From Foreign Trainees to Unauthorized Workers: Vietnamese Migrant Workers in Japan

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This paper documents the experiences of Vietnamese migrant workers who migrated to Japan as industrial “trainees” during early and mid-2000, some of whom became unauthorized workers. Based on in-depth interviews and survey data collected in Vietnam in 2008 and 2009 from migrants who had returned from Japan, this paper explores the factors that led some workers to slip from legal to irregular work. Our analysis shows how the recruitment process in Vietnam, the implementation of the trainee/intern program in Japan, and migrant networks together create the conditions that encourage or discourage some workers from working in the irregular job sector and overstaying their visas. We situate this argument within the conceptualization of unauthorized labor migration as a structurally embedded phenomenon.
Despite the need for labor in the industrial sector, Japan stands out among developed nations of Asia for not having an official temporary foreign worker program open to unskilled migrants from developing Asian countries. Instead, in response to an increasing demand for cheap industrial workers at the end of the 1980s, two initiatives were implemented. First, the policy towards Nikkeijin (overseas ethnic Japanese) was expanded to grant the right for third generation ethnic Japanese to settle, a right formerly granted to first and second generations only. Second, the Japanese government created the Industrial and Technical Internship Program (‘trainee and intern program’ thereafter), an initiative that officially brings individuals from developing Asian countries to Japan to learn technical skills that can be transferred to their country of origin upon their return. Under the guise of ethnic solidarity towards Nikkeijin and foreign assistance to developing countries in the form of skill development, it is widely recognized that these programs provide a contingent of cheap, flexible labor for Japan’s large, medium, and small enterprises (Advocacy Network for Foreign Trainees, 2006; 2009 Editing Committee for Migrant Workers’ Problems and Future for Japan, 2009).

Other key features of Japan’s position on foreign labor and immigration include an increasingly tight control and strict monitoring of unauthorized residents and workers. The concern with unauthorized migrants grew over the 1990s leading to the introduction of new measures facilitating the arrest and deportation of unauthorized workers. Among unauthorized workers, trainees and interns who overstayed their visas account for a low proportion, approximately 2.3 percent in 2008, but they have nonetheless been singled out by policymakers and law enforcement agencies as being particularly at risk for “running away” and becoming overstayers.

A number of academic studies has investigated Nikkeijin as a group (Higuchi and Tanno, 2003; Kajita et al., 2005; Lesser, 2003; 2007; Linger, 2001; Roth, 2002; Tanno, 2005; Tsuda, 2003); however, little attention has been paid to the situation and experiences of trainees. According to Shipper (2008), trainees and interns constitute the bottom of the labor hierarchy in terms of both job desirability and wages. Shipper (2008:25) argues that foreign workers in Japan are socially constructed by the Japanese government into various racialized categories and groups. This categorization results from the perception that foreigners either possess or lack various inherent qualities based on their ethnicity and/or nationality, the work they perform, and, sometimes, their gender. This racialized hierarchy translates into some workers (foreign-born Japanese) securing superior jobs with higher pay and better working conditions and other workers (South and Southeast Asian trainees and interns) being constrained to dangerous jobs with low pay and frequent harsh treatment. Shipper (2008:26) further
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argues that “because of this legalized hierarchy, certain groups (especially Asian workers) are particularly vulnerable or even systematically encouraged to drop into the ranks of illegal workers, where they lose even more rights.”

This paper builds on Shipper’s argument and examines how Vietnamese trainees and interns can be pushed into the irregular work sector. This analysis is based on a small-scale in-depth study of Vietnamese migrant workers who worked in Japan as “foreign trainees.” A subsample of them became “runaway” workers after violating the terms and conditions of their work contracts by leaving their employers to work in the irregular sector and/or overstaying their visas.

Our analysis reveals structural factors in Vietnam and Japan that partly explain why some migrants breached their contracts to work in the irregular sector and overstay their visas. Migrant workers going from Vietnam to Japan are put in debt bondage to moneylenders and banks; they pay the highest costs among all migrant workers going to Asian destinations. In addition, social constructions of Japan as being the “El Dorado” of migrant workers in Asia create extra pressure to be successful and bring substantial earnings back home. In Japan, employers subject migrants to mandatory savings for the entire duration of their contracts, a practice that makes the prompt repayment of debts incurred to cover migration-related costs difficult. According to our analysis, this combination of structural and programmatic factors in the sending and receiving countries push many migrants to “runaway” in an attempt to secure higher wages and send more remittances. The irregular labor market, although risky and usually offering poor working conditions and work safety, often yields more possibilities for longer working hours and higher overall wages. Thus, it is attractive for workers who urgently need to send money home to repay debts and build savings.

In sum, our empirical evidence provides additional support to existing literature that shows how irregular migration is structurally embedded. While previous analyses focused on factors linked to Japan’s labor market specificities, hiring practices of enterprises, migrants’ networks (Yamanaka, 2000), and the racialization of foreign workers (Shipper, 2008), our emphasis is on the recruitment of trainees in the source country and programmatic factors in Japan. This analysis also underscores that the overstay of legal migrants is strongly linked to migration conditions and costs in the sending country. Our study shows that meso- and micro-level factors, in addition to the commonly emphasized macro factors, play a very important role in enabling irregular migration and irregular work in Japan.
Framework

The analysis is framed around the conceptualization of irregular migration as being embedded structurally. In an attempt to theorize unauthorized migration, Baldwin-Edwards (2008:1457) argues that “the phenomenon of illegal migration can reasonably be described as structurally embedded” in modern capitalism. He builds his argument on the historical processes that led to the current high level of unauthorized migration in the US and Europe. Drawing on previous efforts to conceptualize unauthorized migration and its causes, Baldwin-Edwards (2008) emphasizes the mismatch between migration policies and employers’ needs for flexible, reliable labor. This situation prevails and partly explains the increase in unauthorized migration in the era of advanced capitalism. Yamanaka (2000) makes a similar argument with the contention that Japanese labor market shortages among small-scale employers explain the employment of South Asian unauthorized workers in Japan through the 1990s. In addition to labor market structural factors in receiving countries, she underscores structural factors of unauthorized migration present in source areas. In a study on Southeast Asian sending countries, Battistella and Asis (2003) show how legal or irregular emigration occurs according to access to legal or irregular channels available to migrants.

The institutional theory of migration is also relevant for examining the migration flow and process we are interested in. Many researchers have observed that in Asia non-state actors seem to play the greatest role in the management of migration flows, from recruitment, to placement, to return (Castles and Miller, 2009). Interestingly, the International Labor Organization (ILO) points out that this feature of Asian migration explains both the high efficiency of the system and the very high risks for migrants involved in this migration (ILO, 2006:42). One well-documented consequence of the powerful Asian migration industry is the very high pre-departure costs that workers must pay to have the “privilege” of working abroad. In addition, discrepancies between labor contracts that stipulate working conditions and the actual experiences of workers are frequently reported, and passport confiscation, intense surveillance, and harsh consequences for minor offenses are commonplace (for the experiences of Vietnamese workers in Asia, see Bélanger et al., 2010). Institutional theory and network theory also intersect when intermediaries and agents who work for profit are conceptualized as belonging to the migrants’ networks (Krissman, 2005). Thus, to study unauthorized migration and the overstay of migrant workers in Asia and Japan, it is essential to consider the migration industry and its interest in profit-making. Finally, precariousness (Goldring et al., 2009) as a central concept for the understanding of both documented and undocumented
migrants’ lives provides an interesting backdrop to the study of trainees. A focus on precariousness can shed light on how being undocumented may yield advantages over being documented.

The Industrial and Technical Internship Program

The migration of foreign trainees began in the late 1950s when rapidly growing Japanese multinational corporations directly invited foreign workers from their local subsidiaries abroad for job training in Japan. Since the 1990s, the program has changed in response to labor shortages and lobbying by groups representing the business community, such as the Federation of Economic Organizations (Kawakami, 2009). In 1990, the government allowed small companies to make use of existing organizations, such as the local Chamber of Commerce, or to jointly form placement organizations, officially called “primary accepting organizations” (hereafter referred to as “placement agencies”), to place imported foreign trainees with employers. In 1991, the Japanese government established the Japan International Training Cooperation Organization (JITCO) to supervise the program and provide services to companies that hire trainees. In 1993, the government revised the existing one-year trainee program to include a second year of internship and started the Industrial Training and Technical Internship Program. This revamped program was altered several times with the most significant change coming in 1997: it extended trainees’ maximum duration of stay from two to three years (non-renewable). In response to the needs of the Japanese manufacturing sector, the categories that allowed the employment of foreign trainees were expanded. The objective of the program is to “transfer technologies, skills, and expertise developed and cultivated in Japan to developing countries” and contribute to the “development of human resources who will take charge of economic growth in developing countries and regions” (Immigration Bureau, 2007:1). As stated above, there is broad consensus among observers that this program is a guest worker program in disguise.

The program has become a perfect example of the Japanese short-term labor rotation system. In 1993, the annual number of new trainees hired was 39,795 (data not shown); by 2007, the number had reached 102,018 (see Figure 1). Interestingly, this increase occurred despite the collapse of the “bubble” economy and the Asian monetary crisis of 1997, which led to high unemployment rates in Japan (Iguchi, 2002). In 2008, the majority of trainees (94.9 percent) were from Asian countries with China (66.8 percent) and Vietnam (6.5 percent) as the leading source countries (Immigration Bureau, 2008).
The former trainees and interns studied in this paper worked in Japan when the first year of the program was a training period, and trainees were not covered by Japanese labor policy. They received an “allowance” rather than paid wages. Previous research shows that trainees were often assigned repetitive work tasks, which typically only taught them how to work on a monotonous and fast-paced production line (Advocacy Network for Foreign Trainees, 2006, 2009; Editing Committee for Migrant Workers’ Problem and Future for Japan, 2009; Oishi, 1995). After one year, upon passing skill tests, trainees became interns and were then legally protected by the labor laws. Workers are bound to their employers. In cases where an employer can no longer keep a worker, the placement agency is supposed to find other employment. In reality, the moving of laid off workers to other employers depends on the goodwill of the agency and is not done systematically.

In July of 2010, with the revision of the Japanese Immigration Control Act abolishing the “trainee” category, the program changed. Under the new program, migrants become interns at the beginning of their stay in Japan, which provides them with protection under Japanese labor laws and ensures they are paid minimum wage. Several NGOs and newspapers have expressed concern over the government’s ability to monitor the implemen-
tation of these changes. Without the establishment of an independent supervising body, violations of the new regulations could remain hidden (Asahi Shinbun, 2009; Yomiuri Shinbun, 2010). Some employers have questioned their ability to pay the mandatory minimum wage enforced by the new law. It remains to be seen how much the revision will actually improve the situation of Asian interns.

Unauthorized Foreign Workers in Japan

Concerns with “overstayers” and “illegal workers” are center stage in Japanese political and media discourse, despite the low number of unauthorized workers found in Japan compared to other countries of the region. As shown in Figure 1, the estimated number of overstayers in Japan reached its peak at 298,646 in 1993 and has decreased significantly ever since (Immigration Bureau, 2008). The decline resulted from the Japanese government’s tighter immigration control of low-skilled workers and other temporary visitors, as well as more favorable policies towards educated and skilled immigrants (Immigration Bureau, 2008). Several measures have been taken to meet the objectives.

First, the Immigration Control Act was amended in 1989 and came into effect in 1990 (Furuya, 2003). It was amended again in 1997 to prevent smuggling and in 1999 to target unauthorized foreign residents. These changes gave greater power to authorities to arrest suspects and deport unauthorized aliens. Through this period, the Immigration Bureau frequently conducted joint operations with police to crack down on unauthorized foreign residents. The police also initiated public campaigns that encouraged the public to monitor foreigners and report any suspicious behavior (Furuya, 2003).

The Japanese Ministry of Justice classifies overstayers into several categories. Two-thirds of them entered Japan as “temporary visitors” (15- or 90-day visa) and others entered as “pre-college students,” “college students,” “entertainers,” and “trainees” (Ministry of Justice, 2009). Most unauthorized foreign residents are working (Immigration Bureau, 2008), typically in the dirty, difficult, and dangerous (3Ds) jobs (Shipper, 2008). In 2008, among the unauthorized foreigners, the estimated number of trainees who ran away was 2,561 (2.3 percent of all unauthorized foreign workers) (Ministry of Justice, 2009).

In 2004, the Japanese Ministry of Justice launched “the five-year plan to halve the number of unauthorized foreign residents” on the explicit assumption that some overstayers are heinous criminals and, therefore, a threat to national security (National Police Agency, 2004). The plan entails a series of measures to curb unauthorized residents. The number of foreign-
ers who overstayed in Japan declined from 219,418 in 2004 to 113,072 by January of 2009 (Ministry of Justice, 2009) (see Figure 1).

Despite their relatively small number, “runaway” trainees/interns have been the specific target of local and national campaigns aimed at preventing and detecting “runaway” trainees. For example, an official website by Kagawa prefectural police stipulates that trainees/interns “run away” because of “high wages” and an “aversion to returning to their own countries.” On its website, the prefectural police encourage employers and “first-accepting organizations” to “detect” signals of workers’ intentions to “run away,” for example, by being on the lookout for workers who complain about their working conditions. In addition, the police directs the public to report specific remarks made by workers that could indicate their intention of becoming unauthorized, including statements like, “I want to have a high paying job,” “I want better working conditions,” “I don’t want to go back because there is no place to work at home,” or “I would like to go to Tokyo to see someone I know.” Increased communication with outsiders via mobile phones, more frequent work absences, and regular outings are also considered suspicious (Kagawa Prefectural Police website, 2009). Strong assumptions underlying this type of campaign are that workers “run away” because they want money and abuse the trainee and intern program by overstaying their visas.

**Context, Data and Method**

This study is part of a research project on Vietnamese migrant workers to Taiwan, South Korea, Japan, and Malaysia. Migrant workers in our study are all authorized at entry and migrate within the terms of bilateral agreements between Vietnam and individual receiving countries. Between 2005 and 2009, approximately 75,000 new workers were deployed abroad annually (Government of Vietnam, 2010), and by 2009 the Vietnamese government estimated that 500,000 migrant workers were abroad (Abella, 2009). Approximately 90 percent of migrants go to Asian countries, mainly Malaysia, Taiwan, South Korea, and Japan (Government of Vietnam, 2010). Of the total number of migrant workers who left Vietnam in 2008 and 2009, approximately 30 percent were women. Authorized, temporary, unskilled, Vietnamese migrant workers in Japan are enrolled in the trainee and intern program. Approximately 6,000 new Vietnamese become trainees in Japan annually, which accounts for approximately seven percent of all migrant workers sent from Vietnam.

The data for this study were gathered in 2008 and 2009 mostly in Vietnam, but also in Japan. This paper relies primarily on in-depth interviews conducted in two provinces (Ha Tay and Thai Binh) of northern Vietnam with seven female and six male migrant returnees from Japan.
TABLE 1

CHARACTERISTICS OF INTERVIEWEES
VIETNAMESE FORMER MIGRANT WORKERS TO JAPAN

<table>
<thead>
<tr>
<th>Name</th>
<th>Sex</th>
<th>Path</th>
<th>Departure</th>
<th>Return</th>
<th>Time in Japan</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Duong</td>
<td>M</td>
<td>Overstay</td>
<td>2000</td>
<td>2005</td>
<td>5 years, 9 months; unauthorized after 4 months</td>
</tr>
<tr>
<td>2 Anh</td>
<td>M</td>
<td>Overstay</td>
<td>2002</td>
<td>2007</td>
<td>5 years, 2 months; unauthorized after 1 year</td>
</tr>
<tr>
<td>3 Lan</td>
<td>F</td>
<td>Overstay</td>
<td>2002</td>
<td>2006</td>
<td>4 years, 1 month; unauthorized after 3 years</td>
</tr>
<tr>
<td>4 Van</td>
<td>F</td>
<td>Overstay</td>
<td>2003</td>
<td>2008</td>
<td>4 years, 1 month</td>
</tr>
<tr>
<td>5 Linh</td>
<td>F</td>
<td>Overstay</td>
<td>2001</td>
<td>2007</td>
<td>6 years, 6 months; unauthorized after 2 years, 10 months</td>
</tr>
<tr>
<td>6 Hong</td>
<td>F</td>
<td>Overstay</td>
<td>2003</td>
<td>2008</td>
<td>5 years; unauthorized after 1 year, 1 month</td>
</tr>
<tr>
<td>7 Nam</td>
<td>M</td>
<td>Sent back early</td>
<td>2006</td>
<td>2008</td>
<td>1 year, 5 months</td>
</tr>
<tr>
<td>8 Kinh</td>
<td>M</td>
<td>Sent back early</td>
<td>2004</td>
<td>2006</td>
<td>1 year, 7 months</td>
</tr>
<tr>
<td>9 Minh</td>
<td>M</td>
<td>Timely return</td>
<td>2002</td>
<td>2005</td>
<td>3 years</td>
</tr>
<tr>
<td>10 Oanh</td>
<td>F</td>
<td>Timely return</td>
<td>2005</td>
<td>2008</td>
<td>3 years</td>
</tr>
<tr>
<td>11 Sen</td>
<td>F</td>
<td>Timely return</td>
<td>2005</td>
<td>2008</td>
<td>3 years</td>
</tr>
<tr>
<td>12 Phuong</td>
<td>F</td>
<td>Asked to return home; shortage of work due to economic crisis</td>
<td>2006</td>
<td>2009</td>
<td>2 years, 9 months</td>
</tr>
<tr>
<td>13 Cuu</td>
<td>M</td>
<td>Timely return</td>
<td>2005</td>
<td>2008</td>
<td>3 years</td>
</tr>
</tbody>
</table>

Researchers worked in partnership with local authorities who introduced migrant returnees. Each interview was conducted in an open-ended, semi-structured style and lasted an average of two hours. Table 1 provides details on the 13 individuals (former migrant workers who returned to Vietnam from Japan) we interviewed. Five completed three-year programs and
returned to Vietnam without overstaying, two were sent back in the middle of the program against their will, and six left their employers and overstayed their visas. All interviews were audio recorded and later transcribed in their entirety. To complement our data, we also interviewed five leaders from local communes concerning the local labor export program, particularly to Japan. Pseudonyms are used throughout this paper to protect study participants’ anonymity.

In addition, this analysis utilizes comparative data on returnees from four Asian destinations (Japan, South Korea, Taiwan, and Malaysia) drawn from a sample survey with 646 migrant returnees conducted in Vietnam in 2009. Of those surveyed, the subsample from Japan is the smallest consisting of 30 returnees. Overall, workers who returned from Japan were younger and more educated than their counterparts who returned from other destinations. A third of survey respondents who had been to Japan overstayed their visas before returning to Vietnam and the average duration of stay was 44 months, which is beyond the 36 month maximum permitted by the trainee program.

In addition to collecting data from returnees, we conducted some fieldwork in Japan. In March, 2009 we interviewed three male Vietnamese trainees who worked in Tokushima prefecture. In January 2009, we visited two Japanese NGOs, namely the Solidarity Network with Migrants Japan (SMJ) in Tokyo and the Rights of Immigrants Network in Kansai (RINK) in Osaka. These organizations specialize in foreign trainee/intern problems and provide various services, such as a hotline for trainees, legal assistance, and shelter. From these organizations we gained useful information regarding the frequent problems encountered between trainees and their employers or the program in general.

The limitations of this study include the small sample size and the fact that returnees who were willing to take part in the study might have been self-selected. Because study participants provide cases showing a variety of paths (timely return, early return and overstay), our data illustrate the diversity of experiences. We cannot, however, provide any estimate of the likelihood of overstaying versus going back to Vietnam upon contract completion.

Recruitment in Vietnam

Japan: The Most Desirable Asian Destination

In the rural areas of Vietnam where we conducted our research, Japan is considered the most desirable destination for work abroad. Japan is perceived as the richest country offering higher incomes and better working
In addition, the idea of going abroad as a “trainee” also appeals to many potential migrants who wished to kill two birds with one stone: make money abroad and acquire valuable training for the future.

Given the small number of workers recruited for work in Japan, individuals with good network ties to recruiters are more likely to secure a spot than others. Returnees we interviewed had strong ties to recruiting agents, such as relatives or those very close to the family. Being recruited for work in Japan is constructed as a very valuable favor and entails feeling indebted towards the person who makes the migration possible. This pattern differs from recruitment to Malaysia or Taiwan, where much larger numbers migrate and more remote ties to recruiters can lead to successful recruitment. Workers returning from Asian destinations other than Japan rarely felt indebted to their “introducers” the way workers who had gone to Japan did.

Phuong worked for a very abusive employer who controlled workers to a great extent in order to minimize contact with the outside world. He threatened to fire them on many occasions to ensure their compliance to his extreme demands and constant surveillance. Phuong’s case shows how the strong sense of owing to the “introducer” prevented her from filing a complaint and “running away” because she feared her intermediary’s reputation would be harmed.

Interviewer: So you had [JITCO] this organization’s phone number? Did you ever call?

Phuong: Never. We dared not do it because the company’s telephone was managed directly by the boss and we did not have a mobile phone. We were afraid that he would know if we called this organization because only Vietnamese people called it … If he knew we would have faced difficulties in our work … We did not dare to call because we were afraid that our call would affect the person who recommended us to this company.

Interviewer: Why did you not overstay your visa?

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1 This perception of overall higher income is matched by empirical evidence, although workers to South Korea may have net earnings surpassing those of workers who worked in Japan because of the lower costs of living expenses. Prior to 2009, Korean employers provided housing to workers, while it was only the case in Japan for the first year. See Bélanger et al. for more details on incomes per destination.
Phuong: Many people asked us to stay and work. However, I was afraid that I would harm my parents’ reputation (because of the risk of losing a lot of money – i.e. the safety deposit).

Despite the overwhelmingly positive reputation of Japan as a good place to work, we interviewed disillusioned returnees who were struggling to meet expectations imposed on them by their families and communities. The local social construction of Japan as a desirable destination puts considerable pressure on workers. For those returning from Japan, compared to other destinations, failure to pay back their pre-departure costs and also bring back large amounts of money is less understandable and rarely forgiven. Migrating to Malaysia and Taiwan for work is seen as a gamble; whereas, going to Japan and South Korea are viewed as being safe bets worth high investment.

Phuong reports on her experience:

I worked in Japan for three years. When my parents asked me to buy a motorcycle for myself, I refused (because I knew we had spent all the money renovating our house). But my parents said that the motorbike would help save our reputation. When I went abroad, many people thought that I would earn a lot of money. They did not know how much I earned and they did not care about how hard I had to work. Therefore, my parents and I would lose face if I cycled to work. As a result, my parents had to borrow money to buy me a scooter. I was not as lucky as my friends. They earned much more money than I did – twice as much or even more than that. Bad luck was my fate.

While a gap between migrants’ experiences abroad and the expectations and social constructions at home has been identified in migration research more generally, the fact that this gap can be particularly wide for returnees from Japan may contribute to an increased number of migrants “running away” because they attempt to increase their earnings and meet local expectations.

Japan: The Most “Expensive” Destination

All aspiring migrant workers have to pay pre-departure costs, which include fees for visas, passports, plane tickets, intermediary and recruitment fees, and safety deposits in the event they “run away” (Bélanger et al., 2010; Wang and Bélanger, forthcoming). Candidates for migration also have to cover the costs of the mandatory pre-departure training, which generally includes language training and legal instruction. To finance these
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Some workers mentioned that their contracts specified that if they “ran away” from their employers, they would have to pay an additional fine of US$4,000 on top of forfeiting their safety deposit.

Costs migrants borrow money from various sources: banks, relatives, friends, and the local People’s Committee. Amounts collected from various sources are generally borrowed at high interest rates, usually between one and two percent per month. Candidates for migration often have to mortgage their assets, typically their houses, residential land, and, in some cases, their agricultural land. Strategies to accumulate the necessary capital to finance migration generally involve the mobilization of large kin networks. Individuals without property, often mortgage the property of a close relative. With the large debt incurred by all migrants before leaving the sending country, it is urgent that they begin sending remittances to pay their debts and monthly interest charges.

Fees for Japan and other migration destinations are split into two components: the non-refundable recruitment fees and a refundable safety deposit. The safety deposit, which includes a large sum of cash, usually US$5,000 to $9,000 in the case of Japan, and ownership certificates to houses and land, are returned to workers who complete their contracts. Officially, it is a measure put in place to show the good will of Vietnamese labor export agencies to reduce the number of workers who “run away” or “overstay.” Contracts clearly stipulate that if a worker breaks the contract by returning home early or “running away” from the employer he or she will forfeit the safety deposit. Recruitment agencies keep the deposits of those moving into the irregular work sector.²

According to our survey data, fees for Japan were the highest (compared to Taiwan, South Korea and Malaysia) requiring an average fee of over US$10,000. Since it would be almost impossible for migrants to ever reimburse this sum with a job in Vietnam, they have no choice but to continue once they begin the process. Very high pre-departure costs and the corresponding debt prompt many migrants to work in the irregular sector in the hope of earning more money sooner so that they can repay their loan and interest charges without putting too much pressure on their families.

Duong paid a total of US$8,000 in pre-departure fees before going to Japan in 2000. He “ran away” after only four months of work as a trainee. He said being a trainee was fine, but he had no money. He complained that his official monthly salary was 120,000 yen but that he only received 40,000 yen monthly (about US$450) because 40,000 yen went to the placement agency for housing and other rental fees and 40,000 yen was put aside as mandatory savings. Although the

² Some workers mentioned that their contracts specified that if they “ran away” from their employers, they would have to pay an additional fine of US$4,000 on top of forfeiting their safety deposit.
employer paid for his accommodation, he had to pay for his food and other living expenses. At the end of the month, he had no money left to send home. In addition, he was expecting to have overtime work opportunities, but he did not. When some of his friends suggested he could “run away,” he decided to do so.

Linh stayed in Japan for over six years. She became an unauthorized worker after three years of work as a trainee. Because the companies she worked for went bankrupt, she was assigned to a new employer three times and kept being a trainee and making an allowance rather than a salary. She says, “After three years, I wanted to go home, but I didn’t have enough money. The companies I worked for went bankrupt and I had to change employers three times. I was only paid four man (US$400) per month by each employer. In Vietnamese currency it seems like a lot, but in Japan it was nothing … I didn’t have savings to go home because I did not have enough to pay for the loan (pre-departure costs).

Among returnees from four different countries, returnees from Japan stood out as being the most connected to powerful individuals at the recruitment stage; yet, the high risk they had to take by incurring heavy debts led to extreme pressure to succeed. Webs of personal networks and obligations make workers vulnerable because they cannot easily speak of their plight once they return due to the fear of losing face and harming the reputations of those who assisted in their migration. These findings indicate that, in the case of our interviewees, slippage into the irregular sector was not exclusively motivated by difficult working conditions in Japan and personal pursuits for higher income, but, also, by structural conditions linked to recruitment and its very high cost. In the case of workers to Japan, this situation was exacerbated by the need to demonstrate success upon one’s return.

**Difficulties of Working as a Trainee and Intern in Japan**

*Unfree Workers: Lack of Labor Mobility*

Trainees are legally tied to their first employer, and it is not uncommon for employers to threaten workers with dismissal or to send them back if they complain or contact the recruiting agency to request a transfer to a different company. As Lan (2007) documents in the case of domestic workers in Taiwan, the opportunity to become free workers in the labor market makes irregular work attractive for workers confined to laboring for the same
employer for three years, especially if work or overtime hours are scarce or
if working conditions are difficult.

Linh explains why some workers “run away”:

Some workers “moved out” because they had friends or acquaintances who found (irregular) jobs for them. It is better to work outside than to work as a trainee. Outside jobs are better and the salaries higher. As a trainee-worker, we had no choice. For instance, if you did not like working night shifts, there was no choice; you were forced to work at night. Outside, workers can choose a company that gives day shifts. If they like a company, they can stay; if not, they can move to another one. This is why many people want to stay after three years.

Trainees are not allowed to work in Japan for more than three years; however, some employers and agencies deceive workers by promising to re-employ them. Conversely, migrant workers to other destinations, such as Taiwan, South Korea, and Malaysia, can return for a second or even third work stay.

The gap between the duration of contracts and the time required to repay the loans incurred to cover pre-departure costs is problematic for migrant workers. Initial contracts were for one-year only because workers are considered trainees for the first year. Theoretically, two-year intern contracts are granted to workers upon satisfactory completion of their first year as a trainee, but this is not necessarily the case. Some are told that they must leave Japan after a year because they failed a test to become an intern. This multiple contract system puts workers in a vulnerable position. If they do not obtain a second contract, most cannot contemplate returning home, since they will not have repaid their pre-departure loans. For companies experiencing work shortages, it is a way to dispose of workers they can no longer employ.

Anh went to Japan with a one-year contract. After working one year in Japan as a trainee in a laundry shop, he was told the company could not extend his contract. He still had a large loan to reimburse in Vietnam. “Running away” meant the loss of the safety deposit (US$5,000), but he felt he had no other option if he wanted to pay back his pre-departure loan.

As these cases indicate, workers dismissed after one year and not hired as interns for an additional two years tended to “runaway,” since returning home would have been a financial, and social failure for them.

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1 In some cases, the initial signed contract was for 6 months only.
Mandatory Savings/Inadequate Overtime Work

In Japan, employers usually attempt to prevent “runaway” workers by retaining a portion of their monthly incomes to be paid in full at the end of their contracts. The amount of mandatory savings varies from one company to another and, according to data collected from our interviews and questionnaire survey, generally represented approximately half of the workers’ earnings. This practice is clearly stipulated in contracts, and workers are aware that the portion of their monthly wages that they can access will be substantially reduced by the mandatory savings policies. Ironically, requiring mandatory savings as a preventative measure to keep workers from “running away” can push workers to “move out” of legal employment because of the cumulative high interest on their debt.

In addition to mandatory savings, lack of overtime work (or low pay for overtime hours worked) was a strong decisive factor for choosing to become unauthorized workers. While trainees are not supposed to work overtime, many employers hire them for overtime work and pay them extremely low wages. Since trainees fear violating the terms of the program, they have no choice but to accept the low wages paid by their employers. Failure to work overtime led to very low remittances and, hence, difficulty in repaying loans. This situation triggered some workers to leave their employers and secure higher wages early into their stay in Japan. Although they were aware that the trainee program does not allow them to work overtime during the first year, workers expected to have this opportunity because, in most cases, recruiters in Vietnam had promised that they could.

Van said the most difficult time for her and her Vietnamese co-workers was the first year when they were not allowed to work overtime. It was opposite from what she was told before departure. She says, “Before going to Japan, I was told that there would be a lot of overtime work, so we would be able to earn more money. However, when we were there, the company had no overtime work for us.”

Paid overtime work for trainees/interns is important because it is used to control workers. For instance, in some companies, if Vietnamese workers talk to each other during working hours, they are not allowed to work overtime. In one case, a worker suffering from an infection had to use the toilet four times in one morning. Her boss punished her by not giving her any overtime for several days. Not being given overtime work functions as the most severe punishment for trainees/interns, and some feel that they must please their employers by demonstrating their obedience to obtain more overtime work. Overtime work becomes a site of bargaining, and
employers can use their power by preventing a disorderly worker from having any.

**Oppressive Working Conditions: Surveillance from Employers**

Contracts stipulate various penalties for offenses committed by workers. For instance, one male returnee had a contract from a company that stipulated 24 violations and penalties, including “running away” or attempting to “run away” (US$30,000 penalty), being in contact with unauthorized migrants (US$2,000 penalty), having a sexual relationship (US$1,000 penalty), and making any complaint about personal economic hardships (US$50-$100 penalty). This company sent one Vietnamese male worker back after 18 months because the company discovered that he allowed an undocumented Vietnamese from his village to stay over in the company’s dormitory for two nights. Following his early dismissal, he returned to Vietnam with an outstanding debt of US$4,000.

According to our interviewees, many workers were fined for the above offenses. Also, various forms of abuse were reported. Some employers prevented workers from developing a social network by forbidding them from having any contact with the outside world. Even when workers had days off, some bosses were extremely strict and very rarely allowed workers to go shopping or meet with friends, claiming that days off are for resting and not for “playing around.” Companies often threatened to dismiss foreign workers who did not comply. Some employers hastily dismissed workers for minor offenses. For example, interviewees reported witnessing dismissals of workers who asked for a salary increase (which was considered as a challenge to authority) and who fought among themselves.

Despite the frequency of abuse reported by interviewees, among our subsample of “runaway” workers, some talked about having been treated fairly by their employers. Although the trainees/interns felt their bosses had been “kind,” “caring,” and “fair,” they still left the employers for the irregular sector. Typically, a few months before completing the program, they realized that their earnings were still meager, despite all their hard work and long working hours, and they were pushed into the irregular sector.

**The Decision to “Move Out”**

The decision to overstay was not taken lightly by any worker. Nearly all workers we interviewed considered ‘moving out,’ to use their own expression to refer to becoming unauthorized. Among those who did not, some could not secure a job in the irregular sector and others were afraid of the
Some workers we interviewed used legal services provided by NGOs to claim part of their mandatory savings back and succeeded.

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As risks. The financial risk is enormous: workers most likely lose their mandatory savings (worth approximately 30 percent of their total earnings over three years)4 and their safety deposit in Vietnam (on average US$6,000). They also risk losing their land ownership certificate, deposited as insurance against overstaying in Japan. The psychological stress that being unauthorized entails is also considerable because these workers frequently experience deception and abuse. Despite these substantial financial and psychological costs, the irregular work sector attracts a significant proportion of workers.

Irregular work requires a network and a certain degree of freedom to be able to connect to this network. First, the network provides valuable information about the benefits of irregular work. Information on wages is critical when contemplating “running away.” Our survey data suggest that wages are higher in the irregular sector, partly because of the longer hours. Those we interviewed generally worked in highly dangerous and toxic environments, a factor obliging employers to offer decent compensation. Second, network connections provide contacts with Japanese middlemen who move workers to the irregular sector. Many of our interviewees had secured their irregular jobs through the services of a Japanese middleman or intermediary before “moving out” of the legal sector. Third, a network of overstayers is essential for negotiating survival in hiding. The life stories of former unauthorized workers reveal that they often move from employer to employer many times. Without network connections, workers cannot work in the irregular sector and overstay.

Trainees and interns have been categorized as being at the very bottom of the labor market (Shipper, 2008); consequently, despite being authorized, their precarious position and working conditions make the irregular sector attractive. In fact, workers choose between one type of precariousness and the other as shown in Table 2. Employers often use the program to abuse vulnerable authorized workers, as shown by the fact that most interviewees experienced long working hours, illegal wages (particularly for overtime work during the first year), extreme control, and constant surveillance. On the other hand, most unauthorized workers experienced the stress of being deceived, treated badly, and abused, but some encountered employers who offered them protection and good wages. Unauthorized workers particularly valued being free agents in the labor market and being able to work with their friends.

4Some workers we interviewed used legal services provided by NGOs to claim part of their mandatory savings back and succeeded.
TABLE 2  
DIFFERENCES BETWEEN THE LEGAL AND ILLEGAL/IRREGULAR JOB MARKETS FOR TRAINEES/INTERNS IN JAPAN

<table>
<thead>
<tr>
<th></th>
<th>Legal Job Market</th>
<th>Illegal/irregular Job Market</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection</td>
<td>Legal protection from labor laws (for interns, but not trainees); protection in case of labor accidents; poor enforcement; controlling employers prevent mechanisms to protect workers</td>
<td>No legal protection; informal protection offered by employers and other workers; high risk of deportation; some cases of short-term incarceration</td>
</tr>
<tr>
<td>Benefits</td>
<td>Limited Health insurance to which workers contribute; interns pay their own living expenses (accommodation and food)</td>
<td>None Unauthorized workers pay their own living expenses; employers generally provide housing to make sure workers remain “hidden”</td>
</tr>
<tr>
<td>Labor market mobility</td>
<td>None</td>
<td>Within the illegal/irregular job market</td>
</tr>
<tr>
<td>Income</td>
<td>Uneven income In Year 1, workers are trainees and only receive allowances, in years 2 and 3, interns receive wages regulated by labor laws which vary by region, but employers withhold a large portion of wages; mandatory savings policy is widespread</td>
<td>On average, higher than in legal jobs All workers paid per hour of work No mandatory savings policy</td>
</tr>
<tr>
<td>Working hours</td>
<td>Limited overtime work</td>
<td>Longer working hours</td>
</tr>
<tr>
<td>Working conditions (assessed by workers)</td>
<td>Good but difficult</td>
<td>Difficult to very difficult Toxic and dangerous</td>
</tr>
<tr>
<td>Network</td>
<td>No choice of co-workers</td>
<td>Choice of working with friends for the same employer</td>
</tr>
</tbody>
</table>

Conclusion

Overall, this paper provides one clear example of how temporary labor migration programs can fuel irregular work and overstaying. Lack of protection for migrants, arising from often unethical recruitment and employment practices, seriously jeopardize the benefits of the programs for
workers, employers, and the host country. For the case of labor migration from Vietnam to Japan, we see how unauthorized migration is structurally embedded in the transnational dynamic of the recruitment and employment process.

The experiences of trainees in Japan indicate the need for better protection for workers and a stronger enforcement of the program’s terms. Policy advocacy efforts could promote greater involvement of JITCO in monitoring employers. For instance, mandatory savings are not part of the intern program but nonetheless collected by many employers. Future research should document the impact of the July 2010 reforms of the program, particularly the abandonment of the trainee status and the right to minimum wage during the first year of employment. In Vietnam, the safety deposit required from workers should be eliminated. In addition, the government should enforce officially established recruitment fees, which are significantly lower than the ones paid by migrants. Finally, the impact of the intern program on former interns should be documented and assessed.

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