

Peruvian Migration to Japan

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I am very grateful to the Inter-American Development Bank authorities for this kind invitation that will allow me to share with you, although in a concise way, the Peruvian-Japanese migration phenomenon.

Nevertheless, I would like to point out some of the milestone of our common history. I should say first that, Peru and Japan established diplomatic relations on March 3rd, 1873; that is, 132 years ago. Peru was the first country in Latin America to establish diplomatic relations with Japan, and the tenth in the world. At that time just 14 countries had this kind of links with Japan.

The Japanese migration started in 1899. Peru was also the first country in Latin America to receive those migrant Japanese citizens. The first Japanese foreign investment venture took place in Peru in 1889. It was Mr. Korekiyo Takahashi – who was elected Prime Minister some time later -, who initiated this adventure. In 1961, the Peruvian President, Mr. Manuel Prado, made an official visit to Japan. He was the first Latin American President to do this and the first Head of State who visited Japan after World War II. As you can see, Peru and Japan have been formally linked for more than a century.

Another significant fact that I am glad to emphasize here and now is that 80% of the Japanese migration to Peru came from this beautiful land of Okinawa.

Up to here, these short facts of our common history show clearly the profound interest and attachment that Japan inspired Peru. Now I would like to discuss the migration phenomenon.

The Peruvian migration to Japan

During the first half of the 80s the Peruvian population all over Japan was no more than 500 citizens approximately, which in most of the cases were students sponsored by their own parents or scholarships beneficiaries. Since the second half of these decade, a big wave of Peruvian migration emerged, and Japan was one of the main destinations overseas for the Peruvian migrants. The migration to Japan was mainly composed by “nisei”, those circumstances made easier their entrance and permanence in the country.

1. What are the social implications of the immigration?

We must keep in mind that the responsibility for the migration issues falls on the two involved countries. Therefore, on the one hand there is the migrant's responsibility by himself, who should travel with their own valid papers to obtain the corresponding visa to be easily identified and also, a personal life project to follow through. On the other hand, it

is the responsibility of the State that receives the migrant that should provide, as far as possible, the access to all sorts of services. In the same way, those responsibilities must be surrounded by the must admissible tolerance possible, out of consideration for the migrant who does not always share the same faith, race, religion, ideology or simply manners of the country where he arrives.

Among the immigrant's problems, it should be considered that maybe employment, and especially a decent one, is the most urgent problem. The working conditions in the State that receive the migrants are not always ideal ones, no matter if the migrant entered legally or illegally. He is often discriminated and he does not benefit from the same rights and benefits as the citizens of the country where he is in. In the case of Japan, manpower companies rarely observe the requirements from the Ministry of Labor.

Education for the immigrant's children is another important problem. About this subject, it must be taken into consideration that the main responsible for the education of those children are only the parents, since they are the ones who must register their children in local schools in order to help them to adapt themselves as soon as possible to the new place. It is well known that many immigrant's children did not study in Japan expecting their parents to have to go back soon to their countries of origin and then, they could start once again their studies. But frequently, this did not happen, resulting in the inability of many young people to express themselves in Japanese or in Spanish and lacking any academic education.

Along to the education issue, there are two more difficulties quite important as well: health care and social security. In both cases, it is the State who must provide the necessary health centers all around the country. It should be noted that those problems are directly linked to the economic, social and cultural rights (Human Rights of the second generation). In that sense, it is true that the implementation of the protection system should be progressive, it is also true that there are some States, like Japan, that are capable to actually protect those rights.

Regarding this subject, we are confronted with a scene of a total lack of protection to the rights of the foreign migrant. Due to their migratory status they are discriminated and are denied their basic rights too. In some particular cases, the children of illegal immigrants can not be registered at any school, besides that, those illegal immigrants are not allowed to use any medical service neither do they have access to social security.

2. How to protect the immigrant's rights

The protection of the immigrant's rights and of the human rights in general, is internationally acknowledged as a duty of any State. In the particular case of the immigrants in Japan, that is a duty of the Japanese State.

In order to defend the rights of the immigrants, each State has incorporated the necessary legal frame within its internal law that allows it to perform the duties emanated from the international law, from the positive as well as from the consuetudinary law. Thus, all civil,

criminal, labor, administrative, municipal and migration's ordinances should protect the immigrant's rights.

The defense and respect of the immigrant's human rights are supported by the existing and prevailing rules of the international positive law that are directly applicable to the protection of the individual's rights, such as the Universal Human Rights Declaration, the International Economic, Social and Cultural Rights Agreement, the International Civil and Political Rights Agreement, all of them treaties of which Japan is a sponsor State.

Thus, in the current state of the evolution of the international community, the treaties, agreements or equivalents referring to the fundamental rights, specially those that deal with political and civil rights, are consequently, international general rules (also known as *Jus Cogens*), and therefore, they hold the most important hierarchic level in the International Public Law, representing the juridical minimum that the international community considers essential for its own existence and that constitutes the tightest limit to the collective circle where the States live imposing the relativism of the International Law, and to the voluntarism and subjectivism of the sovereign States.

According to the current state of evolution of the International Public Law, the rules pertaining to the individual's rights are recognized as *Jus Cogens*, specially, those related to the civil and political rights, known as "human rights of first generation". Those civil and political rights are part of in the "Universal Human Rights Declaration" and of the "International Civil and Political Rights Agreement".

Therefore, the right to live, the right to freedom, the right to preserve their self dignity, the right to do not be treated in a cruel, inhuman or degrading way, those are the most important human rights (the first among equals), the same ones that we can find among the most highly considered, they enjoy the preeminence of being considered as *Jus Cogens* rules.

In conclusion, there are two points of view regarding the protection of the immigrant's human rights. First, the abstract one: the protection of the human rights by all the states is watched over by the international community. And second, the concrete one: the protection of the human rights is a duty of the State receiving immigrants so it should adopt the necessary rules in accordance with its internal law, considering that the observance of a national rule does not allow in accordance to the International Public Law, the nonobservance of an international duty.

3. How to cope with illegal migration issues. Strengthened migration laws might decrease the migration flow but it can also allow an increase in illegal migration

The problems originated by illegal migration are possibly solved whenever there is political will. In this way, countries that receive a large number of immigrants know where that migration flow aims to reach.

In the particular case of Japan and the Peruvian immigrants, according to the available information, more than 53,000 are legal aliens, while a similar number are in the opposite situation. From the total of Peruvians residing in Japan, at least 72% work in factories, while around 12% does not have a regular job or is jobless. In the meantime, about 5% are office workers, 3% work in the service sector and finally, 8% work in different activities such as technicians, journalists, researchers, sales, etc.

Likewise, regarding Peruvians in jail, according to the official numbers of the Ministry of Justice, there are only 65 persons in this situation.

In the Peruvian case, clearly most of the immigrants in Japan have a job, regardless of their migratory status.

In this way, it would be wise to create a state policy that allows incorporating the “floating” immigrant population in order for them to integrate themselves to the society that receives them. We could take the Spanish and Italian experience aiming to demonstrate how they have successfully absorbed the immigrant population integrating them as an economic and socially engaged part of their communities.

In this sense, it should be noted that some illegal immigrants have remained in this country for more than ten years, acquiring manners and customs as well as a correct use of the language and the necessary knowledge from the local society. Some of them, have gotten married and raised a family, but most important, they have participated remarkably in the economic development of a country not of their own.

4. How to support the return of the immigrants to their countries of origin using theirs newly learned skills

Developing a migratory policy on important issues, such as:

- Migration regularization agreements, that allows to be homologated.
- Social security agreements.
- Studies, diplomas and degrees (elementary, university and professional ones) recognition.

In the case of Japan, there are more than eleven Peruvian schools expecting to be recognized by the Peruvian Ministry of Education. Those schools could strengthen the links between the immigrants and their country, until they go back there.

- Promoting work migration agreements as well as temporary work migration programs.
- Setting up policies, which allow the return of those Peruvians who could contribute to the economic development of Peru.
- Promoting students exchange programs.

Particularly, in the case of Peru, it must be considered that a very large number of migrants, especially in Japan, are highly qualified professionals who studied in our country before they decided to move to Japan.

It must be the State itself, the one that provides an acceptable and accessible scene for the migrant that goes back to his/her country. That is why the State should develop the policies that would allow the migrant to improve his/her quality of life as soon he/she goes back.

Regarding this point, the Peruvian Government is creating the necessary rules that will promote the repatriation of human and economic capital that could directly be integrated to the national economy.

5. How to face the brain drain.

We must be conscious that the success is not to accumulate economic resources, but to strengthen human capital that will provide invaluable contributions to the nation.

Unfortunately, in many countries, there are not talent promotion policies, regardless if talented people are young or not.

In the same way, skilled professionals are discriminated according to their age, favoring younger people or even foreigners, reducing the possibilities to development and to expand the knowledge of local professionals.

In this way, for example, experiences like the Indian one are quite outstanding. In India there is no brain drain, India exports its highly educated people, and even professionals from all around the world go there to receive training.