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**Working Paper**

## Movement of Natural Persons Between the Philippines and Japan: Issues and Prospects

PIDS Discussion Paper Series, No. 2004-11

**Provided in Cooperation with:**

Philippine Institute for Development Studies (PIDS), Philippines

*Suggested Citation:* Tullao, Tereso S.; Cortez, Michael Angelo A. (2004) : Movement of Natural Persons Between the Philippines and Japan: Issues and Prospects, PIDS Discussion Paper Series, No. 2004-11, Philippine Institute for Development Studies (PIDS), Makati City

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Philippine Institute for Development Studies  
*Surian sa mga Pag-aaral Pangkaunlaran ng Pilipinas*

## Movement of Natural Persons Between the Philippines and Japan: Issues and Prospects

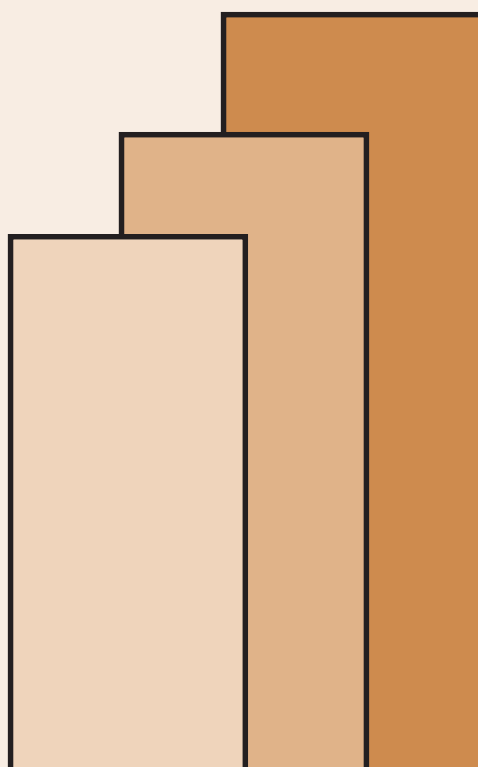
*Tereso S. Tullao Jr. and Michael Angelo A. Cortez*

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March 2004

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**Movement of Natural Persons  
Between the Philippines and Japan:  
Issues and prospects**

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Research Project

November 2003

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**Abstract**

Historically, the economic relations between the Philippines and Japan have been shaped by factors leading to the movements of goods, capital and people. Lately, the interspatial transfer of people has been defined by the asymmetric needs of each country. Considering the demographic changes in Japan, particularly its ageing population, and the Philippines' excess labor and the ability to train health workers, this paper explores the possibility of meeting the asymmetric needs of both countries, examines how welfare and protection can be promoted, and analyzes the impact on productivity enhancements to both countries.

## 1. Executive summary

The movement of natural persons has been gaining worldwide currency as a driving force of globalization. The Japanese investors are known for their commercial presence in most developing countries while the Philippines is reputed to be the leading exporter of labor with skills ranging from professional, technical, middle and low-skilled.

Considering the asymmetric demographic and development trends between the two countries, this paper explores the possibility of meeting the need of both countries to increase productivity. Japan, through its ageing population would require the services of health service providers while the Philippines attempts to provide employment by maximizing opportunities in the domestic economy and abroad.

However, there are issues in the movement of natural persons that do not facilitate the free movement of migrant labor. In the case of Japan, it is their health sector that remains closed to foreign service providers be it natural or juridical persons.

While considering the limitations in Japan's health services sector, the demographic trend of ageing, low birth rates and changing work values, Japan, in one way or another, will have to allow the entry of temporary workers to fill in jobs their citizens have deemed as 3D or dirty, difficult and dangerous. The question now is the modality of entry.

Filipino workers have established presence in Japan way back in the 1950s. Japan opens its doors to skilled workers as classified in their Immigration Control and Refugee Recognition Act. In fact, Japan provides competency training to workers from developing countries through its JITCO training program and its JITSE examination. On the other had, Japan also allows the entry of entertainers, through its side doors for what Truong (1996) explains as a reproductive need (Ballescás 2003). As more Japanese women join the labor force and postpone marriage and giving birth, a significant number of middle aged career oriented Japanese men remain single. The presence of entertainers somehow meets Japan's need to reproduce through intermarriages. Thirdly, to a certain extent most labor receiving countries allow entry of irregular migrants to work on jobs domestic workers reject. While the presence of entertainers has met Japan's social requirement, the need for health services is a possible area the Filipino migrant labor can meet.

Migration is seen as a significant socio-cultural change in the Philippines. The net successes of a migrant worker and the benefits that have accrued to his or her family have influenced people to migrate. However, it is the upper income decile of Philippine society that can afford the costs of migration. It has been reported that some entertainers bound for Japan go to the extent of sacrificing future earnings in order afford the high costs of migration and its related expenses like training, certification, travel and other expenses like boarding and costumes. Net earnings may even happen on their third visit to Japan because employment contracts allow their temporary stay for only six months. Although it widens the income distribution, the Philippine government has been

aggressive in forging bilateral agreements in order to facilitate the entry of migrant workers and to protect their rights and welfare.

Issues of exploitation and trafficking are seen as negative consequences of labor migration to Japan and can be considered common in the entertainment sector. Although the Philippine government has formalized and certified entertainers bound for Japan, reported cases of exploitation persist. This is attributable to the status of entertainers who are treated not as workers but as guest performing artist and are therefore not covered by employment contracts.

Japan's immigration policy is to allow the entry of skilled workers and has listed the category of professions and job classifications. Although these jobs are not disaggregated, the proposed entry of health workers particularly nurses and caregivers could be based on mutual recognition agreements. While the nursing profession in the Philippines is comparable to APEC country standards, international recognition through benchmarking with international accrediting institutions is proposed in order to facilitate access to Filipino nursing professionals and skilled caregivers (Ramirez 2001).

The demand for Filipino nurses is once again on the peak of its cyclical trend. The common destinations are the United States, United Kingdom and Saudi Arabia. While Japan has yet to liberalize its health services sector, Filipino caregivers have gained acceptance in Canada through its live-in caregiver program. Canada has listed the minimum requirements while the Philippine government, for its part, through the Technical Education and Skills Development Authority, has accredited, monitored and certified training institutions for care-giving services.

The issue of access and cultural opposition may be seen as a natural reaction to the proposed liberalization of Japan's health services sector. Basic sectors are closed to foreign service providers to protect the national interest of quality and access by domestic providers. However, the fact that Japan has been proposing to send their ageing population abroad is a manifestation of Japan's recognition that its population is graying and their health care system may not be able to sustain the forecasted surge in demand.

While the Philippines has been aggressive in developing and certifying new skills, language and cultural training is seen as an area to explore. In order to meet Japan's work requirements, migrant workers would have to undergo additional training in language and culture. Similar to the case Italy and Spain, Filipino nurses undergo a training period and work as apprentices or nursing aides before they can qualify as full pledged nurse.

Modalities will also have to be explored whether at the bilateral or multilateral levels. At the bilateral level, the Philippines has to engage in negotiations with Japanese officials on the pilot scheme of access for Filipino health workers. This may involve initial language certification, technical proficiency tests and other domestic requirements that may satisfy the objective of ensuring and maintaining quality in the practice of a health profession. While the proposal may be confronted with opposition, an initial



arrangement may cover negotiations for areas of mutual recognition. At the multilateral level, the Philippines may have to realign itself with the developing countries' position to separate mode 4 or the movement of natural persons from mode 3 or commercial presence in the General Agreement on Trade in Services (GATS) to facilitate the flow of workers from the territory of a GATS member to another.

On the issue of protection, any bilateral economic agreement between the Philippines and Japan should include a provision on the protection of overseas workers in Japan. The protection of workers covers from the period of recruitment to their return to the Philippines. Aside from identifying the flaws in the legal framework of protection, there is a need to regulate migration flows at both ends so that OFWs will not end up as preys and victims of illegal recruiters, crime syndicates and scrupulous employees.

On the issue of impact, the remittance flows of foreign exchange from enhanced market access should be channeled to more productive use beyond provision of consumer goods, housing and the education of migrant workers' children. There is also a need to push for greater market access that would benefit the poor. Lastly, the issue of brain drain can be transformed into brain gain through technology transfer. There should be a mechanism that would ensure the return of Filipinos who have undergone training in Japan and arrest the temptation of becoming irregular workers. The Philippines should also open its market on the knowledge sector to allow the entry of Japanese scientists and professors.

## **2. Introduction**

Over several decades, the post-war economic relations between the Philippines and Japan has been largely defined by substantial flows of goods, capital and development assistance funds. The increasing temporal trend and the expansion in scope and depth of bilateral flows has made Japan one of the leading trading partners of the Philippines. In more recent decades, however, the contour of Philippine-Japan economic relations has been increasingly influenced by the flows of people between the two countries.

The influx of Japanese visitors tremendously impacts the Philippine tourism industry. In addition, Japanese engineers, managers, experts and other skilled workers have entered the Philippines to accompany, implement and manage the huge direct investments and overseas development assistance programs of Japan. On the other hand, there have been a significant number of Filipino workers who entered Japan mostly as professional entertainers and, to some extent, technical trainees.

The movement of natural persons is increasingly becoming an important and visible contemporary global phenomenon for several reasons. The increasing trend towards globalization, in general, and the liberalization of trade in services, more specifically, allow people to move with ease for leisure, residence and employment across national boundaries. This movement is reinforced further by the asymmetries in demographic and development trends between nations. The deficiency of labor in economically progressive countries matches the surplus labor in populous developing countries. Movement of people is seen as an adjustment mechanism to this inter-spatial demographic and development differences. As a consequence, the phenomenon of massive movement of people across nations engenders issues of access, protection, and impact that have to be resolved at the national, regional or at multilateral levels.

The issue of access pertains to factors that will facilitate or hinder the movement of people across national boundaries. This concern, in turn, is influenced by the modality of movement, volume, and composition of flows. People could ideally move freely if the flow is facilitated by bilateral or multilateral agreements among nations. However, most bilateral agreements have no implementing guidelines, not ratified and covers welfare and social protection only instead of facilitating flows. The volume of flows, on the other hand, is influenced largely by domestic policies (immigration and labor laws) and the extent to which the asymmetries in demographic and development trends in hosts and sending countries is resolved by the entry of foreign workers. Similarly, the composition of flows can be restructured and differentiated by exploring the asymmetries in demography and development.

The temporary movement of natural persons (mode 4) has been stirring global attention and discussion with the start of a new round of negotiations of the General Agreement on Trade in Services (GATS). While the Uruguay round was generally dismal from the point of view of developing countries due to the lack of meaningful commitments of developed countries on mode 4, several bilateral and regional

arrangements have been explored in alternative frameworks and bodies for negotiations like the Asean Framework Agreement on Services (AFAS).

Given the massive human flows across borders, the problems of abuse, adjustment, and discrimination are bound to happen. In this light, the issue of protection becomes an important policy consideration that needs to be addressed. The extent, scope and depth of these problems can be best understood in relation with the legal framework of protection for foreign workers and the major flaws of this framework.

As the movement of natural persons proceeds, it brings about differential effects on the various sectors in host and sending countries. Movement of persons can facilitate trade in receiving and sending countries. Its impact on the economy has been analyzed in terms of the remittances sent by overseas workers and in addressing the asymmetries in demography and development. Aside from the macroeconomic impact, the immediate effects of overseas employment are on the migrant and his/her immediate family. Thus, the issue of impact becomes a pressing subject not only for analysis but also for policy action.

The movement of natural persons or temporary migration of labor has been happening since the post war era and is currently being subject to stringent regulatory measures emanating mostly from host countries. This could be attributed mainly to addressing public interest concerns, problems of irregular migration, and its accompanying social issues. Nevertheless, labor migration contributes in improving the overall output of both sending and receiving countries. Labor sending countries are relieved of domestic pressures to alleviate the unemployment of its abundant labor supply while labor receiving countries benefit in industries where labor is deficient.

Considering the GATS negotiations, developing countries (as led by India) have been lobbying that mode 4 (movement of natural persons) be separated from mode 3 (commercial presence). Arguably, it is only companies from developed countries that can afford commercial presence and linking mode 4 to mode 3. It is suspected not only as a means to transfer expatriates, executives, managers, and other intra-corporate transferees but also to ensure the repatriation of profits and wages back to their countries. The comparative advantage of developing countries is based on its surplus labor and mode 4 is seen as a channel to facilitate freer movement.

Among the destination countries, Japan, together with Canada, has initiated exploring the separation of the movement of natural persons from commercial presence. Among its current commitments in the GATS negotiations is to allow intra-corporate transferees and temporary visitors. As stipulated in the Immigration Control and Refugee Recognition Act of Japan, one to three years with a possibility of term extension is allowed. Japan also offers to take commitments on the residency status of accounting, engineering, legal services, and specialists in humanities and international services. Beyond horizontal commitments, Japan has offered to commit legal and taxation services sector in addition to the supply of services by natural persons. Regarding placement and supply services of personnel, Japan has offered to remove the limitation on the number of

licenses conferred to service suppliers, as well as to expand the scope of occupations for which these services may be supplied (Tullao & Cortez 2003). However, these proposed commitments do not include health services yet, a sector Japan could liberalize to address its ageing population by allowing the entry of individual health service providers from the Philippines.

Among labor sending countries, the Philippines is considered to have the '*best practices model*'. While the country initially started exporting low-skilled labor in the 1970s to the Middle East, recent trends reveal that Filipino migrant labor has diversified to a variety of skills ranging from professionals (medical, IT, health), to middle skilled (caregivers, entertainers, seafarers), and low skilled (domestic helpers and unskilled labor). The Philippine government policy is to "seize opportunities [in the global market], minimize the costs and the risks, empower and guide the workers in their decision-making, enable stakeholders, engage recruiters, foreign governments, and employers to share responsibilities and mainstream the issues in development planning" (Casco 2003). Considering the Philippines' comparative advantage of providing services to over 200 countries and trust territories, the government has been very aggressive in initiating bilateral arrangements to destination countries. However, host countries are restrained in their responses by reasons of national policy and public interest. Among the recent ones are employment agreements with the National Health Service (NHS) of the United Kingdom and with Switzerland.

#### **a. Significance of the study**

Japan is the leading commercial partner of the Philippines, accounting for more than 20 percent of the total trade of the country. In terms of foreign direct investments (FDI), total Japanese FDI reached 21 percent making it the leading source of foreign funds (Tecson 2003). In 2002, out of the total PhP 46 billion approved FDI, Japan emerged as the top source accounting for almost 37 percent of the total FDIs in the country. In terms of official development assistance (ODA), the Philippines draws from Japan a considerable amount to finance various infrastructure and human development efforts in the country. Japan continues to be the major source of ODA contributing approximately 45 percent of the total ODA received by the Philippines from 1992 to 1999.

One of the more recent developments in the growing commercial relations between these two countries is the flow of overseas Filipino workers (OFW) to Japan. In 2002, of the total 667,226 OFWs deployed by the Philippines, some 77,870 OFWs went to Japan (POEA 2003). Out of the significant foreign exchange remittances in 2002, OFWs from Japan sent approximately USD 443 million (BSP 2003).

This study becomes significant in the light of the proposed bilateral free trade arrangement between the Philippines and Japan. With the liberalization in the movement of natural persons under a free trade area, the economic relations between the two countries will be further enhanced. In addition, given the contributions of overseas employment to the Philippine economy and the manpower requirements of an ageing population in Japan, an expansion in the flow of human resources between the two

countries under a bilateral trading arrangement will have positive impacts on the two countries.

This study could serve as a landmark to furthering the development of trade in services not only between the Philippines and Japan but between developing and developed countries as well. Consistent with regional initiatives, this study is supportive of multilateral frameworks for trade in services.

Using the human development framework of empowerment, productivity, economic sustainability and reduced inequality, this study could support policy making for both Japan and Philippines.

#### **b. Research problem**

In the light of the changing socio-economic and demographic structures in Japan, on one hand, and the growing trends of Filipino overseas migration, on the other hand, are there prospects and complementation that the two countries can explore in these inter-spatial developments? Specifically, will the liberalization in the movement of natural persons between the two countries be able to realize the impact of this complementation in enhancing the commercial relations of the Philippines and Japan under a free trade area? In order to answer these questions, this paper attempts to investigate the human resources flow from the Philippines to Japan, the reasons behind such movement and their accompanying problems. Factors that hinder and facilitate the growth of the flows shall consequentially be analyzed.

#### **c. Research objectives**

The following are the objectives of this paper:

1. To trace the historical trend of the movement of natural persons from the Philippines to Japan
2. To review the contributions and consequences of the movement of natural persons on the economies of the Philippines and Japan
3. To analyze the key issues faced by Filipino workers in Japan
4. To assess the prospects for the enhancement of the movement of natural persons between the Philippines and Japan

### **3. Review of related literature**

#### **a. Liberalization of Trade in Services**

Trade in services has been one of the major focal points of liberalization under the last round of multilateral negotiations. Unlike trade in commodities, where tariffs and quantitative restrictions are relatively easy to manage in order to expand the flow of trade in goods, trade in services globally is more complicated. Service is not storable, tangible and involves the simultaneous action between the service provider and the service consumer (Stephenson 1999).

In addition, a host of domestic regulations are instituted for the promotion of public interest and protection of consumers because of the asymmetry between the service provider and the service consumers. These regulatory frameworks have hindered

trade in services internationally and made services mainly a domestic economic activity. However, with the development of telecommunications, information and communications technology, massive movement of capital through foreign direct investments and financial flows, as well as the movement of natural persons for leisure and employment, international trade in services has expanded in leaps and bounds in recent years.

The *General Agreement on Trade in Services* (GATS) establishes a multilateral framework of principles and rules for trade in services. It aims to expand and gradually increase liberalization of trade in services to promote economic growth of all trading countries and the further development of developing countries. The GATS provides a set of generally applicable disciplines for a large and growing sector of economic activity, as well as a mechanism to undertake negotiated specific commitments on market access and national treatment in specific service sectors and sub-sectors and modes of supply listed in each member countries' schedules of commitments (Mashayekhi 2000).

The GATS is a set of rules that seeks to limit the intervention of governments and other institutions in the global trade in services, removes obstacles to market entry and provides equal treatment of foreign service providers in reference to the privileges enjoyed by their domestic counterparts as they comply with government rules and regulations (Yew 1997).

*Liberalization* is a process of increasing the openness of the domestic economy to the global market. This entails the removal of barriers to the free flow of goods and services across borders and the adjustment of domestic industries. These hindrances are caused mainly by market imperfections, institutional and legal barriers. As a consequence of participating in global commerce, foreign products and services are allowed to enter the domestic market with ease and compete with local industries (Tullao 1999).

The GATS, therefore, calls for the liberalization of a service sector of an economy to facilitate trade. According to Mashayekhi (2000), the flexibilities provided in the GATS in respect of making negotiated specific commitments on market access and national treatment and attaching limitation to market access provides for a gradual liberalization of the services sector and space for policies for developing countries to develop a competitive services sector.

#### **b. Four Modes of Supply under GATS**

The GATS covers the following four supply modes in the provision of services internationally:

- i. **Cross-border supply.** Services are supplied from the territory of one member to the territory of another member through telecommunications, mail, and other means.
- ii. **Consumption abroad.** This involves the purchase by foreigners of services in the territory of another member country (ex. Tourism).

- iii. **Commercial presence.** Service providers are allowed to conduct business in another country through the establishment of offices, branches, agencies, joint ventures, and other forms of equity participation (ex. Foreign direct investment).
- iv. **Movement of natural persons.** This involves the entrance and temporary stay of individual service suppliers of a GATS member into the territory of another member to supply services.

The GATS definitions (Art. XXVIII) relevant to Mode 4 involves “supply of the service (includes the production, distribution, marketing, sale and delivery of a service) by a service supplier of one member, through the presence of natural persons of a member in the territory of any other member”. Winter et al clarifies that Mode 4 involves a service delivered by a foreign worker under employment contract to a local provider may be treated differently from precisely the same service provided by the same person acting as an unattached service provider or under contract to a foreign company (Self & Zutshi 2002). However, there is a need to define the temporary movement of natural persons in terms of time period.

### **c. Current debate on the movement of natural persons**

A human development trade regime would give governments space to design appropriate policies and preferably help developing countries build their capacity to gain from trade. To achieve these goals, the trade regime should conduct a human development assessment, support diverse development strategies, increase market access for developing countries, allow for asymmetric rules, reconcile asymmetric rules with market access requirements and ensure sustainability (Making Global Trade Work for People 2003).

Developing countries were largely disappointed with the turnout of commitments on the movement of natural persons, which were mainly limited to intra-corporate transferees of businesses, professionals and technical staff. Since the comparative advantage of developing countries is based on their abundant labor supply, these countries were expecting more meaningful commitments in facilitating trade in services through the movement of natural persons. Such relevant commitments under Mode 4 would have greater impact on the economies of developing countries.

The following issues have to be addressed in order to make negotiations and commitments more meaningful to both developed and developing countries. First, is the separation of Mode 4 from Mode 3. Although, mode 4 (movement of natural) persons is a permissible mode of supply, its application is quite restricted and more often associated with mode 3 (commercial presence). Developed countries see this as a channel to facilitate the movement of their intra-corporate transferees.

Secondly, horizontal commitments are limited. Although commitments under Mode 4 are mostly horizontal and cover almost all sectors under the services sectors, they are, however, subject to several limitations pertaining to immigration rules and economic needs test. Because of these limitations, the relative application and benefits derived

from Mode 4 as a mode of supply of services is relatively narrow and quite partial towards highly skilled and professionals associated with transnational corporations.

Third, GATS-visa is proposed to separate the temporary movement from permanent migration. The GATS-visa aims to enable service providers to move in and out of foreign markets for business development and service delivery without undergoing time-consuming processes associated in securing a visa or the need to present documents that they have been invited in foreign market to provide a service (UN Conference 1999). Mode 4 should clearly delineate the movement of workers for temporary employment from permanent migration in order to resolve the issue with immigration policies of labor receiving countries while facilitating global trade in services. In addition, the term ‘temporary’ employment needs to be harmonized as to the period covered. Different countries have varying interpretations of the term for temporary employment.

The fourth issue is to disaggregate the categories of professionals and sectoral workers. Professional and workers’ classification has been subject to different interpretations by member countries. Thus, there is a need to disaggregate the categories of service providers in the sectoral schedule through a detailed breakdown of the WTO services sectoral classification list or the adoption of the International Standards Classification of Occupations (ISCO-88).

One of the key reasons for the hesitancy of countries to make commitments under Mode 4 is the variability of market conditions. These uncertainties in the labor market can be addressed through emergency safeguard measures per GATS rules and the economic needs tests. However, discriminatory practices in the use of economic needs tests have to be reduced.

#### **d. Factors affecting the movement of natural persons internationally**

There are three major frameworks explaining the movement of persons across borders to explore economic opportunities. The first one deals with a macroeconomic response and adjustment mechanism to asymmetries in demography and economic developments in the host and sending countries. The second explanation views migration as a rational individual response to wage differentials between countries. The third view is based on the household decision to maximize family income and minimize the scope of economic risks (Semyonov & Gorodzeisky 2002).

Under the first view, the host country is characterized by rapid economic growth accompanied by low population growth. This combination results in excess demand for labor as a consequence of high demand for labor due to economic expansion and the low level of labor force participation due to depressed demographic trends. On the other hand, a sending country is often depicted by lethargic economic performance and rapid population growth. This economic-demographic mix produces a pool of unemployed workers. This asymmetry in demographic and development trends between the two countries is resolved through the migration of workers from labor surplus countries to labor deficient countries. For labor deficient countries that maintain restrictive policy on



the entry of workers would have to adjust in terms of increasing the wage rate and enhancing youth and elderly participation in the labor force.

The *pull* from higher wages in labor receiving countries and the *push* of high levels of unemployment and poverty in source countries are the most obvious and popular reasons for the temporary movement of migrant workers (Wickramasekera 2002).

From the Philippine perspective, *push* factors include the migration culture. The positive experiences of Filipino migrants to the United States and subsequent acceptance of other developed countries like Canada, Europe and the Middle East have mustered the greater willingness to take the risk of difficult adjustment in places of alien culture and physical environment. The Philippine education system is believed not only to produce skills for the domestic economy but for the global economy as well. Coupled with high population growth rate, continuing high incidence of poverty and slow domestic growth rates with high levels of unemployment and underemployment, the Filipino worker seeks greener pastures in the global work environment (Ballescas 2003).

The *pull* factor from Japan's end is their ageing population and the subsequent shortage in young workers. Young Japanese workers have developed negative attitudes towards jobs seen as 3Ks or 3Ds *kitanai* (dirty), *kiken* (dangerous), and *kitsui* (difficult). While Japanese heirs are culturally bound to take care of the elderly, changing work and family values have influenced the shift to engaging health services for the elderly. In addition, declining fertility rates and the rapid ageing of the population deem that heirs caring for the elderly will need to be taken care of in the near future. The increase in ability to pay for health services and the attractive wage differential of working in Japan can offer, serve as other *pull* factors to Filipino labor migration.

Filipino female migration to Japan can be alternatively seen as fulfilling the reproduction requirement both of national and international economic order. The cross-national transfer of reproductive labor under the wage contract of the marriage contract is linked with its social necessity as more and more women in industrialized countries are rejecting domesticity (Truong 1996 in Ballescas 2003)

Truong (1996) noted that labor shortage characterized Japan's industrial and service sectors. This labor shortage was aggravated by sharp fertility decline and ageing of Japan's population, the avoidance of by Japanese workers of 3D jobs and the outflow of Japanese workers to overseas investment destinations (Ballescas 2003).

In addition, female Japanese workers have shifted preferences from the traditional extended patriarchal family structure to a more career centered culture. They have been observed to postpone marriage leaving an increased number of unmarried Japanese men (Ballescas 2003).

For Filipino female entertainers, culturally, they have been brought up to socialize and entertain family guests in occasions and gatherings. Japanese men have the

preference for Filipino female entertainers because of their closely-knit family values, cheerfulness and the ability to speak English (Ballescas 2003).

Ballescas (2003) concludes that Filipino women and Japanese men, therefore, find their cultural and socialization values coinciding with the objective structural requirements for both reproductive and productive labor of the national and international economic systems of which their countries are integral and interrelated parts.

The second explanation of international migration draws its constructs primarily from the traditional theory of internal migration that is based on the individual rational response to wage differential between countries. The asymmetries in demographic and development trends explained above are reflected by wage differentials between countries. Traditional trade theory tells that the wage gap between countries is removed through the expansion of trade. Countries with labor surplus will specialize and export commodities that are labor intensive while countries that are capital abundant will produce and export capital-intensive goods. Such realignment will equalize wages through the theory of one price on the assumption that factor inputs are immobile internationally.

However, the assumption of factor immobility across countries is not realistic in the light of massive flows of capital and the movement of natural persons globally in recent decades. If factor inputs, including labor, are allowed to move internationally, there is an incentive for individuals to explore the benefits of wage differentials. Labor from countries with low wage rates will migrate to countries with higher wages. Similarly, capital will move in capital-deficient countries where the returns to capital are high.

Between a macroeconomic adjustment mechanism and a microeconomic response to wage differentials, the third perspective on international migration is based on a household decision to improve its welfare. According to this view, more than an individual decision, external migration is a household decision to maximize expected income and reduce economic risks. This explanation draws heavily from sociological observations on the pattern of external migration of families in developing countries as well as the direction of remittances. In the Philippines, it has been observed that there is a trend in sending young unmarried women overseas after replacing the trend of male migration. According to these studies, women are more reliable than men in sending higher amount of remittances on a regular basis and thus contribute in maximizing family income and reduce uncertainties (Semyonov & Gorodzeisky 2002).

#### **4. Trends in the movement of natural persons**

##### **a. Annual flows of overseas Filipino workers to Japan**

Based on recent estimates from the POEA, 667,226 land-based Filipinos are currently deployed in more than 200 countries and trust territories around the globe. The major recipients of Filipino labor are geographically grouped as the Middle East, Asia, Europe, the Americas, Africa, Trust Territories, and Oceania.

Skilled and professional workers from the Philippines are spread around the world but certain skills tend to cluster in specific countries of destination. For example, Filipino domestic helpers tend to be concentrated in Hong Kong and Saudi Arabia; entertainers in Japan and other Southeast Asian countries; IT professionals and nurses in the United States, and nurses in the United Kingdom.

According to the ESCAP (2002), migration is structural and demand driven. Women's migration and their concentration in domestic services and entertainment suggest that the labor market is not only segmented but also gendered (ESCAP 2002). Since entertainers, dancers, musicians and singers are clustered mainly in Japan, based on disaggregated information on outbound professions by the POEA, Table 1 summarizes the outflow of OFWS and is broken down by gender.

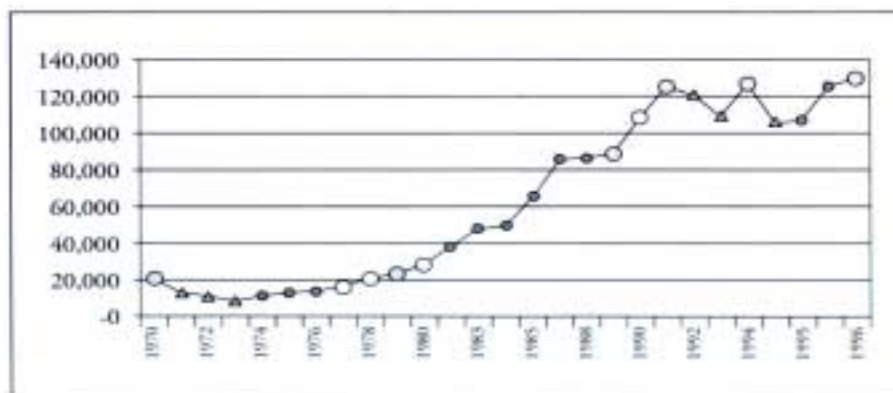
Performing artists are referred to as guest entertainers in Japan and as such are accorded recognition as 'professionals'. These professional entertainers work under booking contracts with their agents (as per talent management contracts) and their club managers in Japan. The widespread flow into Japan's entertainment market passes the scrutiny of their immigration rules that require them artist certification from their home governments or the presentation of documentary credentials.

**Table 1. Deployed New Hires by Sex and Skills, 1992-2000**

Year	Sex	Choreographers & Dancers	Composers, Musicians & Singers	Professional Nurses	Domestic Helpers
1992	Male	1,552	416	536	1,334
	Female	33,979	2,572	4,230	46,243
1993	Male	370	247	599	1,135
	Female	12,342	941	5,231	60,244
1994	Male	846	387	948	1,559
	Female	26,620	1,963	5,357	63,833
1995	Male	657	221	1,133	1,241
	Female	14,498	1,220	6,295	59,698
1996	Male	647	245	640	1,017
	Female	13,445	1,869	4,017	60,184
1997	Male	802	283	669	745
	Female	24,833	4,164	3,552	46,785
1998	Male	720	485	663	1,035
	Female	25,923	7,781	3,892	45,868
1999	Male	606	610	828	777
	Female	28,731	13,602	4,497	52,268
2000	Male	1,063	919	1,273	1,367
	Female	34,475	23,048	6,410	66,890

Source: POEA

From a mere 5,508 Filipino entrants in Japan in 1960, the number increased several folds to 20, 477 in 1970 and 129, 053 in 1998 (Figure 1). In 2002, of the total 667,226 OFWs deployed by Philippines, some 77,870 OFWs went to Japan. However, there is a large discrepancy between entrants and registered Filipinos in Japan. In fact, in 1950, only 367 Filipinos were registered in Japan with hardly any significant change in 1960. In 1970, the number of registered Filipinos reached only 932 where there were already around 20,000 entrants in Japan (Ballescas 2003).



**Figure 1. Total Filipino entrants to Japan across specific years 1970-1998**

Source: *Annual Report of Statistics on Legal Migrants*, Ministry of Justice, 1980, 1984, 1990, 1993, 1996, 1997, 1998. *Statistics on Immigration Control*, Japan Immigration Association, 1998. *Q & A About Working in Japan*, The Ministry of Labor, Japan, 1999, *Immigration Policy – New Responses to International Age*, Immigration Bureau, Ministry of Justice, 1992. (Ballescás 2003)

#### **b. Socio-economic characteristics of OFWs to Japan**

Filipino migration to Japan used to be predominantly male in the 1970s, which was reflective of the exodus of migrants contract workers for the Middle East. However, at the onset of the 1980s, migration to Japan has become female dominated. In 1970, there were 8,789 female and 11,688 male Filipino migrants. In 1980, the number of Female migrants jumped to 14,962, showing a high rate of increase than that of Filipino males (12,940). By 1990, the number of Filipino males in Japan doubled to 24,956 while the number of females soared 5.5 times to 83,336. The numbers continued to rise until the close of the century with observed increase in male migration (26,856 in 1993) and a marked decrease in female migration (79,538 in 1993) even though the latter still predominates (Ballescás 2003). Filipino male labor migration can be characterized as mostly trainees under Japan's trainees system. In the Philippines, it is also evident that Japanese firms in the automotive and semiconductor industries send their workers to Japan for training. The slowdown in female migration is reflective of the period when bilateral arrangements between the two countries needed to be reviewed against market realities.

In a study by Osteria (1994) on Filipino female labor migration to Japan, she revealed that most entertainers came from Metro Manila and adjoining provinces while domestic workers were drawn from across the country with Northern Luzon (25 percent) topping the list, followed by Metro Manila (29.2 percent), the adjoining provinces of the National Capital Region (25 percent) and the Visayas (20.8 percent). Recent studies, however, have pointed out that OFWs commonly use addresses in Metro Manila that are proximate to their recruiter or their placement agency's business address. Most of the domestic helpers who have sought work in Japan were either hired directly or came as tourists. Relatives working in Japan were also instrumental in facilitating recruitment. Entertainers were slightly younger than domestic helpers by 9 years. However, domestic helpers were slightly better educated than entertainers as evidenced by a high percentage

of those with college education. While entertainers were mostly single, domestic helpers were usually married, widowed or separated (Osteria 1994).

**c. Flows of Japanese workers to the Philippines**

Japanese nationals travel to the Philippines for two reasons: business and leisure. As of October 2000, there were 9,227 Japanese nationals residing in the Philippines. With foreign direct investments of PHP 1.98 billion in 1999, the presence of Japanese nationals is mainly for business purposes. With reports that Thailand has lured Japanese tourists away from the Philippines, tourism is just a secondary purpose for Japanese nationals in the country. According to Department of Tourism statistics, from January to April 2003, 110,830 Japanese nationals traveled to the country. The figure approximates the same period in the previous year (2002) at 111,343 arrivals.

**d. Similarities and differences in bilateral movement of persons**

As to volume, Filipinos bound for Japan have exponentially exceeded Japanese nationals entering the Philippines. In the foregoing, Japanese nationals are mainly executives or businessmen residing in the Philippines for business purposes, thereby facilitated by mode 2 (consumption abroad) and mode 3 (commercial presence).

**5. Impact of movement of natural persons**

**a. Economic contributions of bilateral movement of natural persons**

**i. Annual flow of remittances**

Remittances represent a significant role in a developing country's foreign exchange revenues that has contributed in the stability of the economy. As this external source of income has increased significantly over the years, it has become the major factor that fills in the gap between the gross domestic product and the gross national product of an economy. As of 1999, Philippines and India led the group with USD 6.9 billion and \$11 billion respectively through formal remittance channels of banks (Table 2).

**Table 2. Level of Remittances: Selected Asian Countries (in million dollars)**

Year	Bangladesh	India	Pakistan	Sri Lanka	Indonesia	Philippines*
1975	-	430	-	9	-	-
1976	19	642	410	13	-	-
1977	79	934	868	18	-	338
1978	115	1,165	1,303	39	-	445
1979	171	1,437	1,495	60	-	556
1980	339	2,757	2,038	152	-	626
1981	381	2,301	2,057	230	-	800
1982	526	2,618	2,576	289	-	1,049
1983	642	2,660	2,926	294	10	1,124
1984	501	2,295	2,569	301	53	718
1985	502	2,469	2,525	292	61	805
1986	576	2,240	2,435	326	71	859
1987	748	2,665	2,170	350	86	1,020
1988	764	2,315	1,863	358	99	1,262
1989	758	2,614	2,008	358	167	1,362
1990	779	2,384	1,997	401	166	1,465
1991	769	3,289	1,541	442	130	1,850
1992	912	2,897	1,566	548	229	2,537
1993	1,007	3,522	1,446	632	346	2,587
1994	1,151	5,857	1,749	715	449	3,452
1995	1,202	6,223	1,712	801	651	5,360
1996	1,345	8,766	1,284	843	796	4,875
1997	1,527	10,331	1,707	934	725	6,799
1998	1,606	9,480	-	1,011	969	5,130
1999	1,807	11,124	-	1,068	1,109	6,896

Source: IMF Balance of payments statistics yearbook as cited in International Migration: An Emerging Opportunity for the Socio-economic development of the ESCAP Region. 2002. Social Policy Paper No. 6. United Nations.

Total remittances refer to workers' remittances and compensation of employees. For most countries, except the Philippines, workers' remittances account for almost all remittances. For the Philippines, compensation of employees accounts for the larger share.

\* Figures have discrepancies with BSP figures shown in Table 2.

The top five sources of remittances earnings for the Philippines are the United States – USD 3.6 billion, United Kingdom - USD 260 million, Hong Kong - USD 278 million, Germany - USD 89 million, and Japan USD 469 million in 2002. By the end of 2003, the Philippines expects to earn USD 7 billion in total from OFW remittances.

**Table 3. OFW remittances (in thousand USD) from various destination countries.**

Country	1997	1998	1999	2000	2001	2002
USA	4,109,430	6,403,215	4,868,879	3,944,639	3,201,698	3,681,652
Saudi Arabia	5,723	33,433	183,304	494,032	609,600	590,836
Japan	131,375	107,807	273,831	370,097	391,871	469,080
Hong Kong	189,230	171,353	176,738	146,831	248,337	278,949
United Kingdom	205,940	130,961	83,079	91,087	134,168	260,743
Singapore	93,329	69,288	80,180	105,351	194,702	166,929
Germany	121,258	78,486	93,588	64,320	37,475	89,793
Canada	18,226	25,010	51,053	47,410	62,386	56,259
Australia	17,934	13,924	22,276	16,255	10,023	30,848
Kuwait	16,998	13,550	21,264	36,107	19,147	27,690

Source: Bangko Sentral ng Pilipinas

OFWs remittances from Japan are broken down in Table 4 as to sea-based workers (seafarers) and land-based workers (not dis-aggregated as to professions). From USD 131 million, dollar remittances doubled to USD 273 in 1999, and tripled to USD 391 million in 2001. In 2002, remittances posted reached USD 469M. While OFW deployment to Japan is predominantly in the entertainment profession, remittances may not necessarily come from entertainers as most of them get their salaries in lump sum at the end of the six-month employment contract and bring home the earnings themselves. Land-based remittances, therefore, could come from intermarriages with Japanese nationals and technical trainees. These, however, needs further study.

**Table 4. Overseas Filipino Workers' Remittances from Japan from 1997-2002**

	1997	1998	1999	2000	2001	2002
Sea-based	8,873	7,333	43,820	46,739	18,248	26,087
Land-based	122,502	100,474	230,011	323,358	373,623	442,993

In thousand USD

Source: Bangko Sentral ng Pilipinas

## ii. Impact on the labor market

Labor migration to the Japan could not be characterize as leading to brain drain. In fact, technical trainees in various high-technology industries benefit from the Japanese discipline, work ethic and advanced production systems. For Filipino entertainers, they are mostly recruited from the pool of unemployed, thus, alleviating the burden of providing domestic employment to them.

Brain drain can only affect the nursing profession in the Philippines. While most nurses are awaiting deployment for the U.S. and U.K., an additional market like Japan would mean further drain on the health care system of the Philippines. On the other hand, should the discussions on care-giving services with Japan materialize, workers will be recruited once again from the pool of unemployed.



For the part of Japanese nationals and industries, Filipino migrant workers take on the 3K or 3D jobs, thus, enhancing productivity of Japan's various sectors. Entertainers address their recreation needs and using Truong's arguments, their reproductive objectives through intermarriages.

### **iii. Transfer of technology**

The Philippines has inked an agreement with the Japanese government on the transfer of technology to Filipino trainees to improve labor competitiveness through the Japanese International Training Cooperation Organization (JITCO). In coordination with the Technical Education and Skills Development Authority (TESDA), Filipino workers from companies of sending organizations are selected and deployed to train in Japan.

Intra-corporate trainees particularly in the automotive and electronics industries in the Philippines (a sector significantly invested in and controlled by Japanese companies), benefit from the temporary movement to Japan through the development of knowledge base and transfer of technology, otherwise referred to as 'brain-gain'. However, the outflow of highly educated and skilled professionals to Japan may contribute to the problem of brain drain or a reverse transfer of technology. As of 2001, there are around 3,768 Filipino trainees that entered Japan out of the 53,967 Asian sub-total.

The government of Japan also started offering the Japan Information Technology Standards Examination (JITSE) that enables successful examinees to be hired in IT firms in Japan. However, during the pilot examination in 2002, due to the lack of course and review materials, the Philippine passing rate was only 6.1 of 44 out of 726 takers. In comparison, 17.5 percent or 14,741 out of 84,113 passed the standards examination Japan. This year (2003), the Philippine passing rate is still low at 5 percent.

## **e. Socio-cultural impact of bilateral movement of natural persons**

### **i. Impact on the family**

While social costs can be raised as a downside of labor migration resulting to disintegration of the family and social values (juvenile delinquency and formation of materialistic values), a four-country study by the ESCAP on Indonesia, Philippines, Thailand and Yunnan-China proved otherwise. The study indicated that despite the problems encountered by migrant workers, the positive outcomes outweigh the negative consequences (ESCAP 2002). The economic benefits that accrue to the migrant worker and his / her family constitute the single most tangible positive effect of migration. The effects are visible in the assets accumulated, small businesses acquired and the social status achieved (Go 2002).

Key informants from migrant non-governmental advocacy organizations in the Philippines expressed concern over the long-term negative effects of temporary migration on the migrants' families. These include disintegration of the family and disruption of relationships. Health issues related to children caused by the absence of migrant working parents, particularly mothers, may include early pregnancies, drug addiction, malnutrition and school dropouts. There are no empirical studies yet to prove these claims. However, Go (Migrant Watch 2002) sees the Filipino family as stable on account of its resilience

and its ability to adapt to changing situations. For example, caretakers and other relatives have been playing key roles in taking care of the children left behind (Migrant Watch 2002).

Most of the above benefits, on the other hand, have downsides, and these include the destruction of cultural and religious heritage. The Philippines is predominantly Catholic and the deployment of workers to non-Catholic countries and where the practice of religion is restricted, leads to an erosion of the cultural and religious heritage of the Filipino workforce. The usual two to three-year contracts of employment prevents Filipinos from observing cultural traditions and familial occasions such as Lent, All Saints day, Christmas holidays, family bereavement, paternity leaves, and children's graduation (Tullao & Cortez 2003.)

## **ii. Impact on the community**

With the long history of temporary migration and the overwhelming net successes to individuals, households, communities and the economy as evidenced by around 2,700 Filipinos leaving daily for overseas deployment, the Philippines has developed a 'migration culture'. The negativity attached to being a '*japayuki-san*' (bound for Japan) has been overshadowed by the economic gains, assets accumulated, status attained and personal experiences of overseas employment. Since overseas migration among Filipinos has been described from a household perspective, a migrant from one family enters a network of migrants, sometimes relatives or neighbors, in the destination country. Subsequently, every family in the community has at least a member of its family that has been deployed overseas. The improvement of housing facilities in the rural areas as well as the acquisition of consumer durables are some of the tangible effects of overseas migration on the community.

## **iii. Impact on income distribution**

As a whole, international labor migration has benefited a larger proportion of urban families than rural families: the percentage of urban families who rely on remittances from abroad as their main source of income, is much higher than that of rural families (Go 2002). In a study by Tanchanco et al, the share of external remittance income has increased from 7.53 percent in 1988 to 8.61 percent in 2000. There were regions, however, where this share reached 15.63 percent in 2000. Interestingly, the study revealed that the gini-coefficients are very high in regions where the share of external remittances are quite substantial, implying that these international transfers accrue mainly to households in the upper-income deciles, thus worsening income inequality.

# **6. Problems and issues in the movement of natural persons**

## **a. Cost of migration**

Labor-sending countries entail lower social costs when they deploy less skilled workers since less-skilled workers have lower training costs in comparison to the cases of professionals and skilled workers. If unskilled workers or low-skilled are recruited from the pool of unemployed, as the bulk of the unemployed work force consists of less skilled workers, their movement to regions with labor shortage may have a greater contribution in increasing global output and improving the domestic economy.

The cost of migration is generally shouldered by migrant workers to the point of compromising future earnings as debt payment. Recruitment of entertainers in the Philippines is an organized business where domestic recruiters have established counterparts in Japan. The initial costs of migration which ranges from \$1,000 to \$2,000 (covers training, certification, costumes, board and lodging, and travel expenses) are loaned to migrants by recruitments agencies, training centers and talent managers on the arrangement that the cost would be deducted from the lump-sum earnings normally given at the end of the contract period. In fact, according to government informants, entertainers may have to go to Japan for several times before he/she can really start to earn net of recruitment and other costs of migration. On the average, an entertainer earns only on the third contract.

Migration to Japan also has costs to the Philippine government in terms of welfare administration and certification of skills by the Technical Education and Skills Development Authority (TESDA). Entertainers and cultural dancers are required to undergo training, testing and certification under the Artist Record Book System. Entertainers are required to undergo skills training and testing for dancing, singing and other performing arts. All outbound OFWs are required to attend pre-departure orientation seminars by Overseas Workers' Welfare Administration (OWWA) accredited entities.

#### **b. Exploitation at the work place**

A large number of Filipino female migrants enter Japan with an entertainer's visa. They are supposed to be singers and dancers but, in most cases, they are forced to entertain customers to the extent of prostitution. Japan's traditional geisha culture condones sex services as a form of entertainment. Incidentally, an entertainer is not considered a worker but a professional guest performing artist with which no labor law is applicable. They are therefore, subject to abuses by their employers for the duration of their six-month contracts and in some cases only upon its expiration can they receive their salaries. For the meantime, they are at the mercy of their employers for living expenses. For fear that their employers may pre-terminate their contracts, Filipino female entertainers run away and stay with their more experienced peers. This leads to irregular migration (Matsuda 2003).

The demand for female migrant workers in Japan is concentrated on the sex industry offering services and entertainment. Also brokers and agents both in sending countries and in Japan are quite organized. It is noticeable that in Japan, entertainment establishments such as snack joints and bars are willing to employ young women with less skill or education. Many female migrants workers are working at bars and clubs as hostesses, singers, dancers, entertainers, and strippers. In most cases, prostitution is part of their work (Matsuda 2003).

#### **c. Unfair labor practices**

In many cases, female entertainers are confined together in small places, guarded and limited in activities, as most of them do not understand Japanese. Even though they are

employed, they are faced with various violation of human rights and disadvantageous practice such as: (a) confiscation of passports by employers, (b) salaries released in lump-sum upon returning home, (c) imposition of penalties for various reasons, (d) violence, (e) forced over-time and out-of-contract work, and (f) offset of wages with cash advances (Matsuda 2003).

#### **d. Immigration problems**

Japan appears to have a lax immigration policy due to the large discrepancy between registered and irregular migrants. In fact, it has become cyclical for entertainers to overstay and reenter Japan. A number of reported cases of missing and undocumented workers have raised immigration problems.

#### **e. Adjustment problems**

*Pre-departure seminars.* To avoid adjustment problems and empower workers, the OWWA conducts pre-departure seminars on destination country and job peculiarities.

*Language proficiency.* There is also a proliferation of Japanese language training centers accredited by the Japan Foundation Manila Office. These centers conduct skills development and preparation for the Japanese Language Proficiency Test (JLPT) which is simultaneously given annual in Manila (De La Salle University-Manila), Cebu City (University of San Carlos) and Davao City (Nikkei-jin Kai Inc.). The JLPT is administered once a year worldwide by the Japan Foundation in cooperation with other cultural exchange / educational institutions, in order to evaluate and certify the Japanese language proficiency of non-native speakers. The test comprises four levels based on proficiency and covers writing-vocabulary, listening and reading-grammar. There are at least 26 training institutions in Manila and 25 in the provinces that conduct Japanese language education and Japanese studies. Placement agencies, to some extent, also conduct basic language training to professional entertainers.

### **7. Prospects of Enhancing Movement of Natural Persons**

#### **a. Commitments of Japan under Mode 4 in the GATS**

Japan made commitments for intra-corporate transferees and temporary visitors as stipulated in its Immigration Control and Refugee Recognition Act. Additionally, Japan now offers to take commitments on the residency status of accounting, engineering, legal services, and specialists in humanities and international services. Beyond horizontal commitments, Japan is offering to commit legal and taxation services sector in addition to the supply of services by natural persons. Regarding placement and supply services of personnel, Japan is offering to remove the limitation on the number of licenses conferred to service suppliers, as well as to expand the scope of occupations for which these services may be supplied. Japan offers to take new commitments subject to qualifications in some of the other business services which it has not committed namely: investigation services, telephone answering services, mailing list compilation and mailing services, courier services, telecommunications services, distribution services, educational services, environmental services, financial services, tourism and travel related services, and maritime transport services. Japan has committed the deletion of the requirement for

contractual service suppliers to be employed with juridical persons. From a previous maximum term policy of five years, Japan has committed an initial period of one to three years with a possibility for extension. Business visitors will be allowed to stay for 90 days while independent professionals will be allowed one to three years with a possibility for term extension. However, Japan has yet to commit on health services in relation to the movement of natural persons and independent service providers<sup>1</sup> (Tullao & Cortez 2003).

## **b. Current Immigration policies of Japan**

Japan's policy of accepting foreign workers is based on two assumptions: First, Japan's promotion of technical exchange on with foreign countries will help revitalize and internationalize its economy and society; second, the local economy, particularly as it affects Japanese workers will not be adversely affected (Cabilao 1998).

The 1989 revisions to the Immigration Control and Refugee Recognition Law established 28 categories of foreign residents in Japan. Of these, approval to take on employment is granted to the following: (1) professor, (2) artist, (3) person involved in religious activities, (4) journalist, (5) investor and business manager, (6) provider of legal or accounting services, (7) provider of medical services, (8) researcher, (9) instructor, (10) engineer, (11) specialist in the humanities or international services, (12) intra-company transferee, (13) entertainer, and (14) skilled worker. The labor market test applies to the employment of foreign nationals (Sasajima 2003). Table 5 summarizes the categories and number of entry permits granted to foreign workers.

**Table 5. Entry permits to foreign workers**

	1990	1995	2000	2001
Professor	591	1,296	1,941	2,024
Artist	1,202	103	167	211
Person in religious activities	1,958	1,219	1,199	1,105
Journalist	410	212	231	166
Investor and business manager	3,807	1,021	863	681
Provider of legal or accounting services	42	7	3	5
Provider of medical services	73	1	1	
Researcher	458	870	1,036	793
Instructor	4,092	2,963	3,323	3,296
Engineer	1,338	3,717	3,396	3,308
Specialist in humanities or international services	2,756	4,982	7,039	6,945
Intra-company transferee	1,540	3,074	3,876	3,463
Entertainer	75,091	59,833	103,264	117,839*
Skilled workers	1,510	2,210	3,529	2,118
Total	94,868	81,508	129,868	141,954

Source: Ministry of Justice (Japan)

(Sasajima 2003)

\*Per POEA records there are about 65,000 entertainers in Japan in 2001

<sup>1</sup> Independent service providers are persons who offer / perform services without affiliation to a firm.

A growing number of Japanese companies especially large, multinational firms, are actively hiring foreign nationals due to globalization of operations, the need for information, knowledge and skills foreigners possess; the desire to hire the best available workers and the hope that foreign workers would help enhance the Japanese staff's linguistic skills and sensitivity to foreign cultures (Sasajima 2003).

To discourage and prevent irregular migration, there were amendments imposing penalties for persons employing illegal aliens at work. Unskilled migrant labor is also prohibited from employment in Japan (Sasajima 2003). However, categories for unskilled workers are not dis-aggregated. The Ministry of Justice only recognizes those workers who fall into official categories of residency status. Workers who are not included in the government categories are considered illegal or unskilled. No category covers women employed as factory workers, household helpers of non-diplomats, and 'hostesses'. Japanese immigration law does not explicitly define skilled and unskilled work (Nagayama 1992 in Cabilao 1998). The classification of a particular job is at the discretion of Japanese authorities. For instance, the job of a carpenter is thought to be a typical skilled worker. However, under the current immigration policy, the said job is considered unskilled (Cabilao 1998).

In 1997, further amendments in Japan's Immigration Act included provisions for penalizing smugglers and organizers of collective stowaways. In 1999, penalties for organized human smuggling were established to discourage the practice.

The Employment Security Act and Workers' Dispatching Law are also applicable for the employment of migrant workers. For female migrant workers engaged in jobs as hostesses and waitresses, the law prohibits employers to let the worker shoulder unfairly large amount of debts. Some employers wish that the balance be promptly repaid if the worker quits the job, and confiscate the passport or travel document of the worker in debt. Therefore, it is against the law for employers to offset against the advance or to take away passport of workers.

Managers or brokers forcing female migrants to engage in prostitution with the use of violence or forcibly to pay debts are violating the Anti-prostitution law. Japan generally prohibits prostitution, as embodied in the Anti-prostitution Law of 1957. However, the law permits prostitution in certain areas. This 'prostitution culture' is tied to the Japanese belief that there are two kinds of women: the bad (or the prostitutes) and the good (or the housewives). Housewives normally do not condemn their hardworking husbands for soliciting the services of the 'bad women' as a form of rest and recreation (Cabilao 1998).

#### **f. Commitments of the Philippines under Mode 4 in the GATS**

There is a labor law provision for labor market test in the Philippines, constituting a limitation under Mode 4. Non-resident aliens may be admitted to the Philippines for the supply of a service after a determination of the non-availability of a person in the Philippines who is competent, able and willing, at the time of application, to perform the services for which the alien is desired. EC has requested that this be not applied in

relation to intra-corporate transferees. The Philippines has not yet submitted any request from destination countries under the GATS negotiations.

#### **d. Demographic changes in Japan**

##### **i. Implications of an ageing population in Japan**

Japan has a population of 127.5 million in 2001, a working-age population (15 years old and over) of 108.8 million, and a workforce (those employed plus those classified as unemployed) of 67.5 million. Females make up 41 percent of the workforce. The ageing population is apparent in Table 6. In 1990, 23.8 percent were 55 years or older while 12.1 percent were 65 years or older. As of 2001, the ageing population grew by 30 percent where the 55 years or older group comprised 30.4 percent while the 65 years or older composed 17.8 percent of the total population. Ageing is a recognized phenomenon in developed countries. However, Japan's trends differ in speed. What would take the United States 56 years, Germany 70 years, and Britain 75 years to attain such proportions is projected to take place in Japan in only 21 years. By year 2010, it is projected that almost 60 percent of Japan's population would be over 55 years – 37 percent for the 55 or older age group and 22.5 percent for the 65 or older age group (Sasajima 2003).

**Table 6. Population and labor force projections (in million people)**

Age	Population			Labor force		
	1990	2001	2010	1990	2001	2010
0-14	22.5	18.3	17.1	0	0	0
15-29	27	25.6	20.4	14.7	15.6	12.3
30-54	44.6	44.5	42.8	36.2	36.4	35.5
55-59	7.7	8.3	8.6	5.6	6.3	6.7
60-64	6.8	7.8	9.9	3.7	4.3	6.3
65-	14.9	22.6	28.7	3.6	4.9	6.6
Total	123.5	127.1	127.5	63.8	67.5	67.4
Share (%)						
55 or over	23.8	30.4	37.0	20.2	23.0	29.1
65 or over	12.1	17.8	22.5	5.6	7.3	9.8

Sources: Ministry of Public Management, Home Affairs, Posts, and Telecommunications, *Rodoryoku chosa* (labor force survey) And Ministry of Health, and Welfare, *Rodoryoku jukyu no tenbo to kadai* (Projections for issues in supply and demand in the labor force), 1999. (Sasajima 2003)

Table 7 based on facts and figures of Japan (2003) projects that the ageing population (aged 65 or older group) could even reach to as much as 36 percent come year 2050 from only a projected 28.7 percent of the total population in 2010.

**Table 7. Population forecast for Japan 1995-2050**

Year	Total*	Age 65 and over	% of Total
1995	125,570	18,277	15%
2000	126,926	22,041	17%
2010	127,473	28,735	23%
2020	124,107	34,559	28%
2030	117,580	34,770	30%
2040	109,338	36,332	33%
2050	100,593	35,863	36%

\*In thousand people

Source: National Institute of Population and Social Security Research.

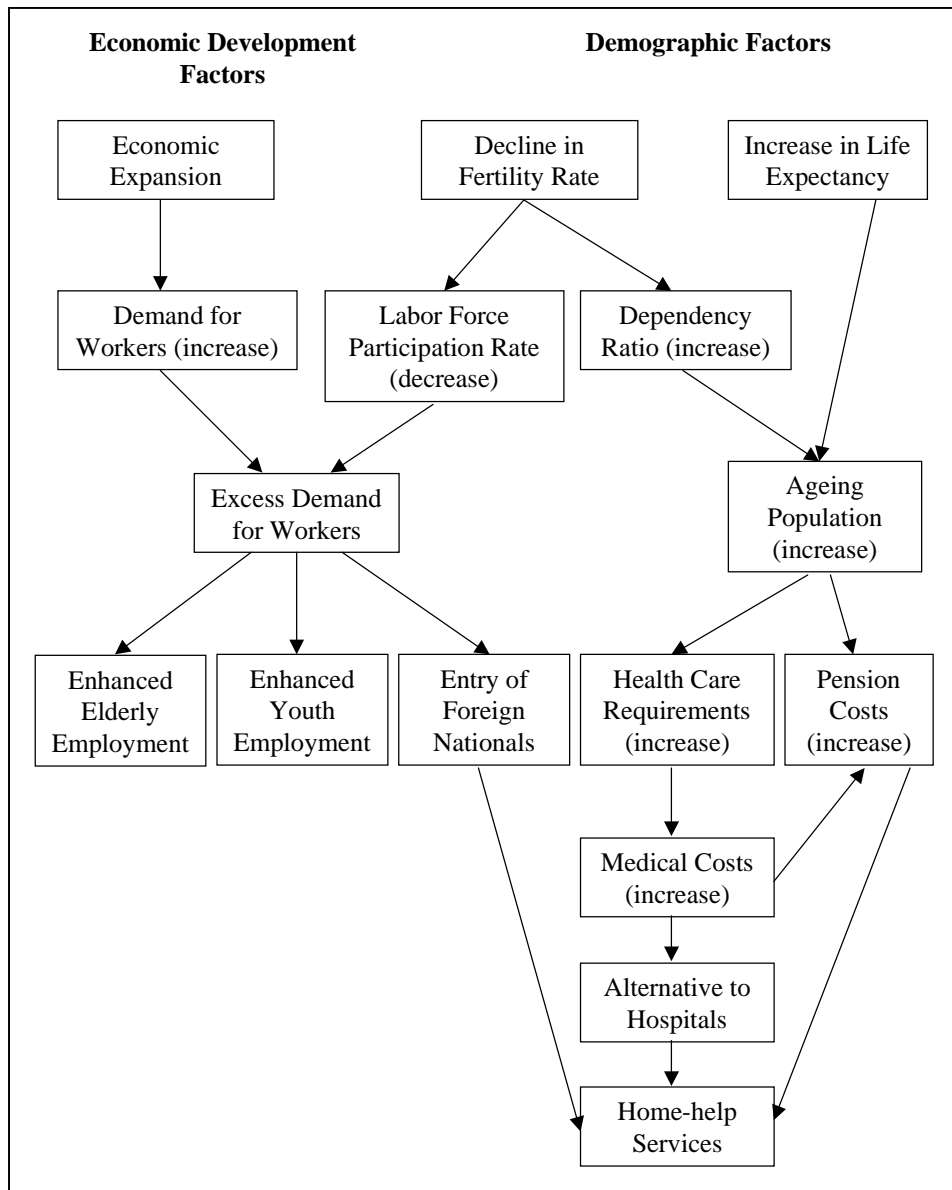
(Fact and Figures of Japan 2003)

Japanese workers are seen to work until they are 65 years of age for only then shall they be entitled to retirement pension. The main problem the government faces as a result of the ageing of the population is the deteriorating financial health of the public pension system. The government reforms the public pension system every five years, and among the measures it has taken to stem the financial woes are cutting the level of pension payments, increasing the level of contributions, and raising the starting age for the payment of public pensions gradually to 65 from 2001 to 2025 (Sasajima 2003).



**e. Exploring the opportunities of an ageing population**

**i. Supply of health professionals in Japan and the movement of natural persons / movement of natural persons of health professionals**



**Figure 2. Framework providing the rationale for the movement of natural persons (health care providers) to Japan**

To understand the need for home-help services, the complex interaction of economic development and demographics factors would have to be considered. Economic expansion leads to increased demand for workers. For demographic factors, Japan's declining fertility rates and the increase in life expectancy of the population have decreased labor force participate rate at the same time increasing dependency ratio. High dependency ratio requires increasing number of the working population to attend to the ageing group, thus, creating the void in the demand for workers. This excess demand

may be addressed domestically by enhancing the employment of the elderly, which in Japan's case is costly since age correlates to salary scale; and by encouraging youth employment, which is the more realistic scenario. The excess demand may also be met by the employment of foreign workers.

As the ageing group increases, there are corresponding increases in pension costs and health care requirements. Resultant medical costs may lead to alternative sources of caring for the elderly like house-help caring services. Considering the changing work and family values of Japanese workers, employing foreign nationals for house-help caring services may be seen as a way of complying with Japanese good family values. Good family relation can even be maintained through the removal of the care burden to the family (Saito 2003).

## **ii. Establishment of retirement havens in the Philippines**

Since the 1980s, the Philippines has been promoting itself as a retirement community mainly for foreigners "as a means of accelerating the social and economic development of the country, strengthening its foreign exchange position at the same time providing further the best quality of life to the targeted retirees in a most attractive package." The retirement industry is seen as a potentially lucrative source of financing and foreign investments through foreign retirees and their dependents (Tigno 2001).

Under Executive Order No. 1037, foreign nationals and overseas Filipinos participating in the country's retirement program are given incentives and benefits. First is tax exemption as well as exemption from the payment of customs duties or import taxes for one time only up to US\$7,000 and the right to import one automobile for personal or family use free of all import and customs payments. There is also a provision for guaranteed repatriation of any foreign exchange currency remitted to, brought in, or invested in development projects pertinent to the program. Permanent resident status may be granted to foreigners participating in the program. In addition, the spouse and unmarried children under 21 years of age of the foreign retiree may also be given permanent resident status if accompanying or intending to join the retiree in the Philippines. If applicable, special retiree visas shall be issued to allow multiple entries for the duration of the retirement program. In the event of death of the retiree, all rights benefits and obligations may be transferred to the surviving spouse (Tigno 2001).

Allowing the movement of retirees to the Philippines could be facilitated by mode 2 (consumption abroad) of the GATS and even by mode 3 (commercial presence).

## **iii. Capabilities of Filipino workers: Nurses, Caregivers and Technical Workers**

*Nurses.* The Philippines has been exporting nurses on a cyclical trend to the United States, United Kingdom, and the Middle East.

The following table summarizes the deployment of newly hired nurses from 1998 to the first half of 2003. Following the oil boom in the 1970s, middle-eastern countries have employment majority of Filipino nurses abroad. Saudi Arabia leads the group of destination countries with 6,068 newly hired nurses and followed by the United Kingdom

with 3,105. These figures, however, are newly hired nurses and do not necessarily show total deployment.

**Table 8. Deployment of Nurses (New Hires) 1998-1st Semester 2003**

Country	1998	1999	2000	2001	2002	2003*
Algeria	1			1	2	
Angola		1		1	1	1
Australia			2		2	3
Austria	1	1				
Bahamas	2			4	2	
Bahrain	42	11	22	7	57	13
Belgium					1	
Bermuda			1	4	1	
Belize		1				3
British West Indies					1	
Brunei	3	1		1	9	1
Cambodia			1			
Canada			1	7	51	13
Commonwealth of Northern Marianas Island	1	2		27	10	1
Cuba					1	
Diego Garcia						2
Egypt	28	28	18			
Equatorial Guinea		3				
Federal States of Micronesia		1				
Guam			6	7		
Hong Kong			1			
Iceland			1	1	1	
Ireland			127	1,561	930	175
Isle of Man			4			
Israel				3	12	
Italy				1	1	1
Jordan	18		29	36		
Kuwait	143	53	133	192	108	13
Lebanon	24					
Libya	89	18	17	9	424	39
Malaysia	34	13		2	16	7
Maldives	1	2	1	1		
Malta			1			
Marshall Island					1	4
Netherlands				34	10	
New Zealand	15	25	16	12	6	4
Nigeria		1	1			
Norway	2	3	19	50	33	1
Oman	79	119	47	3	1	
Pakistan	5					
Palau			1		1	1
Qatar	29	12	7	143	213	216
Saipan	4	21	24	49	17	3
Saudi Arabia	4,098	4,031	4,386	5,275	6,068	3,021
Singapore	371	214	418	413	338	236
Taiwan	8	17	1	9	131	134

Thailand	2		1			
United Arab Emirates	279	378	305	249	424	152
United Kingdom	63	934	2,628	5,388	3,105	962
United States	5	53	91	304	322	106
Yemen North	52	29	30	27	32	10
Yemen, Republic of			1	1	2	3
Yemen South					1	
<b>Total</b>	<b>5,399</b>	<b>5,972</b>	<b>8,341</b>	<b>13,822</b>	<b>12,335</b>	<b>5,125</b>
Source: POEA		* 1 <sup>st</sup> half of 2003				

*Caregivers.* With the opportunities in destination countries for health service providers and allied services, a new segment in the Philippine health services sector emerged called ‘care-giving’. A caregiver can be defined as a persons who has responsibility meeting the physical and psychological needs of an infant child or dependent adult. Without supervision, a caregiver provides private household childcare, senior support care or care of the disabled (TESDA 2003).

This sector, which aims at serving Canada and other developed countries with ageing population, has attracted Filipino migrant workers. The POEA classifies care-giving services as skilled considering the training and certification process a worker has to undergo before deployment overseas.

It is foreseen that the demand for care giving would continue to rise in the next four years. Demand prospects for the country includes countries with ageing populations (TESDA 2003) like Canada. However, POEA figures on new hires show that Israel demand for caregivers compares with that of Canada with reported average monthly of earnings amounting to USD 800 per month. Canada’s live-in caregiver program offers temporary employment opportunities for individuals willing to provide care for children, the elderly or people with disabilities in their own homes. Eligibility requirements include high school equivalency, training or experience in a related field and an ability to work using the English language. Caregivers who complete 24 months of full-time live-in employment during a 36-month period can apply for permanent landed immigrant status for themselves and their dependents (Spigelman 2000).

The following table shows the outflows of newly hired caregivers and their countries of destination.

**Table 9. Deployment of Care-givers and Care-takers (New Hires)**

Country	2001	2002	2003*
Bermuda		1	1
Canada		2,152	1,206
Cayman Islands	1		
Cyprus			1
Hong Kong			1
Ireland	58	63	74
Israel	397	2,908	934
Jamaica		1	
Kuwait			1
Saudi Arabia	3	5	
Singapore	2		
Taiwan			8,429
Tajikistan			1
Tanzania			2
Tonga			1
United Kingdom	4	253	264
Total	465	5,383	10,915

Source: POEA

\*1st Half of 2003

As a result of this surging demand, caregiver-training institutions have mushroomed all over the Philippines. There were more than 500 institutions that applied with the Technical Education and Skills Development Authority (TESDA) for accreditation of their program as of April 2003. However, TESDA has registered only 150 caregiver institutions nationwide and is closely monitoring the various training centers in order to curb out the proliferation of unauthorized training centers. All caregiver programs are being evaluated based on Training Regulations on Caregiver promulgated by the TESDA Board. While nursing schools have introduced care-giving as a vocational alternative, there were institutions that particularly focused on the vocation itself while there were other technical and vocational institutions spun off the service from other allied services.

In an attempt to standardize, assess, certify and monitor the caregiver training program in the country, TESDA has enacted the caregiver course module covering the following:

- Overview of the live-in care-giver program of Canada
- Introduction to live-in care-giver skills enhancement
- Basic first aid
- Basic life support
- CPR
- Home and client safety management
- Home management and client care
- Nutrition and food preparation
- Care of the child
- Care of the elderly
- Canadian culture, people and traits
- English as second language
- Personality development

The above standards are used for registration of programs, assessment, certification and monitoring of training institutions in the Philippines and may be used as criteria for domestic regulation in other destination countries (TESDA 2003).

#### **f. Mutual Recognition**

Expanding trade in professional services will require the accreditation of qualifications of service providers in the light of existing differences in training, requirements, standards, licensing mechanisms across countries. In addition, domestic rules governing the practice of a profession entail not only the licensing procedures but implies, to a great extent, the valuation of perceived social risks from the incompetence of service providers.

In a study by Veronica Ramirez (2001), she concluded that quality of Filipino nursing graduates are at par with APEC member countries. In order to enhance access by Filipino nurses who are now recognized as service providers in the United States, United Kingdom and Saudi Arabia, local accrediting bodies like the Professional Regulation Commission (PRC) should now aim at regional accreditation and certification. This will pave the way for local Professional Associations like (Philippine Nurses Association) to enter into a mutual recognition agreement within the APEC region. Aiming for international comparability and standards will also serve as a challenge to the Philippine educational system, for nursing education in particular, to gain more international respect and recognition (Ramirez 2001).

In establishing guidelines for accreditation of qualifications, however, GATS member countries have different views on which pertinent article on the GATS should prevail. One view is to operate within the provisions of *Article VI* on Domestic Regulation while others believe that *Article VII* is very explicit on the process of recognition of qualifications of service providers.

Members arguing Article VI consider the prominence of domestic regulation over the need to have a multilateral recognition of qualifications. For reasons of public order, health and safety, public morals, and other socially acceptable reasons, government can enforce laws and regulations pertaining to the provision of a service. Thus, according to this view, recognition of qualifications of service providers should operate within the basic right of sovereign nations to regulate their domestic economy (Tullao 1999).

Article VII, on the other hand, intends to accomplish the prevention of barriers to trade in services arising in the course of the administration of domestic regulation. In view of this, member countries are assured that government regulations affecting trade in services are administered in a reasonable, objective and impartial manner.

As in the case of Japan and other receiving countries, there are practical reasons why many countries are opting to use Article VI as the avenue to pursue recognition of qualifications. First, a harmonized system under a mutual recognition agreement is more of a long-term objective given the difficulties in harmonizing the multiple and different standards, qualifications and other requirements across countries. Second, countries that

are allowed to enter into bilateral mutual recognition agreements, or even to have an autonomous recognition, are required not to discriminate. But inherent in reciprocity agreements on recognition of professionals is the discrimination on third parties.

On the other hand, Article VII does not obligate members to form mutual recognition agreements but encourages them to establish such arrangements. Members are free to choose their own approach in recognizing foreign qualification and licenses through autonomous recognition, bilateral arrangements or international harmonization.

The scope, use of titles, licensing agencies and recognition mechanisms, and levels of equivalence agreed upon by the parties should be established. The precise terms of agreements will depend on whether the MRA is based on qualifications, experience, licenses or combinations of those elements.

If the MRA is based on recognition of qualifications, the following should be included:

- a. Minimum level of education required, including the entry requirements, length of study, and curriculum
- b. Minimum level of experience required, including length of conditions or practical training or supervised professional practice prior to licensing
- c. Framework of ethical and disciplinary standards
- d. Examinations passed; and the extent to which home country qualifications are recognized in the host country.

On the other hand, if the MRA is based on recognition of the licensing or registration decision of a licensing agency, the MRA should specify the mechanism by which eligibility for such recognition is established.

If additional requirements are needed to ensure quality of service, the conditions under which those requirements may apply should be spelled out in the MRA. Examples are shortcomings in relation to the qualification requirements in the host country or knowledge of local law, practice, standards and regulations.

Because of the differences in education and examination standards, experience requirements, regulatory powers and other factors across countries, it is difficult to implement professional recognition on a multilateral basis. Bilateral negotiations, on the other hand, are more practicable since countries are able to focus and resolve key issues related to their two environments. Once bilateral agreements have been achieved, this can lead to other bilateral agreements, which will ultimately extend mutual recognition more broadly.

#### **g. Domestic regulations on the practice of health professions**

On a global scale, only 40 percent of WTO members have committed to the health and education sectors. Education and health services have traditionally been subject to strong government involvement in many countries and this situation has changed far less rapidly than the role of governments in, for example, banking or telecommunications. From the

standpoint of individual health ministries and health-related associations, the Uruguay round of negotiations might have been viewed as a threat, jeopardizing basic quality and social objectives, rather than as an opportunity for reform that would improve efficiency (Adlung & Carzaniga 2001). Japan's health services sector remains closed in spite of its ageing population. In its proposed commitments to the General Agreement on Trade in Services (GATS), health services was not mentioned among the sectors.

As of July 2000 specific commitments of WTO members on individual health services, Japan, like the United States, has committed only to hospital services. Medical and dental, nurses and midwives, and other human health services have remained a closed sector for health services in Japan. In terms of movement of natural persons, Japan has offered to take commitments but only to certain professions listed in a previous section of this paper.

#### **h. Cultural apprehensions**

The problem of ageing population does not exist in developing countries. Most of the problems concerning bed-ridden elderly and care for the senile dementia patients arise in the countries where people live for more than 80 years and Japanese people live the longest in the world. (Saito 2003).

In comparison to elderly care services in developed countries like the United States and Europe, there were very few in Japan. According to a study by Saito (2003), at the beginning of the 1990s, compared with European countries, Japan had only one-fifth the number of home-helpers and only one-tenth the number of nursing homes. Because the care service was not sufficient, most families in Japan had no way but to care for the elderly parents. According to the Ministry of Health and Welfare, over 50 percent of the families who take care of their handicapped elderly at home are over 60 years old (Figure 3). Saito (2003) further describes the situation as "elderly taking care of the handicapped elderly at home with few care services". The lack of care services has produced a lot of bedridden elderly. Before World War II, it was customary for the wife of the oldest son to take care of her husband's parents. However, life style has changed and married couples do not want to live with their parents anymore. Japan, therefore, cannot depend on the traditional ways of caring for the elderly.

Less than 1 month 2.8%	1 - 6 months 11.6%	> 6 months 11.3%	1 year - 3 years 21.2%	> 3 years 53.0%
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**Figure 3. Ratio of bed-ridden elderly by bedridden duration**

Source: Statistics and Information Dept., Minister's Secretariat, MHW

"1995 Comprehensive Survey of the Living Conditions of People on Health and Welfare"

Japanese elderly have the strong opposition on being taken care of by strangers. They feel that the family should provide the elderly care service. The virtue of *inkyō* ("live in hiding") also explains why the elderly would want to live quietly. This



disposition of the elderly in Japan became one of the reasons why the detection of sickness was often delayed (Saito 2003).

In the pre-World War II era, Japanese brought up children in the expectation of support in their old age. The idea of “The Japanese-Style Welfare Society” aimed for an inexpensive welfare society in the 1970s where women were made care-provider of their old parents at home. Even now 85% of long-term care providers are women (Saito 2003).

Saito (2003) adds the other cultural apprehension of Japanese elderly to live in hospitals rather than in an old age home. They think that the old age home is for poor people. At one time, the old age home was the place for poor elderly who could not be taken care of by their family. As a result, medical expenses for the elderly are increasing year by year in Japan.

## **8. POLICY OPTIONS**

In the first part of this paper, three major issues have been mentioned that need to be addressed at various levels pertaining to the movement of natural persons between the Philippines and Japan. The issue of access includes the mode of facilitation, volume of flows and the composition of flows. The issue of protection, on the other hand, should include the legal framework of protection and the major limitations of this framework. On the issue of impact, it should cover the effects of overseas employment on the national economy, its role in facilitating trade, the concern on the migrant, and the consequences on the family and community.

### **a. Issue of Access: Mode, volume of flows, and composition of flows**

There are two major options that the Philippines can pursue in its efforts to increase market access on the movement of natural persons between the country and Japan. It can either take the bilateral route or engage actively in multilateral initiatives. Under the bilateral option, a Free Trade Agreement with the Japan could be forged that would specify requirements for market access for OFWs intending to seek temporary employment Japan. A bilateral mode may be preferable to a multilateral mode since it addresses very specific needs of contracting parties. However, given the unequal status between the Philippines and Japan, the commitments of the accord may not be as binding as the commitments in multilateral agreements. Another bilateral avenue is through a Mutual Recognition Agreement (MRA) with Japan on key specific professions and occupations. An MRA is an ideal option because it focuses on particular market access issues including qualification requirements and technical standards of specific professionals and workers. However, it may be difficult to organize because it requires lengthy discussions involving several parties. These contracting parties may differ in views that are colored by their respective country’s regulatory measures that are in turn based on public interest and to some extent protectionist stance of certain interest groups.

In order to enhance market access for the movement of natural persons via the multilateral mode, on the other hand, the Philippines should align with the position of developing countries led by India in the current negotiations of the GATS. One benefit of

going multilateral is the binding nature of the commitments. However, these binding commitments, in turn, make countries reluctant to make extensive market access commitments particularly on the movement of natural persons. Although Japan has offered to commit additional occupations and professionals that can enter under mode 4, it has not committed health services, a sector of interest to the Philippines, in relation with the movement of natural persons and independent service providers. Moreover, commitments made by Japan at multilateral negotiations, however, will not benefit exclusively the Philippines since these will apply to all member countries of the WTO under the most favored nation (MFN) principle. In fact, greater market access in Japan may even hurt the Philippines as other foreign workers may enter Japan displace OFWs and reduce the market share of Filipino workers in the Japan.

Under the principle of reciprocity, any request for greater market access for Filipino workers with Japan must be matched by a corresponding offer. Philippines must be willing to open the economy to Japanese professionals and workers aside from the usual intra-corporate transfers. Although there is the Constitutional prohibition on the hiring of foreign workers in this country, the Labor Code allows entry of foreign workers under certain conditions determined by the economic needs test (ENT). In this light, the Philippines must be more transparent and specific in setting the conditions and requirements for the economic needs test. In the same light, Philippines should also encourage the entry of Japanese scientists, professors and researchers that can significantly contribute in improving the quality of higher education in the country through research and the development of graduate education.

Any bilateral economic agreement with Japan, the Philippines should push for the liberalization of the Japanese health care industry. Given the ageing population in Japan, on one hand, and the ability of the Philippine human resource development institutions to train health workers, on the other hand, it will be of mutual interest to both countries if entry of Filipino caregivers is liberalized. However, there is a need to strengthen the regulatory measures of government agencies in the Philippines to ensure the quality of graduates from institutions offering short-term training programs in care giving.

To start with, the Philippines may present similar arrangements with receiving countries. In Spain and Italy, Filipino nurses act as nursing assistants tot rain side by side with a certified / registered Spanish or Italian nurse. In Austria, the host government pays for the six-month training of Filipino nurses to ensure compliance with their standards.

Since language and culture is a major barrier to access to the Japanese market, the TESDA can assess, certify and monitor the operations of language training centers. All Japan bound health professionals could be required to take the Japanese Language Proficiency Test and some units in Japanese culture. A criteria for training and certification of caregivers catering to the Japanese market could be set similar to the established standards for the Canadian market.

Aside from enhancing market access for individual caregivers, Philippines should explore the liberalization of mode 3 or commercial presence for Filipino care-giver agencies, examine how Filipino health professionals including doctors, nurses, dentist, physical therapists can enter the Japanese health care sector and work out a mutual recognition agreement with Japan on educational qualifications, professional requirements and other technical standards so that the qualifications of Filipino health professionals can be comparable and recognized in Japan. Such recognition is a major prerequisite for entry and eventual employment.

There is a need to revitalize, repackage and market the Philippines as a haven for retirees. Instead of giving residence status, Japanese retirees can stay in the country temporarily. For example, December to April is an excellent season to visit the Philippines. Japanese retirees can stay in the country during this period on a short stint to relax and escape the cold winter in Japan.

The bulk of Filipino workers in Japan are entertainers who stay in Japan for a six-month contract. There is a need to restructure the composition of workers beyond entertainers. One alternative that can restructure the composition of flows is to push Japan to open its health care sector to foreign workers particularly for Filipinos. Starting with an MRA in health professionals, educational qualifications, experience and professional credentials of Filipino nurses, doctors, dentists and other health professionals can be appreciated, recognized and find equivalency in the Japanese health occupational structure.

#### **b. Issue of Protection**

Any bilateral economic agreement between the Philippines and Japan should include a provision on the protection of overseas Filipino workers in Japan. The protection of workers covers from the period of recruitment to their return to the Philippines. Although Japan has strict immigration policies and labor laws that adhere to international standards, the prevalence of abuse, discrimination, non-payment of wages, violation of contracts and the rise in missing and irregular migrants tend to indicate that the implementation of these laws is very lax. Aside from identifying the flaws in the legal framework of protection, there is a need to regulate migration flows at both ends so that OFWs will not end up as preys and victims of illegal recruiters, crime syndicates and scrupulous employers.

The bulk of the Filipino workers in Japan are entertainers who enter the host country on a six-month contract. Since they are not considered workers in Japan, they are not covered by labor laws and therefore potentially subject to all types of abuse. In the Philippines, they are categorized entertainers as professional entertainers and are subject to skills competency requirements set by TESDA. The Philippines should push Japan to reexamine its position on the labor status of entertainers. Inclusion of entertainers as part of the labor force would give them protection from the current abuses they have bear and may contribute in minimizing the problems related to missing and irregular migrants. If the classification of entertainers will remain as temporary workers as defined under mode 4 of GATS, the issue of protection of temporary movement of natural persons remains an

important concern that should be pursued by the Philippines in an economic agreement with Japan.

A sizable number of Filipino workers who enter Japan are corporate trainees. The objective of the program is to expose Filipino workers to the various aspects of Japanese companies so that they may gain experience on how they use modern technology. Although these training programs have the potential of contributing to the transfer of modern technology, there are reports that its implementation has been tainted with abuse. Although Filipino workers enter as trainees they end up performing regular work but without the corresponding compensation and protection. The Philippines should request Japan to make stringent measures so that trainees will not be abused at the work place and be treated as trainees and not as regular workers.

### **c. Issue of Impact**

The enhanced market access in the movement of natural persons between the Philippines and Japan can contribute in expanding the remittance flows of foreign exchange to the country given the household perspective in the decision of Filipinos to work overseas. More than contributing to the stability of external balance of our macro-economy, the remittance flows should be channeled to more productive use beyond the provision of consumer goods, housing and the education of migrants' children. The financial sector should develop attractive financial instruments that can be offered to OFWs for inclusion in their basket of personal investment.

Since overseas migration tends to favor individuals coming from higher income groups, there is a need to push for greater market access that would benefit the poor members of Philippine society. In this light, care-giving services can be a possible avenue where the poor Filipinos can reap the benefits of overseas employment since care-giving skills do not require enormous amount of training. Another measure of making overseas employment more equitable is to make the costs of migration more affordable through the provision of soft loans to potential OFWs as practiced in other countries.

With the exit of highly skilled professionals from the country, the problem of brain drain becomes a consequence of overseas employment. However, the issue of brain drain can be transformed into brain gain through technology transfer. Filipino professionals training in Japan should be encouraged so that they may be exposed to the modern technology used in various fields. The training, exposure, and experience that they could gain in Japan can be applied in the Philippines upon their return. There should be a mechanism that would ensure the return of Filipinos who have undergone training in Japan and arrest the temptation of becoming irregular workers. In addition, the country should also open its market particularly in the knowledge sector, including educational institutions, and allow the entry of scientists and professors.

One major concern that should be explored is the development of alternative mechanisms for providing employment opportunities to OFWs upon their return to the Philippines. Since overseas migration is an adjustment mechanism to the asymmetries in demography and development such asymmetries are permanent. The labor market in the

host country may change over time and may not need the foreign workers in subsequent years. In such an event, the Philippines should be ready to admit and provide employment opportunities to these returning OFWs.

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