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NOTE FROM THE EDITOR

The Centre for Documentation of Refugees and Migrants (CDR) is a research organisation and the secretariat of "Human Mobility Studies (HMS)", a series of lectures in the University of Tokyo. The CDR is charged with several tasks relating to the documentation and dissemination of information on forced displacement, and migration issues; these issues are to be considered from a broad range of disciplinary perspectives. Tasks include inviting experts including academic researchers and practitioners, governmental officers, and lawyers to discuss the pressing issues in our field of research. In addition, by the publishing of original research and information and by providing lectures and training sessions for students, the general public, and professionals, CDR is contributing to the building of a more conscious public opinion vis-à-vis having an open or closed society. Moreover, the CDR is developing an online database for knowledge accumulation and dissemination.

The publishing of this journal, the "CDRQ", is one of these tasks, and the focus of this journal is to record the activities of the CDR. The CDRQ includes records on seminars, workshops and symposia conducted by the CDR and HMS. While some of the articles published here are written by the reporters and panelists of these events, outside contributions are also welcome.

In this period, we could fortunately continue researching refugee resettlement issues in Japan, along with the process of the pilot project on Burmese refugees resettlement from Thailand. Knowing their actual situation is still difficult even for experts on this issue, especially in the case if they are not familiar with Japanese language. We sincerely hope to be the information gateway for those interested in how people can integrate with more comfort, by overcoming many differences and difficulties lying between a reception community and a refugee.

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January 2012

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REMARKS FROM DIRECTOR

It is truly an honour for us to publish an independent quarterly concerning the issues relating to the movement of people. Until now in Japan there have been no journals or magazines focused specifically on the issues of the movement of people, and which utilise a multidisciplinary approach through which to view these issues. Moreover, there have been no journals published in English, on this field in Japan. The CDRQ is the first of its kind in Japan. Although the level of discourse in Japan has developed to a point, the situation and activities in Japan have not been made well known to the rest of the world. The CDRQ will act as a doorway by which to pass through the language barrier and open the discussion in Japan to the rest of the world.

Japanese society is now facing serious decreasing of population and aging society. While it is recognised that these issues should be tackled from a multidisciplinary perspective, there has been an insufficient platform for networking and discussion until now. Discussion across disciplines and interactive information exchange connecting different fields of professionals is important not only to benefit academia, but also to make research contribute to society. The academic world should be more aware of facilitating engagement to the real world, as long as it tries to handle social issues. In this sense, I hope CDRQ to be one of the attempts to open a new frontier in discourse.

It is challenging to keep a balance between setting up an open platform for discussion and establishing an authoritative academic journal. However, I hope many of us might contribute to advancing the discussion and finding new solutions. Especially I expect those among the younger generations will propose to undertake unconventional styles of research, even though these new approaches may not be immediately complete. I strongly believe that we can improve our approach day by day, as long as we continue to try.

Yasunobu SATO

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CONTENTS

ARTICLE	1
FILIPINO MIGRANT WORKERS IN ITALY: HOW DO CULTURAL FACTORS PROMOTE FILIPINO MIGRATION TO ITALY? Junko MIURA	2
WORKING PAPERS	38
PERSPECTIVES ON THE IMMIGRATION DETENTION CENTERS' VISITING COMMITTEE: CONSIDERATION FROM THE VIEWPOINT OF SECURING TRANSPARENCY Kumiko NIITSU	39
IDENTITY ON PARADE: BURMESE DIASPORA IN JAPAN KHINE NGWE HNIN ZAW	54
ASIAN DIGEST ON HUMAN MOBILITY	72
REPORT ON QUESTIONNAIRE SURVEY OF REFUGEES AND ASYLUM SEEKERS IN JAPAN Jumpei YAMAMURA	73
THE STATE OF STATELESSNESS DISCUSSIONS IN JAPAN Shikiko MASUTOMI	95
INTERVIEW	108
INTERVIEW OF KANAKO IWASE Interviewed and translated by Shikiko MASUTOMI. Documented by Taichi UCHIO and Junko MIURA.	109
NOTES	116
DEVELOPMENTS OF HMS/CDR Satoshi YAMAMOTO	117
CALL FOR CONTRIBUTIONS	

ARTICLE

FILIPINO MIGRANT WORKERS IN ITALY: HOW DO CULTURAL FACTORS PROMOTE FILIPINO MIGRATION TO ITALY?

Junko MIURA*

ABSTRACT

Poverty is likely to produce human mobility. People who live in the less developed world often migrate to the other countries in order to find better employment. In this article, the relationship between migration and development is examined. In order to discuss this relationship, the case study of Filipinos in Italy is explored. The Philippines still continues to suffer from poverty compared to neighbour countries. Overseas Filipino Workers (OFWs) increase every year, and their remittances for families sustain the Filipino economy. In the case of Filipino workers in Italy, it is possible to explore that there are two main reasons for them to migrate to Italy. On the one hand, there are economic reasons, such as poverty, promotion from the Filipino government, unemployment and so forth. On the other hand, there may also be cultural reasons for Filipino migrant workers in Italy. The culture of both countries is based on Catholicism, which gives Filipinos a sense of family. Italy is still a popular destination among OFWs, with most Filipino migrant workers in Italy, both female and male, working as domestic helpers. There are several issues in terms of working abroad, such as abuse at employee houses, separation from children in the Philippines, and the struggle with their future decision whether or not to stay in Italy. Up to now, the Filipino government has encouraged its citizens to work abroad to maintain their economy through remittances. However, what happens to the development of the Philippines, if people never come back to the

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country. In order to reduce poverty, the policy of cultural factors might be useful, such as to establish schools of Filipinos in Italy.

I. INTRODUCTION

Usually, migrant workers come from the developing world to the developed countries. Their migration is often due to economic reasons, such as poverty. As Tyner states, 'Poverty often serves as a push factor for migration'.¹ Furthermore, to quote from Lutz, it is also said that 'Migrant domestic workers, coming to the European West and South from Eastern Europe, Latin America, Africa and Asia, leave their own homes and migrate to wealthy regions of the world where salaries exceed those of their country of origin'.² In order to consider international development, it is significant to consider the migration from the Third World to the developed world. Therefore, in this paper, I would like to focus on the case study of Filipino migrant workers in Italy.

I became interested in this topic more than ten years ago. I lived in Milan for five years with my family, when I was a child. I met one Filipino female worker there, who had been working hard for her family in the Philippines. She explained to me how poor her country was. She had two daughters in the Philippines. One of her daughter suffered from leukaemia. She was a single mother, who came to Italy in order to gain a higher salary. Even at present, her condition is still harsh in Milan. In addition to this personal experiences, the reason for choosing Italy for this case study is that Italy had the highest number of Filipinos in Europe up until 2004.³ Both countries, in addition, share the same state religion, which is Catholicism. Therefore, it could be assumed that not only economic reasons drive Filipinos to migrate in Italy, but there is also cultural motivation, such as religion and having a family network.

In the early 1970s, Filipinos began to move to Italy. However, most of them immigrated into Italy with tourist visa arriving without contracts. After 1987, agencies in the Philippines started to provide tourist visas almost all of my interviewees applied for this. As the National Statistics Office of the Filipino government shows, 35.1 percent of Overseas Filipino Workers (OFWs) in 2006 were working as cleaners, domestic helpers and unskilled workers.⁴ However, there were people who had professional skills, but they were prevented from using those skills in the country to which they migrated.⁵

In this article, I would like to examine the interaction between development and

1 Tyner 2004, 161.

2 Lutz 2008,1.

3 Philippine Overseas Employment Administrations 2007.

4 National Statistic Office 2006,vii.

5 Perrenas, 2000.

migration by using a case study of Filipino migrant workers in Italy, based on existing literature and my own field research in Milan. There are not only economic issues, but also more diverse and complicated issues, as the following citation shows. 'Once people decided to cross borders and to settle in other countries, both their personal life and that of their families they leave behind will profoundly change, not only economically, but also socially and culturally.'⁶

This article begins by providing a historical background for migration in Europe. Then, chapter 3 will discuss why Filipinos migrate to Italy in order to find the work. It will explain the economic dimension, such as the situation of the Philippines, and the interaction of push and pull factors of migration. In chapter 4, I will argue how cultural factors assist them to migrate to Italy, such as family and Christian network, and how Filipino migrants create in communities in Italy. Finally, in chapter 5 and conclusion, I will explore the various issues faced by Filipino migrants, and what can help Filipinos in their efforts to develop their country.

A. Methodology

In order to acquire the real voice of Filipino migrants in Italy, I conducted a short fieldwork in Milan for ten days, from July to August 2008. The information was mainly based on fourteen interviewees; most had been in Italy for about 20 years. The occupation of those people included domestic workers, waiters, business managers, entrepreneurs, teenage children of those workers, and concierges, who might also be categorised as domestic workers. The longer interviews lasted approximately one and a half hours, but the average length of the interviews was thirty minutes. All interviews were conducted in English and some Italian.

Principal questionnaires prepared were as follows:

1. How had they arrived in Italy?
2. Cultural adaptation.
3. Working conditions in Milan.
4. About their relatives, especially children.
5. About their own communities.
6. Future plans.

For those children of migrants aged between 19 and 22 year-old, questions were about their school lives, especially difficulties of impact of culture and learning

6 Naerssen et al 2008,2.

the Italian language.

Aside from individual interviews, I also took part in two gatherings of Filipino communities in Milan. One was a Bible study meeting of Jesus Lord Church at one Filipino home. Thirteen Filipino people participated in this meeting and the Filipino priest gave a sermon using a chapter of the Bible, which aimed at encouraging Filipinos living with harsh conditions in Italy. Another gathering of the Filipino community in which I participated was a baptism party. In order to celebrate the baptism of a Filipino baby, the community held a large party providing traditional foods. More than 40 Filipinos gathered, but no one of other nationalities attended. I will use the information gathered in the aforementioned field research as examples in order to support my argument. For privacy reasons, the real names of the interviewees are not provided. In spite of the short term fieldwork, these resources help support my argument, along with other secondary resources.

II. MIGRANT WORKERS IN EUROPE

This section will focus on the background of migrant workers in Europe. Due to its geographical conditions, migration is not rare in Europe. People can easily leave one country and enter another. Conditions in Italy and the Philippines will then be discussed.

Migration in Europe has a long history. The reason why people migrate could be the threat of war, political persecution, desire to work in urban city, having no land and so forth.⁷ Two world wars led mass migration in Europe. According to the estimation of Kosinski, 7.7 million people crossed national borders within Europe in the First World War, while 25 million people are moved especially in East-Central Europe during or after the Second World War.⁸ The main reasons why they migrated were economic and political factors. People were forced to move, or they might also take it as an opportunity to move. In many cases, this movement occurred from the places which experienced problems such as: over-population, rural poverty, and high unemployment rates. For instance, Southern Italy produced many migrants to other countries for these reasons.⁹ Post-war, because of the labour shortage in Northern Europe, the labour market required hiring people from other less-developed countries.

In the 1950s, Italy supplied a high proportion of labour in Europe. However, immediately after that, Spain, Greece, Portugal, Yugoslavia, Turkey, North Africa and the Third

7 Salt 1976.

8 Kosinski 1970.

9 King 1993.

World came to be the main suppliers in the European labour market.¹⁰ As a result, the number of Italian migrants to Central and Northern Europe was low from the early 1970s. While Italy kept sending out migrants, the number of returning people was high as well. The balance between emigration and immigration was really successful in Italy.¹¹ This is not only because the number of returning migrants was high, but also because Italy accepted migrants from Third World countries. To quote from Montanari and Cortese, 'Italy first achieved a positive migration balance as early as 1972.'¹² Thus Italy changed from a country of emigrants to a country of immigrants.

A. Immigrants in Italy and government policy

As I discussed in the previous section, Italy was a exporter of migrant labours to other European countries until the 1970s. In the 20th century, 2.5 million Italians migrated to other countries, and almost half of them migrated outside Europe.¹³ Therefore, during that period, Italy was concerned about its migrants abroad. In the late 1970s, Britain, France, and Germany began to have stricter immigration laws. Consequently, from the 1980s, a large number of immigrants have arrived in Italy. However, the Italian government had not formed a legal system to accept a massive number of immigrants. According to Montanari and Cortese¹⁴, the definition of immigrants for the Italian government were an 'individual who does not hold Italian citizenship, and who cannot be classed as tourist, a business visitor, a person in transit, a member of the diplomatic service or of the armed force of allied countries,'¹⁵ However, they also suggest that it is difficult to know the real number of immigrants, since there is also illegal or 'hidden' migration.¹⁶ My research in Milan also showed that there was no one who could come to Italy with legal permission among my fourteen interviewees. There was only one person, a relative of my interviewees, who had entered Italy legally. She received legal permission, because the Italian government required domestic workers from the Philippines, and she got the job from an advertisement. Thus, it is not easy to estimate the real number of immigrants.

However, because of the high number of immigrants, from the 1980s, the Italian government began to work on legal reform. The first migrant law was established in 1986

10 Ibid.

11 Montanari and Cortese, 1993.

12 Montanari and Cortese 1993,275.

13 Birindelli and Visco 1976.

14 Montanari and Cortese, 1993.

15 Montanari and Cortese 1993,275.

16 Ibid.

(NO.943), and was based on the French model.¹⁷ This law granted 'indemnity to foreigners living in Italy for whatever reason'¹⁸. This indemnity dated from 28 January 1987. Because of this law, 118,706 foreign residents legalised their status by September 1988. A large group was from Asian countries, which constituted 35.1percent of the legalised immigrants.¹⁹ According to the research of Carvelli and Rossini,²⁰these people were from Egypt, China, the Philippines, Morocco, Sri Lanka, Tunisia and so forth. Mainly, they got the advantage by this law in 1986.²¹ Furthermore, around 66 percent resided in Milan; among them, 23 per cent had graduated from high school, only 10 percent had no academic diploma, while 6 per cent had graduated from university.²²According to my research, many of the interviewees arrived in Italy around 1987, which is the year when the above law was implemented.

In 1990, another law, number 39, was administered. The law contained 'provisions for political asylum, the entry and residence of non-EC citizens, the legalization of the position of non-EC citizen and stateless persons already in State territory'.²³This law gave many immigrants an opportunity to be legalised; 781,000 immigrants had been legalised by this law by the end of 1990.

One of the interviewees, Elizabeth, 40 years old, could be assumed to have acquired legal permission to stay in Italy by this rule. At the time of interview, she was working as a domestic helper, and had been in Milan for 20 years with her family. She applied for an Italian visa through an agency, but she only could get a visa for Hungary.

'Firstly, I arrived in Switzerland, and moved to Hungary, because I only got a visa for Hungary through an agency. In Hungary, I joined the group of around 30 people from the Philippines. There were more women than men. From Hungary, we moved to Austria. From Austria, we crossed the border to Italy by walking through the mountains! It was really hard. Of course it was an illegal entry, but, I could get permission to stay one month later by the Italian government due to the amnesty. I was really lucky.'

Thus, the number of hidden migrants, in other words irregular migrants, dramatically

17 Food 1995.

18 Montanari and Cortese 1993,280.

19 Ibid.

20 Carvelli and Rossini 1988.

21 Foot 1995.

22 Montanari and Cortese 1993,280.

23 Montanari and Cortese 1993,281.

dropped.²⁴ At the moment, the Bossi-Fini law, which was enacted in 2002, controls the migrants, and the Italian government has strict controls for granting permission for immigrants to settle. In 2003, the number of legal foreign citizens was two million. Migrants from Ukraine and the Philippines consisted of a high number of women, because people tended to come from these regions for domestic work. For instance, there were 72,372 Filipinos, who received permission to stay in Italy, and 60.4 percent of them were women. People who stay legally in Italy have the right to bring their family. For instance, children who are under 18, or parents who have no one to take care of the children, are admitted to come together. Migrants from the Philippines tend to bring all of their family because, based on the culture of Catholicism, it is important for them to have connections with their family.

III. FILIPINO MIGRANT WORKERS IN ITALY

Despite the long distance between the Philippines and Italy, numerous Filipinos work in Italy and contribute significant labour power. According to the speech of Charito Basa, who belongs to the Filipino Women's Council in Italy; Filipinos in Italy are the thirteenth largest migrant community.²⁵ Furthermore, the third largest group of women migrant workers in Italy consists of Filipinos. Why is the number of Filipinos so high? This section will examine the background of the physical or economic reasons which have led them to decide to come abroad especially to Italy. In contrast, the next section will discuss cultural factors, which also push Filipinos to Italy as their destination.

A. Filipino migrant workers around the world :

Why Filipinos have to work abroad

It is said that the economy of the Philippines has been sustained by the labour power of migrant workers. Large numbers of Filipinos decide to work abroad. Furthermore, Filipinos speak English, which might lead them to work in other countries more easily. To quote from Abella, 'History more than geography has equipped Filipinos with easy access to labor markets in other parts of the world because they can speak English'.²⁶ This section will discuss several possible factors which push Filipinos to work abroad.

24 Montanari and Cortese 1993.

25 Charito Basa 2007.

26 Abella 1992, 22.

(a) Poverty

Firstly, the essay will focus on the general condition of the Philippines and the main reasons why people are required to find jobs abroad, despite the high risks and harsh life they may encounter. One of the main reasons is simple, which is poverty. According to Tyner, poverty often leads people to migrate as it becomes a push factor.²⁷ Carino also states that people are likely to keep migrating if their economic condition does not change, in order to find employment and sustain the economy of the country.²⁸

According to my field research in Milan, data shows that most Filipino workers came to Italy for work because of poverty in the Philippines. Kevin, 55 years old, has three jobs, and is working as a manager of an apartment in the morning, a domestic helper in the afternoon, and an office worker in the evening.

'I am working in Milan, because the Philippines is a very poor country, and it is very difficult to find a high salary job. The Filipino government has collapsed, so they take all money from us, so we cannot be rich. In the future, I would like to go back and be rich in the Philippines, so I will not go back to the Philippines until I retire from here.'

Not only Kevin, but almost all interviewees stated that the reason for coming to Italy was poverty in the Philippines. 'Undoubtedly, if the level of economic development of a country's economy is unable to grow fast enough to meet the needs of its people, to sustain the growth, and to provide employment, migration is likely to occur and to continue for as long as economic conditions do not change.'²⁹ If people live in a country which is affected by poverty, working abroad can alleviate their condition.

(b) Condition of the Philippines

The Philippines, a country located in South East Asia, consists of more than 7,100 islands. It was under Spanish colonial rule from 1521 to 1898, and by the United States from 1898 to 1946. It is an ethnically diverse country, and over 150 languages are spoken in the Philippines. It is the only Catholic country in Asia; 90 percent of citizens are Catholic, and the rest of them are Muslim or Animist.³⁰

The population growth rate in the Philippines is extremely high, and the population

27 Tyner 2004.

28 Carino 1998.

29 Carino 1998,21.

30 Tyner 2004.

has been growing 2 percent every year. In terms of economic conditions, the Philippines is recognised as much less developed than its neighbouring countries, such as Singapore, Malaysia, and Thailand. The bad balance of economic condition and population in the Philippine produce the poverty condition. For instance, in 1997, 37 percent of population lived below the poverty line. As of 2009, poverty headcount ratio at the national poverty line still accounted for 26.5 percent. Gross National Income per capita in the Philippine is USD 1,790, which is 1/26 of USD 46,360 in the United States³¹. The National Statistics Office reveals that the growth rate of GDP was 5.1 percent in 2005³² and it was 3.8 percent between 2008 and 2009.³³

As described above, due to the insufficient economic conditions, Filipinos started to move abroad to find employment.³⁴ The wages are much higher in other countries. For instance, the wages in Japan are 16 times the wages in the Philippines.³⁵ Gulati notes that the economic conditions for the last three decades in the Philippines led Filipino women to migrate abroad. In spite of high literacy, which shows 95 percent derived from the latest census in 2008³⁶, the Philippines still remain in very poor condition when compared to neighbour countries.

Most of OFWs are well-educated and skilled workers.³⁷ For instance, numerous doctors and nurses have left the Philippines, and work abroad to earn higher salaries, which have a negative social impact. Due to the migration of medical professionals, medical system in the Philippines is facing a crisis.³⁸ There is difficulty for hospitals to secure doctors and nurses, and companies also face problems in gaining skilled workers.³⁹ The economy in the Philippines is dependent on remittances from migrant workers, so the government promotes citizens to work abroad. However, on the other side, it has negative effects on the domestic social system.

(c) Overseas Filipino Workers (OFWs)

Despite the lack of protection for migrant workers, one out of ten Filipino people

31 World Bank, 2011.

32 National Statistics Office 2006.

33 National Statistics Office 2010.

34 Carino, 1998.

35 Abella 1992,23.

36 World Bank, 2011.

37 Abella 1992.

38 The Japan Institute for Labour Policy and Training 2006.

39 The Japan Institute for Labour Policy and Training 2004.

would like to have the opportunity to work overseas⁴⁰, as so-called Overseas Filipino Workers (OFWs). In this part, I will describe the circumstances of OFWs, such as their history and their distribution. Currently, numerous Filipinos are working abroad. Tyner states that 4 to 5 millions of Filipino migrant workers are estimated all over the world, although the government reports less. Furthermore, every year, 1 million Filipinos migrate overseas in order to find employment and economic chances.⁴¹

The survey on OFWs by the National Statistic Office in the Philippines provides 'estimates on the number of overseas Filipino workers, including contract workers and their socio-economic characteristics as well as amounts of cash and in kind transfers received by the families.'⁴² Overseas contract workers and people without work permits working on a student or visitor visa, are included in the number of OFWs. According to the survey report, the number of OFWs was estimated at 1.52 million in 2006, and it increased to 1.9 million in more than 190 countries by 2009, and 98.8 percent were overseas contract workers (OCWs).⁴³ In fact, most Filipino migrant workers in Italy seem to work with shorts unstable contracts. The case of Kevin, who has been working in Italy for more than two decades, might be a typical example of OFWs. He works at three different places in one day. All of them are part time jobs, as apartment manager, domestic helper and business assistant. Other Filipinos are also likely to have two or three jobs at the same time, which are contract work.

40 Tolentino 1996.

41 Tyner 2004, 161.

42 National Statistics Office 2000, iii.

43 Carmelita 2010.

Table 1. Deployment of OFWs by Top 10 Destinations
New hires and Rehires, 2009

1	Saudi Arabia	291,419
2	Unites Arab Emirates	196,815
3	Hong Kong	100,142
4	Qatar	89,290
5	Singapore	54,421
6	Kuwait	45,900
7	Taiwan	33,751
8	Italy	23,159
9	Canada	17,344
10	Bahrain	15,001

Created by author, data derived from sources provided by the Philippine Overseas Employment Administration.⁴⁴

In terms of the destination of OFWs, the top destination is Saudi Arabia. As of 2009, one out of five, 21.6 percent, of OFWs have been working there. It shows an extremely high number among the top ten destinations. Italy is the only European country, included in the list.⁴⁵ United Arab Emirates, Hong Kong, Japan, Taiwan, and Singapore are also popular countries for OFWs. 9.5 percent of people are working in Europe, which is a little bit higher than the percentage of people working in North and South America (9.2 percent).⁴⁶ As Table 1 shows, Italy is ranked 8th. Among European countries, Italy had the highest number of Filipinos until 2005 when the UK exceeded it. As figure 1 shows, in 2003, the estimated number of Filipino migrants in Italy was extremely high and accounted for approximately 70 percent of OFWs in Europe.⁴⁷

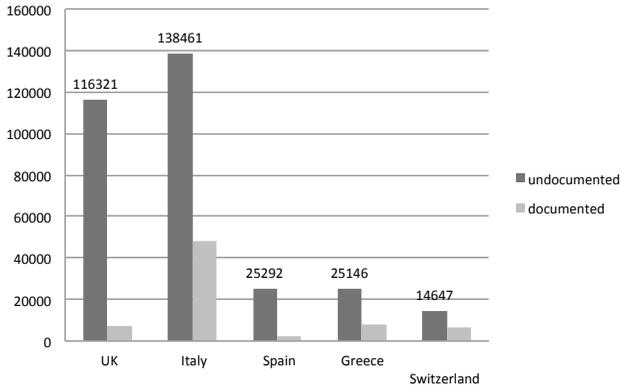
44 Philippine Overseas Employment Administration 2011.

45 Carmelita N. Ericta, 2010.

46 National Statistic Office 2006, vii.

47 Philippine Overseas Employment Administration, 2003.

Figure 1: Stock estimate of OFWs in Europe, 2004



Created by author, data derived from the Commission on Filipinos Overseas.⁴⁸

As two of my interviewees said that they were working in Saudi Arabia before coming to Italy about 20 years ago, there might be an easier network to find work there, given its long history as a receiving country. Their destinations seem to be decided with no strong reasons except networks. Most of interviewees, when asked about the reason they chose a particular country gave the answer, that they already had relatives there, who could support them. They seemed to have no definite reason to choose Italy as the destination. The following interview shows how a woman arrived in Italy. Anne, 47 years old, is working as a domestic worker in an Italian family. She has been in Italy since 1986.

'I didn't come to Italy directly from the Philippines. Firstly, I was working in Saudi Arabia, but since husband of my cousin, who already had job in Milan, told me that the wage in Italy is much higher than in Saudi Arabia. So, I decided to come to Italy, but I did not have money to come to Italy, so I had been working in Saudi Arabia for three years. In Saudi Arabia, my salary was only USD 200 per month, although my employer was very rich. When I came to Italy, I first arrived in Switzerland, but I was arrested by the police, and they tried to repatriate me to the Philippines. They put me to stay in a hotel overnight, so I fled from them. Finally I was able to enter Italy through a land route.'

48 Commission on Filipinos Overseas 2011.

(d) Filipino government

According to Tyner, in terms of the feature of Filipino migrant workers, it is a little different from others such as Mexican migrants in the United States.⁴⁹ The Filipino government is positive about sending emigrants from their country. 'In the Philippines, the government actively supports-indeed encourages- the out-migration of its citizens.'⁵⁰ Furthermore, overseas employment is a political issue in the Philippines. There are a lot of social costs, which mostly affects female workers.⁵¹ Many Filipinos emigrated overseas, because of 'the overseas employment policy of the Philippine Government.'⁵² In addition, the government tried to encourage people to have diverse skills and backgrounds of labour. Those people who moved overseas for work had started to be recognised as 'New Heroes'. To quote from Ogaya, 'The fascination for economic upward mobility that this is thought to entail is captured by the term Bagong Bayani that means New Hero.'⁵³ The priest, during the Christian meeting which I observed, also explained that

'We, overseas Filipino workers, are said to be New Heroes, because we are supporting the Filipino economy. We should feel proud of it although we are working as domestic workers.'

Tyner states three reasons why the Filipino government encourages people to work abroad. Firstly, it is said that overseas employment will decrease, because of decreasing demand for domestic workers. In Third World countries, high unemployment is a serious problem. Secondly, contract labour migration will bring higher skills from industrialised countries to developing countries. Therefore, the government would like citizens to learn skilled work overseas. The last reason, which is the main reason, is that the Filipino government expects remittances, sending money to the families in the Philippines.

The national income and savings in the Philippines are sustained by the remittance income of migration workers. The higher remittance from i.e. migrant workers contributes to the higher national savings and income, which creates less pressure of inflation. For instance, around 20 years ago in 1988, when most of my interviewees migrated to Italy, 15.5 percent of families in the Philippines received income from families who were working abroad. The percentage of remittance income constitutes 30 percent of their

49 Tyner 2004.

50 Tyner, 2004,162.

51 Ibid.

52 God 2000,27.

53 Ogaya 2006,119.

total income.⁵⁴ This shows that there is an enormous impact on the Philippine economy by OFWs.

These factors have led to the dispersal of many Filipino migrant workers around the world. As the interviews show, Filipino migrant workers mostly have their family in other countries as well. Suzan, 37 year-old, who came to Italy in 2004 to live with her businessman husband, said that her mother, 70 year-old, is working as an elderly care in Rome. Elizabeth, 40 year-old, who is working as a domestic worker and living with her children and husband, explained that her sisters are working abroad as well. One of her sisters used to work in Italy, but moved to Australia, where her husband had a job.

B. Filipino domestic workers in Italy

According to the National Statistics Office, in 2006 there were more female Filipino overseas workers than male workers. While the number of female workers was 764,000, the number of male workers was stated at 751,000. Furthermore, the young female workers account for a large percentage of OFWs. Almost one third of female overseas workers, or 28.8 percent, were between the ages of 25 and 29. The age group between 15 and 24 comprised the 14.7 percent, which means almost half of the total of female overseas workers were younger than 29.⁵⁵ Most female workers in Italy, whom I interviewed, started working overseas around the age of 22.

According to Lutz's argument, domestic work is one of the main occupations for migrant women.⁵⁶ Domestic workers, in Italy are mainly from the Ukraine, Romania, the Philippines, Poland, Ecuador, and Peru.⁵⁷

(a) Demand for domestic workers

In recent times, the demand for domestic workers has increased, because a lot of women desire to work outside the home in the developed countries. There is always a balance between demand and supply in the labour market. There is a tendency for migrant domestic workers, who are from Asia, Africa, Eastern Europe, and Latin America, to choose to go to Western Europe because of the higher wage.⁵⁸ According to Lutz, 'Migration theorists often suggest that this is just another market relationship, created by the so

54 Abella 1992,30.

55 National Statistics Office 2006,vii.

56 Lutz 2007.

57 Chaloff, 2005

58 Lutz 2008.

called 'supply and demand' balance, which has been used as an explanation for migration movements for a very long time.⁵⁹ However, he emphasises that this issue is not only related to the interaction between labour supply and demand, but is strongly related to gender issues. Especially the relationships between the employers and employees, who are categorised as domestic workers, are not simple, but emotional and personal. Obviously, this point is different from other employment issues.⁶⁰ To quote from Lutz, 'Migration policy in the European Union has always been dominated by the so-called needs of the labour market. However, gender norms were always deeply inscribed in the definition of these needs.'⁶¹

For example, West Germany had a system called 'guest worker'. This system was established because the government preferred German women to stay in their homes instead of participating in the labour market.⁶² Due to the shortage of labour, the government encouraged the acceptance of immigrants as a labour force from the middle of the 1950s. From 1955 to 1968, the government made a policy in terms of the recruitment of female Gastarbeiter ('guestworker') from eight Mediterranean countries such as Italy (1955), Spain and Greece (1960), Turkey (1961), Morocco (1963), Portugal (1964), Tunisia (1965) and Yugoslavia (1968).⁶³ From the mid-1950s, the work force became smaller, due to the longer period of education and the conscription system. Based on its family policy the West German government desired to avoid increasing the number of mothers working full-time, hence pushing non-working housewives into the labour force. In addition, it was not easy to fill all the vacancies only with German women. Consequently, the number of female migrant employees increased. Most of the female foreign workers, nearly 90 percent, worked as unskilled workers.⁶⁴ This might be referred to as domestic workers, which includes health service, hotels, restaurants, and refectories. To quote from Erdem and Mattes, 'No doubt the West German recruitment policy helped to sustain and stabilise a hierarchical and gender-segregated labour market.'⁶⁵

In Italy, a lot of married women have to acquire job opportunities outside the home. Although they have children, a lot of women do not stop working full-time.⁶⁶ Considering the balance between care work and work outside the home, some European countries, such as Spain, Italy, Greece, Britain and Ireland, started to welcome migrant do-

59 Lutz 2008,1.

60 Ibid.

61 Lutz 2008,6.

62 Kofman et al 2005,6.

63 Erdem and Mattes 2002,168.

64 Erdem and Mattes 2002,170.

65 Erdem and Mattes 2002,171.

66 Perrenas 2005.

mestic workers.⁶⁷

According to anthropological research, performed by Brettell and Debregeois, the relationship and social roles between men and women affect migration. Both of them require social roles, which they must follow. If this happens, children must live separately from their parents.⁶⁸ This is because parents have various difficulties to bring children, mostly due to concerns about their education.

(b) Filipino female domestic workers : 'de-skilling'

In many cases, Filipino female migrant workers are likely to have double life experiences between their migrant country and the country of origin. At the same time, their migration is not permanent, but a temporal migration.⁶⁹ Not many Filipino female migrant workers think of migrant work overseas as career progress or an opportunity to acquire new skills. They grasp working overseas as 'de-skilling'.⁷⁰ Especially domestic workers consider it as 'downward mobility'.⁷¹ According to Ogaya, temporal migrant workers migrate only to earn money and get economic power, which leads to success after returning to their country.⁷²

According to an interview during my research in Milan, Elizabeth, 40 year-old, was working as a domestic helper in Italian houses. She came to Italy in 1994, so she had been in Milan with her husband and two sons for 14 years.

'There are a lot of Filipino people who have professional skills. I know people who were working as dentists and doctors in the Philippines, but they are working as domestic helpers here in Milan.'

Furthermore, Kristine, who is Elizabeth's friend, has a nursing qualification in the Philippines, but she did not choose to work as a nurse in Italy. At the moment, she has been working as a manager in an apartment, which is the way she could get free housing to live with her family. She has been working as a manager since 1991. She said :

67 Lutz 2008.

68 Mobasher, and Sadri 2003.

69 Ogaya 2006.

70 Ogaya 2006,117.

71 Ibid.

72 Ibid.

'I decided not to use my professional skill as nurse, because this work provides me free housing. In terms of salary, working as a nurse and caretaker is almost the same around 1200 euro a month. Working as a nurse is irregular. Sometimes, I have to work at midnight too, which may make it difficult to spend time with family and hospitals do not provide free housing with the same salary. Therefore, I prefer to work as a caretaker here.'

As these interviews shows there are a lot of Filipinos who have professional skills but have no choice but to work as domestic workers. They give up using their skills, which supports the idea of 'de-skilling' by Ogaya⁷³. According to Tamaki, a lot of OFWs come from the working class, who have worked in sales, service, agriculture and so forth.⁷⁴ In addition, they are mainly classified as the new middleclass, who work as specialists, administrative officials and engineers. The discussion in this section applies not only to female workers, but might also explain the situation of men as many of them are also working as domestic workers.

IV. HOW DO FILIPINOS CREATE COMMUNITIES IN ITALY?

In the previous section, I discussed the general conditions of Filipino migrants and the economic reasons, which push them to be migrant workers. In contrast, in this section, will discuss how Filipinos create communities in Italy. After my research in Milan, I realised that it was hard to find a Filipino migrant worker who had no relatives living near by. In other words, everyone already had relatives, who had been working for a long period, and they get support from family in their search for work. Furthermore, both the Philippines and Italy are Catholic countries, which might make Filipinos feel somewhat at home in Italy. According to Parrenas, Filipinos migrate to the United States for economic reasons, but the people who choose to migrate to Italy insist on cultural reasons.⁷⁵ Her essay shows that 'While the United States maintains economic dominance in relation to the Philippines, Italy enjoys cultural dominance indirectly through the institution of the Roman Catholic Church.'⁷⁶ There were interviewees who mentioned cultural similarities between Italy and the Philippines. One of the women, who has been in Italy for more than 20 years working as a domestic worker, said, 'I like Italian people, because they are friendly and open to Filipinos. I think that both Italians and Filipinos have hospitality, which is based on the Catholic doctrine.' In this section, will discuss the

73 Ogaya 2006.

74 Tamaki 2001.

75 Parrenas 2000.

76 Parrenas 2000, 565.

cultural factors, which lead Filipino migrants to Italy.

A. Family ties

Migration takes place not only for economic reasons but people are likely to migrate because of the presence of a family network. As Tilly states, 'the effective units of migration were neither individuals nor households but sets of people linked by acquaintance, kinship, and work experience.'⁷⁷ Furthermore, not only individuals decide to migrate, but also kinship and gender roles push them to migrate. 'Migration decisions are not taken individually, but relations, such as households, kinship systems, patron-client relations and gender roles, which constrain their autonomy and individual decision-making power.'⁷⁸ Social networks among families and friends affect decision-making on migrants whether they work abroad or not.⁷⁹ Migrant networks are explained as "sets of interpersonal ties that connect migrants, former migrants, and nonmigrants in origin and destination areas through ties of kinship, friendship, and shared community origin".⁸⁰ Douglas Massey first suggested the idea that networks in migration can be considered as a social capital which permits migrants to access economic significance such as employment.⁸¹ According to Massey et al, migration networks "...convey information, provide financial assistance, facilitate employment and accommodation, and give support in various forms".⁸² Well-developed migrant networks make "emigration a reliable and secure source of income".⁸³ These theories may also apply to Filipino communities in Italy, as they have a family strong network. In this section, the advantage and disadvantage of family ties for the Filipino migrants will be discussed.

(a) Strong family networks of Filipinos

It is clear that family networks give a lot of advantage for Filipinos in terms of working abroad. Strong family networks allow Filipinos to easily go abroad, and helps them to choose destinations, employment and housing. There was only one person among my

77 Tilly 1990, 79-75.

78 Naerssen et al 2008.

79 Faist, 2000.

80 Massey et al 2010, 79.

81 Massey 1987.

82 Massey 1998, 42-43.

83 Massey et al 2010, 79.

fourteen interviewees, already who had no relatives in Italy at all. The other thirteen people I met in my research had relatives in Italy when they had arrived. Most of them have more than one family member such as husband, wife, cousins and children. They are likely to depend on family network in terms of going abroad, getting a job, finding houses, and so on. In this chapter, the Filipino network based on family ties will be discussed.

In order to acquire a job, Filipinos rely on family network as well. One of the interviewees, named Jenny, 43 year-old, said:

'I came to Italy in 1993 when my husband died in a car accident. I started working in Milan, because my sister and her husband helped me to find a job.'

Thus, kinship for Filipino migrants is significant in their life in Italy. The way Filipinos create communities in Italy seems strongly related to their kinship system in the Filipino culture. To quote from Florencio, 'Filipinos are believed to be very family-oriented and to have strong family ties.'⁸⁴ The relationship between migration and the Filipino cultural kinship system helps to create their community in Italy.

Thus, there are not only economic reasons to migrate to one place. As my interviews show, I met more than 30 people in the Filipino community, but there was no one who did not have family or relatives in Milan. Every person had at least one, but mostly they had many relatives such as brothers, sisters and cousins. This shows that migrants are bound strongly by family connections as Tilly shows.⁸⁵ Communities of migrants have been created by family networks. As Vertovec explains, 'Migration is a process that both depends on, and creates, social networks.'⁸⁶

(b) Remittances for family

The Filipino migrants tend to work in order to send money to their children or families in the Philippines. Most Filipino migrant workers, not only those who are living in Italy, but also those working in other countries, send some money to their family every month. For instance, Kristine, 45 years old, was sending 60 Euros to her elder brother, because he had no job in Manila at this time.

'I am sending money with my husband to my brother. He used to have work, but after our parents passed away, he was too depressed and stopped working.'

84 Florencio 1995,V.

85 Tilly 1990.

86 Vertovec 2002.

Therefore, we have to send money to him. It is quite difficult because every time my family in the Philippines needs money, such as nephews, nieces, and other relatives, they always ask us to send money. We cannot say 'no' to them, so sometimes I feel burdened by this situation. We also need to spend money on my daughter and family here.'

Anne, who had been working in Milan for more than two decades, was working only for her family. She had neither children nor a husband, but she decided to work abroad in order to sustain her family. She said,

'I would be rich if I was working only for myself. But I would like to support my family in the Philippines. This is my life. I am working only for family.'

Thus, strong family networks seem to be the burden of Filipino migrant workers. A remark from a Filipino woman in London, by Christian Institute for International Relations, showed it clearly as well.

'Look at me now, I'm old already and I still have to send £100 a month home to educate my nieces and nephews. How could I get married?... I got the opportunity to come to Britain and it is my duty to help my family.'⁸⁷

Elizabeth, 40 years old, had just started to live with her son in 2006. His son was 20 years old and grew up in the Philippines with his grandparents. Therefore, Elizabeth had to send money to her parents' home every month. After her son came to Milan, she stopped sending money to her parents monthly, but she is still sending money sometimes to family in the Philippines.

Due to family ties, they make remittances to their relatives in the Philippines. Sending money to parents and children seems understandable, but for other relatives, it seems unique to the Filipino family culture. They would like to work for their families, and Filipino communities seem to support each other. However, it also seems that families of migrant workers tend to ask for help easily, so OFWs might feel burdened by them. It seems that burden is put on their shoulders by family ties.

B. Network within Christian activities

There are significant cultural similarities between Italy and the Philippines. Due to the colonial history, the Philippines was Christianised by Spain. Christianity for Filipino

87 CIIR 1987,58.

people seems significant. To quote from Shirley, '...development of The Philippines identity was shouldered by the Catholic Church, which arrived in the Philippines as a result of the Spanish push...'⁸⁸ The culture of Catholicism in the Philippines could be one strong motivation to come to Italy. One of the interviewees said that she wished to come to Italy because of Catholicism, although she had relatives in other countries as well, and had other choices.

As the demand for domestic workers in Italy increased, the Catholic Church started to support migrant workers. It has a great network over the country, and organisational services, as well.⁸⁹ The Catholic Church has a significant role in terms of supporting migrant workers in Italy, especially from Catholic countries. In this section, I will describe to the role of Catholic Church and the identity of Filipino migrant workers within Christianity. Firstly, a brief background of Catholicism in the Philippines and how Christianity in Italy assists migrants from the Catholic countries will be explored. Finally, the examples of how Filipino migrants in Milan create community within Christianity will be discussed.

(a) Christianity in the Philippines

The dominant religion in the Philippines is Catholicism. Due to its history of colonisation in the 16th century, the Philippines was Christianised by Spanish Catholicism, and American Protestantism.⁹⁰ The history of Christianity in the Philippines began with the Spanish arriving in 1521. During the colonial time of Spain, the Philippines turned into a Christian country. Spain started to dominate the Philippines culturally using Catholicism. Shirley explains the domination using Christianity as hegemony. 'While Spain used military and economic power to dominate the country physically, it turned to the Catholic Church to establish cultural and political hegemony.'⁹¹ The Spanish strongly emphasised Christianity during colonisation. After the United States assumed control the Philippines in the 19th century, America promoted the idea of liberty in the Philippines, such as democracy, Protestantism, and the separation of church and state. However, Filipinos still would like to be a part of the Christian church, which influences the idea of politics as well.⁹² This definitely leads Filipinos to keep their identity in Christianity.

88 Shirley 2004,9.

89 Scrinzi 2008.

90 Howell 2007.

91 Shirley 2004,9.

92 Ibid.

(b) The role of the Catholic Church in Italy

Filipinos appear to get various forms of support from the Catholic Church and they tend to be involved in several activities by Christian organisations. In this section, I would like to examine how Catholicism assists Filipinos in Italy. The Catholic Church assisted the internal migrants from country side to cities: it also started to support immigrants in the 1960s who came from Catholic countries.⁹³ According to Andall, Acli Colf, which is based on Catholicism, is the most significant national organisation of domestic workers. It was established in 1946.⁹⁴ At that time, Italy did not receive many immigrants yet, so Acli Colf assisted in the improvement of the system of migrant worker registration. Furthermore, in the 1970s, domestic workers had much better working conditions, because it approached the labour unions.⁹⁵

The Catholic Church assisted female migrants from former Italian colonies in East Africa, such as Ethiopia. Scrinzi suggests three main motivations the Catholic Church in terms of supporting migrant domestic female workers.⁹⁶ Firstly, the mission of the Catholic Church was to send domestic workers to Italy.⁹⁷ The second motivation for the church was that, traditionally, it assisted single women, who perform domestic work for instance in private houses. Those women are taken into account as vulnerable people.⁹⁸ Therefore, based on the church's traditional role, it has a network and missions, which lead volunteer activities.⁹⁹ Through those supporting activities, organisations based on churches provide assistance not only getting jobs and work-permits, but they also provide support for housing, religious activities and so forth. It seems like that Catholic Church considers that domestic work has a significant role in the social functioning in terms of gender perspective. To quote from Scrinzi, "Catholic network", domestic work is perceived as having an important gendered social function, and, indeed, is seen as suitable work for women, as it supposedly appeals to their "natural" skills.¹⁰⁰ Furthermore, assistance by the Catholic Church might have the role of developing and reminding religious morals and values in their employer's houses.¹⁰¹

Thus, in Italy, informal networks based on the Catholic Church are significant, and

93 Scrinzi 2008.

94 Andall 2000.

95 Ibid.

96 Scrinzi 2008.

97 Campani 2000.

98 Sarti 1994.

99 Scrinzi 2008.

100 Scrinzi 2008,37.

101 Scrinzi 2004.

have an important role regarding social policies, employment, and immigration.¹⁰² Furthermore, Palidda states that the role of NGOs to support immigrants became important as well.¹⁰³

As Scrinzi notes, '...the Catholic church and non-profit organisations influenced by the church play important roles in the definition of the normative frame work within which conflicts between political actors are played out.'¹⁰⁴

(c) Filipino communities based on Christianity: Two Filipino communities in Milan

In this section, the ways in which the identity of Filipino migrant workers is sustained by Christianity will be discussed with analysis of examples of Filipino communities in Milan. There were two chances to see the gathering of the Filipino community. Those examples show how Filipinos create their own networks in Milan, northern Italy.

Case 1: Baptism Party

The first Filipino community gathering that I participated was a baptism party. In order to celebrate a Filipino baby's baptism on the 3rd August 2008, the community held a big party, called Happy Christening, providing traditional Filipino goods. There were more than 40 Filipinos at the gathering, but no other nationalities. They did not have any formal invitation but people brought friends or family into the party and introduced each other. It seemed that they took the opportunity given by Catholicism to expand their Filipino network and community. However, there is an argument that the Filipino community is marginalised. It was clear that there was not even one Italian or other nationalities present although it was a Catholic occasion.

Case 2: Jesus is Lord Church

Another example clarifies how Christianity helps Filipino migrant workers, especially working with the status of domestic workers, to sustain their identity. The event was a bible study home meeting of Jesus is Lord Church, a Christian, but non-Catholic group. One of the interviewees, and most of their relatives were practicing this form of Christi-

102 Scrinzi 2008.

103 Palidda 2000.

104 Scrinzi 2008,38.

anity. The main difference of doctrine with Catholicism is that they only believe in the Bible and God. They do not believe in the existence of the Virgin Mary or the Archangel. Fourteen Filipino people participated and the Filipino priest gave a sermon using a chapter of the Bible in Tagalog. This time, the meeting was conducted in English to accommodate me. It seemed that he gave encouragement to Filipinos living in hard conditions in Italy.

Sermon of Jesus Lord church

'According to the Bible chapter of Luke 16-19, The Rich Man and Luzans, there are two types of men. This shows that the rich man, who had a physically happy life, could not go to heaven, but the beggar, who had no money in his life, could go to heaven because of having his faith in God. The Rich man also could have the chance to go to heaven if he would have faith in God and distribute his wealth to the poor. If you look 'Filipino' up in the Oxford dictionary, it shows domestic worker and helper. The dictionary describes about us like this. Although we cannot get a high status and wealth, we should not look us valueless person. Even if our life is beggarly we should feel gratitude to God. God knows us.'

The faces of the Filipinos, who were gathering there, seemed very pleasant despite their harsh life in Milan. Most of them were relatives, or friends, who have supported each other. One Filipino lady, 43 year-old, explained that she feels happy about her life. Thanks to Jesus, she got this kind of job. Their children also participate in the activities of a youth Christian group activities.

Furthermore, there was also a network between these two communities. Coincidentally, my interviewee from the first community and another interviewee from the second community, were already very close friends through Christian activities, although they live relatively far from each other. There was already a network within these Christian activities in Milan.

These examples show that Filipinos create identity and community based on Christianity and it is clear that they are supported mentally by Christianity. In the Philippines, practicing Catholicism is important for their life. It is especially significant for their life in Italy, working as domestic workers.

V. ISSUES ON FILIPINO MIGRANT WORKERS

A. Working as domestic workers

Filipino migrant workers, especially domestic workers, face several challenges since their jobs are unstable and invisible. According to Tyner, '...the dilemma of the Philippines international labour migration is a balance between capital accumulation and the provision of basic human rights.'¹⁰⁵ Anne, a 47 year-old, stated that there were many problems in terms of working as a domestic worker:

'I heard that many Filipino migrant workers face problems working in houses. Some people are working in houses, but are never given their salary. Even worse, some people cannot even get food. There was news that one Filipino woman committed suicide in Hong Kong.'

The problems of working as a domestic worker are often invisible. The interviewee said that it often happens that employers do not regard them as humans, but they treat them as if they are animals. One of the interviewees said that in Italy they treat them as equals, because of shared religious culture. To quote from Tyner, 'In 1989, the Philippine government also addressed the case of 300 Filipinas who, while in Lebanon, had their passport confiscated and were forced into prostitution.' It shows the example of abuse and problems of domestic workers as well.¹⁰⁶

B. Children of OFWs left behind in the Philippines

Due to the phenomenon of Filipino migration, there are many people who have had to work abroad to educate their children. They must leave their children in the Philippines, and these children must live without their parents.¹⁰⁷ It seems that as the number of OFWs increases, the number of children left behind may also increase. Once parents leave their home, they are not likely to return to the Philippines for a long time. To quote from Parrenas, 'In the Philippines, thousands of children grow up spending little time around their parents. Labor migration has as its consequence the rise of split-apart

105 Tyner 2004:162.

106 Ibid.

107 Parrenas, 2006.

households...'.¹⁰⁸ Many of my interviewees left their children in the Philippines, and their parents or relatives take care of these children. One can easily imagine that there are many children who feel lonely growing up without their parents. In the case of Marco, he stated how he felt lonely when he was a child. He was 20 years old in 2008, and had been in Italy since December 2006, because his mother, Elizabeth, invited him to come to Milan. He was studying psychology at university in the Philippines, but decided to quit and come to Italy. It was the first time for him to live with his parents.

'It was a really difficult time living without my mother and father. It was the hardest time for me. I missed my parents a lot. My mother left me just a few months after I was born. I used to live with my cousins, whose parents were also working abroad, in Hong Kong, and Australia. I have one 10 year-old brother, who was born in Milan. He speaks and acts exactly like Italian people, so I feel a bit weird.'

In some cases, parents cannot return to the Philippines to see their children, because of their migrant status. According to Parrenas' research sample, there are more mothers who have no legal status, undocumented or without visa than fathers.¹⁰⁹

Why do Filipino migrants leave their children, and do not bring them abroad? Another interviewee mentioned education for their children. She preferred her children to have an education in the Philippines. Jenny, a 43 year-old, explained why she left her children in her country:

'I was thinking to bring my children to here, but I decided not to. The First reason is that I have no money to raise them here. The second reason, which is the main reason, is education. Now, English is important, but English education is much better in the Philippines than Italy. I thought that it is better for my children to come to Italy only for vacation. In the Philippines, to graduate university is very important, otherwise we cannot get a good job. I could not finish studying because I was pregnant. Recently, my son finally obtained his BA degree.'

Alternatively, it is possible that parents are working abroad in order for their children to have a quality education. In the Philippines, public school is not of higher quality, so parents want their children to go to private schools.¹¹⁰ In order to raise the necessary tuition, children are required to live without their parents for a long time.

108 Perrenas 2005,161.

109 Perrenas 2005,32.

110 Ibid.

C. Struggling with the future: to return home or to stay?

The more time Filipino migrant workers spend in one country, the more they struggle to return to the Philippines after creating strong Filipino social network. Furthermore, second generations, born and educated in Italy, make it more difficult to return.

For Filipinos who have been in Italy for more than a decade, it seems very hard to go back to the Philippines. Of course, many of them would say, including my interviewee that they would like to return to their homes after they retire. However, there were also reasons why they would like to stay in Italy even after retirement. Filipinos, who have been working in Italy for a long time, already have a higher standard of living concerning social and medical services.

According to Elizabeth, a 40 year-old, it is quite a difficult decision whether she would like to stay in Milan or not.

'I am not sure whether I will go back to the Philippines, or not, because my children were born in Milan, and they might wish to stay here. If so, I would like to stay with them, so I am not sure about it.'

Kristine, who has been in Italy since 1986, stated that

'I have not decided yet to return to the Philippines, after I retired, but I prefer to stay in Italy, because, in the Philippines, there is severe poverty and there is no peaceful life. There are no jobs in Manila. The family ties are strong, which is good, but at the same time I do not feel free, and have to send the money to the relatives whenever they desire it'

Filipino migrant workers are used to being temporary workers, as Ogaya argues.¹¹¹ At first, perhaps most of them did not plan to stay permanently. However, after spending a long time abroad, they might begin thinking of staying in Italy. Most of the people among my interviewees have been working in Milan for two decades. Two of them said that they already bought a new flat. Elizabeth, who had been working in Milan since 1989, had just bought a new flat, and seemed extremely happy. John, who had been in Milan since 1987, also purchased two flats, was renting out one of his flat. He explained:

'If I have my own flat here, my daughter will be able to stay in Italy. I would like to return to the Philippines after I retire, but I keep these flats for my children.'

He had two children who were born in Italy. Elizabeth also has a child, who was

111 Ogaya 2006.

born in Milan. Other interviewees, who have children in the Philippines and do not have any wish to stay in Italy permanently, do not have their own flats. Thus, they struggle to return to the Philippines even if they have family and enough social networks in Italy. However, this might have a negative effect on the economic growth of the Philippines itself. As a consequence, the remittances by OFWs sustain the Filipino economy,¹¹² which might interfere with the development of Filipino society. For instance, professionally skilled workers such as nurses and doctors keep migrating overseas, which is leading to a crisis in the medical service in the Philippines.¹¹³

VI. CONCLUSION

A. Popular destination country among OFWs, Italy

This article has discussed the relationships between migration and poverty, using the case study of Filipino migrant workers in Italy. The country is one of the most popular destinations for OFWs. In fact, Italy was located in eighth by National Statistics data in 2006. Furthermore, Italy still shows the highest number of the residents of Filipino migrant workers among European countries, which were around 150,000 in 2003. As of 2009, Italy still has the second largest number of Filipinos. Thus, despite the long distance between the two countries, there are numerous Filipino migrant workers in Italy. Based on this background, I have discussed why Filipino people came to Italy, and how the Filipino community has been created.

B. Economic and cultural factors of migration

One might say that there are two main factors which push Filipinos to migrate to Italy. First, there are economic reasons for Filipinos to move overseas. Poverty in the Philippines is still a serious issue. The imbalance between economics and high population growth rates contribute to the continuing poverty in the Philippines. According to the National Statistics Office of the Philippines, the unemployment rate was high at 11.4 percent in 2006¹¹⁴, but it is still 7.4 percent as of 2011 in addition to its low GDP per capita.¹¹⁵ The Filipino government expects remittances of Filipino Overseas Workers to

112 Gonzalez 1998.

113 The Japan Institute for Labour Policy and Training 2008.

114 National Statistics Office 2006.

115 National Statistics Office 2011.

sustain the economy of the Philippines and contribute to the GNP.¹¹⁶ Thus, on the one hand, poverty and economic advantages lead the Filipino government to push Filipinos to work in abroad. On the other hand, Italy also has a labour demand, especially for domestic work. Due to shortages of labour, many women started to work full-time. However, the existence of care takers was still significant, which was an idea based on Catholicism.¹¹⁷ Therefore, the demand for domestic workers increased in Italy, which created spaces for Filipinos to move there. Hence, those push and pull economic factors lead numerous Filipinos to migrate to Italy.

Secondly, cultural factors push migrants to specific countries. In this case, cultural factors, such as family ties and Christianity can motivate for Filipino migrant workers to come to Italy. Due to the background of Spanish and American colonisation, the Philippines has a strong culture of Christianity.¹¹⁸ According to Florencio, traditionally, there are strong family ties in the Philippines. Filipinos seem to expand this strong family network into a social network, creating their own community.¹¹⁹ This case study shows that the Filipino community is based on a family network, which assists them in seeking employment and sustains their social life. Another cultural pull factor for migration is Christianity. As Italy is a Catholic country, Filipinos might find Italian culture somewhat familiar, as well. Some interviewees expressed the opinion that, to some extent, the cultures of the Philippines and Italy are similar. As the Japan Institute for Labour Policy and Training research shows, Filipinos tend to migrate with their whole family because their family values based on Catholicism.¹²⁰ The Italian government also has the values to admit it, which is also based on family values of Catholicism. Filipinos create their community based on Christianity as the field research illustrated.

As the aforementioned discussions illustrate, it can be said that there are not only economic reasons to be a migrant worker, but there are also cultural factors, which give them motivation to choose a specific region.

C. Issues for the future

There are several issues for Filipino migrant workers. As was discussed earlier, many Filipino workers are categorised as domestic workers. Although they have professional skills in the Philippines, most of them do not use these skills in Italy. This makes them

116 Gonzalez 1998.

117 Scrinzi 2008.

118 Shirley 2004.

119 Florencio 1995.

120 The Japan Institute for Labour Policy and Training 2003.

feel de-skilled,¹²¹ and they are also likely to face abuse, because of the invisibility of domestic workers in their workplace. There are also issues in terms of children in the Philippines. According to Parrenas, there are many children who are living without their parents in the Philippines.¹²² Many interviewees have left their children and decide to educate them in the Philippines. There are also parents, who want their children to attend a quality private school rather than a public school and thus, work abroad in order to earn their children's school expenses. In the end, staying abroad for a long period makes migrant workers struggle. Among my interviewees, most of whom have been in Italy for two decades, there were two types of people. On the one hand, they would like to return to the Philippines right after retirement. These people are likely to have left their children in the Philippines and have less of a family network in Italy. On the other hand, some are struggling with the decision of whether to stay in Italy or not. Those people tend to have children who were born in Italy are more involved in the Italian culture, and have already purchased their own houses. Finally, if skilled Filipinos continue going abroad, what will happen to the development of the Philippines? In order to develop the Philippines itself, it is important for OFWs to return before retirement. This issue needs to be further addressed in the future. According to one of the successful Filipino businessmen in Milan, he answered my question of 'what kind of policy would you like to have in order to improve the conditions of Filipinos in Italy?':

'We need a Filipino school for children. You have a Japanese school in Milan, which is good, because you can maintain your language, culture and ideas. But we do not have a Filipino school here. Filipinos are originally very intelligent, but we do not have a chance to study. We want Filipino schools in Italy!'

Indeed, if they have a school for Filipinos, it might be much easier to return to the Philippines after finishing education and having gained skills in Italy. In migration from the developing world to developed countries, cultural factors play an important role. In the long term view, it might contribute to the reduction of poverty and development in the Philippines.

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121 Ogaya 2006.

122 Parrenas 2006.

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WORKING PAPERS

PERSPECTIVES ON THE IMMIGRATION DETENTION CENTERS' VISITING COMMITTEE: CONSIDERATION FROM THE VIEWPOINT OF SECURING TRANSPARENCY

Kumiko NIITSU *

ABSTRACT

In July 2010, 'the detention centers' visiting committee' system was newly established in the immigration control centers in Japan, to conduct monitoring as a third-party independent organization under the Ministry of Justice. For the sake of guaranteeing the effectiveness of assessing and monitoring human rights abuses in immigration centers, it is important to thoroughly fulfill accountabilities. This paper gives an overview of this newly introduced 'visiting committee' system, and attempts to achieve 'transparency' in the undertaking, thereby seeking ways for future development.

I. INTRODUCTION

Japan has not seen any substantial increase in the number of recognized refugees under the domestic determination process in recent years, but since September 2010 it

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has started to accept refugees under the third-country resettlement programme.¹ We can infer that a new movement in Japan's refugee administration has started to advance gradually. Furthermore, in the summer of 2010, "the detention centers' visiting committee" system was newly established in the immigration control centers in Japan,² to conduct monitoring as a third-party independent organization under the Ministry of Justice. There has also been a movement for securing transparency in immigration detention centers, while it continues to reflect upon further improvement. Referring to the existing system in overseas organizations, I would like to reflect upon the future system, by analyzing the structure and processes of this new monitoring committee. Usually, immigration control centers are open places in the sense that they have direct relation with foreign countries. In fact, they are quite the opposite in nature: hidden and invisible from the outside. Thus, it goes without saying that the centers could be vulnerable to human rights violation.³

Therefore, the maintenance of transparency is the most important factor related to the existence of detention centers. I would like to reconsider this newly introduced "visiting committee" system in the hope of achieving greater "transparency" in my discussion by focusing my attention on the nature of closed doors.

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- 1 In 2009, the total number of the asylum seekers who applied for refugee status in Japan was 1388, of which 30 were recognized as refugees, and 501 were granted special right to stay in Japan based on humanitarian considerations. Although the number of special permits granted on humanitarian consideration was the highest ever, the number of recognized refugees fell: 30 recognized refugees persons in 2009 from 57 in 2008, 41 in 2007, 34 in 2006, and 46 in 2005. The number of persons granted special permit to stay on humanitarian consideration was 501 in 2009 as opposed to 360 in 2008, 88 in 2007, 3 in 2006, and 97 in 2005. See Ministry of Justice's Immigration Bureau, "The number of refugees recognized in the year of 2010" as of February 26, 2010. It is also worth noting that Japan accepted 11,000 Indochinese refugees after the Vietnam War. See UNHCR 2009.
 - 2 In Japanese, Nyukoku kanri shisetsu shisatsu iinnkai, established on 1 July, 2010.
 - 3 Similar domestic institutions which tend to have backroom characteristics would be as such; prisons, detention houses, police custody cells, Self-Defense Forces' facilities, etc. Not only public institutions but also private ones such as the closed ward of mental hospitals are likely to have the similar nature.

II. WHAT IS THE DETENTION VISITING COMMITTEE?

1. Legal Grounds and Purpose

In conformity with the provisions of the Immigration Control and Refugee Recognition Act and the Ordinance for Enforcement relative to the Act whose amendments were enacted on 15 July 2009, legislation for an establishment of the “visiting committee” in the immigration detention centers was newly decided.⁴ The visiting committee sends representatives to Immigration Centers to have an interview with detainees and meet the director and staff; the committee will express its opinions based on the result of interviews for the purpose of not only the security and transparency of guards and the treatment of detainees, but also improvements on administration of Immigration Detention Centers. The committee was established on 1 July 2010.

2. Object Centres and Jurisdictional Area

There are 22 object centers throughout Japan, which include three immigration control centers,⁵ 16 detention centers under the jurisdiction of Regional Immigration Bureaus including their branch and district offices,⁶ and three departure waiting centers inside the airports.⁷

There are two Committees established within the Ministry of Justice: one is the East Japan Detention Visiting Committee and the other is the West Japan Detention Visiting Committee, which are under the jurisdiction of the Tokyo Regional Immigration Bureau and the Osaka Immigration Bureau. The East Japan Detention Visiting Committee is in charge of detention houses located in the eastern part of Japan – the East Japan Immigra-

4 Immigration Control and Refugee Recognition Act, originally enacted on 4 October 1951; last amended on July 15, 2009. The Provisions of Article 61-7-2 stipulate that an Immigration Detention Centers Visiting Committee is to be established at Immigration Control Centers, provided for by the Ordinance of the Ministry of Justice.

5 East Japan Immigration Control Center, West Japan Immigration Control Center, Omura Immigration Control Center, total of three.

6 The total number is sixteen; Regional Immigration Bureaus in Sapporo, Sendai, Tokyo, Nagoya, Osaka, Takamatsu, Hiroshima, Fukuoka; District Immigration Offices in Narita Airport, Yokohama, Chubu Airport, Kansai Airport, Kobe, and Naha plus Branch Immigration Offices in Shimonoseki, and Kagoshima.

7 There are three departure-waiting centers of the district offices at Narita, Chubu, and Kansai airports.

tion Control Center and Regional Immigration Bureaus of Sapporo, Sendai, and Tokyo, and a departure waiting center in Narita Airport, as well. The West Japan Detention Visiting Committee is in charge of the detention houses located in the western part of Japan – West Japan and Omura Immigration Control Centers, Regional Immigration Bureaus of Nagoya, Osaka, Hiroshima, Takamatsu, and Fukuoka, and departure waiting centers in Chubu Airport and Kansai Airport.

3. Committee Members' Composition and Terms of Office

The east and west visiting committees are composed of less than ten members each who take charge of the inspection. The members are appointed by the Minister of Justice, with a term of office of one year, and can be reappointed. The chairman is elected by the committee among its members, and presides at the meetings.⁸ Regarding selection of committee members, it must not be biased in favor of persons such as specific occupational groups and organizations; this is in order to keep the election from being an arbitrary choice. Referring to the Criminal Visiting Committee, an independent organization which was established earlier in Japan to monitor the prison custodies,⁹ the committee members are elected from intellectual persons from various fields such as academic experts, judicial officers, medical personnel, and international organization staff.

The method of selection should not be based on an arbitrary decision, and selected recommendations over official and external organizations.¹⁰ The committee is composed of ten members each for the east and west areas. The members include scholars, lawyers, international organization staffs, local town inhabitants, but the method of selection is not officially announced.¹¹ The tenure of office is one year from the beginning of July until the end of the following June, and reappointment is possible.

8 Article 61-7-3 of the Amendment of Immigration Control and Refugee Recognition Act “The nature of the committee is defined as follows: Minister of Justice appoints the committee members with high levels of integrity, insight and enthusiasm for the improvement of the administration of the immigration detention centers.”

9 In Japanese, Keiji shisetsu shisatsu iinkai, established on 24 May, 2006.

10 The Ministry of Justice’s website, “The reform of the Immigration Control and Refugee Recognition Act brings a new residential status control system: 5. The creation of the detention visiting committee” (in Japanese only).

<http://www.immi-moj.go.jp/newimmiaact/koumoku5.html>, accessed January 17, 2011.

11 According to the author’s interview with a member of Backup Committee for the Immigration Detention Centers’ visiting committee by the Japan Federation of Bar Associations, on Jan. 24, 2011.

4.Call of Meetings and Its Progress and Provision of Information

The chairperson calls a committee meeting, and for a meeting to be held and where votes are required, attendance of a majority of committee members is needed. At the committee held at the beginning of a fiscal year, the immigration authorities provide the Committee with all available information, and other relevant materials.¹² The information the immigration authorities provides does not only contain the number of detainees, capacity of accommodation, management system of the immigration center, but also the situation of measures actually taken to detainees' hygienic and medical treatments, the situation of interviews, communications, and claims of the detainees, and as well as their administrative status in the centers.¹³

5. A 'Proposal Box' System

"Proposal Box" is installed so that transparency of communications may be secured between detainees and the Committee; letters in the box are opened by the committee charged with opening the letters in the box as a general rule. To what extent confidentiality is guaranteed will be the most interesting issue. According to the persons concerned, the proposal box is locked, and the heads of immigration centers hold keys; the boxes themselves are opened in front of the committee members, which seems to keep confidentiality as mentioned. However, because of the basic character of immigration detention centers, those documents are mostly written in foreign languages, and they are translated by the Ministry of Justice;¹⁴ the actor involved in translation receives requests like improvement of ill-treatments. Under those circumstances, unnatural and delicate situations exist. Besides, the system is not well known to the detainees¹⁵ and even if they drop a letter in the box, there is insufficient guarantee that they would not suffer any disadvantages, and a notification system is not applied as a rule. Furthermore, it takes too much time to reach the hands of the committee through red tape steps such as time-consuming translation, and slow recovery of the opinion box at regular intervals; this

12 Article 61-7, Amendment of the Immigration Control and Refugee Recognition Act.

13 Op.cit. Note.9.

14 In fact, the staff of Administration Office who are different from the Correction Bureau arrange for translation of the documents collected in Centers; although one translates letters outside one's jurisdictional area, it is clear that that is in fact happening inside the administrative unit of the Ministry of Justice.

15 Upon admission and after admission, no explanation regarding the opinion box was made to any detainees in particular, but it became known by word of mouth. (Author's interview with an NGO concerned, 14 January, 2011).

progress in practice causes such a problem, as it is unable to cope with consultations of great urgency. Realistic problems related to confidentiality during translation and transport under urgency, can be improved to some extent by securing additional budget and staff by installing an independent external executive office.

6. Actual Visits and Interviews, and Inspection Reports

The committees responsible for the areas of east and west visit the centers, may have an interview with the one who express a request.¹⁶ After finishing the inspection, each committee makes a "Report on Inspection Results" including their own opinion once a year, and submit it to the directors of Immigration Centers, from June to July within his or her tenure of office, and it is by no means open to the public.

In response to the contents of the reports, the Minister of Justice compiles a Report of Activity Summary pertaining to the measures actually taken by the directors of immigration detention centers, and publicizes an outline of the relevant issue, provided for by Amendment of Immigration Control and Refugee Recognition Act.¹⁷ The number of visits in a year and the way to proceed with the interviews are left to the discretion of people in the field. The number of visits and procedures is still undecided by law.

7. Securing the Effective Use of Advice and Reports of the Committee

Advice of the Committee regarding the system's improvement in the visiting centers, and its annual reports are not legally binding, but how far do they have an effect? The following provides an instance, ensuring that the Committee's report provides some impact as seen in the Diet deliberations, which was discussed upon the establishment of

16 Article 61-7-4, Amendment of Immigration Control and Refugee Recognition Act.

17 Article 61-7-5, Amendment of the Immigration Control and Refugee Recognition Act.

the visiting committee.¹⁹

II. CIRCUMSTANCES OF THE VISITING COMMITTEE'S ESTABLISHMENT

In the first place, what led to the establishment of the Visiting Committee System? Let us look at the background by analyzing the Diet Deliberations. It would be considered that the establishment of the Visiting Committee is largely attributed to recommendations provided by the U.N. Human Rights Committees. More particularly, in reviewing States parties to the International Covenant on Human Rights (ICCPR) held in 1998, the Government of Japan was provided a conclusive observation (par. 9 and 10) stating clearly that it should set up an external and independent body so as to investigate all complaints of ill-treatment by immigration officials. Furthermore, as immigration control system in Japan is concerned, an "Appeal System" was actually introduced in 2001 but it could not carry out its function adequately. There were numerous critical reports that the system no longer works properly and that it is merely functioning in name;²⁰ hence under those circumstances it may have some connection with the establishment of the Immigration Detention Centers' Visiting Committee in Japan. Furthermore, the effect of the U.N. Committee against Torture's session in Geneva in May 2007 should not be ignored; when considerations were given to reports of States parties, the Torture Committee made conclusive observations to the Japanese Government including the absence of a system for independent oversight in immigration related centers and lack of mechanism for external and independent review of individual complaints by detainees. As a matter of fact, it is highly inferred that the recommendation had a strong link with the establishment of the

19 The Lower House, Committee on Justice, 30 June 2009, proceedings are as follows: Katsuyuki NISHIKAWA, Director-General of the Immigration Bureau: "...It's for aiming at improvements on transparency of guards, treatment in the facility concerned, and also its administrative operation, so anyone certainly can state opinions... Accordingly it's impossible that the opinion stated to the center's chief was disregarded, I think the statement should be thoroughly guaranteed."Konno AZUMA (Democratic Party of Japan): "The proposal on the improvement can be adopted as an opinion? After all, is that possible?" NISHIKAWA: "Such the system is possible as a matter of course and it's desirable".

20 For example, see Yamamura 2007.

Visiting Committee in Japan.²¹

Moreover, we also should not forget the fact that the Optional Protocol to the Convention against Torture went into effect in 2006. Japan has not yet ratified the Optional Protocol, but the States Parties are obliged to perform their duties: to sustain, designate, or establish a national preventive mechanism against torture, according to Article 17. There is much room for Japan's ratification of the Optional Protocol in the near future as it has already ratified the Convention against Torture itself, and upon the establishment of the Visiting Committee System the influence of the fact that the Protocol has entered into effect would be difficult to deny.²² Additionally, the U.N. Human Rights Council should be considered. During the Second Universal Periodic Review on May 9, 2008, concerning the human rights situation of Japan, the Working Group of delegations from Britain, Luxembourg, Albania, Mexico, and Brazil unanimously asked Japan for ratification of the Protocol that provides for the establishment of an international and national cooperative system of regular visits to places of detention carried by independent international and national bodies (i.e. the Subcommittee of the U.N. CAT monitors detention centers such as prisons, police stations, immigrant centers, and mental institutions) in the state parties to the Protocol, for the purpose of improvements on treatments in the centers.

Among others, influential in the establishment of the Committee System in Japan, the Committee on Judicial Affairs of the Diet made the following arguments and proposals regarding the application system for recognized refugees and the detention centers. There were also remarks from active judicial officers, NGOs, and scholars, as well as their persistent and continuous lobbying activities in and outside the country, and reports of mass media. As anyone can imagine, the mixture of the aforementioned events be-

21 Concluding Observation toward the Government of Japan by Committee Against Torture, May 18, 2007, CAT/C/JPN/CO/1 Clause 14- The Committee is concerned that certain provisions in domestic law and practices of the State party do not conform to article 3 of the Convention, and in particular: (d) The lack of an independent monitoring mechanism for immigration detention centers and landing prevention centers, and in particular the lack of an independent agency to which detainees can complain about alleged violations by Immigration Bureau staff members.

22 Article 4 of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, defines as below: 1. Each State Party shall allow visits, in accordance with the present Protocol, by the mechanisms referred to in articles 4 and 1 to any place under its jurisdiction and control where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its

came the foundation of the new system establishment.²³ In addition, the Penal Institutions Visiting Committee (introduced in 2006)²⁴ under the Ministry of Justice, independent and external monitoring agency the earliest introduced in the prison, and Detention Visiting Committee (introduced in 2008)²⁵ under the National Police Agency, independent in the police station, contributed to the process. In fact, existence of those committees had a big influence as previous models in introducing an inspection committee system into immigration centers.

As a matter of fact, when the Immigration Bureau of the Ministry of Justice established the managing structure of the visiting committee in the immigration detention centers, they especially referred to the predecessors' experiences as to the organization's composition, operation, and personnel arrangement in the criminal visiting committee²⁶ in the Correction Bureau under the jurisdiction of the Ministry of Justice. The criminal model was put to good use to a considerable extent, and was actually imitated. Thus, multiple factors were ultimately integrated into a successful foundation towards introduction of the system.

III. UNITED NATIONS, REGIONAL HUMAN RIGHTS MECHANISMS, NATIONAL MONITORING SYSTEMS

What kind of mechanisms do we have for addressing the human rights violation in particular to groups such as: refugees and applicants at immigration detention center, or

23 For instance, Mr Shoji ICHIKAWA, lawyer and the former member of refugee examination counselor, as a guest speaker at the House of Representatives Committee on Justice on November 8, 2005, remarked "Finally, I think that there is a positive respect in this amendment to the law. First of all, U.N. Committee against Torture recommended the establishment of the Visiting Committee for Immigration Detention Centers to the Government. However, to make such a committee work as a real third-party, it is necessary to make it have sufficient authority, personnel independence, enough budget, and qualified specialties. Therefore, I suggest at least some committee members would be selected from among lawyers who receive the recommendation from bar association, to ensure specialties and independence. I appreciate if you refer to my advice, as Penal Visiting Committee has already applied the same."

24 Op.cit. Note 10.

25 In Japanese, Ryuchi shisetu shisatsu iinnka, established on 1 June, 2008.

26 Regarding the operation of the inspection committee, see the following books: Takano 2010 and Tagusari 2008.

other immigrants? According to the International Detention Coalition, IDC,²⁷ a group of international human rights NGOs, there are four levels to consider for the detention monitoring and human rights mechanisms. These are: 1. International Mechanisms 2. Regional Mechanisms 3. National Mechanisms 4. Local Mechanisms.

Among all, I would like to look into the Optional Protocol on the Convention Against Torture from among the mechanisms in the United Nations, and the British and French national systems as pioneering national monitoring systems.²⁸

1. Mechanisms in the United Nations: Especially Optional Protocol on the Convention against Torture

First of all, the Optional Protocol on the CAT was adopted in the U.N. Economic and Social Council on 24 July, and sent to the General Assembly, and entered into force on 22 June, 2006 after getting the necessary numbers of signature.²⁹ The protocol establishes the periodical visiting system toward detention centers, and functions on the principle that it is impossible to prevent torture or inhumane treatment in any detention centers without inspectorate system from outside.

In particular, through the cooperate monitoring work of these two organization; subcommittee on the Prevention of Torture which is the subordinate agency of the Convention, and each member state's human rights protection agencies with monitoring system mainly made for the prevention of torture, secure the contents.³⁰ This Optional Protocol took the monitoring mechanism of the European Convention for the Prevention of Torture as a model. Its jurisdictional areas cover the whole public detention center system and they are not only immigration control centers but also police detention custodies, criminal detention centers, psychiatric hospitals and so on. It defines that periodical and interim visiting is required, and if necessary, the subcommittee could function as

27 The IDC is an international coalition with a membership base of more than 200 non-governmental organizations, faith-based groups, academics, practitioners and individuals working in 50 countries globally. Coalition members research, advocate and provide direct services to and on behalf of refugees, asylum-seekers and migrants. Established in 2006. The main office is located in Australia. Members in Japan are Amnesty International and Japan Association for Refugees.

28 To build up a whole torture prevention mechanism, the book below introduces and analyzes well of the present situation around national human rights monitoring situation of Op. CAT member states. Kuwayama and Kaido 2009.

29 As of 21 February 2011, there are 67 signing states and 57 ratifying states.

30 On the Optional Protocol on Convention Against Torture, see: Imai 2004, 165. Kuwayama 2011.

a recommendation body for improvement in the United Nations under the Convention. At the same time, it also states that the ratified states should have a domestic organization which has a similar function for inspection.³¹ Japan has not ratified so far.

2. Systems in Other Countries, Focusing on UK and France

Among various styles of national inspection systems in the world, this section briefly outlines the contrasting two systems of the UK and France; the former has a long history and the latter was more recently established. The British system, called "Her Majesty's Inspectorate of Prisons for England and Wales" targets a full range of detention centers, including immigration controls, as is the same in the case of CPT.³² In detail, the British prosecution system comprises of three mechanisms: 1) Penal Institution Visiting Committee, consisting of a group of experts, 2) Visiting Committee, organized by local people, and 3) the Ombudsman system.³³ Among these three systems, this section especially focuses on the Penal Institution Visiting Committee.

In Britain, the independent Panel Institution Visiting Committee was initially established in 1980, within the Interior Ministry, but did not belong to the Department of Administration of Punishment.³⁴ The inspections of the Committee are categorized into two types: full inspection and follow-up inspection.³⁵ The former has both cases with and without advanced notices, but the latter does not have any advanced notice. In the full inspections, 8 inspectors on an average, consisting of more than 5 inspectors in addition to some experts, conduct inspection, for 5 days over more than 100 investigation agen-

31 Op. CAT Article 17 (National Preventive Mechanisms): Each State Party shall maintain, designate or establish, at the latest one-year after the entry into force of the present Protocol or of its ratification or accession, one or several independent national preventive mechanisms for the prevention of torture at the domestic level. Mechanisms established by decentralized units may be designated as national preventive mechanisms for the purposes of the present Protocol if they are in conformity with its provisions.

32 HM Chief Inspector of Prisons (HMCIP) is statutorily responsible for the regular inspection of all prisons in England and Wales, approximately 140, all 10 immigration removal centers (IRCs) in England, Wales and Scotland, approximately 30 short-term holding centers (STHFs), and immigration escort centers. Cited in Inspection Manual 2008, Her Majesty's Inspectorate of Prisons for England and Wales, 14.

33 Concerning the system of inspectors in the UK, see Doi, 2004.

34 The first prison inspectorate was appointed in 1835.

35 Hereinafter, the details of prescription are referenced from Inspection Manual 2008, Her Majesty's Inspectorate of Prisons for England and Wales.

das. Night inspections (conducted from 21:00 to 6:00) are also required for the full inspection. With regard to follow-up inspections, the investigations are shorter than full inspections and conducted without exception within 3 to 5 years after full inspections have taken place. All the immigration centers have to be inspected at least every 3 years.

Reports are compiled after the inspections, submitted to the Minister of Interior and become open to the public within 5 months. The reports describe detailed situation of the centers based on the findings of the inspections and also contain recommendations for improvement. The reports on each center are also released on the website, so that the public can have access through the Internet. This means that the access to those reports is also guaranteed for media and inmates. The reports describe the situations of the centers in detail (more than 100 pages per center inspected). In addition, annual reports are also submitted to the Minister of Interior and made available to the public in the same manner.³⁶ Although the recommendations in the reports do not have any legal binding force, the improvements of the situations according to the recommendations are to be assessed frequently in the follow-up inspections, so that they are considered as *de facto* binding.

Furthermore, when the inspections are conducted, there are some indexes that specialize in immigration control centers. The indexes, which are over 150-page long, cover rights to be protected in immigration centers.³⁷ What is worth noting is that the indexes include the conservation of diversity through the promotion of its further understanding in immigration detention centers in order that inmates are not discriminated against regardless of their sexual orientation, ethnic group, nationality, culture, religion and possession of disabilities. During the inspections, these points have to be checked through interviews to staff members and inmates.³⁸ In addition, a broad range of concrete points to be checked in inspections are listed, such as whether the control of temperature in rooms is appropriate and free access to water and other beverages, medical care, "Diversity" service of translation for legal documents and ordinary life and mental care are ensured.

In France, the system of Inspection Committee for Immigration Centers was established very recently: "Contrôleur général des lieux de privation de liberté," which was inaugurated in 2007. This system is based on Article 1 of the Laws Concerning the Prevention of Abuses in Detention Centers (passed on 30 October, 2007), which was established after the ratification of the Optional Protocol of the Convention against Torture.³⁹ Some distinctive aspects of this system are: the inspections cover all detention-related institutions; that is, not limited to Immigration Centers but also police stations, mental

36 <http://www.justice.gov.uk/inspection/hmi-prisons/immigration-removal-center-inspections.html> , (Accessed February 20, 2011).

37 Expectations 2007, HM Inspectorate of Prisons, 2007.

38 Ibid, pp. 45-52, section 4.

39 Here, mainly referenced with Suzuki 2009.

hospitals, and prisons (Article 1); independence of the Committee is ensured (Article 2); inspections take place without advanced notice (Article 8); submission and disclosure of reports after inspection (Article 9); and an independent budget is secured (Article 13). It is said that this French system is modeled on the British system to some extent.⁴⁰ As with the Japanese case, the French system was only recently established, and this national system of inspection will therefore draw more attention in the future.

V. CONCLUSION

This article described visiting systems of international organizations and inspection systems of foreign countries. In this section, the case of Japan is revisited in order to conclude this article.

In Japan, the national Visiting Committee is the only official third party institution, which assumes an obligation for preventing and monitoring human rights abuses concerning immigration. It is because, first of all, in Japan there is no independent human rights committee, and also because no Asian regional human rights mechanism exists at present. In addition, Japan has not ratified the Optional Protocol of the Convention against Torture, which is another reason for this situation. Due to this, the new system of the national Visiting Committee in Japan is required to work as a more highly functioning system like other countries such as the UK and France.

In addition, for the sake of guaranteeing the effectiveness of assessing and monitoring human rights abuses in immigration centers, as noted in this article, it is important to thoroughly fulfill accountabilities. The existing system clearly shows that it is of utmost importance to make it clear to what extent the rights of inmates are ensured and confidentiality is guaranteed, how the claim of complaints is processed and when the complaints are responded. Furthermore, firstly, the information gained by the Committee should be made open to the public - though minimum confidentiality is required - in order to ensure access by everyone, and secondly, active dialogue with staff members of immigration centers should be encouraged.⁴¹ Previous cases show that exchanging opinions, not only with people concerned outside of the immigration centers, but also with the people inside the immigration centers helps with more effective information sharing and improved transparency. However, according to the report by the International Detention Coalition, currently one of the most significant challenges for immigration control centers in the world is that functions of monitoring to the centers do not exist at all or,

40 Suzuki 2009, *Ibid*, 12.

41 Especially in the UK, Inspection Manuals give instructions to have dialogue with centers in the process of preparation, and beginning and the end of the visiting. Inspection Manual 2008, Opt.ct. Note.35.

vehemently limited. As this report demonstrates,⁴² the inspection of immigration centers is a highly challenging issue worldwide.

Presently, the inspection system in Japan is in its embryonic stage, and it would be impossible to expect it to function perfectly. However, it is of great importance to make the system gradually improve for accomplishing the objectives of its establishment. Because there are some countries which already succeeded in consolidating and implementing the same systems abroad, further consideration for previous cases in those countries is very useful in the process of improving the Japanese system, as this article suggested. In addition, as Andrew Coyle⁴³ points out, inspection systems cannot be fully completed by only national.⁴⁴ Therefore, it is not difficult to anticipate that Japan will also face that sooner or later, and it has to consider the ratification of the Optional Protocol of the Conventions against Torture.

Not only satisfied by the establishment of the system per se, Japan also needs to invest in the system in order to achieve its initial goals and continue to make improvements in the future. Conducting expert research and effectively sharing information of previous case studies are tasks to be addressed by both practitioners and researchers in order to build matured systems.

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42 Hambgling and Mitchell 2010.

43 Dr Andrew COYLE, Emeritus Professor of Prison Studies in London University and systems and it is desirable to complement them by systems of regional organizations and international human rights organizations.

44 The ways of monitoring: 1. Civil society involvement as a form of security, 2. Independent lay monitoring, 3. Independent inspections by the authority itself, 4. Inspection by regional and other inspection mechanisms.

Coyle states that it is ideal that these ways of inspection systems exist together and complement mutually. Coyle 2002, 111.

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IDENTITY ON PARADE: BURMESE DIASPORA IN JAPAN

KHINE NGWE HNIN ZAW*

ABSTRACT

As many as ten thousand Burmese people live in Japan. Many have come to Japan for better employment and living conditions. They do, however, live ostensibly on “borrowed identities”; identities that belong to nationals of other countries and somewhat fortify the Burmese against discrimination. Not only do these Burmese struggle with their new 'borrowed' identities, they are also swathed in the complexity of their cultural identities. Identity-consciousness is most heightened as a result of cultural contrast and, reconciliation of one's identity in a foreign country is imperative in overcoming foreignness and encountering the culturally incongruous. Japan's systems are notorious for being unaccommodating to foreigners. This continues at a stage where Japanese economy and society are increasingly dependent on foreign presence and labor. This paradox is creating anthropological and psychological dilemmas leading to many nationals of countries, like Myanmar, to counterfeit their identities and trudge through lives that are not their own. This paper unveils aspects of the human turmoil of the existence of the Burmese diaspora in Japan amidst the tussle of their cultural, 'borrowed' and Japanese identities.

I. INTRODUCTION

To reconcile one's identity in a foreign country is crucial in overcoming foreignness and encountering cultural discordance. As a result of cultural contrast, identity-consciousness (self-awareness) is most heightened. For decades, many people have accepted that once they are in a foreign land, they are obliged to adopt the culture of that land and forget utterly about the culture of their origin to curtail their alien identities. They would eventually risk losing their cultural identity in such circumstances. It did not take long for them to realize that the premise of risking to lose their citizenship and iden-

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tity do not make them “one of a kind” and that they have to overcome adversity in getting integrated into the society they have immigrated.

Migration, whether voluntary or forced, has always been a characteristic of individual and collective human behavior. People cross borders for various reasons: to work, to visit family, to escape violence, and natural disaster, to seek an education or medical care, or to return home. For many decades, the migration of Burmese people to foreign countries have taken place with a bundle of reasons and, Burmese diasporas represent a significant number of 53.5 million² Burmese population.³

Burmese living abroad can be categorized into two major groups: exiles and expats. Exiles or refugees, who have fled from Myanmar for political reasons, do not mingle with expats or immigrant workers, who have left Myanmar for economic reasons, and vice versa.⁴ Whether they are legal passport-holders or overstayers, from their arrival in Japan, they seem to face prejudice and discrimination that could happen anywhere in the world.

Together with the nostalgia for home, these migrants often reflect on their experiences, searching for answers that might bond together fragments of self. In shaping and reshaping within them is a world of emotions formed through the inner struggle of survival in a foreign and often hostile environment. Their endeavor in adopting new identities has been a very common tactic in fitting into the Japanese society.

Knowing that this approach is not sustainable in the long run, the Burmese diaspora continues to strive for the acceptance of their cultural identity in Japan while not knowing how long their identities will be on the parade. This paper aims to elaborate the lives of Burmese diaspora in what they described as borrowed identities and analyze the effects of transnationalism on the diaspora.

II. Diaspora: A Journey to Transnational Identities

A. Diaspora

The concept of diaspora, although old, has recently taken on new dimensions. The traditional connection of the term “diaspora” to the migrant experience has, during the

2 CIA World Fact Book 2011

3 Unofficial data show that more than 12 percent of Burmese population live outside of Myanmar.

4 Burma Digest. Great Expectations; Against the Reality of Burmese Diaspora <http://burmadigest.wordpress.com/2006/06/11/great-expectations-against-the-reality-of-burmese-diaspora/> (published 11 June 2006)

last two decades, become an area of more systematic and cross-disciplinary study. Whereas the concept of diaspora was initially concerned with relatively small populations in the Mediterranean area, today it applies to the whole world with almost every ethno-cultural group having its own diaspora.⁵

The term “diaspora” refers to the geographical dispersal of ethnic groups, which, though separated from the cultural centre, live as ethnic minorities within the boundaries of a culturally different society. These ethnic groups move between two reference groups and between two cultural systems and as a result they form their identity under quite specific circumstances.⁶ The word “diaspora” is derived from its equivalent Greek word, which derives from the verb *speiro* (to sow) and the preposition *dia* (throughout).⁷

For the ancient Greeks, “diaspora” implied migration or colonization. For others such as Jews, Armenians, Palestinians and Africans, however, it has a harsher interpretation, as it represents life in exile due to eviction from the homeland. According to Cohen (1997), there are five kinds of diaspora: Victim (e.g. Jews, Armenians), Labor (Indian, Chinese), Trade (Chinese, Lebanese), Imperial (British) and Cultural (Caribbean).⁸

Diasporic communities which “settled outside their natal (or considered natal) territories, acknowledge that “the old country”- a notion often buried deep in language, religion, custom or folklore -always has some claim on their loyalty and emotion”. Diasporic identities are ‘networks of transnational identifications encompassing “imagined” and “encountered” communities’.⁹ Diasporas emerge out of migrations of collectivities, whether or not members of the collectivity travel as individuals, as households or in various other combinations.

Diasporas are places of long-term, if not permanent, community formations, even if some households or members move on elsewhere. The word diaspora often invokes the imagery of traumas of separation and dislocation. But diasporas are also potentially the sites of hope and new beginnings. They are contested cultural and political terrains where individual and collective memories collide, reassemble and reconfigure.¹⁰ The sociological and anthropological approach to diaspora describes it as a set of communities that possess distinguishable characteristics regardless of whether these communities maintain any kind of relationship with their former homelands.

The prevailing definition of diaspora refers to a group that conceives of its separateness based on a set of characteristics and a common ethnicity or nationality, and consists

5 Fishman 2005

6 Hettlage 1991; Damanakis 2006

7 Contemporary Indian, Caribbean and Canadian Literatures: (De-)Colonization, National Identity and Migration http://www.eng.fju.edu.tw/worldlit/introd_.htm

8 Cohen 1997

9 Ibid.,9.

10 Brah 1996,193.

of individuals who live in a host country while maintaining ties with the home country. Thus, diaspora is always referred to in the context of the existence of a home country, a term that is identical with homeland, although the former is a broader term, denoting an entity that can span beyond state boundaries.¹¹

The attachment to the homeland is usually cultural although some studies have identified that it can also be politically oriented with obvious or latent tendencies, such as, for example, the desire to repatriate whenever possible. Other forms of attachment entail a chain of transnational links with the home country such as the sending of remittances home, voting in the home country elections, funding civic projects, forming groups to lobby home or host governments, participating in transnational criminal activity, or even, in some cases, supporting transnational terrorism. Recent studies such as *Migration and the Labor Market in Asia: Recent Trends and Policies* and *OECD Trends in International Migration*, have revealed that the members of a diaspora are self-identified.

Furthermore, the term diaspora applies to groups with different origins whose diversity needs to be acknowledged and appreciated. The example of this diversity includes:¹²

- a) Migrants, who are individuals perceiving their situation as either permanent (Irish immigrants to America in the 19th century) or temporary (Turkish guest workers in Germany), which, however, can change into permanent diasporas
- b) Refugees constitute a sub-category of migrants. However, their migration is involuntary and often sudden and they tend to presume that they will be able to return to their home country in a reasonably short period of time;
- c) Exiles, a category of refugees who must remain in the host country until some political resolution takes place in the home country;
- d) Ethnic groups, referring to persons who self-identify with other persons of the same ethnicity living outside their home country, but attach importance to their roots to some degree;
- e) Expatriates, who are persons of one country living in another, implying a voluntary exile with possible plans to return to the home country;
- f) Indigenous peoples, who, though not part of diasporas per se, exhibit many of the same characteristics as transnational communities, minority status in their states and distinctive cultural characteristics that resist assimilation, such as Aboriginal Australians. Regardless of the category to which a dis-

11 Lahneman 2005,11.

12 Lahneman 2005, 8

placed person belongs, except for the indigenous people, the general term describing the individual is either “settler” or “migrant”.

Diasporas are usually studied through their associated diasporic, often referred to as migrant or ethnic communities. Diasporic communities are often represented through their groups or diasporic (ethnic) associations which are independent civic organizations or government sponsored (usually by the home government) and is based in either the home or the host country. These associations play important roles in diasporic politics and they often influence home or host country policies.¹³

The migrant-group associations are in their majority culturally oriented, but when the need arises, they unite and adopt a political role. The durability of diasporic communities partly depends on the nature of the host country’s settlement policies. Some diasporas have become significant actors in international affairs by exerting focused, powerful and organized influence on world issues and sometimes their networks are used to coordinate activities.

III. MIGRATION

The motivation to migrate stems from an ordered set of values that remain unsatisfied in the individual’s or group’s home country which the individual or group seeks to satisfy. People decide to migrate for various reasons such as: to avoid political or personal oppression at home; searching for better economic conditions; avoidance of religious and ethnic persecution; exploitation and alienation; or lack of freedom.¹⁴

Migration can be described as the geographic movement of an individual or group.¹⁵ The issue of migrant status usually concerns persons who may have migrated legally or illegally, or refugees who become permanent residents. Regardless of the type of migration or its causes, two different geographic areas and three societies are affected. The geographic areas are the out-migration (migration abroad) and the in-migration (internal migration), and the three societies are: the society of origin, the host society and the immigrant group itself.¹⁶

Papastergiadis (2000) refers to the journey of humans in time as very dangerous and unpredictable with financial changes in one part of the world having repercussions in another, and he goes on to comment on a number of global economic, environmental and technological crises and hazards, which he calls “sources of fear”. These factors

13 Ibid,12.

14 Velikonja 1989

15 Kuper 1985; Cigler 1985

16 Velikonja 1989

force people to move, thus creating flows of international migration across the world.

As of 2009, 100,309 foreigners were residing in Japan for the purpose of working in the specialized or technical field. Other foreign nationals residing in Japan included 253,361 people of Japanese descent, 96,897 part-time workers (with permission for activities outside the status of residence), 112,251 people engaged in technical internship and other activities¹⁷, and 113,072 who were in the country illegally.¹⁸ According to the United Nations Department of Economic and Social Affairs, top three countries with the largest number of international migrants in 2010 are the United States (42.8 million), Russian Federation (12.3 mil), Germany (10.8 mil) respectively, followed by oil-rich Saudi Arabia (7.3 mil) in the fourth place.¹⁹

Migration may result from the desire to see other parts of the world, the thirst for exploration and adventure, adverse socio-economic conditions, and the consequences of war that have forced people to seek a better life outside the boundaries of their own country. Today, people are still migrating in search of better economic conditions, as a result of political or religious persecution or to escape various forms of exploitation, alienation or cultural deprivation experienced in their own country. In the context of a broadened scope of an international community, migration, together with occupational social mobility, has become a necessary feature of post-industrial societies.²⁰

The migratory process is followed by feelings of loss of loved persons back home, perhaps cultural shock and its derivatives of loneliness, unfamiliarity with the host environment, the new language and the different culture.²¹ For others, migration is conceived as a “quintessential experience” in the twentieth century.²² Today, migration has gained a global character, so it is often referred to as “international migration” or “transnational migration”.

IV. TRANSNATIONAL IDENTITIES

The concept of identity constitutes an essential issue to be researched through the study of ethno-cultural behaviors. While during the twentieth century, social research on

17 Notification of the Status of Employment of Foreign Workers, Ministry of Health, Labor and Welfare (at the end of October 2009)

18 Statistics on Foreign Residents , Ministry of Justice published in 2009.

19

http://www.un.org/esa/population/publications/2009Migration_Chart/IttMig_maps.pdf

20 Richmond 1988; Stahl et al. 1993

21 Garivaldis 2010

22 Bromley 2000

migration generally focused on the ways migrants adapted themselves to, or were excluded from, the place they emigrated to, a new perspective has been introduced recently. This approach accents the attachments migrants maintain to families, communities, traditions and causes outside the boundaries of the nation-state to which they have moved.

Transnationalism and globalization have had considerable impact on human societies and identities at varying levels. Notwithstanding the already existent forms of migrant connection to their homelands, the “current transnational approach underscores numerous ways in which, and the reasons why, today’s linkages are different from, or more intense than, earlier forms.²³ The concept of ‘transnational’ identities forged in the opportunities of ‘flexible accumulation’ in global markets and the mobility of globalized times²⁴ offers an alternative to the increasingly obsolete and restrictive categories of fixed cultural identities reliant on national boundaries or ethnic histories.

Modern social science and humanities have established that national identities are constructed by nation-states for the purpose of creating a collective consciousness of the people who live within a defined geographical space.²⁵ National identities are used to delineate ‘us’ and ‘them’; that is, who is a national of a nation-state and who is not. The dichotomization between ‘us’ and ‘them’ is critical to the existence of nation-states as it “ensures the continuity of the group as a form of social organization”.²⁶

V. THE “BORROWED IDENTITIES”

A. Identity

Questions about identity are usually linked with the concept of culture, where ethnic, religious or nationalist movements claim a common culture or history. As such, disputes on differences in identity involve culture as a point of reference and a point of comparison, and a basis for possible conflict. However, it is during crisis situations and disputes that “[t]he recovery from the past is a process of constructing identity” and adjusting to one’s environment.²⁷

The value of a man’s identity is not the documents he carries with him to prove his nationality or the possessions of his ancestors but the culture of which he was born into.

23 Vertovec 2001, 574; Foner 1997; Morawska 1999, Portes et al 1999

24 Nonini 1997; Nonini & Ong 1997

25 Tascon 2002, 125-126.

26 Triandafyllidou 2002

27 Woodward 1999,11

Culture can be found in humans ever since Australopithecine man first used fire. As soon as humans started to pass down knowledge orally and materially, so did they pass down a living culture. From there they evolved into the homo erectus then into the homo sapiens - the 'modern human'. Humans have had culture for a very long time.²⁸

The current debate about identity is due to significant changes taking place in our world, and both the global and local realms are implicated affecting individuals at a personal and social level.²⁹ "Identity is not a badge which people carry around with them unchanged. It is much more like a set of claims they make according to the context in which they find themselves, be these cultural, political and so on".³⁰

The most common shaper of identity is culture. Gans (2003) states that one's cultural identity originates from cultural nationalism, also called ethno-cultural nationalism, whereby members of groups share a common history and societal culture. As cultural nationalism applies to the adherence to cultural elements, there is incongruence between cultural nationalism and cultural identity, since cultural identity is based on differences between cultures, and can divide rather than unite members of a societal group or nation.

When a person is entering into a foreign land, the first thing that he or she experiences is the 'culture shock' no matter how differently it affects each person. However, it should not take the person to the extent that he trades off his identity to overcome this shock. Depending on the perspective taken, the two concepts can either co-exist, or they can contribute to dissonance; an identity crisis in migrants struggling between adhering to the cultural nationalism of their host nation, and their own distinct bicultural identity. The determining factor of one concept overriding the other may be the culture or nation that one identifies with more strongly.

B. Burmese Diaspora in Japan

Japan is not known for being particularly accommodating towards refugees or illegal migrants. On top of its strict immigration policies, it is one of the most expensive countries in the world in which to live. Especially after the country suffered from the downturn (Japanese) economy, it has become even more difficult for foreigners to find jobs in Japan. This situation became worse after the major earthquake hit East Japan on March

28 Culture and Civilization, BBC (15 August, 2000)
<http://www.bbc.co.uk/dna/h2g2/A402977>

29 Woodward 1999,13

30 McCrone 1999,34

11th 2011.³¹

Foreigners were never too welcome in Japan and bad economy once again commenced putting more unwelcome notes against foreigners working in Japan. There were several anti-foreigners demonstrations in the past, and recently, there was a demonstration against foreign workers in Tokyo's famous Hachiko-square where laid-off Japanese workers held up boards that said, "We don't want foreigners". This took place although the reports showed how much more severely foreign workers were being laid off from their jobs compared to Japanese workers.

However, the number of foreign residents (excluding illegal immigrants and short-term visitors such as foreign nationals staying less than 90 days in Japan) was more than 2.2 million (2,217,426) in 2008.³² Among immigrants, Japan accepts a steady flow of 15,000 new Japanese citizens by naturalization (帰化) per year. Since the Japanese population census asks the people's nationality rather than their ethnic background, naturalized Japanese citizens and Japanese nationals with multi-ethnic background are considered to be ethnically Japanese in the population census of Japan. Thus, in spite of the widespread belief that Japan is ethnically homogeneous, it is probably more accurate to describe it as a multiethnic society.

The prevailing debate regarding the effect of global popular culture industries (Globalization) on local cultures and local identities are significant today more than ever. The reason for this importance lies in the preservation of the traditional cultures and values that are carefully being sewn into the entanglements of globalization. For the case of Burmese, where the majority of the people were raised with the idea that preservation of traditional cultures and values are as important as living with dignity, many of them, especially the younger generation, have to grow up with the pressure to ignore the global culture and follow the traditional culture that the families have preserved.

The official statistics from Japan's Ministry of Foreign Affairs show that as of July 2010, there are 8,366 Burmese living in Japan. Unofficial sources³³ state that there are as many as ten thousand. In 2007, there are about 7,000 Burmese migrants in Japan.³⁴ Most of them entered the country legally and later became illegal migrants by overstaying their visas. Some have been living in Japan for more than two decades without legal status. In many cases, their passports are expired and unable to renew as they failed to pay tax to the Burmese embassy as required.

31 Bloomberg Businessweek. The Flight of Japan's Immigrant Workers. (LABOR, April 21, 2011)
http://www.businessweek.com/magazine/content/11_18/b4226016338473.htm

32 Japan's Ministry of Justice press release (July, 2009) 平成20年末現在における外国人登録者統計

33 From interviews with freelance researchers inside Japan and journalists outside Japan

34 Human Dimensions Research Unit, Cornell University 2007,907

On December 28, 2004, the Burmese Embassy in Tokyo initiated a new fee structure for Burmese living illegally in Japan who wish to renew their passports. According to the Embassy's statement³⁵, the renewals cost 17,500 yen (US \$216)³⁶, plus a graded income tax.³⁷ Previously, Burmese nationals had to pay 10,000 yen (US \$124) per month or ten percent of their income as a tax to the embassy in Tokyo. For those who are holding passports that expired one to five years ago, the tax is 200,000 yen. For those who have not renewed their documents for over five years, the fee is 300,000 yen. Those with no documents must pay 35,000 yen, plus a 300,000 yen income tax.

According to U Myint, a business man working and residing in Tokyo for 18 years, ordinary Burmese workers earn about 300,000 yen per month and many of them do not have legal Japanese work permits and therefore, renewing passports is not precedence. The number of Burmese going to Japan has decreased in recent years due to Japan's stricter immigration laws and an increase in broker fees. Transport to Japan now costs Burmese migrant workers over 12 million kyats (US \$12,000) per person. Some Burmese in Japan also complain that they cannot leave Japan because the Burmese Embassy charges them a 10,000 yen tax before it will issue them the necessary documents to leave.

The last resort for most of the overstayers is seeking asylum in Japan. Typically, those seeking refugee status in Japan are illegal overstayers who choose not to take their chances with the Japanese government's status determination procedure, until arrest forces their hand.³⁸ Ko Tin Aung, a Burmese man who has been living in Japan for almost 16 years, is an example. Arrested in February 2011 for overstaying his visa, and currently awaiting a decision at the Immigration Detention Center in Ushiku, Ibaraki prefecture, he says that applying for asylum is the only choice he has for the time being.

Under revisions of the Immigration Control and Refugee Recognition Act, which went into effect in May 2005, applicants for refugee status no longer face automatic detention and deportation procedures even if they are staying in Japan illegally. Critics have long asserted that the practice of detaining asylum seekers obstructs their efforts to establish their status as refugees. Despite the recent revisions in refugee policy, however, many applicants remain in detention centers, including some who sought asylum upon arrival in Japan and who have already been recognized by the UNHCR in other

35 Announcements at the Embassy bulletin board and a notification sent to regular taxpayer Burmese citizens

36 U.S Dollar to Yen rate as of May 12, 2011 is \$1=80.93 JPY.

37 A flat-rate income tax of 10,000 yen for singles and 18,000 yen for married couples per month

38 The Irrawaddy, Tough Asylum (Volume 15, NO1, January 2007 Edition)
http://www.irrawaddy.org/print_article.php?art_id=6630

countries.³⁹

Many of them are not aware of their legal rights until they are arrested. Even those who are working in Japan legally with valid passports and visas are usually unconscious about their rights as foreign workers in Japan. Ma Aye Aye, who works at one of Japan's leading travel agencies, said that she has to work overtime and restlessly on both weekdays and weekends to secure her work visa as she was told the company would fire her if she does not do so. Moreover, she has to work under tremendous stress as her supervisor repeatedly tells her, "Aren't you being paid to work? This is not Burma, don't be lazy." Even in these cases of clear power harassment, she cannot take it to the labor union or defend her rights through the lawyer as she fears she would lose her residence in Japan and her family will be in trouble.

If by chance Ma Aye Aye loses her job and her passport expires, there is a high possibility that she would turn to seek asylum in Japan. It is said that because of the increasing number of Burmese overstayers and asylum seekers, Japanese employers can be either very reluctant to give Burmese a job or seeking for Burmese illegal workers specifically. The reason why the employers can be reluctant is because they could be linked to police investigations and found guilty for trafficking if they are recruiting illegal workers. The reason why the employers can be looking specifically for Burmese workers is because they know that Burmese workers would work without complaints and tolerate exploitation and even discrimination in desperate situations.⁴⁰ These illustrate the frustrations that Burmese have in bearing their identity.

A Burmese woman who went to a local university in Tokyo thinks that it is the Burmese identity that is inviting discrimination. Ma Hnin was only 23 years old when she first came to Japan in 2002. She majored in Japanese literature in one of the private universities in Tokyo. She also graduated from one of Myanmar's elite universities, Yangon University of Foreign Languages, majoring in Japanese. In a normal situation, a person who can read, write and speak Japanese fluently like her should not have a problem blending into the local community. However, because she is a Burmese, her supervisor openly ridiculed her in the class and, scorned her academic writings, making comments such as, "You're a Burmese... how smart can you be!"

Since it was her decision to come to Japan, she did not want to go back empty-handed and disappoint her parents who have been working to pay for her expenses in Japan. Instead of standing for her rights and making claims about this inappropriate behavior by her supervisor, there was only one thought that ruled her. That is, if she became a Japanese citizen, she would get respect that she deserves. The scenario forced her into a marriage with a Japanese citizen that would allow her to apply for Japanese citizen-

39 Ibid.

40 Interview of (Japanese) owner of soba-noodle shop in East Tokyo; a local hot-spring(onsen) owner in Kofu, Yamanashi prefecture; a local public-bath (Sento) owner in Kita ward, Tokyo; a manager of barbecue restaurant in Shinjuku ward, Tokyo; a shop owner from Tsukiji fish market

ship. However, it was not as easy as she expected. Not only did she have to renounce her Burmese citizenship but also undergo another round of chauvinism by both Burmese and Japanese for choosing the foreign identity over the identity of origin. She said she may have Japanese citizenship but she can never become a Japanese.

She and her husband later moved to a different ward where many mixed-race families live and have schools for foreign children. It was much relief to her as there are many other Burmese families and their children in the vicinity. Many of them, especially factory workers, have disguised themselves as Indonesians, Malays or Chinese at their work place in order to avoid certain discrimination against Burmese. But things are quite different during “cultural festivals”. During the festivals, the word “Burmese” attract many visitors and especially those who are interested in Burmese political turmoil or culture⁴¹. This wickedly encourages many Burmese to think that the Burmese identity is good for display and sympathy but not for protection of one’s self-esteem.

C. Identity on Parade

Out of 158 Burmese people who have helped with the survey⁴², 129 people have stated that Japan has many wonderful things – the relative safety, the high literacy rate, the sense of community and the inexpensive health care - but found the Japanese society to be xenophobic. Regardless of the length of stay in Japan, they all found it difficult to fit in the society entirely. Foreigners are obliged to adhere to many rules of behavior that would be extremely challenging.

Raising multi-cultural children is also a major challenge for foreign parents. Mothers need to put tremendous effort in raising their children in native language and to help the children feel good about their differences in a country that prides itself on its supposed homogeneity. Many mothers said that at times the children might enjoy being bicultural but at other times they might prefer to blend seamlessly into the crowd. These mothers, especially if they have very weak command of the Japanese language, face difficulties at their children’s school or in the local community. It is but a mere hope that the local community would cooperate more with foreigners in their neighborhoods in addressing these problems.

Ma Julia, who is a mother of four children, said that something remarkably changed after her ward office organized an “ethnic food contest” in 2006. She and some Burmese mothers participated in the contest and won a prize. They were then asked to make some

41 Some older Japanese generations are quite interested in knowing Burmese culture from what they know in the infamous film, “Biruma no tategoto”(1956) (1985)

42 Personal interviews, telephone and paper surveys were carried out in May 2011. Interviewees were randomly selected among Burmese residents in Tokyo, Chiba, Saitama, Gunma, Nagoya and Fukuoka.

presentations about their country and introduce their culture to the Japanese people. Many Japanese got a chance to listen to stories of ordinary Burmese people's lives in Myanmar and how they are making a living in Japan. Until then, the neighborhood barely knew about Burmese people and Burmese culture.

Ma Julia remembers how her landlord treated her when she and her family first moved to this neighborhood in east Saitama 23 years ago. They were accused of theft, blamed for pollution and made to pay extra rent for having children. The neighbors would make loud footsteps from the floor above purposely. One time, a neighbor called the police to arrest her husband as he was trying to protect their eldest son from being bullied by the neighbors' kids. Because of such incidents, it took their children a long time to realize that it is not wrong to have multi-cultural identities and that they should not be ashamed of who they are.

Pragmatically, racism and discrimination exist in all countries. It is only when one's identity means nothing more than a product for display or to sell, people start to realize how difficult and crucial it is to be locally integrated in a foreign land. Japan has the world's fastest aging population, and the shortage of labor requires a certain amount of foreign work force. Most of the jobs that are not desired by the Japanese are taken up by foreigners, and Burmese are among the top list of this group.

Due to the downturn economy, large majority of the labor contracts have been muddled through indirect hiring, namely temporary employment or subcontracts. As a result, the duration of employment is not more than one year and can be as short as three months. Workers are provided hourly wages but certainly not paid vacation. They are not covered by health insurance or government-managed pension plan under which employers and workers each bear 50 % of the fees, let alone employment insurance plans. The only types of insurance to which they can apply for coverage are long-term travel insurance and the National Health Insurance run by each local government.⁴³

Accordingly, it would be a problem if these foreign workers became ill, especially for serious illnesses. The small national and prefectural government budget of up to two million yen for the emergency medical subsidiary system would quickly become exhausted. Illegal migrants are not entitled to any of the subsidiary systems unless they become either asylum seekers or holders of legal residence permit. The biggest issue is the education of the children of these people.

Among these children, even those who are at the age of compulsory education, 20 % to 30 % are not enrolled in school in Japan. There is a high risk of children not attending school to get involved in crimes, such as theft, and the proportion of crimes committed by under-aged foreigners is on the rise. Moreover, as these children are in Japan with their parents and siblings, the aging generations are without pensions and, in the long run, these children will also be without pensions because they are currently not mem-

43 Foreign Workers in Japan

<http://dbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=556652>

bers of any public pension schemes.⁴⁴

Even for children whose mother or father is a Japanese citizen, statistics show that approximately 30% drop out of school during their compulsory education years. Furthermore, under the current situation in which students who cannot properly speak Japanese are not allowed to take entrance exams for high school and tertiary education, there is an extra hurdle for these children to advance to higher education.⁴⁵

While the local governments' response is one critical key in dealing with the issue, the foreign workers of Japanese descent themselves have problematically indifferent attitudes towards their children's education because of their situation as migrant workers. Consequently, the children do not receive adequate education in either Japan or in their home country.

It is particularly important for children to be properly educated. Many Burmese families have decided to stay in Japan for their children's education. If they cannot fulfill this due to certain discriminatory reasons, it would be regrettable and their sacrifices would be in vain. Schools are very important not only for education but also for building proper understanding of culture and values and therefore, teachers should be acquiring understanding of multiculturalism on top of teaching skills. Otherwise, these children will grow up between cultures that mean nothing more than an item that they can trade off.

VI. CONCLUSION

Many families in this paper have shown that the culture shock they experience in Japan has so largely affected their daily lives that it later became the reason for their 'borrowed' identities. This, somehow, can be analyzed as the source of growing frustrations over expectations that are not met. Many of them appeared to have believed that they would be treated well when they came to Japan, with hopes that they would be welcomed into the society easily.

Local integration cannot be done without the interest of the people who live there. For example, in the city of Hamamatsu where many foreigners reside, approximately one half of the public housing, run by the city or the prefecture, are occupied by foreign families. The local government of Hamamatsu points out that its costs of community livelihood as well as education are particularly high.⁴⁶ The local municipality is also encouraging social workers to assist foreigners and provide more opportunities for foreigners to be accustomed to Japan by having institutions like education support center

44 Ibid

45 Ibid

46 Foreign Workers in Japan

<http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=556652>

for non-Japanese residents.⁴⁷

Many Japanese have taken part in advocating for foreigners' rights, asylum seekers' and refugees' rights, and especially for foreign labors to be treated equally and fairly during employment. Although there were huge controversies over granting voting rights to foreigners in local elections, there are politicians who are trying to implement such rights for long-time residents of Japan.⁴⁸ Such measures gradually have positive effects towards mutual understanding and local integration in the long run.

The ones who are successful in getting out of the struggle with borrowed identities are the ones who are able to find a formula of adaptation where they maintain part of their culture and adapt to the local culture. Like others have done in other countries, for the Burmese in Japan to forego their borrowed identities, they need to maintain their Burmese cultural identities, accept that discrimination and bias is part of their experience in Japan or elsewhere, and absorb the Japanese culture. This will help the local integration process for them and most definitely, their children.

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ASIAN DIGEST ON HUMAN MOBILITY

REPORT ON QUESTIONNAIRE SURVEY OF REFUGEES AND ASYLUM SEEKERS IN JAPAN

Jumpei YAMAMURA*

I. INTRODUCTION

Japan entered into the 1951 Convention Relating to the Status of Refugees in 1981 and established its national procedure for refugee status determination the next year. Until 1984, almost all applicants for refugee status were people originating from Indochina. After that, the number of applicants decreased suddenly, and from the mid-1980s to the mid-1990s, the number of applicants per year remained around fifty. In the late 1990s, the number of applicants per year increased to between 300 and 400, and the number rose dramatically after 2006, with a current average of about 1000 applicants per year.

Along with the increase in refugee applicants, problems with the low recognition rate and mandatory detention, for example, have been increasingly highlighted by legal professionals and supporters of refugees. However, although the number of applicants has been increasing, not a single survey has been carried out to investigate the actual conditions among refugees and asylum seekers.¹ So far, no one has achieved a full understanding of objective data concerning the concrete problems that refugees face in daily life in Japan, the conditions in the detention centers, or the views of refugees on refugee support organizations and Japanese people in general.

Accordingly, the author decided to conduct a questionnaire survey to reflect the voices of refugees in Japan as a starting point for use in future support and protection activities.

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1 There are reports on refugees and asylum seekers in Japan by the Refugee Assistance Headquarters and the Japan Association for Refugees, but they are not necessarily written from the viewpoint of refugees.

II. SURVEY SUBJECTS AND METHOD

The subjects of this survey were applicants for refugee status and recognized refugees living in the Tokyo area.

Between December 2006 and April 2007, I passed out a questionnaire to members of refugee organizations and patients who came to me for medical care, after explaining the purpose of the survey. The questionnaire was in written form, and had been translated into English, Burmese, and Turkish.

III. SURVEY RESULTS

1. General characteristics (Table 1)

There were 121 survey respondents, with a male-female ratio of 5 to 1, and an average age of 37. The most common country of origin was Burma (Myanmar), with Turkey (Kurdish ethnicity) and Iran coming in second and third. The average length of stay in Japan was 7.2 years, and the most common places of residence were Tokyo, Gunma, and Saitama, in that order. Almost all respondents were either current applicants for refugee status or rejected asylum seekers, with recognized refugees and residents with special permission to stay making up only 16 percent of total respondents. Respondents had a relatively strong academic background; 70 percent of respondents had a high school diploma or higher. The most common reasons for choosing Japan were that the visa could be acquired easily, and that a chance circumstance brought them to Japan.

Table 1. Background of interviewees

	%
*Multiple answers allowed	
Total	121
Ratio of male to female	5 to 1
Age	Average 37 y.o Range 17-61 y.o
Nationality n=121	
Burmese	94 (77)
Turkish	17 (14)
Iranian	6 (5)
Other	4 (3)
Length of stay in Japan n=115	Average 7.2 y; Range 1-18 y
Family structure in Japan n=118	
Single	62 (53)
Married	28 (24)
Married and with children	28 (24)
Place of residence n=119	
Tokyo	66 (55)
Gunma	28 (24)
Saitama	19 (16)
Kanagawa	3 (2)
Osaka	3 (2)
Years since refugee application n=93	Average 2.7 y; Range: 0.5-11 y
Present situation of application n=118	
Awaiting result	53 (45)
Appealing against rejection	27 (23)
In court	15 (13)
Rejected	4 (3)
Granted special permission	13 (11)
Granted refugee status	6 (5)
Education in native country n=114	
University or college graduate	45 (39)
High School graduate	35 (31)
Junior High School graduate	28 (25)
Other	6 (5)
Reason for choice of Japan n=98	
Family or acquaintance in Japan	15 (15)
Easy to acquire visa	14 (14)
By chance, without special reason	11 (11)
Economically developed country	8 (8)
Other	50 (50)

2. Labor (Tables 2a, 2b)

The most common occupations among those surveyed were in the restaurant industry, factory work, and construction, in that order. Many respondents were in an unstable employment situation, either unemployed or working for hourly wages, and this led to the low average rate of hours worked and income per month. If the numbers are converted to wage per hour worked, the average is 905 yen per hour.

Seventy-two percent of respondents were unsatisfied with their current job, and many people had changed jobs a number of times. The main reasons for changing jobs were low wages and discriminatory treatment. Many respondents were hoping to acquire a specialist position or a technical job.

Problems such as unpaid wages, sudden termination, and on-the-job accidents had been experienced by 13 to 32 percent of the respondents, but even when such problems occurred the respondent did not take any action against his or her employer in 57 percent of the cases. While seeking advice on these problems did not always lead to a solution, it was more likely to lead to a solution in cases where the respondent sought help from a labor union or a Japanese national.

What the respondents most wanted to request of their employers were non-discrimination in wages and treatment, and easily understandable explanations of job responsibilities.

Table 2a. Labor issues

*Multiple answers allowed		%
Present Job job n=105		
	Kitchen worker	45 (43)
	Factory worker	24 (23)
	Construction worker	23 (22)
	Other	11 (11)
	Jobless	2 (2)
		Average: 8.5 hours;
Working hours a per day n=100		Range: 4-15 hours
		Average: 178,000yen;
Income a per month n=83		Range: 50,000-350,000 yen
		Average: 6.9 days;
Holidays a per month n=88		Range: 0-22 days
		Average: 905 yen;
Income an per hour n=72		Range: 300-2,000 yen
Satisfied with present job n=97		
	Yes	19 (20)
	No	70 (72)
	Don't know	8 (8)
		Average: 5.9 times;
Number of times of changing jobs n=85		Range: 0-80 times
Reason(s) of for changing job* n=91		
	Low wages	21
	Discriminatory treatment	21
	Dissatisfaction at work	20
	Long working hours	7
	Workplace accident	7
	Unpaid wages	6
	Dismissal	5
	Other	23
Preferred type of job n=86		
	Specialist	13 (15)
	Factory worker	13 (15)
	Technical expert	12 (14)
	Kitchen worker	10 (12)
	Office worker	5 (6)
	Construction worker	3 (3)
	Fishery/agriculture/farming	2 (2)
	Other	18 (21)
	Don't know	10 (12)

Table 2b. Labor issues

Received total amount of salary n=103	Yes	90 (87)
	No	13 (13)
Experienced of sudden dismissal n=93	Yes	21 (23)
	No	72 (77)
Experienced of a labor workplace accident n=84	Yes	27 (32)
	No	57 (68)
Took action against the problem n=61		35 (57)
	No Consulted a labor union	7 (11)
	Consulted a colleague	7 (11)
	Consulted a friend from the same country	6 (10)
	Consulted a Japanese person	4 (7)
	Consulted an NGO	2 (3)
Result of Action n=21	Resolved	9 (43)
	Not resolved	12 (57)
What you want from your employer* n=83		
	Fair wages and treatment	45
	Simple explanation of work duties	21
	Kind attitude	20
	Other	2
	Don't know	3

3. Housing (Table 3)

Almost all respondents found housing by themselves or with the help of a friend or acquaintance.

Because of the high cost of rent, most people live in shared housing. Respondents did not express strong discontent with their living environments, but they did identify the small size of living quarters and the high cost of rent as reasons for changing housing.

The most commonly cited problems in searching for housing were difficulty finding a guarantor, and being turned away by real estate agents.

Table 3. Residence issues

*Multiple answers allowed	%
How you found your residence n=103	
Friend / acquaintance	57 (55)
By yourself	18 (17)
Colleague	10 (10)
Supporting NGO	6 (6)
Other	9 (9)
Guarantor requirement n=84	
Yes	51 (61)
No	33 (39)
Number of tatami mats n=80	Average: 3.3 mats
Roommates at residence including you n=87	Range: 1.5-8 mats
	Average: 2.5 persons
	Range: 1-6 persons
Cost of rent a per month? n=96	Average: 59,000 yen
	Range: 10,000-200,000 yen
Level of satisfaction with residence n=98	
Very good	7 (7)
Good	29 (30)
Normal	46 (47)
Bad	12 (12)
Very bad	4 (4)
Number of times changing residence n=74	Average: 3.1 times;
	Range: 0-30 times
Reason(s) for changing residence* n=75	
Size of room	25
High cost of rent	21
Inconvenient transportation	12
Dirty	11
Noisy	4
Other	23
Problem finding a place of residence, if any n=43	
Finding a guarantor	16 (37)
Refusal by real estate agency	10 (23)
Lack of information	4 (9)
Other	13 (30)

4. Medical issues (Tables 4a, 4b)

Eighty-seven percent of respondents complained of symptoms of illness, and psychological symptoms were particularly common. The reasons cited for these types of symptoms were the respondents' ambiguous legal status, anxiety about their families and day-to-day life, and health concerns.

Forty percent of respondents had not yet seen a doctor about their symptoms. The main reasons for this were language concerns, the cost of medical care, and lack of information. The same concerns were cited by those who had visited a doctor. In the case of surgery or severe illness, respondents were charged with high medical costs.

Eighty-five percent of respondents were without medical insurance, and fifty-two percent were not getting regular checkups. Even among those who had received medical checkups, in most cases it had been two years or more since their last one.

Table 4a. Medical issues

*Multiple answers allowed		%
Present symptoms n=113	Yes	98 (87)
	No	15 (13)
Type of symptom(s)* n=98		
	Sleeplessness	32
	Headache	32
	Fearfulness	31
	Exhaustion	30
	Vague uneasiness and anxiety	27
	Irritability	24
	Chest pain and difficulty breathing	23
	Feelings of loneliness	18
	Reticence	17
	Depression	16
	Dizziness	14
	Loss of appetite	11
	Less Loss of energy	11
	Palpitations	8
	Other	19
Reason(s) for symptoms/worries? *n=88		
	Forced deportation	38
	Future of my family	35
	Awaiting the result of my refugee application	32
	Matters of daily life	24
	Health	23
	Detention at the immigration center	20
	Matters of work life	16
	Crackdown by the police	15
	Don't Know	3
	Other	7

Table 4b. Medical issues

	%
*Multiple answers allowed	
Consultation a doctor's consultation n=116	
Yes	70 (60)
No	46 (40)
Reason of Nolf no, the reason(s) * n=52	
Never been sick	18
Language barrier	15
Concern of over medical expenses	13
No information on about hospitals	8
Fear to of being reported to the police	1
Other	10
Problems at the hospital n=77	
Yes	44 (57)
No	33 (43)
What kind of problemType of problem(s)* n=44	
High medical expenses	31
Language barrier	20
Lack of doctor's explanation	10
Lack of explanation about cost	7
Refusal of doctor's consultation	2
Other	3
Operation or serious illness n=84	
Yes	21 (25)
No	63 (75)
Cost of the above operation or treatment n=12	Average: 430,000yen Range: 80,000-3 million yen
Medical insurance n=97	
Yes	15 (15)
No	82 (85)
Medical check-up n=93	
Yes	45 (48)
No	48 (52)
Time of last medical check-up n=45	
Within a the past year	23 (51)
Two years ago	4 (9)
Three years ago	3 (7)
More than four years ago	15 (33)

5. Language (Table 5)

Almost all respondents were learning Japanese by themselves at their work place or by watching television. Very few had studied at a Japanese language school. Many respondents were interested in learning but were unable to because of lack of time and information.

Eighty percent of respondents were able to get news in their native language through media like newspapers, television, and the Respondents generally wished that their children would be educated not only in Japanese but also in their native language.

Table 5. Language issues

	%
*Multiple answers allowed	
How to learn Method of learning Japanese*	
n=96	
Self- study	
Place of work	46
Television	30
Japanese language school (charge)	16
Japanese volunteers	11
Japanese language school (no charge)	8
Other	5
Other	11
Learning now, or hoping to learn n=82	
Yes	64 (78)
No	8 (22)
If no, the reason(s) * n=48	
No time	21
No information	18
No interest	4
No need	3
Other	5
Receiving information in native language/Infor- mation by a native language n=94	
Yes	75 (80)
No	19 (20)
Language in which you want your children to be educated n=63	
Both of Japanese and native language	47 (75)
Japanese	5 (8)
Native language	2 (3)
Other	6 (9)
Don't know	3 (5)

6. Adjudication of refugee status (Table 6)

Thirty-four percent of those surveyed had not received a self-introduction or an explanation of the investigative process from their refugee status adjudicators. In addition, seventy-five percent said that the adjudicators were poorly informed about the situation in their country of origin, and forty-nine percent said that the adjudicators wrote down

content in their records that differed from the statements of the asylum-seeker.³

Half of the respondents had a negative impression of the attitude of refugee status adjudicators.

Thirty-five percent of respondents were dissatisfied with their interpreters.

3 Asylum-seekers are provided with an opportunity to identify any errors in the records and have them corrected. However, it is not clear how well they are able to do so in reality. The obstacles they must overcome in order to correct any mistakes include psychological pressure and problems of translation.

Table 6 Investigation for Adjudication of refugee status

*Multiple answers allowed		%
Introduction Self-introduction of adjudicator n=82	Yes	54 (66)
	No	28 (34)
Explanation of procedure n=77	Yes	53 (69)
	No	24 (31)
Understanding of situation in your country of origin by adjudicator n=84	Yes	21 (25)
	No	63 (75)
Adjudicator wrote something different from what you said n=74	Yes	36 (49)
	No	38 (51)
Attitude of the adjudicator* n=84	Pretty good	24
	Insincere	17
	Coercive	17
	Unkind	7
	Kind	5
	Other	4
	Don't know	17
Contact when the adjudicator in charge was changed? n=56	Yes	15 (27)
	No	41 (73)
Level of sSatisfaction with interpreter n=79	Satisfied	5 (6)
	A little satisfied	10 (13)
	Neither satisfied nor disappointed	36 (46)
	A little disappointed	12 (15)
	Disappointed	16 (20)

7. Immigration detention centers (Table 7)

Fifty-nine percent of respondents had experienced some time in a detention center, with an average of 7.2 months. Problems in detention included the food, medical treatment, length of detention, and solitary confinement or the use of handcuffs.

A variety of psychological symptoms were experienced by detainees, and these symptoms continued after provisional release in 76 percent of cases.

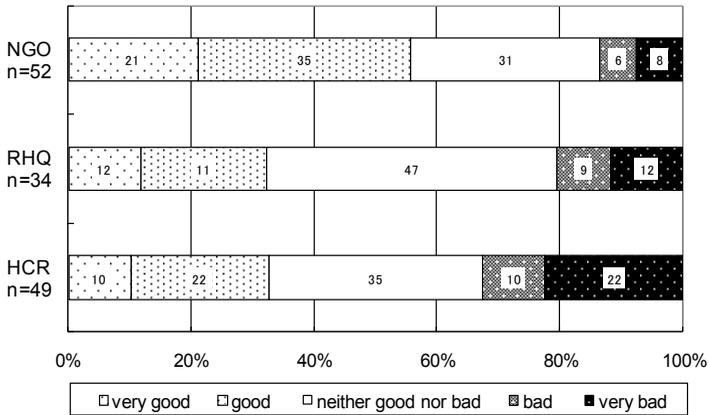
Table 7 Immigration detention center

Experienced detention n=115	Yes	68 (59)
	No	47 (41)
Period of detention n=61		Average: 7.2 months
		Range: 1-34 months
Problems of in detention n=64	Yes	52 (81)
	No	12 (19)
Type of problem(s)* n=52		
Quality and quantity of meals		28
Medical treatment		24
Long-term detention		22
Experience of solitary confinement or handcuffs		19
Restriction of letters/calls/visits		16
Small room		15
Treatment by the staff		14
Restriction of exercise		12
Violence/abusive words		10
Restriction of time to take a shower time		9
Other		2
Symptom(s), if any* n=50		
Fear of deportation		38
Sleeplessness		29
Vague uneasiness and anxiety		25
Headache		23
Loss of appetite		21
Chest pain and difficulty breathing		21
Thoughts of your family		21
Irritability		20
Feelings of loneliness		20
Exhaustion		18
Depression		17
Loss of energy		14
Palpitations		14
Reticence		12
Dizziness		11
Other		3
Symptom(s) continued after provisional release n=41	Yes	31 (76)
	No	10 (24)

8. Impressions of support organizations (Figure 1)

Many respondents have a bad impression of the Office of the United Nations High Commissioner for Refugees (UNHCR) in Japan. On the other hand, they tend to have a relatively good impression of non-governmental organizations (hereinafter “NGOs”). The impression of the Refugee Assistance Headquarters, or RHQ, was in between that of UNHCR and other NGOs.

Fig 1 Impression on support of organization

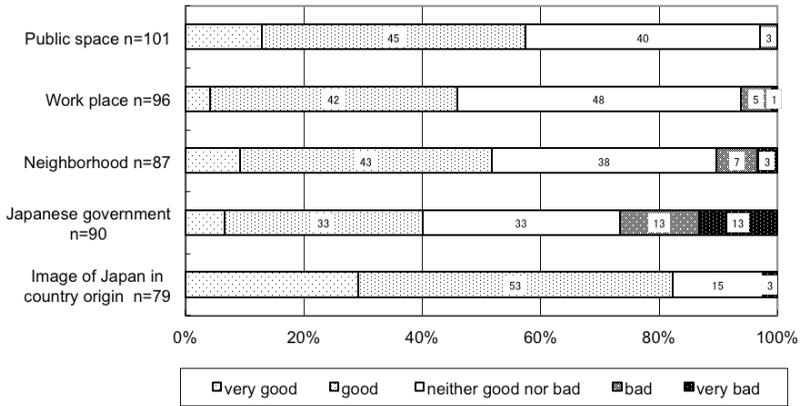


HCR: United Nation High Commissioner for Refugees RHQ: Refugee Assistance Headquarter

9. Impressions of Japanese people in general (Figure 2)

Before coming to Japan, respondents generally had a good impression of Japan, but after arriving in the country the percentage of respondents with a positive impression decreases. Impressions of the Japanese government are particularly bad. However, respondents’ impressions of Japanese people in general are relatively good.

Fig 2 Impression on Japanese



IV. RECOMMENDATION

1) Difficulties in day-to-day life

Almost all refugees can find work easily with the help of acquaintances from the same country, but they cannot choose where to work and they usually have no choice but to take an unstable job. This leads to problems like low wages, long working hours, lay-offs, and on-the-job accidents. In order to protect the rights of workers in these adverse working conditions, labor laws must be applied regardless of the worker's status of residence. The cooperation of labor unions that support foreign workers will be essential in trying to bring this about.

As for medical care, there are problems with the lack of medical insurance and the burden of high medical costs, language difficulties that make it impossible to understand the doctor's explanations, and the dearth of information on medical care. Even if asylum-seekers are not allowed to acquire medical insurance, it would not be difficult for the government to provide free checkups and assistance with emergency medical fees. A minimal level of guaranteed health care would lighten the financial burden on refugees and lead to the early diagnosis of diseases. This is preferable to allowing diseases to take their course and become more severe, which leads to higher medical costs and in turn causes problems of unpaid medical fees and the refusal of medical treatment at medical institutions.

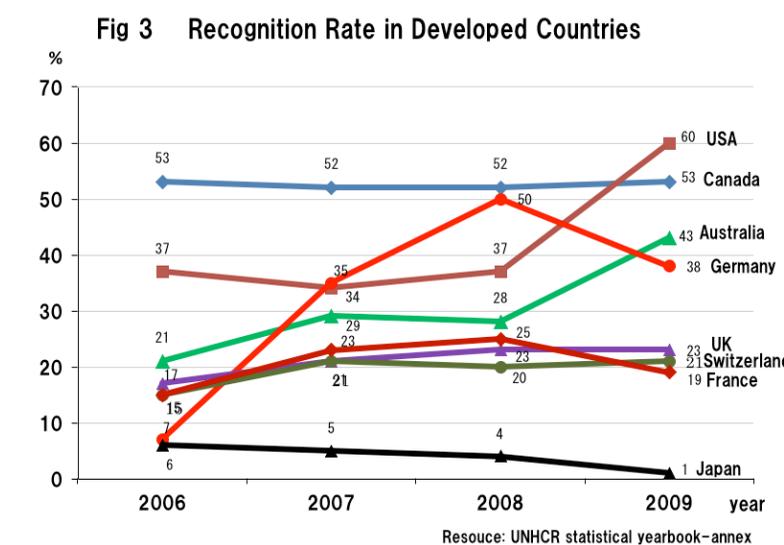
Although there are some medical institutions that treat foreign residents without

insurance, these are relatively few and far between. While encouraging more medical institutions to make themselves available to foreign residents, support organizations must also provide information about the medical system and medical facilities to refugees themselves, and enable them to take their healthcare into their own hands.

Japanese language ability is necessary in order to live in Japanese society, but opportunities to study Japanese are limited. A few volunteer organizations offer a chance to study Japanese for free, but it can be difficult for refugees to obtain this valuable information. In addition, free time and a relaxed attitude are necessary for learning a foreign language. Refugees cannot concentrate on studying if they are concerned about their legal status and livelihood.

2) Ambiguous legal status

It has long been clear that there are significant problems with the refugee status determination procedure in Japan. This is demonstrated in concrete terms by the extremely low recognition rate of between 1 and 6 percent. The low rate stands out in comparison with other countries (Figure 3).



Numerical formula for the recognition rate is the following.

$$\text{Recognition rate (\%)} = \frac{\text{Number of recognition of Convention refugee status}}{\text{(Number of recognition, complementary protection and rejection)}} \times 100$$

Refugee status determinations are carried out behind closed doors, and only the applicants know the quality of treatment by refugee status adjudicators. The poor quality of these adjudicators is made clear in this questionnaire survey. This is because these officials are the very same people who are responsible for the deportation of undocumented residents. From the start, they treat applicants as “illegal,” and fail to take a proper stance on the protection of refugees.

The most serious problem facing applicants for refugee status is immigration detention. When applicants are detained, they lose their jobs, homes, and everything they have become used to in their daily lives; in addition, they face the possibility of forced deportation and persecution in their home countries. Furthermore, there are problems of long-term detention, poor medical care, violence, and the detention of children and the sick.

Detention leads to psychological symptoms that often continue for a length of time after release. In medical examinations carried out by the author, psychological disorders were seen among detainees at a rate of more than 6 times that of those who had never been detained.

Certain refugee support organizations have been calling upon the Ministry of Justice and the Immigration Bureau to improve the situation of refugees. If other support organizations would take the same measures, this would put significant pressure on the government. However, as demonstrated below, there is a wide disparity among the actions of various refugee support organizations.

3) Support and protection from organizations

Ironically, UNHCR, which is generally considered to be aiding refugees, has the worst reputation of any organization among refugees themselves. In fact, among refugees, UNHCR and RHQ have both low levels of recognition and poor reputation; many refugees express dissatisfaction and displeasure with these organizations.

NGOs, on the other hand, are well-liked due to their compassionate treatment of refugees, but they lack the financial resources and manpower to fully address the needs of refugees. NGOs must work to find ways to carry out support activities in spite of this lack of resources.

Some ethnic minority groups build communities around a neighborhood or place of worship; the Burmese community has even founded its own labor union. The founding members of these communities and organizations tend to be highly educated people who may be valuable human resources. By participating in the activities of these organizations, refugees can explore ways to be more than passive recipients of assistance. This is also an important step in putting those who give support and those who receive support on an equal footing. If the knowledge and experience, as well as the goals of these groups are in accord, then the quality of support will likely improve even without extensive financial resources.

If so, then what about the alliance of refugee support groups including UNHCR? Such an alliance should strengthen the quality of support given to refugees, but it is doubtful whether this is actually the case. It is necessary to consider the differences in political stance among the different support organizations.

The best measure of an organization's political stance is its way of addressing the immigration detention issue. This has become a sort of "loyalty test" among support organizations. Certain organizations regard the detention of refugees as problematic and act to monitor the situation while criticizing the government's position. Other organizations comply with the government's policies and turn a blind eye to the problem of immigration detention. The former organizations work to support all undocumented residents including refugees, and carry out activities—like negotiation with government ministries—to improve the situation of all alien residents in Japan. The latter organizations receive funds from the government and UNHCR, and are therefore under their influence. These groups have plentiful resources, but the quality of their work is doubtful. If the political positions of support organizations differ, then it is natural for the groups to place some distance between each other.

Yet, what is truly strange is that these latter groups claim to be carrying out "support" and "protection" while doing nothing in response to the Japanese government's policies of forcible detention and deportation.

If a doctor only prescribes medicine to treat the symptoms of disease, without looking for the root cause, the patient will not recover. If a doctor ignores the cause of a disease, it will continue to spread. Doctors who ignore and fail to treat the root causes of disease do not deserve to be called doctors. Refugee support organizations that fail to get to the heart of the problem and insist on treating only the symptoms are equivalent to these good-for-nothing doctors.

The reason for this is that if they were to look for the cause of this disease, their eyes would inevitably turn to the Ministry of Justice and the Ministry of Foreign Affairs. Every year, UNHCR receives over 100 million U.S. dollars from the Japanese government and distributes it among the refugee support organizations under its influence. Every year, RHQ is entrusted with over 5 million dollars for "refugee support" services from the Japanese government.⁴ Organizations that receive these funds are naturally in no position to criticize the Japanese government or UNHCR. The refugees themselves see through the deception of these groups' "support" and "protection."

4 Editorial note: The Japanese government's financial contribution to UNHCR in 2010 was 143,490,000 US dollars.

<http://www.unhcr.or.jp/html/pdf/E-pr1100201.pdf> (Accessed on December 15, 2011).

The Refugee Assistance Headquarters received 883,937,601 yen in funding from the Japanese government in FY2011.

http://www.rhq.gr.jp/japanese/profile/fin05/fin_23_01.pdf (Accessed on December 15, 2011).

4) Impression of Japan

Refugees tended to have a favorable image of Japan before arriving in the country, but that image turned sour because of the terrible treatment by UNHCR and government agencies. On the other hand, refugees continued to have a generally positive impression of Japanese people themselves. Presumably, this is because the individual Japanese people who work with refugees are more approachable and less discriminatory than the Japanese authorities with their air of condescension. Or it may be due to the fact that the authorities carry out their daily jobs in a mechanical fashion and give the impression of being indifferent to the problems of refugees.

The reason for this is clear. Refugee applicants without a valid Japanese visa are considered to be undocumented (“illegal”) residents if (and as soon as) their refugee application is denied. They have no right to work or to receive medical treatment. This is equivalent to eliminating their right to life. In Japan, refugees are simply an object of regulation and exclusion, rather than people to be welcomed as members of Japanese society. In other words, Japan is persecuting the already persecuted.

This policy is apparent from the official name of the immigration law (Shutsu'nyuukoku kanri oyobi nanmin nintei hou, or “Immigration Control and Refugee Recognition Act”). Just as the name expresses, the law only provides for the “recognition” of refugees, not for their reception and integration into society. Moreover, there is no government agency responsible for the reception and integration of refugees. It was probably intentional that from the establishment of the refugee system in 1982, the law provided only for the process of refugee status determination. The lack of a government agency responsible for refugee integration only serves to accelerate the growth of anti-Japanese feelings among refugees themselves.

These feelings must not be allowed to grow any more. In order to achieve this, the integration of refugees must actively be encouraged. In concrete terms, this involves implementing a refugee law that is separate from the immigration control law, and establishing a refugee protection agency independent from the Ministry of Justice. These are the government's obligations.

While calling upon the Japanese government to take these steps, NGOs must also urge the Diet to revise the immigration law, demand increased transparency from the Ministry of Justice, and continue to monitor the violent nature of the detention centers. For refugee support organizations, this is the true meaning of “refugee protection” activities.

How will refugees perceive Japanese society in the future? Will the positive image of Japan that they held in their home countries remain untouched, or will it change into a negative impression? The answer depends entirely on the words and actions of Japanese people as individuals.

THE STATE OF STATELESSNESS DISCUSSIONS IN JAPAN

Shikiko MASUTOMI*

While there are established grounds for discussions of nationality, statelessness issues has called relatively little attention to this day and the concerns have been largely limited to policy-makers and academia. In Japan, even within state agencies and academia, statelessness as a research field secures minimal room for itself and has never truly taken off as refugee studies have done.¹ Some might fear that it may be partly overshadowed by the steady growth of refugee studies, for which there is now a visible need due to the implementation of a third-country resettlement programme in 2010.

However, statelessness remains a daily concern for a number of individuals in Japan. According to United Nations High Commissioner for Refugees (UNHCR), there are 1,525 stateless persons residing in Japan as of January 2010, excluding the number of de facto stateless persons.² Moreover, the figure could rise significantly if more refugees³ were to be resettled in the future and their children were not to be issued with a nationality. To this end, statelessness could become another concern surrounding the refugee resettlement programme.

This report gives a summary of the policy issues discussed in the symposium “Human Rights and Support for Stateless People around the World: Japan’s Role” held on February 27, 2011, which highlighted the current discussions on statelessness in Japan. It addressed the need for a policy and, as points of reference, introduced the cases of Thailand and France who have more experience in determining the issues. In the case of France, it focused on the status determination process and the subsequent acquisition of residence permit and nationality.

The symposium was organised by Chen Tien-shi,⁴ formerly a stateless person herself,⁵

* CDR Staff (at the time of Writing, May 2011).

1 Chen 2011.

2 UNHCR 2010.

3 The refugees received under the pilot resettlement programme are UNHCR mandate refugees and they are registered as long-term residents upon arrival in Japan. They are being advised to apply for a refugee status in due course.

4 Chen Tien-shi is an Associate Professor at the National Museum of Ethnology.

5 Chen became a Japanese citizen in 2003. For her autobiography, see Mukokuseki (Statelessness) (2005).

and now one of the leading figures in generating opportunities for stateless discussions. She is the director of the Stateless Network,⁷ an organisation established in January 2009; it provides consultancy service for stateless persons and those who are faced with statelessness issues as well as hosting forums and lectures to facilitate exchange of information amongst specialists and the general public and to create opportunities for stateless persons to share their experiences. Although it is not mentioned in this report, UNHCR also plays role of advocating the recognition of statelessness as a matter of discussion in Japan. As well as organising seminars and symposia for inter-institutional exchanges, it has recently commissioned the below-mentioned work authored by Kohki Abe, “Overview of Statelessness: International and Japanese Context” (2010), and translated its *Nationality and Statelessness: A Handbook for Parliamentarians* (2005) into Japanese in 2009.

The difficulty with promulgating the notion of statelessness in Japan is different from that of refugees in that statelessness encompasses a greater range of causes. The consequences of statelessness to an individual are far from being noticed; generally speaking, it is only the stateless persons and those who are in direct contact with them who see where the problems lie, such as when they communicate with the bank or public agencies. At times, the stateless persons themselves are unaware of their statelessness. It is also a complex task to put forward a convincing argument in support of those who are eligible to apply for a nationality and yet are reluctant to do so as that would come at odds with their mental identity.

The issues of statelessness should perhaps be coupled with those of nationality as this is something that States have indicated a greater interest in,⁸ as suggested by the title of the UNHCR handbook for parliamentarians suggests. Kohki Abe also invited the audience to reconsider what it means to possess a nationality before addressing the problems of statelessness. The two concepts, if studied in parallel, would compliment each other as mutually defining instruments. Alternatively, the right to a nationality (Article 15, the Universal Declaration of Human Rights) could be emphasised so as to appeal to the people of Japan and to the international community, utilising the labels of human rights and/or human security, which guarantee a wider audience, as apparent in the ambitious title of the symposium treated in this report, and are somewhat more familiar notions for the public. Whatever the approach that one decides to take, there is a need for a strategy in diffusing information relating to statelessness if specialists wish to expedite the process.

With regards to policy, it may be advisable for Japan to refer to the examples of Thailand and France, given the lack of established framework within which to tackle statelessness issues. Although Thailand’s Nationality Law was originally based on *jus sanguinis* like Japan, the 1952 Nationality Act B.E. 2495 allowed Thai nationality to be granted

7 For more information on the Stateless Network, see <http://www.stateless-network.com/>.

8 Goodwin-Gill 2010, 1.

on the grounds of *jus soli*.⁹ France, on the other hand, has long applied both *jus soli* and *jus sanguinis* in its provision of nationality. The two countries offer their own systems in dealing with statelessness cases as stated below.

Japan

Kohki Abe's¹⁰ "Overview of Statelessness: International and Japanese Context" (2010) is perhaps the most recently produced key literature on statelessness in Japan. At the symposium, he summarised much of his work, emphasising the need for a mechanism which would ensure that a stateless status determination process is carried out at a common international procedural standard with a clear definition of statelessness. This is crucial in identifying an accurate number of both *de jure* and *de facto* stateless persons who remain unprotected. The credibility of the current statistics on stateless persons provided by the Japanese Ministry of Justice is questionable given the absence of a clear outline for status determination. More extensive research that examines the whole society, rather than a fraction of it, is also necessary in order to map out various problems experienced by stateless persons.

Abe stated that statelessness raises grave concerns because a stateless person does not have the right to vote and cannot enjoy social services. Most importantly, the stateless person is subject to long-term detention if registered as an illegal immigrant since their claimed country of origin could deny any connection with him/her. Even if a temporary release status were provided, the stateless person would not have the right to work. Abe added that there is also a question of emotional identity,¹¹ which needs to be taken into consideration.

Abe mentioned two main types of stateless persons, who are presently of concern in Japan.¹² One is where the birth of a child is not registered; the child would have been granted a nationality automatically, but as there is no legal evidence of his/her existence, the child remains stateless. The other is refugees, such as those from Indochina: if parents are recognised refugees but stateless, their child is likely to be stateless.

In response to statelessness problems, two Conventions were drawn: the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention Regard-

9 For the history of Thai nationality, see Phunthip Kanchanachittra Saisoonthorn, 2006.

10 Kohki Abe is a Professor of International Law at Kanagawa University Law School, Japan.

11 Given the accounts of stateless persons themselves presented at the symposium, it seems that this is the most concerning of all aspects of statelessness for many individuals in Japan.

12 For other types of stateless persons which have existed in Japan, see Abe 2010.

ing the Reduction of Stateless Persons, neither of which Japan has signed. However, the Japanese Nationality Act was revised in 1984 in an attempt to prevent statelessness. For example, based on its *jus sanguinis* principle, it had previously permitted only the father to pass on his nationality to the child (i.e. by patrilineal descent). However, the new law allows the child to obtain Japanese nationality from either the father or the mother. In addition, it allows a child to be issued with Japanese nationality if his/her parents were unknown or had no nationality, while naturalization conditions became relaxed in cases where the applicant was stateless and had retained an address in Japan for at least three years.¹³ There are approximately 15,000 applications for naturalisation every year, most of which are accepted.

Nonetheless, Abe affirmed that Japan must reinvigorate its response to statelessness if it wants to avoid violating human rights. Those for whom there is no destination to be deported to cannot but be permitted to stay in Japan and should be protected with minimum rights under the International Covenant of Civil and Political Rights (1966). As for refugees, their claimed nationality should be verified, and naturalization should be allowed where necessary. Furthermore, besides considering signing and ratifying the above-mentioned Conventions, Japan should recognize the necessity to advocate multi-lateral cooperation, particularly with East Asia, as it is not an issue that can be solved by one country alone.

Thailand

The need for statelessness solutions in Thailand emerges from a number of serious problems. According to Kritaya Archavanitkul,¹⁴ statelessness and nationalityless persons in Thailand, particularly of ethnic minorities, are subject to forced relocation. In the past, there were "several waves" of forced relocation conducted in the name of 'national security', which took on various forms such as national development and environmental conservation. These were, in part, attempts to target those who had been acknowledged as illegal migrants and to control and suppress the narcotics. In recent years,¹⁵ development for tourist industry by local administrative organizations and investors has become dominant. There has therefore been a danger for stateless and nationalityless persons to become internally displaced, whereby they may turn into even more vulnerable beings.

Furthermore, persons without any legal status are unable to enjoy the freedom of movement: they are confined to their 'control areas'; that is the district or province in

13 "However, naturalisation has not been recognised as a right, as it is left to the discretion of the Minister of Justice." Quoted from Abe 2010, 42.

14 Kritaya Archavanitkul is a Professor in the Institute for Population and Social Research at Mahidol University, Thailand.

15 Since 1987. Archavanitkul 2011.

which they live, work or study. However, in early 2010, the Ministry of Interior introduced a new regulation, which eases the movement of stateless or nationalityless students for the purpose of education.

Other consequences of statelessness and nationalitylessness in Thailand include lack of land security due to restricted land ownership, refusal of birth registration for children whose parents do not have permission for temporary residence in Thailand, work restrictions which limit them to be employed only in permitted professions, and lack of labour protection such as their exemptions from the Workmen's Compensation Fund. Meanwhile, access to healthcare has improved for many since April 2010: the Thai government has effectuated a plan to grant the right to 457,000 people with personal legal status problems, involving 172 border hospitals in 15 provinces.¹⁶

Bangkok Napaumporn¹⁷ argued that Thailand has formulated its own policy to deal with statelessness without adopting the international legal framework (the 1954 and 1961 Conventions) because it recognises its own specific perception of statelessness, which is distinct from that of the international norm. Distinctions between different types of statelessness which exists in Thailand can be made as follows: 1) stateless persons, who are not recognised by any civil registration and therefore has no nationality; 2) nationalityless persons, who are recognised under civil registration but has no nationality; 3) quasi-nationalityless persons, who are nationals of certain countries but their possession of nationality has become meaningless through their residence in Thailand.

There are various ways of categorising stateless and nationalityless persons, depending on the field of research. Archavanitkul divides them into 4 groups from the demographic perspective:¹⁸ 1) ethnic minorities; 2) rootless persons or those without civil registration record; 3) migrant workers from Myanmar, Cambodia and Laos; 4) displaced persons residing in Thailand from Myanmar.

The National Security Council is a governmental body which is responsible for the legal status of an individual and the rights of marginalised groups in Thailand. The Civil Registration Act B.E. 2499 introduced in 1956 forms the legal framework for the acquisition of identification card, and the Nationality Act B.E. 2508 for the acquisition of nationality. One cannot acquire Thai nationality without being recognised by the civil registration system, just as one becomes stateless if s/he fails to acquire a family register¹⁹ in

16 The 'Health Care Welfare Project for Those with Low Incomes and Those Being Socially Supported' which was in place until 2002 enabled nationalityless persons whose ID number begins with 6 or 7 to receive free health care services if they could afford to purchase a 'health insurance card for those with low incomes', which cost 300-500 Baht per family.

17 Bangkok Napaumporn is a legal expert at Bangkok Legal Clinic for Legal Personality and Rights of Persons.

18 For legal classification of stateless and nationalityless persons, see below.

19 Koseki in Japanese.

Japan. Napaumporn implied that, while reasons for statelessness can often be attributed to the individuals who, for example, lack information on the civil registration system and therefore fail to be registered or to those who avoid being registered for fear of being persecuted for having entered the country illegally, there are problems of corruption in administrative bodies and discrimination against certain groups of people applying to obtain Thai nationality (notably, ethnic minorities).

According to Napaumporn, Thailand has adopted Formula 5 x 6 x 6 to solve statelessness nationalitylessness problems. This is a mechanism which complies with a remedy proposed by UNHCR - identification, prevention, reduction and protection²⁰ – and the title encapsulates the structure which supports the system: ‘5 groups’ of stateless and nationalityless persons who need to be protected,²¹ ‘6 steps’²² under applicable laws and policies which are crucial for ameliorating the statelessness situation, and ‘6 types’²³ of actors who are involved in the process of designing an effective system which handles statelessness situations.

Archavanitkul also pointed out the improvement – what can be considered “a step forward for stateless people” - in the Thai government’s overall policy on statelessness, which is reflected in the establishment of the ‘Strategy on Managing People with Personal Legal Status Problems and Rights’ in 2005.²⁴ She noted that this is a “new paradigm of

20 UNHCR 2006.

21 1) Unregistered persons, often living in remote areas; 2) Thai nationals registered as aliens due to their lack of awareness that they are indeed Thai; 3) aliens born in Thailand; 4) assimilated immigrants who have no connection with their country of origin; 5) immigrants who still have connections with their country of origin. Quoted from Bangkok Napaumporn, 2011.

22 1) Finding facts of the case considered; 2) Finding applicable laws and policies for each case; 3) Studying how to acquire the legal status under that law and policy; 4) Expelling cause of loss of legal status (if they do something wrong); 4) Extinguishing how to recover the legal status after the loss; 6) Exercising judicial process where there is injustice during the legal undertakings. Quoted from Bangkok Napaumporn, 2011.

23 1) Knowledge creators (supervisors who control what the workers do); 2) Facts finders (responsible for the 1st step under the ‘6 steps’); 3) Legal assistants responsible for the 2nd, 3rd, 4th and 5th steps); 4) Law and policy reformers (e.g. government officials); 5) Natural judiciary (those who can communicate to the public when there is injustice e.g. journalists, reporters, i.e. the 6th step); 6) Official judiciary (judges, attorneys, i.e. the 6th step). Quoted from Bangkok Napaumporn, 2011.

24 This was a plan originally advocated by a network of scholars, human rights defenders, NGOs, civil servants, politicians and high-ranking officials in the National Security Council.

national security management, emphasising the balance of human security and national security.” The policy entails a strategic plan for status determination and for protection of fundamental rights, as well as a “proactive and creative” strategic plan to prevent further immigration. On the one hand, it strives for the protection of people with insecure legal identity, but on the other, it reaffirms the grounds that demand the certainty of the genuine nature of the applicant so as to uphold national security.

Napaumporn proposed a three-fold management structure. First, knowledge management (KM) should be maintained in order to provide necessary knowledge to the right person; be it a stateless or nationalityless person, an on-duty government official, or a practitioner such as a lawyer or an NGO worker. Second, system management (SM) is needed to produce specialists working on those issues - governmental and academic organs, in particular – and to establish a consulting and monitoring mechanism which creates a space for cross-institutional discussions. Third, attitude management (AM) should help people change their negative attitudes, often shaped by prejudice, towards stateless and nationalityless persons, and aliens overall.

Despite its efforts to form systematic solutions to personal legal status problems, Thailand is confronted with many obstacles in applying them. Archavanitkul stated, with evidence provided by the Stateless Watch for Research and Development Institute of Thailand (SWIT), that there is corruption amongst those who carry our national surveys and some government officials in the field, whose practice is based on their own interpretations of given guidelines. There also remain loopholes in the personal legal status procedure, such as that those who are eligible to obtain Thai nationality do not manage to do so unless they individually submit an application²⁵ at a local registration office or that those whose birth is not registered are not on the Tor-Ror 13 document²⁶ and therefore remain nationalityless unless they apply for a DNA test. As already explained above, it appears that some aspects of the problems surrounding personal legal status issues in Thailand are due to lack of knowledge on the part of those who are stateless or nationalityless and to the fact that it is up to them to make adequate claims, which may not be easy, particularly for those who live in remote areas. Hence, Thailand would benefit from Napaumporn’s strategy on knowledge management if successfully implemented.

France

Unlike Thailand, France has signed and ratified the 1954 New York Convention Relating to the Status of Stateless Persons, and also signed, though not ratified, the 1961

25 This can sometimes take years to process as it has to go through different administrative levels and is then subject to the Interior Minister’s personal decision.

26 A form of household registration in Thailand.

Convention on the Reduction of Cases of Statelessness. Benoit Meslin²⁷ stated that in practice, however, most of the latter Convention is practised in French law. The French Office for the Protection of Refugees and Stateless Persons (OFPRA)²⁸ is part of the government organisation and was set up following the ratification of the 1951 Geneva Convention Relating to Status of Refugees. Since, OFPRA has been responsible for dealing with the cases of asylum seekers or refugees and of stateless persons.

Whereas there are 50,000 people applying for refugee status per year, the number of people applying for stateless status per year is 160,²⁹ which is comparatively small. Most of the people who seek to be recognised as stateless persons are from Europe (70 per cent); mostly from the former Soviet Union (40 per cent of the European applications), such as the former Federation of Yugoslavia (20 per cent of the European applications). The rate at which stateless status is granted is approximately 30-40 per cent.

One needs to contact one of the 105 local government offices³⁰ to apply for stateless status, if s/he is on French territory. An applicant is issued with a form, which must be completed in French, providing personal details and stating why the applicant thinks he or she is stateless. There are various NGOs who provide assistance during this process. The completed application form is sent to the headquarters in Paris, which has a unit and officers specialised in statelessness. The applicant is then summoned to Paris for an interview, which is crucial in identifying why s/he is stateless and with which country that person has a link. Although this not compulsory, nearly all applicants accept the opportunity.

During the stateless status determination process, OFPRA may contact the consulate of the applicant's country of origin and, if necessary, their own embassies abroad in order to make inquiries as to whether the identity of the applicant is known to them and why that person could be stateless. It also stores documentation of laws of all different countries. France defines a stateless person as someone who cannot claim any nationality.³¹ Thus, questions are also raised as to whether the applicant is entitled to obtain a nationality if s/he were to make that claim.

The applicant can apply for both refugee status recognition and stateless status recognition, and there is a possibility that s/he may eventually be recognised as a stateless refugee. As refugee status offers a higher degree of protection than stateless status, the

27 Benoit Meslin is Secretary-General of the French Office for the Protection of Refugees and Stateless Persons.

28 Office Français de Protection des Réfugiés et Apatrides in French. For more information on OFPRA, see <http://www.ofpra.gouv.fr/>.

29 At least a quarter of applicants already have a residence permit in France.

30 Préfectures in French.

31 OFPRA quotes the UN definition of a stateless person (Article 1, 1954 New York Convention).

determination of the former takes place before that of the latter.

Stateless cases are dealt by ordinary local administrative courts, unlike refugee cases for which there is a specialised court. However, all decisions can be challenged within two months,³² though OFPRA's decisions are rarely quashed.

Once granted stateless status, that person is required to present his/her birth certificate. If s/he does not have contacts with any state – though most do, unlike refugees – the French birth registry can produce a birth certificate based on the documents s/he brings or on declarations, as it does for refugees.

A person with stateless status is automatically issued with a three-year residence permit, which is automatically renewed after 10 years (also renewable), provided that the person is still on French territory and is still stateless. After 5 years of residence in France, a legally recognised stateless person is eligible for an application for naturalisation. Although there is no statistics on this case, but Meslin attests that most people become naturalised. There is a quota of 1000 naturalisations per year, which Meslin says is “not very much” but adds that the number of applicants is also small.

As mentioned above, the rights of stateless persons are protected, largely in accordance with the 1961 Convention. A child born in France of unknown or stateless parents is French; a child born in France whose parents cannot pass on their nationality him/her is French. They also have education and health rights, just like all French citizens: education is compulsory for any child living in France between the age of 5 and 16, and free health care is available for those who need it. Furthermore, French law is designed so that it cannot create any new stateless people and no one can lose French nationality if without any other nationality.

France seems to have benefited from its history and experience in dealing with statelessness issues, which have been studied in tandem with refugee issues. As Meslin underlined, France has hosted many people fleeing their country of origin since the early twentieth century: thousands of Russians following the 1917 Revolution, Armenians after the events of 1915, Italians in the 1920s and 1930s, Germans and Austrians in the 1930s following the establishment of the fascist and Nazi regimes, and Spaniards in the late 1930s. Although many were not recognised as refugees in those days, in each event, France set up specific organisations to attend to urgent cases. The current administrative system assumes a form which has changed significantly since the World War II; until then, asylum and statelessness requests were handled by offices set up on the basis of country of origin. It seems to offer a much-needed example for Asian states such as Japan, so long as, Meslin implies, those who study the example are aware of their own context.

32 Appeals against decisions on asylum need to be taken to court within one month.

Reference

	Stateless Persons*	Refugees**	Asylum Seekers***
Japan	1,525	2,332	2,935
Thailand	3,500,000	105,297	10,255
France	1,078	196,364	35,268

* Persons recognized as refugees under the 1951 UN Convention/1967 Protocol, the 1969 OAU Convention, in accordance with the UNHCR Statute, persons granted a complementary form of protection and those granted temporary protection. It also includes persons in a refugee-like situation whose status has not yet been verified.

** Refers to persons who are not considered nationals by any country under the operation of its laws.

*** Persons whose application for asylum or refugee status is pending at any stage in the procedure.

Source: UNHCR/Governments; compiled by UNHCR, FICSS. As at January 2010.

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INTERVIEW

INTERVIEW OF KANAKO IWASE

Interviewed and translated by Shikiko MASUTOMI. Documented by Taichi UCHIO and Junko MIURA.*

PROFILE OF INTERVIEWEE

Kanako Iwase was born in Saitama in 1975. During a month of hospitalisation as a student, she was faced with the potential imminence of death and her view of life changed. In later years, the Kobe (Hanshin Awaji) Earthquake became a decisive moment in initiating her volunteer work. Having built experience through numerous posts such as in a major temporary-employment agency and a foreign headhunting company, as well as having engaged in establishing venture enterprises, Iwase launched her own company, Arusha Co., Ltd in 2009. At a time when she was hoping to start a new business after completing a marketing course in the UK, an encounter with a scholar exposed her to refugee issues in her own country.

Q1. What kind of preparations were involved in before you opened Arusha Nail Salon in 2010?

We established the company (Arusha Co., Ltd.) in March 2009, and we started our nail service in May 2010. In February of that year, a three-month training for the staff began, and before that I underwent some training myself. However, my initial intention was not to create a business that would support refugees or do anything for society. Through my encounter with Sumiko Iwao, a professor at Keio University, in 2008, I became interested in microfinance and fair trade, and so I quit the job that I had at the time and developed a new project. I then got in contact with many NPOs through the

* MASUTOMI and MIURA: CDR Staff (at the time of writing, May 2011); UCHIO: Graduate Student of the Graduate Program on Human Security, the University of Tokyo. The interview was conducted on March 3, 2011

ILO² and several other agencies, and I got to know the director of REN,³ Naoko Ishitani, quite well. In November 2009, I found out that there are refugees in Japan and that they are in a very difficult situation. I felt compelled to do something for them, which led me to start the nail business.

Q2. How many people are currently being trained in nail art, and how many are working as professional nail artists?

About 17 people took part in the training before we opened our salon, and when we began our service, 3 graduated as professional nail artists. Now, two people are working full-time, and two more part-time; in addition, 3 people from Myanmar, 1 from North Korea, another from Africa are training.

Q3. How many hours on average do the nail artists work per week?

We essentially work on the basis of reservations, but now we have appointments with about 30-50 customers every month on average (the number varies amongst the artists). There is an artist who wants to take Sundays off for religious reasons.

Q4. It seems that, when Arusha had just launched itself, communications between the staff were difficult, but do you no longer have that problem? What kind of burden falls upon the manager?

The amount of time they have spent in Japan varies amongst the artists: some have been here for about 20 years, and some 2 years. But now we don't really have any problem communicating in Japanese. But when we first started, I stayed in the salon to give them instructions, and we also had evaluation sessions. When I gave instructions, there were times when they misunderstood me even if they managed to communicate with basic Japanese, so it was quite difficult.

Perhaps it's to do with the fact that the Japanese expect high standards, but I think you can say that they are not so good at understanding the customers' point of view. Now, we have more appointments, and I mostly leave them in charge. It is probably going to be difficult to keep up with Japanese standards, but I encourage them by telling them they can gain skills that can be recognised anywhere in the world.

2 International Labour Organization.

3 Refugee Empowerment Network.

With regards to the burden on the manager, I have to make sure that my employees who are refugees can adapt to Japanese society. At present, there are not only linguistic and cultural barriers, but also a difference in learning speed. There are some who have not received enough education, and others who have been affected by the education standard of their country of origin. There are cases where their parents, too, cannot read or write. I had to teach them to plan their ways of spending money. So I really felt that there was a big difference between the education we receive in Japan without even realising and that which they do in their country.

Q5. Are you likely to put the prices up in the future as your staff improve their skills?

From the start, we set our prices relatively low, and we hope to avoid raising them in the future since there is now a tough market out there. Through our contacts, we have managed to find a small flat to work in, which is being let to us by someone's courtesy, so the main costs are utilities (we would like to pay for our rent in the days to come). There are also people who provide us with nail products, so there is little expenditure and that is how we manage to keep our business going. We also had somebody offering to create our website at a very low cost, which I am truly grateful for. What is more, most of what our customers pay directly becomes our profit. Moreover, one session can take up to two hours, so I would like our customers to use that time to talk to our staff. And we do have customers telling us afterwards that they have become interested in refugee issues. This is a valuable outcome.

Q6. Do you think launching a business that is profit-making rather than an NPO has been a success?

I think we cannot but be profit-making because Arusha needs money to sustain itself. I think support systems that are run by donations, like NPOs, do not last very long in the end. There are ideas that promote businesses that try to make use of the culture of their home country, but as long as you are in Japan, you need to reconsider what the demand is amongst Japanese people, and you have to drive your business in a direction which would guarantee Japanese consumers because more than 90% of our national population are Japanese. Otherwise, you can't get by as a business. Besides, the kind of emotion that you find yourself in when being in contact with a foreign culture is something that is born when you go to the actual country. Of course, I think ethnic cuisines are great too, but the only people who would come frequently to have a meal would be those who have particular interests in that culture. I think nail art has many advantages: it is a business which can be run properly if adequately structured, and therefore there is a greater chance of success; nails grow, so you can get a higher rate of returning customers; its

training can be done in a shorter duration of time than for hairdressers; initial investment is relatively small; and there is no need for a national examination or licence. Because it is a new industry, there are no big hurdles like nursing, which is another positive factor. I think if you could establish an NPO as an individual and collect enough funds for it, that would be wonderful; but I thought, rather than using my energy on such work, I could start my own business to produce good results.

I am truly grateful for how much interest society has found in what we do through media.

Q7. Arusha is frequently reported in the media, but is this an intended public relations strategy? Doesn't appearing in the media work to your advantage?

We really appreciate being presented in the news because we don't spend money on publicity. People spread the word when they read our interviews with the press. We also have heard reactions from people who, for the first time, found out about the refugee situation in Japan. When we first opened, organisations such as Japan Associations for Refugees (JAR), which provide support for refugees, kindly introduced us in their emails and so we only had customers who found out about us through that, but we are beginning to receive customers who read about us in newspaper articles. Since we have just moved to Kamiyacho,⁴ some customers find us by chance on their way home after work. Our customers are women, normally in their 20s or 30s, but we also have a customer in her 70s.

In addition, although we hear life stories of refugees, such as someone from Myanmar whose relatives were killed, a North Korean defector who was scouted to join the "Pleasure Group",⁵ it is difficult for Arusha to disseminate this kind of information directly through a blog for business management and political reasons. So that is what I try to do through interviews.

Q8. Did you choose Sahel Rose as your public relations ambassador with the positive effects of media coverage in mind?

It was through Kanae Doi from Human Rights Watch who came to our salon as a customer that we asked Sahel Rose to support us. Through NPO network such as this, we

4 An international business district in Central Tokyo with several embassies and other office buildings, as well as restaurants and bars.

5 Gippeumjo in Korean.

have received much support from those who are willing to do something for refugees. So we are truly grateful.

Q9. It looks like Arusha is taking on a direction that would allow itself to expand its business from nail art service to language education and to fair trade. What kind of business model do you have in mind?

In the past, we had some people from Africa who came to be trained in nail art, but they were not so good at detailed work, such as applying nail varnish without spilling over the edges of nails. But before gaining a new skill, we thought about finding work which would compliment skills that we have already. As they spoke French or English, we thought they could give languages lessons. There were some who already had experience in that business. It all began from their simple attempt to find a job (or create a job) and earn a living. Nail service tends to be limited to women, both from the side providing the service and for the one who is receiving the service, but language lessons can be enjoyable for men too. There was a man from Iran who came to us, and despite having completed three months of nail art training, he quit saying he could not touch women's hands in his home country because of culture.

Q10. What kind of potential will social enterprises such as Arusha have from now on?

Social entrepreneurship seems to be practised in a variety of organisations today, and I think this is a very positive trend. Actions taken for somebody or something result in teaching us many things and creating new chances to meet people. With regards to business, there seem to be many cases where social entrepreneurship brings about valuable by-products through different kinds of projects. I consider social entrepreneurship as a role which needs to be taken on by businesses in industrialised countries, and I hope it becomes natural for all companies to pursue social entrepreneurship, and that they work hard to come up with innovative projects.

With regards to our company, I think, since we are in a neutral position, we also act as an 'information hub' for refugees who have got in touch with us by chance, by sharing knowledge of different possibilities which exist for them in Japanese society and of services provided by the Japanese government and NPOs. This extends to introducing scholarships offered specifically to refugees, for example. Moreover, I think, until now, there has been too big a gap between businesses and NPOs. Isn't there a need for an exchange between different fields including universities?

Q11. Are you conscious of being a social entrepreneur?

We often hear words such as “social entrepreneur” and “social enterprise”, which seem to be in fashion now, but personally I am not conscious of being a social entrepreneur as such. I am actually helping out with a friend’s business, and my willingness to only do things that are fun has been strong ever since I quit being a “salary man”. That does not mean that I don’t consider social contribution to be an important act, but I also think it’s important to be free and enjoy my own life. But once you know about refugee issues, I also feel that you are impregnated with a sense of responsibility towards them. I wanted to do something more challenging while I am in my thirties. “Making money whilst doing something for other people; I would love to pursue both goals” – I felt that it was a challenge for myself. It also has to do with the fact that I had done consulting in the past, and I wanted to do something like commercial business which is different.

If there were some other business that involves refugees and no initial cost, then I would love to try it.

NOTES

DEVELOPMENTS OF HMS/CDR

Satoshi YAMAMOTO

I. Country of Origin Information (COI) and CDR

Under the current system of refugee adjudication, an asylum seeker who applies to refugee recognition procedure needs to clarify his/her identification, and most importantly, to substantiate its refugee status before the adjudicators. It requires an asylum seeker to submit evidences to support their claims and in many cases it is insufficient as people persecuted do not have access to their own government to certify their identifications including passports. In that case, an asylum seeker relies only to the plausibility and/or consistency of what he/she says, and the country of origin information (COI) is used to confirm their plausibility.

However the COI especially here in Japan is insufficient in general to help those asylum seekers to be recognised as refugees. The information needs to be collected and sorted more systematically and hoped to be free to use both for asylum seekers and adjudicators especially in the case if the application is rejected. It is a longstanding challenge for practitioners concerning this issue. CDR started to cooperate specifically with Japan Lawyers Network for Refugees (JLNR) from this autumn, and re-organizing the collected and accumulated contents in JLNR for the first step. The priority is on the current cases, and it tends to concentrate on some specific countries such as Myanmar.

CDR is located in Komaba campus in which various area study researchers of diverse disciplines have been conducting field work in many countries. It is our challenge to mobilize and facilitate those knowledges accumulated by them to refugee status adjudication process, for fairer processing and decisions.

II. STAFF AS OF OCTOBER TO DECEMBER 2011

General policy of CDR is decided by the CDR Executive Committee in its monthly meetings. The daily work of CDR is managed by the following 6 staff and 1 student intern.

A. Members of the CDR Committee

- Professor Yasunobu SATO (Chair)
- Professor Shinji YAMASHITA
- Professor Mitsugi ENDO

B. Staff

- Yasunobu SATO (Director)
- Satoshi YAMAMOTO (Vice Director)
- Miki ARIMA (Research Assistant)
- Junko MIURA (Secretariat / Research Assistant)
- Kumiko NIITSU (Research Assistant)
- Mutsuhisa BAN (Research Assistant)

C. Intern

- Yumiko NISHIOKA (Graduate School of Frontier Sciences, The University of Tokyo)

III. EVENTS

October 2011- January 2012

【Seminars and Symposia】

■13 December : HSP Seminar no.130, Human Trafficking in the Great Mekong Sub-region: Modern Day Slavery Revealed

Each day, countless men, women and children around the world suffer in horrific slave-like conditions. Whether it be a teenage boy forced to work 19 hour shifts on a fishing boat in foreign seas, a woman forced to have sex with up to ten strangers every night, or a child sold into a sweat shop to make electronic components for an unscrupulous sub-contractor, each day these real-life dramas play out in all our countries. Globally, it is estimated that there are over 27 million enslaved persons, with about half in Asia alone.

Matthew Friedman, a United Nations international expert in human trafficking, will provide a comprehensive overview of the human trafficking problem throughout Asia. What it is, how it works and what is being done to address it. His presentation will focus on what governments and civil society are doing and how effective this work has been up until now and challenges forwards.

Mr. Friedman is an international human trafficking expert with over 20 years of experience as an activist, program designer, evaluator and manager. He is currently the Regional Project Manager of the United Nations Inter-Agency Project on Human Trafficking (UNIAP) in Bangkok, Thailand. UNIAP is managed by a headquarters in Bangkok, with country project offices in the capitals of Cambodia, China, Lao PDR, Myanmar, Thailand and Vietnam. It represents one of the world's largest inter-agency coordinating body on human trafficking linking the United Nations system with governments, civil society and private groups in the region and beyond.

- Date : December 13 (Tue.), 2011, 10:40-12:10
- Venue : Room 531, 3F of Bldg.5, Komaba Campus, University of Tokyo (map)
- Lecturer : Matthew Friedman (Regional Project Manager of the United Nations Inter-Agency Project on Human Trafficking (UNIAP) in Bangkok, Thailand)
- Mediator : Miwa Yamada (Institute of Developing Economies (IDE))
- Commentator : Marip Seng Bu (Secretary-General of Refugee Coordination)

Committee of Japan (RCCJ))

Language : English

Materials : UNIAP website

Organizers : Graduate Program on Human Security, University of Tokyo (HSP); Center for Documentation of Refugees and Migrants (CDR), University of Tokyo

【Research Projects】

■ Translation

Translation of the Rights of Refugees under International Law by Professor James C. Hathaway is under way; Translation of HM Inspectorate of Prisons: Inspection Manual 2008 is under way. Both documents are written in English and translated into Japanese by staffers of CDR.

【Other】

■ 7 October : Co-hosted the 9th forum of the Migration and Refugee Studies (MRS), “Resettlement of refugees from Thai-Myanmar border area into Japanese society”

MRS is led by professor Saburo Takizawa, who is teaching migration studies at Toyo Eiwa Women’s University and also at UoT. This time CDR hosted the seminar and reported several outcomes from field work conducted since May, including domestic resettlement site and Thai-Myanmar border area. About 50 students and general publics participated and discusses actively this issue.

CALL FOR CONTRIBUTIONS

CDRQ is an open journal published on a quarterly basis. The aim of the journal is to disseminate information collected from research activities of CDR and related partners. It also welcomes contributions not only from academics but also from practitioners who are facing real social problems. This journal primarily focuses on issues of movement of people basically. However the contents also include variety of related fields such as governance and conflict resolution and prevention, as these issues induce and escalate forced displacement and more longer-term movement of people. The purpose of the journal is to provide a crosscut perspectives on refugee and migrant issues with comprehensive awareness to the issues of movement of people.

For more details, please access to the official website of the CDR and download the "CDRQ Handbook": http://cdr.c.u-tokyo.ac.jp/Quarterly/Q_handbook.pdf

