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A NOTE FROM THE EDITORS

We would like to report some important organizational developments for CDR. In April 2014, the Institute of Advanced Global Studies (IAGS) of the University of Tokyo decided to officially reconstitute CDR as one of its research projects. Though CDR has engaged in several research projects since its establishment, it had been basically a secretariat of the lecture series project "Refugees and Migrants" donated by Hogakukan co.ltd. By this recent organizational change, CDR became an official project specialized in research on movement of people including refugees and migrants. CDR's new name in IAGS is the Project of Compilation and Documentation on Refugees and Migrants (CDR). Please see "Developments of HMS/CDR" for more details.

Although our name has changed, our acronym remains CDR, and our work continues to be focused on the documentation and dissemination of information on forced displacement and migration issues, to be considered from a broad range of disciplinary perspectives. Our tasks include inviting experts including academic researchers and practitioners, government 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, professionals, and the general public, CDR contributes 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.

In this issue, we are proud to introduce former CDR staff Shikiko Masutomi's article based on her master's dissertation, which won the Michael Oakeshott Prize for best dissertation from the London School of Economics and Political Science. Her analysis of refugee resettlement in Europe from a moral perspective is sure to provide insight into the fledgling refugee resettlement programme in Japan as well.

The working papers include an anthropological consideration of tourism and the East Japan Disaster by Professor Shinji Yamashita, and an introduction of statelessness and UNHCR's work by Mai Kaneko. In the Asian Digest section, CDR staff Kie Horikoshi explains our research project on access to Japanese language education in Japan. Finally, the interview features three judges from the International Association of Refugee Law Judges (IARLJ), with which CDR has collaborated over the years.

We would like to thank the authors and interviewees for their valuable contributions, and welcome submissions relating to human mobility from all parts of the world.

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REMARKS FROM DIRECTOR

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

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

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

Yasunobu SATO

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ARTICLE

TO WHAT EXTENT IS REFUGEE RESETTLEMENT A EUROPEAN IDEAL?: A MORAL PERSPECTIVE

Shikiko MASUTOMI[*]

ABSTRACT

Refugee resettlement is unique within the immigration spectrum: while its initiative is born of a humanitarian framework, it entails an element of standard immigration which allows room for selection fo the recipient state to determine which and how many refugees to accept. The scheme is not legally binding, and the refugee can only seek third-country resettlement by invitation. Under these circumstances, Europe is required to make moral decisions through which it is tested for its values and identity. Although refugee resettlement is inevitably shaped by various political constraints, the article attempts to think beyond mere practicality and limitations of reality by engaging with moral philosophy which helps distinguish what is right from what is possible for the European Union and Europe at large.

I. INTRODUCTION

This article examines the moral questions that arise when the European Union (EU) Member States participate, by choice, in a joint refugee resettlement programme, which sets a unique environment where states can make decisions based on a mixture of humanitarian concerns and national interests. While resettlement has gained increasing support in the international context in the recent years as a 'durable solution' to protracted refugee situations (PRS),[1] EU Member States have remained modest in their intake of resettled refugees. Although this can be explained by its self-proclaimed balance with a large number of onshore asylum applications, resettlement should matter for the EU for more reasons because of its flexibility to allow states to *choose* which refugees they receive, unlike the 1951 United Nations Convention Relating to the Status of Refugees[2] and its 1967 Protocol which place states under legal obligations for any person who satisfies its definition. This article asks: Which refugees should the EU save first: those in most need, or those with the most potential for in-

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[*] MSc in European Studies: Ideas and Identities at the London School of Economics and Political Science (LSE); Michael Oakeshott Prize from LSE, 2011-2012; The article is edited from a master's dissertation submitted to LSE in 2012.

1 A protracted refugee situation is 'one in which 25,000 or more refugees of the same nationality have been in exile for five years or longer in any given asylum country' (UNHCR 2012, p.12).

2 Hereafter, the Geneva Convention.

tegration? Is it right to be selective in receiving resettled refugees, and how selective can one be? To what extent is resettlement a European ideal? It argues that how the EU answers these questions will ultimately reflect what it believes 'European values' are; these concepts extend beyond the idea of the EU, to the idea of Europe at large. In answering those questions, this paper will seek guidance in moral philosophy in an attempt to give a greater focus on what is right than what is possible, as resettlement is an area in asylum that has been heavily shaped by political pressures such as foreign policy and practical unfeasibility.[3] Its aim will be to stretch the possibility of political realities in contemporary Europe, and to present Europe as a model in asylum policy.

The article will begin by outlining the basic principle upon which any refugee should be accepted. In so doing, it will firstly recall different ideas of hospitality laid out by Immanuel Kant and Jacques Derrida, and relate them to refugee protection. Although the latter author's writing itself does not explicitly address policy[5] and, indeed, care must be taken when converging moralities at a personal level and at a policy-level,[6] it could be used as a springboard for advancing policy in a much-contested area like asylum. Here, the focus will not be on the definition of a refugee as there is already extensive literature in this area.[7] The article will explore Emmanuel Levinas' idea of 'responsibility for the other' to demonstrate how 'proximity' explains one's commitment for the other, addressing the question 'Why 'do' resettlement, when refugees come anyway?'[8] It will then demonstrate why resettlement constitutes a distinct form of immigration and asylum and thus posits a unique conditionality. It will argue that third-country resettlement is more of a qualitative - rather than quantative – issue for Europe because the sheer number of those who are in need of international protection will always leave room for selection. The article will revisit some of the most prominent philosophers in asylum ethics, namely Michael Walzer, Peter and Renata Singer, and Joseph Carens, so as to re-grasp what the process of admission constitutes from a moral perspective.

Acknowledging that practical considerations must be taken into account in the real world, the rest of the article will aim to identify what the EU or Europe can consider its priorities to be given its ability to cooperate amongst Member States, mostly based on the author's own thoughts. It will consider how European states might distinguish themselves from other Western states with similar values, in their way of decision-making in resettlement as the differen-

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4   Gibney 2004, pp.159-161; Boswell 2002.

5   Derrida even says that 'it would never be 'realistic' to expect or demand this [unconditional hospitality] of a Nation-State as such.' He does, however, make frequent references to immigration and asylum in *Adieu to Emmanuel Levinas*. (Derrida 1999, p.90)

6   Myron Weiner states that '[p]ersonal ethics are a poor basis for public choices because they do not take into account the costs such policies impose upon others.' (Weiner 1996, pp.192-193)

7   See Schacknove 1985.

8   Noll and van Selm 2003, p.10.

tiation may help carve a certain 'Europeanness'. It will agree with Gregor Noll and Joanne van Selm's view that European states are - and should - be driven by humanitarianism rather than utilitarianism as their foremost concern is with 'the trauma of uprooting' rather than the cause or 'any optimism for the individual survivor.'[9] The article will conclude that the moral duties of European states with regards to refugee resettlement must be reinforced and propagated in the future in order to remain faithful to the liberal democratic values of the EU and beyond.

The existing literature that accommodates moral debates on immigration has centred on whether states have the right to place borders around their territories and control migratory flows. This often concerns state sovereignty and responsibility to protect its own citizens. Walzer, an advocate of territorial control, argues that citizenship is like membership to a club and those who are already members have the right to choose whom to admit.[10] In contrast, Carens, a liberalist, upholds that the current citizenship system is 'the moral equivalent of feudal class privilege – an inherited status that greatly enhances one's life chances and that the state's claim to border control is illegitimate.[11] Like feudal birthrights privileges, restrictive citizenship is hard to justify when one thinks about it closely.'[12]

Within the asylum framework, academia tends to lean towards the legal conceptions of a refugee and practical solutions to unequal distribution of physical and financial burden (i.e. burden-sharing). The moral dimensions of asylum have, however, caught some attention: Walzer reflects on refugees as a particular group of outsiders to be admitted from a more theoretical and communitarian approach; the Singers also offer their egalitarian and utilitarian perspective; Carens positions himself 'somewhere between these two extremes', taking a more liberal and, with regards to refugee resettlement, realist approach;[13] Matthew J. Gibney explores the very questions raised in this article through political theory in *The Ethics and Politics of Asylum* (2004) in a 'refreshing' attempt to bridge the gap between theory and practice.[14]

This article therefore does not claim its originality in its linking of the ideal and the real. However, it hopes to re-value resettlement as a specific moral sphere for which there has been limited literature in Europe. Yet, there is much at stake for the EU and Europe, not just from a practical perspective but also from an ethical one.

Europe has traditionally received those from outside its territory. Its moral principle is enshrined most notably in Kant's *Perpetual Peace* (1795), and the Geneva Convention was first

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9   Noll and van Selm 2003, p.7.

10 Walzer 1983.

11 Carens 1987.

12 Ibid., p.252.

13 Carens 1992, p.31.

14 Freeman 2005, p.462.

applied in Europe before being extended to other parts of the world in its 1967 Protocol. European philosophy offers prominent thinkers in this field: Derrida presents his idea of hospitality in contrast to Kant's, while Levinas shares similar moral concerns with Derrida in his discussion of one's 'responsibility for the other'. The former has indeed provided a theoretical and normative frame of contemporary analysis in the humanities and social sciences.[15]

While those ideas are fundamental to our reasoning for accepting 'outsiders' into our territory and community, there is arguably a need to expand our considerations to what is beyond our doorstep. Kant, Derrida, and Levinas all firstly deal with a case where the 'other' knocks on our door and we are bound by moral decision-making *in the face of* the 'other'. This is of a particular concern for refugees, who are the focus of the current article. As Kant had foreseen at the end of the eighteenth century, the state's obligation to allow refugees and asylum seekers into their territory was embedded in the Geneva Convention, which secures the *non-refoulement* of the individuals concerned who have reached the territory of a foreign state. However, there are many without the means to physically seek asylum in a desired country. And what is one to make of their status? As the current international law stands, states have no obligation to provide protection to forced migrants and refugees outside their territory and there is no such thing as 'resettlement right'. But is it right to allow them to remain in vulnerable conditions just because they are not in our doorstep?

If we decide that it is morally justifiable that we take in forced migrants who have not reached our territory only out of generosity or by invitation,[16] is it right to 'cherry-pick' who to receive even if they are in desperate needs unlike other types of immigrants? Who should we prioritise? And how many? Is there any point in accepting as few as today when it is virtually impossible to save a significant proportion of all those in need?

The article will argue that the need to assist those in vulnerable situations beyond out territory, such as resettlement-seeking refugees abroad, can be justified even if our utmost priority should be reserved for asylum seekers. It is also inevitable and therefore justifiable that the recipient (third) state chooses whom to admit as their future citizens due to the physical limitation of accepting all of them simultaneously. In the context of the EU, each Member State should prioritise whatever responsibilities it is most fit to take on, making special room for those most vulnerable and always placing humanitarianism over utilitarianism, even though the latter is also important. The question of quantity is admittedly difficult to find an answer to; even Walzer, a sympathiser of refugees (despite being a firm advocate of nation-states' right to immigration control), is ambivalent about the 'limits on our collective liability.'[17] The article aims to justify why quality therefore matters all the more.

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15 Dikeç 2009, p.2.

16 In the Netherlands, resettled refugees are indeed known as 'invited' refugees.

17 Walzer 1983, p.51.

II. MORAL FOUNDATIONS

A. Right of hospitality and refugees

Over two hundred years ago, Kant proposed his idea of 'perpetual peace', of a 'federation of free states' which forms, albeit arguably, the foundation of the EU. As a way of establishing peaceful mutual relations between states, the philosopher presents the principle of 'universal hospitality', which demands the admission of a 'stranger' into a state on the condition that he/she conforms to acceptable behaviours in that territory.[18] Another condition is cast on the length of stay; the guest's cosmopolitan right is one of 'visitation', not of permanent residence, and many European states uphold this view and defend their sovereignty. On the other hand, Kant also mentions what is today known as the *non-refoulement* clause in the Geneva Convention; the guest cannot be turned away if that puts his/her life at risk.[19] Thus, a special exception is made for refugees.

The current humanitarian discourse in refugee protection follows Kantian idea of 'right of hospitality' for refugees. Faced with an increasing proportion of PRS,[20] United Nations High Commissioner for Refugees (UNHCR) has re-stressed the importance of third-country resettlement,[21] which is promoted as a 'durable solution' along with voluntary repatriation and local integration.[22] In this vein, 'resettlement' means permanent residence and entails an opportunity for the individual concerned to become a naturalised citizen of the resettlement country.[23] In other words, it is prepared to grant more than a 'right of visitation' for refugees; the host state is obliged to accept this 'stranger' as its own and grant the same rights as its citizens.

The significance of those circumstances as opposed to onshore asylum (i.e. those claiming refugee status in the first country of asylum) is that states agree to receive them as their future citizens even before they reach their territory though with a certain set of conditions (refugees are granted citizenship after a certain number of years of residence, for example). Marguerite La Caze states that while the idea of hospitality supports our initial response to asylum seek-

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18 Kant 2011, p.106.

19 Ibid., pp.105-106.

20 For an extensive discussion on PRS, see Loescher et al. 2008.

21 On the evolution of resettlement, see UNHCR 2011a, Chapter 2.

22 UNHCR and the EU currently classify resettlement as a 'last resort', which is offered when the refugee can neither return to the country of origin nor remain in security in the country of refuge (UNHCR 2011a, p.38; EU MEMO/09/370).

23 UNHCR 2011a, p.3.

ers and refugees, its scope for granting citizenship remains limited.[24] Yet, the EU has been under growing pressure to show greater commitment in this form of refugee protection. UNHCR alerts that, of the 65,850 refugees resettled worldwide in 2008, only 6.7% were accepted by the EU, a very modest figure compared with other industrialised countries such as the US, Canada and Australia.[25]

Derrida's conception of 'absolute hospitality' in *Of Hospitality* (1997) is more expansive as it is unconditional: 'absolute hospitality requires that I open up my home and that I give not only to the foreigner (provided with a family name, with the social status of being a foreigner, etc.), but to the absolute, unknown, anonymous other, and that I *give place* to them, that I let them come, that I let them arrive, and take place in the place I offer them, without asking of them either reciprocity (entering into a pact) or even their names [emphasis in the original].'[26] This unconditional hospitality which is said to be 'The law' – hospitality without laws or limitations - contrasts with conditional hospitality which exists in 'the laws' 'defined by Greco-Roman tradition and even the Judeo-Christian, by all of law and all philosophy of law up to Kant and Hegel in particular, across the family, civil society, and the State.'[27]

Derrida's *Negotiations: Interventions and Interviews* (2002) emphasises the concept of hospitality as an ethical one based on goodwill, unlike Kant's juridical and political conception of it based on the idea of right. Derrida's theory lends support to the treatment of third-country nationals going beyond legal duties and allows the guest to be more than just a 'foreigner'.[28] Derrida nevertheless acknowledges that 'since there is also no hospitality without finitude, sovereignty can only be exercised by filtering, choosing and thus by excluding and doing violence,' as states do in reality.[29]

Derrida's 'absolute hospitality' is an ideal and without constraints or limitations, whereas hospitality that exists in reality, bound up by rights and duties (the laws), is 'always conditioned and conditional'.[30] The 'antinomy' between the two indissoluble kinds of hospitality[31] runs parallel to Gibney's distinction of 'ideal theory' and 'non-ideal theory', 'what is ethically

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24 La Caze 2004.

25 UNHCR 2008, p.3; BBC 2009.

26 Derrida and Dufourmantelle 2000, p.25.

27 'The law' is understood to be superior to the laws. (Derrida and Dufourmantelle 2000, p.77)

28 Derrida and Dufourmantelle 2000, p.71, 73.

29 Ibid.

30 Ibid., p.77.

31 Ibid.

ideal' and 'the current practices of liberal democratic states'.[32] This gap is growing and will never be filled completely so long as the state as a particularistic agent 'exhausts the moral and political obligations of citizens' before turning to non-citizens.[33] Derrida even refers specifically to asylum, reflecting on Levinas: 'never will a Nation-State as such, regardless of its form of government, and even if it is democratic, its majority on the right or the left, open itself up to an unconditional hospitality or to a right of asylum without restriction' because it 'will always want to "control the flow of immigration"'.[34]

However, one should not completely concede to the forces of the real world because 'hospitality is not simply some region of ethics… : it is ethicity itself, the whole and the principle of ethics', according to Derrida who follows Levinas' philosophy.[35] Derrida's approach to hospitality is, in Anne Dufourmantelle's words, 'hyperbolic'[36] proposing something impossible, if only thinkable, but the 'taking to the limit' invites us to ask ourselves what our fundamental values are and extracts the essence of who we are because hospitality is 'culture itself'.[37] The question of hospitality, therefore, has the utmost salience and must be treated seriously. The next section will consider whether the concept of right of hospitality can be extended beyond our immediate space – that is, outside our territory – so as to reflect on our responsibility for refugees who have not reached our shores.

B. Responsibility beyond our doorstep

In a similar way to Derrida, Levinas sees fundamental ethical importance in the concept of hospitality[38] – or 'responsibility for the other' - because the duty of hospitality 'opens the way to the humanity of the human in general.'[39] However, whereas Derrida's approach shows more awareness of the inevitable necessity for any hospitality to be effective and therefore conditional, what resonates through Levinas' approach to hospitality is pure ethics that de-

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32 Gibney 2004, p.197.

33 Ibid., p.202.

34 Derrida 1999, p.90.

35 Derrida 1999, p.50.

36 Derrida and Dufourmantelle 2000, p.80.

37 Derrida quoted by Westmoreland (2008).

38 Although the word 'hospitality' does not appear frequently, as Derrida asserts, it is the very theme of Levinas' *Totality and Infinity* (1979). The work is 'an immense treatise of hospitality' (Derrida 1999, p.21).

39 Derrida 1999, p.72.

mands logical and normative responses.[40] His theory is that our responsibility for the other founds our primordial ethical relationship with the other: 'The epiphany of the face is ethical.'[41] In the face of the other, one is posed an unconditional command and cannot but be responsible for the other without any guarantee of reciprocity in the relationship. The encounter 'paralyses my powers and from the depths of defenceless eyes rises firm and absolute in its nudity and destitution' and '[t]he comprehension of this destitution and hunger establishes the proximity of the other.' The philosopher also refers to the rights of man in *Outside the Subject* (1993) which he believes has to be defended even '*outside* the state' because '[i]n humanity, from one individual to another, there is established a *proximity* that does not take its meaning from the spatial metaphor of the extension of a concept [emphases in the original].'[42] Furthermore, Levinas states that '[o]ne's duty regarding the other who makes appeal to one's responsibility is an investing of one's own freedom'; in other words, the manifestation of our responsibility for the other reflects our own freedom and rights. This system of guaranteeing rights is what Levinas calls 'the phenomenology of the rights of man'.[43] His understanding of one's relation with the other contributes to the 'deterritorialisation of responsibility'[44] highlighting one's receptivity to otherness that is beyond any boundaries or space.

The idea of geographical proximity in relation to our responsibility for the other is an important one to consider. It asks why any state would actively receive refugees who have not reached its shores while there are other persons in need both within its territory and more arriving at its border. In reality, states are bound by a greater obligation towards asylum seekers than resettlement-seeking refugees. Carens and the Singers assert that it is odd that the former group is believed to hold a stronger moral claim to entry than the latter. If onshore asylum seekers tend to be 'adult, male, well educated and wealthy' and therefore less vulnerable than resettlement-seeking refugees, as Carens says, there should be a greater moral imperative to turn to those more vulnerable who have not managed to make their way to a desired country of asylum.[45] In addition, it involves an element of queue-jumping because asylum seekers can enter the process of refugee status determination straight away once they have reached a foreign territory, while others wait for years in refugee camps to secure a place for resettlement. Geographical proximity, in those senses, is a pre-determinant that does not correspond to the relative needs of refugees and thus cannot be a moral basis for admission.

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40 Derrida even sees that '*the* unconditional law of hospitality needs the laws, it requires them' as a ground in which to become effective because it would otherwise be 'abstract, utopian, illusory, and so turning into its opposite.' (Derrida 2000, p.79)

41 Levinas 1979, p.199.

42 Levinas 1993, p.123, 124.

43 Ibid., p.125.

44 Dikeç 2009, p.4.

45 Carens 2003, p.101.

Geographical proximity nonetheless prompts a direct contact between the recipient state and the asylum seeker whereby the decisions and actions the former takes have direct consequences on the latter. Refusing entry and sending asylum seekers back to their country of origin (deportation) where they might be persecuted is different from letting those in refugee camps languish; refugee camps provide sufficient security, at least in principle, and the living conditions inside can be equated with those of many countries.[46] As such, a distinction is made between acts and omissions (failure to act).[47]

On the other hand, such act/omission distinction is not a matter of concern for utilitarians like the Singers, who see 'no intrinsic significance' in it.[48] They argue that, in cases such as the Jews in Nazi Germany, the concerned individuals would have faced similar fates whether they were denied permits to the US or they were deported after seeking asylum at the American border. Peter Singer also asserts that '[t]he fact that a person is physically near to us, so that we have personal contact with him, may make it more likely that we *shall* assist him, but this does not show that we *ought* to help him rather than another who happens to be further away,' particularly in this age of globalisation where instant communication and transportation have transformed the world into a 'global village'.[49]

However, in the Singers' argument, we would have to be responsible for anything that we 'fail' to do in this world even if we do not pursue it. Even if that were the ideal, we would need to measure the different degrees of our responsibility depending on the context as otherwise no priority in agenda can be made. Carens states that the degree of our responsibility depends on two factors: 'the ways in which our acts are connected to outcomes' and 'the institutional contexts of our actions.'[50] While asserting that all legitimate refugees should be protected, he recognises that those who reach our shores have to be our priority on the grounds that denying them asylum 'would require us to use force against helpless and desperate people.'[51] Refugees in refugee camps, on the other hand, are already in safe haven, although it is admittedly a miserable environment to spend decades in (as in the case of some PRS). Thus, there is a difference between the two cases – onshore asylum seekers and other refugees – but the reason why we might give priority to the former over the latter is not a geographical one; it is rather that the consequences of denial in the former case would precipitate more moral concerns than the latter.

Recipient states might also consider another kind of proximity: ideological and ethnic affinity. If we share the same history, culture, language, principles and values with particular

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46 Ibid., p.101.

47 Singer and Singer in Gibney 1988, p.120.

48 Singer and Singer in Gibney 1988, p.120.

49 Singer 1972.

50 Carens 2003, p.101.

51 Walzer quoted in Carens 1992, p.38.

refugees, we are understandably more likely to admit them before others because 'they are like us'. In addition, antipathy could become a cause; if the recipient state has no connection with particular refugees, it might act more favourably towards them if it had something against the state that made them flee.[52]

There is another kind of affinity that is born of a situation involving the recipient state. If the recipient state was the one who contributed to the displacement of those people, it would be morally obliged to take them as in the case of the US's absorption of Vietnamese refugees. Here, the recipient state feels a more direct and stronger sense of responsibility that is incumbent on them.

As we can see, there are various ways in which a host state might feel responsible for refugees who are beyond their immediate reach. While utilitarians would conclude that all refugees deserve assistance equally, Carens' approach shows that there are priorities to be identified. These priorities depend on various kinds of proximity and numerous ways in which the recipient state becomes affiliated with particular refugees.

The next section will focus on the idea of resettlement, which occupies a unique space between asylum and standard immigration. It entails a particular set of conditions and therefore makes moral decision-making more complex.

C. Resettlement as a Condition

Resettlement is unique within the immigration spectrum. The recipient state, a third country, is in a position to actively accept – as there is no legal obligation - persons who have fled outside their country of origin but cannot see any prospects of local integration in the country where they have sought protection, nor can they return to their country of origin since the political situation there has not changed since the time of flight.[53] Although these refugees are only recognised as such by UNHCR and not yet legally protected under the Geneva Convention, the recipient state is expected to treat them as refugees, to allow them to enjoy similar rights as nationals, and to eventually give them the opportunity to become a citizen of that state. Resettlement is not a right for refugees, and is only possible where the state has volunteered to accept them. This is how it differs from onshore asylum: because the refugee has not reached the territory of the concerned state (third country), the Geneva Convention, which defines the rights of individuals who are granted asylum, does not apply. Third countries can set criteria for refugees to be eligible for resettlement. As such, resettlement presents an element that is similar to standard immigration which requires a 'voluntarily incurred obligation'[54] to receive the individual, resembling the points system of some countries such as Australia and the UK. In sum, resettlement is a cross between humanitarian migration and standard immigration.

If that were the expectation of today's international law, what would moral philosophy's

52 Walzer 1983, p.50.

53 See UNHCR 2011a, p.3.

54 Benhabib 2006, p.23.

response be? As Derrida points out, the host should, in theory, make the decision to offer un-conditional hospitality *when* any guest 'turns up' at the door; the visitation is an event that cannot necessarily be anticipated or welcomed at that particular point in time,[55] as with refu-gees. In contrast, under the UNHCR-promoted third-country resettlement programme, the host is given time to consider when to accept them; the event is no longer a visitation but an invitation. *The* law of hospitality could still be applied to this case; in fact, it should be easier for the host to comply with 'the law' because the guest is considered worthy of hospitality before arrival and the situation is under the host's control due to given preconditions.

Nevertheless, the EU has so far shown limited commitment to resettlement and its Member States have retained quotas so modest that it can be considered a symbolic gesture rather than a strategic tool, much like the European Refugee Fund. Resettlement is only a secondary means of burden-sharing for the EU because onshore asylum applications need to be dealt with first, which are already a costly affair (whether this is a morally correct judgement or not will be discussed below). As one expert in the field attests, '[i]n situations where the needs are vast, [resettlement] is pushed to the bottom of the priority list because they're busy taking care of emergency needs.'[56]

However, resettlement is a point of interest, not only from a purely humanitarian perspec-tive, but also from a political perspective because it concerns the acceptance of foreign iden-tities to be part of its own as well as the consequential relationship with the refugee's country of origin as well as other recipient countries. This may seem to address broader immigration issues, but in fact resettlement is distinct – that is even within the asylum framework - in two respects, which has been discussed above in philosophical terms. Firstly, recognised refugees and asylum seekers must be given necessary protection under the *non-refoulement* clause of the Geneva Convention. Secondly, resettlement is unique within the asylum mechanism in that states are under no legal obligation to receive those refugees; they are only politically encouraged by UNHCR and other stakeholders to participate in burden-sharing because the concerned refugees are only recognised as such by UNHCR whose mandate assigns itself a broader definition of refugees (known as mandate refugees) and are not Convention refugees. In sum, the refugees received under the resettlement scheme are accepted by choice[57] and receiving states can indeed be selective in their choice of refugees.[58]

Resettlement is in the interest of the present article precisely because of this condition of choice and selectivity that international law allows for. One is inclined to speculate on what states might do with the freedom to be enjoyed within a humanitarian framework. From a

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55 Derrida and Dufourmantelle 2000, p.77.

56 Amy Slaughter, chief operating officer of RefugePoint, quoted in the Guardian on 16 August 2012.

57 The European Pact on Immigration and Asylum states that the Member States are to participate in the joint resettlement programme "on a voluntary basis" (European Council 13189/08 ASIM 68, IV (d), p.12).

58 For the definition of 'resettlement' see UNHCR 2011a, p.3.

moral and humanitarian perspective, it is essentially a 'triage'[59] that asks the EU and its individual Member States 'Whom should we save first?' It re-questions what 'European values' are, not just for the EU, but for Europe. As the operation currently stands, the focus is not on the quantity as mentioned above; it is, at least for the moment, a symbolic issue. Moreover, regardless of the quantity – that is, even if the quotas are increased in the future – states will always be left with moral decision-making so long as the numbers to be saved are high.[60] Thus, resettlement is likely to remain essentially a qualitative issue - rather than quantitative – whereby the European ideal is tested.

Another dimension to it is quantity; 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.[61] As such, a 'drop in the ocean' argument challenges the EU's initiative to implement the resettlement programme in the first place.[62]

In this ethical decision-making, a number of factors can be considered. Firstly, the decision can be based on the degree of vulnerability of the refugee or the urgency of his/her needs. Secondly, it can be based on the interests of the resettlement state, most commonly on the refugee's integration potential in that state. Thirdly, in the EU context, it can be considered in relative terms based on the demographic distribution of refugees amongst Member States; for example, one Member State might focus on one type of refugees if it is able to offer specialism in that category (e.g. specific medical needs). Fourthly, the question of quantity may play a bigger role, should the EU decide to take a more utilitarian approach. The last one is based on a consequentialist view: the quality of life in the current land of safeguard and the expected quality of life in the resettlement country for the refugee must be compared in order to ensure that the resettlement country can offer more than a temporary protection, that is, an environment where the refugee can live in safety and dignity (these will be discussed in more detail below).

UNHCR, which safeguards international law, urges resettlement states to focus on the protection needs of refugees, whereas resettlement states with large quotas, particularly the US and Canada, often consider their own interests first, favouring those with greater integration potential in the host society. Some European states address specific protection needs; for example, Norway has a special focus on 'women-at-risk', allocating 55 per cent of the quota, and Finland on children, adolescents and elderly people.[63]

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59 Carens 'Who Belongs?', Chapter 10.

60 This argument will stand unless states somehow manage to resettle all refugees at once, in which case there would be no need to distinguish one refugee from another, but this is highly unlikely.

61 UNHCR 2011b.

62 The 'drop in the ocean' argument can also apply to onshore asylum (Singer 1993, p.255).

63 UNHCR 2011a. This will be discussed in more detail below.

With regards to the global 'burden-sharing' mechanism, it is difficult to come to agreements over the 'share', and even over how the share is calculated. Due to its geographical condition, EU Member States receive greater numbers of onshore asylum applications (as opposed to offshore resettlement applications) than the countries mentioned above. Some EU Member States such as Cyprus and Sweden are amongst those with the highest numbers of asylum applications per 1000 of the country's population. The 'fair' shares of the burden vary considerably depending on whether we analyse the absolute or relative distribution of asylum applications.

Perhaps burden-sharing is more of a problem rather than a solution in thinking about how to distribute responsibilities. However, from a moral – and practical in the long term – perspective, the diversity of expertise that the EU Member States offer is an advantage in configuring *whom* to admit because it allows not only one kind of refugees to be prioritised but several since each Member State can offer its own specialism within its own capacity and they can together cover a wider range. It is the author's belief that such mechanism would serve refugees' best interests as their relative well-being after resettlement is just as important as protection needs.

In sum, resettlement first poses interesting moral challenges that comprise of the restraints cast by the humanitarian dimension of the operation and the freedom allowed for by the immigration dimension. States' decisions over the issue will depend on where they place the objective of the operation. The next section will look more closely at the concept of admission, which entails a question of national membership, lending an ear to the claims of nation-states for selecting certain refugees under immigration control.

D. Membership and Admissions

The question of membership and admissions within the discussion of immigration ethics has been a fertile ground for academics in this field. Scholars mentioned below are frequently quoted and therefore little time will be dedicated to the existing literature that weighs the claims of refugees against those of nation-states. In resettlement, nation-states are inevitably in a position to select whom to admit even if the concerned individuals are refugees because the sheer numbers cast restrictions on the states' ability to resettle all refugees all at the same time.

The Singers (1988) provide an insight into how one might make a moral decision on the admission of refugees. They interpret the contemporary orthodoxy as an *ex gratia* approach based on Michael Walzer's theory on the 'distribution of membership' in *Spheres of Justice* (1983): 'Individuals may be able to give good reason why they should be selected, but no one on the outside has a right to be inside,' except for 'a particular group of outsiders, recognized as national or ethnic "relatives"' and political refugees.[64] Walzer's theory constitutes a 'view of rights in which the primary right is the right of the community to determine its own membership.'[65] Hence, the recipient state is doing outsiders a 'favour' by allowing them to

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64 Singer and Singer in Gibney 1988, quoting Walzer pp.118-119.

65 Ibid., p.121.

enter their territory. If this can be applied to today's politics, resettlement is an ideal tool for states to exercise that sovereign power over the selection of their members. As we saw earlier with Derrida's account, 'filtering' and 'choosing', 'excluding and doing violence', is *the only way* for nation-states to exercise power and sovereignty before surrendering to the law of hospitality that is 'without finitude'.[66]

Singer criticises Walzer's view of rights as having 'no underlying theory for his assertion that the right of a community to determine its membership takes priority over the rights of refugees.'[67] However, Walzer himself seems unsure of his stance in this debate about the collision of one right against another, and this requires a closer reading. Despite defending nation-states' right to self-determination and hence to immigration control, he makes special room for refugees which he distinguishes from other categories of immigrants. Where the number of refugees remains small, as Walzer assumes to be normally, the impact on the host state should be so limited that it would be morally obliged to take all of them in. Even if the numbers were considerable as in the millions of Russians repatriated to the Soviet Union from Western countries after the World War II, Walzer believes that the Western allies should have taken them in anyway regardless of the enormous costs of granting of asylum. The problem the Singers raise is the *ex gratia* approach mentioned above. What is more concerning for them is Walzer's claim that different states have obligations towards asylum seekers that are different from those towards resettlement-seeking refugees depending on the kinds of proximity they draw with them. The Singers hold that, according to the principle of 'equal consideration of interests', the claims of all those affected should weigh equally and states should select, if necessary, 'the ones most in need wherever they happen to be.'[68] In addition, Levinas and Derrida's conceptions of the right of hospitality which instead stem from phenomenology would also bring us to a similar conclusion since such law requires that we be responsible for any 'other' we encounter both in person or otherwise so as to enjoy our own freedom.

Peter Singer offers an alternative to Walzer's argument: the principle of 'equal consideration of interests', following the path of classical utilitarianism and the principle of universalizability which stipulates that 'no judgement can count as ethical unless it is universalizable.'[69] The Judeo-Christian teaching 'love thy neighbour as thyself' – treat others as you would like to be treated yourself – in conjunction with this universalizability serves to underline that the interests of others should weigh just as much as one's own.[70] This ethical model takes into account all those whose interests are affected; in the case of resettlement in Europe, it concerns the refugees themselves, the residents of the recipient state, economic interests, environmental interests, political interests within the EU, and so on.

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66 Derrida 2000, p.55.

67 Singer and Singer in Gibney 1988, p.121.

68 Carens 1992, p.38.

69 Singer and Singer in Gibney 1988, p.122.

70 Singer 1993, p.11.

To capture all those dimensions would be beyond the scope of the present article; nor would it be ever possible to realise such theory. Carens rightly asserts that '[n]o moral weighing is possible, and no significant compromise can work,' underlining David Hume's argument that one will always be blind to justice and pursue one's own interests when faced with extreme scarcity.[71] In his view, nation-states should do what is necessary to preserve their collective way of life, inevitably - and regrettably - at the cost of jeopardising the interests of 'innocent others' like refugees.

Whatever one's view is on the issue of national membership, nation-states must clarify their priorities in accepting different kinds of refugees. Where the sheer numbers of refugees are as vast as we see today, the capacity of international aid allows us to resettle only some of them at a time. Even if we are morally obliged to accept all refugees despite their numbers and the costs, we cannot but choose whom to admit before others. Nor is it that, morally speaking, we choose because we accept only *ex gratia* resettlement-seeking refugees for whom we are not liable under international law (that is on top of onshore asylum seekers for whom we are already liable) and so believe that we should be able to pick whom to receive; but we are inevitably forced to choose. Thus, the selection process for resettlement and ultimately for national membership is not simply permissible from a legal perspective but inevitable from a moral perspective.

The current article hereafter attempts to identify what Europe might conclude its priorities are with regards to different types of resettlement-seeking refugees. It sees the selection criteria as a principle upon which to deal with a climate of 'triage'.

III. A MORAL TEST – SUSPENSION OF THE POLITICAL?

A. 'Triage'

As seen above, there is an overwhelming number of refugees who require international protection today: resettlement-seeking refugees in the next five years alone amount to 780,000,[72] and the number of forcibly displaced people exceeded 42 million in 2011.[73] The previous sections showed that we should be responsible for refugees who have not reached our shores, with a concession that they might not be our top priority as onshore asylum seekers would require foremost attention given the danger of committing a morally impermissible act, deportation, which if weighed against the omission (i.e. leaving refugees in camps) would have far more serious moral consequences on the part of the host state.

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71 Carens 1992, p.34.

72 UNHCR 2011b.

73 UNHCR 2012, p.3 (NB This figure includes refugees, asylum seekers, and internally displaced persons (IDPs).

Given that we can however only resettle a certain proportion of refugees at a time,[74] we must decide which particular kinds of refugees we should admit first. UNHCR, whose mandate is to protect and assist refugees around the world, provide the following categories based on a need-based assessment: 1) legal and/or physical protection needs, 2) survivors of torture and/or violence, 3) medical needs, 4) women and girls at risk, 5) family reunification, 6) children and adolescents at risk, 7) lack of foreseeable alternative durable solutions.[75] UNHCR establishes its priorities in resettlement operation based on those protection needs, as well as taking into account what resettlement states are able to provide.[76] This is a fair and reasonable way of allocating particular refugees to specific states, assuming that such matchmaking would produce a win-win outcome desirable for the EU in collectively addressing the issue of resettlement.

However, there is a danger to this system; recipient states tend to overplay their freedom to select which refugees to resettle and lean heavily towards a outcome-based approach. Although humanitarian considerations of most European resettlement states are evident in their selection criteria and policy rationales as exemplified by the Scandinavian cases, there exist subsidiary selection criteria, which resemble an immigration policy rationale that embodies national interests. These constitute refugees' integration potential in the host country, which is assessed through their education, language skills, working experience, family situation, age, and 'resourcefulness'. States such as the US, Canada and Australia have long concentrated on the integration potential of refugees, which means that the best educated and most experienced are resettled first, causing a 'brain drain' effect in some protracted refugee camps[77] and an additional problem not for the host state or the resettled refugees but for other refugees left at the camps who are likely to have to live there for more years with an increasing lack of community leaders.

In addition, there are some exclusion criteria, though understandable from Walzer's view, on medical grounds such as communicable diseases in the cases of the US and Denmark or anything that can be a danger to public health in the case of Canada. Ireland, Norway and New Zealand may exclude candidates if the treatment to whatever illness the refugee might possess is not available in their countries, which is justifiable from a consequentialist perspective.

For host states, the future prospects of refugees after being resettled are equally – if not

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74 Even if a certain number of resettlement places are allocated for UNHCR submissions, the final number of refugees resettled does not necessarily reach that quota.

75 UNHCR 2011a, Chapter 6, p.243. The last category absorbs too many refugees to be meaningful except in rare cases.

76 UNHCR 2012b, p.6.

77 Banki and Lang 2007. Whether the 'brain drain' effect can be entirely blamed on recipient states is uncertain as the best educated and most experienced tend to leave their countries of origin before others and therefore are likely to be registered with UNHCR before others, in which case they are more likely to be resettled first anyway.

more – important as the protection needs. Refugees' lives after resettlement are indeed of a great concern for recipient states because they involve the lives of their own citizens who must live side by side with the newcomers. Therefore, the process of selecting refugees for resettlement broadly encompasses three dimensions to be weighed against one another: 1) protection needs relative to other candidates, 2) the well-being of refugees after resettlement, 3) the well-being of citizens after refugees' resettlement.

To that end, other factors can be added to the criteria. If 'integration' were understood as a 'two-way process' requiring 'adaptation on the part of the newcomer but also by the host society,'[78] host-refugee matchmaking in linguistic and cultural terms would also be morally justifiable because it would not only benefit the host state but the refugees themselves. This principle would encourage family unification, as in the case of the US, which should help to support and build communities more quickly than otherwise.[79]

The integration capability of refugees in specific host countries is important; it would be cruel to take them to where they will have little chance of integrating. This is particularly relevant to those who face linguistic and cultural barriers, the first generation for whom there is no existing community in the host state, the elderly, those with disabilities, and so on.

However, no matter how important those subsidiary criteria are they must remain subsidiary; integration capability should not be a prerequisite, only a positive factor. It is in the interest of the EU to take an alternative path to that of other Western countries such as the US and Canada which have in practice valued integration-focused criteria more than the need-based ones; put simply, Europe should place humanitarianism before utilitarianism (further transatlantic comparison will be made in the following sections). It should also put aside any political interests including foreign policy that prompt favourable decisions for those from countries to which the host holds antipathy; unlike affinity, this would have little to do with true humanitarianism or successful integration. Of course, we must be careful not to be driven solely by protection needs so as to lose sight of the well-being of the citizens, which is likely to show a positive correlation to that of the refugees. If there are too little prospects for successful integration, the very purpose of resettlement as such must be reinvestigated.

From an egalitarian perspective, the focus on specific selection categories can be varied between states and across time. Denmark for example, instead of defining an official provision for vulnerable groups, has a flexible annual quota which enables some adjustment in three categories: geographical origin, medical cases, and urgent and emergency dossier cases.[80]

The selection process of resettlement is like a 'triage', as Carens adequately describes, where we prioritise those with urgent needs and a reasonable chance of survival. The 'triage' of resettlement is complex in its own way, as the 'chance of survival' depends on other human beings who strive for theirs.

Another important point yet to be discussed in this article is numbers. How many of those people in most need should states take in? Although this article set out to focus on the quality

78 Castles et al. 2002, p.113.

79 Finland is a case in point (see Noll and van Selm 2003, p.16).

80 ICMC 2009, p.2-3.

in the selection process of resettlement, quantity cannot be overlooked. There is certainly an overall correlation between the numbers and types of refugees resettled in the current policy trends. The next section will explain why Europe should be concerned first by quality and not quantity.

B. Quality versus Quantity

European resettlement states, Scandinavians in particular, pride themselves in conducting resettlement programmes that give particular attention to the most vulnerable (mostly with medical needs) at the cost of requiring a high level of individual attention and financial costs. As such, Europe can be said to respect the intrinsic value in rescuing those in most need. However, the quantity they accept is extremely limited: only about 10-20 persons fall under the medical category per year.[81]   Utilitarians would wonder if there is any significance in accepting such a small proportion that merely constitutes a 'drop in the ocean'.

There are attempts to calculate the scale of quota for each state; for example it could be based on the number per 1,000 of its total population, or one could consider the amount of available space and resources. It would be extremely difficult to establish multilateral agreements based on one allocation system, but the EU will need to achieve this as part of the policy harmonisation process. This would entail a whole range of matters to be considered – resembling Singer's 'equal consideration of interests' – including other types of humanitarian operation that work in tandem with resettlement such as peace-building and financial assistance in refugees' countries of origin, which would be beyond the scope of this article. One thing that is clear is Europe should refuse a market-driven allocation system proposed by Gary Becker whereby refugees sufficiently motivated to pay for their places and quotas are specified accordingly, for market changes social norms and refugees would be perceived as 'burdens to be unloaded or revenue sources'.[82]

For humanitarian-focused programmes to be worth the intentions, meanwhile, moral reasoning from a phenomenologist approach is absolutely crucial; it takes the understanding of the state citizens from whom the programmes are funded in principle. From the outside, they would be subject to a view that criticises their 'utilitarianism' (rather than humanitarianism) in using the humanitarian face of resettlement for image-making beneficial for foreign policy.[83] The ethical arguments put forward by Derrida and Levinas on the right of hospitality – and asylum to a certain extent – do not allow for that kind of specific priority in agenda. Perhaps only egalitarians can argue more successfully for the rights of the most vulnerable in qualifying for resettlement places, with the conviction that their lives are just as worth saving

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81 Noll and van Selm 2003, p.29.

82 Sandel 2012, p.63-64.

83 The UK can be suspected of this too as they have been more keen on resettlement than other non-Scandinavian states despite having long stood in the sideline in EU asylum policy harmonisation.

as any others.

One would be tempted to justify the considerably small scale of the European resettlement operation with reference to its 'forced marriage to the number of disorderly arrivals' of asylum seekers.[84] Indeed, this article has argued that onshore asylum seekers should be the EU's utmost priority. Notwithstanding the hope to save as many refugees as possible in principle, priorities must be made inevitably. That is not to say that we can in so doing 'soothe our consciences' as the Singers and Carens warn;[85] we must resist thinking that 'we are already doing some good things, a favour even, and so the quantity does not matter.' It is rather that we cannot but be succumbed to the physical challenge of such task.

C. Re-thinking Purpose and Motivations for Europe

It would be challenging to claim that a certain set of ethics can be culture-specific. Singer points out that, throughout history, many canonical philosophers – from the Stoics to Kant - have upheld the idea that ethics takes on a universal point of view. It was reinforced by utilitarians such as Jeremy Bentham who believe that moral decisions are made on the basis that 'each counts for one and none for more than one'.[86] Philosophers of continental Europe, too, such as the existentialist Jean-Paul Sartre and the critical theorist Jürgen Habermas agree that ethics is in some sense universal.[87]

European states have shared much of their values with other Western states. John A. Scanlan and O.T. Kent underline that the US's moral considerations are predominantly shaped by the concept of human rights.[88] However, the same can surely be claimed for Europe as declared in the European Convention on Human Rights. So how are we to make a distinction?

While Europe may not have its own ethics that is distinct from other Western countries, there are a number of specific conditions under which Europe can decide which refugees to resettle, and it is how Europe deals with those conditions that is of utmost importance. European states have been amongst the most committed actors in international asylum regime along with the US, Canada, and Australia. The latter countries' ways of contribution to the regime differ from those of European countries for geographical reasons; they receive less onshore asylum applications than European countries, while their numbers of offshore applications are markedly higher. As one field expert sums up, '[t]he perception is Europe does

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84 Noll and van Selm 2003, p.10.

85 Carens 1992, p.42.

86 Jeremy Bentham quoted by Singer 1993, p.11.

87 Singer 1993, p.11.

88 Scanlan and Kent 'The Force of Moral Arguements for a Just Immigration Policy in a Hobbesian Universe: The Contemporary American Example,' in Gibney 1988, p.83.

asylum and the US does resettlement.'[89]

Another way to distinguish European countries from the three countries is through their population density. Egon F. Kunz categorises European countries (Great Britain, Switzerland, France, Belgium and Holland) as overpopulated or demographically self-sufficient countries which are less likely to accept large numbers of refugees:

> *Because they are not particularly anxious to retain and assimilate new arrivals they are less likely to press the refugee to abandon a home oriented outlook and activities. Being more complete, more mature and self-assured, such societies are usually more tolerant and more willing to offer the refugee a sanctuary without forcing the adoption of their particular way of life.*[90]

Kunz contrasts them to underpopulated countries which actively support population growth through immigration.[91]

> *… augmentative societies have their disadvantages as places of resettlement: they look at the pool of refugees primarily as a manpower source to be exploited to their own advantage, and tend to select the healthy and young, leaving the old and ill behind. Also, significantly, they treat refugees as permanent immigrants, and being growth oriented, they tend to be unsympathetic to homeward oriented refugees who envisage their exile as only a temporary phase.*[92]

Whatever one might make of this relation between population density and immigration policy, the utilitarian mindset in the policy makers in countries such as the US seems evident and predominant; Noll and van Selm's study shows that the US's motive behind its resettlement programme is one of optimism for the individuals concerned and goes as far as to risk being suspected of treating resettlement as part of labour immigration.[93]

In contrast, the EU's rationale in resettlement is identified 'first and foremost' with humanitarianism because it 'tends to focus on the refugee's protection needs over integration concerns.'[94] Noll and van Selm assert, however, that 'the reason for this should not be sought

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89 Torsten Moritz, chief executive of the Churches' Commission for Migrants in Europe, quoted in the Guardian on 16 August 2012.

90 Kunz 1981, p.48.

91 A similar argument based on population density is made by Walzer as pointed out by Singer (Singer 1988, p.124).

92 Kunz 1981, p.48.

93 Noll and van Selm 2003, p.12.

94 Ibid., p.11.

in aspirations to moral purity or superiority,' but in the absence of a public political impetus to push resettlement forward alongside onshore asylum.

The reality is no doubt detrimental to the spirit of the present article, but nonetheless needs to be acknowledged. Indeed, notwithstanding the reality, Europe must strive to manifest its morality through such challenges as refugee resettlement. The moral considerations made in this article, as set out at the beginning, may seem almost irrelevant in bringing about changes to the real world given the political limits, but they are certainly worth discussing in hoping to maintain at least some degree of conscience and should serve as a vehicle that paves the path for reality. Such is the European ideal that the present article would wish to propose.

IV. CONCLUSIONS

The Geneva Convention is an essential feature of the international asylum regime that provides the *non-refoulement* principle without which refugees would be deprived of any protection. However, from a moral perspective, this legal manifestation of what many consider a fundamental moral duty is insufficient to prove our moral beliefs. Nor can morally sensitive policies alone convince people of our fundamental ethical duties and obligations. There needs to be a rigorous discussion of moral issues that keeps a certain distance from contemporary politics, a distance that is close enough to stay in sight of reality and far enough to not easily give in to other forces including the dynamics of electoral politics, economic interests, and foreign policy and security concerns.[95]

This article has aspired to be part of such consciousness. It began with the idea of right of hospitality developed by Kant and Derrida and Levinas' idea of 'responsibility for the other'. Their theories help us answer why we should accept asylum seekers and other refugees abroad. It was highlighted that we should take responsibility for those who are not necessarily in geographical proximity to us because hospitality or responsibility for the other is a reflection of freedom and rights of our own, which must be respected in all liberal democracies. Notwithstanding that onshore asylum seekers must be dealt with first because deporting them would have incomparable moral consequences, other refugees offshore need to be protected if they face serious dangers or risks.

As Derrida and Levinas claim, hospitality is *the* ethical ground where our values and principles are tested. Refugee resettlement occupies part of that space where host states must decide which strings to pull: humanitarian or utilitarian? It is concluded that the act of choosing refugee candidates is inevitable and therefore justifiable; the sheer number of them to be resettled and the limited number of places available at a time always leaves room for selection and establishing priorities.

In the context of the EU, which vulnerable refugees to take should depend on each Member State's capabilities as well as contemporary needs, and this system should allow for a fair selection of refugees on aggregate, while exactly how many refugees should be resettled remains uncertain. Further moral inquiry into the matter of quantity would be valuable in the future so as to complement the existing policy-orientated analysis.

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95 Gibney 2004, p.195.

If the scale of resettlement intake remains an open question, the justification for the refugee selection becomes all the more important from a phenomenologist perspective. Hospitality, as Derrida and Levinas underline, is ethicity itself, and resettlement is no exception. The EU should continue to manifest its humanitarian values rooted in liberal democracy without conceding to the allure of utilitarianism that emerges with the freedom of selection. Integration prospects of refugees are important but should be a bonus rather than a prerequisite for gaining access to resettlement.

Focusing on the unique conditionality of resettlement, this article has sought a moral space in which to highlight European values. The result is a conclusion that is in favour of the most vulnerable refugees the great majority of whom remains outside Europe. From a moral perspective, resettlement is a European ideal to the extent that Europe is obliged to respond to humanitarian needs and obligations called upon by its own moral foundations.

While hoping that Europe is somewhat advancing towards the ideal, the author is reminded that pure ethics can never be fully translated into policy. Even if moral philosophers became the only architects of policy, the outcomes would most probably precipitate unexpected and undesirable consequences. In negotiating towards the realisation of the ideal, we always 'get our hands dirty.'[96] As such, Europe can. only project its *morality* as an example to the rest of the world.

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96 Derrida 2002, p.13.

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WORKING PAPERS

TOURISM AND DISASTER: PRACTICING A PUBLIC ANTHROPOLOGY OF THE EAST JAPAN DISASTER

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ABSTRACT

The East Japan Disaster that occurred on March 11, 2011, had a serious impact on tourism in Japan. After the disaster the number of international visitors to Japan dropped radically. The main reason was that the image of Japan's safety was shaken, especially due to the Fukushima nuclear plants' meltdown. The disaster thus uncovered the vulnerability of the tourism industry. Focusing on tourism after the disaster, this paper first examines the implications of "volunteer tourism" which intends to support the people in devastated areas, while paying special attention to the concept of *kizuna* or "social ties." The paper then considers a positive role of tourism in the reconstruction process after the disaster to practice a public anthropology in the contemporary "risk society."

I. INTRODUCTION

The East Japan Disaster that occurred on March 11, 2011, had a serious impact on tourism in Japan. After the disaster the number of international visitors to Japan decreased radically. The number of inbound tourists to Japan decreased from 8.61 million in 2010 to 6.22 million in 2011, which is a decrease of over 2 million (37.2 %) compared to the previous year. The main reason for this decline was that the image of Japan's safety was shaken especially due to the Fukushima nuclear plants' meltdown. As of March 2012, one year later, the number of international visitors to Japan overall recovered almost to the same level as before the disaster but it certainly was not restored yet in the devastated areas. The disaster thus uncovered the vulnerability of the tourism industry.

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Focusing on tourism after the disaster, this paper examines the implications of "volunteer tourism" to support the people in devastated areas.[2] In my examination, I will pay special attention to the concept of *kizuna* or "social ties." The paper is also concerned with a newly emerging practice of tourism, which emphasizes "learning" (*manabi*) from the painful experiences of the local communities in the devastated areas. The paper then considers a positive role of tourism in the reconstruction process after the disaster to practice a public anthropology in what Urlich Beck (1992) has called "risk society."

II. TOURISM AFTER THE DISASTER

The number of visitors to Japan decreased by approximately half in March 2011 just after the disaster. So in April 2011, Japan Tourism Agency launched the "*Gambaro Nippon*" (Cheering for Japan) campaign to promote tourism – domestic as well as international – in devastated areas as a way to support reconstruction. In April, Mr. Hiroshi Mizobata, the commissioner of the Japan Tourism Agency at that time, visited Seoul and Beijing, the capital cities of two major countries, South Korea and China, that contribute to Japan's inbound tourism, to emphasize Japan's safety. In June, the National Reconstruction Committee proposed a plan called "A Road to Reconstruction from the Disaster." In it, they discussed tourism as follows: "Tourism, together with fishery and agriculture, is an industry of great importance with great economic effects to support reconstruction; making use of natural as well as cultural resources of East Japan, we could create a new and unique form of tourism in the region." The proposal then suggests that it is important as well to cherish kizuna or social ties created between devastated areas and the rest of the world through experiences of the disaster.[3]

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2   This paper is a revised version of the paper presented at the panel of "Tourism and Anthropological Theory and Practice," organized by Noel Salazar, in the 17th World Congress of the IUAES (International Union of Anthropological and Ethnoliogical Sciences) held at Manchester, UK, on 5 - 10 August, 2013. I thank Professor Yasunobu Sato, the University of Tokyo, who gave me a chance to attend the meeting with the financial support from the CDR. A similar paper on the tourism after the East Japan Disaster was also presented at the the 13th Academy Conference held on 2 - 7 June 2013, in Olhao, Algarve, Portugal, with the JSPS Grant-in-Aid for Scientific Research for the project, "Ethnographic Studies of Creative Reconstruction after Natural Disasters," organized by Hiromu Shimizu, Kyoto University.

3   Higashinihon Daishinsai Fukko Koso Kaigi Fukko eno Teigen.
    http://www.cas.go.jp/jp/fukkou/pdf/kousou12/teigen.pdf. Accessed December 13, 2013.

III. Volunteer Tourism

This proposal from the National Reconstruction Committee did not describe specifically what was new and unique about the tourism of the region. In my view what is new is what one would call "volunteer tourism." Although volunteer activities are not new, volunteer tourism, which sets volunteer activities into vacation/holidays, is a newly developing form of "niche tourism" in the US, Europe and Australia since the latter half of the 1990s. According to Callanan and Thomas (2005), this is due to the fact that volunteer activities receive increased recognition by universities and companies especially for the "gap-year generation" who is likely to participate in this kind of tourism.[4]

In Japan, volunteers played a significant role in the reconstruction process particularly after the Hanshin-Awaji Earthquake that hit Kobe in 1995. At that time, a great number of volunteer activists – 1.3 million – came to Kobe to assist people affected by the earthquake. For the East Japan Disaster, by March 2013 1.2 million volunteers visited the devastated areas to support the people affected by the disaster. The word "volunteer tour" and "volunteer bus" emerged in this process, and as of August 2011, some tourist companies sold tourist commodities or package tours such as "Disaster Volunteer at Rikuzentakada, Iwate Prefecture, and *Sansa* Folk Dance" (Meitetsu Kanko), "Fireworks and Volunteer Tour" (Kinkinihon Tourist), "Five day Minami-Sanriku Reconstruction Support Tour: Let's Go to Tohoku Now" (H.I.S.).

The combination of "volunteerism" and "tourism" may seem strange if volunteering is conceived of as a serious activity and tourism as an activity for fun. However, visiting the devastated areas will help contribute not only ethically but also economically to the reconstruction of the local communities. This was also the message from Phuket, Thailand, which suffered from 2004 Indian Ocean Tsunami (Ichinosawa 2010, Karatani 2010). It is said that in New Orleans after Hurricane Katrina in 2005, volunteer tourism is now an established practice. Many of the visitors are repeaters who combine volunteer activities with tourism.

Club Tourism, a travel company, organized "reconstruction volunteer tours to Miyagi" in cooperation with RQ Civil Disaster Support Center, an NPO (Non-Profit Organization) established just after the disaster to support the devastated area. This is a three-day tour to help clear rubble in Miyagi Prefecture, while staying at the Naruko Onsen, a local hot spring site. There were 600 people who joined in this program from June to October 2011.[5] From September to November, a similar program, "Parents-and-children Volunteer Tour to Tohoku," was organized by Tom Sawyer Club, a tour program by Nihon Ryoko (Japan Travel), specializing in children's outdoor tourism.

Furthermore, after the disaster a new tour company, Tabimusubi, was established in Sendai for the purpose of promoting *manabi tab*i or "study tourism" to help local communities in

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4   "Gap-year" refers to a year taken between high school and college. During this term, students engage in various activities that include volunteer work, travel, and internships for the purpose of improving themselves before going to college.

5   Interview with Isamu Mikami of Club Tourism, April 26, 2012.

the reconstruction process, based on the fusion of "learning" (*manabi*) with "travel" (*tabi*).[6] There are also attempts to build ecotourism sites at devastated areas in order to teach children about the local knowledge about regional ecology.[7] These were organized by local NPOs. In this way, NPOs played an important role in the development of volunteer/study tourism.[8] Therefore, we could call them "NPO tourism."

Human Security Forum (HSF), an NPO in which I have been involved, was established in April 2011, and has supported the devastated areas mainly in Miyagi prefecture.[9] HSF organized a volunteer/study tour called *manabi tabi* in August 2012. It was a three-day tour, which involved volunteering to assist in the summer festival held by tsunami refugees from Minami-Sanriku Town residing in temporary housing in Tome City. The trip also involved visiting disaster sites in Minami-Sanriku Town, guided by tsunami refugees. About twenty students and teachers from Tokyo and Osaka areas joined the tour program. HSF also organized a smaller volunteer trip to Fukushima in July 2012. Similar *manabi tabi* tours to Miyagi and Fukushima were organized in 2013 as well.

IV. In pursuit of Kizuna

In tourism people seek fun during a period of leisure. Volunteer tourists do their volunteer activities in their leisure time. It may give them a sense of ethical achievement. In the East Japan Disaster contexts they intend to help reconstruct a community destroyed by the disaster. In so doing, tourism connects devastated areas with the rest of the world to rebuild a new community. It also contributes to creating *kizuna* (social ties). Actually *kizuna* was the word that the East Japan Disaster has taught us with a heavy price. JTB (Japan Tourist Bureau), the biggest travel agent in Japan, issues a statement that tourists who participate in volunteer activities or join in tours that include donations have increased; these tourists also reevaluate social ties such as family and friendship. JTB also predicts the spread of new forms of social tourism based on bilateral communication.[10] JTB thus sees people as traveling increasingly in pursuit of social ties.

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6   Tabimusubi. http://www.tabimusubi.co.jp/ Accessed December 13, 2013.

7   Utatsu Tengu no Yama Gakko: http://utatsu.blogspot.jp/ Accessed December 13, 2013.

8   In June 2013, Nihonryoko (Japan Travel), one of the biggest tourist agents in Japan, sold their tourism commodity called *Miyagi manabi no tabi* ("learning tours to Miyagi"). This is an attempt from the tourist industry to join this newly emerging niche tourism.

9   Human Security Forum. http://www.hsf.jp/ Accessed October 15, 2013.

10 JTB Public Relations Office, News Release No.99, 2011.

Photo 1: In pursuit of *Kizuna* or "Social Ties"

In this context, it may be noteworthy that Club Tourism organized a tour to support To-hoku called "*Kizuna-de-tsunagu Sanriku-ro*" (Sanriku Coastal Road linked by social ties) in May 2012. This was a three-day tour to the coastal areas in Kesennuma and Miyako Cities devastated by tsunami. Interestingly, 1000 yen (about 10 USD) from the travel fare was do-nated to Tanobatake Village to reconstruct the Torikoshi Station of Sanriku Railway, which had been destroyed by tsunami. Emphasizing *kizuna*, the tour intended to help with the recovery from the disaster through tourism.

The *kizuna* that was formed after the disaster extended beyond Japan. After the disaster, Japan received a huge amount of monetary donations from overseas to the devastated areas. To develop *kizuna*, some overseas donors invite the youth from the devastated areas. For example, Tainan City of Taiwan began an invitation program in which the youth of the devas-tated areas in Sendai City visit the Tainan City to report on the current status of reconstruction in a social exchange program between peoples of the two friendship cities. The similar pro-ject called "the Singapore-Tohoku ambassador friendship program" is also run between Sin-gapore and devastated areas. After the tour they continue to interact through media such as Facebook and Skype (Seki and Ichijo 2013).

One of the fundamental research frameworks within the anthropology of tourism is the relationship between "hosts and guests" (Smith ed. 1977[1989]). However, in commercial-ized tourism there is actually very little contact between them. Hosts and guests rarely meet. On the other hand, volunteer tourism, organized by NPOs, develops relationships between hosts and guests in order to form a new community in the touristic contact zone by creating *kizuna*. In this sense, volunteer tourism is not only ethical, but it is also a form of social tour-ism. Tourism as a social activity reminds us of the event from which modern tourism origi-nated: In 1841, Thomas Cook, the father of modern tourism, organized the first chartered train tour from Lester to Loughborough in England to participate in a meeting of the temper-ance league. Tourism then was intended to serve social activities.

However, "supporting" and "receiving aid" are not necessarily simple practices. Charles MacJilton (2013) reported on "people who refuse aid" based on his experiences with food donations through his NPO, Second Harvest Japan, right after the disaster. He often found his offer of food was refused by those who said "we have enough," although in reality they did

not have enough. According to him, this may be explained by a feature of Japanese culture in which people are reluctant to accept aid free of charge. They feel embarrassed if aid is asymmetrical. Similarly, David Slater (2013) has examined cases in which aid was refused and analyzed that people who receive aid feel afraid if unequal relationships are formed through receiving aid which could wound their pride. That is why they refuse to receive aid.

Within the context of tourism, this may be a question of the relationship between hosts and guests. If one thinks that tourist guests "gaze" at hosts, the power relationship may be regarded as asymmetrical and unequal. Tourists who give a gaze may be superior to the gazed hosts. However, if we define hosts as those who "show" something to tourists, the power relationship could be reversed: Hosts may be superior to guests. In volunteer tourism toward reconstruction, host/guest relations should be balanced on the basis of equality. In this sense, "collaboration" rather than unilateral "aid" may be a better word to adopt.

V. DEBATES ON DISASTER REMAINS: TO KEEP THE MEMORY OF DISASTER OR NOT?

Kanko, the Japanese words for tourism, originally means "seeing light." Tourism, as a way to connect the world, not only focuses on "light" side of things, but also on "shadows" or the dark side of the world. One could then discuss tourism after the East Japan Disaster as an example of "dark tourism."

In this context, the debates on the remains of disaster may be interesting. According to the *okami* (owner's wife and manager) of Hotel Daikanso in Matsushima, it is her hotel's policy to welcome guests as if nothing has happened, wiping out the remains and memories of the East Japan Disaster.[11] In contrast, the okami of Minami-Sanriku Hotel Kanyo wanted to keep the memory of the disaster alive, and they started the "*kataribe* bus" (disaster narrating bus) program in January 2012 as an optional tour for the hotel's customers. This is run by hotel employees who are also victims of the disaster.[12] They show tourists around the devastated spots within Minamin-Sanriku Town, including *Bosai-chosha* (Town Building for Disaster Prevention) where ironically over twenty township employees died in the tsunami.[13]

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11 Interview with Yuko Isoda of Daikanso, March 14, 2012.

12 Interview with Noriko Abe of Minami-Sanriku Hotel Kanyo, June 1, 2012.

13 After long debates, in September 2013 it was decided that the building would be demolished. That is also the case with the Kesennuma ship landed by tsunami.

Photo 2: Minami-Sanriku *Bosai-chosha*
(Town Building for Disaster Prevention) destroyed by the tsunami

Photo 3: Kataribe bus run by Minami-Sanriku Hotel Kanyo

To keep the memory of disaster or not? The attitude of people who were affected by the disaster is quite ambivalent: some want to keep the memory alive, while others do not. Those who lost family members in the tsumami do not want to remember the disaster. However, there is also a socio-cultural movement to remember the disaster. In this connection, it is noteworthy that the Minami-Sanriku Town Tourism Board has developed a *manabi no progu-ram* or "study tour program" in which visitors learn about the disaster through local volunteer *kataribe* (narrator) guides. It was started in May 2011, prior to *kataribe* bus by Minami-Sanriku Hotel Kanyo, at the advice of volunteers from Kobe who spoke of the importance of transmitting disaster experiences and memories. This tour program consists of visiting the devastated tsunami sites and listening to the narratives of volunteer guides who have experienced the disaster. By June 2012, about 6,000 people attended the program.

In Banda Aceh, Indonesia, "tsunami tourism" has also been practiced in order to memorialize 2004 Indian Ocean tsunami disaster. In Kobe, the Disaster Reduction and Human Renovation Institute was established in 2004 as a tsunami learning center for citizens and researchers in memory of Hanshin-Awaji Earthquake in 1995. In Tohoku, too, some disaster

memorials will be established in the future. One could say that these are forms of "negative heritage" or places of pain, such as the Auschwitz-Birkenau German Nazi Concentration and Extermination Camp in Poland and the Atomic Bomb Dome in Hiroshima (Logan and Reeves eds. 2009). Even Chernobyl has now become a popular site of "dark tourism."[14] Along this line, Fukushima in the future would become a symbol of recovery from the nuclear disaster caused by the East Japan earthquake and tsunami.

VI. TOURISM AND RISK SOCIETY: REFLEXIVE TOURISM

According to Urlich Beck (1992), a German sociologist, contemporary society is a "risk society." Risk is produced by the development of modern society with advanced science and technology. One of the most serious risks is exemplified by the nuclear plant accident that occurred in Chernobyl in 1986, which actually urged Beck to publish his book on risk society. The nuclear plants produce electricity, the indispensable energy to run modern society, but once the accident happens, it has far-reaching influences on the environment and human lives. This was the case with the accidents of the Fukushima nuclear plants caused by the East Japan Disaster.

The other side of risk society is "reflexive modernization." Beck states that "reflexive modernization" refers to the creative (self-) destruction of an entire epoch, that of industrial society. He writes: "This new stage, in which progress can turn into self-destruction, in which one kind of modernization undercuts and changes another, is what I call the stage of reflexive modernization." (Beck et al, 2005:2) Reflexive modernization, then, is taken as a process by which one modernity is replaced with another, a new modernity. Risk society is, therefore, taken as a path to another modernity that corresponds to the stage of reflexive modernization.

The East Japan Disaster has shaken Japan's sense of safety and revealed that contemporary Japanese society *is* a risk society. Although earthquake and tsunami are considered "natural disasters," disaster becomes disaster under certain historical, social and cultural conditions. In this sense, the East Japan Disaster, particularly the Fukushima nuclear plant accident, is not a natural disaster but a human disaster. So one can see disaster in risk society within the framework of reflexive modernization. Furthermore, if risk is a constant in reflexive modernization, risk management should become another constant towards a new modernity.

In this general frame of risk society, tourism also must contend with the risk which modern society has produced. In my earlier works, examining the case of Bali, I have proposed the concept of "reflexive tourism" which seeks an alternative modernity in the field of tourism (Yamashita 2010). Ecotourism and heritage tourism, for example, may be regarded as typical forms of reflexive tourism, because they attempt to manage contemporary environmental destruction and cultural disruption caused by industrial modernity in the context of tourism. I would like to add volunteer tourism as another example of reflexive tourism. In this reflexive vein, volunteer tourism as a form of socially responsible tourism contributes to helping re-

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14 For example, there is a website, "A day trip to Chernobyl" offered by Lonely Planet. http://www.lonelyplanet.com/ukraine/travel-tips-and-articles/76503. Accessed September 6, 2013.

construct society and pursues new social ties between devastated areas and the rest of the world.

VII. Volunteer Tourism and Public Anthropology

Finally, I would like to put volunteer tourism within the framework of public anthropology. According to Robert Borofsky, an ardent advocate of public anthropology in the United States, "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."[15] In other words, anthropology and anthropologists should go beyond the narrow academic discipline to engage in a broader public sphere, contributing to the analyses of public issues and offering solutions. The disaster that we have faced in Japan is exactly the kind of challenge we must address as public anthropologists.

As I have discussed in my earlier papers (Yamashita 2011, 2012), there is one thing we should pay attention to in this context. It is the idea of *atarashii kokyo* or "new public sphere." The concept originated from the events of the Hanshin Awaji Earthquake, which hit Kobe and its surrounding areas in 1995. At that time, 1.3 million of volunteer activists came to Kobe to assist the people affected by the earthquake. It marked the advent of the age of new civil society activities in Japan, which is termed the "new public sphere." It is "new" because it is distinguished from the "old" public sphere that was dominated by the state.[16] As for the East Japan Disaster, 1.2 million volunteers from all over the nation came to support the affected people by March 2013.

Actually, as mentioned earlier, I myself have also been engaged in supporting the affected people since April 2011 as a member of an NPO, Human Security Forum. Particularly, in August 2012 and 2013, I designed *manabi tabi* (volunteer/study tour) project to support a summer festival at a temporary housing settlement of tsunami refugees in Tome City. Through this volunteer tourism project I intended to practice my kind of public anthropology in order to contribute to the post-disaster reconstruction.

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15 Borofsky, Rob. 2011. Defining Public Anthropology A Personal Perspective (2007). Center for a Public Anthropology. http://www.publicanthropology.org/public-anthropology/ Accessed October 16, 2013.

16 Akihiro Ogata (2004: 93) argues that volunteerism, institutionalized through the 1998 NPO Act, which legalized the "new public sphere", serves the state, especially the neoliberal state that promulgates the market principles and a small government. This may be true but we need more time to say something conclusive about the development of the "new public sphere" in Japan.

VIII. CONCLUSION

Examining tourism after the East Japan Disaster, this paper has discussed volunteer tourism with special attention to the Japanese concept of kizuna or social ties. In so doing, the paper has attempted to consider a positive role of tourism for the restoration from the disaster. Tourism can be a way to bridge the devastated areas to the rest of the world and to form a new community in a creative reconstruction process. Furthermore, putting volunteer tourism into the framework of public anthropology, we could collaborate for the recovery from the disaster, while involving people within the touristic contact zone: groups of tourists, local host communities, government sectors, tourist agents, activists, and anthropologists. In so doing, we could make anthropology work to contribute to the analysis and solution of issues in a public sphere.

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STATELESSNESS AND UNHCR's WORK-FROM A FORCED DISPLACEMENT PERSPECTIVE

Mai KANEKO[*]

I. INTRODUCTION

"I just had one simple hope: that when I died I could get a death certificate, to prove that I ever existed."

This is a sentiment expressed by a former Cambodian refugee who used to be stateless. Ever since fleeing to Vietnam from Cambodia during 1970s-until they finally acquired a Vietnamese citizenship, they had been living in a legal limbo of statelessness. He had not been able to acquire any sort of identity document, go to a public school, work legally, own a land, officially marry his wife, or register birth of his children. The only wish he had then was to receive a proof-that he had ever lived a life on this earth[1].

There is a variety of reasons one may become stateless. While statelessness can arise in relation to displacement, it is also caused by many other reasons. While fully being aware of this diversity of the causes, in this article I would like to examine the issue of statelessness with a perspective of "migration" and "displacement". I will first review the conceptual issues, then look into the causes of statelessness. Following an introduction to UNHCR's efforts to address statelessness, I will examine the nexus between stateless persons and forced migrants[2]. Finally I will share some thoughts about the way forward on this issue in Japan.

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1 UNHCR, "Statelessness: Former refugees win citizenship, and now dream of home ownership", News Stories (15 September 2011), UNHCR, "Stateless former Cambodians caught in Kafkaesque web in Viet Nam", News Stories (30 October 2006). Around 2,300 former Cambodian refugees acquired Vietnamese citizenship by naturalization in 2010.

2 In this particular article, by forcibly displaced persons, I am referring to refugees and internally displaced persons (IDPs) who are UNHCR's persons of concern.

II. WHO IS A STATELESS PERSON?

"Everyone has the right to a nationality" says the article 15 of the Universal Declaration of Human Rights (UDHR). The right to a nationality is a human right, as UDHR and many other international human rights instruments[3] provide for. Regrettably, however, there are so many people around the world who are not ensured that right, at this very moment when you are reading my article. UNHCR estimates the number of stateless persons around the world to be about 12 million, but the exact number is unknown[4]. Article 1(1) of the *1954 Convention relating to the Status of Stateless Persons* (1954 Convention) defines a stateless person as "a person who is not considered as a national by any State under the operation of its law". The 2012 UNHCR guidelines on the interpretation of the statelessness definition indicate that while one's nationality status should be respected (if s/he actually possess a nationality), the definition should be interpreted/applied in a full and inclusive manner bearing in mind the object and purpose of the 1954 Convention[5]. For example, the word "law" above is to be interpreted broadly to cover not just legislation passed by parliaments, but also ministerial decrees, regulations, orders, judicial case law and, in appropriate cases, customary practice[6]. Further, they also suggest that "where the written law is substantially modified when it comes to its implementation in practice[7]", the assessment should be made based on that modified content. Those who formally possess a nationality but are in a similar situation as stateless persons are sometimes referred to as *de facto* stateless. Traditionally, this has been considered to refer to "persons who are outside the country of their nationality who are unable or, for

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3   See for example, article 24 of the International Covenant on Civil and Political Rights (ICCPR), article 7 of the Convention on the Rights of the Child(CRC), article 18 of the UN Convention on the Rights of Persons with Disabilities (CRPD) article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), article 9 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), article 20 of the American Convention on Human Rights (ACHR), and article 4 of the European Convention on Nationality (CON).

4   *UNHCR Global Trends 2011* (UNHCR, 2011), p. 29, [http://www.unhcr.org/4fd6f87f9.html]

5   UNHCR, "Guidelines on Statelessness No. 1: The definition of "Stateless Person" in Article 1(1) of the 1954 Convention relating to the Status of Stateless Persons" (20 February 2012), HCR/GS/12/01, para. 6 read with para. 15 and on. [http://www.unhcr.org/refworld/docid/4f4371b82.html]

6   *Ibid*., para. 16.

7   *Ibid*., para. 17. I wish to note here that, reflecting the guidance in the Statelessness Guidelines 1, UNHCR Tokyo changed the translation of the term "under the operation of its law" from "*houritsu no jisshi ni oite*" to "*ho no unyo ni oite*" to make it more inclusive.

valid reasons, are unwilling to avail themselves of the protection of that country[8]".

Nationality is a "legal bond[9]" between a State and an individual and has previously been described as the "right to have rights[10]". Of course, everyone, regardless of whether there is possession of a nationality, should be able to enjoy human rights. However, in reality, stateless persons are not only unable to enjoy the rights that are limited only to nationals (such as diplomatic protection and right to vote/run for election), but in many cases, not guaranteed more basic civil and social rights. Being without a nationality, they often lack identity documents or travel documents, and are not in a position to legally depart from their country of origin or enter another country and stay there with a valid residency permit. This puts them at risk of indefinite detention for illegal entry or stay in the country where they move to.

III. CAUSES OF STATELESSNESS

How do people become stateless? Children normally acquire nationality at birth either of the State where they were born by the *jus soli* principle, or from either their father or mother by the *jus sanguinis* principle. However, for certain reasons, some people do not acquire a nationality at birth and others lose their nationality later in their lives, and are unable to recover it or acquire another nationality. The causes of statelessness include a wide range of "sovereign, political, legal, technical or administrative directives or oversights[11]". I will introduce some of the causes particularly relevant to the context of (forcible) migration with ex-

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8   UNHCR, "Expert Meeting - The Concept of Stateless Persons under International Law ("Prato Conclusions")" (2010), Section II.A, [http://www.unhcr.org/refworld/pdfid/4ca1ae002.pdf]. The Final Act of the Convention addresses the issue of de facto stateless persons with a non-binding recommendation stating that *de facto* stateless persons should as far as possible be treated as stateless to enable them to acquire an effective nationality.

9   *Nottebohm Case (Liechtenstein v. Guatemala) (second phase)*, Judgment of April 6th, 1955: I.C.J. Reports 1955, p. 4, [http://www.icj-cij.org/docket/files/18/2674.pdf]

10 *Trop v. Dulles*, 356 U.S.86 (1958), description as per the US Supreme Court Chief Justice Earl Warren.

11 See UNHCR, "The world's Stateless People: Questions & Answers" (September 2006). See also UNHCR, "Information and Accession Package: *The 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness*" (revised in January 1999), para. 10. These two materials list, in combination and in summary, the following non-exhaustive causes: transfer of territory, arbitrary deprivation of nationality, conflict of laws, administrative or procedural problems, renunciation of nationality without first acquiring another citizenship, automatic alteration of nationality by marriage or its dissolution, failure to register children at birth, birth to a stateless person, automatic loss of nationality by operation of law, and discrimination.   Here, I wish to note that, in some cases, several of these "causes" can interplay and contribute to statelessness as direct or indirect causes.

amples.

In terms of the causes that lead to statelessness at birth, conflict of laws is one of the common ones. For example, when a child is born in a country that grants nationality solely based on the *jus sanguinis* principle and to parents whose country adopts a strict *jus soli* principle, then the child would be stateless. Further, failure to register birth has been highlighted as a possible cause in recent years. For example, suppose that some illegal migrants, fearing detention/deportation or due to a lack of necessary documentation, do not register their children's birth neither with the consulate of their country of origin or the authorities of the country of stay. In most cases, nationality is acquired independently of birth registration. But if they end up not being able to produce any proof of where or to whom they were born, what will happen? They will not be able to establish that they meet the requirements (through parents and/or place of birth) set by the relevant law for acquisition of nationality. They and their descendants would thus be at risk of not being considered nationals by the State[12]. When it comes to causes for statelessness at a later stage in life, (arbitrary) deprivation of nationality is one of them. For example, more than 300,000 Feili Kurds of Iraq, under the Saddam Hussein's regime, were deprived of nationality as a result of the resolution no.666 of 1980 and were expelled from the country[13]. Renunciation of nationality without first acquiring another citizenship is also a major one. For example, before the nationality law was amended in Vietnam in 2008, there were reportedly thousands of Vietnamese women who, having married foreign men, renounced their Vietnamese nationality in order to acquire the husbands' nationality. They became stateless when they divorced before their naturalization process was completed[14].

IV. ADDRESSING STATELESSNESS

How have the international community and UNHCR addressed the statelessness issues? 1954 Convention and 1961 Convention on the Reduction of Statelessness are treaties of global coverage, which specifically focus on protection of stateless persons and prevention/

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12 Laura van Waas, Nationality Matters: Statelessness under International Law (Intersentia, 2008), pp. 153-156. See also UNHCR, "Birth Registration: A Topic Proposed for an Executive Committee Conclusion on International Protection", 9 February 2010, EC/61/SC/CRP.5, para.3. [http://www.unhcr.org/refworld/docid/4b97a3242.html]

13 UNHCR, *The situation of stateless persons in the Middle East and North Africa*, October 2010, p29 [http://www.refworld.org/docid/4cea28072.html], UNHCR/M. Verney, "The Road Home: The Faili Kurds" in *Refugees Magazine*, Issue 134 (2 March 2004)

14 Under the current Vietnamese nationality, one cannot renounce Vietnamese nationality without first acquiring a new nationality. Those women who have previously become stateless are able to apply for restoration of their nationality. UNHCR, *supra* note 12 and UNHCR, *Good Practices: Addressing Statelessness in South East Asia* (5 February 2011), p. 10, [http://www.unhcr.org/refworld/docid/4d6e0a792.html]

reduction of statelessness respectively. They are complemented by relevant regional or international human rights treaties. The UN General Assembly (GA) assigned a mandate to UNHCR to assist stateless persons under article 11 of the 1961 Convention by resolution 3274 (XXIV) of 1974 and 31/36 of 1976. UNHCR's mandate to address statelessness has since then been expanded through subsequent GA resolutions 49/169 of 1994 and 50/152 of 1995, and now covers not only State parties to the two Statelessness Conventions but also the entire world. The ExCom Conclusion No.106 adopted in 2006 (endorsed by the GA resolution 61/137 of 2006) classifies UNHCR's activities into four categories: i) identification, ii) prevention, iii) reduction of statelessness and iv) protection of stateless persons. UNHCR was requested to take a comprehensive approach in cooperation with governments, other UN organizations and the civil society. Among them, "prevention" fundamentally distinguishes UNHCR's statelessness mandate from the refugee mandate, because UNHCR has no specific mandate to prevent persecution which causes refugees to flee. Proactive responses are needed such as supporting the government in closing the gaps in laws/implementation of the laws that may cause statelessness, or promoting systematic birth registration. In terms of "reduction", UNHCR would typically assist the stateless persons so that they can acquire a nationality through naturalization or to obtain confirmation of their nationality by carrying out citizenship campaigns or by providing counselling. Further, when it comes to "protection", UNHCR would assist the States in ensuring that stateless persons can enjoy basic rights, such as by establishing and administering the procedures to determine who is stateless and who is not[15] by providing technical advice, and promote stateless persons' access to identity documents[16]. With efforts made by the governments and UNHCR, for example, in Nepal, 2.6 million persons who had never possessed any documents to prove their nationality were able to receive citizenship certificates in 2007 due to the revised nationality law[17]. In Bangladesh, the estimated number of 250,000 Urdu-speaking Biharis were recognized as Bangladeshi citizens following the landmark decision by the 2008 Supreme Court[18].

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15 It should be noted however that for many of those who are not in a migratory context and remain in their "own country" with which they have a strong tie, it would be the most appropriate and realistic to acquire or confirm the nationality of that country rather than being recognized as "stateless". UNHCR, "Guidelines on Statelessness No. 2: Procedures for Determining whether an Individual is a Stateless Person" (5 April 2012), HCR/GS/12/02, para. 6, [http://www.unhcr.org/refworld/docid/4f7dafb52.html] UNHCR, Refugees Number 147 Issue 3: The Excluded (2007).

16 See more details of UNHCR's role in addressing statelessness in UNHCR, "UNHCR Action to Address Statelessness: A Strategy Note" (March 2010), p. 4, [http://www.unhcr.org/refworld/docid/4b9e0c3d2.html]

17 UNHCR, Refugees Number 147 Issue 3: The Excluded (2007).

18 UNHCR, "Note on the Nationality Status of the Urdu-speaking Community in Bangladesh" (17 December 2009), para. 3, [http://www.unhcr.org/refworld/docid/4b2b90c32.html]

Further, UNHCR strengthened its endeavors on addressing statelessness towards the 50th anniversary of the 1961 Convention in 2011. As a result, the number of State Parties to 1954 and 1961 Conventions, which used to be small compared to other treaties such as the *1951 Convention relating to the Status of Refugees* (1951 Convention), went up significantly[19]. During the Ministerial Meeting in December 2011, 61 countries pledged to strengthen its responses to statelessness such as by acceding to the Conventions, establishing statelessness determination procedures and revising laws. Further, UNHCR organized a series of Expert Meetings on statelessness during 2010-2011 on interpretation and implementation of the two Statelessness Conventions, and their discussions were made into three "Summary Conclusions". Building on these "Conclusions", UNHCR issued in 2012 four Guidelines on Statelessness, some of which have previously been mentioned[20]. The international legal framework in addressing statelessness has thus been strengthened in recent years.

V. Nexus between Statelessness and Forced Migration

How, then, do stateless persons and forcibly displaced people overlap? As mentioned previously, one can be deprived of his/her citizenship as a form of persecution in his/her country of origin. Some may face persecution for the reason related to his statelessness and may be compelled to flee within or outside their country of origin. Some may be stripped of or lose his/her nationality for the reason of seeking asylum in another country or for permanently settling there. While these are some of the cases where statelessness and forced displacement overlap, in many cases they may not. Many refugees have not lost their nationality even after they fled their country of origin. Many stateless people do not leave their country of habitual residence and do not have well-founded fear of persecution[21]. Further, we should not forget the fact that due to the lack of nationality, some stateless persons do not have freedom of movement. Not having an identity or a travel document, some are unable to travel to another country. Some may even face restrictions to move from one region to another within the

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19 The good news is that from 2011 to today (as of March 2013), the State Parties to the 1954 Convention has been increased from 65 to 77, and those of the 1961 Convention from 37 to 51; these numbers are expected to further increase.

20 These are: UNHCR, "Guidelines on Statelessness No. 1: The definition of 'Stateless Person' in Article 1(1) of the *1954 Convention relating to the Status of Stateless Persons*" (20 February 2012), HCR/GS/12/01; No. 2: Procedures for Determining whether an Individual is a Stateless Person (5 April 2012), HCR/GS/12/02; No. 3: The Status of Stateless Persons at the National Level (17 July 2012), HCR/GS/12/03; No. 4: Ensuring Every Child's Right to Acquire a Nationality through Articles 1-4 of the *1961 Convention on the Reduction of Statelessness* (21 December 2012), HCR/GS/12/04.

21 For details on the nexus between stateless persons and UNHCR's other persons of concern, see UNHCR, *Self-Study Module on Statelessness* (1 October 2012), pp. 14-16,
[www.unhcr.org/refworld/docid/50b899602.html]

country. They would be, so to say, "unable to qualify" as internally displaced persons or refugees.

That being said, though, how should States or UNHCR treat those who are refugees and stateless at the same time? Basically, it is UNHCR's view that refugees should be protected by the 1951 Convention framework. While the 1951 Convention covers refugees who are at the same time stateless (article 1A(2)), the 1954 Convention is designed only to protect stateless persons who are not refugees. The rights under the 1954 Convention are generally very similar to the ones granted under the 1951 Convention. However, the 1951 Convention has additional safeguards, reflecting the specific circumstances of refugees, with several unique provisions (such as article 31, non-penalization of illegal entry or stay, or article 33, non-refoulement) that are not in the 1954 Convention. Thus, if one is a refugee and stateless, then s/he should be benefiting from the 1951 Convention. However, we should be aware that in some cases, one may still be stateless while her/his refugee status ceases[22]. Thus, the previously mentioned UNHCR guidelines on statelessness determination procedures advise that a refugee claim and statelessness claim should be assessed separately and two distinct status should be recognized[23]. I would also like to add another reason why recognition of statelessness of refugees is useful-which is that 1961 Convention does apply to refugee children. For example, where a child of a refugee born in a State party would otherwise be stateless, s/he can benefit from the safeguard of the 1961 Convention and be granted the nationality of that State[24]. Recognising the statelessness of parents may thus facilitate the subsequent grant of a nationality to their children.

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22 For example, refugees who fled from Tajikistan in the early 1990s were rendered stateless due to the nationality laws of their country of origin or other successor States to the Soviet Union. While their refugee status ceased subsequently, they remained stateless and thus UNHCR's persons of concern. Many of them were able to acquire the nationality of the country where they found asylum. See for example UNHCR, "Statelessness in Central Asia" (May 2011), [http://www.unhcr.org/refworld/docid/4ed32c9a2.html], and UNHCR, supra note 20, p.16.

23 UNHCR, "Guidelines on Statelessness No. 2: Procedures for Determining whether an Individual is a Stateless Person" (5 April 2012), HCR/GS/12/02, para. 26, 30, [http://www.unhcr.org/refworld/docid/4f7dafb52.html]

24 No. 4: Ensuring Every Child's Right to Acquire a Nationality through Articles 1-4 of the *1961 Convention on the Reduction of Statelessness* (21 December 2012), HCR/GS/12/04.para. 27.

VI. Final Remarks

Before closing, I wish to shed a little light on the statelessness issue in Japan. Japan has not acceded to the two Statelessness Conventions, and there is no specialized procedure to determine statelessness, and no statistics on how many stateless persons there are in Japan[25]. At the same time, the *Japanese Nationality Act* indeed has provisions aimed at preventing and reducing statelessness. Article 2(3) states that a child "shall be" a Japanese national "when both parents are unknown or have no nationality in a case where the child is born in Japan". Article 8(4) facilitates naturalization of stateless persons born and have lived in Japan for three consecutive years or more since birth. However, the provisions are not frequently triggered, partly and assumingly due to the fact that these provisions are not known among those who could benefit from them. UNHCR Japan has published its commissioned Study paper on statelessness in Japan in 2010[26], and has provided legal counselling/assistance through an implementing partner agreement with an NPO named Stateless Network since 2011. What has been found through these activities is that among persons who are stateless or whose nationality status is unclear, there are those who were born in Japan and those who were born in another country and have migrated to Japan. Several cases have been identified where they have fallen in between the gaps in law or its implementation. There is a certain number of persons who have refugee-related background[27]. It would be desirable for Japan to accede to the two Statelessness Conventions, as some of its Asian countries like Philippines recently did (1954 Convention, in 2012). Further, it may be useful to consider strengthening the mechanism to determine statelessness in Japan. This may help Japan, for example, to identify the beneficiaries of the abovementioned Nationality Act provisions for preventing/reducing statelessness, and protect and resolve cases such as those who are without legal status and may not have any country to return to.

Lastly, I wish to touch on Statelessness Studies. It appears that studies on statelessness, in the academic world, tend to be dealt with as one topic in the context of "refugee studies" or

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25 According to the Ministry of Justice's official statistics as of the end of 2011, 1,100 persons are registered as stateless. However, this is based on self-declaration, and no assessment of nationality status or statelessness is conducted. Thus, this number may include those who indeed have nationality. At the same time, some of those who are registered as having a certain nationality may actually be stateless.

26 For details on the situation relating to statelessness in Japan, see the study commissioned by UNHCR Japan to Professor Kohki Abe of Kanagawa University School of Law: UNHCR, *Overview of Statelessness: International and Japanese Context* (April 2010), available at: [http://www.unhcr.org/refworld/docid/4c344c252.html]

27 According to the study by Professor Abe (*supra* note 24), among the Indochinese refugees admitted by the Japanese government, some are not recognized as nationals of their own country. Further, many of the people called Rohingyas who are Muslims from Rakhine State of Myanmar, some of whom live in Japan as refugees or asylum-seekers, are not considered nationals under the *Burma Citizenship Law* (1982). See *supra* note 24, pp. 52-53.

"forced migration studies". However, as we have seen previously, the issue of statelessness may not be confined solely within the framework of forced displacement. Based on this, some academic institutions, like Tilburg University Law School in Netherlands, have recently established programmes with focus on statelessness. While I leave it to subsequent discussions as to whether a separate discipline should be established for statelessness to distinguish it from forced displacement studies, it is clear that a comprehensive and interdisciplinary approach is needed to study statelessness. It is our hope that the studies on statelessness will develop further in Japan's academia.

ASIAN DIGEST ON HUMAN MOBILITY

Research Project

SOCIOLOGICAL RESEARCH ON ACCESS TO JAPANESE LANGUAGE EDUCATION IN JAPAN: A CASE OF MYANMAR COMMUNITY AND CIVIL SOCIETY

Kie HORIKOSHI*

CDR has been conducting research regarding the resettlement of refugees in Japan from various perspectives.[1] Building on this experience, and considering the noteworthy developments in education for the Myanmar community in Japan, CDR will engage in a research project focusing on education.

I. PURPOSE OF RESEARCH PROJECT

The purpose of research is to clarify the structure of the society with regard to access to Japanese language education in Japan. The research will be based on a case study of the Myanmar community in Japan[2] and civil society[3]. This research project examines the relations among the existing system (institution) of access to Japanese language education in the Japa-

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1 Kawakami et al. 2008. 'A Report on the Local Integration of Indo-Chinese Refugees and Displaced Person in Japan.' UNHCR Representation in Japan. Miura. Junko and Masutomi. Shikiko. 2011. Third Country Resettlement Programme in Japan. *CDR Quarterly*, 2, pp.94-110. Miura. Junko. 2011. Forced Migration in Japan: March 11 Catastrophe. *CDR Quarterly*, 3, pp.70-92. Masutomi. Shikiko. 2012.The State of Statelessness Discussions in Japan. *CDR Quarterly*, 4, pp.95-107. Miura. Junko and Masutomi. Shikiko. 2012. Japan: Re-Determining The Purpose of Resettlement Programme. *CDR Quarterly*, 5, pp.47-73. Miura. Junko. 2012. Resettled Karen Refugees in Japan: Who are they?. *CDR Quarterly*, 6, pp.47-59.

2 It is the community of people originating from Myanmar and living in a certain area of Tokyo, who wish to study the Japanese language.Those without Myanmar citizenship (e.g. Burmese who have naturalized in Japan) are also included.

3 Here, the civil society refers to the individuals and organizations (mostly non-profit organizations) that are involved in the Japanese Language Education Project. This project is led by a non-profit organization called PEACE, and funded by the Japanese Agency for Cultural Affairs as well as the Nippon Foundation.

nese society, the needs within the Myanmar community for Japanese language education, and the civil society. By doing so, the research aims to provide a perspective on the social structure affecting the issue of access to Japanese language education in Japan.

II. METHODOLOGY

This research is an empirical study.The field of sociology has accorded great significance to empirical studies. However, the materials for empirical studies are rare in the present area of focus. In order to overcome this issue, it is necessary to conduct research in order to grasp the quantitative as well as qualitative needs for Japanese language education within the Myanmar community in Japan. The project has two important aspects. First, there will be research on the currently available system regarding access to Japanese language education, from legal and political perspectives. Secondly, there will be participatory observation in the Japanese Language Education Project, in order to study the reality of the relation between the actual needs of the Myanmar community and the civil society. Through research into the systems as well as participatory observation, the project will clarify the societal framework regarding access to Japanese language education.

III. RESEARCH DESIGN

CDR has established a good working relationship with Refugees Coordination Committee in Japan (RCCJ) and its advisor Dr. Satoshi Nagasaka. Building on this relationship, CDR will engage in participatory observation of the Japanese Language Education Project, which is being conducted mainly by a Japanese non-profit organization called PEACE, with the support of RCCJ. Under this project, Japanese language classes are held every Sunday for people from Myanmar. CDR staff will participate in the Sunday classes in order to gain insight into the needs for Japanese language education in the Myanmar community, as well as their relationship with the Japanese civil society.

IV. FEASIBILITY STUDY

CDR already has access to the Japanese classes described above. Already in class, a hearing has been conducted regarding what the participants wish to achieve through the Japanese language classes. The CDR staff member who is to engage in participatory observation has research experience among Myanmar refugees living in and around refugee camps in Thailand, with a focus on education within the process of refugee migration and protracted situations. The overall experience and research by CDR staff will assist the present research into the perceptions and motivations with regard to access to Japanese language education in Japan.

The importance of this research project is clear, as it will contribute to the improvement of the present system by clarifying the sociological framework of access to Japanese

language education. Furthermore, the research is closely related to the issue of life after having acquired Japanese language skills, which is relevant for all those who wish to learn the Japanese language.

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INTERVIEW

INTERVIEW OF JUDGE Allan MACKEY, JUDGE Martin TREADWELL, and JUDGE Katelijne DECLERCK

Interviewed by Satoshi YAMAMOTO and Miki ARIMA*

on 11 September 2012

PROFILE OF THE INTERVIEWEES

Judge Allan Mackey

Judge Allan Mackey is Project director and former President of the International Association of Refugee Law Judges (IARLJ), Senior Immigration Judge (UK), Chair of the Refugee Status Appeal Authority(NZ), and Deputy Chair of the Immigration and Protection Tribunal (IPTNZ). Born and educated in New Zealand, he pursued a career in law in NZ, Australia, and senior management with Mazda and Mitsubishi Motors (15 years).

In 1991, he was appointed as the first Residence Appeal (RAA) and Removal Review (RRA) Authority in NZ and to the NZ Refugee Status Appeals Authority (RSAA). From 1994-2001, he was the Chairperson of the RAA and RSAA. After return to NZ in 2007, he was reappointed Chair of the RSAA, then served in the Immigration and Protection Tribunal (IPT) from 2010 to 2012.

Judge Mackey has also served in the UK Immigration Appeal Tribunals through appointments from 1998 to 2008. From 2001, he was a full time Vice President /Senior Immigration Judge at the Immigration and Asylum Tribunal (IAT/AIT) and "Upper Chamber" in London.

Judge Mackey has been involved with IARLJ from 1994 and held various posts, such as founding Councillor 1997, Vice President 2000-2002, President 2002-2005, European Chapter Chair, 2001-2008.

He has teaching experience in refugee, human rights and immigration law and management of the Judiciary. He has conducted many short training courses in some 28 countries, in conjunction with the IARLJ, UNHCR, EU, and various governments, NGOs and academic institutions. He was a visiting Professor at University of Tokyo, Human Securities Program (HSP), and completed a comparative study on Refugee determination in UK, EU, NZ and Japan (2006). He continues to be involved with the University of Tokyo's HSP summer schools.

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* CDR staff.

Judge Martin Treadwell

Judge Martin Treadwell is a Deputy Chair of the Immigration and Protection Tribunal. Judge Treadwell graduated as a lawyer in 1986. After a number of years in practice as a barrister and solicitor, particularly specialising in refugee law, he was appointed to the New Zealand Refugee Status Appeals Authority in 1995. He was also appointed as a member of the Residence Review Board and the Removal Review Authority in 1998.

In 2001, he was seconded to a six-month UNHCR project to establish a sound refugee determination system in South Africa, to which the IARLJ made a significant contribution in terms of providing the expertise of its members. In 2008, Judge Treadwell was appointed Deputy Presiding Member of the Deportation Review Tribunal, and continued to hold all four refugee and immigration warrants until the creation of the Immigration and Protection Tribunal in November 2010.

On its foundation, Judge Treadwell was appointed a Deputy Chair of the Tribunal and is today in charge of its refugee/protection and deportation jurisdictions.

Judge Katelijne Declerck

Judge Katelijne Declerck is Belgian by birth and started her professional career in the refugee camps of Thailand in 1979, worked briefly for UNICEF but returned to UNHCR from 1983 till 1994. She left her international career when appointed as a judge in Belgium at the first established Refugee Court 'the Permanent Appeals Commission for Refugees".

Since May 2007 she is a member of the Council for Alien Law Litigations, which is a specialized Administrative Court dealing in appeal with litigations on international protection and matters concerning the access to the territory, residence, establishment and removal of foreigners.

She was Vice President of the IARLJ from 2002 to 2006, and since then a council member and the Vice President of the European Chapter.

Judge Declerck has a vast experience in asylum law, is an expert for the European Union as a lecturer for the TAIEX and a member of the expert group for the European Asylum Curriculum at the EASO. She has been teaching in many countries around the world either in short training workshop as well as more advanced teaching in Europe, Central America, Central Asia and Southeast Asia.

Q1. Please tell us how you have come to specialize in the field of asylum and immigration.

Mackey:

Partly by accident, partly by design. After taking part in a government review of immigration policies in 1988, I was appointed to head the first residence appeal and removal review authorities in New Zealand in 1991. Soon after, I was asked to also join the recently formed Refugee Status Appeals Authority (RSAA). I found the work interesting and challenging from the start. As I had multiple nationality, I was later able to be appointed to be a judge in UK. Due to the huge volume of cases I was soon asked to sit there full time from 2001. It was a time when there was a huge expansion of the UK and EU refugee and human rights jurisprudence. I became heavily involved in the early stages of International Association of Refugee Law Judges (IARLJ) in the mid 1990s.

Treadwell:

I was an ordinary court lawyer. One day I found a client who was a refugee, an asylum seeker. After that experience, I joined a firm specializing in refugee law in early 1990s. As a lawyer I used to appear often before Judge Mackey. Then I was accepted in the Refugee Status Appeals Authority, and I have been here ever since. In addition, now I am also involved with Residence Review Board, deportation, etc. I have been in this field some 17 years.

Declerck:

At first I wanted to go into diplomacy. The king of Belgium gave a gift to Thailand – a project in a refugee camp. I went to work there in January 1979. Then I worked for UNHCR in various posts until 1991 but I kept involved on a project basis until 1993. I wrote the first Aliens Act of Grand Turk in the Caribbean, was in Poland when they first started the asylum system, and also worked in the Netherlands. I was also briefly with UNICEF in Africa. In 1993 I was appointed as a judge in Belgium. Currently I am a judge on the Council for Alien Law Litigations, an administrative appeal court.

Q2. What is the difference between asylum and other cases?

Mackey:

Asylum Appeals in UK are adversarial but in New Zealand they are, unlike most other appeals, mainly inquisitorial. Thus in New Zealand, as an asylum lawyer, most of the work is done before the hearing. There is usually no government lawyer present. Thus often most of the work is done by the Tribunal member.

Treadwell:

We do have the ability to make it adversarial. It's fair to say that the system can be mixed. Most are run purely on an inquisitorial basis.

Declerck:

My former court used to be inquisitorial, but the law changed and a new court was installed. It has full jurisdiction but is in essence more adversarial.

Q3. What are some key qualifications or qualities of a good decision maker? (The judges took turns by listing one element at a time.)

Mackey:

A balanced individual.

Treadwell:

Wide international knowledge. Not only international law. You must understand the country you are dealing with.

Declerck:

Good understanding of asylum law and humanitarian law.

Mackey:

You must understand the unique nature of asylum law. It's different from immigration law and other domestic law. It is rights-based, not privilege-based.

Treadwell:

You must know when to make a right decision.

Declerck:

Maturity to make independently the right decision based on knowledge.

Mackey:

Ensure you respect every person before you. All are entitled to be treated with respect.

Treadwell:

Empathy. Excellent writing skills. You need to persuade the reader.

Declerck:

You need to be willing to read, to specialize in the countries you are dealing with. It means reading the COI (country of origin information), reading the news, listening to the television. In-depth knowledge.

Mackey:

Excellent reading skills, and unfortunately, due to so much COI being in English, a good refugee judge, in any country, will need to be able to at least read in English. Without it, it is not impossible but makes everything harder.

Treadwell:

Cross-cultural understanding. For example, a decision maker disbelieved a man from Ghana. When asked for the address of his school, he gave a P.O. Box number. The decision maker disbelieved him for this reason, because the asylum seeker could not provide the street address. But in fact, where he lived in Ghana, there was no street address at all.

Declerck:

An open mind.

Q4. What are key elements of good decisions?

Mackey:

Good writing skills. At the start make a clear statement of what the issues are. There is no point in writing a decision 50 pages long if it doesn't cover the issues. Try to identify core issues (sometimes there is only one) and write about them. The whole decision and reasoning should flow from that.

Declerck:

It has to be structured. There must be a logic to it.

Treadwell:

The technical structure. Facts, law, and application of the law. Clear, concise, compelling, and correct ("four Cs"). You must succeed in all four.

Declerck:

In Belgium, every judge has 2 lawyers working for him/her. They must prepare the cases for me. Usually they are very young, and don't have very much experience. By the time they get knowledge, they often leave because of better promotion possibilities.

Mackey:

In New Zealand and UK unfortunately, we don't have people like that. It really does assist having good researchers both on the legal side and on the COI side. Putting money into obtaining good COI is important. The aim should always be to get the decision right the first time. Thus it is important to get the right support structure for judges. From government and claimant's perspective it is wasteful not to do so. In my view using judges to do extensive COI and other research is an inappropriate use of scarce and expensive resources.

Q5. What are necessary elements for a fair appeal procedure? (The judges again took turns in listing one element at a time.)

Treadwell:

An independent appeal tribunal. It does not always happen that way.

Declerck:

Specialized.

Mackey:

Good law and good procedures that are well-thought out. If possible, they should be prepared in consultation with: people who actually have experience in determining refugee

cases UNHCR and perhaps some academics. Asylum cases are not the same as criminal cases or other civil cases and so different procedures, and even different layout of the hearing rooms themselves.

Treadwell:

Legal aid. Asylum seekers are not wealthy people. Without legal aid, people may appeal with very poor representation. Some countries have Public Defender's office, but the quality of representation is not always good. Public Defenders are usually very over-worked and they tend to be generalists.

Mackey:

The underlying issue is equality of arms. It includes legal representation and good interpreters.

Declerck:

Neutrality.

Mackey:

A good judge should point out any protection issues to the parties even in an adversarial procedure.

Declerck:

Reasonable time to come up with a decision. But also you need to have a decision within a reasonable time. Whatever system or country, you may be limited on appeal to what is in the file. In asylum and protection cases, an asylum seeker should be allowed to bring in additional elements up to the appeal level.

Mackey:

Refugee status determination is declaratory at the time of making the decision. It is in the unique nature of asylum law. A procedure that doesn't allow it is an open invitation for repeat applications.

Treadwell:

Confidentiality is key to a fair system. We publish decisions, but without personal information. In some cases we don't even publish.

Declerck:

Sometimes we use a closed door, "in camera" procedure. This may be the case for minors. Minor refugees are appointed a guardian. Usually, the asylum seeker and lawyer plus the government lawyer are allowed to speak. In case of minors, the guardian is allowed to speak as well.

Treadwell:

Special consideration may be necessary for woman cases as well. They should be provided with a female judge, a female interpreter, and perhaps a support person.

Declerck:

In Belgium, in the first instance procedure by the Home Office, the asylum seekers are always asked if they have any objection to having a man or a woman for interpreter or interviewer. It is important for confidentiality and trust. There is no choice at the appeal court level.

Q6. Do asylum seekers have access to the record of the interview?

Declerck:

In Belgium, they can look at the interview notes.

Treadwell:

In New Zealand, they have access to the interview notes and recording. They can listen to the recording but we don't give it out.

Mackey:

Also claimants must have the full reference to all available COI. It's a matter of justice. This way, the appellant always has the chance to respond.

Declerck:

From the record, one should be able to see the way the interview is done, the fairness of interpretation, what COI was used and how it was used.

Treadwell:

If you have credibility concerns, you must put them to the applicant. It's a fundamental rule. If you have not put it to them to comment, you should not rely on it. Every doubtful part that is about the real issue. We all forget things. We all make mistakes. You must be careful that you don't decline the claim because the applicant makes mistakes in things that are not material.

Declerck:

The decision must be taken on the whole, after weighing different elements.

Mackey:

All of this is summarized in the, soon to be published, EU credibility guidelines.[1]

Q7. What are the benefits of good country of origin information (COI)?

Declerck:

Even an intellectual guess must have good COI. Unless you have good COI, you will never get the things right. It's the beginning and the end of it. You need to be objective.

Mackey:

It's something we have looked into closely at the International Association of Refugee Law Judges (IARLJ). IARLJ has produced a checklist for assessing COI.[2]

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1   The EU credibility assessment guidance from the IARLJ is expected to be published later this year.

2   IARLJ, Judicial Criteria for Assessing Country of Origin Information (COI): a Checklist.
    http://www.iarlj.org/conferences/mexico/images/stories/forms/WPPapers/Hugo%20StoreyCountry
    ofOriginInformationAndCountryGuidanceWP.pdf

Treadwell:

It is important to look at the subtext of COI. Let's say there is a lot of COI about human rights violations in a particular country. When all these material are public, and have never been refuted, you can feel confident that you can rely on it. It's been said in an international stage and nobody is refuting it.

Declerck:

I think you must be careful with that… The fact that something is not mentioned in reports does not mean that it did not happen.

Mackey:

Good COI helps you make a sound predictive decision. Predicting risks of such a serious nature in the future rarely happens in any other area of law.

Declerck:

Without good COI, it would be a subjective decision. COI makes it objective.

Mackey:

Today probably 90% of COI is in English.

Declerck:

It's hard when people get into the field of asylum without good command of English.

Treadwell:

A fair appeal procedure should be able to provide at least summaries of COI in the language everyone understands.

Declerck:

Subject related briefings are very useful as well.

Q8. In assessing credibility in refugee status determination, it is often said that one should look at the claim's internal consistency, its external consistency, and the claimant's demeanor. How do you assess demeanor?

Treadwell:

My answer is simple. Don't.

Mackey:

In principle this is right but we should remember "Justice has to be seen to be done" and thus open hearings are used "to see and hear appellants".

Declerck:

I think it' very important. It gives you a feeling about the person.

Treadwell:

But you must be very, very careful. It's dangerous to assume why a person is responding to you in a particular way. It's a great unwritten.

Declerck:

The way they answer you is extremely important, but I would never base my decision on that. What is more important is your own reaction. Why you react in a certain way when you see a certain behavior. It comes with experience. Getting old helps.

Mackey:

Good psychological material is encouraged. Inputs from psychologists are important. For example, to assess the impact of torture we use medical and psychiatric evidence. If it's there you must consider it. Otherwise it's an error of law.

Treadwell:

Cultural expertise is perhaps something we should look into more.

Declerck:

It all comes back to good COI. How it is applied, and also the application of COI. The way one reacts to the police is very different in different countries. But don't overdo it. Basically people are the same.

Mackey:

There are certainly commonalities. You need balance in understanding cultural issues.

Declerck:

It's a two-party thing. They are coming to seek asylum in your country. There should be a total collaboration. If you are not sure, ask, "Why do you do it?"

Treadwell:

For example, a Samoan man kept his head down the whole time during the procedure. In fact, he was trying to show you respect. In asylum cases, we are applying an international set of standards. The nature of the law we do get us across cultural hurdles

Q9. What are some "lessons learned" from your experience that may be relevant for Japan's asylum system?

Declerck:

I think this is a question to be asked later. I don't know enough about Japan to answer that.

Mackey:

Japan is fortunate. It's in a position to see the best and worst from refugee determination systems around the world. You've got an advantage. Belgium started in 1970s. New Zealand started in 1990s. When we started in New Zealand, we tried to take the best ideas and law from around the world. Be open-minded. Look for the best, and see what works best for you. For lawyers and decision makers working in the field of asylum, it is a fascinating and important area as they are some of the only people who work in the field of international law every day.

Treadwell:

Having a wide circle of old friends all around the world has helped immensely. We often disagree and argue with each other, but we come back to keep talking.

Q10. What are some new issues or challenges in the field of asylum today?

Mackey:

It's interesting that you ask about new issues, but in fact, many issues important haven't gone away, and still need consideration and research. For example, the issue of credibility. It is a lot more perplexing and difficult than many of us thought when we came to study it more closely over recent times. Issues such as benefit of the doubt, standard of proof, burden of proof are continually important: we should keep talking about them. We recently wrote about 50 pages on credibility assessment and concluded that we need to do a lot more research on it and the differing approaches taken to this around the world.

Treadwell:

Human trafficking is a fairly new area. For example, a young girl trafficked to a sex industry. What is the issue? They are usually heavily indebted. You may be able to stop sex exploitation but the family still owes the money.

Declerck:

Over the 30 years, things have changed tremendously. We used to make difficult decisions without having anything on hand. We just had the UNHCR Handbook.

Mackey:

That's true. The Handbook, US State Department reports, a few news clippings, and that was about it.

Declerck:

For example, take exclusion cases. We only had the Nuremburg trial reports and case law before. Now we have the ICC (International Criminal Court), etc. This part of the law has developed tremendously. Genocide. Rape. Now we have so much more, but it does not necessarily get easier. The problem is that everything becomes legalized. For instance, the question about serious harm. If for instance 20 hits or punches could constitute serious harm, what

about 19, and things like that. With lawyers, it is getting difficult. It's intellectually stimulating but difficult. There is no society that is black and white. Even after 30 years it doesn't get easy.

Treadwell:

The notion of particular social groups. People used to fear it. The floodgates argument. But look at where we are now. We have homosexuals, women. The issue of honor killings in Middle Eastern countries… in these cases, women are considered as a particular social group. But also it's related to political opinion because it's about political power balance. It really makes us think about our understanding. The beauty of it is that the 1951 Convention is a living and evolving document.

Declerck:

It never ends.

Treadwell:

It's an honor to work in an area like this. It's always evolving.

Mackey:

Each time you do it, you are potentially writing new interpretations. It's a privilege.

Declerck:

And you must be really careful. In Europe we have the court in Strasbourg (European Court of Human Rights). You don't want to be told by Strasbourg that you have not done it right.

NOTES

DEVELOPMENTS OF HMS/CDR

Satoshi YAMAMOTO

I. MAKING A NEW START AS A NEW ORGANIZATION

In April 2014, the Institute of Advanced Global Studies (IAGS) of the University of Tokyo has decided to reconstitute CDR as one of its research projects officially. Though CDR has engaged in several research projects ever since its establishment, it had been basically a secretariat of the lecture series project "Refugees and Migrants" donated by Hogakukan co.ltd., starting in April 2010. By this organizational change in the last month, CDR became an official project specialized in research on movement of people including refugees and migrants in IAGS.

IAGS is a united research institute, basically dedicating to area studies. It originally consisted of five research centres including the Center for Pacific and American Studies (CPAS), the Center for German and European Studies (DESK), the Research Center for Sustainable Peace (RSCP), the Research Center for Sustainable Development (RCSD), and the Research Center for African Studies (RCAS). It expanded by including two more centres in 2011: the Centre for Middle Eastern Studies (CMES) and the Research Center for Asian Studies (RCAS). CDR is now placed as a part of the RSCP, and continues to do research as a regular research project of a permanent research center of the University of Tokyo.

With the organizational change, the official name was also changed as follows, though the abbreviated name of the project is CDR, as same as ever:

(Previous) The Centre for Documentation of Refugees and Migrants, the University of Tokyo;

(New) The Project of Compilation and Documentation on Refugees and Migrants, Research Center for Sustainable Peace, Institute of Advanced Global Studies, the University of Tokyo.

II. RESEARCH PROGRESS

During the reporting period (Nov-Apr 2014), significant progress was achieved in three projects. Firstly, international networking of academia and practitioners mainly with the International Association of Refugee Law Judged (IARLJ) has been developed further, especially through planning of Autumn School 2014 with them. Practitioners and academia from South Korea, Philippines, Hong Kong, and Australia are expected to participate this time via video conference system. It was not just a great opportunity for dialogue among participants including academia, governmental officers, lawyers and NGO practitioners, but also a historical breakthrough to share and compare asylum systems in several countries in East Asia.

Secondly, after a year of pilot project on country of origin information with LexisNexis,

COI Query Service has turned into a full-fledged project in April 2014. By designating a specialized staff member for this project, CDR is strengthening its efforts still further. Expansion of the users for this service is aimed at, and speeding up the query response and more timely usage of the service are targeted.

Lastly but not least, CDR has strengthened further the relationship with self-help organizations of refugees in Japan. With the Refugee Coordination Committee Japan (RCCJ), CDR is going to engage in the educational assistance for refugee minors resettled in Japan. On the other hand, by participating in a NGO activity providing language education for Myanmarese migrants including refugees and their families in Tokyo, more pragmatic types of research on actual situation of refugees are expected to be available.

2014 is the last year for the five-year project funded by Hogakukan co.ltd., as mentioned above. As the final stages of the project, publications of research achievements are to be issued actively more than ever.

III. STAFF AS OF MAY 2014

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 staff members.

A. Members of the CDR Committee

- Professor Yasunobu SATO (Chair)

- Professor Yojiro ISHII (Dean of the Graduate School of Arts and Sciences and the College of Arts and Sciences)

- Professor Takane ITO (Vice Dean of the GSAS and the CAS)

- Professor Hideo KIMURA (Director of the Graduate Program on Human Security, HSP)

- Professor Mitsugi ENDO (Secretary General of the HSP)

- Professor Yuichi SEKIYA

- Professor Misako KAJI

B. Staff

- Yasunobu SATO (Director)

- Satoshi YAMAMOTO (Editor / Vice Director)

- Miki ARIMA (Editor / Researcher)

- Kie HORIKOSHI (Secretariat/ Research Assistant)

- Daniela Dimitrova (Research Assistant)

C. Collaborator

- Junko MIURA (JSPS Fellow)

- kumiko NIITSU (Associate)

- Douglas MACLEAN (Associate)

D. Intern

- Tomoya HASEGAWA

IV. EVENTS

November 2013- May 2014

【Seminars and Symposia】

▪ Event in Australia

From 18th to 21st March, Yamamoto participated in the IHS student tour in Australia as a supervisor with Sato. The University of Tokyo (UoT) started a new graduate program - Integrated Human Sciences Program for Cultural Diversity (IHS) - in April 2014, and it organized the Australian tour as a pre-launch event and one of its international activities, relying on CDR's network. Thus, for promotion of IHS, selected students of the UoT visited several possible counterparts providing internship opportunities for the students in Canberra, Sydney and Melbourne. CDR also co-organized with IHS an academic workshop in the course of the tour, at the Australian National University (ANU), especially to discuss with Australian scholars the issues of peace and conflict, refugees and IDPs, human trafficking and people smuggling, and inequality.

During the tour, the tour members visited several refugee-related organizations including Melbourne Law School, AMES (Australia's largest provider of humanitarian settlement, education, training and employment services for refugees and newly arrived migrants), Refugee Review Tribunal (a specialized tribunal reviewing decisions in relation to protection visas in Australia) and RACS (an Australian NGO which provides a comprehensive and thorough specialist refugee advice service). Throughout the tour and workshop, a wide variety of human mobility issues were discussed actively and deeply.

▪ *LexisNexis Kick-Off Meeting*

Date: 17 January 2014
Venue: Meiji Kinenkan
A.M

- Kick-Off Meeting

P.M

- Presentation by Dr. Yasunobu SATO

- Presentation by Mr. Reinhold Jawhari, introducing his work, and reflecting on Query Report

- Presentation by LexisNexis on Refugee Query Research

- Skit Presentation

- Query Research Activities

- Query Report Check, and general comments

▪ *Refugee Studies Group (co-organised by CDR and Refugee Studies Forum).*

Date: 8 February - June 2014 (Alternate Saturdays), 16:00 (13:00) -21:00
Venue: Building No.9, 3rd Floor, Komaba I Campus, the University of Tokyo
Topic of this term: "Reading Controversy"

Reading List:

- Gaim Kibreab, 'Revisiting the Debate on People, Place, Identity and Displacement', *Journal of Refugee Studies* (1999) 12 (4): 384-410.

- Daniel Warner, 'Deterritorialization and the Meaning of Space: A Reply to Gaim Kibreab', *Journal of Refugee Studies* (1999) 12 (4): 411-416.

- Finn Stepputat, 'Dead Horses?', *Journal of Refugee Studies* (1999) 12 (4): 416-419.

- David Turton, 'Responses to Kibreab', *Journal of Refugee Studies* (1999) 12 (4): 419-422.

- Gaim Kibreab, 'Rejoinder to the Replies by Daniel Warner, Finn Stepputat and David Turton', *Journal of Refugee Studies* (1999) 12 (4): 422-428.

- James C. Hathaway, 'Forced Migration Studies: Could We Agree Just to "Date"?', *Journal of Refugee Studies* (2007) 20 (3): 349-369.

- Roberta Cohen, 'Response to Hathaway', *Journal of Refugee Studies* (2007) 20 (3): 370-376.

- Howard Adelman and Susan McGrath, 'To Date or To Marry: That is the Question', *Journal of Refugee Studies* (2007) 20 (3): 376-380.

- Josh DeWind, 'Response to Hathaway', Journal of Refugee Studies (2007) 20 (3): 381-385.

- James C. Hathaway, 'Rejoinder', *Journal of Refugee Studies* (2007) 20 (3): 385-390.

- Loren B. Landau, 'Communities of Knowledge or Tyrannies of Partnership: Reflections on North-South Research Networks and the Dual Imperative', *Journal of Refugee Studies* (2012) 25 (4): 555-570.

- Paula Banerjee, 'Response to Landau', *Journal of Refugee Studies* (2012) 25 (4): 570-573.

- Stephen Castles, 'Response to Landau', *Journal of Refugee Studies* (2012) 25 (4): 573-576.

- Elizabeth Ferris, 'On Partnerships, Power and Policy in Researching Displacement', *Journal of Refugee Studies* (2012) 25 (4): 576-580.

- Katy Long, *The Point of No Return*, 2013, Oxford University Press.

【*Projects*】

▪ *Country of Origin Information (COI)*

As one of outreach activities, CDR participated in the annual kick-off event of LexisNexis Japan, a partner company of the COI-Query service project. LNJ planned and produced a role-play movie in which Refugee Examination Counselors interview an asylum seeker for Refugee Status Determination, and the movie was played for the colleagues of LNJ in their annual event as an introduction to RSD system in Japan. CDR staff members also participated the production, and the COI-Query service project successfully added more participants from LNJ after the event. Thus the endeavor to obtain understanding and cooperation for a fairer and more effective RSD was successful.

Meanwhile, a new staff in charge of COI-Query took office in February. A system for more organized and streamlined service was prepared by using the web technology Trello. In the secured online system, once a query on COI is received from a client, every step to respond to the query is managed visibly and checked and proofread by several staffs in charge of each step.

Adding to the progress, the Japanese edition of Austrian ACCORD's Researching Country of Origin Information: Training Manual (2013 Edition) was finally issued in April. To disseminate the importance of COI-Query service, and enrich the service through the increase in the number of contributors of the service, an introductory textbook of how to research and treat COI was long awaited. CDR has cooperated to ACCORD by providing comments to the 2013 edition (i.e. original English version issued in October 2013), and in line with the agreement with them to translate it into Japanese, the Japanese version was completed in April 2014. It is the first ever translated version followed by the Russian one. It is promising in improving the quality of the COI-Query service more and more here in Japan from now on.

- **Translation**

Translation of the Rights of Refugees under International Law by Professor James C. Hathaway is under way.

【*Publications*】

- **"The Use of Country of Origin Information in Refugee Status Determination" Refugee Studies Journal No.3, November 2013**

Author: Miki ARIMA

- **"Researching Country of Origin Information Training Manual 2013", Japanese Edition, May 2014**

Authors: Austrian Red Cross/ACCORD
Translators: Satoshi YAMAMOTO and Miki ARIMA

- **"The Multi-Stage Structure and the Character of Decision in Refugee Status Determination: The Placement and the Function of Benefit of the Doubt Element", Kokusaiho Gaiko Zassi (The Journal of International Law and Diplomacy) *Vol.112 No.4, January 2014***

Author: Satoshi YAMAMOTO

【*Other*】

- **CDR Mentioned in German Article**

Article Name: *Flüchtlingsschutz in Japan (Protection of Refugees in Japan)*
Author: Prof. Dr. Harald Dorig, Leipzig
Published in *Zeitschrift für Ausländerrecht,* page 27
Year: 2014

- **CDR Acknowledged in "Researching Country of Origin Information,Training Manual, 2013 Edition"**

Published by Austrian Red Cross/ACCORD

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/]

CDR Quarterly