ul style="list-style-type: none"> <li>○ (If there was the significant degree of public attention) do you think that was important in the introduction of [specific policy]?</li> </ul> </li> <li>● How far do you think the introduction of [specific policy] contributed to immigrants' social citizenship (e.g. their formal status or social incorporation)? <ul style="list-style-type: none"> <li>○ How about the social citizenship of low-skilled labour migrants?</li> <li>○ How far did the [specific policy] contributed to it?</li> </ul> </li> <li>● Why do you think low-skilled labour migrants were out of consideration (or less considered than co-ethnic or marriage migrants) in the design of [specific policy]?</li> <li>● After introducing the new policy, was there any voice to revise it towards more inclusive to low-skilled labour migrants?</li> </ul> <p>[More general question]</p> <ul style="list-style-type: none"> <li>● Why do you think certain types of immigrants (e.g. co-ethnic migrants and/or female marriage migrants) are favourable more than the other low-skilled labour migrants in immigration (and immigrant integration) policy?</li> </ul>
<p><b>4. Closure phase (5-10 minutes)</b></p>
<p>Q5. Would you like to clarify or expand on anything that you have said?</p> <p>Q6. What is the most important point/issue you would like me take away from our discussions today?</p> <p>Q7. Is there anything else (incl. any questions or concerns) that you would like to cover before closing the interview?</p>
<p><b>5. Administration (5 minutes)</b></p>
<ul style="list-style-type: none"> <li>● Ask the interviewee to nominate any prospective interviewees and seek recommendations concerning approach and/or access</li> <li>● Request documentary materials (if necessary)</li> <li>● Thank the interviewee for his/her time and contribution.</li> </ul>

## Appendix 6: List of expert interviews

Code	Identifier	Interviewee details	Date (location)	Method
Japan				
JP01	Former British Ambassador to Japan	Former British Ambassador to Japan with expertise in Japanese society and politics	28/Nov/2017 (London, UK)	Face to face in English
JP02	Academic	Migration expert at higher education institution, involved in the policy making of technical interns	04/Apr/2018 (Tokyo, Japan)	Face to face in English
JP03	Academic	Migration expert at higher education institution, involved in the policy making of <i>tabunka kyōsei</i> (“multicultural co-existence”)	12/Apr/2018 (Tokyo)	Face to face in English
JP04	Think tank researcher	Migration expert at non-profit think tank, (indirectly) involved in the policy making of immigration	12/Apr/2018 (Tokyo)	Face to face in Korean
JP05	Civic group representative	Chair at migrant advocacy organisation, (indirectly) involved in the policy making of immigration	13/Apr/2018 (Tokyo)	Face to face in Japanese with an English interpreter
South Korea				
KR01	Academic	Migration expert at a higher education institution, involved in the policy making of labour migrants	24/Jul/2017 (Gwangju, South Korea)	Face to face in Korean
KR02	Civic group representative	Chair at migrant advocacy organisation, involved in the policy making of <i>damunhwa</i> (“multicultural” policies)	26/Jul/2017 (Gyeonggi, South Korea)	Face to face in Korean
KR03	Public official	Official at Ministry of Justice	29/Jul/2017 (Gyeonggi)	Face to face in Korean
KR04	Senior researcher	Migration expert at national research institute, involved in the policy making of labour and labour migrants	15/May/2018 (Sejong, South Korea)	Face to face in Korean

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