

Chapter 2

The State and The Market: Acceptance of Migrant Care Workers Through Multiple Channels

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Chapter 2

The State and The Market: Acceptance of Migrant Care Workers Through Multiple Channels

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Discussions on population ageing cannot be separated from those on the migration of care workers. Such discussions are one of the most critical social issues of recent years in Japan. The proportion of people aged 65 years and above in Japan is growing close to 30%. As the ageing population has increased, the labour shortage within the care sector has intensified.¹ In addition, the devastating impact of COVID-19, which has profoundly affected frontline health care workers, may further accelerate the labour shortage in the long-term care sector in the coming years. Without adequate measures and policies to ensure and develop a quality health care workforce, the well-being of frail and dependent older persons, and the career path of migrant workers, will be jeopardised.

There are several channels for labour migrants to enter care work in Japan. The first wave of migrant care workers arrived under the bilateral Economic Partnership Agreements (EPA) with Indonesia, the Philippines, and Viet Nam. Migration was not a major component of those agreements but provided an opportunity to test how the Japanese society would respond to migrant care workers. In 2017, two additional channels were opened: one is that long-term care work was added into the list of occupations of the Technical Internship Trainee Program (TITP), and the other was that international students who graduated from caregiving schools in Japan were granted the residential status of 'long-term care'.² Finally, in 2018, the immigration law was revised to open 14 occupations, including agriculture, construction, and care work, to migrant workers under the status of Specified Skilled Workers (SSW) (Ministry of Foreign Affairs, n.d.).

This study's data are mainly derived from consecutive fieldwork in Japan and Southeast Asia between 2019 and 2020, including interviews with five care facilities that accepted EPA care workers and 14 EPA care workers, including returnees, and eight sending agencies in Viet Nam, Indonesia, and the Philippines. The term 'care work' is synonymous with Japanese '*kaigo*', which refers to old-age care or long-term care but does not include medical intervention.

1. Different channels for the migration of care workers

The number of migrant workers in Japan has been increasing in recent years, and in 2021 it reached 1.7 million, or 2.5% of the total workforce (Ministry of Health, Labour and Welfare, 2022a; Statistics Bureau of Japan, 2022). However, migrants in the field of health and welfare

¹ In 2018, 67.2% of care providers felt the shortage in the care workforce, more than a 10% increase from 56.5% in 2013 (Kaigo Rodo Antei Center, 2013; 2018).

² The national certified care worker exam is exempted for those who graduated by March 2027. They can work for 5 years as certified care workers.

are latecomers and remain at 3.3% of the total migrant workforce, whilst for manufacturing the share is 27%, and for wholesale and retail it is 13.3% (Ministry of Health, Labour and Welfare, 2022a). The four migration channels, namely EPA, TITP, international students studying care work, and SSW, differ in numerous ways in terms of the programmes' aims, applicants' qualifications, Japanese language proficiency levels, terms and conditions of their visa status, cost infrastructure, and migration governance. Table 2.1 illustrates the migration channels that have opened during the past decade.

Table 2.1. Different Channels for Migrants within the Care Sector

Employment model	Economic Partnership Agreements (EPA)	Technical Intern Training Program (TITP)	International Students in Caregiving Schools	Specified Skilled Worker (SSW)
Year of commencement	2008	2017	2017	2019
Legal framework	Bilateral agreements with Indonesia, the Philippines, and Viet Nam	Law on Appropriate Implementation and Protection of Technical Interns; MOU with sending countries	Revised Immigration Control and Refugee Recognition Act	Revised Immigration Control and Refugee Recognition Act; MOU with sending countries
Aim	To facilitate, promote and liberalise trade in goods and services between the parties	Transfer of technology to developing countries	To attract highly skilled human resources	To alleviate the labour shortage
Eligibility to apply	Graduate of nursing schools (Indonesia, the Philippines, Viet Nam) or 4-year university with any major, and obtained an accredited	Above 18 years old, with 1 year of experience stipulation to utilise the skills obtained in Japan, after returning to their home countries	High school graduate	Above 18 years old, no educational requirements. Must pass the test or transfer from TITP, under certain conditions.

	caregiver licence (Philippines)			
Japanese language training and level required at the time of entry	Approximately 1-year free Japanese language training. For Viet Nam, JLPT Level 3 is required.	Approximately JLPT Level 4	Ideally, JLPT Level 2, but this depends on the school's admission policy	Japanese language test ^a and skill test ^b
Institutional framework	Government and semi-government institutions in the sending and receiving countries oversee recruitment, training, and placement	Privately licensed agencies in the sending and receiving countries oversee recruitment, training, and matching. The Organization for Technical Intern Training (OTIT), an official agency, oversees monitoring and support.	Caregiver schools accept applications often through private agencies	Direct hiring is allowed, and migrants can change their employers
Length of Stay	Four years. Once registered as a nationally certified caregiver, no limitation for extension. If failed, can transfer to SSW.	Three years, extendable for two more years, or may transfer to SSW	No limitation once registered as a nationally certified caregiver	Maximum of 5 years

JLPT = Japanese-Language Proficiency Test.

^a JLPT N4 or higher or Japan Foundation Test for Basic Japanese (JFT-Basic) and Nursing Care Japanese Language Evaluation Test.

^b Nursing Care Skills Evaluation Test.

Source: Ministry of Foreign Affairs (n.d.); Ministry of Health, Labour and Welfare (n.d.); OTIT (n.d.)

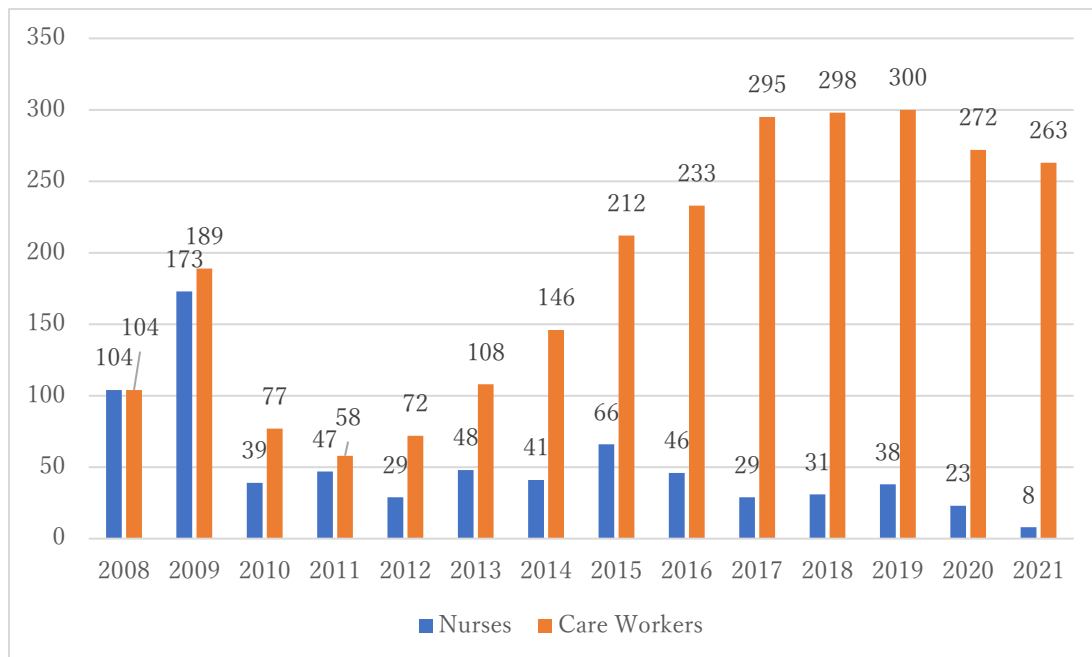
2. Assessment of EPAs after a 10-year period

Since its inception in 2008, a small number of migrant nurses and care workers were accepted not under the migration policy but as an attachment to the bilateral free trade agreement. The EPAs between Japan and three Southeast Asian countries, namely Indonesia (2008), followed by the Philippines (2009) and Viet Nam (2014), state that nurses and care workers from those countries will work in Japanese hospitals and care facilities as ‘candidates’ for certified nurses and care workers, until they pass the national examination. Under the EPAs, a similar framework has been applied for both occupations.

However, after 10 years, the acceptance of EPA care workers has multiplied, whilst those of nurses has declined, as shown in Figure 2.1. These two occupations are constructed differently in terms of education, career development, and the labour market, so it would be difficult to treat them within the same framework.

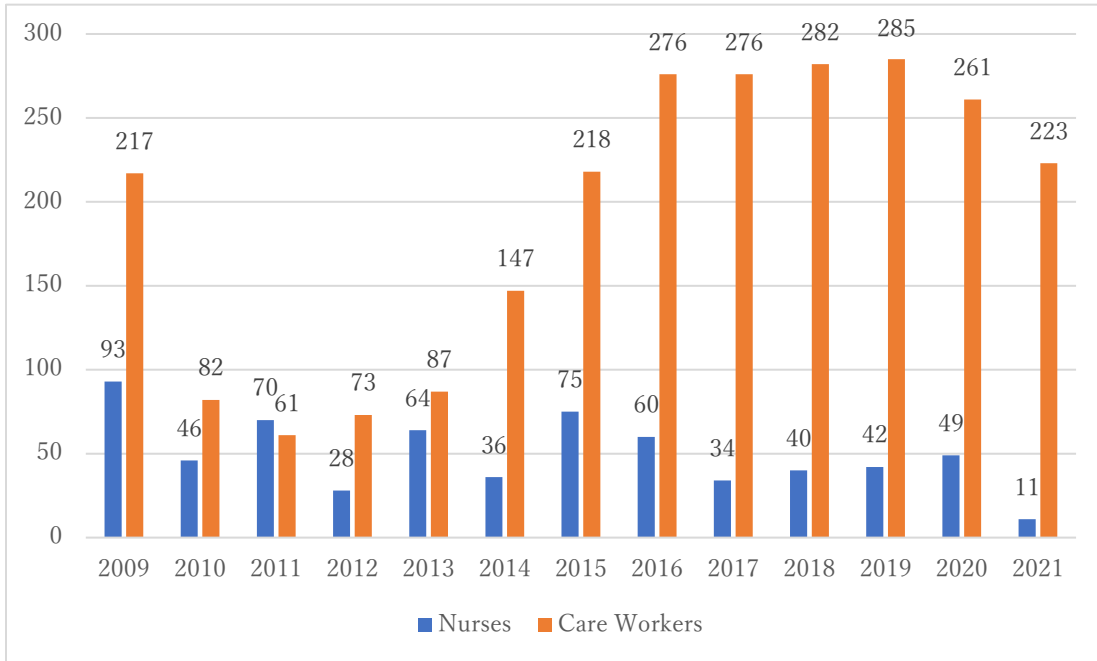
For EPA nurses, the average passing ratio for the national nursing examination has not been higher than 20% in the past 10 years (Ministry of Health, Labour and Welfare, 2019). On the contrary, for EPA care workers, it has never been lower than 33% for the national care workers examination, the highest being 94.8% (Ministry of Health, Labour and Welfare, 2018). Moreover, after 2019, even if an EPA care worker fails the national exam, they can be transferred to SSW and continue to work. This study will focus only on long-term care workers and not on nurses. Figure 2.3 shows that there is far greater demand for migrant care workers than nurses.

Figure 2.1. Number of Indonesian Nurses and Care Workers under the EPA



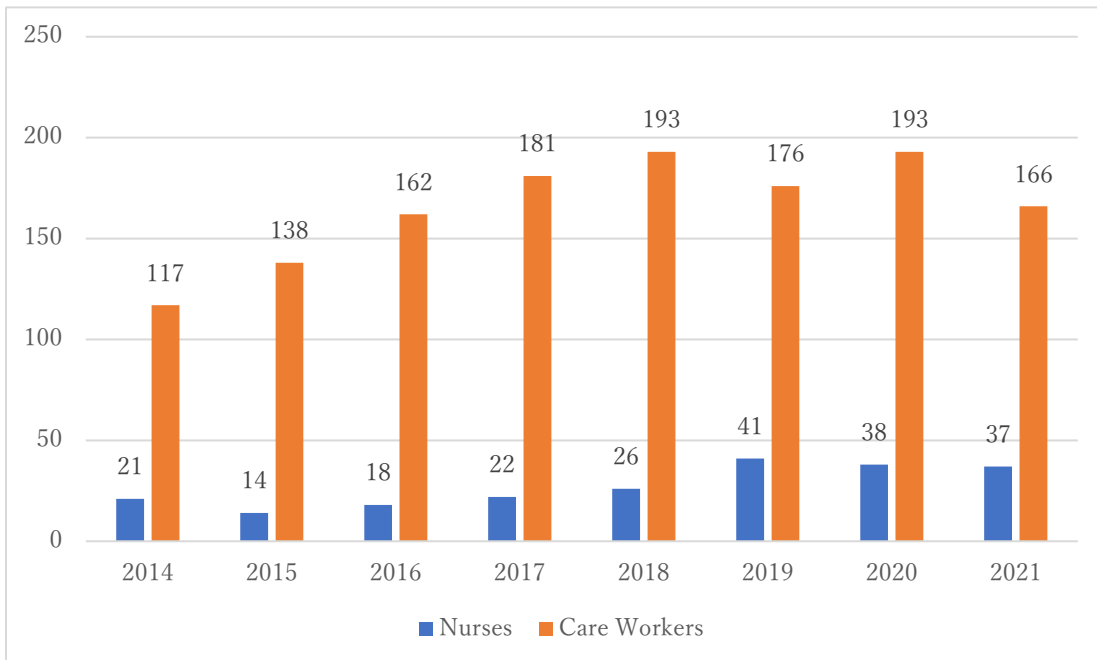
Source: Ministry of Health, Labour and Welfare (n.d.); JICWELS (n.d.).

Figure 2.2. Number of Filipino Nurses and Care Workers under the EPA



Source: Ministry of Health, Labour and Welfare (n.d.); JICWELS (n.d.).

Figure 2.3. Number of Vietnamese Nurses and Care Workers under the EPA



Source: Ministry of Health, Labour and Welfare (n.d.); JICWELS (n.d.).

3. Migration governance of EPAs

EPAs brought care facilities to employ foreign staff for the first time. Nevertheless, according to my field research, the responses from the staff and families have been positive (Ogawa, 2011). Employers and co-workers sincerely appreciated the EPA care workers' contributions, and the workplace has benefited greatly from their presence and attitudes. The positive acceptance of EPA care workers can be attributed to the commitments on migration governance and the preparation in the sending countries, deployment, settlement, and access to citizenship.

Before working in Japan, EPA care workers go through approximately 1 year of Japanese language training, sponsored by the government and employers. The governments or semi-governmental bodies in both the sending countries and Japan serve as mediating agencies in charge of recruiting, matching, monitoring, and supporting migrants in their learning and daily lives.³ After they arrive in Japan, the employers are obliged to support their learning to help them pass the national examination for care workers (*kaigo-fukushi-shi*).⁴ Based on the bilateral agreement, the EPA care worker programme is regulated, and the institutional governance mechanism is transparent compared to the other three market-oriented channels. The high educational background and 1 year of Japanese language training have contributed to the positive evaluations of EPA care workers. The national examination of certified care work also fosters excellent quality of care provided by EPA care workers because it sets a standard of theory and practice in performing care work.

Existing studies on the transnational migration of care workers show how care and domestic work that require close relationships, including physical contact, have created various boundaries and separations based on gender, class, ethnicity, and religion (Anderson, 2000; Parrenas, 2003; Lan, 2006; Anderson and Shutes, 2014; Ogawa et al., 2018). Care and domestic work, as personal services, tend to be forced work under disciplinary regimes and appalling labour conditions. Much of the literature on migration and care is dominated by migrants who work as live-in domestic/care workers in private homes, within a family where power relations manifest. On the other hand, EPA care workers mainly provide institutional care, and home-visit care is limited. In institutional care, working conditions are generally better regulated, more contact exists with outsiders than in private homes, and teamwork amongst staffs is necessary.

After more than 10 years, some EPA certified care workers have already become leaders and managers that supervise Japanese staff, whilst some have even passed the care manager examination. Becoming a certified care worker ensures citizenship, and they can stay for an indefinite period and are free to change employers and bring their families. Currently, more than 500 family members are settled in Japan (E-Stat, 2021) and some have already obtained

³ Japan International Corporation of Welfare Services (JICWELS), Philippines Overseas Employment Administration (POEA), Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia (National Agency for Placement and Protection of Indonesian Migrant Workers), and the Ministry of Labour, Invalids and Social Affairs (DOLAB).

⁴ Until SSW was established, if the EPA candidates failed the exam, they had to return home, but after 2019, EPA care workers can change their residential status to SSW.

permanent residency.

However, on the employers' side, even though care facilities invest in educating EPA care workers, the EPA programme does not guarantee that such care facilities can retain EPA care workers after they acquire the licence. Once EPA care workers become licensed, they are entitled to choose to work at whichever care facility they like, or to return to their home countries and then come back to Japan for work later. For care facilities that provide substantial support for EPA candidates, the risk of candidates resigning, especially after acquiring the national certificate, is significant, as they would lose all the 'investment'.

As a part of the bilateral agreement between the two countries, migration processes are strictly controlled and regulated by the state, and a mediating organisation conducts regular monitoring. Although there are some labour law issues,⁵ human rights violations have not been seen on a large scale in this research, compared to the other privatised labour migration channel.⁶

4. Risks associated with the migration of care workers

Scholarly work on migration has discussed how migrants are socially mediated through a particular system, industry, or infrastructure that conditions the mobility of interlinking technologies, institutions, and actors (Xiang and Lindquist, 2014). The recent opening up of Japan's migratory channels was expanded hand-in-hand with the state regulatory infrastructure and the market-oriented commercial entities who cater to the migrant care workers. This may or may not enhance the capacity of migrants for self-determination and empowerment, but in 2020 and 2021, more than 10,000 migrants from different backgrounds entered care work.⁷ The dependency on migrants will grow for the foreseeable future.⁸

As shown in Table 2.1, these migrants are offered different career prospects and entitlements. Only the EPA care workers are able to receive substantial support for language education and preparation for the national examination as the Japanese government and employers shoulder the costs, and they have access to citizenship and are able to bring their families to Japan. This applies only to EPA care workers, not for other migration channels as follows.

⁵ Through interviews, personal consultations, and cases shared by the civil society, there are issues such as unpaid overtime work, not being allowed to take paid holidays, harassment, pregnancy issues, and limited access to medical care.

⁶ Cases of abuse under the TITP, and against international students in Japan, are reported within the Trafficking in Persons Report (US Department of State, 2019; 2020). The Immigration Bureau admits that violations of labour laws and excessive broker fees paid into the countries of origin of migrants are reasons why TITPs become undocumented (Immigration Service Agency, 2019).

⁷ The number of migrants in social welfare institutions increased from 29,838 in 2020 to 41,189 in 2021 (Ministry of Health, Labour and Welfare, 2022b).

⁸ According to research by the Tokyo Council of Social Welfare, 55.3% of the care facilities in Tokyo are currently employing migrant care workers and 27.5% are planning to employ them in the future (Tokyo Council of Social Welfare, 2021).

4.1. International students

For international students studying at caregiving schools, it costs approximately ¥6 million to complete their schooling, which can take years for students to pay back.⁹ Public and private scholarships support studying and living in Japan, but what is often called a ‘scholarship’ in Japan often needs to be paid back. In some cases,¹⁰ the scholarship provides an incentive to work within the care facility as a part-time worker (up to 28 hours per week) whilst studying, and upon becoming a full-fledged care worker, if the person works for 5 years, they will be exempt from paying back the scholarship.¹¹ Once a student successfully graduates and obtains the certified care worker status, they can stay indefinitely and bring their family to Japan, but their life in Japan begins with debt and is tied to a specific occupation until they pay back the debt.

4.2. Technical internship trainees (TITP)

The TITP was initially conceived as an international cooperation through ‘transferring skills, technologies, or knowledge in Japanese industries to developing countries through human resource development’ (Organization for Technical Intern Training, n.d.). Since TITP workers are tied to contracts for a limited period and cannot change their workplace, they are sometimes described as being at the bottom of the hierarchy in the Japanese labour market (Shipper, 2016).

Except for EPAs, TITP and the other channels are mediated by private recruitment agencies, which may charge exorbitant placement fees. The Philippines has the most progressive law to protect migrants and prohibit the sending agencies from charging placement fees for those who come to Japan (Ogawa and Sadamatsu, 2020). The Vietnamese government has set the maximum amount for the placement fee at US\$3,600/person (Mekong Migration Network, 2019). However, Vietnamese migrants are paying between US\$7,000/person and US\$10,000/person to the sending agencies in this research. In an interview with five undocumented Vietnamese TITP workers who had worked in Chiba, Ibaraki, Aichi, Miyagi, and Kumamoto, they all said they shouldered a debt of approximately ¥1 million, but could only earn around ¥90,000–¥10,000 per month in Japan.¹² Their monthly household income in Viet Nam was between US\$200 and US\$300, and therefore their lives in Japan started with a heavy debt that must be paid back whilst working.¹³ Indonesian TITP workers are also charged US\$4,000 or more, which includes language training for 3 months, accommodation

⁹ This estimate is from the materials presented at the meeting of the Tokyo Council of Social Welfare on 19 February 2019. The cost includes the tuition fee for 3 years (1 year of Japanese language school and 2 years of caregiver school) (¥3,120,000), living expenses (@¥50,000/month x 36 months = ¥1,800,000), dormitory fees (@¥20,000/month x 36 months = ¥720,000), Japanese language education before arrival (¥250,000) and an agency fee (¥120,000). This adds up to ¥6 million.

¹⁰ Osaka Prefecture Guidelines: Acceptance of Foreign Students Under the Status of Residence ‘Nursing Care’ Guidelines, <https://www.pref.osaka.lg.jp/attach/20980/00259484/guidelinedetail.pdf>, p.9.

¹¹ Article 17 of the Labour Standards Act states that it is not permissible to lend money in advance to workers on condition that they work, to force them to work, or to deduct the advance from their monthly wages without permission.

¹² Interviewed during October 2020.

¹³ Research conducted at the sending agencies in Ha Noi during March 2018 and September 2019, and interviews at TITP in Tokyo during August 2020.

for 2 months, document arrangements, airfare, meals, a medical check-up, and predeparture training (Human Rights Working Group, 2020).

The EPA and TITP workers differ not only in their career prospects but also their salaries. EPAs are paid the same as Japanese full-time care workers in principle. On the contrary, the wages of TITP workers are usually suppressed to the minimum wage, which is justified as being because they are under ‘training’,¹⁴ even though their job descriptions might be the same. A wage gap does exist between TITP and Japanese care workers, regardless of their educational backgrounds. Also, the unequal payment is found between EPA and TITP workers, even though they may come from the same educational background.¹⁵

4.3. Specified skilled worker (SSW)

Finally, the SSW system was established in 2019, admitting migrant workers as ‘labourers’ who can be hired directly, with equal payment as Japanese workers and the ability to change employers. We are yet to see whether SSW will enhance the rights of migrants by allowing them to transfer and negotiate their employment conditions. Some sending countries have made it a rule that migrants must go through the sending agencies of their home countries if they want to work as SSWs.¹⁶ Sending agencies and supervising organisations are meant to protect migrants, but according to my study, they often exploit and control them by using the advantages of the power relationship drawn from their transnational connections. SSWs are time bound and are neither in a position to request any support from their employers to become certified care workers nor do they have access to citizenship.

The four channels differ in terms of career prospects, wages, support systems, and residential status, but due to the lack of information in the sending countries, migrants might choose any option available to them without knowing the consequences. A study conducted in Indonesia on the predeparture process of TITPs revealed that Indonesian workers were given little information on the rights and opportunities they are entitled to, or how to proceed if they face problems (Human Rights Working Group, 2020).

5. Ethical recruitment of care workers

The Japanese care labour market has been increasingly sustained by migrants, including those who are in vulnerable positions caused by the state’s migrant policy. COVID-19 also reasserted the importance of well-trained health personnel to sustain the global health care system. The WHO has established the Global Code of Practice on the International Recruitment of Health Personnel to be the core component of bilateral, national, and regional responses to the global shortage of healthcare workers (WHO, 2021). It states the responsibility of the member states to conduct the recruitment of health personnel according to the principles of

¹⁴ Presentation by a social insurance labour consultant at a seminar on how to employ foreign workers, on 10 September 2020, in Chiba.

¹⁵ Interviewed during October 2020.

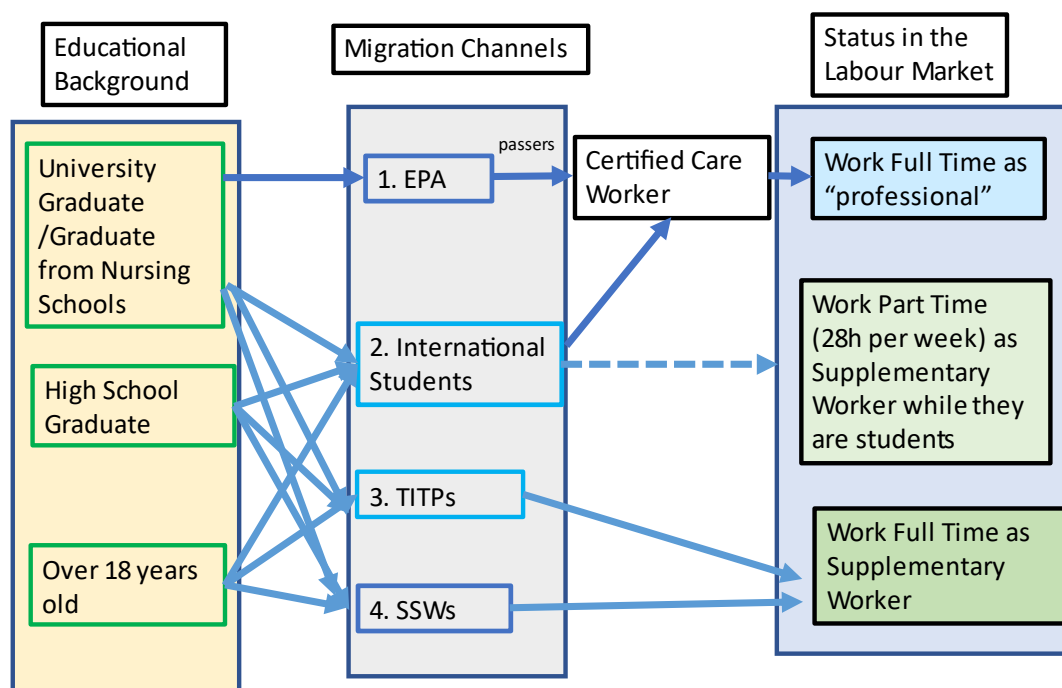
¹⁶ Going through the sending agencies is not a requirement for SSW in Japan; however, some countries do not allow the direct recruitment of workers.

transparency, fairness, and the promotion of sustainability in developing countries. In particular, an important element is 4.4 of the said Code (italics by the author):

4.4 Migrant health personnel should be hired, promoted and remunerated based on *objective criteria*, such as levels of qualification, years of experience and degrees of professional responsibility on the basis of equality of treatment with the domestically trained health workforce. Recruiters and employers should provide migrant health personnel with relevant and accurate information about all health personnel positions that they are offered.

Currently, no system exists to evaluate whether migrant care workers are remunerated based on the objective criteria. Figure 2.4 illustrates how different migration channels lead to different outcomes in the labour market.

Figure 2.4. Social Stratification of Migrant Care Workers According to the Entry Channels



Source: Sasaki and Ogawa (2019).

The conditions of migrants highly depend on the channels from which they enter Japan rather than their educational achievements. This can lead to the stratification of migrants and the creation of a segmented care labour market (Sasaki and Ogawa, 2019). The segmented care labour market consists of EPA passers and international students who become certified care workers at the top of the hierarchy with citizenship, and TITP and SSW workers allowed to work for a limited period of time as supplementary workers (Figure 2.4). As such, this can

have a detrimental effect on the care labour market and hinder long-term prospects of human resource development for both care facilities and migrants in envisioning their careers. If this continues, the quality of care would be jeopardised not because of the migrants but because of Japan's disparate migration schemes and lack of ethical recruitment principles based on the WHO Code.

6. Conclusion

This chapter elaborated on multiple frameworks of Japan's immigration policy for care workers. It also examined the consequences of deregulation in light of global migration governance. Whilst the EPA care workers have successfully brought positive impacts, the programme has turned out to be too costly for employees, and therefore the number of workers has not expanded enough to mitigate the labour shortage. The EPA programme has revealed the dilemma embedded in care work in Japan: educating migrants to become certified care workers is costly and time-consuming, whilst migrants may not necessarily stay.

Whilst the new channels allow more migrants to enter, they are dominated by market forces and raise the issue of ethical recruitment policy for health workers based on WHO. These labour migration channels for care workers can be disparate, fragmented, and lack transparency, making it difficult for the care sector to have a long-term strategy to ensure human resource development. Similarly, if migrants are not well informed when deciding to migrate, their entire educational and career prospects could be wasted.¹⁷

However, even though it has been mediated by private agencies, the market still operates under the regulatory framework of the state, which has the responsibility to ensure fair practices in the labour market. We need to rethink how to conceive migration policies with coherence and care work that ensures proper working conditions and career paths, as well as citizenship that enhances the capabilities of both Japanese and migrant workers.

¹⁷ This occurred for the early batch of EPA care workers because the applicants were not informed of what exactly it meant to work as a 'care worker'. There is no job equivalent in the sending country, and therefore no equivalent terminology exists. The misleading translation of 'care work' as 'nursing care' in the SSW by the Ministry of Foreign Affairs (n.d.) is repeating the same mistake once again, as the job of care workers in Japan is defined differently from nursing.

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