



RISING POWERS INITIATIVE

SIGUR CENTER FOR ASIAN STUDIES
Policy Commentary – January 2011

Re-Examining Nationality in Aging Asia– Insights from Japan and South Korea

Several countries in Asia have recently amended their nationality laws, including the Philippines (2003), India (2003), Indonesia (2006), Taiwan (2006), Thailand (2008), Japan (2008), Vietnam (2009), and South Korea (2010). Was it mere coincidence that these countries reassessed their nationality laws? Or did they have important reasons to discard variously 'outdated' clauses in the face of sharp public debates and political contestations over issues of nationhood? This policy commentary provides background and context towards understanding some key issues that motivate changes to nationality laws in Asia, especially in Japan and South Korea. It suggests that the issue of nationality has become bound up with the dynamics and political implications of 'human flows' in Asia.

Changing Nationality Laws

The key changes over nationality laws revolve around two points. First, there are moves to redefine the legal status of the children of international marriage and divorce because of the increase in international

marriage over the past 20 years in Asia. Second, governments must decide whether to accept dual/multiple nationality status which Asian countries were long reluctant to acknowledge because of Cold War politics and complex colonial legacies.

Two major amendments to nationality laws in Japan and South Korea may serve as good illustrations. Japan's 1984 nationality law was amended in 2008 to take effect on January 1, 2009. The major change was to entitle children born out of wedlock to a Japanese father and a foreign mother to Japanese nationality. This amendment was triggered by a Supreme Court ruling of June 4, 2008 that ten children born out of wedlock to Japanese fathers and Filipino mothers were to be granted nationality because the clause in the 1984 nationality law, which stipulated the parent's marriage as a condition for Japanese nationality, was unconstitutional. Parliament and the Cabinet opted for a new nationality law that accorded with the Supreme Court ruling.

The Sigur Center's Rising Powers Initiative examines how domestic political debates and identity issues affect international relations in Asia. The Policy Commentary series is sponsored by the MacArthur Foundation's Asia Security Initiative. More information on the Rising Powers Initiative can be found at: <http://www.gwu.edu/risingpowers>

Please also visit the new blog of the Rising Powers Initiative at: <http://risingpowers.wordpress.com>

Key Points

- The key changes over nationality laws revolve around two points. First, there are moves to redefine the legal status of the children of international marriage and divorce because of the increase in international marriage over the past 20 years in Asia. Second, governments must decide whether to accept dual/multiple nationality status.
- In Japan, influential voices, primarily from the business sector, have urged the government to relax conditions for acquiring Japanese nationality.
- The higher percentage and more rapid increase of international marriage in South Korea (compared to Japan) and various issues of social integration helped to shape public opinion and push the government to reform its nationality law.
- Unlike the government in South Korea, the Kan Cabinet in Japan has yet to form a party or public consensus on a new law on dual nationality.
- The aging society of Asia's developed countries and the population growth of its developing countries will together intensify intra-regional competition to attract 'the best and the brightest' while managing flows of cheap labor.

South Korea has gone further. The government amended its 1997 nationality law in 2005 and 2010 to acknowledge and accept dual citizenship whereas the previous law required abandoning other nationalities in order to obtain South Korean nationality.

Aging Societies, Accelerating Human Flows

One immediate reason for these legal changes is the increasing number and proportion of international marriage over the past 20 years. For example, 7 per cent of all new marriages in Taiwan involve a foreign spouse, with 90 per cent of such marriages being between Taiwanese males and foreign females. In South Korea, where the number of international marriages has doubled in six years, more than 10 per cent of all marriages are now international marriages, mostly of South Korean men with Chinese, Vietnamese or Filipino women. More international marriage has perhaps unsurprisingly led to more international divorce. In Japan, 5 per cent of all marriages in 2009 were international marriages whereas 8 per cent of all divorce cases involved international couples. These trends, evidence of changing social conditions, complicate the status of children beyond the provisions of former nationality laws and legal frameworks.

A second critical issue is growing anxiety over 'aging society' in Japan and South Korea whose record low birthrates hold major implications for economic growth and the management of welfare systems. In Japan, influential voices, primarily from the business sector, have urged the government to relax conditions for acquiring Japanese nationality. This is regarded as an important measure to encourage more foreigners to enter Japanese society to offset the declining size of the workforce and to attract foreign talent to boost economic competitiveness. In November 2010, speaking in support of Japan's joining the Trans-Pacific Partnership negotiations, the Chairman of the Japan Business Federation (Keidanren), Hiromasa Yonekura noted that "the 'only way' to compensate for Japan's population decline and achieve long-term stability was to 'invite immigrants' ...who pledge allegiance to Japan."

As Asia's intra-regional trade and investment dramatically rise in volume and proportion, major businesses have also tried to utilize regional labor and talent. Today, the model of development itself extends beyond national to regional development with an increasing reliance on external demand. Thus, 'inviting foreigners', especially 'neighbors', into Japan is now regarded to be an unavoidable measure to maintain economic growth and success.

Before the 2009 national election, the current ruling Democratic Party of Japan (DPJ) promised to take steps to acknowledge dual nationality. In line with the stance of DPJ and Keidanren, the Department of Justice issued a *Basic Plan for Immigration Control* in March 2010 which stated that one important point in reexamining immigration laws was 'to incorporate the vitality of the Asian countries which are growing rapidly into Japanese economic growth.'

"In an era of changing demography and regional market integration, competition over people may add a new layer to Asia's intraregional politics that can significantly shape regional dynamics and foreign relations. "

South Korea shares similar reasons for acknowledging dual citizenship. Reviewing immigration and nationality laws in 2007, the government identified the following considerations for shaping new laws and policies: 1) to meet the needs occasioned by a dwindling birthrate and an aging population, an 'open door' policy for immigrants must be well prepared; 2) with globalization and advanced technology intensifying competition for foreign talents, legal frameworks must be favorably modified to attract and retain such talents; and 3) the increasing number of international marriages requires policies to support and integrate new foreign-born Koreans into Korean society.

Indeed, South Korea acted swiftly. The higher percentage and more rapid increase of international marriage in South Korea (compared to Japan) and various issues of social integration helped to shape public opinion and push the government to reform its nationality law. Incidents of abused Vietnamese and Filipino wives in South Korea gained wide attention, sparking calls to reform legal provisions on nationality and marriage.

Opposing Arguments

Japan and South Korea have similar reasons for reassessing their nationality laws – economic competitiveness, smaller population (vis-à-vis China and India), and the challenge of an aging society – but their social conditions vary due to differences in the ratios of foreigners and the issue of military service.

Unlike the government in South Korea, the Kan Cabinet in Japan has yet to form a party or public consensus on a new law on dual nationality. While the Keidanren and the Ministry of Justice support the relaxation of the nationality law, quite a few voices are opposed to dual nationality. For example, the new law granting nationality to children of an acknowledged Japanese father was heavily criticized on grounds that it will present opportunities for illicitly obtaining Japanese nationality – through false marriages, human trafficking, for instance – which would increase illegal migrants, add to the crime rate, and burden the social welfare system. Such voices stressed a need to cover legal loopholes with strong preventive measures against ‘worst case scenarios’, the most critical of which was the threat to security. To take a notable issue, a DNA-match condition was proposed for Japanese fathers who intended to acknowledge their children from international marriages. Such opposing voices have warned the government against overlooking thorough reviews of the security risks of new dual-nationality laws.

In South Korea, counter arguments on dual citizenship highlighted the issue of military service obligation for male citizens. South Korean politicians have been reluctant to support dual nationality for fear of being regarded as favoring the rich and privileged by helping their sons evade mandatory military service. Many such South Korean children were born in countries, such as USA, which practice birth-right citizenship and accept dual nationality. Consequently, the debate on dual nationality crucially went beyond economic and security matters to include issues of civic responsibility and civil equality. Thus, the 2010 nationality law requires of holders of dual nationality that: 1) they cannot utilize their foreign status in South Korea to evade military service or apply for university admission through the foreign category; and 2) dual citizenship is permissible only for those born abroad and those married to South Koreans.

Regional Competition and Disputes

The United Nations estimates that the world's population will increase by 2.5 billion people by 2050. Owing to its size, Asia's population growth will account for a major proportion of global population growth. In Asia, Japan and South Korea will ‘lose’ population while India and China will gain. Hence,

the aging society of Asia's developed countries and the population growth of its developing countries will together intensify intra-regional competition to attract ‘the best and the brightest’ while managing flows of cheap labor.

Every nation would like to attract the highest talent and exploit the cheapest labor. No government, however, will find it easy to hold together domestic disputes and win against rival nations. Japan and Korea will compete not only with each other or within Asia but also countries like US, Canada and Australia which have successfully attracted talents over decades. In an era of changing demography and regional market integration, therefore, competition over people may add a new layer to Asia's intraregional politics that can significantly shape regional dynamics and foreign relations. Here, nationality and immigration laws may be crucial since they are primary means of government control. Indeed, we may already be witnessing new sites at which diplomatic relationships may easily deteriorate, for example, over the alleged maltreatment of foreigners, such as of Vietnamese in South Korea, Indonesians in Malaysia, Filipinos in Japan, Burmese in Thailand, and so on. Governments are likely to make sweet promises, so to speak, to ‘dream seekers’. But their thoughtful care for the disenchanted may be crucial to the success of their reforms of nationality and immigration policies that in Asia are inseparable from considerations such as nationalism, economic incentives, human rights, and social welfare.

By AIZAWA Nobuhiro, Institute of Developing Economies, Japan

The Sigur Center for Asian Studies is an international research center of The Elliott School of International Affairs at The George Washington University. Its mission is to increase the quality and broaden the scope of scholarly research and publications on Asian affairs, promote U.S.-Asian scholarly interaction and serve as the nexus for educating a new generation of students, scholars, analysts, and policymakers.