The “Challenge to the Citizenship” Debate
Reconsidered from Japanese Experiences

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1 A Challenge to the “Challenge to the Citizenship” Debate

Is immigration a challenge to the nation-state? There has been a debate on the “challenge to the nation-state” among macro-oriented migration researchers. The debate focuses on two challenges to the nation-state by recent migration: the challenge to its sovereignty over entry and expulsion, and the challenge to the unitary nature of its citizenship (Joppke 1998). In this article, the second “challenge”, or the “challenge to the citizenship” will be focused on to examine the debate, although the two “challenges” are mutually related.

In terms of the “challenge to the citizenship”, the recent debate presents opposing positions on the question whether “new citizenship”, especially so called “denizenship” or “post-national citizenship”, is a stable alternative to, or temporary deviation from, national citizenship.

However, the debate seems to be a dead end. First of the reasons is that the previous research has taken up Western cases only to demonstrate emergence of “new” citizenship or remaining of “old” citizenship. It has assumably excluded non-Western cases from its consideration. Therefore, Western cases may have been overgeneralised for all over the global world. To generalise the trend of the “challenge to the citizenship” which may be observed in Western sphere largely, it will be needed to trace non-Western experiences and to make a comparison between Western experiences and non-Western ones to examine the debate theoretically.

Secondly, the previous research tends to deal with citizenship as a unitary entity and immigrants as a single right-receiving group. Citizenship is a complex concept which consists of various elements, for example, like three elements of civil rights, political rights and social rights, and also there are various types of immigrants in terms of country of origin, relationship with host society, purpose of migration, human capital, family type etc. In different countries, different legal bases are applied to different categories of immigrants, and each immigrant is
endowed with each set of rights. The previous research tends to dismiss such complexity and
variety to evaluate the “challenge” in the debate.

Finally, conservatives have overestimated the role of domestic legal orders, such as constit-
tutional law, and “national” legitimizing principles in non-citizen’s rights. On the other hand,
progressives have exaggerated the force of inter/taransnational regimes in legitimizing “new”
type of citizenship based on human rights or residence. Opposing views between conservatives
and progressives are dual-structured. In terms of legitimizing principle to endow immigrants
with the rights of citizenship, different participants in the debate put importance on different
principle such as national belonging, residence or human rights. With regard to facilitating
factor, conservatives tend to place a high value to domestic factors within a country, whereas
progressives are liable to consider factors existing outside the country or the state more effec-
tive. To untwist the tangle of the debate, legitimizing principles to provide citizenship, and
facilitating factors to expand non-citizen’s rights should be clearly distinguished for analysing.

To reconsider the “challenge to the citizenship” debate, this article will focus on Japanese
experiences among Asian countries, which has been frequently underestimated in the debate
although Japan has been a major industrialized country with considerable number of immi-
grants. Firstly, after untangling some confusions of the debate, a new question will be set up
to be answered. Then, taking into account differences between elements of citizenship and
differences between types of immigrants, it will be examined what types of path exist for
expanding immigrant citizenship.¹

2 Formulating the Opposing Points

2.1 Citizenships and Legitimizing Principles

Although citizenship can come into existence on various bases, de facto global standard
has been national citizenship on the basis of national belonging in post-war world. Members
with national citizenship are supposed to follow some rules: egalitarian, democratic, unique,
socially consequential, sacred, and congruence of polity and cultural body (Brubaker 1989).

To recognize the members, blood rule (*jus sanguinis*) and/or birth rule (*jus soli*) are/is adopted for accession of national citizenship. More importantly, national citizenship is legitimized by the idea that the members should share the same culture and should belong to the single nation, as the rule of “congruence of polity and cultural body” refers to. That is, the legitimizing principle for national citizenship is national belonging on which members of the polity should share the same culture.

On the other hand, there are two “new” types of citizenship mainly presented as promising alternatives to national citizenship in the debate: denizenship and post-national citizenship.

In Western European countries particularly, non-national long-term stayers can enjoy substantial rights and privileges, although they do not become naturalized in host countries. Tomas Hammar (1990) uses the term “denizens” to refer to the foreign citizens with a legal and permanent residence status. He insists that a pair of categories of “citizens and aliens” has been replaced by a trinity of “citizens, denizens and aliens” to show the reality of citizenship. He distinguishes between residence for real living situation determined by factual criteria, and domicile for a legally tolerated or granted residence, and insists that foreign residents are, and should be, granted various rights on the basis of the real situation, or residence. The idea of denizenship implies that residence has become the dominant legitimizing principle to endow foreigners with citizenship.

On the other hand, according to Yasmin Nuhoglu Soysal, there is another type of citizenship which seems to have emerged in Western European countries particularly. Guestworkers who migrated to Western European countries have received permanent residence status and have formed large “foreign” communities there, even if they are not naturalised. Soysal argues that citizenship is detached from nationality and is becoming universal rights based on “personhood” due to international discourses on human rights. She names this “new” form of citizenship, “post-national citizenship” (Soysal 1994). Whereas national citizenship is anchored in territorialized notions of cultural belonging, post-national citizenship has its
root in deterritorialized persons’ rights. To explain some development of alien rights, Soysal emphasises the force of idea of human rights, and the effectiveness of collective organisations of immigrants as conveyer of the idea.

2.2 Facilitating Factors

So far, it is discussed in this article that the three types of citizenship can be distinguished in legitimizing principles to provide citizenship: national citizenship based on national belonging, denizenship based on residence, and post-national citizenship based on human rights. One of the main opposing points between the theorists in the debate is which legitimizing principle among them is dominant to provide citizenship for immigrants. However, there is other relatively hidden and confusing issue, when the theorists argue that a specific type of citizenship based on the associated type of legitimizing principle has become dominant in societies. The issue is what factors facilitate some development of a type of citizenship for immigrants. In many cases the theorists confuse the legitimizing principles with the facilitating factors and do not clearly distinguish between them to discuss.

Post-nationalists such as Soysal who put forward post-national citizenship emphasise the independence of the legitimizing principle, or human rights, from states. Although the concept of “human rights” is an invention of one state spreading to other states, a reality of “human rights” exists outside and separate from states, and constrains these states from the outside (Soysal 1994, see also Joppke 2001:58). According to Soysal, because incorporation of immigrants has become a field increasingly subject to state action and policy, central state agencies and local state agencies are very important to set “international migrant” as a salient category for state responsibility. Moreover, collective organisations of migrants play a crucial role to receive immigrants and protect their rights. However, Soysal only makes a list of the agencies and the organisations without presenting social mechanism and does not demonstrate how the agencies and the organisations work to diffuse the idea of human rights (Soysal 1994).

By contrast, defenders of national citizenship criticises that post-nationalists just mechan-
ically makes a list of “explicit” international human rights codes and conventions which do not demonstrate but only convey their effectiveness at domestic level. According to Joppke, for example, not international norms and conventions but domestic constitutions have been the spring of immigrant rights (Joppke 2001:58). But, he stands on limited cases of Western countries such as EU, Germany, the United States etc.

Finally, denizenship theorists such as Hammar do not obviously refer to facilitating factors for development of denizenship, mainly because they take a normative approach to advocate denizenship based on residence as a desirable social situation. The point for exploring facilitating factors is why residence has become a dominant legitimizing principle to provide citizenship. Hammar says:

The place where people work and spend their leisure time, where they are housed, and where their children play and go to school etc., give rise to a multitude of contacts and ties, activities, hopes and attitudes. People become, as we have previously called it, members of several sub-sets of the society: the labour force, the working place, the housing area, the parents’-teachers’-association etc. (Hammar 1990:191)

So, Hammar seems to assume an automatic mechanism: first, immigrants live in specific areas of host countries in long-term period; then the immigrants become sub-sets of the society and become embedded in host societies; finally residence is adopted as the main legitimizing principle and the immigrant residents are endowed with citizenship. However, there is a long theoretical distance left, from living in a specific area, to being recognised as the entitled to citizenship on the “nation-wide” level (Tarumoto 2001a). In despite of no words from denizenship advocates, facilitating factors are needed to explore, even if the advocates do not devotedly take an explanatory approach on why immigrants are endowed with rights.
Table 1: Legitimizing principles, and facilitating factors, of citizenships

<table>
<thead>
<tr>
<th>types of citizenship</th>
<th>legitimizing principle</th>
<th>facilitating factors</th>
</tr>
</thead>
<tbody>
<tr>
<td>national citizenship</td>
<td>national belonging</td>
<td>domestic constitutions</td>
</tr>
<tr>
<td>post-national citizenship</td>
<td>human rights</td>
<td>force of idea, state agencies</td>
</tr>
<tr>
<td></td>
<td></td>
<td>organisations of migrants</td>
</tr>
<tr>
<td>denizenship</td>
<td>residence</td>
<td>living in long-term period</td>
</tr>
</tbody>
</table>

2.3 A New Question to Be Answered

Accordingly, the differences of views in the debate are found to be dual-structured (Table 1). The first layer of the structure is composed of views of legitimizing principle, such as national belonging, human rights, or residence, when immigrants are endowed with citizenship. The second layer of the structure is comprised of opinions about facilitating factors to expand citizenship for foreigners and immigrants.

In consequence, a new question should be set up: what types of path exist for expanding immigrant rights in terms of legitimizing principles and facilitating factors?

Japanese experiences to be focused on will demonstrate that the views of the citizenship theorists are limited and constrained by preconception from Western experiences. In next section, before surveying Japanese experiences, let us make sure some basics of Japan and citizenship.

3 Basics of Japan and Citizenship

3.1 Citizenship for Japan

Since Japan became a modern nation-state in Meiji era of 19th century, Japan has adopted *jus sanguinis* rule for accession of nationality, along with family registration system. *Jus sanguinis* and family registration system have enforced ethno-cultural understanding of nation and make citizenship to be equated with nationality, state membership and ethnic member-
In regard to people’s collective consciousness, citizenship is understood as equivalent of nationality originated from ethnic homogeneity.

Dual nationality which violate a rule of national citizenship, or “unique”, is not allowed to be maintained, because it is said that dual nationality has many disadvantages such as frictions between countries, conflict of loyalties, inefficiency in immigration control, possibility of bigamy, or confusion of civil international law relations (Kondo 2001:12). A naturalised Japanese shall lose his/her former nationality, and a Japanese shall lose his/her Japanese nationality when he/she acquires or chooses a foreign nationality.

Although the naturalisation rate is increasing, it is still relatively low (0.6% in 1991; 1.0% in 1995) in comparison with other industrial countries. Even at the turn of the century, over 50 years after the World War II, many foreign residents, Korean residents in particular, are not willingly naturalised. That is mainly because Japanese nationality is strongly connected to ethnic identity and because once the foreigners are naturalised they feel to lose their own ethnic identity.

To put them briefly, Japanese citizenship can be considered as a “solid” ethnic type which is a typical example of national citizenship. What kinds of immigrants have “challenged” such “solid” national citizenship which may be unsuitable for incorporation of international migrants?

3.2 The Formation of Immigrants

When foreigners in Japan are classified, the categories of “Oldcomers” and “Newcomers” are very often used regardless of internal differentiation within each category.

In the ethnic composition at the end of twentieth century, one third of the immigrants are made up of “Oldcomers” such as South/North Korean and Chinese who have settled in Japan since the pre-World War II era. More than half of all the immigrants are called “Newcomers” who entered Japan largely after 1980s. Among Newcomers, a large part of immigrants from Brazil and Peru are called “Nikkeijin” who are Japanese descendants with legal permission to work at all skill levels for a period of up to three years. However, Japanese
Brazilian and Japanese Peruvian are different in conditions of work and residence, because
the former is the majority of Nikkeijin and the latter very often have only forged documents.
The Japanese returnees from China, Zanryu Koji (left-behind orphans), who went to, or were
born in, and were stranded in Manchuria after the War, are very important “Newcomers” in
Japan. Moreover, one seventh of the whole of the immigrants are called “Overstayers” who
entered Japan typically in the period of “bubble economy” and are illegally staying after their
visas were expired. Overstayers are also different in conditions for staying in Japan. Some
Overstayers from Bangladesh, Pakistan and Iran in particular had increased in entry in late
1970s and early 1980s, and then are now requested to acquire visa for entry. Other Overstayers
from South Korea and Malaysia particularly do not need visa to enter Japan currently. Finally,
asylum seekers and refugees can not be dismissed as a type of immigrants. Although they are
relatively fewer in Japan than in other advanced countries and are diversified internally into
Indochinese origin and others in their life conditions, they may be able to enjoy various rights
on different basis from other types of immigrants. Moreover, some development of rights for
asylum seekers will have some effect on the kinds and the degree of the rights which other
types of immigrants can enjoy.

Although there are differences within each category, for analysis it is convenient to use the
categories of Oldcomers, Newcomers, Overstayers and asylum seekers. Taking into account the
differences within each category of immigrants, let us use the categories to examine Japanese
experiences theoretically. There are two questions to be answered: In Japan, which legiti-
minizing principle is adopted when the types of immigrants are granted rights of citizenship?
What facilitating factor induces Japan to adopt the legitimizing principle of citizenship?

3.3 The Elements of Citizenship

The other point to be examined before looking over Japanese experiences is what concept
of citizenship to describe immigrants’ situation should be used. In general, citizenship is a
multi-dimensional concept to give an account of various people’s circumstances. According
to the classical definition by T.H. Marshall, citizenship is “a status bestowed on those who
are full member[s] of a community” (Marshall 1963:87) and “requires a bond of a different kind, a direct sense of community membership based on loyalty to a civilisation which is a common possession” (Marshall 1963:96). This intensional definition suggests that citizenship is composed of two dimensions: status as a formal membership in a community, and identity of a community which he/she belongs to. “New” types of citizenship mentioned later cast doubt on the congruence of status and identity of citizenship (Tarumoto 2001b).

As Marshall also defines citizenship extensionally, status in a community brings about rights and duties that the members are expected to carry out. The rights can be divided into three parts: civil rights, political rights and social rights (Marshall 1963:73-4).

Marshall’s definition of citizenship is used for researching how to resolve class conflicts and how to integrate working class people into British society just after the World War II. To examine immigrants’ situation in advanced countries up to the turn of the century, it will be better to change Marshall’s understanding of citizenship partly and to re-abstract elements of citizenship for analysis.

First of all, international migrants are strongly expected to have some characteristics that they migrate across national borders, in particular, between their own countries of origin and receiving host countries. In Marshall’s definition, the category of civil rights makes such peculiar characteristics of migrants ambiguous, although they may include some rights concerning entering into and exiting from a country and living in host countries. Thus, to refer to the characteristics of migrants, territorial rights should be abstracted from Marshall’s civil rights as the main element of citizenship.

Secondly, economic rights have crept into civil rights of Marshall’s conceptualisation, although in many cases immigrants seriously suffer from economic disadvantage, such as being trapped in secondary sector of labour market. To shed light on the disadvantage of immigrants in labour market in particular, economic rights should be distinguished from Marshall’s civil rights as an element of citizenship. Specifically, the freedom to choose an occupation and the rights to be employed as civil servants will be discussed later as issues.
Thirdly, social rights related to pension, public housing, health insurance, child and family allowance etc., should be a main element of citizenship for analysing immigrants’ situation. In addition, as Marshall emphasises, the right of education is also crucial to bring up children to be new citizens. Regarding immigrants, it should be noted that the right of multicultural education is expected to play a role to empower immigrants for surviving and coming along in host societies.

Finally, political rights will be abstracted as a main element of citizenship for inquiring into political incorporation of immigrants. Specifically, it should be focused whether, and if so on what basis, immigrants enjoy the rights of voting, standing for political offices and voicing.

In consequence, four elements of citizenship are found in order to reconsider the “challenge to the citizenship” by international migrants: territorial rights, economic rights, social rights and political rights. In the next section, along the elements of citizenship, it will be found that Japanese state has been embedded in interstate system, which has a function of facilitating some development of citizenship for immigrants, although relatively underestimated by the previous research.

4 Japanese Experiences

4.1 Territorial Rights

Firstly, territorial rights are domain where national belonging is expected to work strongly, because the rights are closely related to state sovereignty. Up to the 1990 revision of Immigration Control and Refugee Recognition Act, residential status of Oldcomers had been improved. Especially, South Korean residents have been gradually granted Kyōtei eijyū (treaty permanent residence) in 1965, Ippan eijyū (general permanent residence) in 1981, and Tokubetsu eijyū (special permanent residence) in 1990. In these decisions, South Korean government has negotiated with Japanese government on the improvement of South Korean’s territorial
rights, and both of the governments put national belonging and reciprocity on the basis of negotiation. At the time of revising the Act in 1990, after Japanese government decided to grant *Tokubetsu eijyū* to South Korean residents through the negotiation in the late 1980s, the government put *Nikkeijin* among Newcomers under consideration to grant privilege to enter and stay. For Japanese government, while South Korean residents received the residential right of *Tokubetsu eijyū*, *Nikkeijin* could not be left as it did not have the right, based on national belonging and *jus sanguinis*, because they are Japanese descendants.

Asylum seekers and refugees can simply depend on human rights to enjoy territorial rights under “international human rights regime”. Compared to other advanced countries, Japan has received very few refugees as permanent residents. Japanese government has unwillingly accepted the Convention of international human rights to become a member of the summit conference, but, at the same time, is resistant to the idea of international human rights regime due to few domestic resources available.

The Overstayers case may be a good index to show whether or not Japanese citizenship policy for immigrants is affected by human rights regime. On 1st September 1999, twenty-one people from Bangladesh, Iran and Myanmar visited the Immigration Office to request *Zairyu Tokubetu Kyoka* (special residence permits) granted by state discretion or, if possible, amnesty based on human rights. As of 2000, special permits were given to four families with children going to primary school, secondary school and grammar school in Japan. The claim of granting amnesty was clearly refused by the Ministry of Justice. In this decision, although a new type of human rights called “the right of children” possibly became a basis for giving territorial rights, human rights as legitimizing principle were not generally adopted by the state.

Regarding territorial rights, Japan has not accepted human rights as the basis of citizenship, and depends on national belonging, although some improvements in immigrant rights are facilitated by pressure from foreign countries mainly.
4.2 Economic Rights

Secondly, securing economic rights is crucial for immigrants, but economic market logic very often goes beyond economic rights to determine the situation of the immigrants. Market demand on labour force attracts immigrants to enter and work, even if they have no right to work in Japan. Although Overstayers have no right to work in Japan, they enter Japan and fill in unskilled labour shortage according to economic logic regardless of having no right to work in Japan. Regarding Newcomers, work permits are basically included in the determination of status of residence in Japan. The Annexe Table I of the revised Immigration Control and Refugee Recognition Act in 1990 decides twenty-three types of residence status which can be roughly classified into work visas and non-work visas (Kondo 2001:21). If a Newcomer does not have any special skill for work, he/she is not allowed to acquire status of residence from Japanese government and to work legally in Japan. Japanese government keeps the traditional policy of not admitting foreign workers for unskilled jobs, but some of non-work visas lead to exceptions. *Shugakusei*, if they are college students, can work for four hours a day (eight hours a day in July and August that are almost summer holidays) in order to make up for the cost of school and living. Other *Shugakusei* who are pre-college students can also work for four hours a day. The programmes of *Kenshusei* (trainees) were established to promote international transfers of skills and technology, but the practice of employers was to use these as a channel for recruiting unskilled foreign workers (Kondo 2001:21). Regardless of their original purposes to enter Japan such as company training or studying, *Kenshusei* and *Shugakusei* are mainly engaged in unskilled work. Contrary to other Newcomers, *Nikkeijin* are granted privilege to work at any level of jobs up to three years in Japan, because they are Japanese descendants. These cases of Overstayers and Newcomers demonstrate that national belonging and *jus sanguinis* are used to decide whether or not providing economic rights for immigrants.

Oldcomers who have permanent resident permit can be engaged in almost all works in Japan. The case of Oldcomers seems to be interpreted as the fact that residence as legitimizing
principle of residence is effective for granting economic rights to Oldcomers. However, there
was an important exception of employment of public sector, which has been improved at state
and local government’s level in these several years. At the national level, firstly, a national
and public university professorship was opened to foreigners in 1982. Secondly, foreigners can
become national officials such as doctors, nurses and postal delivery workers (Kondo 2001:21-2).
At the local government level, the public employment has opened much quicker and wider
for foreign residents than at the state level.

The case of public employment of Oldcomers demonstrates that national belonging as
legitimizing principle has been weakening and replaced by the other principle, or residence.
Why did the weakness and replacement take place? This improvement of public employment
at the state and the local level may be considered as a means to gather talented persons from
a wider range, but this economic and utilitarian explanation is not enough to understand the
improvement. In addition to various social movements of Oldcomers and Japanese supporters,
“international human rights regime” in which Japan was thrown into late 1970s and early
1980s has been gradually becoming effective on endowment of the right of public employment.
Behind international human rights regime, there has existed international politics, which will
be looked over at the next subsection concerning social rights.

4.3 Social Rights

Thirdly, in terms of social rights, the tracing of legitimizing principles and facilitating
factors can be grasped very clearly. Oldcomers have enjoyed the rights regardless of some
exceptions, since the Japanese government accepted international human rights regime late
1970s and early 1980s, but this fact is an “unintended consequence” for the government.
When the government signed the International Covenants on Human Rights in 1979, the
Convention in 1982, it only considered how to deal with the influx of “boat people” from
Indochinese peninsula due to pressure from other countries and how to be recognized as a
member of the summit conference by other countries. “Unexpectedly”, the Covenants, the
Convention and the Protocol include the provision of equal treatment between nationals and foreigners in social rights. Restrictions on non-nationals’ eligibility for public housing, public financing, national pension scheme, and child and family allowance have been abolished since then. Thus, granting the social rights to Oldcomers might be based on human rights, but human rights was brought to Japan by foreign pressure, not directly by state agencies or various organisations of migrants that the postnationalists exaggerate.

Overstayers’ cases stand on the subtle position in terms of the legitimizing principles of human rights, national belonging and residence. Estimated over 270,000 of Overstayers, in practice, are guaranteed free maternity leave, medical treatment for their physically handicapped children and medical treatment for their premature babies for (Kondo 2001:18). In these cases, human rights are adopted as legitimizing principle, under international human rights regime facilitated by foreign pressure.

On the other hand, Overstayers had almost not medical coverage. In one court case, an Overstayer was judged not to be covered under the National Health Insurance Act, even if she had paid the insurance for her Japanese child covered under the insurance, because Overstayers are not allowed to have “domicile”, or formal residence. In other case, it is judged that an Overstayer can be covered under the insurance, because she married to a Japanese national and could have a “domicile” (Kondo 2001:18). These cases of Ovestayers demonstrate that human rights facilitated by foreign pressure have some effects on the way of providing some types of social rights, but, at the same time, for granting other types of social rights such as health insurance, state sovereignty which puts priority on national belonging works against residence and human rights as legitimizing principle.

This double standard of legitimizing principle will be observed in the case of education, too. Even children of Overstayers are allowed to attend schools including compulsory education such as primary and secondary schools. This fact may show that human rights are the basis of granting educational rights for children of immigrants. However, once the children of immigrants enter schools, they have to learn the educational content which has only purpose
to bring up the children to Japanese nationals, under the current educational system toward “uniformity” and “homogeneity”. Although the schools run by the General Association of (North) Korean Residents and the (South) Korean residents Union have a bilingual Japanese and Korean curriculum, while very few Japanese schools have “ethnic education classes”.

In terms of children of Nikkeijin, Japanese schools orientate toward education for Japanese nationals and do not set up enough special classes for them, such as language classes of Japanese, Portugese or Spanish. It is very difficult for many of the children, who do not learn either Japanese or their mother tongue completely, to learn the educational contents in Japanese schools, because without the special classes they can not acquire context-reduced language which is neccesary to understand abstract contents of school curriculum, while they can learn context-embedded language more easily (Ota 2002).

Accordingly, the educational system in Japan has adopted the principle of human rights when it receives the children into schools, but the system has used the principle of national belonging when the children are educated according to the curriculum.

Regarding social rights generally, human rights among the legitimizing principles seem to be effective on granting the rights, but on the deep level such as medical care and educational practice, national belonging is still dominant to work for providing the rights, possibly facilitated by domestic institutions and rules that are used in some conventional ways.

4.4 Political Rights

Finally, the cases of political rights have some possibility to show the principle of national belonging works explicitly, because political rights are the last element of citizenship which will be under discussion on whether or not granting for immigrants (Layton-Henry 1990:1-26). But, the fact is not so simple.

It is understandable that political rights of Overstayers who illegally stay and work in Japan, and of some asylum seekers who are requesting to settle in Japan, are out of count, because political rights are expected to be based on national belonging as an legitimizing principle, not on residence and human rights.
In local politics, some advanced local governments have established consultative institutions which include foreign residents including Oldcomers and Newcomers to reflect their opinions for local policies. In Kawasaki city of Kanagawa prefecture next to Tokyo, for example, the Representative Council of Foreign Citizens was set up in 1996 after public offering of councilors from foreign residents. The Representative Council in Kawasaki city was the first official administrative institution in Japan in which foreign residents can participate. The Representative Council has no authority to vote for municipal affairs, but the mayor of Kawasaki city has some moral obligation to give serious consideration to suggestions from the Representative Council (Miyajima 2000). The fact that the consultative institutions have been established in some local governments seems to demonstrate that local governments adopt the principle of residence to deal with political rights for foreigners, although there are some problems left in terms of degree and way to grant the rights. 

On the level of central politics, a foreigner suffrage bill for local elections has been under discussion in the national diet. In the plans of a local branch of political party, Sakigake Shimane in 1994 and of Japanese Communist Party in 1995, settled foreigners who live in Japan for five years or more can be granted the voting right for. These plans denoted that Oldcomers and a large part of Newcomers can enjoy the right if they settle for a while. After the Supreme Court made a judgment that the voting right to permanent foreign residents etc., can not be against the Japanese Constitution on 28th February 1995, Democratic Party and Komei Party jointly in October 1998 and Japanese Communist Party in December of the same year submitted foreign suffrage bills to national diet. In their bills, permanent foreign residents with Ippan eijyu and Tokubetsu eijyu were considered as the entitled of the voting rights in local elections. All Newcomers and Oldcomers other than permanent residents were excluded from the plans. 

On the first day of the new ordinary diet session in January 2000, New Komei party and the Liberal Party planned the joint submission of a bill to grant permanent foreign residents the right to vote, moving ahead of the proportionately larger party, Liberal Democratic Party
the LDP) (*Japan Times*, 14 January 2000; 20 January 2000). In September 2000, the LDP made adjustment of different opinions about the bill within the party, and then attained from the members of the party the idea that only Oldcomers with *Tokubetsu eijyu* should be granted. In discourse of the LDP members, the reason why only Oldcomers with *Tokubetsu eijyu* can receive the voting right is “they were Japanese nationals under the colonial rule in prewar era.” But, at the same time, the South Korean government has been pressing Japanese government to grant the voting right to permanent South Korean residents. In the bill, North Korean residents are excluded from granting, because Oldcomers with *Tokubetsu eijyu* are almost all South Korean residents.

Even in the cases of political rights, Newcomers and Oldcomers are gradually becoming targeted for granting the rights. As the case of the consultative institutions in local politics show, residence and human rights seem to be adopted as a legitimizing principle, backed up by international human rights regime and social movements in 1980s and 1990s. However, the case of the foreigner suffrage bill expresses that national belonging is used as reciprocity between two nations differently from national belonging to one specific nation. In this case, national belonging implies not only that voters in local elections are Japanese nationals but also South Korean nationals on the reciprocity between the two countries. This transformation of national belonging is facilitated by foreign pressure from South Korean government through the linkage between interstate relation on the colonial legacy.

5 Discussion and Conclusion: International-Political Path of Immigrant Rights

Our question was: what types of path exist for expanding immigrant rights in terms of legitimizing principles and facilitating factors? From the exploration of Japanese experiences above, it was found that there is no uniformity in legitimizing principle and facilitating factor across the elements of citizenship and the types of immigrants.
In the Japanese case, national belonging is dominant among the legitimizing principles currently. However, in some areas of citizenship, human rights or residence is emerging to legitimize granting the rights to immigrants. Moreover, it should be noted that “reciprocal national belonging” can be a new type of legitimizing principle. For example, the case of foreigner suffrage bill showed that South Korean residents in Japan and Japanese in South Korean may be able to be granted voting rights, because they are South Korean nationals or Japanese nationals, and the both sides may agree to give the right to each other reciprocally.

Regarding facilitating factors, domestic-legal path that the defenders of national citizenship emphasise is not valid in Japan. Japanese domestic constitution and legal codes has much weaker components to secure immigrant rights in themselves.

Domestic-political path that social movements and/or NGO activities are engines for expanding alien rights is not valid in Japan, either. There have been considerable number of groups of social movements and NGOs in Japan, if compared to other advanced countries, but the number is not equated to power.

Inter/transnational-legal path that post-nationalists exaggerate does not fit in with Japanese case. Japanese judicial courts are very unwilling to ground on international norms, and they by themselves do not have enough power to change the situation of citizenship for immigrants in Japan.

Inter/transnational-political path fits in with Japanese experiences quite enough. When Japan moves toward securing immigrant rights, it is induced by political pressure from other countries in most cases.

From exploration of Japanese experiences, it was found a new path of expanding immigrant rights, which is called international-political path of immigrants rights.

NOTES

1 Tarumoto (2001c) takes up Japanese experiences to examine the “challenge to the citizenship” debate, but it does not fully consider the complexity of citizenship and the variety of immigrants, because it focuses on historical social change.
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