# Alien Attack?

## The Construction of Foreign Criminality in Contemporary Japan[1]

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*Abstract:* The rapid growth of labor migration in the last few decades has presented a direct challenge to the myth of Japanese homogeneity. As the visibility of foreign national residents has increased, crimes by foreigners have come to be spotlighted as a significant social problem in Japan. This paper argues that the discourse of foreign criminality, which is increasingly prominent in contemporary Japan, is better understood as a political construction of foreign "others" within, rather than as a response to an actual high crime rate for foreign nationals. This discourse portrays foreign nationals as international predators feeding on Japanese prey, while in turn enforcing the image of Japan as an originally safe, crime-free country. In this picture, immigration policies are framed as a security issue, and strict immigration control and close surveillance of foreign national residents are promoted as measures of crime prevention. Foreign criminality discourse has utilized crime statistics to assert the high crime risk of foreigners. Careful examination of these statistics, however, reveals discrepancies between discourse and data. Two social factors may deserve special attention as pertinent contexts for the emergence of foreign criminality discourse: 1) predicted population decline and subsequent dependence on migrant labor; and 2) public expectation for a strong political leadership in the height of social anxiety.

### Introduction

Over the last ten years, the Japanese public has increasingly perceived crimes by foreigners to be a serious threat to their community. Opinion polls show wide-spread fear of crimes by foreigners, governors of major prefectures claim that urban areas in Japan are deteriorating because of undocumented migrants and foreign criminal groups, and more people and resources are allocated to crack down on them.

This paper investigates how immigration and foreign nationals have been constructed as a crime problem in contemporary Japan. Past studies

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argue that anti-immigration sentiment in Japan stems from the nation's long history of isolationism and the illusion of homogeneity derived from that experience (Parker 2001; Douglass 1999). While acknowledging the impact of historical legacies, this paper proposes that the construction of a particular social reality is not merely a reproduction of the past, but is a creative and contingent project that incorporates historical and contemporary materials as building blocks. Therefore, to understand the social reality of foreign criminality, we need to examine how the discourse of foreign criminality is crafted and what resources are utilized to establish such claims. My argument is that the state has played a primary role in widespread perception of immigration as a criminal threat by publicizing and endorsing a symbolic linkage between international migration and destruction of public safety. Their rhetoric presents foreign nationals as criminal predators who feed upon Japanese prey, pointing to stricter immigration control and policing of foreign national residents as means to bring back safe communities in Japan. The official discourse utilizes crime statistics as scientific evidence of foreign criminality, but the presentation of crime statistics in foreign criminality discourse has unreasonably amplified the criminality of foreign nationals.

INTERNATIONAL MIGRATION IN CONTEMPORARY JAPAN

Globalization has brought a number of foreign visitors and residents to Japan, a country with historically low numbers of immigrants. The 1985 Plaza Accord brought the boom of the Japanese economy and an upsurge in the power of the yen, provoking a domestic demand for migrant labor and sparking international interest in the Japanese labor market. Despite Japan's economic recession in the early 1990s, the flow of migrant workers has continued.

The Japanese government produces two kinds of immigration statistics. The entry and exit statistics (*shutsunyūkoku tōkei*) show the number of incoming and outgoing foreign nationals, indicating the "flow" of foreign nationals. On the other hand, registered foreign national statistics (*gaikokujin tōrokusha tōkei*) present the "stock" of foreign nationals by providing the number of foreign nationals who are registered as residents.

The number of foreign nationals in Japan has been rising in both measures during the past twenty years. The number of newly incoming foreign nationals, which was a little over one million in 1980, increased to nearly three million in 1990, and exceeded four million in 2001. The number of registered foreign national residents also grew from 1.28 million in 1992 to 1.78 million in 2001. In addition to officially registered foreign na-

tionals, over 200,000 foreign residents are estimated to live in Japan either with expired visas or as entrants without inspection. The number of over-stays has been on a slow but steady decline after hitting its peak in 1993.

The rapidly expanding flow of immigrants has changed the demographics of the foreign national population in Japan. Prior to this period, the majority of foreign nationals in Japan were permanent resident Koreans (*zainichi Kankokujin*), most of whom were born and raised in Japan, speaking Japanese as their native language.[2] By the mid 1980s, foreign workers in Japan were predominantly females who mainly worked at nightclubs, bars and in the sex service industry (Douglass 2003). During the last half of the 1980s, migrants from Iran, Bangladesh, Pakistan, the Philippines and China rapidly increased. Unlike earlier migrants, the new flow of foreign workers was predominantly male.

After the cancellations of visa exemption treaties with Bangladesh, Pakistan and Iran in the late eighties and the early nineties, workers from Latin American countries such as Brazil and Peru have replaced workers from these countries. The increase of foreign workers from Latin American countries is due to the 1990 revision of the Immigration Laws and Refuge Act, which allowed up to third generation overseas Japanese (*Nikkeijin*) to live and work in Japan without any employment restriction. This revision promoted return migration of *Nikkeijin*, whose parents or grandparents migrated to Latin America earlier in the twentieth century. Compared to *zainichi* Koreans, these newcomers, referred to as *rainichi gaikokujin*,[3] are more visibly "foreign"; speaking foreign languages and practicing lifestyles that are distinct from the host population.

As the number of *rainichi* foreign nationals has increased, crimes by this population have come to be identified as a major social problem (Herbert 1996; Sellek 2001; Parker 2001; Friman 2001). Especially since the recession in the early 1990s, public concern over undocumented foreign workers has

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[2] *Zainichi* Koreans are descendants of Koreans who were Japanese nationals under colonial rule and lost their Japanese nationality with the enactment of the San Francisco Peace Treaty in 1952. Since Japan takes *ius sanguinis* as a nationality principle, Japan-born descendants of Koreans remain foreign nationals unless they go through the naturalization process or have a Japanese parent. Those who have foreign nationality reside in Japan with permanent resident status.

[3] *Rainichi gaikokujin* literally means "foreign nationals visiting Japan." This term is used to distinguish *zainichi* Koreans and Chinese from other foreign national residents and visitors. The National Police Agency produces separate statistics for *rainichi* foreigners and other foreigners, defining the former as non-permanent resident foreign nationals and the latter as permanent residents and those of unknown visa status.

shifted from the number of overstays to the social disruption and crimes they cause (Sellek 2001).

A series of opinion polls has consistently revealed a widespread fear of crimes by foreigners among the Japanese public. The results of a 1995 poll by the International Social Survey Programme (ISSP) indicate that Japanese are more likely to believe that increased immigration would be a crime hazard compared to their American and German counterparts. In this survey, sixty-four percent of Japanese respondents "agreed" or "strongly agreed" with the statement "*Immigration increases the crime rate.*" This figure is considerably higher than the American (31%) or German (50%) rate. In the 2004 *Asahi Shinbun* opinion poll, 71% of the respondents reported that they "greatly" or "somewhat" felt the fear of being victimized by foreign criminals (*Asahi Shinbun* 27/01/2004).

The fear of crimes by foreigners may lead to conservative attitudes toward immigration policies. The results of two surveys by the Cabinet Office (Naikakufu) indicate that Japanese have become more punitive toward undocumented migrants in the past ten years (Naikakufu Daijin Kanbō Seifu Kōhōshitsu 2001). While only 32% said employment of undocumented migrants is "unconditionally bad" in the 1990 survey, in 2000, as many as 49% selected this answer. Of this 49%, 52% said that undocumented employment is bad because it would "disturb public safety and morality in the society." More recently, the 2003 Cabinet Office survey on leisure and tourism reveals that the possibility of increased crime is a major concern of opponents of international tourism to Japan; of those who oppose the increase of international tourists to Japan, over ninety percent say that their opposition is due to the fear of criminals coming to Japan in disguise of tourists (*Asahi Shinbun* 01/11/2003).

The government and police have declared that crimes by foreigners are becoming a major threat to Japanese society. National Police Agency (Keisatsuchō, NPA) crime statistics indicate that the number of *rainichi* penal-code offenders has grown from 867 in 1980 to 5963 in 1999 (Keisatsuchō 2000). The 2001 White Paper on Crime (*Hanzai Hakusho*) states that the impact of crimes by foreigners on public safety in Japan has become significant in the trend of globalization (Hōmu Sōgō Kenkyūjo 2002: 283). The Tokyo Metropolitan Police have been facing a significant space shortage in detention houses due to an increase in foreign national occupants. In 2002, foreign national suspects occupied over thirty percent of the detention house space in Tokyo (*Mainichi Shinbun* 29/07/2003).

Undocumented migrants are identified as potential felons who have many reasons to commit more serious crimes. Certain nationalities are associated with particular types of crimes; credit card fraud called "skimming" and burglaries using methods called "picking" and "thumb-turn"

have been identified as characteristic of Chinese theft groups; sales of illegally modified prepaid telephone cards have been associated with Iranians; and vending machine burglaries, with groups of Koreans.

To counter foreign criminality, the government has imposed stricter immigration control. The Immigration Control Act was revised in 1998 to introduce penal-code charges against smugglers and their accomplices (Sellek 2001). The National Headquarters for the Anti-International Organized Crime Unit was founded in 2001, and two years later, the Ministry of Justice, Tokyo Metropolitan Government, and the Tokyo Metropolitan Police jointly issued the Collective Declaration regarding the Enforcement of Measures against Illegal Foreign Residents in Metropolitan Tokyo (*Shuto Tōkyō ni okeru fuhō taizai gaikokujin taisaku no kyōka ni kansuru kyōdō sengen*), in which they declared the goal of reducing the number of undocumented foreign residents in Tokyo to half in the next five years (Hōmushō 2003, Internet); in order to meet this goal, the Ministry of Justice decided to simplify the deportation process and to delegate some deportation tasks (*Mainichi Shinbun* 17/10/2003). Furthermore, the Immigration Control Bureau started widely soliciting information from the public by launching a website in which people can anonymously submit information about residents who are suspected to be undocumented foreign residents (*Asahi Shinbun* 15/02/2004).

## THEORETICAL FRAMEWORK: THE CONSTRUCTIONIST APPROACH TO SOCIAL PROBLEMS

Sociologist Robert Merton defines a social problem by saying that "[a] social problem exists when there is a sizable discrepancy between what is and what people think ought to be" (Merton 1976: 7). As this definition suggests, it has been a conventional belief among scholars as well as the wider public that a social problem means a problematic social condition. Many studies of social problems have focused on how such harmful conditions came to exist and how they could be altered.

Challenging the uncritical assumption of the direct correlation between harmfulness and social problems, Kitsuse and Spector (1973: 415) define a social problem as "the activities of a group making assertions of grievances and claims with respect to some punitive conditions." Following Kitsuse and Spector, constructionists argue that social problems are not inherently harmful or unjust, but are claimed to be so. A necessary condition for the emergence of a social problem, therefore, is not a problematic condition *per se*, but a voice that identifies it as a problem to the society, and subsequent social recognition of the claim.

While many are capable of voicing claims, not everybody's claim is accepted as equally credible in a society. Social credibility of claims depends not upon only what is said, but also who says it and how it is said. Symbolic power, *i.e.*, the power to impose one's version of social reality as legitimate, is unequally distributed within society (Bourdieu 1989). In modern societies, bureaucratic authority often maintains the strongest symbolic power regarding social problems due to its structural position (Gusfield 1981; Bourdieu 1989). When a state representative calls a certain condition a social problem, the claim is more likely to be believed as a fact than when the same claim is made, for instance, by a college student who does not have any authority or expertise. This paper focuses on how the official discourse produced by the state authorities in Japan has constructed foreign criminality as a social problem.

Although bureaucratic authority possesses strong symbolic power, it never achieves a monopoly in claim-makings (Bourdieu 1989). To compete with other versions of social reality, claim-makers utilize various rhetorical strategies to establish the validity of their version of social reality. Ibarra and Kitsuse (2003: 25–33) coined the term *rhetorical idioms* to describe a common rhetorical strategy utilized in claim-making activities. Rhetorical idioms refer to the use of concepts and language to situate the problematic condition in a moral schema and to promote certain emotions in the audience. For instance, the *rhetoric of loss* locates an issue in a moral narrative that some sacred thing is threatened and humans need to act as guardians of this precious thing; words such as innocence, beauty, purity, or legacy are used to describe the target of protection (Ibarra and Kitsuse 2003: 28). The rhetorical idiom locates a social condition in a certain moral universe with the use of explicitly moral-laden language and concepts.

A discourse of social problems presents the issue in moral terms on one hand, while utilizing scientific data to claim its objectivity on the other. Worship of science is a characteristic of modern societies. Modern consciousness tends to view scientific data as objective facts that have more legitimacy than subjective opinions, and to treat them as undeniable evidence of reality. The use of scientific resources helps a claim to be more convincing by presenting the claim not as one version of social reality, but as *the* reality that is objective and universally applicable.

Believers of scientific objectivity often forget the fact that no scientific data are value neutral. Scientific data, such as social statistics and experimental data, are produced by human beings and each stage of their production involves human discretion. What concepts are measured, how they are measured, how the data are organized, which parts of the data are presented and how they are explained are matters of decision and reflections of the opinions of the decision makers. A discourse of social prob-

lems does not present scientific data at random; claim-makers strategically select the data to convey their arguments and present them in ways that provoke certain feelings in the audience. In spite of a deliberately non-emotive, value-neutral disguise, scientific data in the discourse of social problems often serve as "a form of rhetoric which is calculated to induce belief" (Gusfield 1981: 28).

Discourses of social problems are not generated independently of contexts; they are deeply influenced by social structure and history, and in turn, shape the social world (Best 2003). Recognizing the socially embedded nature of claim-making activities, Best (2003) proposes the contextual constructionist approach, inviting analysts to examine not only how the claims are made but also what social contexts have enabled such claims to emerge and spread. Like Foucault, contextual constructionists see that no claim is free from power and positionality, yet their approach suggests that some claims are more valid than others by virtue of the fact that they are better aligned with contexts. As Edelman (1988: 6) points out, "[e]very construction of a world is a demanding activity. It can be done well or badly and be right or wrong." Although universal truth may be unattainable, the contextual constructionist approach indicates that social analysts may assess the validity of claims by examining claims against contexts, instead of falling into the pit of complete relativism and assuming that all claims are equally valid.

This paper analyzes how the official discourse has made claims about foreign criminality as an emerging social problem in Japan. It asks what is the narrative of foreign criminality, what rhetorical frameworks are utilized, and what resources are mobilized to support the claim. Secondly, it re-evaluates crime statistics that have been utilized as a scientific resource of the foreign criminality discourse and demonstrates alternative interpretations of the data. Finally, the paper discusses social conditions that are pertinent to the emergence of the foreign criminality discourse.

## DATA

In order to exemplify the official discourse of foreign criminality, this paper qualitatively analyzes Police White Papers (*Keisatsu Hakusho*) and White Papers on Crime (*Hanzai Hakusho*) between 1986 and 2002, minutes from a Tokyo Metropolitan Assembly Special Budget Committee meeting (March 14, 2002) and a National Diet Budget Committee meeting (March 8, 2002), and transcripts of a series of public speeches and press conferences by Tokyo Governor Ishihara Shintarō (April 9 – April 14, 2000).

In the Tokyo Metropolitan Assembly Special Budget Committee, crimes by foreign nationals were discussed in relation to a plan to build a large-scale detention house. Noda Ken, the head of the Tokyo Metropolitan Police, and Ishihara Shintarō, the Governor of Tokyo, insisted that a large increase of crimes by foreigners had overpopulated detention houses in Tokyo. In the National Diet Budget Committee meeting, Sasaki Tomoko, a former prosecutor and current Diet representative, questioned Cabinet members, the Chief of the Immigration Control Bureau, and the Chief of the National Security Council on the current status of crimes in Japan. Transcripts of Ishihara's statements include his speech on April 9, 2000 concerning the Metropolitan Earthquake Drill and his comments at consecutive press conferences and interviews. Ishihara is known for his tough attitudes toward crimes by foreigners and derogatory comments concerning foreign nationals. His April 9 speech stirred the greatest controversy and forced him to follow up in consecutive press conferences. Crime statistics were obtained from the Police White Papers, White Papers on Crime, as well as the Ministry of Justice and National Police Agency websites.

## RHETORIC OF CONTROL: FOREIGNIZATION OF CRIME, NATIONALIZATION OF PUBLIC SAFETY AND IMMIGRATION AS A SECURITY ISSUE

The official discourse of foreign criminality presents crimes by foreigners as a clear and immediate danger to Japanese communities. The dramatic increase of crimes by foreigners is emphasized and the brutality of crimes is explained as the result of cultural differences. While criminality is associated with foreignness, public safety is portrayed as a traditional characteristic of Japanese communities. Japanese people are presented as fearful and vulnerable victims of unpredictable foreign offenders. With the dichotomized picture of predator foreigners and Japanese prey, the foreign criminality discourse frames immigration as a national security issue, proposing a more security-oriented approach to immigration – stronger policing of undocumented migrants, stricter border control, and closer surveillance of foreign national residents – as measures of crime prevention.

### *Making Crimes Foreign*

The official discourse associates crimes and foreign nationals in two forms. First, the discourse highlights the high volume of crimes by foreign nationals, holding them responsible for the worsening public safety in Japan. Second, criminal acts by foreign nationals are described in terms of their

culture; the discourse portrays foreign offenders as malicious criminals and explains that it is because they came from a country where such viciousness is a norm. Foreign offenders are also characterized as organized criminals who collectively commit crimes with rational calculation. The core of the claim is that the crime problem in Japan has worsened not only in terms of quantity but also in quality because foreign offenders commit crimes that Japanese offenders would not dare to commit. Foreign offenders, according to this discourse, are too tough to be deterred by Japanese-style policing and punishment.

At the National Diet Budget Committee Meeting, Murai Hitoshi, the Chief of the National Security Council, described a rapid increase in the number of reported penal-code offenses as "a very serious condition," and explained that crimes by *rainichi* foreigners contributed to it as "a shadowy part of the internationalization of Japan" (Kokuritsu Kokkai Toshokan 2002).[4] Drawing from crime statistics, Murai characterized crimes by foreigners with such words as *kyōakuka* [felonizing / becoming vicious][5] and *kakusanka* [geographical expansion].

Tokyo Governor Ishihara Shintarō has more bluntly blamed foreign nationals for worsening crimes in Tokyo. Prior to the Tokyo Metropolitan Earthquake Drill, Ishihara made a speech to the members of the Self-Defense Forces:

> Looking at Tokyo today, many *sangokujin* (people from the third country), or foreign nationals who entered this country illegally, are repeating very vicious crimes. The forms of crimes in Tokyo are not the same as they used to be. Thus, if a very large disaster were to occur, even a big, big riot is possible. This is the current condition. Even our police force is insufficient in responding to such a situation. Therefore, when it happens, I would like to ask you to take action, not only for emergency cases, but also for the maintenance of public order as a top priority. (*Mainichi Shinbun* 2000, Internet)[6]

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[4] Diet Minutes were obtained from the Diet minutes database owned by the National Diet Library (Kokuritsu Kokkai Toshokan). Kokuritsu Kokkai Toshokan is abbreviated to be KKT hereafter.

[5] The Japanese word *kyōaku* has a double meaning. In layperson's terms, *kyōaku* means atrocious or vicious. As a technical term, *kyōaku* means felonious in relation to four felonies; murder, robbery, arson and rape. *Kyōakuka* (*ka* means "becoming") therefore could mean either "crimes becoming more atrocious" or "the number/proportion of felonies is increasing." In the official discourse, *kyōakuka* was used to mean formally the latter, but implicitly suggesting the former, and sometimes the distinction is not clear.

Ishihara's speech sparked a national controversy, attracting substantive criticism as well as sympathy.[7] Later Ishihara defended this comment by arguing that foreign nationals who were smuggled into Japan were responsible for felonies in Tokyo: "Crimes in Tokyo are increasingly felonious (*kyōakuka ga susunde iru*)," Ishihara commented, "Look who the offenders are. They are all *sangokujin*, that is, foreign nationals who illegally entered Japan and are staying here" (*Mainichi Shinbun* 2000, Internet).[8]

The foreign criminality discourse portrays foreign offenders as trained, calculating and organized crime professionals, rather than spontaneous offenders who commit a crime on the impulse of the moment, or disparate offenders who engage in a criminal act out of economic necessity. Murai stated that a high level of organization (*soshikika*), meaning affiliation with Japanese mobsters (*bōryokudan*) and formation of criminal organizations among themselves, are characteristic of crimes by *rainichi* foreigners (KKT 2002). The high levels of organization imply that foreign offenders are professional criminals who commit crimes as a business, confirming the image of foreign predators who feed upon innocent Japanese victims.

Foreign national offenders are also described as especially vicious criminals who go beyond Japanese people's imagination. Ishihara claimed that even Japanese *yakuza* fear the areas where foreign nationals were prominent. At a press conference, Ishihara described the peculiarity of foreign offenders as follows:

> Let me tell you, for instance, a usual Japanese thief would count on his or her craftiness [to break in] to a jewelry store, to unlock and enter, but they [foreign offenders] bring in a construction vehicle, dig a hole in the wall and steal everything and […] take [the jewelry] to Hong Kong and put it on the Hong Kong route. […] These are the facts. (*Mainichi Shinbun* 2000, Internet)[9]

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[6] This speech was made at a Self-Defense Forces (SDF) Memorial on April 9, 2000, addressed to members of the SDF who were scheduled to participate in the earthquake drill in Tokyo.

[7] Criticism are targeted at 1) his use of the word *sangokujin*, a derogatory expression referring to post-colonial Koreans, Chinese and Taiwanese, and 2) the promotion of the criminal image of foreign national residents. Sympathizers view crimes by foreigners in Tokyo as a pressing issue and support Ishihara for his determination to counter them. According to *Mainichi Shinbun*, the Tokyo Metropolitan Government received over a thousand phone calls after this comment was reported and about 60% of callers were favorable to Ishihara (*Mainichi Shinbun* 13/04/2000).

[8] A comment in an interview at Aogashima village on April 10, 2000.

[9] A comment at a press conference on April 12, 2000.

The foreign criminality discourse describes foreign offenders as being too tough to be intimidated by the lenient Japanese penal system where the police are reluctant to use their firearms and prisoners get humane treatment. The 2003 Police White Paper lists indirect quotes of Chinese suspects during interrogations, suggesting that lenient policing attracts foreign criminals to Japan; "I'd rather go to the United States, but [in the United States] there would be a risk of being shot by the police and their punishment would be more severe"; "The Japanese police never beat up [offenders]. Even though I was unfortunate and got arrested, if I maintained my silence, the worst I would get would be deportation. I am afraid of being captured, but I am not afraid of the police"; "I can bear it because the penalty is light in Japan and only several years [of imprisonment] for larceny"; "Japanese prisons are clean and allow [prisoners] to watch TV. It is said that [a life in a Japanese prison] is easier than life in China" (Keisatsuchō 2003: 17).

Politicians' comments repeat this view. Ishihara insisted that foreign offenders did not fear Japanese police officers because they rarely used guns (Tōkyō Togikai 2002). Similarly, Sasaki argued that Japanese correction facilities were so comfortable for foreign offenders who were used to lower living standards in their home countries that imprisonment in Japan would be neither a deterrent nor punishment to foreign offenders:

> Another concern is that Japanese prisons treat prisoners very nicely. When I escorted a Chinese judge to the Fuchū prison, [the judge] told me that s/he would want to stay at such a nice facility. On average, they [the prisoners] receive about 4,000 yen a month as payment for their labor, which accumulates to 50,000 yen a year. If they stay for four years, [the savings] would be 200,000 yen. I often heard from Chinese offenders that they would not mind being caught because they would be able to bring back a large amount of money. I think this is a big problem. (KKT 2002)

Among all foreign nationals, overstays and entrants without inspection (EWIs) are most closely associated with criminality. The 1999 Police White Paper states that many undocumented foreigners "became engaged in criminal activities as a more efficient method of earning profits than illegal employment," to conclude that "the existence of a large number of illegal residents has become a hotbed for crimes by *rainichi* foreigners" (Keisatsuchō 1999: 17).

The narrative of foreign criminality describes visa violation as a step toward more serious crimes such as burglary, larceny, or murder. The combination of the acute need for money due to the debt they owe to traffickers and the difficulty in finding regular employment due to their illegal

status leads them to criminal activities. Ishihara explained the relationship between undocumented migration and crimes as follows:

> It is clear that there are people who did not go through the official channels [to enter Japan], for instance, who were illegally smuggled in by the Snakeheads, the infamous Chinese syndicate. Because they are illegal entrants, they do not have a passport. As a result, they cannot work a regular job and become a crime factor. (Tōkyō Togikai 2002)

## Nationalizing Public Safety

While associating crimes with foreignness, the foreign criminality discourse ties Japaneseness with innocence and safety, emphasizing the safeness of "pre-foreigner" Japanese communities. This "foreign predator and Japanese prey" dichotomization constitutes the core cognitive scheme of the official discourse of foreign criminality.

As the popular saying "water and safety are free in Japan" indicates, there has been a widespread belief among Japanese that Japan is a safe country compared to the rest of the world. A subtitle for the Action Plan for the Realization of a Crime Resilient Society, proposed by the Conference of Cabinet Members against Crimes (Hanzai Taisaku Kakuryō Kaigi), was "Aiming at Revival of Japan as the Safest Country in the World" (Hanzai Taisaku Kakuryō Kaigi 2003, Internet). Questioned about the increase of crimes in contemporary Japan, Prime Minister Koizumi Jun'ichirō said that he was committed to reviving the belief that "Japan is indeed the safest country in the world" (KKT 2002). The foreign criminality discourse suggests that this treasured Japanese tradition is in crisis due to the increase of foreign nationals who do not follow Japanese customs. Yabe Hajime, a member of the Tokyo Metropolitan Assembly, argued that the Japanese legal system is too lenient to counter foreign offenders. According to Yabe, the Japanese system was created based on an assumption that human nature was good, which is not applicable for foreign nationals who come from different cultural backgrounds:

> The nation of Japan […] used to be a nation where each household rarely locked the door and just used a wall of sliding wooden storm doors. … [A]ll systems in Japan were founded upon an assumption that human nature is fundamentally good. In such an environment, internationalization rapidly proceeded and those who do not have such rules at all [came to Japan]. Especially the Chinese people, whom the Governor often refers to, would risk their lives to accomplish their tasks. Unless we resolve the gap between this reality and the domestic condition of Japan, there will not be any real solution, and crimes will keep increasing. (Tōkyō Togikai 2002)

The foreign criminality discourse presents foreign nationals as predators who destroy the legendary level of safety in Japan. Crimes by foreigners are equated with an attack on the nation by a foreign force and the control of foreign offenders is portrayed as a defense of the nation. This quasi-war rhetoric dichotomizes foreign nationals and Japanese nationals, claiming that the welfare of these two groups is mutually incompatible. Sassa Atsu-yuki, the former Chief of the Cabinet Security Office, commented: "Japa-nese nationals have a priority in terms of receiving the protection of hu-man rights by the Constitution. When over 80% of the victims [of crimes by foreigners] are Japanese nationals, rights of foreign criminals have to be a secondary issue" (Sassa and Sasaki 2002: 275).

This framework consists of what Ibarra and Kitsuse (2003: 32–33) call the *rhetoric of calamity*. This rhetorical idiom presents a social phenomenon as a crisis, justifying inattentiveness to other problems that might be caused by their remedial action. The rhetoric of calamity overrules criti-cisms from others by saying "now is not the time for sorting out ethical grounds: there will be time enough later for 'mere' talk; now is the time for action" (Ibarra and Kitsuse 2003: 33).

The foreign criminality discourse presents crimes by foreigners as a cri-sis, and in turn, makes the importance of rights and welfare of foreign na-tionals a secondary issue. Being challenged on his insensitivity to the hu-man rights of foreign nationals at the press conference, Tokyo Governor Ishihara responded,

> more and more dangerous drugs were spread by the very hands of the "*sangokujin*" or foreign nationals in Japan. It is your kids who are spoiled [by them]. How could I ignore them?[10] (*Mainichi Shinbun* 2000, Internet).

Similarly, Sasaki emphasized the peacefulness of Japan and its crisis as she made a comment to promote stricter immigration control; "My concern is that this peaceful nation of Japan, this peaceful nation should never be a prey of other nations, and I contend that it is a responsibility of politics to prevent that from happening"(KKT 2002).

### Immigration as a Security Issue

The foreign criminality discourse emphasizes immigration control as a key to protect innocent Japanese from predatory foreigners. This rhetoric directly associates immigration with national security and public safety, while presenting strict border control and crackdowns on undocumented

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[10]  A comment at a press conference on April 12, 2000.

foreign residents as measures to prevent more serious crimes. Claim-makers urge the Japanese government to strengthen enforcement against foreign nationals to match an international standard of maliciousness and slyness that goes well beyond Japanese common sense.

This perspective portrays the goal of the immigration administration to be effective policing of foreign nationals. Ishihara, a major protagonist of the foreign criminality discourse, has been claiming that the immigration administration should belong to the National Police Agency instead of the Ministry of Justice. Sasaki argued that the best practice to protect public safety in Japan is "not to let criminal groups enter Japan, to block drugs at the shore for sure, and to stop those who come [to Japan] with an intention of undocumented employment" (KKT 2002). Concerns for welfare and rights of foreign national residents become subordinate to a greater mission of the protection of Japanese safety.

The foreign criminality discourse presents a violation of Immigration Laws as a stepping stone to more serious crimes such as burglary, drug offenses and murder. In this framework, visa violation is not a victimless crime anymore, but a sign of yet-to-be-committed felonious offenses. Intensive interrogation of foreign nationals and severe punishment for visa violations are not a disproportional reaction to petty law violations but are the reasonable and justifiable response to emerging felons. Since visa status is not readily visible, visible presentation of foreignness in appearance and language become a clue to criminality:

> When I talk to common people, [they say that] when they go to, for instance, Kabukichō in Shinjuku, Chinese and Korean languages fly back and forth, and now it feels scary for Japanese walking around the area since it feels as if this place did not belong to Japan. Why don't the police and the Immigration Control Bureau control these people in advance? For instance, they might not have a passport. Their passport might be a fake. In many cases, their visa status might be expired or they might be already overstaying because they were short-term visitors. It has been suggested that we might, to some extent, be able to prevent crimes if we inspect these people and deport them in advance. (KKT 2002, Sasaki Tomoko)

While the foreign criminality discourse often argues that they distinguish "good foreigners," i.e., foreign national residents with legal status, and "bad foreigners," i.e., foreigners without a proper visa, a comment like the above assumes indicators of foreignness – speaking Chinese and Korean – are direct indicators of their criminality. What Sasaki is suggesting in this comment is not the control of undocumented residents, but the surveillance of everyone who is visibly foreign.

ARE FOREIGNERS REALLY DANGEROUS?: RE-EVALUATION OF SCIENTIFIC
RESOURCES IN THE FOREIGN CRIMINALITY DISCOURSE

In the foreign criminality discourse, statistics are frequently utilized to illustrate the magnitude of the problem. Claim-makers provide statistical figures such as frequencies of crimes by *rainichi* foreign nationals and crime per capita among *rainichi* foreign nationals as scientific evidence of their claims.

This paper re-evaluates key statistical evidence in the foreign criminality discourse to conclude that there is ample room for alternative interpretations in these statistics. My proposition is that the presentation of crime statistics in the foreign criminality discourse is effective rhetoric to mobilize the feeling of crisis in the audience, but lacks logical efficacy and distorts what the data suggest. The following section substantiates this argument.

*Increase of Crimes by* Rainichi *Foreigners*

The Police White Papers have been emphasizing the threat of foreign criminality by referring to the dramatic increase of crimes committed by foreign offenders in the past ten years. For instance, the 2000 Police White Paper reports:

> As for penal-code offense arrests (*keihōhan kenkyo*) of *rainichi* foreign nationals, there were 867 cases and 782 offenders in 1980 when we started producing the statistics [on this population]. In 1999, there were 25,135 cases and 5,963 offenders. The number of cases increased 29-fold and the number of offenders 7.6-fold since 1980. (Keisatsuchō 2000)

At a glance, the sharp increase in the number of penal-code offenses by *rainichi* foreign nationals seems to be undeniable evidence of a crisis. The number of penal code offenses committed by *rainichi* foreign nationals has increased from 1,725 to 24,258 between 1985 and 2002 (Tab. 1). However, it is important to note that the numbers of foreign national visitors and residents have also increased dramatically during this period. Between 1985 and 2002, the number of foreign national entrants increased from 1,987,905 to 4,646,240. The high correlation between the number of first time entrants and the numbers of *rainichi* penal-code offenses and offenders (for the number of offenses, $r = .908$, $p = .000$; for the number of offenders, $r = .911$, $p = .000$) indicates that the increase of crimes by *rainichi* foreign nationals coincides with the increase in the number of foreign nationals coming to Japan.

The foreign criminality discourse argues that foreigners are committing more and more crimes, therefore, the increase of foreign population poses a crime threat to Japanese society. The order of causation is mistaken in this argument. If the size of any subgroup of population grows, it is natural that the number of crimes committed by this group increases. If the number of crimes by foreign nationals has increased because the number of foreigners who visit or reside in Japan has grown, it does not mean that foreign nationals are more dangerous than Japanese. If we were to evaluate crime statistics without taking the population size into account, we could argue that Japanese nationals, who constitute 90% of penal-code offenders in Japan, are the biggest crime threat to Japanese society. Such an argument, of course, would be pointless.
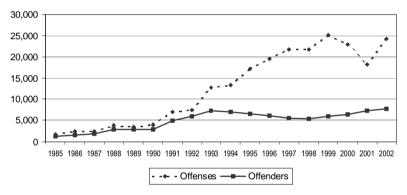
*Table 1:* **The Number of First Time Entrants, Penal-Code Offenses by *Rainichi* Foreign Nationals (Arrested), and *Rainichi* Foreign National Penal-Code Offenders (Arrested), 1985–2002**

| Year | (a) Number of First Time Entrants | (b) Number of *Rainichi* Penal-code Offenses (Arrested) | (c) Number of *Rainichi* Penal-code Offenders (Arrested) |
|---|---|---|---|
| 1985 | 1,987,905 | 1,725 | 1,370 |
| 1986 | 1,710,450 | 2,537 | 1,626 |
| 1987 | 1,787,074 | 2,567 | 1,871 |
| 1988 | 1,960,320 | 3,906 | 3,020 |
| 1989 | 2,455,776 | 3,572 | 2,989 |
| 1990 | 2,927,578 | 4,064 | 2,978 |
| 1991 | 3,237,874 | 6,990 | 4,813 |
| 1992 | 3,251,753 | 7,457 | 5,961 |
| 1993 | 3,040,719 | 12,771 | 7,276 |
| 1994 | 3,091,581 | 13,321 | 6,989 |
| 1995 | 2,934,428 | 17,213 | 6,527 |
| 1996 | 3,410,026 | 19,513 | 6,026 |
| 1997 | 3,809,679 | 21,670 | 5,435 |
| 1998 | 3,667,813 | 21,689 | 5,382 |
| 1999 | 3,959,621 | 25,135 | 5,963 |
| 2000 | 4,256,403 | 22,947 | 6,329 |
| 2001 | 4,229,257 | 18,199 | 7,168 |
| 2002 | 4,646,240 | 24,258 | 7,690 |

Source: (a) – Hōmushō 2004, Internet, (b) and (c) – Keisatsuchō 2003

Furthermore, a close observer may notice that the changes in the number of *rainichi* foreign national offenders in the past seventeen years show a quite different pattern from the changes in the number of foreign offenders (Fig. 1). While the number of penal-code offenses by *rainichi* offenders show mostly consistent growth until 1999, the number of *rainichi* foreign national offenders has fluctuated between five thousand and eight thousand since 1992. This discrepancy indicates that the growth of offenses by *rainichi* foreign nationals is not due to the increasing number of offenders but due to the increase in the number of cases each offender is charged with.

**Figure 1: The Number of Penal-Code Offenses by *Rainichi* Foreign Nationals (Arrested) and the Number of *Rainichi* Foreign National Penal-Code Offenders (Arrested), 1985–2002**



Source: Keisatsuchō 2003

## *Absolute Volume of Crimes by* Rainichi *Foreigners*

While the foreign criminality discourse gives foreign offenders credit for the deterioration of public safety in Japan, the official statistics show that the proportion of foreign offenders has been small; During the period from 1993 to 2003, the proportion of *rainichi* foreign offenders in penal-code offenders varied between 1.7% and 2.4% (Keisatsuchō 2004, Internet). Due to a large number of multiple offenses, the representation of *rainichi* foreign nationals is higher in the number of penal-code offenses as opposed to offenders; the proportion of offenses ranges between 1.7% and 4.2% during the same period. This 1.7% to 4.2%, however, includes offenses that involved collaboration with Japanese offenders. While the foreign criminality discourse holds foreign offenders mainly responsible for crime prob-

lems, the NPA statistics indicate that *rainichi* foreign offenders and their offenses are only a small part of the problem.

## Crimes per Capita among Rainichi *Foreigners*

In addition to the absolute number of crimes, the foreign criminality discourse utilizes the larger number of crimes per capita among foreign nationals as evidence of foreign criminality. During the period between 1994 and 1998, the Police White Paper had a section titled "*Rainichi* foreign nationals are disproportionately high among the arrested offenders." The 1998 Police White Paper reports that "the proportion of *rainichi* foreign nationals in the total Japanese population (14 years old and above) was approximately 1.0%, but the proportion of *rainichi* offenders among penal-code offenders was 1.7% in 1997", therefore, this population "deserves attention as a public safety problem delivered by internationalization" (Keisatsuchō 1998: 258). Although the NPA has stopped reporting this number in the Police White Paper, this logic continues to be employed by protagonists of the foreign criminality discourse. Defending Ishihara's *sangokujin* comment in April 2000, Kin Birei, headmaster of a Japanese language school, was quoted as saying: "Including those who live honestly, the proportion of foreign nationals in this country is 1.2%, but in Tokyo, 11% of felonious offenders are foreign nationals. For those who argue that this is not a large number, I must wonder whom they are trying to cover up" (Asahi *Shinbun* 24/04/2000).

The calculation of crimes per capita in the Police White Papers, *i.e.*, the comparison between the proportion of foreign national residents in the population and the proportion of *rainichi* penal-code offenders, contains a critical logical inconsistency. *Rainichi* foreign offenders in the crime statistics include not only foreign national offenders who are registered foreign national residents but also those who came to Japan as short-term visitors and undocumented residents. While the *rainichi* foreign national offenders consist of foreign nationals with various visa statuses, the statistics on foreign national residents, which the Police White Papers used to compare against the proportion of *rainichi* offenders, include only registered foreign national residents, who constitute only a small portion of the total number of *rainichi* foreign nationals.

If the number of crime per capita is calculated including both registered residents and short-term visitors in the population base, the number of penal-code offenders per capita is smaller among *rainichi* foreign nationals than among Japanese nationals. In 2001, the number of penal-code offenders per 1,000 *rainichi* foreign nationals was 1.44, while there were 2.50 pe-

nal-code offenders per 1,000 Japanese nationals. In the same year, the number of felonious offenders per capita was somewhat higher among *rainichi* foreign nationals (.08 per 1,000 among *rainichi* versus .06 per 1,000 among Japanese), while the number of violent offenders per capita (.12 per 1,000 among *rainichi* versus .39 per 1,000 among Japanese) and larceny offenders per capita (.83 per 1,000 among *rainichi* versus 1.3 per 1,000 among Japanese) was much higher among Japanese nationals.[11]

The crime statistics indicate that the number of crimes per capita are disproportionately high among overstays. According to the 2001 statistics, overstays were more than1.4 times as likely to be arrested for a penal-code offense than Japanese nationals: 3.55 penal-code offenders per 1,000 overstays, as opposed to 2.50 among Japanese nationals. Although this figure appears to support the foreign criminality discourse, the crime rate and unlawful immigration status may also be explained from a different perspective. As arresting a penal-code suspect on an unrelated charge for a petty crime (*bekken taiho*) is a common practice in Japanese policing, an arrest under the name of an immigration law violation buys the police time for the interrogation of other crimes. For instance, counterfeiting credit cards using a technique known as "skimming" has been reported as a crime typically committed by foreigners. Tsuda, a member of the NPA international division, reports that the police have been arresting counterfeit cardholders with a charge of immigration law violation because there was no law that prohibits the possession of a counterfeit credit card (Tsuda 2001: 104).

### Affiliation with a Criminal Organization

The high level of organization among foreign national offenders has been noted as an indication of professionality and maliciousness of foreign offenders. The view of foreign offenders as organized criminals enhances the threatening image of foreign predators who cunningly target vulnerable Japanese. In this argument, the co-offender rate (*kyōhan hiritsu*), i.e., the percentage of penal code offenses committed by two or more offenders, has been used as a statistical indicator of organized crimes. In 2001, the co-offender rate for crimes by *rainichi* offenders was 55.9%, substantially higher than the 18.3% rate for penal-code offenses by Japanese offenders.

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[11] When this manuscript was reviewed, the NPA presented crime statistics broken down by visa status (Keisatsuchō 2004, Internet). According to this newly available data, short-term visitors comprise only a small proportion of penal-code offenders. Further analysis of crime rates by visa status will be needed.

Noda, the Tokyo Metropolitan Police Superintendent, reported the co-offender rate to the Tokyo Metropolitan Assembly Committee as follows:

> The co-offender rate around the year 1992 was lower than ten percent. However, now over fifty percent [of *rainichi* offenders] have a co-offender. In this sense, we are currently in a situation where *rainichi* foreign nationals are repeating organized crimes (*soshiki hanzai*). (Tōkyō Togikai 2002)

The foreign criminality discourse equates having a co-offender with being involved in organized crime, but this equation is erroneous. The co-offender rate and the affiliation with a criminal organization are two distinct concepts and one cannot be an appropriate measure of the other; a teenager boy who shoplifts bags of chips with a couple of friends has co-offenders, but it does not indicate that he is a part of organized crime. The usage of the co-offender rate as an indicator of organized crimes unreasonably expands the definition of organized crime, running the risk of mixing these teenage shoplifters with crimes committed by a professional criminal group. The threat of foreign criminals has been overemphasized by problematically mixing up two different concepts.

### *Occupancy Rates in Detention Houses*

Incarceration statistics are another type of statistic used to demonstrate the high threat of crimes by foreign nationals. Sassa claimed that a detention facility in Roppongi, Tokyo, was always occupied by foreign nationals; and that the Fuchū Prison in a suburb of Tokyo was overpopulated with a high rate of foreign national inmates (Sassa and Sasaki 2002: 274). Similarly, Noda reported to the Tokyo Metropolitan Assembly that foreign nationals comprised one in nine detainees in detention houses in Tokyo, many of which were overpopulated (Tōkyō Togikai 2002).

The prominence of *rainichi* foreign nationals in detention houses also allows an alternative interpretation. Noda reported that foreign nationals were kept in the detention house much longer than Japanese nationals; in 2001, the average length of detention for foreign nationals in Tokyo was approximately sixty days, twice as long as the average length of thirty days for Japanese nationals (Tōkyō Togikai 2002). This stunning difference in the length of detention between Japanese suspects and foreign national suspects indicates that the one reason for the high occupancy rate of foreign nationals is because they have to stay longer once they get arrested. Noda explained that the police need to keep foreign suspects longer because they tend to be part of "organized" crimes:

> The current shortage of detention houses is mainly due to the large in-crease of organized crimes by *rainichi* foreign nationals. In the case of Japanese, in many cases, they are released from the detention house when they are prosecuted, or not detained at all. However, organized crimes by *rainichi* foreign nationals have co-offenders, or a full trial is requested for them. Therefore, we cannot release them and jails and detention houses become full. (Tōkyō Togikai 2002)

The case of Govinda Prasad Mainali, however, suggests that differential application of detention policies to foreign nationals and Japanese nation-als may not be limited to cases that are suspected to involve criminal or-ganizations. In 1997, Govinda Prasad Mainali, a Nepali national and un-documented resident of Japan, was arrested as a murder suspect. In this case, there was no indication of organized crime and Mainali was consid-ered to be a solo offender. Nevertheless, despite the fact that the Tokyo Dis-trict Court found him not guilty in 2000, prosecutors appealed to the High Court, and the High Court decided to continue to keep him under custody during his appeal as they suspected he might be deported or flee due to his immigration status.[12]

CONDITIONS OF THE RHETORIC OF CONTROL

Re-evaluation of crime statistics suggests that a threat of crimes by foreign-ers to Japanese society is not of the magnitude the official discourse claims it to be. Nevertheless, the political discourse keeps equating the growth of the foreign population with the deterioration of public safety in Japan. Ishihara may be the best known politician for the "get tough" attitude to-wards foreign residents, but he is certainly not the only one. Shortly after Ishihara's *sangokujin* speech, Ōta Fusae, the Governor of Osaka, was re-ported to mention that maintaining a comfortable environment is critical now that the numbers of homeless people and foreigners have been grow-ing (*Asahi Shinbun* 10/06/2000); an LDP politician Etō Takayoshi was quoted as saying that Kabukichō became a lawless area dominated by *dai-sangokujin* (the third country people), and illegal Chinese and Koreans flocked together to rob people (*Asahi Shinbun* 12/7/2003); in November 2003, Governor Matsuzawa Shigefumi of Kanagawa prefecture reportedly commented that those who came to Japan on student visas from countries like China were all petty thieves (*Asahi Shinbun* 03/11/2003).

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[12] Japanese prosecutors routinely appeal cases in which the defendant is found not guilty or receives a lesser sentence than they requested.

Given the discrepancy between the discourse and the data, the foreign criminality problem in Japan may be understood as a form of moral panic. Moral panic is a condition in which the perceived fear of a certain group is disproportional to the actual threat of the group (Goode and Ben-Yehuda 1994: 158). In moral panic, people are sensitized to behaviors of the "threat group" and possible cues to their wrongdoings (Cohen 1972). If over seventy percent of residents are afraid that they may be victimized by foreign offenders (*Asahi Shinbun* 27/01/2004) when foreign offenders consist only two percent of penal-code offenders and four percent of penal-code offenses, the fear of foreign criminality is clearly disproportional to the actual threat this population poses.

A discourse of foreign criminality has emerged and become popularized in certain historical contexts; as Best (2003: 63) put it, "the language of claims does not exist independently of the social world; it is a product of – and influence on – that world." This paper suggests two social factors, *population decline* and *the public expectation for strong political leadership*, may have contributed to the emergence of the foreign criminality discourse.

With a remarkably low birth rate, Japan's population pyramid is expected to be an inverted triangle by 2050, when a small working population will need to support a large elderly population. In 2002, the National Institute of Population and Social Security Research (Kokuritsu Shakai Hoshō Jinkō Mondai Kenkyūjo, NIPSSR) predicted that Japan's population would be halved by the next century given the birthrate of that time (NIPSSR 2004, Internet). In the following year, the special total birth rate in Japan decreased to 1.29, which was much lower than what the Institute had predicted (*Asahi Shinbun* 11/06/04).[13] With this unexpectedly low birthrate, population decline in Japan is predicted to progress even faster.

The rapid population decline and aging society makes Japan increasingly dependent on immigrant labor, which severely challenges its traditional conception of national membership. The criminalization of foreign nationals can be interpreted as a reactionary effort to legitimize enhanced control over this growing segment of the population, even at the cost to their human rights.

Furthermore, post-bubble Japan has been suffering from persistent social anxiety and political distrust, triggered by prolonged economic instability, a series of political scandals and a decline of the welfare state. Social anxiety has provoked calls for strong political leadership, and a problem

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[13] Total special birth rate denotes the average number of births a woman gives in her lifetime. The NIPSSR considers 2.08 to be the replacement level, i.e., the birth rate that would maintain the current population size (NIPSSR 2004, Internet).

of crimes by foreigners offers a perfect opportunity for a politician to demonstrate leadership. Foreign criminality discourse presents a simple, easy-to-understand drama in which political leaders play superheroes who crack down on foreign villains and protect innocent Japanese victims, distracting the audience from more complicated social issues for which they are unable to provide solutions.

National citizenship, which views commonalities in lineage and cultural heritage as the primary criteria to be a citizen, is a typical conceptualization of citizenship (Bauböck 1998). Such a national conception of citizenship has been strong in Japan. Legally, Japan upholds *ius sanguinis*, a nationality principle under which children of foreign nationals are regarded as foreign nationals even though they were born and raised in Japan; it is also a common perception among Japanese that Japanese parentage is considered to be a critical component of Japanese nationality (*e.g.*, Fukuoka 1993; Douglass 1999; Lie 2001). The nationalistic conception of citizenship assumes that foreign national residents are temporary visitors who are not entitled to full membership in the nation.

The rise of immigration and the settlement of guest workers have severely challenged the national conception of citizenship in Japan. Despite its economic stagnation, Japan predicts a continued increase in immigration. Facing drastic demographic change, the problem Japan needs to handle now is not a temporary labor shortage, but a chronic labor shortage in a rapidly aging population (Iguchi 2001; Douglass and Roberts 2003). The population decline in the near future will force Japan to be increasingly dependent on the immigrant labor force.

Foreign workers who came to Japan as young single persons by the 1990s have started families and have been fostering a second generation in Japan. Like their European counterparts, the Japanese government gradually came to realize that foreign workers are not merely a labor force, but people with lives, families and demands for rights which they deserve.

As the number of foreign national residents has increased and their stay has become prolonged, non-citizens, including undocumented residents, have begun to speak up for their residential rights. In September 1999, ten families of undocumented foreign residents "came out" to petition the Immigration Bureau for special permission for residency. The Immigration Control Bureau has begun to grant special permission to families whose children were attending Japanese school, recognizing that they had already been assimilated into Japanese society (Yamamoto 2000). In April 2000, undocumented foreign national residents rallied in the middle of Tokyo requesting special permission for residency with a sign saying "Give fair treatment to foreigners" (Iguchi 2001).

The issue of foreigners' rights has been brought up in the courts as well. In June 1998, Ana Bortz, a Brazilian journalist and a resident of Hamamatsu, Japan, was visiting a jewelry store in the city when the owner asked her to leave, pointing to the handmade poster saying "No foreigners allowed in this store." Boltz filed a lawsuit against the store owner, and in October 1999, a District Court ordered the owner to pay her full compensation for the racial and national discrimination that Boltz suffered. Given that the Japanese Constitution does not refer to rights of foreign nationals, this was a ground-breaking ruling in protection of the rights of noncitizens, upholding the International Convention on Eliminating All Forms of Racial Discrimination (ICERD) as a standard (Yamanaka 2002).

Political rights of non-citizens have also become a hot topic in the last several years. Starting in the late 1990s, a series of public actions have demanded voting rights for non-citizens in local government elections, and bills to grant local voting rights to non-citizens were proposed in the 2000 National Diet (Kō 2000). Although the center of this discussion has been *zainichi* Koreans, the movement problematizes boundaries of citizenship in Japan and has clear implications for political rights of foreign national residents in general.

This paper proposes that the criminalization of foreigners may be interpreted as a symbolic attack on the growing and increasingly vocal foreign population. Soysal (1998) argues that the nationalistic response to immigration can be attributed to the fundamental incompatibility between two principles of international community in the post war era: *a discourse of universal personhood and human rights*, which regards discrimination by racial, ethnic and national category as illegitimate; and *a discourse of national sovereignty*, which emphasizes a boundary between citizens and non-citizens. The paradox of these two principles, i.e., a deterritorialized expansion of human rights and a territorialized responsibility to materialize them (Soysal 1998), manifests as a political tension in transnational migration. The foreign criminality discourse may be interpreted as a deceptive compromise of the nationalistic tendency with the universal human rights discourse. The rhetoric of foreign criminality allows conservatives to argue for selective control of foreigners without being explicitly nativistic or racist. The foreign criminality discourse tactfully translates the control of foreign nationals into the protection of Japanese people, shifting the focus from the rights of non-citizens to the maintenance of law and order.

Economic instability, social anxiety, and the demand for strong political leadership are also important in understanding the emergence of the foreign criminality rhetoric. Since the early 1990s, Japan has been suffering from severe economic recession and a series of political scandals. Japanese firms have been attempting to revive the economy by shifting from a sta-

bility-oriented traditional style to an efficiency-oriented American style. Meritocracy has been replacing seniority, and lifetime employment, which was the foundation of the Japanese employment system, has been gradually disappearing. *Risutora* [restructuring], meaning firing an employee due to restructuring of the organization, has become a word of the era, and part-time contract workers have been taking over the positions of full-time employees who would be more costly to the employer. Job security in Japan has significantly declined in the past decade, and a strong sense of economic unpredictability has prevailed.

A sense of anxiety has been further amplified by a decline of the welfare state. With a rapidly aging population and the fiscal difficulties that the government has been facing, it is predicted that the government will soon be unable to provide high enough social security payments for the newly retired to live on. The recent revision of social medicine regulations requires seniors to wait longer before they start receiving full medical coverage. A series of national institutions were privatized to maximize organizational efficiency, turning public services into profit-making activities. The combination of economic stagnation, aging of the society, and the increasing popularity of the neo-classical economic policies among politicians makes the Japanese government less and less capable of providing services to its people. At the same time, scandals involving politicians and elite bureaucrats were revealed one after another, deepening the distrust in politics among the people.

Responding to these prolonged economic and political difficulties, there has been a desperate demand for a strong leadership. The declaration of "structural reform without sanctuary" (*seiiki naki kōzō kaikaku*) by Prime Minister Koizumi Jun'ichirō received overwhelming support from the nation. Tokyo Governor Ishihara Shintarō has maintained high popularity for his determination and outspokenness, in spite of his blunt demonstrations of discriminatory attitudes toward women and minorities. According to an Internet survey in 2003, forty-four percent of Tokyo residents surveyed said they liked Ishihara, while only twelve percent indicated they did not like him. Being asked why they liked him, a common answer was "because he makes clear statements" (*AERA* 03/03/2003: 68–69).

The emergence of the foreign criminality discourse could be interpreted as a stage for the demonstration of strong leadership by politicians. Crimes by foreigners appear to be a perfect backdrop for a presentation of their strong leadership; foreigners play the villains; the Japanese public plays innocent, helpless victims; and political leaders play the role of heroes who crack down on the bad guys. This drama is straightforward and easy to understand; do not let villains in, and once they are in, seek them out and kick them out. A problem of crimes by foreigners gives political lead-

ers an opportunity to demonstrate their leadership in dramatic ways when other problems are so deeply chronic and structural that there is no painless way to deal with them. By shedding a spotlight on crimes by foreigners, political and bureaucratic leaders maintain the image that they are acting on social problems, while distracting the public from larger problems that they have been failing to solve.

CONCLUSION

The foreign criminality discourse constructs foreign nationals as a crime problem by mobilizing quasi-war rhetoric and scientific resources. Re-evaluation of crime statistics, however, suggests that the official discourse unreasonably magnifies the criminality of foreign nationals in Japan.

Whereas this paper mainly focused on the official discourse of crimes by foreigners, the police and politicians are not the only actors in the scene. Scholars have pointed out the key role of mass media in the construction of a criminal stereotype of foreigners in Japan (*e.g.*, Herbert 1996; Friman 2001). While the Press Club system encourages Japanese journalists to serve as endorsers of official discourse rather than critics of it, the media's love of sensationalism and the unique quality of an event promotes the coverage of crimes by foreigners and the accentuation of their foreign status (Herbert 1996). Interactions of media, the state, and the public in the construction of foreign criminality discourse are important issues that need to be further examined.

The expression of *perceived safety* (*taikan chian*) has been popular in discussions of Japan's crime scenes. The police are major protagonists of this concept; many local police departments started listing the improvement of perceived safety among residents as a goal of crime control. Promoters of this concept argue that whether or not people feel safe is an alternative indicator of public safety that detects unreported crimes hidden in crime statistics.

Perceived safety is an indicator of fear rather than an indicator of the presence of criminality. By promoting the criminalized view of foreign nationals, claim-makers conjure the fear of foreigners among Japanese citizens. The construction of foreign criminality is the construction of fear, and the construction of national others that are to be feared. When a foreign-looking face becomes a symbol of criminality, the mere existence of foreign nationals becomes a source of fear. Thus, the foreign criminality discourse immensely disturbs the social integration of communities and invites discrimination and oppression against foreign nationals in Japan.

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