

INTERVIEW OF DANIEL ALKHAL

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PROFILE OF THE INTERVIEWEE

Mr. Daniel Alkhal was the Senior Legal Officer of UNHCR Representation in Japan from April 2007 to June 2012. Prior to his assignment in Japan, he had worked for UNHCR in Lebanon, Bosnia and Herzegovina, and Turkey. His former career was in family and couples therapy. He holds a Juris Doctor degree from the City University of New York.



Q1. We would like to start with your background. You have a JD (law degree) and you also used to be a DJ. How did you become interested in asylum? We have heard that your family is originally from Lebanon?

I have heard from refugees that they believed my family and I were refugees. Actually, we weren't refugees. We were migrants. My grandfather started it all by emigrating to the US in 1896. He was a migrant, a businessman, travelling. What I was told is that he worked in the steel industry in the US. After that he went to the Caribbean islands, specifically, the Martinique. Then back to Lebanon and Syria. Since then, my family (extended) has been back and

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forth between Lebanon and the US.

So why I became interested in working in the asylum field? Actually, this is my third career. My first job was actually working as a DJ at a radio station. Even earlier than that, I started DJ-ing on Friday and Saturday nights working in nightclubs. Before going to law school, I did therapy, because my graduate studies were in psychology. So, I worked with youth and their families in Pennsylvania. No interest at all in refugees. Even when I was in law school, I was not interested in refugees.

I was always interested in civil rights for children and human rights law. My law school was one of a few schools that focused on public interest law in the US. We had clinics in our third year. It was different from your typical US law school. You were not considered as students, you were considered as lawyers in training. They dealt with you like that, as a lawyer from the beginning. In my third year I specialised in international women rights law. And my hope was to go to Eastern Europe because in those days Eastern European community was growing. The infrastructure, the legal infrastructure in those countries, especially for the civil rights for children, was being developed, so I was hoping to get in on that. Then my friends basically had me apply for the Junior Professional Officer (JPO) program in the United Nations. The US is one of the largest countries to support the JPO program. So I went in for an interview, and that was the first time I got interested in working with refugees.

Actually, during my third year of law school, I worked on two refugee cases. One was as part of a class action suit against fundamentalist Islamist groups, and the other was supporting Ethiopian and Somali refugee women adjust their status in the US to become immigrants (green card holders). But it wasn't actual work on their refugee issues. It was simply helping them with the administrative legal process. So there was no work with them and I wasn't interested. But when I interviewed for the JPO position, I was given an option to apply either for IOM or UNHCR, and I chose UNHCR. That's it. The rest is history as they say.

I had no interest in asylum, and even in the first 2 years I remember I didn't like it that much and I wanted to get out. Because I thought the cause itself was very politicised. You know, the old question is, "Is UNHCR a humanitarian organisation or a human rights organisation?" I think as I matured with the organisation, I grew to love the process of helping refugees. And like many things in life, the answer is that UNHCR is somewhere in the middle. We are not humanitarian fully, and we are not human rights fully. We are both. That I think is what got me interested. We are helping them get their rights but we are also helping them get their whole life back... necessary things in life, raising their children, or getting education.... Even though I specialise within UNHCR on legal issues, I'm more interested in what we are doing here in Japan in all the other aspects.

Q2: It is our understanding that the relationship between UNHCR and MOJ has improved during your tenure. Was there a policy change within HCR about how to approach the MOJ?

Quite honestly, it was a formal approach change. Basically, I studied the system when I came, and our representative was Takizawa-san. He had been in the country for 6 months. He's a former MOJ official. I arrived on about 27th of April, and I said to him, "Allow me to study the system and situation before I can give you a recommendation or even give an opin-

ion" and he accepted. So I started studying the system. I started reading articles that were written by very well known professors and including Judge Allan Mackey when he came and did the study in Japan. And I started studying the practical aspects of the Japanese asylum system. And I was very surprised at how advanced it was, the safeguards that it offered. It was clear that it was a functional system, a system that functions well, that has been well developed over the past 30 years with small numbers. With those small numbers it was allowed to develop at that pace. If they had every year 20,000 applications I think the system would have developed differently. But when I first came, I didn't realise all the cultural aspects of Japan and the Japanese society, and their impact, their ramifications on the asylum system. So, after 2 months of reviewing everything, meeting people, meeting NGOs, listening to them, and reading tons of documents, I had a different point of view from my predecessors; at least, I think so.

In my opinion, usually in UNHCR, there are two types of protection officers. There are the ones that hold international standards, and fight for it, and say this is the way forward. Because we need to put a very high standard and have everybody get up there. And there is another group, to which I belong. We know the standards and the principles behind it. But we also know that practically, it's a standard that even the best asylum countries don't reach. And it is our job in UNHCR to help them reach for the standards and not compromise the principles. And to be objective, even UNHCR operations around the world do not get to reach the standards.

So, when I first came here to Japan I felt like, really we are kind of being hypocritical. We know that the system is improving. Albeit, it was progressing bit by bit but still heading in the right direction. But there were a lot of faux pas that were made, and it wasn't only the government's fault. They do have faults, but it wasn't just their fault. I didn't feel like I was ready to join my predecessors by saying, "very bad system". Six months before I came here, the High Commissioner was here, I think it was December or November 2006, and he openly declared the system as embryonic. It was my opinion that assessment was based on only partial information, and hence, was not accurate evaluation of the system, and I had the opportunity to mention that to him a couple of years later. He had been provided with information that led him to assess it as such. I thought on the other hand it was a well-functioning system that needs a great deal of support. The HC has over the years appreciated the attempts made to improve the system and has always extended the capabilities of the agency and the office towards that purpose.

So we had to change. We had to develop a policy that would help us make those improvements at a faster rate. Because I looked at the different players in the system: MOJ, MOFA, the Cabinet, the civil society, the lawyers networks, UNHCR, IOM, all of these players are there. And they were all well intentioned and active. But I noticed that there's no coordination among them. UNHCR had joined the civil society by publicly addressing the issues with MOJ. MOFA was playing more of a peacemaker type of role. And what I thought that strategy did, it pushed MOJ into a corner, or what I used to say is a cocoon. And in the cocoon you can do whatever you want because, whatever you do you feel that others are going to attack you. So you start doing things without meetings, without discussing the issues. The danger in that is that you lose the other perspectives and the other contributions for solutions. Each party will work separately. I thought that needed to change. We needed to break that cocoon. We needed to get them out bit by bit. That was the engagement approach

change. We need to engage them. And I felt that, in the engagement approach that we needed to develop, we needed to increase our own relevance to the process. Why would they care what we have to say? So, that's what we did. We basically understood the system, I think from a different context, and we understood that the system needs improvement. And most importantly, we understood that all those who are working in the system are willing and able, including the government, civil society and refugees.

So what was the best way to make that improvement take place? There could have continued a focus on international standards, or bring the discussions closer to the high quality Japanese standards. What helped us is that Japan is the second largest humanitarian power for funding humanitarian operations, especially UNHCR's. At the time, it was talking about decreasing its support because of funding difficulties. Now we have more than doubled it. So, I would say this humanitarian standard idea has worked a little bit. Because we went to them and said, "Forget about applying the international standards. We would like to apply in Japan, the work that you do overseas, let's try to apply it right here." Of course, what we were hoping by this internal focus is that it would inch us closer to the international standards.

So we started working with them in that fashion. I remember the first meeting that we had. We needed MOFA to be present. MOJ was sitting on the other side of the room from UNHCR. The idea was like we were negotiating at a high, conference level, and the only item on the agenda was to discuss two cases. Specific two mandate cases that had been recognised under UNHCR mandate, and MOJ wanted us to resettle them. That was the only point on the agenda.

And the process to set up that agenda was very telling about how strained the working relationship was, because these exchanges went back and forth, back and forth about semantics. We would say this, we would say that, no we can't say this, we can't say that. And I looked at some of the old documentation. There was a lot of haggling about, we want to mention this in this context, or we want to mention this and that. We could have continued to put things in writing and send them to the government and these are documents that are probably never read by anyone. They are not made public. UNHCR internally uses them, and MOJ internally uses them. And then they go to some drawer. In the past we would spend hours and days over these little words. So we changed that. For example, I said to the Protection Assistants, "Let them set whatever agenda they want. If I go there, if I speak, well, are they going to fire me? Are they going to push me out of the room? We will talk together." So that first meeting was, I think, was an icebreaker. It was the only meeting that MOFA "chaperoned". And that was it. Soon after that, bilateral meetings with MOJ began and a steadily built partnership began. And MOJ realised they could talk to us. And this is how I think I think how we made their minds change.

Q3. Is it true that before you came, there was a period when MOJ would not meet directly with UNHCR and agree to meet only in the presence of MOFA?

Yes. It was for about 6-8 months. And this was a mechanism that was developed basically by the Senior Protection Officer and the Deputy Representative at the time of UNHCR, who was on secondment from MOFA. So they developed this idea that at least this way they can

put UNHCR and MOJ at the same table. I mean there was a lot of faux pas along the way, that I can't really get into. And what helped, I think, this is a point I wanted to make earlier, is when I read these two cases, I thought they were recognised erroneously. It was very clear. So I shared my opinion with MOJ and what I promised them is that I would examine whether this recognition can actually withstand a properly administered cancellation process. Because you cannot just cancel cases. You have to go through a long process and in that process, facts come out. So they could still have been refugees, but based on the information in the files, in my opinion, they were recognised erroneously. And it was only prudent that we examine their status determination.

Q4. Who came up with those strategic changes in communication with MOJ?

It was basically me talking to the Representative in Japan. Even after MOJ's relationship with UNHCR changed and we needed to keep engaging them, I felt there was a double standard in this exchange. But I don't think that anyone actually thought that the system in Japan was not functional. We all understood that it is a functional system but we were focusing on the wrong approach. Why should we confront the government in the media? What does that bring? I thought it was a lack of understanding of the culture in Japan, and it's a lack of understanding of the culture in MOJ. People would spend their time and efforts defending their stances instead of working with you on repairing the issues. The targets become more defensive, and what you do is you lose the people that are willing to move the agenda forward, the agenda that you want and they want. So I spoke with the Representative about that, and he was a very flexible person.

Were these personal factors critical to the change? Absolutely. Of course there are personal things and I think this is a very interesting comment because that is what we spent the last four years on. The engagement process was interesting. It happened but then what do you do after that? We tried to institutionalise those changes and that was the difficult part. To communicate our issues with the government through the media would have been the easiest approach because everybody expected it. You say it to a journalist and then you are done. You spend most of your time doing the thing that you are comfortable doing from your office. You write emails and review documents and say that the civil society is not working properly and the government is not doing its job, and let's write another article, let's talk to the media. But the one that you really have to work on is to sit across from someone and try to convince his or her mentality to change. That's where I think the hard work is. So I think that's what happened when we followed the new approach.