

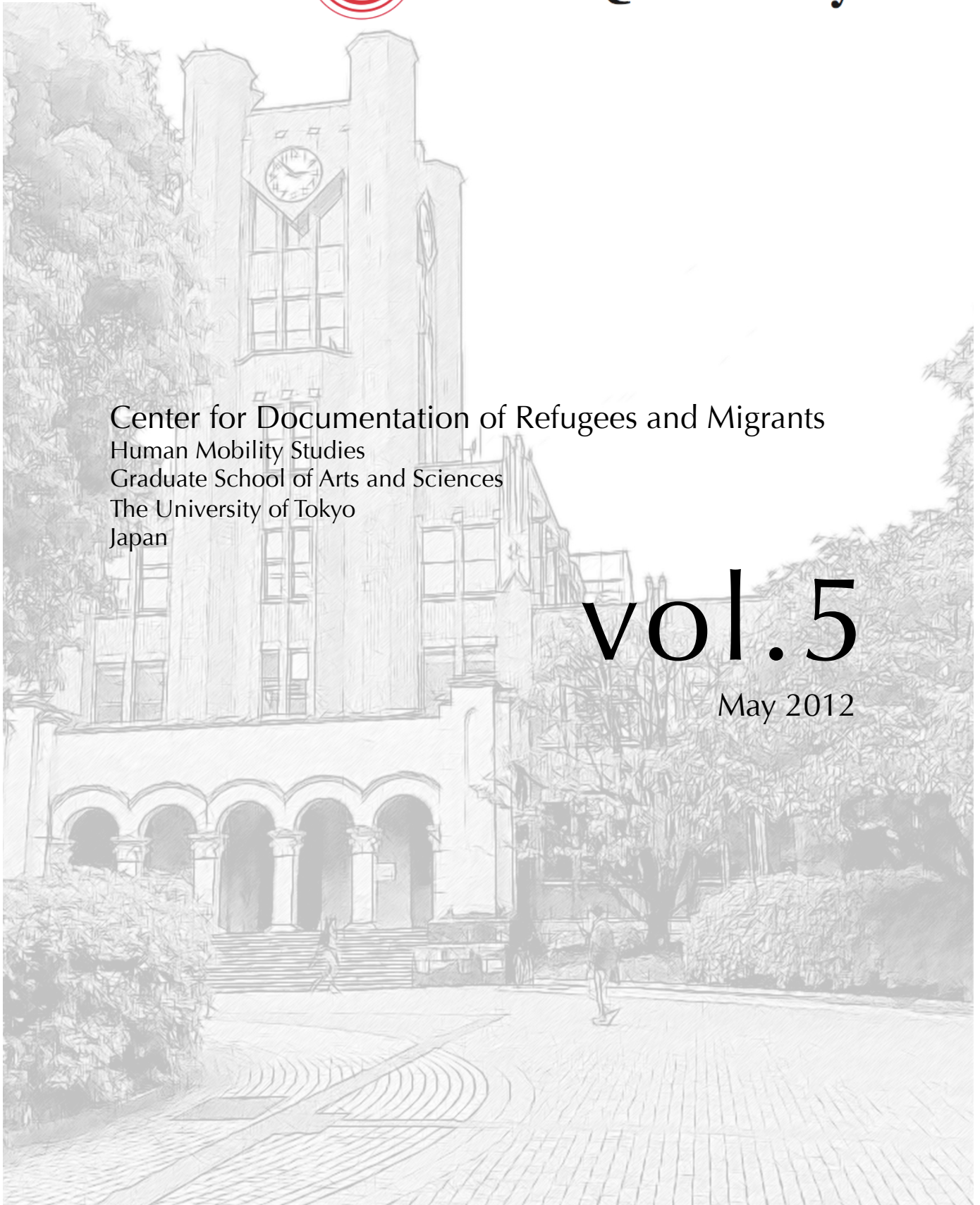


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Center for Documentation of Refugees and Migrants
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NOTE FROM THE EDITORS

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. Our 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 on human mobility and the future of our 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.

One year has passed since the Great East Japan Earthquake but unfortunately many people still remain in displacement. Given this reality, CDR invited Ms. Erin Mooney, an expert on issues of internal displacement, and co-hosted a symposium titled “Human Security of IDPs by Disaster: Analyzing National Response to Internal Displacement Caused by the Great East Japan Earthquake” on 16 March 2012. This issue of CDRQ contains working papers around the theme of internal displacement caused by natural disaster, as well as a report on the above symposium.

Other themes covered in this issue include trafficking, resettlement, asylum, and immigration detention, representing the breadth of CDR’s work. We will continue to monitor these important themes in human mobility, and welcome contributions from all parts of the world.

Editors: Satoshi YAMAMOTO and Miki ARIMA

May 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

CDR Director
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May 2012

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ARTICLE

HUMAN TRAFFICKING AS A PROCESS: A PERSPECTIVE OF HUMAN SECURITY AND PUBLIC ANTHROPOLOGY

Shinji YAMASHITA*

ABSTRACT

According to John Salt, there are two kinds of approaches towards human trafficking. One way to approach the subject is from an economic perspective, emphasizing trafficking as a migration business. The other regards it as essentially an illegal, criminal activity and takes a legalistic view, which includes human rights protection of the victims of trafficking. The question is then how to relate these two approaches for a fuller understanding of the complicated human conditions in which trafficking occurs. Regarding human trafficking as a process, this paper examines the trafficking business and the anti-trafficking activities in a perspective of human security and public anthropology. In so doing, the paper attempts to rethink the research framework of human trafficking in broader socio-cultural contexts beyond the opposition of migration-business vs. legal-human rights.

I. INTRODUCTION

The U.S. State Department has estimated six to eight hundred thousand individuals are trafficked each year across international borders and millions are trafficked internally. As a business, the annual profit generated by the human trafficking is estimated to be from \$ 9.5 billion (estimated by the U.S. State Department) to \$31.7 billion (the International Labour Organization).¹ The trafficked persons, often deprived of their human rights, are forced to engage in sexual exploitation, domestic services, agriculture, fishing, manufacturing, construction and organ harvesting. A study shows 90 percent of foreign sex workers in the Balkan states are victims of trafficking. However, only 30 percent of them are recognized as “victims”, and only 7 percent of them receive necessary support. Instead they are oftentimes accused of being criminals as they are illegal workers.²

According to John Salt,³ there are two kinds of approaches towards human trafficking.

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1 Kara 2009, 17.

2 Commission on Human Security 2003, 84.

3 Salt 2000.

One way to approach the subject is from an economic perspective, emphasizing trafficking as a migration business. The other regards it as essentially an illegal, criminal activity and takes a legalistic view, which includes human rights protection of the victims of trafficking. The question is then how to relate these two approaches. In this respect, Laura Agustin's following observation deserves attention: "In recent years, the field of migration studies has opened up to diverse theories; transnationalism and border zones have been accepted and women are understood to be more than mere followers in the men's footsteps. So it is strange that a whole category of migration should be discursively shunted – or perhaps tided away – into another domain. I refer to women who leave their countries and later are found selling sex in someone else's, at which point they disappear from migration studies (where they would be migrants) and reappear in criminological or feminist theorising (where they are called victim)." Then she asked: "How this switch takes place, and for whom, and how silences on sexual matters contribute to this major removal of agency from large numbers of present-day migrants."⁴

Focusing on human trafficking in the accelerated human mobility in the globalized world, this paper follows up this question, and examines the complicated human conditions of trafficking business and anti-trafficking activities in a perspective of human security and public anthropology. Regarding human trafficking as a process, the paper also aims to contribute to rethinking of the research framework of human trafficking in broader socio-cultural contexts beyond the opposition of migration-business vs. legal-human rights.⁵

II. GLOBAL MIGRATION AND HUMAN SECURITY

First, let me explain the backgrounds in which the trafficking and anti-trafficking theme is embedded – global migration and human security. In 2010 about 1 billion people travelled across national borders. The figure is expected to grow to 1.6 billion in 2020.⁶ In this "global ethnoscape," as the anthropologist Arjun Appadurai has called it,⁷ a huge number and a great variety of people are moving around the world, from tourists to terrorists, and from migrants to refugees. Amidst the accelerated global human mobility, the issue of security has become

4 Agustin 2006, 29.

5 This paper was originally presented at the International Conference on Forcing Issues: Rethinking and Re-scaling Human Trafficking in the Asia-Pacific Region, on 4-5 October, 2010, at the National University of Singapore. The original title was "Human Trafficking, Human Security, and Public Anthropology." This paper is a revised version of that paper with updated data and changed title. The research on this topic was made possible with the Grant-in-Aid for Scientific Research on Innovative Areas, "United Nations PKO and Business: Conflict, Human Movement and Governance," organized by Yasunobu Sato, Professor of Human Security Program, Graduate School of Arts and Sciences, the University of Tokyo.

6 UNWTO (the World Tourism Organization) Tourism Vision 2020.
<http://unwto.org/facts/menu.html>

7 Appadurai 1997, 33-36.

increasingly important, especially after the events of September 11, 2001 in the United States. So in the 4th edition of their book, *Age of Migration*, published in 2008, Stephen Castles and Mark Miller have added a new chapter on “migration and security,” and write: “Traditionally security has been viewed through the prism of state security. As a result, relatively few scholars have sought to conceptualize what can be termed the migration and security nexus. However, the scope of security concerns is much broader, and is inclusive of human security.”⁸

The term “human security” was first coined by the UNDP (United Nations Development Program) in their Human Development Report for 1994.⁹ Following this, the UN launched a Commission on Human Security in 2000, which was co-chaired by Sadako Ogata and Amartya Sen. Focusing on the two fundamental concepts of “freedom from fear” and “freedom from want,” the Commission has proposed a broad definition of human security which “encompasses human rights, good governance, access to education and health care and ensures that each individual has opportunities and choices to fulfill his or her own potential.”¹⁰

In Japan, in 1998, prior to the establishment of the UN Commission on Human Security, the late Keizo Obuchi, the then Minister of Foreign Affairs and later Prime Minister, introduced human security as a principle of Japan’s diplomacy and allocated funds to promote it. In fact, the UN launched the Commission on Human Security with the financial support of these funds from Japan. According to the Ministry of Foreign Affairs of Japan, the concept of human security is “one of the key perspectives of Japan’s foreign policy”¹¹ and as such it is gaining increasing relevance in the contemporary globalized world.

The 2003 Report by the Commission on Human Security mentions “human security of moving people” as one of the ten fundamental issues of human security. The Commission outlines the points for protecting and empowering people on the move as follows:

For the majority of people, migration is an opportunity to improve their livelihood. For others, migrating is the only option to protect themselves, such as those forced to flee because of conflicts or serious human rights violations. Others may also be forced to leave their homes to escape chronic deprivations or sudden downturns. Today, there is no agreed international framework to provide protection or to regulate migration, except for refugees. The feasibility of an international migration framework should be explored, through establishing the basis of high-level and broad-based discussions and dialogues on the need to strike a careful balance between the security and development needs of countries, and the human security of people on the move. Equally important is to ensure the protection of refugees and internally displaced persons, and

8 Castles and Miller 2008, 211. Emphasis is mine.

9 UNDP (United Nations Development Program), Human development report 1994.
<http://hdr.undp.org/en/>

10 Commission on Human Security 2003.

11 Ministry of Foreign Affairs of Japan 2002, 3.

identify ways to end their plight.¹²

From the human security point of view, as was mentioned in the quotation above, particular attention was given to refugees. Actually, the concept of human security was developed through the commitment with refugee issues by the UNHCR (United Nations Refugee Agency) of which Sadako Ogata was in the office of High Commissioner during the period from 1990 to 2000.

III. REFUGEES, ANTI-TRAFFICKING DISCOURSES, AND ANTHROPOLOGY OF HUMAN RIGHTS

The issues involving refugees, however, form a very complex phenomenon. Regarding the refugees from Sudan in West Africa, the Japanese anthropologist Eisei Kurimoto has once expressed his sense of discomfort with the Western media as well as international human rights regime. In the camp in Sudan he observed a TV caster report that the poor refugees walked on bare feet and drank the water from the river. However, the reporter did not mention the fact that almost all the local residents in the area did walk on bare feet and drank river water. There were no voices from the people who lived through the war as well. Through the television camera lens they were just “distant others” who did not raise any humanistic sympathy.¹³ Furthermore, he commented that refugee camp at Kakuma in Kenya was a space in which the international refugee regime, which consisted of the United Nations, international NGOs, and the Western mass media, exerted its power. The refugees had to start their new lives as refugees, while facing this new power.¹⁴ While the international human right regime categorizes, recognizes and protects refugees, anthropologists do not isolate the refugee issues but examine them in wider socio-cultural contexts of human lives and diaspora ways of living such as displacement and deterritorialization, as Liisa Malkki has discussed.¹⁵

One of the fundamental issues here is the question of “labeling refugees” which Roger Zetter has posed in his pioneer works on refugees.¹⁶ Developing Zetter’s thesis, the Japanese scholar Koichi Koizumi has also questioned the labeling of refugee. He has argued, first, that the label works to make people confine to a stereotypical image and a category of “refugees” – the “vulnerable victims” who need help. Second, once they are recognized as “refugees,” they have to behave as “refugees” under a particular legal and institutional regime. Labeling itself may be humanitarian and non-political but, once labeled, they are put under the control of policy and law that categorizes, recognizes and protects refugees in the international

12 Commission on Human Security, Final report: Human security now 2003.

<http://www.humansecurity-chs.org/finalreport/English/FinalReport.pdf>

13 Kurimoto 1996, 6.

14 Kurimoto 2004.

15 Malkki 1995.

16 Zetter 1988, 1991. In his recent article, Zetter (2007) rethinks refugee labels in an era of globalization.

human rights regime.¹⁷ Koizumi's question on the labeling of refugees is quite similar to that of Agustin when she questioned the idea of sex workers who disappear from a migration category and reappear in a legal category quoted at the outset of this paper.

Likewise, analyzing anti-sex trafficking discourse, Lucinda Joy Peach made comments to rethink a simplistic framework of anti-sex-trafficking discourse. Peach has discussed, first, "an adequate account of sex trafficking will require reorienting the assumptions in anti-trafficking discourse that trafficked women are simply either innocent victims or voluntary workers. Instead it must understand their lives within the context of the networks of relationships through which their identities have been shaped and by virtue of which they have come to be in their present surroundings."¹⁸ Second, the individualistic emphasis of human rights is "to overlook the ways in which human trafficking is a product of globalization and global economic forces rather than simply an activity involving individual migrants."¹⁹ Third, as in the case of Thailand where the Government tends to allow the sex trade due to the earnings of sex industry, "human rights can be enforced only by state not by other entities within civil society, even if the appeal for protection is made to international bodies."²⁰ Fourth, as for sex workers, "rather than simply focusing on victims, anti-trafficking strategies might consider putting more attention on according rights to migrant women so as to prevent them from becoming victims."²¹ In short, she concludes, "an adequate analysis and responsive strategy to sex trafficking must address the multiplicity and complexity of both the persons involved in sex work as well as the phenomena altogether, rather than applying only simplistic or one-dimensional solutions, including human rights."²²

Therefore, the concept of the "human" in human rights discourses is also to be questioned. It is based on the universal humankind in the European tradition of human rights. However, the expression of "universal" has often puzzled anthropologists with their tradition of cultural relativism. Actually, in 1947 the then Executive Committee of the American Anthropological Association criticized the draft of the UN Universal Declaration of Human Rights from the viewpoint of human diversity and cultural relativism.²³ Furthermore, in the Western tradition, the human is conceived as a property of the individual. Anthropologists, however, as Terrence Turner has pointed out, "have learned not to regard either social actors

17 Koizumi 1998, 15-19.

18 Peach 2008, 247-248. This point is important to regard the trafficked sex workers not as individuals but rather agents which are the product of social relations. Therefore, Peach continues to write: "Approaches to addressing sex trafficking should focus more on the other actors within the webs of relationships that support and perpetuate trafficking, including family members who facilitate the practice; the trafficker and others, often community members, who promote trafficking; the pimps; the hotel, bar, brothel, massage parlor and karaoke bar owners and managers who participate in the process; and particularly the 'client' and customers" (Peach Ibid., 248).

19 Peach Ibid., 248.

20 Peach Ibid., 248.

21 Peach Ibid., 249.

22 Peach Ibid., 250-251. Emphasis is mine.

23 American Anthropological Association 1947.

or social bodies as unproblematically 'individual' in the common sense of the term. They have also come to recognize the fundamental role of social relations and groups in producing 'human' (i.e. socially integrated and encultured) individuals."²⁴ This is the same point that Peach has made as was mentioned earlier.

In her review article on anthropology and human rights, Ellen Messer has stated that anthropologists have contributed to the issue of human rights in two ways: "First, by providing cross-cultural research on the question of 'What are rights?' and 'Who is counted as a full 'person' or 'human being' eligible to enjoy them?'; and second, by monitoring compliance with human rights standards and by criticizing human rights violations or abuses."²⁵ She writes that "both experts and policymakers now accept the idea that human rights concepts are culturally relative,"²⁶ and has herself examined human rights practices in Africa, Asia, and Latin America. Turner also suggests that "the right to difference may constitute a positive, transcultural basis of human rights."²⁷ Therefore, we do not have to take human rights as a static, unchanged concept. We should look at carefully the complicated human conditions in relation to human rights.

Therefore, what we need to do is not to criticize universal human rights from the viewpoint of anthropological cultural relativism. In fact, "relativism" and "universalism" are not necessarily opposed, because relativism presupposes a sort of universalism, and conversely, the concept of a universal humankind presupposes the diverse reality of humankind, whether in the form of race, nationality, ethnicity, or gender. In that sense the relationship of universalism and relativism is not taken as either/or but as complementary. The American Anthropological Association too set up a Human Rights Committee in 1995 and made a Declaration on Anthropology and Human Rights in 1999 to challenge the issues of human rights.

IV. RESEARCH PARADIGM OF HUMAN TRAFFICKING

Let us return to the issue of human trafficking. Salt and Stein divide the global migration business into legitimate (legal/regular) and illegitimate (illegal/irregular) components.²⁸ Trafficking is classified as an illegitimate enterprise, but in reality it is not easy to distinguish between what is legitimate and what is not. For example, they point out: "A legitimate enterprise, such as an airline, may unknowingly transport someone with false documentation, and the services of legal firms and immigration consultancies may be used by legal and illegal migrants alike."²⁹ They also see human trafficking as an intermediary system in the global migration business facilitating movement between origin and destination countries. It has

24 Turner 1997, 275.

25 Messer 1993, 221.

26 Messer Ibid., 227.

27 Turner Ibid., 286.

28 Salt and Stein 1997.

29 Salt and Stein Ibid., 469.

three stages: mobilization, en route, and insertion and integration.³⁰ In this sense it is part of a larger migration industry.

As the dark side of the migration industry, human trafficking is oftentimes involved with international organized crime. Actually, the 2000 UN Human Trafficking Protocol firstly aims to be against transnational organized crime. In response to this Protocol, the Japanese government emphasizes this aspect of what Kay Warren has called “law enforcement paradigm”³¹ in its action plan 2009 against human trafficking which focuses on policing and border control strategies to criminalize traffickers.³² On the other hand, human trafficking can be also seen in the “human rights paradigm” that stresses the importance of the recognition of the rights held by all individuals who have been trafficked, especially for women and children. According to Warren, in this gendered image of vulnerability the 2000 UN Human Trafficking Protocol evokes the image of the paternal state, watching over the welfare of a gendered victim.³³

However, the theory of “the vulnerable victims to be protected” widely dominated in the human rights discourses is sometimes misleading, as it often undervalues the subjectivity of migrant people. Nancie Caraway, for example, writes about women migrants as follows: “The migrant female must be conceived of as a more self-assured, assertive, and resourceful woman who has a dream and a mission. She might be escaping something, a failed marriage or joblessness, but she is moving on and ahead.”³⁴ This is also the case with Filipina migrants in Tokyo I interviewed in my 2008 research. For all the hardships, they are taking life positively, dreaming about their future.³⁵

Furthermore, Khine Zaw, a doctoral student from Myanmar on the Human Security Program at the University of Tokyo, observed that people trafficked from Myanmar to Thailand know well that they are trafficked. They do choose to be trafficked as a better choice than remaining in Myanmar. While quoting Doezema’s statement that migration for the sex industry is a way of expanding life choices and livelihood strategies,³⁶ Peace has also commented on women trafficked for sex industry sectors: “This perspective on sex workers as active agents is supported by a study of fifty-five Thai women who were trafficked into Japan for sex

30 Salt and Stein Ibid., 467.

31 Warren 2009, 244.

32 This is due to the fact that in 2004 Japan was placed on the “Tier 2 Watch List” (the category for countries whose governments do not fully comply with the minimum standards of the U. S. Law on Trafficking in Persons, the Trafficking Victims Protection Act, but are making significant efforts to bring themselves into compliance with those standards) by the U.S. Office to Monitor and Combat Trafficking in Persons. Japanese Government wants to redeem its pride. Japanese Government, Cabinet Secretariat. <http://www.cas.go.jp/>

33 Warren 2007, 244.

34 Caraway 2008, 253.

35 Yamashita 2009, Ch.3.

36 Doezema 2000, 26.

work as well as by ILO survey of sex workers in Asia.³⁷ Like Khine's observation, they knew they were being trafficked for sex work, and some women have even told that their labor as sex workers enabled them to be independent from men and marriage.³⁸ In this sense traffickers ironically do "human security business" by fulfilling migrants' desire to exodus from the hopeless country. Human rights situation around human trafficking is thus not simple.

As for conditions of vulnerability in the practice of human rights, Mark Goodale has commented, while referring to Kay Warren in her critical analysis of the 2000 UN anti-trafficking protocol³⁹: "Kay Warren shows how vulnerability acts as a misleading framework that establishes discursive (and, in this case, legal) boundaries around what is in fact a complicated set of political, legal, sexual, and moral processes. As she found, the machinery of international human rights law was mobilized in an 'attempt to tame this heterogeneous reality so it could be comprehended as an entity appropriate for a certain set of interventions.' The discourse of vulnerability, in other words, works both to simplify different slices of 'heterogeneous reality' and to reinterpret them in ways that bring them within the ambit of (new) category of international human rights law."⁴⁰

What is at stake is then that we have to look at the complicated realities in which the vulnerable persons are involved. In her detailed ethnographic study on sex workers in Thailand and Japan, Kaoru Aoyama, rejecting to simplify/distort the complicated realities in which they are involved, suggests to set up a "twilight zone" between voluntary "sex work" and forced "sex slavery" in order to go beyond simple voluntary/forced prostitution dichotomy.⁴¹ This is because, first of all, such a dichotomy is not helpful to the very persons involved in the sex work. In stead, she makes the proposal that they should be admitted as "sex workers," and should be given protection and recovery against human rights violation, assuring the right to work, as they are neither "victims" nor "criminals." Here we are brought back to the theme of migration. The point is, then, to broaden our research framework for understanding the complicated human conditions of the persons involved, and supporting them to value their own subjectivity.

V. HUMAN SECURITY AND PUBLIC ANTHROPOLOGY

Peace has stated from the case study of Thailand that human rights may be a business for which the state should be responsible. However, in Japan the central government equates "people" with "nationals" in discussion in the Constitution of basic human rights. Therefore, transnational migrants are oftentimes removed from the national human security discourse. In order to secure the human rights of transnational migrants, then, we need to appeal to sectors

37 Peace *Ibid.*, 242-243.

38 Watanabe 1998, 122.

39 Warren *Ibid.*

40 Goodale 2007, 32.

41 Aoyama 2007, 361-369. Likewise, Jo Doezema (1998) criticizes this voluntary /forced dichotomy of prostitution.

and institutions other than states: local government, civil society, NGOs, international institutions and so on. Also businesses based on the new concepts such as Corporate Social Responsibility (CSR) or Socially Responsible Investment (SRI) may fill such a niche.

In this context special attention is drawn to public anthropology as a newly emerging subfield of anthropology. According to Robert Borofsky, “public anthropology seeks to address broad critical concerns in ways that others beyond the discipline are able to understand what anthropologists can offer to the re-framing and easing – if not necessarily always resolving – of present-day dilemmas.”⁴² In other words, anthropology and anthropologists should go beyond the narrow academic discipline to engage in the broader public sphere and contribute to the analysis and solution of public issues such as human rights by making use of anthropological methods and knowledge. In so doing, public anthropology may stand with civil society as an intermediary between the nation state and individuals.

Intending to establish public anthropology in Japan, in April 2011 I joined to set up a NPO (Non Profit Organization) called “Human Security Forum.” The purpose/mission of the Forum includes collecting and providing information on human security, research and education on human security, enlightenment and advocacy of human security, and support to social entrepreneurship in human security field.⁴³ In so doing, the Forum also aims to support the people on the move, particularly refugees and transnational migrants inside as well as outside Japan. We will do it as a “human security business” in a broad sense – the application of research results for the benefit of society by using the methods of public anthropology.

In this respect, the Japanese idea of *atarashii kokyo* or “new public sphere” may deserve attention. This is a concept that the current Democratic Party administration in Japan would like to promote. In his policy address to the Diet January 2010, the former Prime Minister Hatoyama mentioned this concept and related it to his discussion of “life-protecting politics” or “*inochi wo mamoru seiji*.” He said: “To support people or to help people itself becomes a joy or *ikigai*, making life worth living. We call it *atarashii kokyo*, the new public sphere, and the government will support those activities related to the new public sphere to build a society based on independence and coexistence.”⁴⁴

The concept of the “new public sphere” was originated from the events of the Hanshin Awaji Earthquake in 1995.⁴⁵ At that time, a great number of volunteer activists – 1.3 million – came to Kobe to assist the people suffering from the earthquake. They helped not only Japanese residents but also foreign residents, particularly ethnic Koreans who lived in the Nagata Ward of Kobe City. This experience led to the formation of NPOs working on human rights with the enactment of a NPO Law in 1997. This domain of civil society activities is termed the “new public sphere.” It is “new” because it is distinguished from the “old” public sphere that was dominated by the state. The Japanese government is now aiming to enact a new NPO Law, which enables NPOs to call for donation more easily. The human security business

42 Defining Public Anthropology A Personal Perspective (2007). Center for a Public Anthropology. <http://www.publicanthropology.org/public-anthropology/>

43 Human Security Forum. <http://hsf.jp/>

44 Prime Minister of Japan and His Cabinet. Website: <http://www.kantei.go.jp/>

45 Cabinet Office, Government of Japan, *Atarashii kokyo entakukaigi* (Round table of a new public sphere). <http://www5.cao.go.jp/entaku/index.html>

in Japan then should be constructed on such civilian activities in the new public sphere.⁴⁶

VI. CONCLUSION: TOWARDS A NEW PARADIGM OF HUMAN TRAFFICKING RESEARCH

As we have seen, there are two kinds of approaches towards human trafficking: migration-business approach and legal and human rights one. After the 2000 Human Trafficking Protocols, the legal approach seems dominant in trafficking studies. However, as Agustin and others have argued, this approach often cuts off the contexts of migration in which the trafficked persons are involved, and therefore simplifies the complicated processes of trafficking. The anthropological approach that I examined in this paper attempts to grasp the complicated reality as a whole with its ethnographic method. Then, public anthropology will apply the result of the research to the public sphere in seeking to use the anthropological knowledge to the solution of human problems beyond the discipline. In so doing, I believe that we could contribute to making of an integrated research framework of human trafficking beyond the divided situations of migration-business and legal-human rights approaches toward the human security of the people on the move.

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WORKING PAPERS

HUMAN RIGHTS SITUATION AFTER THE GREAT EAST JAPAN EARTHQUAKE AND NUCLEAR POWER PLANT ACCIDENT IN JAPAN

Kazuko ITO*

I. INTRODUCTION

On 11 March 2011, the earthquake and tsunami, which occurred in Eastern Japan, caused tremendous damage and resulted in numerous deaths. Many victims who lost their land and houses have become evacuees and have been staying in temporary housing.

Moreover, due to radioactive contamination resulting from Tokyo Electric Power Company (TEPCO)'s Fukushima Daiichi nuclear power plant disaster, the health and daily life of a large number of people who live in the nuclear plant's surrounding areas are being subject to considerable risk. To date, living condition of affected people is very serious and insecure, and fundamental human rights of affected people are not fully guaranteed.

Human Rights Now (HRN), a Tokyo based international human rights NGO established in 2006, has been working on grave human rights situations in the world with a special focus in Asia by means of fact finding, reporting, policy proposal and advocacy,¹ and it recognized that the gravity of human rights situation after the disaster in Japan deserved the involvement of human rights NGOs. Thus HRN started activities, such as fact finding in the affected area, reporting, policy proposal and advocacy to the national and local government. In this article, I would like to describe the current human rights situation caused by the natural and nuclear disaster which I observed through the activity of HRN and our recommendations.

II. INTERNATIONAL STANDARD AND PRACTICE IN JAPAN

Overall coordination of disaster relief and recovery after the Earthquake lacks the sense of protection of fundamental human rights for the affected people.

There are international norms and standards to guarantee the human rights of people af-

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1 See the Human Rights Now homepage for details of activities (<http://hrn.or.jp/eng/>).

affected by natural disaster² as well as for the special protection of most vulnerable people such as women, elderly and children.³

In my understanding, there are four principles of the protection of human rights after natural disaster, as follows.

1. The victims of natural disaster or Internally Displaced People (IDP) shall be guaranteed all protection of human rights under both international and national law without any discrimination based on their status. The international law includes the International Covenant on Economic, Social and Cultural Rights (ICESCR), which guarantees the right to health, food and safe drinking water and the right to adequate housing. National law includes Article 25 of the Japanese Constitution, which guarantees the right to live with the minimum standard of life with health and dignity.
2. The victims of natural disaster or IDPs shall be provided special assistance to fulfill their fundamental human rights and special protection based on their vulnerability as IDPs or victims of natural disaster.
3. The principle of non-discrimination in terms of treatment for the IDPs or affected people.
4. Among the IDPs or affected people, most vulnerable people, such as women, disabled people, elderly and children shall be provided special protection and treatment based on their specific vulnerability.

However, with little involvement of international relief agencies, such norms and standards have not been effectively implemented in the affected area in Japan after the earthquake.

III. ACTUAL SITUATION OF AFFECTED PEOPLE AFTER THE EARTHQUAKE

In general, the living condition of people affected by the natural disaster in Japan is very poor and insecure.

In the wake of the Earthquake, the government provided significant numbers of evacuation centers. However, entire treatments are below the level expected in accordance with the ICESCR. Most of the evacuation centers were set up at school gymnasiums, and spaces just enough to sleep were allocated to the evacuees without measures to protect their privacy.

The food provided basically consists of cold bread and rice balls, and it is not nutritious at all.

The lack of adequate health services has resulted in a significant number of “disaster-

2 UN Guiding Principles on Internal Displacement
(<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G98/104/93/PDF/G9810493.pdf?OpenElement>)

3 See IASC OPERATIONAL GUIDELINES ON THE PROTECTION OF PERSONS IN SITUATIONS OF NATURAL DISASTER
(<http://ochanet.unocha.org/p/Documents/Operational%20Guidelines.pdf>).

related deaths” as an indirect result of the Earthquake and the evacuation. The number of “disaster-related deaths” surpassed 1,300 instances in three prefectures,⁴ higher than that of the Hanshin Earthquake in 1995. The number of suicides caused by the Earthquake from June to November of 2011 reached 49,⁵ and as of the end of 2011 a total of 573 deaths were recognized as resulting from indirect effects of the disaster in 13 municipalities in Fukushima Prefecture.⁶ Moreover, solitary deaths in temporary housings amounted to six in Iwate Prefecture (February 1, 2011), eight in Miyagi (end of December 2011), and four in Fukushima (January 27, 2012).⁷

Moreover, it was not until the summer of 2011 that the evacuees were able to move to temporary housing.

IV. PROTECTION OF VULNERABLE PEOPLE

The government failed to give due consideration to the various needs of residents, especially vulnerable children, women, people with disabilities and the elderly.

The condition of evacuation center was severe for persons with disability. Most people with disabilities hesitated to enter into evacuation centers out of fear of discrimination, harassment, and severe conditions without special protection. Although many chose to stay at their own houses due to the lack of shelters designed for people with disabilities, the government has not provided support measures for those staying in their houses.

With respect to the protection of women, in March 2011, the government issued a notice to all institutions concerned, calling on gender sensitive operation of evacuation centres. Specifically, the notice stated that 1) Women’s specific needs are to be respected, 2) Measures to protect the right to privacy of women, such as setting up of partitions, are to be taken, 3) counseling service for women shall be provided, and 4) women’s participation in the decision making process shall be ensured. Despite such notice, none of the issues was sufficiently implemented on the ground and affected women faced enormous difficulties.

V. HUMAN RIGHTS CONDITIONS IN TEMPORARY SHELTERS

During the summer and fall in 2011, the evacuees moved from evacuation centres to

4 Asahi Shimbun Digital, “Disaster-related Death’ Exceeds 1300 in 3 Prefectures”, 27 February 2012 (<http://www.asahi.com/national/update/0227/TKY201202270461.html>). See also Asahi Shimbun Digital, “Disasters Take Heavy toll on Nursing Home Residents” 20 July 2011(<http://www.asahi.com/english/TKY201107190358.html>).

5 Cabinet Office, Government of Japan, The Number of Suicides in Relation to The Great East Japan Earthquake, 22 December 2011(http://www.esri.go.jp/jp/archive/jisatsu/monthly/2011nov/h2311_s10_1.pdf).

6 Yomiuri Shimbun, “573 Deaths Related to Nuclear Crisis” 5 February 2012 (<http://www.yomiuri.co.jp/dy/national/T120204003191.htm>).

7 Asahi Shimbun, February 9, 2012, Morning edition, p.1.

temporary shelters.

However, the government terminated food, transportation and medical services for evacuees who moved to temporary shelters. Thus, most dependant and vulnerable evacuees were hesitant to move to shelters, and had no choice but to stay in evacuation centres longer than others.

The condition of the temporary shelters is poor, some located in mountainous areas or even in designated hazardous risk areas.

For instance, at least three temporary shelters in Kesenuma City in Miyagi have been built in the area on the hazard map. Another temporary shelter in the same city accommodates 56 households including 36 single households, many of which are single elderly. The local government does not provide any food service, transportation to the city or hospital, or free medical check.

The housing was not equipped for winter and the government did not provide sufficient measures to prepare for a cold winter season.

Since there are significant numbers of poorly equipped shelters in mountain area without sufficient support from the municipal government, people suffer from difficulties to survive under harsh conditions.

Residents are allowed to live in the temporary housing for two years, but the government has not informed the residents about their prospects for housing afterward.

VI. RIGHT TO HEALTH OF THE PEOPLE AFFECTED BY THE NUCLEAR ACCIDENT

1. The most serious problem is the effect of radioactive contamination caused by the nuclear power plant accident. It has been estimated that the amount of radioactive contamination released from TEPCO's Fukushima Daiichi power plant is over 168 times that released by the atomic bomb in Hiroshima,⁸ and this creates serious health risks to the population, in particular expecting mothers, infants, children and the young who are most vulnerable to radiation. The measures taken by the government, such as designation of the evacuation zone, support for evacuation, disclosure of information, risk education, medical care and health checks are all inadequate and as a result, serious violations of economic and social rights are caused.
2. Many citizens in Fukushima still live in highly contaminated areas, because the government limited the evacuation zones very narrowly,⁹ based on a 20mSv per year exposure standard, which is indeed 20 times greater than the previous regulation based on the international standard to protect citizens from radioactive hazards.

The government is using the 20mSv per year standard to designate areas where evacuation is recommended. For areas and spots that may become subject to higher radiation levels than this standard, the government undertakes measures for

8 <http://sankei.jp.msn.com/science/news/110826/scn11082619220001-n1.html>

9 For the map of the designation see, Government of Japan, Deliberate Evacuation Areas and Specific Recommended for Evacuation, 2011(obtainable at http://www.meti.go.jp/english/earthquake/nuclear/roadmap/pdf/evacuation_map_b.pdf).

evacuations. Such designated areas or spots are highly limited. In such an area, without sufficient financial support for evacuation from the government, many people who cannot afford to relocate have no choice but to stay in the contaminated area even though they may be exposed to health risks. Some families including children, babies, and expecting mothers decided to evacuate on their own without government support, but they are not the majority.

Outside the designated area of 20mSv, the government recognizes the area as safe and thus provides little measure to protect people from radioactive hazards. The areas that have not been designated as evacuation areas are very wide with large population, including the central part of Fukushima Prefecture. The government does not support evacuation, and it fails to provide free medical check, medical care and clean food from outside. In such areas, some households with expecting mothers, infants and children have independently decided to evacuate, but there has been little public financial support for such evacuees from the government. As for the residents who do not have the financial means to relocate, to the extent that the government does not provide sufficient compensation to evacuate, they are left with no other choice but to remain in contaminated areas even though they may be exposed to health risks. In March 2011, TEPCO declared that the standard of compensation for children and pregnant women who had evacuated would be 600,000 yen. Meanwhile, children and pregnant women staying in the contaminated area without evacuation would receive a compensation amount of 400,000 yen, and others, regardless of their evacuation status, would receive only 80,000 yen. These amounts are not sufficient as in most cases they do not reach the amount of money the evacuees actually paid for the evacuation.

3. Pregnant women and mothers are the people who are most seriously affected by the situation. However, women's voices are not given due regard in the decision making process. Further, the government failed to conduct proper guidance regarding the risk of radiation. Instead, there is a strong campaign surrounding Fukushima, emphasizing the safety and downplaying the harm of low level radiation such as, " no immediate harm", " no evidence of physical harm under 100mSv per year" , " Do not be so nervous, stress will be most harmful to children". People who are concerned by the situation become the minority, isolated, and virtually forced to be silent. Without proper guidance, the children in Fukushima play outside without any protective measures.
4. After the Chernobyl nuclear disaster, the former Soviet Union and successor states designated the contaminated areas with a radiation dose in excess of 5mSv per year as evacuation areas, and in areas where the radiation dose exceeded 1mSv per year, recognized the right of the residents to compensation and support for relocation. Also, within the zone with radiation between 1mSv and 5mSv per year, the government assisted the life of people who decided to stay in the zone by providing clean food supplies, periodic health check and free medical care. Although Japan is recognized as a liberal democratic country with sensitivity to human rights, it was obvious that the protective measures taken by the Soviet Union and successor states for the people affected by the Chernobyl disaster over 20 years ago were much better than

the measures taken by the Japanese government for the people affected by the Fukushima accident.

5. In this regard, HRN published an opinion paper, urging the government to take immediate measures to protect the health and restore the living environment of the residents living in areas where the radiation dose exceeds 1mSv per year (excluding background radiation) in accordance with international standards and the standards applicable to the contaminated zones following the Chernobyl nuclear disaster.¹⁰

Specifically, HRN proposed to the government that:

- a) the right to compensation as well as sufficient support for relocation must be provided to people living in contaminated areas exceeding 1 mSv per year so that affected people can evacuate;
- b) the affected people must be provided long term medical care as well as clean food;
- c) the levels of contamination must be strictly monitored and disclosed to citizens in a timely manner; and
- d) the government should provide proper guidance and education of low level radiation risk based on the 1mSv per year standard.

VII. THE ACTIVITY OF CIVIL SOCIETY

In order to make a difference in the ongoing situation, HRN conducts various fact finding missions in the area affected by the Earthquake, Tsunami and Nuclear accident, and publishes a report of the human rights situation of affected people on their behalf. We believe that this kind of activity, casting light to the unknown human rights situation of most disadvantaged people, is quite important since the mainstream media does not necessarily focus on the situation of marginalized people. Based on the findings, HRN proposes specific recommendations to the national and local government. Although the progress is slow and little, the advocacy efforts of HRN and other civil society actors have made a substantial difference for the treatment of the affected people. However, the gap between the expected human rights protection and reality is still serious.

Besides the domestic advocacy, HRN conducts international advocacy. In June 2011, HRN, together with other civil society groups, sent a joint letter to the United Nations (UN) calling for the relevant UN special rapporteurs to conduct a joint fact finding mission to Japan. In response, the UN special rapporteur on the right to health announced to visit Japan in November 2012.

On the occasion of the 56th Session of the Commission on the Status of Women (CSW),

10 Human Rights Now, Opinion on the Measures to be Taken by Japan and Tokyo Electric Power Company to Address the Destruction of Health, Environment and Life Caused by the Fukushima Daiichi Nuclear Power Plant Disaster, 2011(obtainable at http://hrn.or.jp/eng/activity/20110912_ikensho.pdf).

held in the UN headquarters in March 2012, HRN organized a parallel event titled “Situation of Rural Women affected by the Great Japan Earthquake and Nuclear Power Plant Accident” together with the Japan Federation of Bar Associations (JFBA). In the event, HRN presented the current situation in Japan and Ms. Kate Burns from the UN Office for the Coordination of Humanitarian Affairs (OCHA) explained the international standard regarding protection of affected women and OCHA’s effort in disaster hit areas in the world. Most notably, the event invited two mothers and three children from Fukushima, and they expressed how the nuclear power plant accident seriously affected their lives and made an urgent appeal for the protection of women, children and future generations. The children expressed their wish to maintain their health and their hopes for the future. The mothers and children’s remarks were widely covered by both international and Japanese media. It was very important that the affected women and children who have had little chance to be heard publicly expressed their grave concerns and hopes for the future.

In the 56th CSW, Japan for the first time in the history of CSW proposed a draft resolution titled “Gender Equality and the Empowerment of Women in Natural Disasters” and the resolution was unanimously adopted.¹¹ The resolution mentions protection of women after natural disaster and importance of participation in the decision making of post recovery process. This development is welcomed as a reflection of civil society’s active campaign after the Earthquake. Although the text in the resolution is far from the reality in Japan, I hope the resolution can be a vehicle to make a difference in women’s status after the natural disaster in Japan and in other disaster hit areas. However, it was very regrettable that the resolution has no word of nuclear power plant accident. Japan should be in a position to take all necessary measures to protect the affected people and to propose an effective resolution on the prevention of radioactive hazards and the protection of people including women from such hazards.

This is not an isolated situation in Japan but a universal problem in the current world. This kind of nuclear disaster could happen again as long as we have nuclear power plants and nuclear weapons. Also, how to address the nuclear hazard is a critical issue since it is a threat to the right to health and reproductive health of women.

I would like to ask the international community to closely monitor the situation in Fukushima and make sufficient recommendations to protect the people, as well as to establish binding standards and norms to protect women, girls and future generations from radioactive hazards, and to decide to eliminate such risk as a whole.

The accident is a very painful lesson in Japan but it should be a meaningful lesson for the world to ensure a safer and better future for the next generation.

11 http://www.un.org/womenwatch/daw/csw/csw56/resolutions_advance_versions/Natural-disasters-CSW56-res-advance.pdf

GENDER ROLES AND THE EAST JAPAN DISASTER: WHAT'S MISSING IN JAPANESE DISASTER RISK MANAGEMENT FROM AN INTERNATIONAL PERSPECTIVE?

Fumie SAITO*

ABSTRACT

Women often have different experiences and difficulties compared with men when encountering and dealing with disasters. This article focuses on women who are forced to leave their homes due to the East Japan Disaster and highlights the important role that gender played in the aftermath of the disaster. Gender issues that arise in times of disasters often reinforce pre-existing vulnerabilities and discrimination in society. It is therefore important to address issues of gender inequality and empowerment as a key plank in any disaster risk reduction strategies. This article examines international instruments as well as national disaster planning mechanisms, and argues that the promotion of gender equality and the empowerment of women can be an effective approach for disaster risk reduction.

I. INTRODUCTION

Japan has experienced several large-scale earthquakes in the past 20 years (Hanshin/Awaji affecting the city of Kobe in 1995, Niigata Chuetsu in 2004, and the East Japan Disaster in 2011). While it is largely recognized that women have different experiences in times of disaster than men, these observations are often overlooked by policy and decision-makers and have not always been applied into policy and planning frameworks. Therefore, women have to go through the same difficulties repeatedly after each disaster.

This article will begin with an examination of various gender issues that have arisen in the East Japan Disaster, especially focusing on the role of gender on the earthquake/tsunami affected people who have been forced to leave their homes in post-disaster situations. It will then examine humanitarian guidelines and introduce several international instruments which could play an important role for disaster risk reduction in Japan in the future.

These instruments are; The Hyogo Framework for Action 2005-2015; Building the resilience of nations and communities to disasters (hereafter, 'the Hyogo Framework'), the Sphere

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Project: Humanitarian Charter and Minimum Standards in Humanitarian Response (hereafter, 'the Sphere Standards'), Inter-Agency Standing Committee (IASC) Operational Guidance on the Protection of Persons in Natural Disasters,¹ and the Convention on the Elimination of All Forms of Discrimination against Women (hereafter, the 'CEDAW'), and the new Commission on the Status of Women resolution on Gender Equality and the Empowerment of Women in Natural Disasters.

An inclusion of human rights standards is the key to not only in the early response and recovery period but also in the whole disaster risk management in order to create more disaster resilient society. This article takes up the CEDAW as one of the important instruments that have to be incorporated into disaster risk management.

The article then turns its attention to national level disaster planning in terms of gender mainstreaming, and concludes with a suggestion of how Japan might incorporate 'gender' into its disaster management planning going forward, making the argument that the Japanese society should transform itself into a more gender-equal society in order to achieve better disaster risk reduction outcomes.

II. GENDER ROLES AND THE EAST JAPAN DISASTER

A. Women's Experiences

As has been observed in the aftermath of other large-scale disasters, gender can play a significant role in shaping the way people experience a disaster (Ikeda 2009). Japan International Cooperation Agency (JICA)'s Issue-specific Guidelines for Disaster Reduction points out that:

... it has been reported that, in countries, and regions with male-dominant societies, women have endured greater damage at times of disasters. It has also been reported that women not only became major direct victims of the tsunami disaster off the coast of Sumatra and the disaster caused by Hurricane Katrina in New Orleans, but also were victims of secondary disasters, such as lack of necessities for women or violence to women. (JICA 2007, 49).

The East Japan Disaster (hereafter 'the disaster') is no exception. Women have gone through different experiences and concerns than men.

In the East Japan Disaster, many concerns unique to women arose, especially in places

1 The disaster affected women are mostly considered as 'internally displaced persons.' According to the UN Guiding Principles on Internal Displacement (1998), "internally displaced persons are persons or groups who have been forced or obliged to flee or leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of ...natural or human-made disasters, who have not crossed an internationally recognized state border." (Introduction-2)

where women evacuated.² In the evacuation centres, women have suffered a lack of sanitary goods and knickers, powdered milk, baby's bottles and baby food. Women hesitated to accept sanitary goods because men were distributing them. It is reported that a young woman found a male stranger sleeping besides her in an evacuation centre. It was rare, especially for the first months, for women to have a separate room for breast feeding and changing clothes. Women could not wash their clothes and had to wear dirty underwear for a while because a drying area for women only was not available. Incidents of violence against women have also been reported in the newspapers.³

B. Reinforcing Gender Roles

Not only have women gone through the post-disaster period in a different way to men, but also the women's traditional role has been reinforced at the time of the disaster. (Enarson 2000: Ikeda 2011)

Like other disasters, in that of East Japan, women's traditional roles were emphasised in evacuation centres. Directed by leaders, or even by the initiative of women's groups, women were forced to prepare every meal in the centres, whereas men were not expected to contribute to this task. Women's workloads increased dramatically by increased care-giving responsibilities, both in the household and in communities (Enarson 2000). In places where their houses were not destroyed by the earthquakes or the tsunami, many families took in relatives whose homes had been destroyed or damaged. This placed a disproportionate burden on housewives, as they were expected to take care of their own families and those of the relatives who were staying as well. Women were exhausted, and at the same time, more frustrated because they did not receive any money in return for preparing meals, whereas men had the option of carrying out garbage removal, for which they received payment.⁴

In Fukushima, where the exploded nuclear power plants are situated, gender roles were reinforced in different ways from other affected areas. Many mothers, who worried about the effect of radiation on their children, evacuated from Fukushima to neighbouring prefectures or large cities, like Tokyo, with their children. Fathers, on the other hand, tended to stay in

2 Cabinet Office Gender Equality Bureau, 'Danjo Kyodo Sankaku no Shiten karano Bosai/Fukkou no Taiou ni tsuite (Response to disaster prevention and reconstruction from the view point of gender equality).' (January 20, 2012 version) http://www.gender.go.jp/pdf/saigai_22.pdf (accessed April 14, 2012)

3 For example, see Tokyo Shinbun. [Tokyo] July 4, 2011. Morning edition. p.23, and Kiryu, Kaoruko (2011) 'Shoten/Hisai Fufu, DV Zouka/Miyagi (Focus/Husband and Wife affected by the disaster, Increase of DV/Miyagi)', in Kahoku Shinpo, November 5, 2011. http://www.kahoku.co.jp/spe/spe_sys1071/20111105_01.htm (accessed April 14, 2012)

4 Hiraga Keiko, speaking at the Symposium, 'Saigai-fukkou wo Mezasu Danjokiyodosankaku' (Gender Equality for Disaster Reconstruction), Morioka, Iwate, 24 October 2011. See also Cabinet Office Gender Equality Bureau, 'Response to disaster prevention and reconstruction from the view point of gender equality (January 20 version),' p.2. http://www.gender.go.jp/pdf/saigai_22.pdf (accessed April 6, 2012).

Fukushima for their work to support their families. As a result, many families were living separately. In these separated families, the stereotypical gender roles - women as the nurturer and men as the breadwinner - have been reinforced.

C. Discrimination Based on Gender Roles

A gender role can be used to differentiate access to economic benefits in post-disaster situations. In the aftermath of the tsunami of 2004 in Sri Lanka, only males had access to property, by being identified as “head of the household”, while women were not entitled to this privilege.

The State allocated new land for those that had lost property to the tsunami. The shoreline in the North and East of the country was severely affected. The Hindus and Muslims living in the Eastern Province follow the practice of conferring ownership of the parental home on the daughter upon marriage. When the State allocated new land to those who has lost land, it gave it to the person who had signed the relevant form as head of the household. Due to the perception that men are heads of the household, men signed as heads and they were given the new land in their name. The women who had owned property were not given new land. Instead, it was their brothers, fathers and husbands who had signed off as heads of households that received the newly allocated land.⁵

Similarly, in Japan, women are not entitled to as much property as men by emphasising the male role as being “head of the household.” The relief fund for natural disaster victims and other relief money provided by the local government was paid only to the head of the household. The disaster condolence money is paid double to a person who maintains the household. Since the head of the household and a person who maintains the household are usually men, it is considered as indirect discrimination against women. In some reported cases the victims of domestic violence could not receive the disaster-related compensation from the government, since they were living away from their male spouse, who is usually registered as the head of the household.

At the time of the Hanshin/Awaji Earthquake in 1995, the fund for self-reliance support was only paid to a household where its head – usually a man – has encountered the earthquake. Even if the rest of the family encountered the earthquake, the fund was not paid. On July 3, 2002, there was a court case that depicted an example of indirect discrimination. The Osaka High Court found that the condition that only a head of a household could receive the fund for self-reliance support induced sex discrimination and that it was against the public order and morals stipulated in the Civil code.

5 COHRE (Center on Housing Rights and Evictions), Shadow Report to the United Nations, Committee on the Elimination of Discrimination against Women, Sri Lanka, 48th Session. 2011, p.8. http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/COHRE_CEDAW_48th.pdf (accessed April 14, 2012)

The government has not learned a lesson from this important court case. Even though there is a demand for revising the provision of head of the household and money should be provided on individual bases, nothing has been changed in law.

III. INTERNATIONAL STANDARDS

As time shifted from the period of early response and recovery to the period of reconstruction and disaster risk reduction, we need to focus more on the incorporation of 'gender' into disaster risk management. The Sphere Standards explain the necessity for gender approach:

Humanitarian responses are more effective when they are based on an understanding of the different needs, vulnerabilities, interests, capacities and coping strategies of women and men, girls and boys of all ages and the differing impacts of disaster or conflict upon them. (Sphere Project 2011, 15)

In the Hyogo Framework, gender was incorporated as one of the priorities in a way to promote gender mainstreaming in disaster risk management plans:

A gender perspective should be integrated into all disaster risk management policies, plans and decision-making processes, including those related to risk assessment, early warning, information management, and education and training.

In early response and recovery period, 'gender' receives relatively adequate attention by putting more effort of integrating differences in gender roles into disaster management in regard to responding to the needs of women.⁶ However, emphasising the differences in gender roles might solidify pre-existing gender roles, which put women in a more vulnerable position. On this point, the IASC Gender Handbook in Humanitarian Action (2006) proposed to "empower women and build their capacity to be equal partners" in the delivery of humanitarian protection. The Gender Handbook confirms two different needs from the point of view of gender: 'practical needs,' which is "associated with their roles as caretakers, need for food, shelter, water and safety" in times of survival, and 'strategic needs,' which is linked to resolving gender-based inequalities by "changing the circumstances of their lives and realizing their human rights" in the longer term. (IASC Gender Handbook 2006)

Humanitarian response guidelines, such as the Sphere standards, often concentrate on the immediate response period, while the strategic needs of gender are rarely articulated. These guidelines help to mitigate the negative impacts on women; however, the root cause of gender issues should not be overlooked in reconstruction and disaster risk reduction. Responding

6 Disaster Preparedness for Effective Response: Guidance and Indicator Package for Implementing Priority Five of the Hyogo Framework, Geneva: United Nations Secretariat of the International Strategy for Disaster Reduction (UN/ISDR) and the United Nations Office for Coordination of Humanitarian Affairs (UN/OCHA), 2008, p.5. Also see The Sphere Project: Humanitarian Charter and Minimum Standards in Humanitarian Response, 2011, p.15.

to the different needs of women and men alone cannot be an effective disaster risk reduction strategy when considering that the concerns stem from pre-existing gender roles.

Vulnerabilities and discrimination that women have experienced in disasters are not new; they have pre-existed in society and, in times of natural disasters, they are exacerbated. (IASC Guideline 2011) This common notion has been shared among many female experts working in the field and among academics after the East Japan Disaster. Any impact on women in post-disaster situations is a result of the continuation of gender (in)equality of ordinary times.

If gender roles remain intact, the same gender issues will arise each time we encounter disaster. Since gender roles are embedded in society, a radical change of society, which requires changing social norms on gender and resolving gender-based inequalities, should be the goal. This is what the 'strategic needs' require.

Therefore, it is not enough if the government only looks at the humanitarian guidelines, which often focus on the 'practical needs' of women. It is necessary to focus more on a rights-based approach⁷ which incorporates international human rights laws in all phases of disaster risk reduction management. (IASC Gender Handbook 2006) Among the relevant international human rights laws, the CEDAW⁸ is the most important in this regards.

CEDAW sets out the requirements that the government change the social norms and practices which hinder gender equality and empowerment of women. Article 2(f) of CEDAW requires a State Party:

to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

Article 5 further requires State Parties to "take all appropriate measures"

To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.

Article 2(f) and 5 of the CEDAW together challenges the social and cultural discriminatory customs and practices⁹ which have established gender roles in the society, and requires changing them with legal force.

Considering the fact that natural disaster exacerbates pre-existing vulnerabilities and discrimination, it is important that relevant international human rights laws are fully incorpo-

7 'A rights-based approach uses international human rights law to analyse inequalities and injustices, and to develop policies, programmes and activities in all areas of work to redress obstacles to the enjoyment of human rights.' (IASC Gender Handbook 2006; 4)

8 Japan became a State Party to the CEDAW in 1985.

9 Cook, Rebecca J. "State Responsibility for Violations of Women's Human Rights". Harvard Human Rights Law Journal, Vol. 7 (1994) 125-175: 167.

rated into all phases of disaster management, including non-disaster periods. This is what we have to do as disaster risk reduction planning.

'Disaster risk reduction' is "the concepts and practice of reducing disaster risk through systematic efforts to analyse and manage the causal factors of disasters, including through ... lessened vulnerability of people" (Sphere Project 2011: 14) In order for disaster risk reduction plans, it is important to incorporate the concepts of gender in disaster risk management. The importance of gender incorporation into the phase of disaster risk reduction is emphasised in a recent resolution at the Commission on the Status of Women (CSW).

On March 9, 2012, the resolution on 'Gender Equality and the Empowerment of Women in Natural Disasters' (hereafter the 'resolution') was adopted in the CSW. This resolution was proposed by the Japanese government to share experiences and lessons learned from the East Japan Disaster with other countries and to promote a gender-sensitive approach in disaster management. The resolution pays more attention to how to create "disaster risk reduction (prevention, mitigation and preparedness)".

In terms of disaster risk reduction, the resolution requires governments and relevant stakeholders to:

- (a) Review national policies, strategies and plans and take action to integrate a gender perspective in policies, planning and funding for disaster risk reduction, response and recovery, considering the different impacts that natural disasters have on women and men;
- (b) Ensure the equal opportunities for participation of women in decision-making including with regard to the allocation of resources at all levels regarding disaster risk reduction, response and recovery;
- (c) Strengthen the capacities of relevant authorities and institutions at all levels to apply a gender-sensitive approach to disaster risk reduction (prevention, mitigation and preparedness), response and recovery, while raising their awareness, and promote cooperation among them;
- (d) Ensure the full enjoyment by women and girls of all human rights in every phase of disaster risk reduction (prevention, mitigation and preparedness), response and recovery.

Disaster risk management is included, not only in the post-disaster, but also the pre-disaster period. In this regard, it is necessary to pay more attention to disaster risk reduction strategies, which "strengthens the resilience of the communities and reduces social vulnerabilities for disaster. In terms of gender, it is the establishment of gender equality and the empowerment of women." (CSW resolution 2012)

IV. INCORPORATING GENDER INTO NATIONAL POLICIES

Disasters are man-made creations developed from natural hazards largely owing to the preparedness for disasters. IASC Operational Guidelines on the Protection of Persons in Situations of Natural Disasters (hereafter, 'IASC Guidelines') articulates that, "(Disasters) are the result of inadequate planning and disaster preparedness, inappropriate policies and measures to respond to the disasters, or simple neglect." (IASC 22011)

The question is: 'How has Japan incorporated gender into its disaster planning?' 'Has Japan well prepared to disasters in regard to gender?' The inadequate planning and preparedness in terms of gender might be found in the Japanese national disaster plans.

The Basic Plan for Disaster Prevention incorporated the different needs of women and men, and the participation of women in disaster prevention in 2005. Recent 2011 amendments incorporated gender in more specific terms, for instance: setting up areas where women can dry their laundry; providing rooms for changing clothes and feeding babies; ensuring that necessities such as sanitary items are distributed by women; and promoting more women into management teams at evacuation centres as well as temporary housing communities. However, the disaster prevention plan does not include the aspect of disaster risk reduction, which focuses on achieving the gender equality and the empowerment of women, nor in the Disaster Countermeasures Basic Act.

Another planning initiative is the national gender equality plan, which first incorporated 'disaster prevention' in 2005. The Third Basic Plan for Gender Equality, issued in December 2010, stresses the importance of promoting gender equality in disaster prevention as one of the priority issues. The third plan stipulates 'disaster prevention' as one of the priority issues. It suggests incorporating perspectives of gender equality into disaster management, such as improving gender stereotypes and increasing women's participation in decision-making processes, and training women as leaders. These efforts should also be incorporated into a national disaster prevention plan. However, not only in the disaster prevention plan but also in the reconstruction plan, a part of 'disaster risk reduction' was not adequately stipulated. The gender equality plan does not have adequate influence within disaster reduction planning. This may be due to the fact that the Gender Equality Bureau within the Cabinet office, which is charged with implementing gender plans, does not have the necessary authority to mandate gender policy integration into national ministries and local governments.

"Basic Guidelines for Reconstruction in Response to the Great East Japan Earthquake" which was set out on July 29, 2011, four months after the disaster, incorporated gender as one of the main concepts; "From the standpoint of gender equality, women's participation will be promoted in all reconstruction processes."¹⁰ Notwithstanding this commitment, there was only one woman out of 15 members in the first reconstruction council. After the disaster, the newest council on disaster reconstruction was set up. The women's participation ratio increased to four out of the 15 members, which still did not reach one third of the committee. These figures show that there are more concerns on the implementation level and the com-

10 Reconstruction Headquarters in response to the Great East Japan Earthquake, 'Basic Guidelines for Reconstruction in Response to the Great East Japan Earthquake,' (decided by the Reconstruction Headquarters on July 29, 2011, revised August 11, 2011);1-(ix).
<http://www.reconstruction.go.jp/english/topics/documents.html> (accessed April 23, 2012).

mitment to an effective implementation should be increased.

Overall, in the Japanese disaster risk management, a rights-based approach has not been adequately applied to its strategies. It is necessary to incorporate international human rights laws such as CEDAW, into the national disaster risk management.

V. CONCLUSION

Mainstreaming gender is a key principle that was stressed in the Hyogo Framework. In mainstreaming gender, two somewhat contradictory approaches to gender roles are taken, but it is important to implement both in parallel. One is based on addressing the practical immediate needs after the disaster, focusing on the differences of women and men based on pre-existing gender roles. Another is based on strategic needs for the longer term, which makes continuous efforts to change social norms and cultures that create gender roles. These two approaches based on different needs together comprise effective disaster risk management.

In Japanese disaster risk management, the long term goal of strategic needs of women is often absent. As risks that women encounter in the disaster period are a continuation of pre-existing vulnerabilities and discrimination, it is necessary to tackle these social problems in the non-disaster period. However, Japan performs poorly in this regard as noted. In the Global Gender Gap index,¹¹ Japan is ranked 98th out of 135 countries. This demonstrates that the Japanese gender equality level is far behind world standards. In this sense, Japan has failed to adequately incorporate gender into its disaster risk management plans.

The CSW resolution requests member states “to continue to promote the inclusion of a gender perspective in its activities on disaster risk reduction” The resolution, unlike laws, has no binding force; however, Japan, as a sponsor of the resolution, should attempt to lead by example and do its utmost to realize the resolution.

Women’s suffering will continue unless effective measures are taken for disaster risk reduction. Incorporating international standards into its planning process and increasing its efforts to promote gender equality and empower women, Japan has the potential to be a leader in disaster risk reduction management globally.

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DISPARITY EXPOSED IN DISASTER AREA: TURKISH-KURDISH RIFT SEEN IN THE EARTHQUAKE STRIKEN AREA OF VAN, TURKEY

Mio SHINDO*

ABSTRACT

The purpose of this working paper is to examine the problem of Turkish-Kurdish disparities historically seen in Turkey, as well as those exposed recently after a large earthquake struck the Van province. Looking at the continuing tense situation and the failure of both Turkish and Kurdish parties to come to any sort of true agreement, one can surmise that any progress made until now has only been through outside pressure, in particular under conditions stipulated by EU members who ultimately have the most influence on the Turkish government. This outside pressure, however, has not been and will not be able to create a total solution to this problem. Only when internal agreement between the Turkish and Kurdish representatives can be reached, will a stable policy be able to be formed.

This working paper is composed of the following sections: the first section reexamines the historical background of ethnic rifts between the Turks and the Kurds in Turkey, and the second section presents cases of internally displaced persons in Van province, Turkey. Lastly, this working paper examines how these disparities have adversely affected the victims of the Van earthquake.

I. INTRODUCTION

In 2011, the President of Turkey Abdullah Gül commented that “There is no room for closed regimes in the Mediterranean any longer and democracy is bound to prevail throughout the region.”¹ Although it is true that democracy is prevailing in the region, and that Tur-

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1 President Gul commenting in Libya on 4 May 2011 to queries from the press on the proposal of establishing an ‘Islamic Peace Force’.

key is a leading country amongst Islamic nations in its advancement of democracy, there are people within Turkey that feel the declared democracy has not been effective.

Just as Turkey has faced a long and often frustrating struggle to gain recognition from and ultimately acceptance into the EU, so have the Kurdish people faced a similar fight inside of Turkey. Ironically, much of what has prevented Turkey's full entrance into the EU has also been the basis for the struggles of the Kurdish people – a government that is struggling to truly be democratic in nature. The very forces which internally have caused a slow uphill battle for the nation in its quest to join the EU have been a major contributing factor to the government's treatment of Kurdish people. The government is more often than not too weak and too easily influenced by a strong conservative force within it, especially in relation to the way in which it handles the Kurds, a non-recognized minority. The massive earthquake that struck Van province in Southeastern Turkey further brought to light this influence within the Turkish government and the challenges faced by the Kurdish people in the country.

II. BACKGROUND

A. The Kurdish Question in Turkey

"The Kurdish Question" is a term widely used in referring to the tense situation existing between the various states which are home to Kurdish populations and their non-recognized minority inhabitants, the Kurds. The Kurdish people historically had their own language and a unique culture but no nation-state; instead they called the Kurdish-inhabited region that spread into multiple nations "Kurdistan" (Ref. Map1). The area that is referred to as Kurdistan stretches into regions of several Middle Eastern countries including; Turkey, Iran, Iraq, Syria, and a few regions in the former Soviet Union. Despite the fact that the total Kurdish population is in the tens of millions, the area they call Kurdistan is divided into multiple nations and the stateless people living there are ethnic minorities in each inhabited country, easily making them the target of repression and persecution both historically and currently.

In mid-nineteenth century, after losing its territory in series of disastrous wars, the Ottoman Empire was considered the "Sick Man of Europe". The founding fathers of the Republic of Turkey, the "Kemalists" led by the first president Mustafa Kemal Ataturk, sought to build a civic nation in which all citizens would enjoy equal rights. They viewed ethnic diversity and a perceived "ethnic nationalism" as a major contributing factor to the fall of the empire. The 1923 Treaty of Lausanne recognized only three non-Muslim communities (Greek, Armenian and Jewish) as official minorities in the region hence all citizens in the declared Turkey, regardless of their ethnicity, language, or culture, were commingled into a "homogenous" community: the Turks. The forced abdication of ethnic identities was a trade-off for Turkish homogeneity, by which the Republic gained its strength of the nation; 'strength deemed to be essential to achieve with the West' (Cizre 2001, 231).

B. No Friends but the Mountains

During the Ottoman Empire, the area of Southeastern Turkey that was occupied by the Kurds had a certain degree of autonomy; they were accepted as a Muslim community with their own culture that differed from the Turks. However, the establishment of The Republic of Turkey completely changed the way the Kurds were viewed. Article 10² of the 1982 Constitution protects equality and Article 10/4 requires compliance of administrative institutions and authorities with the principle of equality. In addition, Article 39/3 of the Lausanne Treaty also articulates that ‘differences of religion, creed or confession shall not cause any discrimination’ within Turkey. However, as a non-recognized minority, the Kurds were accorded equal rights only if they abandoned their cultural identities. For example, the Turkish authority banned the use of the Kurdish language, with Article 3 of the 1982 Constitution recognizing Turkish as the only language of the state and Article 42 prohibiting education in languages other than Turkish, irrespective of Article 39/4 of the Lausanne Treaty clearly stating ‘the right to use any language in matters relating to citizens’ private or commercial relations.’

Some Kurds chose to be integrated into Turkish society, while others were unable to or refused to be assimilated. Continuous repression by the state generated resentment among the Kurds towards the Turks, which resulted in rights-based discourse arising among the Kurds. To them, the treatment as a non-recognized minority in spite of lawfully assured equality seemed unjust. On the other hand, a predominant opinion by the Turks was that ‘Kurdish nationalism is a territory-aspiring and divisive force challenging Turkey’s political existence. (Cizre 2009, 6)

Among the Kurds who were insistent on their rights, the Kurdistan Workers’ Party (Partiya Karkerên Kurdistan - PKK) declared its objective to establish a pan-Kurdish state based on Marxist-Leninist principles, through violent means. Turkish authorities began actively punishing the Kurdish resistance and their attacks mostly led by the PKK. Numerous states and organizations including the United States and the European Union listed the PKK as a terrorist organization because of their militant and confrontational activities.

As the Kurdish proverb says “We have no friends but the mountains”, the stateless Kurds in Turkey were not only labeled as an ethnic minority, but also fell victim to being mistakenly represented by a violent group, the PKK, further isolating them from the Turkish population leaving them to themselves and the mountains.

C. The Kurdish Reality

It was not until 1991 when the then Prime Minister Suleyman Demirel recognized the “Kurdish Reality” in public, and only then were the restrictions on Kurdish cultural activities eradicated, and the ban on the use of the Kurdish language lifted (Güzeldere 2009, 294). As much as the EU emphasized the importance of human rights protection, especially in relation to the Kurdish issue, it is often pointed out that ‘these measures had not brought about any

2 Art.10/1: ‘[a]ll individuals are equal without any discrimination before the law, irrespective of language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such considerations.’

significant progress towards democratization or greater respect for human rights, nor a political settlement of the Kurdish issue.’(Arikan 2003, 146)

III. INTERNALLY DISPLACED PERSONS (IDPs) IN TURKEY

A. Forced Village Evacuation by Turkish Government

The assimilation program of the Kurds by Turkish authorities escalated to the forced relocation of Kurds to non-Kurdish areas of Turkey. In the 1990s, on the pretext of maintaining security near the border between Turkey and Iran, operations to evacuate Kurdish villages were conducted in extremely violent manners. In fighting the rebellion, Turkish armed forces burned down villages so that the PKK would not use them as bases. The Kurdish villagers were forced to cooperate with the Turkish security forces in attacking the Kurdish guerrillas and were mobilized as “village guards” acting as local militia.

A 1998 report by the Turkish Parliament emphasized that ‘the eviction of villagers by the security forces constituted one of the reasons behind displacement and that it was carried out unlawfully’ (Kurban et al. 2007, 152). The recent public apologies by Turkish Prime Minister Recep Tayyip Erdogan revealed that a total of 13,806 men, women, and children were massacred by Turkish troops during the destruction of Kurds and Zazas of Dersim (now Tunceli), a province in south eastern Turkey, in 1936-39 (Poyraz 2011)³. A written statement submitted to the United Nations High Commissioner for Human Rights (UNHCHR) describes the forced village evacuation: ‘The men are beaten and tortured, while the women are brutalized and sexually abused in front of their children. Houses are looted, crops burned and livestock slaughtered before the village is evacuated. All this is designed to create a no man's land.’ (UNHCHR 1994)

To take measures on the issue of IDPs, the Turkish government launched the “Return to Village and Rehabilitation Project” (RVRP) in 1994. However, the Internal Displacement Monitoring Centre (IDMC) stated that the project implementation would only be seen as of 1999, making the initiative of the return project more superficial than practical. The promise of the return and rehabilitation seemed to be a mere gesture until Turkey’s application for candidacy to the European Union (EU) was accepted in 1999, when addressing the plight of the displaced Kurdish population was included in imposed conditions on Turkey for its accession to the EU. It was only when EU required ‘the content and implementation of domestic laws implicating marginalized individuals and minorities’ (Anagnostou. 2009, 164), when Turkey’s minority regime began showing some improvement.

In contrast to confronting the past by revealing official documents containing information of the massacre and the forced evacuation, the Turkish government officially states on its Ministry of Foreign Affairs website that ‘It is difficult to distinguish between internal displacement due to various reasons and migration due solely to socio-economic reasons.’ It implies that the reason/blame for the forced displacement lies elsewhere.

3 The killings were denied and described as “suppression of an uprising” by the Turkish state for decades.

According to data collected by a government-commissioned survey, the number of IDPs accounted for is said to be between 954,000 and 1.2 million people during the 1980s and 1990s (HIPS 2006, 75). The total number of villages and hamlets whose residents were evicted is 3,428 (Kurban et al. 2007, 153).

B. Regional Disparities in Turkey

According to a study on “Socio-Economic Development Index” (SEDI), regions in Turkey can be classified into five separate groups depending on their levels of development. The first degree developed provinces include major cities with large populations such as Istanbul, Ankara, and Izmir, as well as surrounding areas that are affected by the metropolis Istanbul. Meanwhile, regions located in the East and Southeast Anatolia are ranked as the fifth degree developed provinces (Ref. Map 3). The study pointed out the reason for these regions to be ranked as the fifth as migration, and that ‘[t]he most important steps in eliminating the disparities in question would be the initiatives directed at the mobilization of endogenous potentials of these regions and policies and practices that will stop migration.’ (Ozaslan et al. 2006, 14) Amongst the 16 provinces included in the group is the province of Van, where a massive migration of the Kurds into the region occurred as a result of political conflicts between Turkish security forces and the PKK.

C. The Van Action Plan

In 2006, as part of the cooperation between the Government of Turkey and the United Nations Development Programme (UNDP), the Van Governorship announced the “Van Province Action Plan for Service Delivery to Internally Displaced Persons” (the Van Action Plan). Amongst the 14 provinces where displacement had taken place, Van was considered appropriate as a pilot province to implement the Van Action Plan due to its history of accepting more than one million displaced Kurds since the 1990s. Collected data among IDPs in Van shows that the most answered “reason for migration” is “forced evacuation of villages”, consisting 66.6 % of the total, while “terror and violence” comes in the second with 38 %. (Yukseker et al. 2009, 6)

Official statistics for Van Municipality show that the population in the center of the province increased from 155,623 in 1990 to 284,464 in 2000. By 2008, the population had expanded to 353,355.⁴ However, Burhan Yenigün, then Mayor of Van said in an interview that he ‘thought that the actual population may be closer to 600,000.’ (Yukseker et al. 2009, 10)

The multiple key principles outlined in the Van Action Plan are as follows:

Freedom of Movement; Supporting voluntarism and choice; Ensuring security; Valuing the voice and opinion of service users; Encouraging participation and partnership; Adopting gender-sensitive approaches/policies and emphasizing youth involvement; Ensuring environmental sustainability; Respecting cultural heritage and tradition as

4 Calculated from figures on the Van Governorship Website (www.van.gov.tr)

well as age differences (appreciating the heterogeneity of IDPs); Distinguishing between urban and rural service delivery; Relying on a holistic approach; Responding to needs with a process-oriented approach; Contributions of IDPs as service-recipients; Reduction of replication and waste; Sustainability; Expansion of dynamic planning and implementation in service delivery; and Consistency with the Compensation Law.⁵

An Assessment for the Van Action Plan for IDPs criticized that none of these principles had any concrete development, and lacked focus. In addition to the aforementioned principles, the Governorate of Van emphasized the importance of providing continuous necessary support to not only the IDPs but also to 'all vulnerable constituents in the province'⁶. The criteria defining eligibility for services were not clear because the Van Action Plan did not specify how to determine the IDPs and other vulnerable people. The Van governorate ended up drawing attention away from the topic at hand and further complicating the situation. Overall, the assessment concluded that the plan seemed to be 'overambitious, and therefore unrealistic in terms of financing and implementation.' (Yukseker et al. 2009, 16)

IV. VAN EARTHQUAKE

A. Earthquake in Kurdish Province of Van

On 23 October 2011, a massive earthquake registering over seven in magnitude struck Van province in Eastern Turkey. According to the National Seismological Observation Network (AFAD⁷), the quake hit cities close to the Iranian border, killing 644 people (AFAD 2011) and injuring more than 2,500 people (IFRC⁸). The epicenter was located only 16 kilometers north-northeast of the Municipality of Van, resulting in substantial damage throughout the city with many collapsed buildings, while the eastern city of Ercis also sustained considerable damage.

The initial massive quake was followed by numerous aftershocks ranging from 4 to 5 in magnitude in Van province. In the week following the quake, 114 aftershocks and earthquakes occurred and the daily average for the month that followed the disaster was around 180, reaching a total of 6,284 by 09 Dec 2011 (AFAD 2011).

Not all of the earthquake-affected people waited for or were dependent on public emergency shelter assistance. Some locals had no choice but to evacuate from their homes and flee to other cities within Turkey, while others decided to remain in the disaster-struck city. The AFAD declared that '17,005 dwelling units were determined as collapsed and/or heavily damaged in Van City Center, Ercis and villages'. Those who stayed were afraid of living in

5 Van Province Action Plan for the IDPs Service Delivery. 2006. Governorship of Van

6 Ibid

7 AFAD is operated by Prime Ministry Disaster and Emergency Management Presidency (DEMP), Turkey.

8 International Federation of Red Cross and Red Crescent Societies

cracked or damaged buildings due to fear of collapse by the continuous aftershocks, and sheltered themselves in make-shift tents and containers that were provided via earthquake relief efforts or built on their own.

The Turkish government initially did not appeal for international aid except to the Iranian Red Crescent and Azerbaijan, but soon broadened its approach and accepted aid from more parties in order to quickly respond to the devastating disaster. A considerable amount of emergency relief aid was brought to the earthquake affected area from all over the world; however, the effectiveness of some of the aid remains questionable.

V. TURKISH-KURDISH RIFT DURING AFTERMATH

A. Botched Relief Efforts

“We admit that we failed in the beginning, within the first 24 hours. We acknowledge flaws but these mistakes are pretty normal in such incidents,” said the Prime Minister Recep Tayyip Erdogan during a media interview four days after the earthquake. Shortly after the Van earthquake, Turkish government compared the damages in disastrous area with the 1999 Izmit earthquake that struck Western Turkey. The number of collapsed buildings and expected casualties was much lower, therefore no foreign urban search and rescue (USAR) teams were formally invited by the Turkish government, and according to AFAD 18 search dogs were sent to the region. Judging from the number of casualties, with most losing their lives under collapsed buildings and debris, more effort should have been made within the first 24 hours in order to save lives. The Turkish government finally began accepting international aid on 27 October 2011 only in the form of tents, blankets, prefabricated houses and containers, and/or money.

B. Partisanship amid Crisis

Because people are not equally vulnerable to disasters, need for assistance varies depending on their situation. This variation also occurs on the opposite side, with those giving out or organizing assistance. One notable disparity in the distribution of aid arose not from outside organizations, but from local governments within Van Province. Of the two major cities affected, Ercis and Van, Ercis received more aid than Van. Granted it was more heavily damaged after the first quake, but following the second quake both cities were left devastated. Why then was Ercis still given more aid than Van? While one could argue it was simply based on timing and media attention, it is also important to note that the mayor of Ercis belongs to the ruling AKP (Justice and Development Party) and accordingly has close ties with the Prime Minister and the central government, whereas the mayor of Van belongs to the opposition BDP (Peace and Democracy Party) which is the successor to the banned DTP (Democratic Society Party).

It must be stressed that estimating the exact number of earthquake-affected people in order to assess and process aid requests became very difficult in Van due to several factors. One

major problem was the existence of a large group of previously non-registered IDPs (due to political instability before the earthquake) that remained unaccounted for. The victims who were constantly on the move due to fear of aftershocks and further collapse, and interruption of utilities, were also considered IDPs, which further complicated the situation. On top of these two groups, outsiders who were not locals or earthquake victims also came to the area simply seeking to receive some of the foreign aid.

As noted by the Associated Foreign Press in an October article, within a period of two days, 17 aid trucks were looted in both Erçis and Van. Because the perpetrators were never caught, accusations flew as to who was responsible, further raising tensions between the locals and the government. If that was not bad enough, on 29 November 2011, the storage facility where most of the relief supplies were being held was burnt to ground. It was declared an accident, but many in the area viewed it with extreme suspicion. In a bizarre response to this tragic incident, the Turkish government halted the delivery of 200 tents to Van Province, further escalating anger amongst the locals.

C. Disparity Continues

As of December 2011, more than half of the population of Van City still remains evacuated to surrounding areas. With the devastation and rapid population loss, businesses are being forced to close and city workers and other citizens are also leaving the city, which is gradually becoming a ghost town. At the moment, all but one of the city hospitals have shut down. Aid is still coming in to the city, but in its current state of disarray, despite the valiant effort of aid workers and volunteers, much of it is never distributed (Ref. Image1). With the average Kurdish family having several children, there is a constant shortage for tents or other shelters and the cold winter has only made this need more urgent for the earthquake victims. Even those who do receive tents have other fears to deal with – security and flames. There is no way for these tents to be locked or secured, leaving victims without any means of protecting their valuables. Also, tent fires are a real threat as most of the tents are made of nylon and are extremely flammable (Ref. Image 2). For those still stuck in the devastated areas of Van Province the Kurdish Question has become more than a nagging political issue, it has become a threat to their survival.

VI. CONCLUSION

One of the problems encountered in writing this paper was the difficulties in having access to qualified data on this sensitive issue of the Kurdish Question. Studies often lean towards opinion of one party, involving the ideological hostility or excessive empathy, resulting in lack of objective, critical and creative scholarship.

While it is extremely easy to be sympathetic toward the Kurdish people and their plight, it is also important to realize that change is difficult and particularly for those in the Turkish government. The government itself is fragmented and the policy makers must not only deal with internal politics but also their own constituents. Outside pressure from the EU and other nations will undoubtedly help move the process along, but true change can only be achieved

through a shared understanding and agreement between the Turkish people and the Kurdish people. Sadly the aftermath of the earthquake and the way the people of Van province were treated only showed a widening gap between them. Hopefully this disaster will end up being a catalyst for change and bring the two parties together to share a more open dialogue. In order for a true solution to be reached, understanding must not only be shared by the politicians/representatives on both sides, but by the Turks and Kurds themselves.

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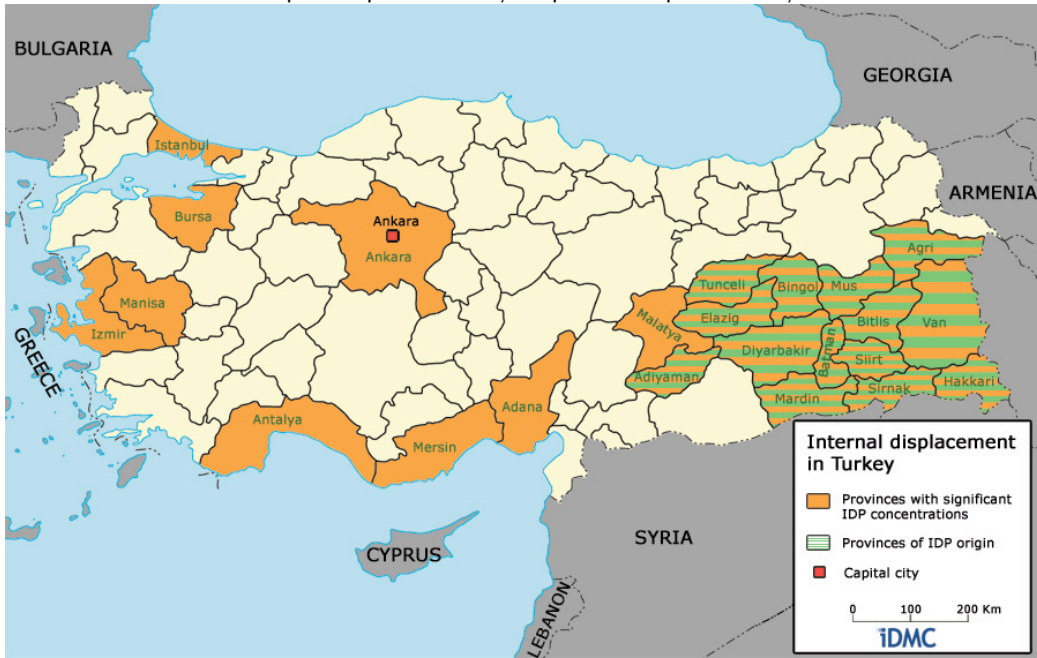
MAPS

[Map1: Kurdish-inhabited Area]



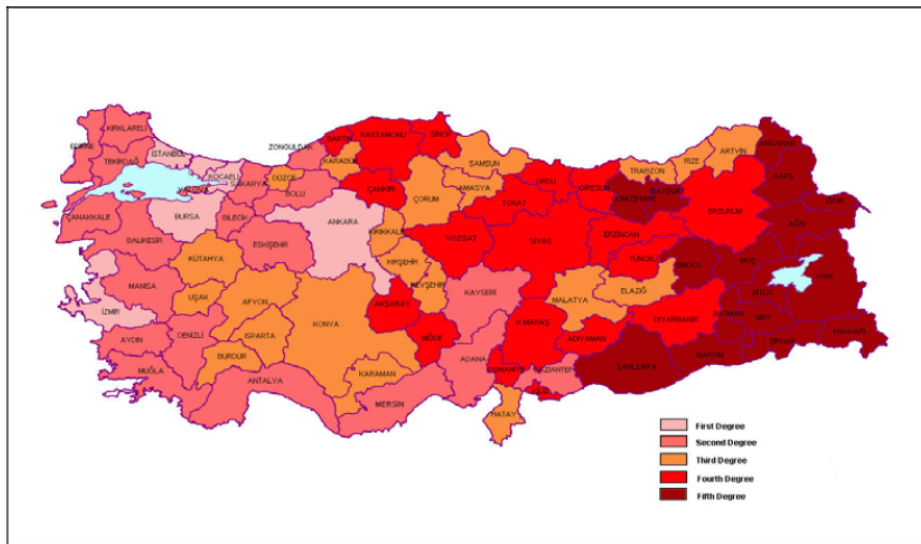
Source: Central Intelligence Agency (CIA), 2002. Retrieved from Library of Congress Geography and Map Division Washington, D.C. 20540-4650 USA

[Map 2: Map of Internally Displaced People in Turkey]



Source: Internal displacement in Turkey, Internal Displacement Monitoring Centre (IDMC), 2005

[Map 3: Provincial Rankings According to SEDI Results]



Source: Regional Disparities and Territorial Indicators in Turkey: Socio-Economic Development

IMAGES

[Image 1: Earthquake Relief Aid Piling Up]



Source: Images provided by Mio Shindo

[Image 2: Highly Flammable Tents]



Source: Images provided by Mio Shindo

ASIAN DIGEST ON HUMAN MOBILITY

JAPAN: RE-DETERMINING THE PURPOSE OF RESETTLEMENT PROGRAMME

Junko MIURA and Shikiko MASUTOMI*

I. INTRODUCTION

Our interviews with refugees resettled to Japan conducted in May 2011 revealed that their decision to migrate to Japan was consolidated by their prioritisation of securing their children's access to education, potentially up to a higher level.¹ In reflection, we saw the need to investigate the current situation in Thai refugee camps, identify their needs – particularly in education - and verify what type of education Japan can offer them to diversify their opportunities and fulfil their hopes for the future. In addition, there was a need to re-examine the Cabinet Approval and the Refugee Liaison and Coordination Council Decision released in December 2008,² in order to clarify the reasons for certain specifications of refugees to be resettled. CDR research team therefore carried out field research in August 2011 in Mae La camp from which the refugees are currently resettled. Furthermore, we visited Umpiem, a neighbouring camp,³ as well as areas around Mae Sot so as to gain an overview of the migration which occurs around the Thai-Burmese border area.

The report will firstly present our findings through the field research conducted in Thailand (Chapter I), and secondly identify the problems with Japan's resettlement programme which emerged in the past year, particularly in light of the 2008 Cabinet Approval which is used as a reference for its agenda, and offer some recommendations to bring about improvement to the programme (Chapter II).

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1 Miura and Masutomi 2011.

2 Naikaku Kambou 2008. Nanmin Taisaku Renraku Chousei Kaigi Kettei 2008.

3 Umpiem was initially chosen for logistic convenience but, coincidentally, various sources suggest that some Japanese government officials visited the camp along with another earlier this year and may consider selecting refugees to be resettled from there (Matsunaga 2011; Mizzima 2011; Asahi Shimbun 2011).

II. FIELD RESEARCH IN THAI-MYANMAR BORDERS: MIGRANTS AND REFUGEES

A. Research Objectives

Since 2010, the Center for Documentation of Refugees and Migrants (CDR), the University of Tokyo, has been researching the third country resettlement programme that is being implemented from 2010 by Japan as the first Asian country. The collected data has been published in CDR Quarterly volumes 2, 3, and 4. In May 2010, CDR research team conducted interviews of the first group of resettled refugees in Japan. Two families settled in Chiba prefecture, and 3 families settled in Mie prefecture after a half year training implemented by the Refugee Assistance Headquarters (RHQ). Although Japan is implementing the third country resettlement programme as a pilot project, this pilot programme's system itself needed to be reviewed since some of the first refugee groups arrived in 2010 are already facing challenges to integrate in Japan. Some of them express unhappy feelings about coming to Japan despite having also positive aspects as well. One Myanmar⁴refugee from Mae La camp resettled in 2010 commented at the press conference, "To be honest, I am not feeling happy that I came to Japan".⁵ The second group of resettled refugees from Mae La camp had also arrived in September 2011, and finished the training course operated by RHQ in March 2012. Given the above situation, the CDR research team set the following objectives.

Our research objectives in Mae Sot city in Thailand : to find proper policies to reform the "system" of the resettlement; to review the criteria for qualifying for resettlement; to present our point of view regarding our visit to refugee camps and their surrounding areas. In order to fulfill those objectives, we visited various organizations in and outside of the camp as the next section will show.

B. Methodology

The CDR field research was conducted in Tak province in Thailand from 15 to 19 August, 2011. Coordinated by Myo Min Swe, a master's degree candidate at the University of Tokyo, the CDR research team visited two refugee camps, Mae La and Umpiem, and surrounding areas in Mae Sot. The plan included a visit to Nupo camp as well, but we had to abandon it, because the road was blocked due to bad weather conditions. We also visited NGOs, migrant institutions, and migrant schools located in Mae Sot as we consider education is a critical issue for resettled refugees. This paper reports the content of the field research conducted in Thailand, and discusses the educational issues in Mae Sot areas.

Mae Sot is located in Tak province, along the northwestern Thai-Myanmar border, in Thailand. It is well known among Myanmar refugees and economic migrants and called "little

4 Disclaimer: CDR uses the term "Myanmar" and not "Burma", but it is not an expression of our political view. It simply follows the term "Myanmar" used by the United Nations.

5 The Mainichi Daily News 2011.

Yangon". Refugees and economic migrants from Myanmar consist the largest communities in Mae Sot. Seventy percent of the population in Mae Sot, or approximately 150 to 200 thousands, are from Myanmar. Over 500 factories are in operation, and their main employees are migrant workers from Myanmar. Furthermore, it is said that 80 percent of them have no work permit visa. The average of their daily wage is said to be between 50 baht and 70 baht. Compared to the minimum wage of Thai working in Tak province, their wages only account for from 50 percent to 70 percent. Mae Sot is expressed as "Myanmar" but not Thailand since it is full of Myanmar culture such as ethnic clothing, foods, languages and music. A lot of advertisements are written in Burmese.⁶ The main objective of our research was to visit Mae La Refugee camp where the refugees resettled in Japan come from, but we also visited surrounding areas in order to explore the most fundamental issues in this area.

Firstly, in Mae La refugee camps, we visited Shanti Volunteer Association (SVA) which is a Japanese NGO, interviewed the current camp leader named Mahn Htun Htun, visited several vocational training centers, and some elementary and middle schools in Mae La camp.

Secondly, in Umpiem refugee camp, we also visited schools, vocational training centers, Buddhist temple, the library of Shanti Volunteer Association (SVA) and Karen Women Organization (KWO).

Thirdly, in Mae Sot city, we visited schools and NGOs that support refugees and migrant workers mainly from Myanmar. Supporting institutions where we visited include a branch office of Shanti Volunteer Association, and Mae Tao Clinic that is established by Dr. Cynthia Maung to provide health services for sick and injured asylum seekers. In addition, we approached Assistance Association for Political Prisoners (AAPP) that was funded in 2000 for activities on behalf of political prisoners under the military regime in Burma. In terms of educational institutes in Mae Sot area, we visited migrant schools; namely, New Blood School, Sky Blue, Social Action for Women (SAW), and Agape. The following list shows the locations CDR research team visited in Thailand.

- Mae La Refugee Camp
 - Shanti Volunteer Association (SVA) library
 - Meeting with Camp leader
 - Vocational Training Centers
 - Schools: LMTC and middle school
 - Religious institutions and markets
- Umpiem Refugee Camp
 - Meeting with Camp Committee member
 - Schools : high school
 - Vocational training centers
 - SVA library
 - Buddhist temple

6 Yagisawa 2009.

- Karen Women Organization (KWO)
- Migrant Schools in Mae Sot
 - New Blood School
 - Sky Blue
 - Agape
 - Social Action for Women (SAW)
 - Schools run by SAW
- Other Institutions in Mae Sot
 - Mae Tao Clinic
 - Assistance Association for Political prisoners (AAPP)

C. Issues within refugee camps

1. Schooling in refugee camps

Along with food, water, sanitation, security and shelter, basic education is considered as a human right. However, education programmes for refugee children have political significance in the long-term perspective. It is not simple to create an education programme, because they do not have a common past or a future. "There is only a 'present' as a refugee in a camp full of people with the same problem of homelessness".⁷ As a consequence, education programmes must usually struggle with various questions: selection of language, teacher, or creating a curriculum. Furthermore, these challenges often interact with political problems, too. Le Blanc and Waters, from California State University, state that "refugee camps often have confusing mixes of curriculum, which leads to inconsistencies in educational policies".⁸

In the refugee camps in Thailand, education for children is under the supervision of the Thai Ministry of Interior, and most of their education has been provided by foreign NGOs. In terms of the Thai language, Ministry of Education has given lessons for communication purposes and career training.⁹ The Thai government has not acceded to the 1951 Convention Relating to the Status of Refugees that gives the "status of refugees", but it provides some form of protection to refugees and permits international and local organizations that provide various supports such as education, health, food and shelter in the refugee camps. As of 2010, 70 schools were in operation in 7 refugee camps with 1600 teachers, and approximately 34,000 students were attending.¹⁰ Currently, "nursery, general education, post-secondary schooling,

7 Le Blanc and Waters 2005.

8 Le Blanc and Waters 2005.

9 OEC 2008.

10 Su-Ann Oh 2010.

and vocational and adult learning” are the types of education allowed to operate in the camps. Higher education is not available in camps or outside camps. All of these schools have been run by refugees residing in the camps with supports from external organizations. The following quotation summarizes the situation: “The education in the camps is sanctioned by the Thai authorities, and implemented and supported by local and international NGOs and community based organizations (CBOs)”.¹¹

The Thai government, however, imposes various restrictions on movement, livelihood, and education in refugee camps. Firstly, the authority limits refugees’ movement and opportunities to work. The Ministry of Interior sets checkpoints at the main entry and exit of the camps, and monitors the movement of refugees. Thus, refugees are restricted to leave or enter the camps without a pass. Along with this issue, costs of education from individuals and refugee communities are high relative to their income. Secondly, the Thai authorities restricts the operation of schools with “Guidelines to ensure that the project implementation conforms with MOI regulations” issued by the Ministry of Interior to NGOs.¹² According to the guideline, the way to operate staff, buildings, space and content of books are under control. NGO staffers are not allowed to be a teacher, but they only can be an advisor. In addition, school buildings cannot be built as a permanent building. Just like the housings and other buildings in refugee camps, school buildings cannot be constructed with concrete. Regarding space, it cannot be expanded. Moreover, publications of teaching material are not allowed to contain political views, values and stands. Thus, there are some restrictions to run schools in refugee camps, so their funding is dependent on the NGOs. However, refugee communities have a vigorous sense of ownership to operate the education system in the camps.¹³ In fact, in all schools the CDR research team visited in Mae La and Umpiem camp, teachers are all from refugees residing in the camp. The following example is one of the schools located inside Mae La camp.

(a) LMTC Arts Science

The CDR research team visited one of the unique schools named Leadership and Management Training College (LMTC) Arts Science that is built at the top of a mountain in Mae La camp. The school is funded by a charity organization named Child’s Dream Foundation which is providing aid for unprivileged children in the Mekong Sub-Region. It is approved by the Thai government. Child’s Dream Foundation covers all running costs as well as the construction of school building with two accommodations, class rooms, library, computer room, washrooms and kitchen. In 2006, the costs for running the school were reported as 2,030,109 baht.¹⁴

Every year, 60 Myanmar refugee students are selected from 5 refugee camps. There are more male students than female students. As it is the only school that can prepare for further

11 Ibid.

12 Ibid.

13 Ibid.

14 Child’s Dream Foundation 2006.

education in the camps, it is highly competitive to pass the entrance exam. One of the teachers explained so, and he was proud of the selected students. Those students are recognized as students with high academic potential. The objectives for running LMTC Arts Science are “to provide higher education for refugees” and “to prepare some students to continue their studies at university level”.¹⁵

Talking with 3rd year students, around the age of 19, they seemed energetic and highly motivated to study. Most of them were born in Myanmar. Students can use computers, and some are using e-mails or social networking service, i.e. facebook. However, due to having no formal identity card from the Thai government, their options for future are very limited. One of the students said, “I would like to study more with scholarship”. Many of them desire to continue their studies. If the students are qualified to apply for Japan’s third country resettlement programme, it would give various possibilities and opportunities to those youths. However, it is not easy for them to apply with the current system of the programme. In terms of “the future”, most of the students expressed their dreams that they want to work for their community at the Thai border, or want to be a part of the camp committee like a camp leader. Mae La camp has been there since 1984, but it is still a “refugee camp”. There are also numerous students or youths unregistered with UNHCR refugee status. Having their movement restricted, they are not qualified even to apply for the third country resettlement programme. It is not easy to find “the future” for children and youths residing in a camp.

(b) Vocational training centers

In both Mae La and Umpiem camps, the CDR research team visited several vocational centers for cooking and baking, barbers, sewing, and beauty parlor. The cooking and baking center in Mae La camp was implemented by a NGO named Adventist Development and Relief Agency (ADRA), which has 120 offices around the world and was established in 1918 within Christian activities. This vocational center provides two months of cooking courses, and three courses are run in one year. Each class has 20 students, so the center trains 60 people per year. Refugees, who will move to a third country by the resettlement programme, often attend the courses. The role of vocational training is not only to provide special skills of cooking, hair cut, or sewing, but also it affects the refugee’s mind. The staff working at the cooking and baking center explained that trainees who finish the course change their behaviours. They feel more confident in themselves and become much more positive about their lives. Schooling is a significant factor in refugee camps, and it is not only for children but also for adults.

(c) Shanti Volunteer Association: libraries

Shanti Volunteer Association (SVA) is a Japanese NGO that has been providing educational assistance in developing countries. It was established as Japan Sotoshu Relief Committee (JSRC) in 1980, and opened the office in Bangkok, Thailand and initiated mobile library

15 Child’s Dream Foundation 2006.

services in Cambodian refugee camps.¹⁶ In 2000, library activities for Myanmar refugee camps in Thailand commenced including Mae La and Umpiem refugee camps.

In the branch office of Mae Sot, 15 local staff and 2 Japanese staff have been working and deploying 21 libraries in 7 refugee camps on the border. In Mae La camp, 6 libraries are set up, providing opportunities for children and adults to read books. SVA publishes books written in Karen and Burmese languages both in Thailand and Japan. 5 to 6 titles per year are being published by SVA. Libraries in the camp are opened, 9:00 to 16:30, from Tuesday to Saturday. The librarians read stories to children who come to libraries. When we visited the library in Mae La Camp, the librarian was reading a famous Japanese story “Momotarou” to over 40 children living inside the camp. All librarians are refugees living in the same camp and the libraries are run by communities such as school staff. Nurseries in the camp may borrow a box of books from the libraries. Not only children, but adults also are able to borrow some books from the libraries.

It is the most notable point that libraries are mainly run by refugees living in the camp. Mr. Ono, a director of SVA branch in Mae Sot, stated that people settled inside the refugee camp desire to work since they have no entertainment there. However, the dilemma of their activities is that the number of librarians has been decreasing. 10 out of 12 librarians in Mae La camp had moved out to Europe and the United States by the third country resettlement programme. In the libraries, hence, numbers of potential leaders are reducing and becoming limited.

2. Camp Leader in Mae La camp

Fifteen of committee members including a camp leader in Mae La camp are selected by election every 3 years. The CDR team conducted an interview of the camp leader, named Mahn Htun Htun. He gave a briefing of the camp, showed the livelihood in the camp and refugee’s environment to apply to the resettlement programme.

Mae La camp is divided into three zones, A, B and C. Further, in these zones, 5 sections are separated into 22 sections. In total, there are 1,700 to 5,000 including large and small sections. Currently, 260 staff members out of 600 are working as the security police. In the past, sections have no power to decide anything. However, currently, judgment rules are set up and each sections also can make a proper decision. In a refugee camp, three kinds of solutions can be considered: repatriation, resettlement and integration into the local society. It is almost impossible for the refugees to integrate into the Thai society. The Thai government has never recognised “displaced persons” from Myanmar as “refugees”. By using the Thai government’s term, “persons displaced by wars” are never allowed to work outside the camp. In the same way, “temporary shelter” is never recognised as a “refugee camp”. Therefore, no permanent buildings are allowed to be built inside the camp. The building should be made by simple materials which is easy to be pulled down and removed.¹⁷ In consequence, all housings and buildings are made by leaves, wood and bamboo. Most of the refugees are able

¹⁶ SVA 2011.

¹⁷ SVA 2012.

to build their own houses in three days or so. It is a complex issue that most of the camps on the border have existed for over two decades. The tragedy of a big fire that occurred in Umpiem camp in February 2012 represents the issue.¹⁸

In terms of the Japanese resettlement programme, the leader pointed out two issues. Firstly, the timing was late when the Japanese government implemented the programme. It should have begun earlier since major countries had already started the resettlement programmes. Secondly, he pointed out that there are too many criteria for refugees to apply. While the US has no limitation for applicants, Japan has set up too many criteria.¹⁹ In case of the US, everybody can apply for the third country resettlement programme including singles and people who are HIV positive patients. On the other hand, the programme of Japan is difficult to apply and only limited refugees, such as Karen and families, are eligible to apply.

The camp leader explained the reasons why refugees do not want to apply for Japan as follows. The news of the disaster of tsunami and radiation make refugees afraid to move to Japan. Furthermore, worries of payment of school fees, especially for high school, reduce their motivation for applying. In addition, too limited information for the resettlement in Japan makes them less interested in moving to Japan. Resettled refugees in Japan had too much restriction such as calling and writing letters to families and friends. The leader pointed out the issue that refugees should have opportunities to keep in touch with their families, but the first group resettled in Japan had felt difficult to do so. It is difficult to confirm the facts only by these comments from the leader. However, at least, it is certain that this kind of negative information on Japan has spread in the refugee camp.

Not only negative information, but the leader also heard that families in Japan were also feeling happy to have life in Japan, especially for children who can receive proper education. People like the camp leader or other camp committee members in Mae La camp have sufficient local integration prospect which is one of the criteria defined by the Japanese government. However, the leader expressed less interest in applying for resettlement in Japan, and more interest in applying to English speaking countries such as the US, Canada and Australia. He could speak very fluent English, which he learned through activities with staffers of NGOs and international organizations.

In Mae La camp, there were clear differences between the US and Japan in their way to promote their respective resettlement programmes. The Japanese campaign board was put on the wall of the SVA library. The pictures were set as "message from friends resettled in Japan" and included several pictures of cultural training, working, studying, housing, and various scenes of life in Japan. The letter written by one of the refugees resettled in Japan explains the detail of trainings and life in Japan, and expresses the gratitude to be able to go to Japan. Compared to the Japanese resettlement campaign, in the case of the US, simple and large pictures for foods, sports and entertainments were put on the board. Clear different impact and impression were there. Refugees might have impression for studying or training by Japanese pictures while they might be able to imagine clearly their real "life" in the US through the pictures.

It is natural that refugees receive more information from the US than Japan, because a

18 TBBC 2012.

19 Please see "Third Country Resettlement Programme in Japan" in CDRQ volume 2.

great number of people, over 20,000 refugees, have already resettled in the US. Consequently, loads of informal information are provided by friends and relatives in the US. In addition, they already have a local community network to rely on after they move. Douglas Massey, who is an American sociologist and specializes in the sociology of immigration, states the crucial points of migration network that it can “convey information, provide financial assistance, facilitate employment and accommodation, and give support in various forms”.²⁰ Thus, although refugees are moving to a third country by the programme, migration network is crucial.

With regard to the first group resettled in Japan, they were having several meetings with camp committee members, and were working together for departure to Japan. However, in terms of the second group, communication between the candidates and camp committee was very restricted and even the camp leader did not know who would be going to Japan. It is crucial to consider some view of the camp leader in the development of the resettlement programme in Japan.

D. Issues outside refugee camps: migrants in Mae Sot

1. Education in Thai-Myanmar border : Migrant Schools

Along all the borders, a large number of children are not able to attend school, and many of them had only finished primary level education. Displaced people and migrants across the borders constantly move, and they always have security concerns due to lack of documentation. This is the reason why many of the children cannot attend schools, and begin working at an early age that leads to having limited knowledge skills and becoming vulnerable.²¹

There are several factors of reasons why children hardly attend school along the borders. Economic hardship and language barrier can be considered as main factors. Usually, there are no schools in most of the communities along the border, and it is almost impossible for children and parents to reach them. Even if children luckily have access to attend schools, many of children drop out of school and begin working at an early stage due to economic anxiety. Furthermore, language barrier is also one of the great concerns for migrant children's education.

Due to the displacement of people by conflict, Mae Sot has become well known as an “enclave of Burmese refugees and economic migrants”.²² In Tak province, approximately 17,000 stateless and migrant children are studying in 88 schools. As of 2008, on the Thailand / Myanmar border, 88 migrant schools are unofficially estimated by the Thai local education authorities. Educational opportunities for migrant and stateless children are mostly provided either by government agencies or NGOs and other organizations. Better lives for migrant children and their families are promoted by the Ministry of Social Development and Human

20 Massey 1998.

21 Caouette 2001.

22 Purkey 2006.

Security. Various networks of educational agencies such as local and foreign NGOs have been created in Tak province. Children who attend the formal school in Tak have been provided scholarship and learning materials.²³

How does the Thai government deal with the issues? The Royal Thai Government has an “education for all” policy; however, in practice, the policy is constrained by nationality, ethnicity, language, culture, economic status and legal status. In 2005, the Cabinet adopted a resolution recognizing the right to education of all individuals including non-Thai nationals and children without civil registration. Thus, in theory, migrant children who have not been registered also can have access to formal education system in Thailand. In practice, however, it is estimated that less than 20 per cent of registered migrant children attend schools.²⁴

In consequence, significant numbers of migrant children are excluded by formal education system in Thailand. It is obvious that the majority of migrant children have no access to education.²⁵ In order to respond to this situation, numerous migrant workers have established schools in migrant communities. Nonetheless, these schools are insecure, largely unmonitored, under-resourced, and unable to issue qualifications. There are several obstacles for migrant children: a lack of awareness of child’s right to receive education, security concerns of undocumented migrants, language ability, cultural barrier, financial concerns, pressure for children to work, and itinerant lifestyle of migrants. In this way, students hardly can access higher education.²⁶ This issue would also occur in a refugee camp. For a lot of students who finished schools in refugee camps, usually the door to further education was shut.

Both documented and undocumented migrants from Myanmar have made extraordinary efforts to continue their children’s education despite lack of financial support, infrastructure, and legal status in Thailand. Children, who live with families in Mae Sot and attend school, have been always under insecure conditions. For instance, parents who are at risk of deportation barely send their children to school alone. Children attending schools sometimes disappear from schools because of expiry of parent’s work permits, and are deported back across the border or brought back to a refugee camp if their parents have been recognized as “bona fide²⁷ refugees” under the Thai government’s definition. In addition, there is a further concern of migrant children when they reach the age of fifteen. The Thai government no longer recognizes them as children who have the official right to receive education. Only few of migrant children luckily get the attention of some NGOs, and win a scholarship abroad while most of them face an uncertain future. “Children nearing the age of sixteen, facing the prospect of deportation or illegal status, need to have places to go to continue their education.”²⁸ It is not rare that they work as illegal workers like their parents or return to Myanmar to face a repressive situation.²⁹

23 OEC 2008.

24 Chantavanich et al 2007.

25 Ibid.

26 VSO 2009.

27 Bona fide means “legitimate” in Latin.

28 Purkey 2009.

29 Purkey 2006.

Migrant schools along the Thai – Myanmar border are also running in an insufficient environment. In response to the need for education, there are various supports from many organizations. For instance, due to the lack of basic school instructional materials, especially books are translated into Burmese, Thai and English. To provide appropriate education for children's needs, teacher training and curriculum development are provided by various organizations. Currently, various programs are imported from western countries, such as the United States, Australia, and Canada. Furthermore, there is support for post-secondary education to assist children to get scholarship and continue studying abroad. In terms of legal issues for migrant schools, currently, these schools are running outside the Thai education system. Mostly, they are not recognized legally or extra-legally, and therefore officially invisible. The surroundings for the migrant schools on the border have been in a difficult situation due to lack of legal status admitted by the Thai government. "Among them are the disagreement regarding the basic definitions of displaced Burmese people's situations as refugees, asylum seekers, and/ or economic migrants and the more basic need of all human beings for protection."³⁰

(a) *The Sky Blue*

The Sky Blue, one of the migrant schools under most severe conditions in Mae Sot, is built just beside a storage area of garbage. The school was founded in 2006, but the Sky Blue was newly established in 2009 by donation from an individual in the United States. Many of Myanmar refugees have lived there by collecting and selling plastic materials from the garbage mountain. Standing beside the garbage mountain were few small houses made by simple woods and plastic covers, but the heavy smell of trash filled the place. It was difficult even to keep staying there for a while, so it may affect the health of people living there for a long time. Proper measures should be made for them.

Dust carts from cities come to the mountain for six or seven times per day, and they can earn around 80 to 100 baht in total for 3 persons. One migrant worker, a 40-year-old, came to this place although he had wished to find another work, but he had given up applying for work permit which costs 4,000 baht. Another lady, who has lived with a family of 9 at this place for 4 years, expressed that she fears the police although she wishes to move to a better place. The average wage of her husband per day is 50 baht.³¹ One kilogram of plastic material is priced at 1 baht, and 20 kilogram of collected plastics, an average amount per day, would fetch 20 baht. However, if collected plastics are wet, 1 kilogram only brings 0.6 baht.

Children between nursery school and middle school have been attending the Sky Blue, and all of them are children of migrants living in the garbage mountain. As of summer 2011, there were 9 teachers and 150 students, and all of them are from Myanmar.³² Lectures of mathematics, science, Burmese, English and Thai have been given at the school in Burmese. All teachers have no salary for teachings, and one teacher commented that "there are 4 high schools for migrants in Mae Sot, so if children keep learning Thai, they would have a chance

30 Purkey 2006, 42.

31 Sugitani 2011.

32 Ibid.

to make their lives better".³³ One of the teachers explained that the Thai government understands the condition of the Sky Blue and it has not prohibited the school's operation although it has not recognized it as an official school. Furthermore, the Ministry of Education in Thailand has given various supports such as trainings for teachers and provision of books every year.

(b) Agape

Agape, one of the migrant schools in Mae Sot, has over 300 children including 100 orphans and around 30 street children. The head of the school and his wife are mainly managing it. Children are most energetic compared to other migrant school students visited in Mae Sot. The unique point of Agape is that teachers are leading children from "work" to "study" by using the energy of music. When the CDR research team visited the school, the director of the school was playing the guitar and singing songs with children. People who visit the school might never feel that children are living under severe conditions since they are very energetic and friendly. The director explains that the teachers visit where children are, and make them feel attracted and interested in going to school by singing songs with students. In so doing, many of street children began to attend Agape school to study. Mostly, the parents of the children who start going to school want their children to work, but not to study. Having only basic facilities, Agape needs to secure a donor for funding to manage the school. Agape is also one of the schools that seek supports.

2. Activities for migrants in Mae Sot : MAE TAO CLINIC

In order to explore the fundamental issues in Mae Sot, the CDR research team approached the Mae Tao Clinic. Luckily, we were able to have an opportunity to interview Dr. Cynthia Maung. She came to Thailand as a refugee and founded the Mae Tao Clinic with other few students in 1989. The cost of the treatment and medicines is free for all patients except 30 baht of registration fee at the first visit. All staffers working at the clinic have no occupation certification since they cannot afford to pay the annual application fee for legal permission for residence.³⁴ Although the staff is also under insecure conditions, the Mae Tao Clinic has been providing various supports for refugees and undocumented migrants from Myanmar.

In the CDR interview, Dr. Cynthia states the necessity to provide supports for migrant workers since international organizations such as UNHCR are focusing only on the issues inside the camps.³⁵ She emphasizes the issues of numerous migrant workers who are living outside the camp and they are not able to gain sufficient aid. In this way, her contribution for medical care for migrants in Mae Sot is extremely important. She points out the vulnerability of displaced people who cannot have access to the refugee camp, and their risks of being

33 Ibid.

34 Sou 2010.

35 Cynthia 2011.

trafficked or abused.

People living inside the camp can have freedom of religion and they are free from fighting and protected under the UNHCR registration. Although they have a lot of limitation for movement, many international NGOs provide various supports. Those people are able to access health care and education.

On the other hand, she has been concerned about the more severe situation of thousands of displaced people from Myanmar, who cannot have access to refugee camps. Being illegal migrant workers, they are not well protected, and especially women and children are great concerns. This is the reason why the Mae Tao Clinic has been providing medical services for them, and its role is crucial.

Further, Dr. Cynthia emphasized the importance to strengthen the network with other civil society organizations to provide care, support and protection for vulnerable people. She does not want them to feel like victims. Those people must have been oppressed and traumatized under the long term of civil war in Myanmar. The Mae Tao Clinic works not only for fund raising, but also in order to raise awareness for people who are not free and under pressure.³⁶ The activities done by the Mae Tao Clinic and several migrant schools indicate that there are various issues among the Thai-Myanmar border areas. As the next part shows, the criteria for candidates for the resettlement programme in Japan should be expanded rather than selected only from refugee camps.

III. RESETTLEMENT PROBLEMS AND RECOMMENDATIONS

A. Identifying the purpose

The 2008 Cabinet Approval stipulates that the purpose of the implementation of the resettlement programme is to help resolve various refugee issues occurring in Asia, vis-à-vis the international trend to share the burden of refugee issues more fairly.³⁷ However, this on its own does not provide a definitive picture of the vision that the Japanese government holds: although it projects the state's intention to contribute to the international community in the spirit of "burden-sharing" advocated by UNHCR, what extent it wishes to give importance to humanitarian concerns or what outcomes the government might expect through the programme remained unclear to the public until recently. On 17 November 2011, the Lower House of the Parliament unanimously passed a resolution declaring that Japan will continue to show commitment to refugee protection through various measures, including third-country resettlement, in line with its foreign policy principles.³⁸ According to the statement, Japan welcomes humanitarian assistance as a diplomatic tool whose effects became more visible following the Great East Japan Earthquake, for which the country received various forms of

³⁶ The Mae Tao Clinic 2005.

³⁷ Cabinet Approval 2008.

³⁸ Democratic Party of Japan 2011a. The House of Councillors unanimously approved the resolution on 21 November 2011 (Democratic Party of Japan 2011b).

support from many states. While this is a promising gesture made by the Japanese government, it has not yet touched upon what part the resettlement programme could play in its overall asylum policy (notably, in relation to onshore asylum).

Regardless of the grounds on which the decisions concerning the implementation of the resettlement programme were made, greater specificity would need to be drawn on the types of refugees accepted if the programme were to prove itself meaningful, let alone successful. The 2008 Cabinet Approval established three main conditions for the selection of refugees to be resettled: a) that the individual resides in Mae La camp in Thailand (1: 1(2)), b) that the individual is nominated by UNHCR i.e. a UNHCR mandate refugee (1: 3(1)), c) that the individual has no records of refusal of entry or of terrorist activity or any other indication of potential threats to national security (1: 3(2)). In addition, the Japanese government has a set of criteria to measure the individual's potential for integration in Japanese society.³⁹

The Refugee Assistance Headquarters (RHQ), a government-funded organization which administers the settlement training course for resettled refugees and more traditionally Convention refugees, recognises the importance of learning from examples of other resettlement countries in improving their resettlement scheme, and produced a number of reports to develop comparative studies.⁴⁰ One case study which may be interesting to observe in the future is Czech Republic, which launched its pilot resettlement programme with an annual quota of 40 in 2008, a figure and timing similar to Japan's.⁴¹ In response to UNHCR's resettlement needs assessment, priority is given to vulnerable refugees such as seriously ill persons, children, and women at risk, and they are accepted either as individuals or in family units.⁴²

While Japan could consider a similar kind of eligibility criteria as a way of enshrining its humanitarian motivations, the huge gap between the total number of refugees who are in need of protection by means of resettlement and the number of refugees who are resettled might demoralise such efforts: approximately 780,000 refugees need to be resettled in the next three to five years, but currently only around 80,000 resettlement places are available each year; even if all those places remained constant in number (this is unlikely) and are entirely filled every year (equally unlikely), only half of those in need of resettlement would be resettled.⁴³ It is difficult to imagine Japan making significant or meaningful contributions in terms of the number of refugees accepted in the foreseeable future; Japan is already proven to be a challenging environment in which for migrants to seek integration. With regards to admissibility criteria, there is a moral dilemma: favouring those with greater integration potentials sometimes raises criticism as it competes with protection needs, but it would be cruel to

39 Miura and Masutomi 2011.

40 Authors acknowledge that care must be taken when considering examples from abroad, as Japan has had limited experience in dealing with immigration and asylum, and its language and socio-cultural practices set a particular kind of climate for integration. See RHQ's website for their range of research (<http://www.rhq.gr.jp/japanese/hotnews/hotnews.htm#>).

41 In 2008, Czech Republic received 23 resettled refugees. Incidentally, it accepted Myanmar refugees like Japan, but they are from Chin ethnic group who initially fled to Malaysia.

42 UNHCR 2011a.

43 UNHCR 2011b.

promise a “better life” when refugees are in fact likely to struggle heavily in various aspects of integration and experience hardly any or no satisfaction relative to their previous conditions. In this sense, Japan could justify its decision to give priority to those with better prospects of integration.⁴⁴ Even with this justification, however, there remain other factors to be thought through such as the consequences of such criteria of selection for the remaining population of refugee camps; Susan Banki and Hazel Lang’s study in 2007 identifies the “brain drain” effect of resettlement programmes which pick out the educated, experienced and talented refugees first.⁴⁵

B. Selection policies: from refugees to host communities

Which specific groups of refugees could Japan consider receiving? The country currently only accepts refugees in family units. This casts a significant restriction on how selective the government can be given its preference for those with integration potential (i.e. more educated) and the trend that, as mentioned above, those people are also preferred by other resettlement countries and they leave the camps at a much faster rate than those with no education.⁴⁶ Educated adults with children would normally prefer English-speaking countries such as the US or Australia where language would be less of a concern as they are most likely to have already had access to education in English, or otherwise prefer to remain in camps to contribute to their communities.

Under these circumstances, the Japanese government should be advised to make modifications to their selection criteria. In a statement released on 31 October 2011, Forum for Refugees Japan (FRJ), a network of NGOs and other organisations, pledged that the government should extend the range of resettled refugees to more vulnerable individuals.⁴⁷

Our field research showed that the majority of adolescents who are in higher education at Mae La and Umpiem camps want to teach either at the camps or back in Myanmar. Few were interested in possibilities of resettling to an English-speaking country. There were signs that some might potentially be interested in moving to Japan if scholarships were offered, but the current eligibility criteria would not allow this as they would have to apply for the programme as individuals. Nonetheless, younger children, particularly more vulnerable ones such as orphans, should also be considered. While the development of G30 programme should be able to offer higher education to English-speaking (and highly talented) refugee students, Japan is better equipped to provide education in Japanese and could therefore consider creating opportunities to access a more comprehensive form of Japanese language and

44 For a discussion on ethical aspects of selection, see Carens’ coming book “Who Belongs? The Ethics of Migration” whose Chapters 10 and 11 are available online (see References). His reference to triage, which shares similar moral dilemmas, offers an interesting reflection on the issue.

45 Banki and Lang 2007.

46 As of May 2007, averaged across nine camps, 11.5 per cent of those with a post-10 education were resettled, while 2.4 per cent of those with no education were resettled (Banki and Lang 2007, 4).

47 FRJ 2011, 2.

cultural education in refugee camps for candidates-to-be as a long-term investment.

Refugees with medical needs and survivors of violence and torture may show interests in migrating to Japan if free access to treatment is guaranteed. However, this would inevitably raise the question of costs and it would be difficult to convince government officials to consider this group as they have already shown reluctance to accept refugees applying as individuals on the grounds that they would need to be housed separately thereby raising housing costs. A higher budget could be allocated to make this possible if the public and politicians can support the idea, but whether they would value humanitarianism to that extent remains an open question.⁴⁸ The government's current belief seems to be that serious health problems can also be expected to restrict the refugee's social life which is considered crucial for increasing chances of integration in the host society; hence, a satisfactory state of health is considered an important eligibility requirement. The argument for disabled and elderly refugees would be similar.

Women-at-risk could be more easily prioritised; following the March 11 triple disaster, temporary resettlement in host families was offered to pregnant women, which implies that there are shared concerns for people of this category amongst the Japanese public. Given that one of the most common crimes occurring in Mae La and Umpiem camps is domestic violence, which is merely treated as a "minor" crime, vulnerable women should qualify more easily to be given priority.

From a humanitarian perspective, considering those categories of refugees in line with UNHCR expectations and beyond is important. With regards to Japan's political interests, giving priority to those who are more vulnerable can be a strategic measure to compromise the modest scale of the intake. Although there may be numerous objections to such proposals, Japan should be urged to allow for those options more thoroughly in the long term in order to make the programme meaningful. In the short term, however, Japan is obliged to concentrate on refugees with more potential for integration who can become role-models for those to follow, including their future generations, while the programme becomes systematised.

To this end, the amplification, not just of eligibility criteria but also of the areas from which refugees are selected would be equally advisable, given the flexibility that the Cabinet Approval allows in this respect. The document stipulates that refugees are to be resettled from "refugee camps and the like"; one interpretation might be that Japan can consider accepting refugees not only from other refugee camps but also from the outside. Our research highlighted the need to acknowledge and address the alarming vulnerability of those who live outside the camps; they are not registered with UNHCR and have no protection living in poor conditions, and children, many unaccompanied, are deprived of access to education. Some manage to go to privately sponsored schools, but funding is often scarce for those schools and can be terminated at any time. Whatever the circumstances, they need to be recognised as humanitarian migrants and should be given the opportunity to resettle elsewhere. The diversification of sources of refugees would imply resettling Myanmar people from different ethnic backgrounds and its repercussions should be anticipated.

Expanding the areas from which refugees are resettled would give more leverage to Japa-

⁴⁸ Children with serious medical problems would invite more sympathy. Czech Republic accepted a then six-year-old boy who was to undergo a serious heart operation after arrival in 2008.

nese government's selectivity and it would be a favourable option, assuming that the ultimate goal of the programme is economic and social integration. However, even if the needs and the interests matched, that the refugees are not registered with UNHCR would remain a huge obstacle for Japan and the requirement should be revised in the long term so as to expand the scope for humanitarian migration.⁴⁹

The establishment of specific eligibility and admissibility criteria is crucial in determining the purpose of the programme and the direction of asylum policy, and the Japanese government needs to make its decisions before the pilot project becomes an official programme.⁵⁰ Furthermore, refugees should be better informed of the existence of the programme; Japan's programme is scarcely advertised in Mae La and its presentation lacks strategy.⁵¹ In 2010, the number of applicants levelled with the quota, and in 2011 it fell short of the quota. This makes it difficult for the Japanese government to be very selective.⁵² The government should also clarify what their fundamental priorities are; for instance, they should indicate whether they intend to give greater importance to quality than to quantity in refugee protection. There is an on-going debate on this issue and there is no single right answer, but it would be nonetheless useful for them to set their agenda and justify their own case.⁵³

With adequate restructuring of the programme, Japan should be able to produce positive results. The recent media coverage somewhat focused on the difficulties faced by families resettled in Chiba, while too little attention was paid to those in Mie where there were some indications of success. The most concerning issue is the refugees' struggle to find economic independence after completing the six-month settlement training, but employment is not the only source of satisfaction for refugees; rather, a friendly atmosphere of their neighbourhood could potentially offer more comfort.⁵⁴ Local communities should therefore be better informed and encouraged to share more understanding for refugees. The case of Mie shows that the involvement of the MP Masaharu Nakagawa⁵⁵ plays an essential part in pushing RHQ and the local community to respond actively, and thus more politicians should be encouraged to participate directly.

At the same time, the Japanese government needs to establish a system whereby local authorities can volunteer to receive refugees; so far, Matsumoto has been the most vocal in

49 The 2008 Cabinet Approval stipulates that refugees need to have registered with UNHCR.

50 On October 11 this year, Masaharu Nakagawa revealed in public that the resettlement programme would continue to be in place after 2013 (Mainichi Shimbun 2011).

51 Each resettlement country posts information on its programme on notice boards located around the camp. Whereas the US, for example, displays many pictures of their food and people, Japan focuses on the activities organised for refugees, many of which take place in classrooms, and therefore fails to convey the essential parts of what life in Japan is like.

52 Authors acknowledge that the act of selection in humanitarian aid is morally questionable, but here it is discussed in light of the Japanese government's interests.

53 Miura and Masutomi 2011.

54 Ager and Strang 2004.

55 Nakagawa was appointed the Minister of Education, Culture, Sports, Science, and Technology in September 2011.

indicating its willingness to accommodate resettled refugees.⁵⁶ Although the first group of refugees who arrived in 2010 was advised to choose their employment first, rather than an area of residence, the two should be sought for together as much as possible and candidate municipalities should be able to cover both criteria. A system of this kind would naturally require a certain level of voluntarism from a number of municipalities, but realistically one cannot expect so many to show enthusiasm like Matsumoto. The government may need to formulate financial incentives for municipalities to take part in the national-level burden-sharing.⁵⁷

There is also a need for a fairer system for selecting an organization that administers the settlement support programme. Currently, there are various eligibility requirements which deter potential candidates. The government should in fact enable a number of stakeholders including NGOs, NPOs and local groups to share the task of providing longer-term support in addition to the initial six-month training course (discussed in more detail below). This may help alleviate the financial strains (see Figure 1) which the Ministry of Foreign Affairs bears; if not, it may allow a maximised use of the overall budget.

C. Programme costs

In 2010, the Ministry of Justice allocated 102 million JPY to RHQ,⁵⁸ of which 8 million JPY was spent on living allowance for refugees during the resettlement support programme, 12 million JPY on RHQ's office rent and refugees' accommodation, and 14 million JPY on general logistics (see Figure 1). The amount of cost per refugee is calculated as 2,652,000 JPY, based on the fact that the expenses for the commission of resettlement assistance are 71,612,000 JPY.

56 Shinshu Mainichi Shimbun 2011.

57 In a case where the government falls short of candidate municipalities in the long term (if, for example, the scale of the programme is expanded), it may have to consider models such as Germany's where municipalities are automatically distributed with a certain number of refugees depending on the population level and other factors (Boswell 2003).

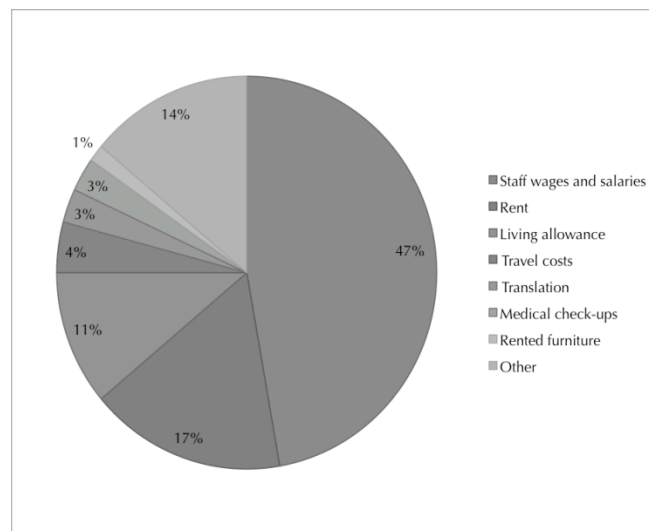
58 This figure is less than the original budget, which was 151 million JPY (MOFA 2011).

Table 1: 2011 Expenses for third-country resettlement of refugees (to the nearest million JPY).

Use	JPY (million)	Percentage (%)
Staff wages and salaries <i>Interpreters, childminders etc.</i>	34	47
Rent <i>Training centre, housing for resettled refugees</i>	12	17
Living allowance <i>Provided for resettled refugees</i>	8	11
Travel costs <i>Public transport used by staff</i>	3	4
Translation <i>Teaching texts</i>	2	3
Medical check-ups <i>etc.</i>	2	3
Rented furniture	1	1
Other <i>Translation, medical check-ups, purchase, phone calls</i>	10	14
Total	72	100

Source: MOFA 2011 Operation Review Sheet (Translated by author)

Figure 1:
2011 Proportional expenses for third-country resettlement of refugees.



Source: MOFA 2011 Operation Review Sheet (Graph created by author)

D. Burden-sharing: public-private partnership

The problem of burden-sharing is not only an international one but also a domestic one for Japan, where the “burden” is exclusively controlled by one stakeholder. RHQ administers the settlement support programme for the first six months after refugees’ arrival in the country, and even after that is completed, it continues to hold sway in the lives of refugees. On the one hand, this is beneficial for refugees as they lack linguistic competence and need continued assistance, but on the other, much of it could be done more efficiently by passing on the task to local authorities and other stakeholders who may be equally well equipped to handle their issues.⁵⁹ The transfer of responsibility should be reiterated so as to make the local authorities aware of the specific needs of the refugees, and information should be shared with other stakeholders such as local NGOs and ethnic communities who can also provide specific services.⁶⁰ Diversifying the sources of assistance is important because any individual would find it easier to seek advice from one person more than another, and if the relationship with a particular advisor becomes undermined due to whatever circumstances, the individual can turn to others for help.

The current “monopolisation”⁶¹ of refugee assistance is reflected in the media coverage, which is short of information sources as RHQ and its funder, the Ministry of Foreign Affairs, are reluctant to disclose much information in fear of undermining the refugees’ privacy.⁶² Yet, once the official period of supervision is passed, the Ministry does not keep track of refugees’ activities.⁶³ This is most concerning as a longitudinal survey of refugees is crucial in identifying the outcomes of the programme, most of which would only become apparent in the years to come, and given that this is a pilot project, it is particularly important that the Ministry keep a closer eye on the patterns of relocation and other trends which may recur.⁶⁴

One way of sharing the responsibilities with local authorities and the private sector at an

59 The advocates of public-private collaboration include Saburo Takizawa and Hiroaki Ishii (Yomiuri 2011b; Japan Times 2011b).

60 The programme so far saw a lack of communication amongst stakeholders as RHQ purportedly discouraged other related organizations to contact the refugees who were themselves prevented from communicating with anyone other than RHQ staff or their interpreters. The quality of information circulated within RHQ is questionable according to Japan Lawyers Network for Refugees (JLNR) who observes that the level of Japanese spoken by RHQ’s interpreters who assist the resettled refugees is considerably low (see JLNR 2011).

61 The term (dokusen in Japanese) is frequently used by critics in academia.

62 The vast majority of visual report of the refugees does not display their faces so that they cannot be identified for the reason of privacy. However, this is detrimental to the image of refugees as they tend to be portrayed as “migrants living in the shadow of society”.

63 Japan Times 2011a.

64 This was the case with Indo-Chinese refugees who were originally dispersed (Kawakami 2005). Canada and the US have also seen patterns of secondary migration after initial settlement amongst refugees who migrate seeking emotional and economic support (Simich 2003; Ott 2011).

earlier stage is to carry out the settlement support programme in the area where refugees are to settle and work. It would allow local authorities to monitor and assist refugees' progress in linguistic and cultural learning and the refugees would be able to avoid the hassle of resettling twice (first to RHQ Support Center, and then to the place of work) within a period of one year. In this case, the authorities would need to offer refugees the type and place of work before or as soon as they arrive in Japan, and the host community must be able to secure housing, employment, education and means of transport as far as possible. Refugees should only spend a minimum amount of time at RHQ Support Center unless they wish to settle in Tokyo and they should be encouraged to familiarise with the location where they are to work or study as soon as possible. The local authority and host community would need a good infrastructure to support the system holistically and might require assistance from RHQ's experienced staff. This is not necessarily readily available and state funding should assist the establishment of a system wherever possible.

A clustered dispersal approach⁶⁵ to resettlement should be considered in the process for three reasons: firstly, it would be costly to equip every municipality with a satisfactory infrastructure, but it would be financially more manageable if a few municipalities with the most potential were allocated with necessary funds and the resettlement process was systematised; secondly, an adequate number of refugees should keep it socially manageable for the local community and prevent over-burdening; thirdly, past trends show that refugees settle down more permanently (i.e. less secondary migration⁶⁶) when there is a large enough ethnic community which creates a sense of belonging and develops a self-sustained mechanism of support.⁶⁷ The key here is to maintain a suitable population size⁶⁸ so as to avoid the growth of ethnic enclaves and to ensure that the local authorities can provide the whole set of requirements mentioned above.⁶⁹ It is particularly important to secure sufficient funding for host communities because a decentralised approach to resettlement runs a risk of providing inconsistent levels of support for refugees, as it is learnt from the case of the US.⁷⁰ Municipalities that already have experience of hosting a significant number of immigrants should be

65 See Crawley 2011.

66 Secondary migration itself is not necessarily problematic but efforts should be made to avoid it if it were to cause emotional strains on refugees.

67 Ott's example of Burmese refugees in Pittsburg illustrates that once they establish a network, they are able to find employment for each other - "a swift path for economic self-sufficiency" - without the help of designated support agencies; that is, "outside of the system" (Ott 2011, 19).

68 For instance, in the UK's Bosnian programme, a cluster of 100 to 200 refugees was considered suitable for resettlement in areas outside London and this was "largely successful" (Crawley 2011, 8).

69 In the case of the UK, the clustered dispersal approach for Bosnian and Kosovan refugees was successful in housing, but there was therefore less focus on availability of employment, which led to high unemployment (Crawley 2011, 8-9). In the case of Japan's first group of resettled refugees from Myanmar, the decision-making was driven by employment, and finding appropriate housing became more difficult (Miura and Masutomi 2011).

70 Brick et al. quoted in Kenny and Lockwood-Kenny 2011, 235.

more suited to becoming “cluster areas” because their social absorption capacity can be expected to be higher, provided that they satisfy other criteria.⁷¹

The above design may receive criticisms; for example, it would leave less room for refugees’ own decision-making, which is given much weight and it is indeed one of the strengths of Japan’s scheme. However, in the early days of resettlement, refugees often do not have a satisfactory grasp of the social and cultural context within which they find themselves even if they are adequately instructed. Although they should be given the option of moving to their preferred places of residence, they should be encouraged to first settle in municipalities where they can receive guaranteed support.

Language training and other types of education should be continued after the initial 6-month training because, unlike English, Japanese is not taught in Thai refugee camps except for those who are selected to be resettled in Japan and many adults – particularly women – are not accustomed to reading or writing in any language.⁷² One employer complained about the refugees’ insufficient linguistic competence⁷³ and the refugees themselves expressed wishes to learn more Japanese.⁷⁴ While this could potentially be another financial burden for the government, local NGOs and/or volunteers could take on the task alternatively. In addition, employers should be encouraged to provide supplementary language lessons that deal with vocation-specific vocabulary, as this would improve refugees’ efficiency at work. Furthermore, language education should be accompanied by cultural teachings; RHQ provides detailed instructions on what the rules are in Japanese society, but fails to explain to the refugees why those rules are applied in Japanese culture.

With regards to employment, the government currently provides approximately 120,000 JPY per month per working adult refugee during the second half of the first year in Japan. This is below minimum wage and barely covers minimum living costs for the refugee families. Moreover, the capped wage hardly gives an incentive for them to improve their working efficiency and gain confidence, particularly when they are obliged to work longer than expected.⁷⁵ As in the case of Mie, employers should offer extra pay if they work on the weekends, for example, so as to respect the rights of refugees as permanent residents, which should in fact be the foremost priority. An increase in salary would help refugees financially and might eventually allow them room to make savings, which is essential in becoming self-reliant. Without offering this option, RHQ cannot justify discouraging them from applying for income support which, in the eyes of the organisation, would mean admitting the failure of the programme in turning refugees into self-reliant individuals.⁷⁶

71 Although some might worry that a larger percentage of immigrant population within a local community could increase social tensions, Boswell highlights through his case studies of Germany and the UK that “social tensions are usually highest in areas with relatively small numbers of asylum seekers and little experience of integrating other ethnic groups” (Boswell 2003, 324).

72 This issue has been raised by a number of critics, notably Saburo Takizawa (Yomiuri 2011b).

73 Yomiuri Shimbun 2011a.

74 Miura and Masutomi 2011.

75 JLNR 2011; Japan Times 2011a, 2011b.

76 JLNR 2011.

In the long term, RHQ itself may need to be relocated from central Tokyo as the expensive rent accounts for a significant proportion of the budget (a total of 12 million JPY is spent on the training facilities and housing for the first six months after refugees' arrival).⁷⁷ Although it currently has the advantage of being placed at the heart of an already existing Myanmar community,⁷⁸ new communities can be established elsewhere (new cluster areas) as long as a sufficient number of refugees are resettled together, as discussed above. Frequent communication with the local authorities which host refugees, related NGOs and ethnic communities should allow RHQ to work more closely with them and to provide a longer-term aftercare for the refugees with more ease, ultimately playing the role of a watchdog ensuring the maintenance of adequate standards of assistance provided by local authorities and the efficient operation of the resettlement programme as a system. The involvement of local authorities should help form a programme that is tailored to the particular needs of resettled refugees and local communities.

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78 RHQ does not recognize this crucial advantage: resettled refugees are advised not to contact any outsiders.

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ASYLUM IN JAPAN: AN OVERVIEW OF GOVERNMENT COMMITMENTS AND ASYLUM STATISTICS

Miki ARIMA*

I. INTRODUCTION

2011 was a landmark year for the Japanese asylum system in many ways. First of all, it was the thirtieth anniversary of its accession to the 1951 Convention relating to the Status of Refugees. Secondly, the number of asylum applications reached a record high for Japan, with 1,867 applications in the first instance and 1,719 appeals in a year. Thirdly, the recognition rate hit a record low at 0.33% in the first instance and 1.6% on appeal. The following sections provide an overview of the current status of asylum in Japan by reviewing the commitments recently made by the government and introducing some statistics from the past thirty years. The aim of this paper is to provide an overall picture of refugee protection in Japan with a focus on the refugee status determination procedures and asylum statistics. Therefore, it neither covers the issues of assistance to asylum seekers and refugees, nor the ongoing pilot resettlement programme, both of which merit a separate analysis.

II. JAPAN'S COMMITMENTS

2011 marked thirty years since Japan acceded to the 1951 Convention relating to the Status of Refugees in 1981. It was also the sixtieth anniversary of the 1951 Convention. In this milestone year, the Japanese Government made a record financial contribution to UNHCR and made important commitments for refugee protection, by way of a resolution passed by the National Diet and a pledge made at the Ministerial Meeting in Geneva to celebrate the anniversary of the 1951 Convention.

Japan contributed USD 226,106,644 to UNHCR in 2011, making it the second largest donor to UNHCR after the United States.¹ The contribution by the Japanese government constituted 10.6% of the total contributions to UNHCR in 2011.² It should be noted that this remarkable contribution was made precisely during the year in which the Great East Japan Earthquake hit Japan, requiring a tremendous amount of recovery efforts that are still ongoing

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1 UNHCR 2012a.

2 UNHCR 2012c.

today.

Also during 2011, a “Resolution regarding continued commitment for refugee protection and solutions to refugee issues” was passed by the House of Representatives on 17 November³ and by the House of Councillors on 21 November⁴ in the National Diet. Prime Minister Yoshihiko Noda remarked on the occasion: “We will continue to play a leading role in the international community for durable solutions to refugee issues around the world and for the improvement in the quality of refugee protection.”⁵

The following is the full text of the resolution:

2011 marks the 60th anniversary of the adoption of the 1951 “Convention relating to the Status of Refugees”, and the 30th anniversary of Japan’s accession to the Convention. Over the past 30 years, Japan has contributed to the assistance for refugees and displaced persons around the world as a member of the international community and, by emphasizing the concept of Human Security, has taken various measures with a focus on peace-building and humanitarian assistance for individual refugees. In 2010, Japan became the first resettlement country in Asia by starting a pilot programme for accepting resettlement of Myanmar refugees from Thailand.

On the national level, we have continued to strive for the transparency and efficiency of the refugee status determination procedure, aiming for the improvement and development of the asylum system.

Respecting the past achievements, international law and international basic principles with regard to refugee protection, Japan will strive forward for the establishment of a comprehensive national asylum system and further enhancement of the resettlement programme, while strengthening the cooperation with international organizations and civil society organizations assisting refugees. At the same time, by continuing our assistance for refugees and displaced persons overseas in line with our foreign policy, we will play a leading role in Asia and in the world for durable solutions to refugee issues and for improvements in the quality of asylum.

The adoption of the resolution in the House of Representatives coincided with the date of an anniversary symposium co-hosted by UNHCR and the Japanese Government with the participation of both the current High Commissioner Antonio Guterres and the former High Commissioner Sadako Ogata. The resolution is welcomed in general by UNHCR and refugee organizations in Japan. UNHCR sees it as a sign of increased awareness for refugee issues in the Diet, as well as a commitment to express Japan’s leadership for refugee protection and

3 House of Representatives. 2011a. Provisional translation of the resolution, including the title, is provided by the author.

4 House of Councillors.

5 House of Representatives, 2011b.

humanitarian assistance.⁶ Japan Association for Refugees, one of the most active non-profit organizations with a focus on refugees within Japan, also released a statement welcoming the resolution.⁷ Whether the resolution is a mere show of goodwill on the occasion to celebrate the anniversary year for Japan and UNHCR or a sign of true commitment for refugee protection remains to be seen. Either way, the resolution can be a useful advocacy tool for practitioners, especially given the fact that it was passed by consensus in both houses of the Diet.

In a similar show of public support for refugee protection, the Government of Japan pledged to do the following at the Ministerial Meeting, held in Geneva in December 2011 to mark the 60th anniversary of the 1951 Convention.⁸

1. Play a leading role and continue to actively support UNHCR in the protection of refugees and internally displaced persons around the world towards achieving a durable solution to refugee issues.
2. Improve Refugee Status Determination (RSD) procedures by: a) enhancing training of refugee status inspectors; b) both publicizing and enhancing data collection concerning refugees' countries of origin and refugee producing situations throughout the world; c) accelerating the RSD process to increase confidence in the system; d) providing information on RSD procedures to asylum seekers; and e) solving issues related to detention during the RSD process.
3. Improve and enrich the support program for resettled refugees in Japan, aiming for the success of the pilot project for resettlement currently underway.

While the contributions and commitments by the Japanese government are significant and cast a positive light for Japan in the international community, the actual situation of refugees and asylum seekers within Japan brings out a somewhat different picture. Although Japan's asylum system has seen some improvements over the years such as the abolition of the 60-day application time limit, reform of the appeal system and some regularization of asylum seekers' legal status, there are still many challenges and areas for improvement. The next section will introduce some issues about the refugee status determination procedure in Japan, which will in turn provide a background for understanding the statistics in the subsequent sections.

III. REFUGEE STATUS DETERMINATION PROCEDURE

The Japanese refugee determination procedure is unique among industrialized countries in the sense that the decisions in the first instance and on appeal are both made as adminis-

6 UNHCR 2011a.

7 Japan Association for Refugees.

8 UNHCR 2011c.

trative decisions in the name of the Minister of Justice.⁹

For many years, both the first instance and appeal decisions were handled by the Immigration Bureau of the Ministry of Justice, albeit by different divisions within the Bureau. In 2005, the Immigration Control and Refugee Recognition Act was revised to introduce a new procedure, under which the Minister is now required by law¹⁰ to consult with the “refugee examination counselors” (RECs) for asylum appeal decisions. While the introduction of RECs into the appeal system is an improvement over the past, the current system is still a far cry from an independent review. The Immigration Bureau handles the first instance decisions on one hand and on the other still maintains much influence over the appeal process through the appointment and team assignment of RECs, as well as the provision of administrative and other support services for them. Moreover, the Immigration Bureau is also responsible for deportation. A fully independent and transparent appeal with specialized staff is required in order to ensure fair and impartial reviews of decisions on refugee status.

As of 15 February 2012, there are 55 RECs appointed by the Minister of Justice including the author.¹¹ They come from various backgrounds, and include former judges, prosecutors, attorneys, university professors, diplomats, journalists, and personnel from non-governmental and international organizations. Japan Federation of Bar Associations and UNHCR can recommend candidates for RECs, but the Minister of Justice holds the power of appointment.

The RECs are divided into teams with three members each, and conduct appeal interviews and make recommendations to the Minister of Justice. The recommendations made by the RECs are not legally binding. However, according to the Ministry of Justice, there have been no cases so far where the Minister’s decision on appeal was different from the recommendation by the RECs, indicating the fact that the RECs’ opinions are generally respected in practice. When there is no consensus among the three RECs in a team, the Minister’s decision follows the majority opinion.

While the Ministry of Justice together with UNHCR currently provides training to those involved in the first instance decision-making process and support staff for RECs, there is no systematic training as such for the RECs except for country briefings organized by the Ministry. Training in refugee law, credibility assessment, interview techniques, drafting of decisions, etc., would be useful not only for the first instance decision-makers but also for the RECs.

There is no asylum tribunal or immigration court in Japan. Lawsuits regarding asylum decisions usually take the form of “actions for the revocation of the original administrative disposition”¹² to deny refugee status, submitted to a district court. If an applicant wins his or her case in court and has the Minister’s negative decision cancelled, he or she must resubmit an

9 Immigration Control and Refugee Recognition Act, Article 61-2 and 61-2-9. The appeal system is based on the Administrative Appeal Act. The Republic of Korea has a procedure similar to Japan, with an advisory committee on the appeal level.

10 Ibid. Article 61-2-9(3): “When making a decision on the objection set forth in paragraph (1) [author’s note: i.e. regarding denial or revocation of refugee status], the Minister of Justice shall, as provided for by an Ordinance of the Ministry of Justice, consult with the refugee examination counselors.”

11 Immigration Bureau 2012b.

12 Administrative Case Litigation Act, Article 3(2).

application for refugee status to the Ministry of Justice, which will normally follow the court's judgment and grant refugee status. However, Japan Lawyers Network for Refugees reported that in 2011 there was one case in which the Minister, after having his negative decision cancelled by the judiciary and upon re-application by the applicant, still refused to grant refugee status and only provided humanitarian status.¹³

IV. ASYLUM STATISTICS

Every year around the end of February, the Ministry of Justice publishes asylum statistics for the previous year. This section is based on the most recent data from 2011 made available by the Ministry on 24 February 2012.¹⁴

A. Applications

1,867 applications were registered in 2011, i.e., a monthly average of 156. This number is extremely low for a developed country. For example, the US alone received an estimated 74,000 new applications in one year, while France received 51,900 and Germany received 45,700.¹⁵ According to UNHCR's *Asylum Levels and Trends in Industrialized Countries 2011*, a group of 44 industrialized countries received an estimated 441,300 asylum applications in 2011, in which Japan's share of 1,867 was only 0.4%. Still, it is a record high for Japan and an increase of 55% compared to 2010 when there were 1,202 applications. As the following graph shows, the number of applications in Japan has been gradually increasing as a trend, with some ups and downs.¹⁶

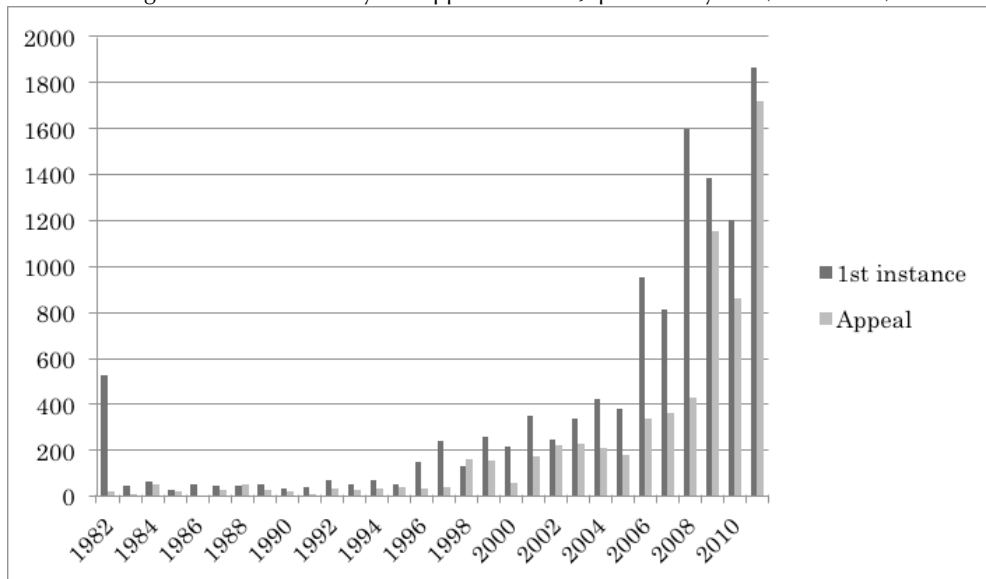
13 Japan Lawyers Network for Refugees.

14 Immigration Bureau 2012c.

15 UNHCR 2012b.

16 It should be noted that sometimes the immigration bureau's campaign to identify foreign nationals without legal status invites new applications from those living in Japan for a long time without status. At other times, a change in the political situation of the home country encourages people to submit new applications. Thus, the number of applications does not necessarily represent new arrivals of asylum seekers.

Figure 1: Number of asylum applications in Japan in 30 years (1982-2011)



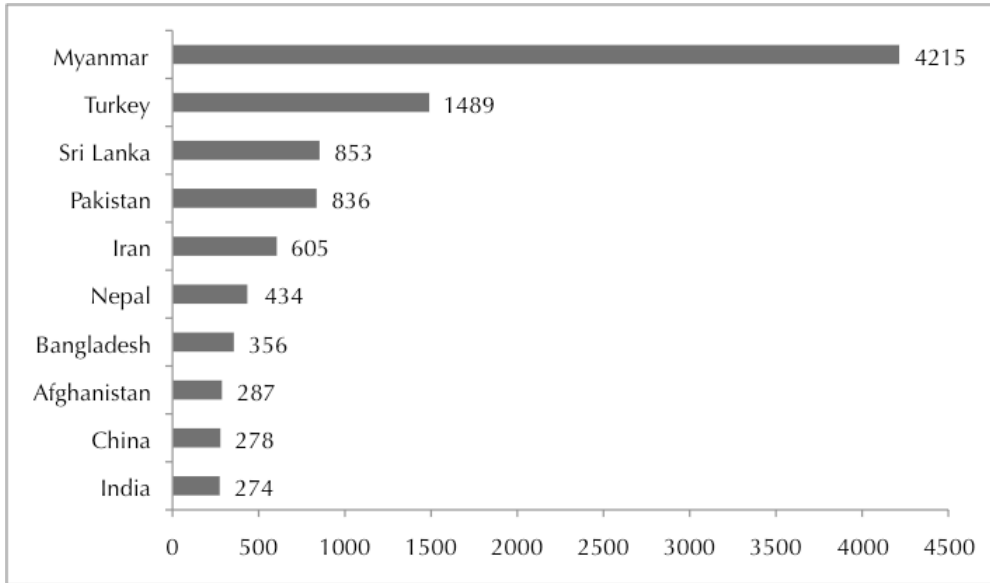
Source: Ministry of Justice, Japan (Graph created by author)¹⁷

The asylum seekers in 2011 came from 57 countries, and main countries of origin were Myanmar (491), Nepal (251), Turkey (234), Sri Lanka (224), and Pakistan (169). Most asylum seekers tended to come from Asia, but African asylum seekers are also increasing as a recent trend, for example from Ethiopia, Uganda, Cameroon and Nigeria.

Over the past 30 years since the establishment of Japan's national procedure for the determination of refugee status, 11,754 applications were submitted in total, mainly from Myanmar (4,215), Turkey (1,489), Sri Lanka (853), Pakistan (836), and Iran (605). The following graph shows the top 10 countries of origin of asylum applicants in Japan, from January 1982 to December 2011.

¹⁷ Immigration Bureau 2009a and 2012c.

Figure 2: Top 10 countries of origin for asylum seekers in 30 years (1982-2011)



Other countries: 2127

Source: Ministry of Justice, Japan (Graph created by author)¹⁸

Another trend is an increase in multiple applications. In 2011, 540 applications, or 28.9% of the total number of applications in the year, were multiple applications. A multiple application is an application from an asylum seeker who already received a negative decision in Japan’s refugee status determination procedure including appeal in a previous asylum application. In Japan, there is no legal limit to the number of asylum applications an individual can submit, and multiple applications are processed in the same way as new applications.

There are legitimate concerns that the increase in multiple applications might clog the system and prevent timely decisions for genuine asylum seekers, and the government is in the process of seeking ways to address this issue. While it is inevitable that there may be some cases where a new application is submitted for the sole purpose of prolonging one’s stay in Japan for economic reasons, it is important not to generalize because there are cases where a multiple application is justified. For example, new evidence may be presented in support of the existence of a well-founded fear of persecution, or a sur place element may come up during the applicant’s stay in Japan.¹⁹ The latter is especially relevant when the processing time is prolonged, as discussed below. It is also important to look at the issue in context. The Japan

¹⁸ Immigration Bureau 2012c.

¹⁹ An applicant “who was not a refugee when he left his country, but who becomes a refugee at a later date, is generally referred to as a refugee ‘sur place.’” See UNHCR 1992, para 94-96. Sur place elements may include post-departure events such as a new regime or intensification of existing social or political conflicts in the country of origin, or actions taken by the applicants while in the country of asylum that may give rise to a well-founded fear of persecution.

Lawyers Network for Refugees points out in its statement that, given the “abnormally high” rejection rate in Japan, the number of multiple applications is an indication that those deserving protection are not properly protected and are obliged to re-apply.²⁰

The number of appeals doubled in a year, from 859 in 2010 to 1719 in 2011, and also marked a record high for Japan. The appellants’ main countries of origin were Myanmar (444), Sri Lanka (231), Turkey (213), Nepal (191), and Pakistan (142).

The government does not publish breakdowns of annual statistics by age or sex, but the majority of the applicants are adult male. During the 24-year period from January 1982 to December 2005, 80.3% of the applicants were male and 19.7% female.²¹ During the same period, the age composition was as follows: 8.1% below age 10, 6.8% age 10-19, 32.3% age 20-29, 36.5% age 30-39, 13.0% age 40-49, 2.5% age 50-59, 0.7% age 60 and above, and 0.1% age unknown.²² Unlike some other industrialized countries, no rise in the number of applications by unaccompanied minors has been reported in Japan.²³

B. Decisions

In 2011, the number of processed cases was 2,119 in the first instance. Processed cases include cases that were recognized, rejected, or withdrawn. Among them, 7 were recognized as refugees, 2,002 were rejected, and 110 were withdrawn. The recognition rate among all processed cases was 0.33% (0.35% if withdrawn cases are excluded). This was a record low in 30 years of Japan’s national refugee status determination procedure. According to Japan Lawyers Network for Refugees, at least 2 out of the 7 recognized in the first instance were cases for which the previous decision to deny refugee status was later reversed in court.²⁴

At the appeal level, 880 cases were processed. Among them, 14 were recognized, 635 were rejected, and 231 were withdrawn. The recognition rate at the appeal level was 1.6% (2.2% if withdrawn cases are excluded). This was also a record low since the asylum procedure was reformed and refugee examination counselors were introduced in 2005.

20 Japan Lawyers Network for Refugees.

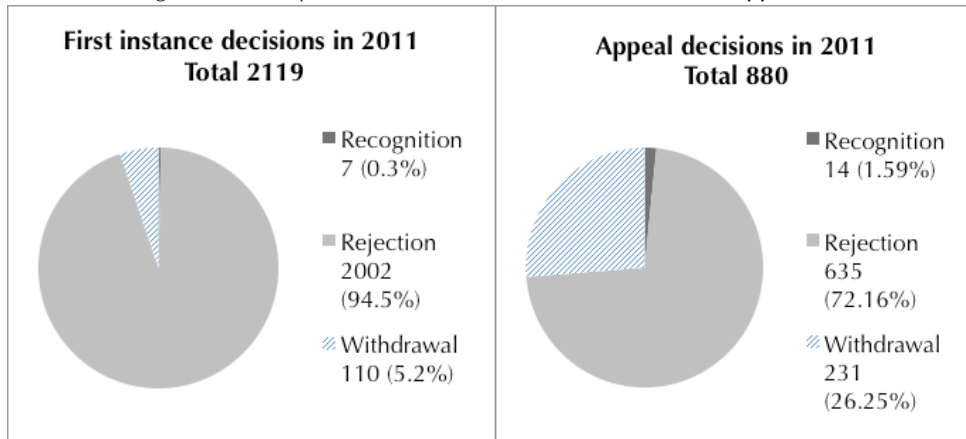
21 Immigration Bureau 2006, 5.

22 Ibid.

23 For example, both a rise in the number of unaccompanied minors seeking asylum and a decrease in their average age were reported in Belgium and other European countries in 2011. UNHCR 2011b.

24 Japan Lawyers Network for Refugees.

Figures 3&4: Asylum decisions in 2011 (first instance and appeal)



Source: Ministry of Justice, Japan (Graphs created by author)²⁵

Among the total of 21 refugees recognized (7 in the first instance and 14 on appeal) in 2011, 18 were from Myanmar (85.7%). This predominance of Myanmar refugees has been a major characteristic of Japan’s refugee status determination since 2003. Myanmar nationals are also dominant among those who are given humanitarian status discussed below. One African per year is granted refugee status in recent years that some advocates call it “the African quota”.²⁶

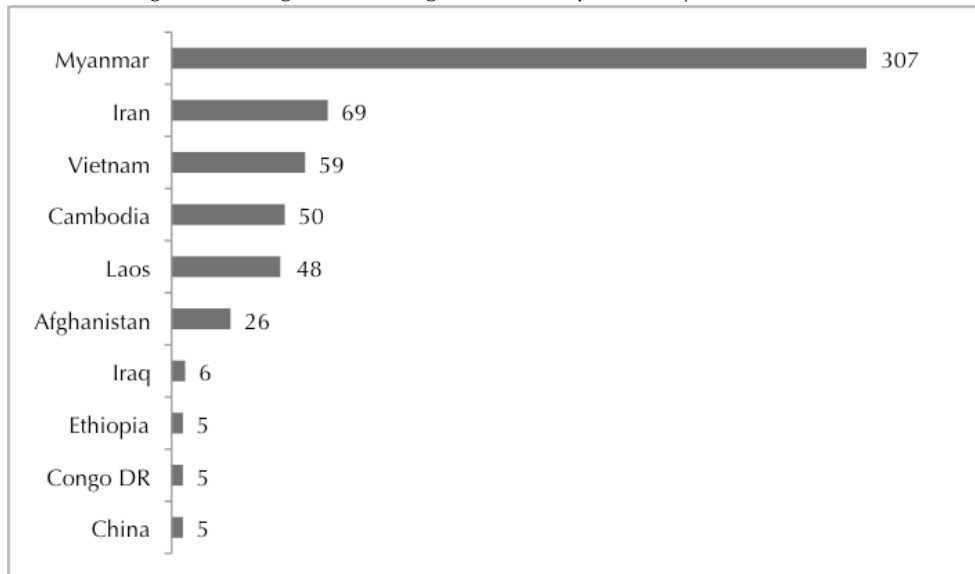
Over the past 30 years, Japan has recognized a total of 598 refugees (including both first instance and appeal recognitions).²⁷ Main nationalities of those recognized as refugees in the past 30 years are Myanmar (307), Iran (69), Vietnam (59), Cambodia (50), and Laos (48).

25 Immigration Bureau 2012c.

26 Japan Lawyers Network for Refugees.

27 Immigration Bureau 2012c. These figures do not include all the Indochinese refugees from Vietnam, Laos and Cambodia, who started arriving by boat before Japan acceded to the 1951 Convention and established a national refugee status determination procedure. 11,319 in total were accepted between 1978 and 2005 through a special framework for Indochinese without going through the regular refugee status determination procedure. Some of them did apply for refugee status upon establishment of the procedure, and consisted most of the applications and recognitions in the first few years. Towards the end of the programme for Indochinese, however, there were only arrivals for family reunification through the Orderly Departure Programme. See Ministry of Foreign Affairs, 2009. Also not included here are the refugees who are resettled to Japan under the pilot resettlement programme now in place. Japan initially set the pilot resettlement quota at 90 over 3 years starting in 2010, but only 45 have arrived as of April 2012 and the government recently announced to extend the programme for 2 more years. See Miura and Masutomi 2011 and Takizawa 2012 for details and some difficulties regarding the programme.

Figure 5: Recognition of refugee status in Japan in 30 years (1982-2011)



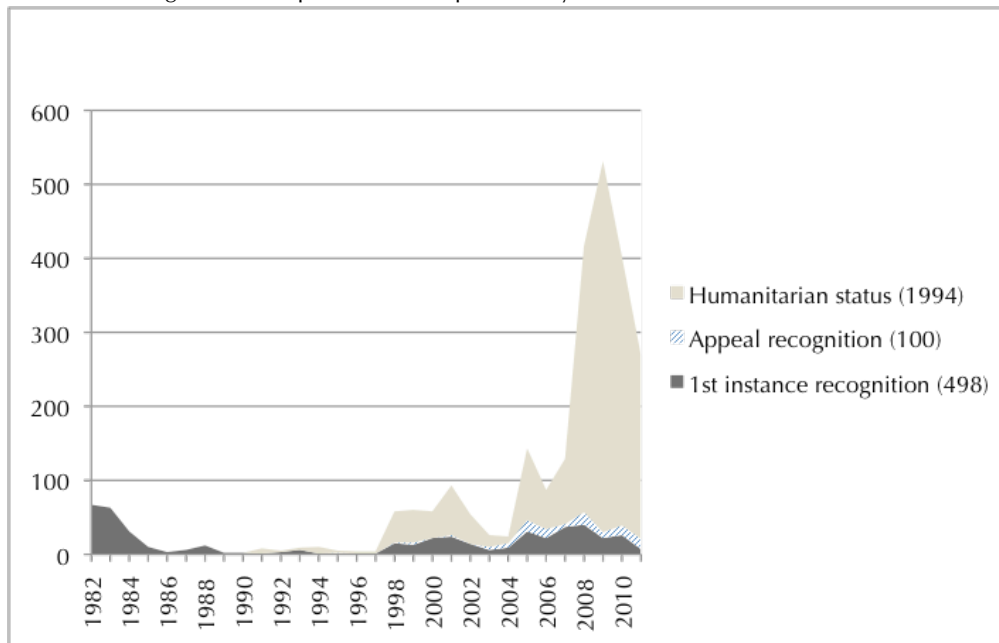
Total: 598. Other countries: 18. Includes recognition on appeal.

Source: Ministry of Justice, Japan (Graph created by author)²⁸

Among the rejected asylum seekers, 248 were given humanitarian status in 2011. This is not reflected in the two graphs above, because the government does not make public how many are given humanitarian status in each stage of the asylum process. The RECs who take part in the appeal procedure are not officially requested or required by law to provide advice on humanitarian status. Nevertheless, many RECs do express opinions and provide reasoning for granting humanitarian status. Also, the government includes humanitarian status in its report on “total protection”, i.e. number of those recognized as refugees under the 1951 Convention and those who are given humanitarian status. The following graph shows the numbers of recognition in the first instance and appeal, as well as the number of humanitarian status provided over the last 30 years.

²⁸ Immigration Bureau 2012c.

Figure 6: Total protection in Japan in 30 years (1982-2011): total 2592



Source: Ministry of Justice, Japan (Graph created by author)²⁹

The above graph shows that the vast majority of those “protected” in Japan in recent years are given humanitarian status rather than refugee status. The numbers can be misleading, however, because the criteria for humanitarian status are not specified by law and those “protected” include people who are allowed to stay for family and other reasons that are not necessarily protection-related (e.g. due to marriage with a Japanese national), as well as those who might qualify for refugee status only if the hurdles for recognition were not so high in Japan. The government provides general Guidelines on Special Permission for Stay³⁰, which applies not only to asylum seekers but also to basically all foreign nationals who seek to regularize their status. In the guidelines, “humanitarian grounds” are included as positive elements for consideration. Nevertheless, it is not clear what kind of factors would constitute a valid humanitarian ground. Wide discretion is exercised in conferring or not conferring humanitarian status, though some patterns can be observed through the examples of grant and denial made public by the Immigration Bureau.³¹ Again, these examples do not include cases of asylum seekers who are granted special permission to stay on “humanitarian grounds”.

In many countries of asylum, the grounds for subsidiary or complementary protection are

²⁹ Immigration Bureau 2009a and 2012c.

³⁰ Immigration Bureau 2009b.

³¹ Immigration Bureau 2010.

defined by law.³² The European Union Qualification Directive, for example, defines the “person eligible for subsidiary protection” as “a third country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, or in the case of a stateless person, to his or her country of former habitual residence, would face a real risk of suffering serious harm as defined in Article 15, and to whom Article 17(1) and (2) do not apply, and is unable, or, owing to such risk, unwilling to avail himself or herself of the protection of that country.” Article 15 then defines “serious harm” as: (a) death penalty or execution; or (b) torture or inhuman or degrading treatment or punishment of an applicant in the country of origin; or (c) serious and individual threat to a civilian’s life or person by reason of indiscriminate violence in situations of international or internal armed conflict.

While further clarification of the criteria for humanitarian status in Japan is desirable for greater transparency and consistency in decisions, the current lack of clear standards actually provides for some flexibility that can allow humanitarian status to play the role of a safety net for the protection of refugees, who might not meet the Japanese government’s standards for refugee status determination but nonetheless face a certain amount of risk upon return. Because the recognition rate for refugee status is extremely low in Japan as discussed above, the “humanitarian status” has a significant protection role in the Japanese context.

C. Processing Time

The processing time for the first instance has been reduced significantly since the Ministry of Justice set the goal of processing cases within 6 months. The reduction in the processing time has been made possible by the increase in the number of staff in the Immigration Bureau involved in the refugee status determination procedure. However, precisely as the processing time for the first instance is becoming shorter, the waiting time for appeal interviews not to mention decisions has been getting longer as the backlog continues to build up at the appeal level. Today, the appellants must wait on average for approximately 2 years just to be called for an interview. The number of RECs has increased to 55 in 2012, but it is not enough to process the growing caseload because the RECs only work on a part-time basis and hear only 4-5 cases per month. The government is trying to seek ways to solve the situation by possibly increasing the working days for some RECs who are willing and available, but the problems of budget and availability of RECs present serious limitations. While being mindful of the risk that too much emphasis on expeditious decision making might compromise the quality of refugee status determination, some measure would be necessary to tackle the current backlog at the appeal level and to avoid the further snowballing of the caseload pending decisions. After all, it is the refugees who suffer when they must wait for a long time for status determination with their lives hanging in the balance, often without adequate support for basic welfare.

32 See McAdam for a comprehensive study on complementary protection.

V. COMMENTARY

As described above, asylum in Japan after 30 years since its accession to the 1951 Convention presents a mixed picture with both positive and negative aspects.

The positive aspect includes among others the continued support by the Japanese government for global refugee issues as indicated by its financial contributions to UNHCR, the adoption of a remarkable resolution by both houses of the National Diet, as well as the pledge made at the Ministerial Meeting to mark the 60th anniversary of the 1951 Convention.

At the same time, some challenges facing the refugee status determination procedure in Japan are brought to light by the 2011 statistics. The extremely low recognition rates are alarming, even if one takes into consideration the fact that recognition rates depend much on the applicant pool and the situations in the countries of origin of the applicants. In this context, the judiciary also has an important role to play to set the appropriate standards in refugee status determination in line with international law and practice.

The prospect of a growing backlog of applications, especially at the appeal level, is another alarming element and calls for a comprehensive review of the current operation of the refugee status determination procedure to ensure fair and efficient protection of refugees. The delay in the processing of cases combined with the increase in the number of multiple applications complicates the decision making by requiring the consideration of more sur place elements as well as possible ties forged with the Japanese society while waiting for decision.

Improving the system of collecting and sharing country information is one way of addressing the issues of objectivity and efficiency in decisions. With the limited number of applications so far, Japan has not yet established a country information unit as such, while most industrialized countries receiving asylum seekers have a specialized unit with professionals in country research to provide information necessary for asylum procedures. It is time for Japan to consider the establishment of such a unit, in anticipation of further increase in the number of asylum applications.

Japan's asylum policy has long been marked by a dichotomy of liberal generosity abroad and conservatism at home, and this characterization still applies in 2011. However, there are signs for improvement at home. In February 2012, a Memorandum of Understanding (MOU) was signed by the Ministry of Justice, Japan Federation of Bar Associations, and Forum for Refugees Japan, which is a network of NGOs working in the field of asylum.³³ The three parties to the MOU have committed themselves to enhance cooperation in the efforts to improve the quality of asylum in Japan, and it is expected to be the basis for a pilot project for alternatives to detention of asylum seekers. It is a broad, groundbreaking agreement that has the potential of bringing about positive developments through a cooperative relationship between the government and the civil society, which has not always been easy to foster in the Japanese context. Such an agreement would not have been foreseeable only a few years ago. It indicates greater openness and flexibility on all sides and also shows the increased level of development of the civil society. The continued and concerted efforts of all parties are required to carefully develop the relationship and make the best use of it to tackle the difficult task of maximizing the protection of refugees while taking measures to minimize the risks involved.

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INTERVIEW

INTERVIEW OF TADANORI ONITSUKA, MEMBER OF THE IMMIGRATION DETENTION CENTERS' VISITING COMMITTEE, THE MINISTRY OF JUSTICE

Interviewed by Kumiko NIITSU*
on 26 April 2011 in Tokyo

PROFILE OF INTERVIEWEE

Tadanori Onitsuka was born in 1952. He became a lawyer in 1980, and is a member of the Daini Tokyo Bar Association. He is an active member of the human rights committee of the Association. He was the head of the Defense Counsel Group on the labor rights of foreigners from 1988 to 1998, and has been a co-director of the Immigration Review Task Force (IRTF) since 1998. This civil organization, established with the aim of improving the conditions of immigration system, conducts research on the actual situation of immigration administration and does advocacy and public information work. He was appointed as one of the first committee members of the immigration detention centers' visiting committee and has been a member since July 2010.



Attorney ONITSUKA: Photo by Kumiko Niitsu

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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. To know the reality of this new system is indispensable to deepen the understanding and to further the discussions over the process. This paper will introduce an interview of one of the committee members, a lawyer, Mr. Tadanori Onitsuka. Until now no members have made their opinions public officially, and one of the probable reasons is that the names of the members are concealed for safety reasons for themselves so far; however, Mr. Onitsuka cooperated not only for this interview but also agreed for its publication as he believes that it should be open to taxpayers, while taking due consideration for the protection of information on individual inmates. In this perspective, the following interview might provide precious suggestions to the readers.

Q1. How many facilities and what types of facilities does the Immigration Detention Centers' Visiting Committee cover? Moreover, how many times do you meet and what kind of meetings do you have?

We go around all the institutions in Japan. In the east, 8 places from Sapporo to Tokyo, and some airport facilities such as Narita and Haneda. In the west, 11 places from Nagoya to Omura (Nagasaki), including airport facilities like Kansai (Osaka) or Nagoya. There are two types of immigration detention facilities: one is the immigration control centers originally made for people under the deportation order, waiting for repatriation or applying for refugee status, and the other is the accommodation facilities for people before deportation orders are issued.

The Committee is completely divided into two, the east team and the west team. Each sets up its own schedule. I belong to the east team and there have been four meetings until now. Six meetings are planned in all: 1. Introduction, 2. Planning for future inspections, 3. 4. Discussion for making the report to the head of the center, and 5. 6. Finalization of the draft report.

Q2. Procedure for the examination of opinion letters to the suggestion boxes: at which timing are the boxes opened and letters passed to the committee? How many opinion letters are there?

The suggestion boxes are fixed with chain and locked with keys, so opinion letters cannot be carried out. The size of the box is about 30x25x15 cm, and letters can be posted from the top. Each box is marked in five languages, such as, Japanese, English, Chinese, Korean and Persian, as "suggestion box" (letter box), with the following description: "Please put your opinion into this box. The visiting committee is for the consideration of the treatment in the centers, and your secret will be kept."

At first, the operation was along with a proposal from the secretariat of the Ministry of Justice, then there were talks inside of the committee, and the system of the present operation

has been adopted. Although the location of the box differs in each institution, it is basically put in the open community space, where the inmates gather during free time. For example, in the Tokyo Immigration Center in Shinagawa, 4 hours can be spent in the open space every day, from 9:30 a.m. to 11:30 a.m. and 1:30 p.m. to 3:30 p.m. It is time for inmates to play table tennis, use the telephone, buy a drink from vending machines, talk, or go to each other's room back and forth freely, and one can post a letter at that time.

The chief of the general affairs section of the center is responsible for the management of the boxes, but the chairperson of the visiting committee is responsible for the management of the keys to the boxes. Only in the committee's presence, the suggestion boxes can be unlocked and opened.

There aren't any particular papers for writing an opinion or request to be placed in the suggestion boxes, which are normally set in detention centers in Japan. Opinion letters can be written on anything such as a card or a memo, in a native language.

At the time of opening of the boxes, the number of cases and sheets are counted, and usually the committee asks the Ministry of Justice personnel for a copy, and the chairperson keeps the original to himself in order to prevent any attempts to rewrite the letters. We ask for translation through the secretariat. Translation is arranged by the secretariat in the Administration Division, and usually completed in about one month.

Then, the committee looks at translated letters and makes use of important opinions to be reflected into the final written report. No particular replies are made to the inmates after receiving the letters.

The number of cases varies by institutions. In the East Japan Immigration Center in Ushiku, there were 24 cases as of 28 January (letters written on or after 20 July).

The quantity of letters differs extremely in each institution. In the eastern region, there are many letters in Ushiku, Shinagawa, Yokohama and Narita. In Sapporo or Sendai, there are almost no letters probably because there are almost no inmates in these places.

In addition, there are lists of inmates requesting an interview with the Committee. Individual interviews are usually conducted for at least half an hour, without any presence of the Ministry staff.

Q3. Do you feel that the Procedure of the Suggestion Box System offering a direct way of complaining to the visiting committee, which should be functioned as a third party, is fully announced? Moreover, do you feel that it is easy for the inmates to exercise their rights without any fear, and that their confidentiality is guaranteed properly enough?

It is good that inmates can use any kind of paper and no restrictions exist for dropping the letters. However, regarding the maintenance of confidentiality, the secretariat is involved in the process of translation as they find the proper translators. Although there was a suggestion that the letters be exchanged between the east and the west, and for the Administration Division of the Ministry of Justice to refrain from checking the letters from centers under its own control, the idea has not been carried out so far.

Translation is a future big subject. Since there are many languages, implementation is actually difficult without any concrete budget, if there were opinions only from the committee.

It seems that securing enough budget for translation is strongly required. If the budget is secured it is much easier to ask for translation to the outside body from the Ministry, but probably, it is rather difficult.

We have to consider what we do with the problem of interpretation / translation seriously. The translators' wages are at a very low rate at the moment because it is the work of the Immigration Bureau.

It depends on the applicants' application what language they prefer to use. (Urdu, Sinhalese, etc.)

From the viewpoint of confidentiality, inmates might hesitate to consult with the committee. It cannot be fully denied that the information of individual consultation might be known to the authority at the moment. If the situation is managed properly, it is much better for the inmates themselves.

It is hard to say that the existence of and the procedure to use the suggestion boxes have been made known necessarily enough. Although there are notations by Japanese, English, Chinese, Korean and Persian, it may not be functioning enough, if the inmates cannot read any of these languages. The system has been improved a bit to make it well known, and now the brochure kit in the cell contains the explanation of the procedure.

The instruction on the box was written only in Japanese and English at first, but at the moment it is indicated in five languages, though it is still insufficient. It should be designed for the inmates using other languages. Probably, the problem of the language translation is the largest problem there. The purpose may not be attained fully unless the display in various languages as much as possible is realized.

The publication is not enough and it seems to remain at the level of mutual information exchange between inmates.

(Upon the interviewer's comment about the UK, where the inspectors employ the interpreters and translators directly without using the authority, thereby securing the independence of the organization by not letting the information of the cases pass to the authority,) In this sense, I feel the independence of the committee in Japan is still weak.

The inmates have three means to report their opinions:

1. *"opinion box"*: this method uses a particular form of paper called "gansen" prepared by the authority, and conveys the opinion to the head.
2. *"petition for the objection system"*: as mentioned under Article 41(2) of the revised version of the Act on Penal Detention Facilities and Treatment of Inmates and Detainees, this is a system of orally making a request to the guards.
3. *"suggestion box"*: this method has been newly added to the two conventional methods above.

Q4. What kinds of issues are frequently raised by the petitions from inmates to the suggestion box, and how are they treated in highly urgent cases?

Until now, through the means of the suggestion box and direct interviews, the following issues have been raised:

1. medical treatment,

2. treatment by Immigration Control Officers,
3. daily matters regarding the environment or equipment, such as dirty shower or bad meals,
4. physical exercise, and
5. communication to the outside.

I think that the problem of no.1, the medical treatment, is the most serious. About the doctor, particularly, we recognize that there are many problems in East Japan Immigration Center in Ushiku. Problems with the medical doctor are appropriately pointed out, such as not hearing the complaint properly, making troublesome medical examination with anger, too quick examination only with the prescription of medicine, etc. These kinds of issues have been taken up even in the Diet several times, and it seems that the problems are fully recognized and taken care of fairly by the Immigration Bureau; however, the biggest concern seems to be that no doctors are willing to come at all.

The biggest problem seems to be in the improper understandings by each other coming from the lack of proper language communication. If it would be settled properly, the mutual frustration between patients and the doctor might be solved fairly.

There is only one full-time doctor in the center for all the check-ups, and that might be one of the causes of the fundamental systematic problems. Sufficient consultation time cannot be secured for each inmate when there are many inmates with various kinds of sickness, without proper interpreters. An interpreter should be present during medical examinations, and two or more medical doctors are needed; and for that, more budget should be drawn properly. This proposal will be included in the final report as an important theme this year.

We have heard that it is very difficult to secure the doctors; I think one of the reasons for that is the poor equipment with low salary compared to the quantity of the work.

There are also many petitions asserting that the length of detention itself is too long or that the provisional release measure is operated very strictly and hardly utilized. We haven't established yet enough rules about how much we should involve ourselves with these kinds of complaints. For example, we need to have more sufficient discussions about whether we should make a difference in the treatment of asylum seekers and others. Probably it is difficult to put forward an opinion in the report this time, although we need to consider these problems.

With regard to meals or living environment, it seems that the Ministry is doing fairly well in spite of the low budget, and I think the cells and living places are kept clean. There seems to be proper consideration for the meals for the sick or for inmates with particular dietary needs because of their religion. In the suggestion box, sometimes we receive letters that praise the meals as delicious.

Regarding the execution of deportation, the committee members interviewed a person who claimed that violence was used within the immigration center. The committee ordered for investigation and the Ministry of Justice made an investigation by looking at data and interviewing the persons concerned. (Such examination methods leave a problem). The conclusion was that there was no such fact as claimed and there was only a use of material power. Whatever the fact is, it is important that such a petition has come out and we will put in the report that acts of violence should not be performed at any time in the execution of deportation.

The person who made the claim was released under the provisional release measure immediately after the interview, and his/her new address hasn't been informed correctly to the committee members, so it is not possible to contact this person for a further check. There is no trace of consulting with another lawyer. At the present stage, it is slightly difficult to pursue further.

It is a big subject how far such an individual case should be addressed. Although the Immigration Bureau has said that these kinds of problems are separate from the role of the visiting committee, it is not persuasive enough. On the other hand, since the problem came to light directly in the form of an interview this time, we ordered an investigation saying that it is impossible to neglect the claim. We can do up to there at this point; however, some more arrangements are needed for the committee to conduct a hearing about the situation directly from the staff in charge, and so on.

Resistance is rather strong. It is easier if we tackle the cases as lawyers as individual cases, but there is a strong recognition among committee members that making these demands and probing into the truth might be beyond the authority/duty of the committee. The Immigration Bureau considers as such and it is likely some of the other members of the committee also agree, so this point is likely to remain vague at the present stage.

Although the two committee members who interviewed the person of this case asserted that further investigation should be done, their voice did not form the majority.

There is neither specific precedent nor clear description on how much legal force there is to the committee's report to the heads of the centers.

There is little information about the facts. It is difficult to draw a conclusion, as there is a considerable disparity between the statement by the person and the photograph submitted at the time of investigation. For example, even if I receive the case as a consignment to a lawyer, it is at such a level that I cannot file a petition only based on the available information.

One way to solve these kinds of problems is to ask for an investigation by entrusting such cases to lawyers or people who are not involved in the committee. If some big and important facts are revealed, the information must be disseminated to the committee, and further investigation should be done within the committee again. However, such steps were not taken this time.

Many kinds of information related to detention often come to us from civil organizations working near the institutions. This information will be examined fairly in the committee, saying, "This is not good"; however, it is still difficult how much the committee can do at present with cases where the Immigration Bureau flatly denies the allegations.

Probably, it is important to improve the situation by thinking of the information source. For example, probably, it was possible to have "interviewed" the claimant again. However, for this case, the provisional release was made immediately after the interview. It seems that the provisional release had been decided somehow beforehand, and I hear that the procedure of the payment of guarantee money had been done in advance. However, I think that it is not desirable to take inmates out of the institution immediately after performing an interview.

It is a big theme how far we get involved in individual cases. However, probably, it would be strange if we never address individual cases. Whatever the information is, if it comes to the Committee, the organization should investigate. However, it is a big subject for us in the future to decide how far we can go or where the limit of investigation should be.

We can ask for an investigation to the Administration Division of the Ministry of Justice as

the secretariat of the Committee. For example, we can tell them, "Put this data in order" or "Submit this kind of data" and so on. Therefore, "investigation" was conducted once this time.

Orders for investigations are not given necessarily frequently and there was only this one as an individual case. In a separate case, we asked for the preparation of related materials. We have a system under which all the needed information is provided if we require so.

When a highly urgent matter is contained in the suggestion box, what do we do? It is difficult to expect a speedy response, because the procedure is such that the suggestion box is opened only when the committee comes, which is once per year at the moment. Therefore, if a person wants a speedy response to the matter, he/she should write the claim using "gansen", or, make a formal objection if the claim is related to treatment in the center.

It may be good to write a note on the suggestion box saying that you should not put urgent cases here. It should say that the box is opened once or a few times in a year.

Most probably the fastest way is as follows: call an external person by telephone, and the information is transmitted to the committee. However, the general public is seldom aware of the existence of the visiting committee itself so far. The information will not come to us without the committee being known to the public, at least to lawyers more.

The contact information for the committee is not made public. Even if an external person tries to contact the visiting committee, it may be impossible for him/her unless he/she solicits the cooperation of bar associations, which in turn could relay the information through their connection to the delegate members of the committee.

Q5. In what kind of form is the "report" compiled once per year? Moreover, what kinds of issues are likely to be picked up as main points?

After finishing an inspection, the committee will hold a meeting immediately on the same day. During the meeting, the members indicate which things are important or which should be investigated further based on the petitions by inmates.

The secretariat takes notes of all the opinions or suggestions and summarizes them. At the same time, cases that need more investigation are written down as such that more investigation is ordered to the secretariat. We have had two meetings so far on the report, and each time, the secretariat collected the comments and opinions in advance, and we discussed them on the day of the meeting.

We report on the main issues as follows: the chairperson summarizes the typical opinion first by him/herself, and then adds the opinion from the committee members. The matters that were noticed during each inspection are all included, and the results of the interviews are also added. At the general meeting without inspection, discussion is held towards the final version of the report.

Contents of the report: Talking about the East Japan part, as there are only a few inmates in Sapporo, Sendai, and Haneda, there is almost no opinion on these facilities so far. An appropriate amount of opinions or suggestions will come out on Ushiku, Shinagawa, Yokohama, and the issues in common.

Q6. What are the occupations of the members of the Immigration Detention Centers' Visiting Committee?

There are 10 members each in the east and the west: they come from various backgrounds such as the head of neighbourhood associations, doctor, former staff of an international humanitarian organization, two lawyers, scholars (Criminal Law), etc.

Q7. In your opinion, what are some remarkable results obtained as a consequence of introducing the immigration detention centers' visiting committee system?

The biggest issue that has been addressed is related to exercises or free time in the two big centers, Ushiku and Tokyo. Before the improvement, the free time was as follows: 2 hours from 9:30 to 11:30 AM and two hours in the afternoon from Mondays to Fridays, but on Saturdays and Sundays it was only either in the morning or in the afternoon and not both on one of the two days. However, based on many requests saying that it is not sufficient for weekends, the rule has been changed for the weekend so that free time is available on both Saturdays and Sundays, though it is limited to either morning or afternoon. Inmates use the telephone during the free time and they prefer to do so on weekends, as it is rather convenient for the receivers. Such strong requests had existed for a long time and it was finally attained by the intervention of the committee.

We proposed for a change relatively soon after the start of the committee, which was in July 2010, and the treatment was changed in October. It was one of the good changes.

The feeling of the inmates is considerably different if there is free time in the open environment. Their good mood owes much to the fact whether or not they can go out from the cell, walk, talk to others, or telephone freely.

Q8. Do you think the independence of the committee is fully guaranteed? If you were to grade it, how would you mark it out of 100?

50 points, probably. I feel that some degree of independence, let's say, from 60 to 70 percent, has been achieved, since the committee members can talk as freely as they like. The Immigration Bureau does not necessarily enter into the discussion, with some preference or assertion.

Plus, including the chairperson, many of the committee members are highly knowledgeable in diverse subjects like medical treatment and environmental hygiene as they are some kinds of specialists, and many opinions are very relevant and persuasive. For example, a member who is a medical doctor asserted that it is necessary to use an interpreter during medical examinations, and this opinion was expressed in the report.

For me, in this sense so far, the Ministry does not stop or oppose when I ask something to be done or ask them to show us something. I can feel that they are considerably careful on that point, and they seem to be still trying to take measure of the ideal shape and working method of the committee.

However, since the Committee does not have its own staff, it can be said that it clearly and decisively lacks independence on that point. What do we do with that? To put it bluntly, the problem owes much to the budget. The problem of the budget is large in order to solve this problem and ensure real independence. Even if it becomes *de facto* independent, if there is no budget, it cannot but be dependent on the secretariat of the Ministry of Justice after all. The budget must be expanded and that is the only way probably.

Since there was not enough budget, the committee members went either to Sapporo or Sendai, as they are very far from Tokyo and cost much. Of course all the members wanted to go to both in fact, but since the budget was restricted, the group was divided into two groups and each group visited one. Transportation expenses and daily allowances must be covered. All the members should go essentially and I think I will keep on pointing this out.

During the committee meeting, especially when we were having discussions on the compilation of the report, the secretariat asked something like "Shall we go out?" Upon discussion among committee members, the secretariat was allowed to stay. In the background of this decision, there was a consideration that without the secretariat's presence we would be in trouble with lack of someone who takes notes of the remarks. One more reason for the decision was that specific individual cases and personal names did not necessarily come out during discussions. Such confidentiality can be obtained to some extent; however, we cannot protect the names fully when it comes to the final stage of making the report.

There has been no offensive incidence until now, but I think 50 points is suitable at the moment.

Q9. In addition, are there any matters to be considered as institutional problems or for future improvement?

One clear problem is the budget.

Plus, there is not enough time, either. I am not sure how to cope with this problem, as most of the committee members are busy people. It is regrettable that not all the centers can be visited because of the scheduling problem. It is not easy to schedule, and the dates are set always when the maximum number can attend. The dates are often not suitable for me and I cannot make the visits, even though I submit various possible dates in advance, showing approximately three different dates.

If you have somewhere where you really wish to visit but if the schedule is not supported by most of the members, you cannot make it. What should we do with this problem?

It is probably better to decide the schedule for the full year in advance. Since most of the Committee members are active specialists with full schedule, matching the schedule is one of the most annoying things. This is not an essential problem but it is one of the most regrettable problems.

This is a repeat from the previous point, but medical treatment is another thing that should be improved.

Plus, according to the regulation on treatment, the chance of physical exercise should be guaranteed everyday, but in reality even the largest detention center in the eastern region, Tokyo Immigration Bureau in Shinagawa, does not make it a practice. I think it is a problem that we should not overlook. After all, the inmates' one big pleasure is in the possibility of

their own movement.

To speak roughly, I think these are the responses to this question.

The open treatment has changed much compared to several years ago; however, I am not sure about the western part of Japan on this matter, and it must be checked how it is at the moment.

One idea has also come out that the committee members in the west and the east should be interchanged. If the place to visit is far away from where the member lives, it will be almost the same to members as it requires a day's work if the airplane etc. is taken, and the inspection itself will be the same so it should be possible. We are talking about proposing also to the western team.

Until now, the meetings and inspections are held about 11 times a year, once per month. We had inspections at 7 places, and meetings at 6 times. Out of those, I was not able to join 2 or 3 times unfortunately because of the decision by majority on the schedule setting.

Probably, the increase of the capacity and ability of the committee itself is a subject also. It is impossible to make good suggestions without collecting and knowing many kinds of information. Above all, advanced examples in foreign countries have many points for reference, and we understand the necessity of learning and absorbing good precedents, and would like to study more.

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REPORT OF SEMINAR

HSF/CDR/HSP Special Seminar and Symposium 2012

HUMAN SECURITY OF IDPs BY DISASTER: ANALYZING NATIONAL RESPONSE TO INTERNATIONAL DISPLACEMENT CAUSED BY THE GREAT EAST JAPAN EARTHQUAKE

Reported by Kie HORIKOSHI*

The HSF/CDR/HSP Special Seminar and Symposium on Human Security of IDPs by the Great East Japan Earthquake was held on 16 March 2012 at the University of Tokyo, Japan. The symposium was organized by Human Security Forum (HSF), the Center for Documentation of Refugees and Migrants (CDR) and the Graduate Program on Human Security (HSP) of the University of Tokyo.

This symposium was composed of 4 sessions. In the first session, the keynote presentation was given by Ms. Erin Mooney*. Her presentation was entitled "International Standards and Guidelines for Addressing Internal Displacement in Situation of Natural Disasters." In the second session, Erin Mooney and Daisaku Higashi* examined the key points of Mooney's presentation. The last two sessions were panel discussions featuring leading experts in Human Security, on the topics of "International Cooperation and Coordination in the Event of Disaster" and "Human Rights of IDPs."

I. FIRST SESSION – ERIN MOONEY'S PRESENTATION ON THE IDPs

Ms. Mooney's lecture was focused on three points. First, she clarified the key concepts of IDPs. Second, she gave an overview of international standards for IDPs, i.e., the Guiding Principles on Internal Displacement. Finally, she examined the guidance relevant in natural disasters: in particular, the Inter-Agency Standing Committee (IASC) Operational Guidance on

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- * Kie Horikoshi : CDR staff. M.A. at Graduate Programme on Human Security, the University of Tokyo. This report is a summary of the event and does not purport to be a full representation of the speakers' comments.
 - * Erin Mooney: Senior Research Associate at the University of Toronto, Senior protection adviser on IDPs, Consultant, the United Nations; and Former Deputy Director, Brookings Institution Project on IDPs.
 - * Daisaku Higashi: Associate Professor, Graduate Programme on Human Security, the University of Tokyo.

the Protection of Persons in Natural Disasters.

A. Clarification of the concept of IDPs

In the beginning of her presentation, Mooney defined the key concepts of IDPs by answering three questions: “Who is an IDP?” “Who is responsible for protecting and assisting them?” and “What does this responsibility towards IDPs entail? ”

- Who is an IDP? According to Mooney, there are two core elements in the concept of internal displacement. One is the involuntary nature of the movement. The second is that displacement takes place within national borders. This distinguishes IDPs from refugees who, as defined by international law, are outside of their country. These two descriptions have defined internal displacement in general. The speech of the United Nations Secretary-General in 1992 was a cue for arguing about a coherent framework of displacement as the parameters of the concept needed to be defined. The range of views on the matter meant this proved to be a challenging task.
- Mooney argued that the IDP definition given by the United Nations Secretary-General in 1992 was very narrow. The reason was because its IDP concept was limited only to those who had fled their homes “suddenly or unexpectedly”. Therefore, a number of situations were overlooked, such as floods, earthquakes and famine as well as human-made disasters, such as nuclear accidents.
- Additionally, the displacement of populations is not necessarily a spontaneous event but can be caused by an organized state policy implemented over years or even decades. In other words, the criterion of being “forced to flee” would exclude those who were obliged to leave their homes as a result of alteration of state policies. For instance, the Bosnian government forced evictions of minorities during the war under an evacuation order in order to safeguard the health and safety of the population concerned.
- Also problematic was the notion of people fleeing “in large numbers” as in reality people often fled in small groups or even on an individual basis.
- In addition, there were those who would have preferred to limit the IDP definition to persons subject to persecution or conflict. In order to make a difference between IDPs and refugees, they considered persons who crossed a border as refugees. However, regarding this description, many non-governmental organizations had pointed out early on that the limitation of the IDP definition in this way ran the risk of inaccurately illustrating the causes of displacement. They added persons uprooted by natural and human-made disasters or development projects to IDPs, not least because they too could be discriminated against and subject to human rights violations in the course of their displacement. Therefore, Mooney insisted that the IDP definition needed to be broad enough to encompass this range of causes. Thus, she explained that it was important that the definition of IDP was unlike that of refugee which was a legal standard in international law.
- Who is responsible for protecting and assisting them? It is necessary that we consider

the concept of “sovereignty as responsibility.” Mooney argued that states had primary duty and responsibility as national responsibility. However non-state actors also have responsibilities. She pointed out that the international community can and should assist states when national capacity or will is insufficient.

- What does this responsibility towards IDPs entail? This question was considered in detail by Mooney in the next section: Review of International Standards for IDP.

B. Review of International Standards for IDPs

Mooney overviewed the international standards for IDPs, i.e., the Guiding Principles on Internal Displacement.

- It is relevant for our purposes to recognize that people could become internally displaced not only because of suffering the causes of displacement but also because of anticipation of such effects. The reference was made to people having fled “as a result of or in order to avoid the effects of” the causes listed in the definition. This is somewhat similar to the criterion in the “refugee” definition of having a “well-founded fear of persecution”.
- The causes listed essentially repeated the broad range of causes noted in the initial, in the 1992 working definition, with one important correction. To ensure gender-blind language, the term “man-made” disasters was changed to “human-made” disasters.

According to Mooney, persons uprooted by natural disasters are also internally displaced. They often are in need of humanitarian assistance and, in some cases, protection as well. It was the massive displacement crisis resulting from the December 2004 tsunami in Southeast Asia, which has helped to focus one’s attention on the needs of these IDPs. It also has confirmed the relevance of bringing together under one definition the different scenarios in which internal displacement can arise. As the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin, noted after visiting the tsunami-affected region, “persons forced to flee their homes share many common types of vulnerability regardless of the underlying reasons for their displacement.” Indeed, long before the devastating 2004 tsunami, governments in other regions had highlighted disasters as causes of internal displacement requiring greater attention.

- It is important to bear in mind that the definition of “internally displaced person” is descriptive and not a legal definition. It simply describes the factual situation of a person being displaced within one’s country of habitual residence. As Walter Kälin explains, the term “internally displaced person” does not connote or confer a special legal status in the same way as a “refugee” does because refugees are those having lost the protection of their own country and being outside of their own state. Therefore, “the rights and guarantees to which IDPs are entitled stem from the fact that they are human beings and citizens or habitual residents of a particular state.”
- Another important distinction with the “refugee” concept is that not all situations of internal displacement will necessarily be of concern to the international community.

If the needs of internally displaced populations are met effectively by their own government, the international community need not become involved, unless of course the government requests assistance. On the other hand, if internally displaced persons are denied the protection and assistance of their government, they are of legitimate concern to the international community.

C. Examination of Guidance in the situation of Natural Disasters

Mooney examined the guidance relevant in natural disasters: in particular, the Inter-Agency Standing Committee (IASC) Operational Guidance on the Protection of Persons in Natural Disasters.

- IASC Guidelines (Background): Protection of the human rights of those uprooted by disaster has received far too little attention. As Jan Egeland, former UN Under-Secretary-General for Humanitarian Affairs, and Walter Kälin have aptly observed, while the international response to natural disasters “has become ever swifter and more sophisticated” in the rush to deliver life-saving aid, “little attention” has been paid “to the rights of these displaced people.” Efforts underway have focused on developing preventive and risk reduction strategies, improving rescue actions, and accelerating the delivery of relief, and recovery and reconstruction processes – all of which are of course critically important.
- Although identifying the human rights concerns of disaster victims and the best method to provide them with protection have received less focus for decades, recent disasters around the world have exposed many issues: e.g., unequal access to food and supplies, in particular for women; discrimination in provision of aid on ethnic, caste, racial, religious or gender grounds; evacuation plans that discriminate against poor and other vulnerable people; sexual and gender-based violence, especially in camps and shelters; exploitation, trafficking and military recruitment of separated children; neglect of the elderly, poor, disabled and sick; forced relocations of people to unsafe areas with limited economic opportunity; lack of safety in areas of displacement, return or resettlement; and lack of information and consultation with the displaced.
- After his visit to tsunami-affected areas in 2005, RSG Kälin concluded that, “it is no less important in the context of natural disasters than it is in cases of displacement by conflict to examine and address situations of displacement through a protection lens.”

Ms. Erin Mooney concluded that no new international standards or law are required for those forcibly uprooted by disasters within their own countries. What is needed instead is greater dissemination and usage of the Guiding Principles and Operational Guidelines. Both principles and guidelines constitute checklists for ensuring that human rights concerns have been integrated into early warning and risk reduction strategies as well as disaster response and recovery. Thus, the RSG has urged nation states to incorporate the Principles into their domestic law as the most effective way of strengthening legal protection for those displaced

by disasters.

II. SECOND SESSION : EXAMINATION OF MOONEY AND HIGASHI'S PRESENTATION

In the second session, Erin Mooney and Daisaku Higashi examined the key points of Mooney's presentation.

A. Mooney's Presentation: Advocacy and Operationalization of International Standards

Erin Mooney made a presentation entitled "Advocacy and Operationalization of International Standards" and examined practical aspects of the Standards and Guidelines to be operative.

- Mooney argued that national and local authorities need to be regularly reminded of their responsibility to take preventive steps to protect their populations and ensure that they receive assistance and protection during and after disasters. More often than not, concerns of human rights in the situation of disasters result not from a deliberate policy but from a lack of awareness of the human rights dimension.
- Ignoring rights and failing to take steps to reduce disaster risks can prove costly to governments. For example, the European Court of Human Rights found that the Russian government had been negligent in preventing mud slides in the northern Caucasus and ordered it to pay compensation to the surviving relatives. The Court based its decision on the failure of the government to live up to its duty to "safeguard" lives and take preventive measures against the consequences of a disaster. In the case of the US, lawsuits are also in progress against the government for "monumental negligence" in taking sufficient preventive measures in New Orleans.
- Another case is the Convention for the Protection and Assistance of Internally Displaced Persons (IDPs) in Africa (so-called Kampala Convention), which is to become binding on African States. It asserts that governments "are liable to make reparations" to IDPs when they refrain from protecting and assisting them in natural disasters. Regional and national court decisions in different parts of the world may in time change perceptions and even shame governments like China, which did offer small cash payments for the children who died during the Sichuan earthquake.
- It is widely accepted that governments are primarily responsible, and this is emphasized most often by governments themselves. However, how can national responsibility be supported? Reinforced? Monitored?
- Training in Human Rights Protection in Disasters: A large number of actors are involved in disasters – community leaders, government authorities, military forces, international organizations, the private sector and NGOs. All actors require training in practical measures to protect affected populations and prevent discrimination in

aid distribution. The importance of such training became evident in the Philippines, after Typhoon Durian. Although the authorities initially feared that training in the Guiding Principles would “incite” the victims to make “unmeetable demands,” the training led to improvements in standards of the actors’ response.

- National Policy: National policies on disaster response can be effective to ensure that survivors are protected and do not feel compelled to flee across borders. The policies should begin with preventive measures, such as early warning systems, disaster risk reduction strategies, evacuation plans, in particular for persons without private vehicles, and the building of effective infrastructure that can withstand impact. Where these policies already exist in the context of the 2005 Hyogo Framework for Action, they should be reviewed to ensure that protection concerns have been effectively incorporated.
- Policies must be comprehensive and cover both disaster and conflict IDPs so as to avoid potential resentments and tensions that could undermine recovery. They must also extend to families and communities hosting displaced persons. Emergency food rations or cash payments, for example, should be made available not only to IDPs but also to families and communities hosting IDPs.
- National focal point: To promote greater government accountability, government focal points and offices must be designated to monitor implementation of the policies, ensure their dissemination, provide technical assistance on how to apply for aid from the government, and assure that adequate resources are allotted so that the policy may be carried out.
- National human rights commissions, which are quasi-governmental bodies, can play an important role in monitoring the extent to which the rights of disaster victims are protected.
- A study by the Brookings-Bern Project on Internal Displacement shows that the opinions and preferences of IDPs are critical to the success of policies and programs, regarding provision of humanitarian aid, camp management, or job creation and livelihoods. Utilizing the capacities of survivors is also important since government resources are rarely adequate. It also helps survivors to overcome trauma and promotes government accountability toward the displaced.
- Consultative processes work best when both women and men are represented and when people of different age groups, socio-economic backgrounds, religions and ethnicities are involved. They also should extend to local communities so as to overcome tensions over resources and jobs and ensure the successful integration of the displaced into new areas. One of the examples is that the Office of the Ombudsman for Human Rights in Guatemala has developed a consultative process with local communities to address the psychosocial consequences of disasters and promote ways to reduce the risk of disasters.
- Consultative mechanisms often encourage UN and NGO staff to act as advocates for the displaced. It was after listening to the voices of IDPs in tsunami affected areas that the RSG developed the Operational Guidelines to integrate their protection and

human rights concerns into the international response to disasters.

Mooney concluded that information-sharing and consultation were important, including on the location of temporary shelters. NGOs can also play an important role in monitoring and advising survivors on how to report complaints, and help survivors to organize into advocacy groups. When labor coalitions and gender groups such as fisherwomen organized in India, they were much better prepared to press for their rights. At the international level, the Internal Displacement Monitoring Centre (IDMC) with additional resources and a more developed methodology would be well placed to monitor and report on the protection dimension of disaster-related displacement.

B. Higashi's Presentation: Japanese Perspectives from Fukushima

Dr. Daisaku HIGASHI made a presentation entitled "Japanese Perspectives from Fukushima –Voice and Situation of Fukushima and IDPs." In his presentation, he focused on four points: 1) his engagement with Iwaki city in Fukushima prefecture, 2) the framework to support the displaced, 3) his proposal for creating new industries of renewable energies to support refugees, 4) challenges, struggles and findings.

- In the beginning, he made 4 proposal points: 1) creating new industry, jobs, and hopes for refugees, 2) creating new jobs particularly for fishermen who totally stopped fishing after the nuclear accident, 3) creating a new "leading exporting industry" in Fukushima and Japan, and 4) sending a symbolic message to the world that Japan and Fukushima revive itself from the accidents of the nuclear power.
- The Japanese government decided to fund 125 Million USD for the first experiment of floating offshore wind power plants in the ocean of Iwaki, Fukushima, in the third supplementary budget adopted in October 2011.
- From the beginning, Higashi and Mayor of Iwaki (and local government officials in Iwaki) shared the idea that the project needed to respect the voice and opinions of the people in Iwaki and, at the same time, those of fishermen in Fukushima, who have veto power in terms of this project. "We need to design, plan, and implement projects together with fishermen who are also victims."
- Implication of Human Security and peacebuilding: researches and theories of Human Security in post-conflict states suggest the importance of local ownership: "without participation, opinions, and initiatives of the local people, the development assistance projects cannot be sustainable." Therefore, he argued that exactly the same should apply for the projects in Offshores Wind Power Plant in Fukushima.
- Struggles: the top leadership of fishermen basically agreed on creating a "special working group" consisting of fishermen, project managers, and representatives from the city, prefecture, and the state that Higashi proposed. Iwaki city strongly supports and backs it up, although the prefectural officials opposed it. The central government supported the idea, and is now considering the establishment of a special working group.

Higashi concluded by saying that it is difficult to identify people who represent “refugees” or “victims.” (Prefectural officials are supposed to represent the local people, but in reality not in many cases.) He found that there was a role for researchers in identifying needs for refugees, including on resettlement. Also, there are some roles for research in creating a framework for enhancing local ownership.

III. THIRD SESSION: PANEL DISCUSSION PART ONE

The Third session was a panel discussion about “International Cooperation and Coordination in the Event of Disaster.” Three panelists joined this session and their presentations are briefly described below.

- Ms. Setsuko KAWAHARA (Senior Research Fellow, Institute for International Policy Studies; Former Director, Humanitarian Assistance Division, Ministry of Foreign Affairs) made a presentation entitled “Receiving Assistance from Abroad.” Focusing on coordination by the Japanese Government, she evaluated the assistance for the Great East Japan Earthquake. In this case, she pointed out that the assistance was offer-driven. The Japanese government selected the kinds of assistance to offer because there was not much demand from the affected area. She said the Japanese government was better at dealing with this earthquake compared to the experience in the Hanshin Awaji Earthquake. For instance, this time, there was a prepared coordination mechanism to prevent burden in the receiving teams. However, she argued that it was still insufficient and insisted that the government should consider the demands from the victims more and called for greater coordination and collaboration with the private sector. She also suggested that the government should give priorities in proper assistance.
- Dr. Johan Cels (Representative of the United Nations High Commissioner for Refugees in Japan) made a presentation entitled “Cooperation and Coordination Following Disaster -A Human Security Perspective-.” Focusing on cooperation and coordination by international organizations, he evaluated the support and response by the international community to the national government, comparing the disaster management plans of Japan with the Sphere Standards from human security perspectives. He pointed out that there was mismatched communications among the national authorities and the international community. The main reason was because they shared little: they were using different languages and different common senses for cooperation and coordination. Therefore, he pointed out that we should consider the international common standards, coordination and information networks.
- Prof. Charles Sampford (Director, Institute for Ethics, Governance and Law) made a presentation entitled “Rule of Law, Accountability and Transparency.” He examined the IDPs norms in relation to the responsibility to protect (R2P) and protection of civilians (POC). It is critical that home states and other states should make clear what their capacity is internally in protecting their own citizens. It is important that other governments are clear about what they will do. International humanitarian organizations tend to be better at this. He pointed out that there are international guidelines

of how transparent and accountable governments should be in their primary responsibility.

IV. FOURTH SESSION: PANEL DISCUSSION PART TWO

The Fourth session was a panel discussion about “Human Rights of IDPs.” In this session, there were three panelists. Brief summaries of presentations given by the panelists are provided below.

- Mr. Hiroshi MIYAUCHI (Attorney at Law, Japan Lawyer’s Network for Refugees) made a presentation entitled “Legal Issues Regarding IDPs.” He evaluated the legal issues relative to IDPs, referring to his investigation in Iwate prefecture, and pointed out two major problems in particular. One is the difficulty in providing adequate and accurate information. This resulted from limited information resources and difficulties to access updated information. The other problem is insufficiency of support systems for victims left at home in comparison to those who moved to evacuation centers.
- Ms. Kazuko ITO (Attorney at Law, Japan Federation of Bar Associations; Security General, Human Rights Now) made a presentation entitled “Situation of Vulnerable People after Natural and Nuclear Disaster in Japan.” She described in detail the human rights problems at evacuation centers, and pointed out that there was a lack of special evacuation centers and support for vulnerable people. In addition, she urged that the levels of contamination from radiation be strictly monitored and disclosed to citizens in a timely manner.
- Dr. Satoshi YAMAMOTO (Project Associate Professor, Vice Director, Center for Documentation of Refugees and Migrants, the University of Tokyo) made a presentation entitled “IDPs under International Law.” Overlooking the UN International Law Commission’s work on “the protection of persons in the event of disasters”, he explained the recent development of international law in this field. According to him, the debate is still under way among the ILC members as to whether or not the affected State has a duty in certain circumstances to seek external assistance and to not withhold assistance arbitrarily, and nothing has been finally decided. On the other hand, he indicated the importance of the Guiding Principles as a soft law.

NOTES

DEVELOPMENTS OF HMS/CDR

Satoshi YAMAMOTO

I. E-LEARNING SYSTEM AND THE FORTHCOMING SUMMER SCHOOL OF THIS YEAR

Adding to research activities, CDR has also been developing original learning materials. As one of the materials for the summer school of this year (13-15 September 2012), we started to create an e-learning system. It consists of several modules, and it is designed not only for academic education but also for practical purposes. Since the immigration law revision in 2004, the Minister of Justice has been conducting the refugee status determination (RSD) with advice by the Refugee Examination Counsellors (RECs) in the administrative appeal stage. While the systematic change was a progressive step for RSD in Japan, the quality of the decisions is still under way to improve. Since the RECs consist of over 50 professionals from various specialized background, the equal quality control is necessary to assure the rights of asylum seekers to be recognized as Convention refugees. The modules are designed to bring the materials from the academic world.

This year's summer school is designed to be one of the training courses for those RECs with the cooperation of the UNHCR representation in Japan and refugee assistance lawyers. The theme is to be "Refugee Status Determination in the Context of Refugee Protection: Theory and Practice of Credibility Assessment", and the target is to share the basics among the participants and learn about some advanced issues from outstanding practitioners in the field. Theoretical and logical way of thinking for each component is to be presented.

See the details at: http://cdr.c.u-tokyo.ac.jp/documents/ss2012_announcemnet_eng.pdf

II. STAFF AS OF JANUARY TO MARCH 2012

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 7 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 (Editor / Vice Director)
- Miki ARIMA (Editor / Researcher)
- Junko MIURA (Secretariat / Researcher)
- Kumiko NIITSU (Research Assistant)
- Mutsuhisa BAN (Research Assistant)
- Kie HORIKOSHI (Research Assistant)

C. Intern

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

III. EVENTS

January - March 2012

【Seminars and Symposia】

■ *Human Security of IDPs by Disaster: Analyzing National Response to Internal Displacement Caused by the Great East Japan Earthquake (co-organised by CDR, HSF and HSP).*

Date : March 16, 2012, 10:00-18:40

Venue : Lecture Hall, 21 Komcee, Komaba Campus, the University of Tokyo

Lecturers :

- Ms. Erin MOONEY (Senior Protection Adviser on IDPs, Consultant, the United Nations; and Former Deputy Director, Brookings Institution Project on IDPs)
- Associate Professor Daisaku HIGASHI (Associated Professor, Graduate Programme on Human Security, the University of Tokyo)

Panel Moderators: Professor Yasunobu SATO and Dr. Naori MIYAZAWA

Panelists:

- Ms. Setsuko KAWAHARA (Senior Research Fellow, Institute for International Policy Studies)
- Dr. Johan CELS (United Nations High Commissioner for Refugees Representation in

Japan)

- Professor Charles SAMPFORD (Director, Institute for Ethics, Governance and Law [a joint initiative of the United Nations University, Griffith, Queens University of Technology, Australian National University, Center for Asian Integrity in Manila and OP Jindal Global University, Delhi])
- Ms. Kazuko ITO (Attorney at Law, Japan Federation of Bar Association; Secretary General, Human Rights Now)
- Mr. Hiroshi MIYAUCHI (Attorney at Law, Japan Lawyers' Network for Refugees)
- Dr. Satoshi YAMAMOTO (Vice Director, Center for Documentation of Refugees and Migrants, The University of Tokyo)

Language : English/Japanese (simultaneous interpretation provided)

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

【*Research Projects*】

■ ***Country of Origin Information (COI) Field Research***

In February 2012, Arima went on a research mission to Europe and visited COI units in the UK, Belgium and Ireland, as well as ACCORD, an Austrian NGO which hosts the "ecoi.net". The research will feed into the ongoing COI project with Japan Lawyers Network for Refugees (Zennanren).

As learned from the process in other countries especially in Europe, COI needs to be accumulated and provided systematically in a streamlined way not to overlap among countries. CDR will continue to examine how to cooperate with other actors both within and outside of Japan. At the same time, the methodology of the usage also needs to be explored in the process of credibility test for refugee status determination. In this regard, CDR is going to conduct further investigation to create a unified online system especially useful in Japan.

■ ***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】

▪ ***Lectures and reports by Kumiko NIITSU on immigration detention centers and the visiting committee***

Date: January 12

Occasion: Meiji Gakuin Law School guest lecture

Date: February 24

Occasion: Backup Committee for Immigration Visiting Committee, Japan Federation of Bar Associations

Date: March 5

Occasion: Symposium Committee, Kanto Federation of Bar Associations

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. 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 crosscutting perspectives on refugee and migrant issues with comprehensive awareness of the issues of movement of people.

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

Official Website of CDR [<http://cdr.c.u-tokyo.ac.jp/>]

The screenshot shows the official website of the Center for Documentation of Refugees and Migrants (CDR) at the University of Tokyo. The page features a dark navigation bar at the top with links for Portal, Database, Events, Links, and FONT. Below this is the CDR logo and name, followed by a secondary navigation bar with links for Welcome!, News, Lectures, About us, and Summer School. The main content area begins with a 'Welcome!' section, followed by a paragraph stating the center's mission and a list of activities. A photograph of a building is shown on the right. The footer contains copyright information for the University of Tokyo.

Portal Database Events Links FONT (- +)

 **CDR** The Center for Documentation of Refugees and Migrants
The University of Tokyo

Portal **Welcome!** News Lectures About us Summer School


Welcome!

to the official website of the *Center for Documentation of Refugees and Migrants*.

The Center for Documentation of Refugees and Migrants (CDR) was established in April 2009 through a grant from Hogakukan Ltd., a private corporation based in Tokyo. The goal of the CDR is to collect, organize and distribute information related to the migration of peoples, and especially the study of migration.

- The CDR publishes a journal, “The *CDR Quarterly* (CDRQ),” which is available in print and on the website.
- We are involved in the creation of “Shortbooks”, one page summaries on a variety of topics related to migration and migration studies.
- We are involved in a project to create an online database utilizing the reference management software *Zotero*, which can be accessed by anyone looking for references of printed and video material about migration.
- We hold symposiums, academic conferences, a summer school and other events throughout the year.

The CDR is also the organization in charge of the *Human Mobility Studies* course at the *University of Tokyo*.



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