

Refugees and Human Security

~ A Research Note on the Japanese Refugee Policy ~

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世界で1500万人いる難民は「人間の安全保障」を享受できない。難民受け入れは「人間の安全保障」の提供であり「国際公共財」だが、近年それが世界的に減少している。日本は長らく「難民鎖国」や「ただ乗り」国家との批判を受けてきたが、第三国定住による難民受け入れ開始など前進もある。この動きは「構成主義」的に解釈できるが、日本が難民への「人間の安全保障」が提供できるかは、政府・自治体・NGO3者による社会統合支援体制にかかっている。

Keywords : refugees, resettlement, human security, international public goods, constructivism
(難民、第三国定住、人間の安全保障、国際公共財、構成主義)

1 Refugees and Human Security

1.1 People on the run

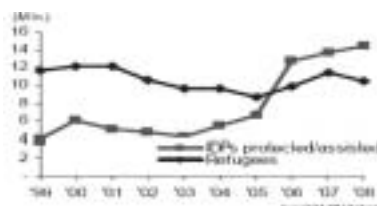
Throughout history, there have always been “people on the run.” Wars, political upheavals, ethnic discrimination, religious strife, and other human rights abuses have forced women, children and men to flee their homes for a safer place and cross international borders to seek asylum in other countries. They do not know what awaits them there but hope that they can leave behind intimidation, physical assaults, arbitrary detention, forced labor, abduction, torture, rape, mass killing and “ethnic cleansing.”

According to the 1951 Refugee Convention, a refugee is “any person who is outside their country of origin and because of a well-founded fear of persecution due to their race, religion, nationality or political opinion, is unwilling or unable to receive the protection of his or her home country.”¹ At the end of 2009, there were some 15 million refugees in the world. In Asia alone, there were 3.4 million refugees. The top four refugee hosting countries are: Pakistan with 1.7 million, Iran and Syria 1 million and Germany 600,000 refugees. Poor developing countries bear heavy burdens in terms of refugee protection. In Japan there were only 2332 refugees at the end of 2009.²

As for the global situation surrounding refugees, since the end of the Cold War, there have been notable increases in the number of refugees and internally displaced persons (IDPs) as shown in Chart 1. The number of refugees has been decreasing but that of internally displaced persons (IDPs) has been on the rise. There are several causes for this trend. First, various ethnic, religious, and political minorities revolted against State authorities asserting their rights

and aspirations which have been oppressed during the Cold War. These States in turn activated their security and judicial systems to maintain their political and social control via repression of dissidents like in Northern Iraq. In such cases, States were unwilling to protect their citizens. Second, the nature of conflict has changed. Internal civil conflicts broke out among armed groups belonging to different ethnic or religious groups, like those in the Balkans (Bosnia), the Great Lakes (Rwanda, Sudan and DRC) West Africa, the Caucasus and Afghanistan. In many cases, States were unable to contain and end such internal armed conflicts. Third, the strategies of conflicts have also changed. Warring factions and armed groups often target unarmed civilians and deliberately kill them, torture them, maim them, and rape them, with the intention of terrifying people so that the affected populations flee the disputed territories. These are “push” factors that force people out of the country of origin.

Chart 1
Refugees and IDPs assisted by UNHCR



On the other hand, since the mid-1980s, there has been strong migratory pressure from the developing countries in the South to the rich industrialized countries in the North. As globalization continues and economic disparities widen among countries, more and more people move toward the industrialized countries in the North to seek better economic opportunities. Those developed countries have become concerned about the influx of economic migrants,

not only because of the impact on labor market but also because of the social tensions and politicization of migration.

The 9/11 terrorist attacks in the United States added a new dimension: the securitization of migration whereby migration is constructed to be a threat to national security. Seriously concerned about the possible negative consequences of these migratory flows, industrialized countries in the North, particularly EU member states, have introduced restrictive refugee and migration policies, such as changes in national legislation to restrict access to refugee status; establish “non-arrival policies” to prevent people without adequate documentation from entering EU countries; implement “diversion policies” by declaring countries bordering the EU to be “safe third countries”; and adopt restrictive interpretations of the 1951 Refugee Convention.³ As a consequence, asylum space in the developed countries has narrowed and the number of asylum seekers there has been reduced from about 600,000 in 2000 to 300,000 in 2007. This does not mean that there are fewer asylum seekers, but instead it suggests that reaching the shores of asylum countries is increasingly becoming difficult. At present, roughly 80% of asylum seekers are rejected by northern countries and this “rejection rate” is much higher than before.

These “push back” policies of the industrialized countries contributed to the prolonged stay of refugees in the developing countries, the declining number of refugees and the increase of IDPs who cannot even leave their home countries, as shown in Chart 1.

1.2 Human Security: freedom from fear and freedom from want

The situations surrounding refugees can be

described as the absence of human security. Human security is “to protect the vital core of all human lives in ways that enhance human freedoms and human fulfillment. [...] It means protecting people from critical (severe) and pervasive (widespread) threats and situations. [...] It means creating political, social, environmental, economic, military and cultural systems that together give people the building blocks of survival, livelihood and dignity”⁴ Human security encompasses not only the freedom from violent threats but also availability of and freedom towards development, such as access to education and health, freedom from poverty and environmental degradation. The United Nations Development Programme’s 1994 Human Development Report characterized Human Security as consisting of “freedom from fear” and “freedom from want”.

Human security is a new paradigm advocated by the UN system for understanding global vulnerabilities of individuals that challenges the traditional notion of national security. Traditionally, security issues were examined under the framework of state sovereignty, state security and military power to defend the state border. However, state security at the national border does not necessarily ensure people’s security when armed conflicts take place within the country, or where global threats like infectious diseases or environmental degradation spread across national boundaries making all individuals vulnerable irrespective of borders. Border control by armed forces is ineffective against infectious disease or global warming. Thus, in the last 20 years, the attention of the international community has shifted from the “security of the state” to the “security of the people”, or human security, which complements state security.

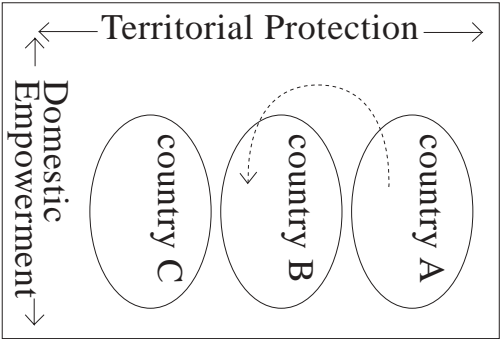
Refugees flee their home countries seeking “freedom from fear” and sometimes “freedom from want”, which is caused by discriminatory and oppressive policies. In order to protect refugees who are fleeing their country, the first thing to do is to provide them with asylum in another country in a way to stop the harmful effects of persecution or armed conflicts. However, even if refugees are granted asylum in a country, that does not mean refugees are free from victimization and their human rights are fully protected. Many refugees remain in vulnerable conditions in the country of asylum.

This is typical of refugees in refugee camps around the world. They have lost homes, land, loved ones, personal property, and constantly worry about their family members who have been left behind. They particularly worry about their children’s future. In the refugee camps, there is no gainful employment, adult males are forced to be idle, and the loss of occupational and social roles leads to loss of identity and pride, and may lead to domestic violence against spouses and children. Anxiety, fear and insecurity and loss of hope are everywhere. More than six million refugees have been staying in refugee camps or camp-like situations for more than five years. The average duration of living in such situations is 17 years. Concerns of the international society on the plight of people in “protracted refugee situations” have led to the increasing use of third-country refugee resettlement policy to be discussed later in this Note.

Therefore, the provision of human security to refugees entails two dimensions: international protection and domestic empowerment. The first key to human security of refugees is to protect them from threats of persecution (freedom from fear) through international “territorial pro-

tection” combined with the principle of “non-refoulement”.⁵ If refugees are granted asylum by a State, they are physically and legally protected in the territory of that State, as the persecuting State (or non-State actors) cannot harm the refugees anymore without violating the sovereignty of the former. However, territorial protection in itself is not sufficient for ensuring human security of the refugees who have lost everything and have to re-establish life in a new environment in the country of asylum. The second key is, therefore, to empower refugees by providing them with practical measures and support in order to re-establish their life such as language training, job search assistance facilitating their access to education and social welfare benefits (freedom from want). Without means to survive, international territorial protection is meaningless. International territorial protection must be complemented by in-country, domestic empowerment measures to give human security its substance. The “horizontal” territorial protection and “vertical” empowerment within a country are schematically shown in Chart 2.

Chart 2
International protection and domestic empowerment



2 Human Security as International Public Goods

2.1 The Refugee Regime

People have been forced to flee their homes since time immemorial, but the political and legal category of “refugees” and their protection system are only less than a century old. It was only after World War II that States, deeply regretting the inability of the international society to prevent the atrocities committed against millions of Jewish and other refugees, agreed to establish the “Refugee Regime” consisting of the 1951 Refugee Convention, the UNHCR as a supervisory body, and hundreds of NGOs that provide direct assistance and financial donors who provide money. The Refugee Convention, UNHCR, States and NGOs constitute the “Refugee Regime” of international society of the 21st century. At the core of the “Refugee Regime” is the UNHCR, an international humanitarian agency that has been advocating for the international refugee protection and empowerment system as well as finding durable solutions to the refugee problems. From a small office of some 30 staff in the early 1950s, the UNHCR has grown into a global organization with more than 6,500 staff in many conflict-affected countries and an annual budget of US\$1.8 billion. It is one of the largest and influential UN organizations.

The aim of the Refugee Regime is to provide refugees with human security, i.e., to protect and empower refugees in such a way to bridge the protection gaps when national protection fails, and to produce durable solutions to refugee problems. Durable solutions include voluntary repatriation to the home country, local integration in the country of asylum, and resettlement to a third country. If and when the causes of the flight of refugees (conflicts or persecution)

cease, voluntary repatriation is the natural and the best solution. When repatriation is not possible, there is the solution of local integration, whereby refugees live permanently in the host country, eventually becoming its citizens. When neither repatriation nor local integration is possible, there is the solution of the third-country resettlement, whereby very vulnerable refugees like the sick, orphaned children and single women are resettled from the current host country to a third-country. The aim of resettlement is twofold: to eliminate dangers to the most vulnerable refugees, and to share protection burden/responsibilities among States. In light of the increasing number of refugees in protracted refugee situations, the UNHCR has been appealing to the international community to expand the third-country resettlement program, and in recent years some 100,000 refugees are resettled – over 60,000 to the United States – every year.

2.2 Human Security for refugees as international (Global) public goods

Refugee protection and empowerment are services or goods produced by the Refugee Regime, and can be considered as an international (global) public good. A public good is a good that is non-rivalrous and non-excludable. Non-rivalry means that consumption or use of the good or service by one party does not reduce availability of the good for consumption or use by others. Non-excludability means that no one can be effectively excluded from using the good or service. According to the 1951 Refugee Convention, anyone who meets the criteria of a refugee is entitled to an international protection such as the application of the principle of *non refoulement*, regardless whether there are other refugees seeking international protection (non-rivalrous). As long as the provisions of the Refugee Convention are strictly observed, no asylum seekers

can be denied a refugee status even in a situation where there are many asylum seekers (non-excludability). From a refugee protection point of view, however, there are two types of problems inherent in the nature of a public good.

First, while all States (as well as refugees) benefit from having an international refugee protection regime, each State has an incentive not to make a fair contribution to the system. The Refugee Regime is a voluntary system and no State is obliged to accept refugees against its own will, hence there is always an incentive for States to shift, and not share, responsibilities to others. If States act in their self-interest and avoid assuming protection burdens/responsibilities, the production of a public good (refugee protection) will be reduced and the Refugee Regime as a whole will be undermined and weakened. This is the problem of so-called “free-riding”. States have rights to grant asylum but no obligation or duty to do so. States that shoulder less than a fair share of protection responsibilities are “free riders” as they benefit from the existence of the Refugee Regime but do not fully share the cost of maintaining the Regime.

Eighty percent of the world’s refugees are living in poor developing countries such as Pakistan and Iran that host some 2 million Afghan refugees for over 20 years. The economic, social and political costs of those host countries are enormous, as the presence of a large number of refugees could cause conflicts over scarce resources, upset delicate ethnic balances or trigger religious and political tensions in the host society. As long as those States accommodate refugees, other States can avoid assuming a “fair share” of international protection responsibility. Developing countries that have been accommodating hundreds of thousands of refugees for

decades have been complaining about the “unfair burdens” imposed on them by rich “free rider” States. The challenge to the international society is to limit free riding and ensure international responsibility sharing. One of the solutions is the third-country resettlement mechanism.

The second problem is that territorial protection does not provide refugees with an assurance that they will be able to establish a new life in the host country, regain what has been lost during exile, and enjoy human security: freedom from fear and want. Their empowerment through assistance in language training, finding jobs, in children’s education, and in obtaining citizenship, are as important as the territorial protection, yet these measures are often not provided in sufficient quantity and quality. Under the Refugee Convention, once accepted, refugees are entitled to the right to access national courts, the right to employment and education, and other social, economic, and civil rights which are on a par with the nationals of the host country. However, many States fail to do so either due to their inability or unwillingness.

While territorial protection is an international public good which can be provided by the State government, integration support is a national public good which is to be produced not only by the national government, but by local authorities and civil society comprising NGOs, corporations, and the media as well as the existing refugee community. Providing such public goods is more complex than provision of territorial protection, which basically means letting refugees in the country. Unless a national support system is established in such a way that refugees have effective access to social services wherever they live, it may end up with a situation where rights

exist in theory but access is in practice denied and refugees cannot enjoy “freedom from want”. Human security then is a dream and not reality.

3 Japan’s Refugee Policy – Its Past

3.1 Japan Bashing and Japan Passing

Seen from the perspective of refugee protection as an international public good, Japan offers an interesting case.

The ODA Charter of Japan promotes the notion of human security as one of the five basic ODA principles. The Charter states that “In order to address direct threats to individuals such as conflicts, disasters, infectious diseases, it is important not only to consider the global, regional, and national perspectives, but also to consider the perspective of human security, which focuses on individuals. Accordingly, Japan will implement ODA to strengthen the capacity of local communities through human resource development. To ensure that human dignity is maintained at all stages, from the conflict stage to the reconstruction and development stages, Japan will extend assistance for *the protection and empowerment of individuals (italics added)*”.⁶ The question is whether Japan actually follows the charter.

Japan has been generous in providing financial resources to the UNHCR. In the last several years, Japan’s financial contribution to the UNHCR has exceeded US\$100 million despite decreasing Japanese foreign aid. On the other hand, the number of refugees accepted by Japan is extremely low. Other than the 11,000 Indochinese refugees who have been accepted over the last 30 years, Japan has recognized under the Refugee Convention only 570 refugees by 2010.

In the 1990s, the average number of refugees recognized in Japan was a mere 4.5. It was reported that in the late 1990s, the then Director of the Immigration Bureaus expressed his wish that no refugee would come to Japan, arguing that Japanese people were opposed to accepting refugees.⁷ Such an attitude would have been known to asylum seekers in the world. This contrasts sharply with the policies of the US and European countries which have been accepting thousands or tens of thousands of refugees under the Convention on an annual basis for decades. Japan’s approach has been using “check book diplomacy” - an approach with the implicit message that “we will give you money, please take care of refugees outside of Japan”. The policy stance has been criticized by the international community as “responsibility shifting” and “free riding”. Japan’s restrictive refugee policy has indeed been one of the prominent areas of “Japan bashing”.⁸

However, such “Japan bashing” is somewhat misplaced. It is not so much that the government does not allow letting in refugees as refugees are not coming to Japan asking for asylum. Most asylum seekers in the world are actually engaged in “Japan passing.” Only a dozen asylum seekers come from China, which produces some 20,000 asylum seekers annually. The same goes for Russia, one of the largest refugee-producing countries with 20,000 asylum seekers leaving the country every year.⁹ Even North Korean refugees do not choose Japan as a country of asylum. A typical example was the North Korean family who, in mid-2007, arrived in Niigata, Japan in a small boat after a perilous sea trip across 800 km in the Sea of Japan but who did not ask for asylum in Japan – they left for South Korea. As we will see later, under the new resettlement plan started in 2010, the

Japanese government offered 30 Myanmar refugees to be resettled to Japan from a refugee camp in Thailand, however, only 40 applied and 27 refugees eventually agreed to come to Japan. For the 2011 programme, only 30 applied against the quota of 30. This is surprising as there is always strong competition from refugees to be accepted by one of the 16 States that have UNHCR sponsored resettlement program. Iceland, with a population of only 300,000, accepts 30 Palestinian refugees a year and there are always many applicants. Japan is (still) not a popular country among refugees.

Asylum seekers in general and refugees who are seeking a resettlement opportunity in particular do choose countries of asylum.¹⁰ They are aware that even after asylum is granted in Japan, conditions surrounding refugees are quite tough and not conducive to their fast and effective social and economic integration. Official integration support is very limited both in length and quantity. Local governments are not involved in their integration support, NGOs that assist refugees in Japan are few in number and, importantly, the refugee community is too small and fragmented to be effective partners to provide assistance to fellow refugees in a society that tends to exclude and marginalize foreigners and in particular refugees. Asylum seekers feel that they would not enjoy human security in Japan, and thus passing Japan and go elsewhere. The perceived absence of human security is an important reason why refugees avoid coming to Japan.

3.2 Indo-Chinese Refugees

The lack of human security for refugees in Japan was confirmed by the recent study conducted by the UNHCR and the United Nations Universi-

ty on the integration of some 11,000 Indochinese refugees accepted in Japan during the last 30 years.¹¹ While a quasi-governmental organization (RHQ) sponsored by the Ministry of Foreign Affairs has helped facilitate integration of the refugees and their families by providing language and culture classes as well as vocational counselling for years, there are a large number of refugees who are still suffering from unstable and unpredictable lives in a kind of "protracted refugee situation". The most often quoted example of the lack of empowering support is the lack of adequate Japanese language training. The government offered only four months of language training and this has caused long lasting handicaps for refugees to become self-reliant. Lacking language proficiency, there were few opportunities for them to find jobs except those "dirty, difficult and dangerous". Many refugees pointed out difficulty in finding decent housing, unfamiliarity with wage and promotion system, financial problems, difficulty in handling administrative procedures, and uncertainty in children's education such as future career, expenses and native languages and cultures. Their access to such social security services has been limited and, partly because of this, many refugees have remained in the lower socio-economic bracket of Japanese society.

Indochinese refugees who have spent years living in Japan wish to attain Japanese citizenship. However, the barrier to gaining citizenship is too high for them to overcome. The requirements for Japanese citizenship are numerous, such as requiring birth certificates, which are difficult for refugees to obtain, proof of financial self-reliance and the requirement to renounce their nationality. In general, standards are so high that many applicants have simply given up. According to a survey conducted in 2004, only 5

per cent of the refugees who responded to a survey obtained Japanese nationality.¹² This causes them to feel that they are forever a 'refugee' or 'gaijin', a person who cannot put down roots and become a full member of society.

On the other hand, the refugees are aware that refugees who have been resettled in other resettlement countries have much easier access to higher education, skill acquisition and citizenship. In the United States, refugees can obtain a green card after one year stay there and citizenship is available after five years. Refugees can expect to enjoy higher level of human security there. Although many refugees in Japan appreciate the fact that Japan has provided them with asylum and a level of safety and freedom, some felt that they have experienced a 'secondary victimization' by living in Japan and feel discontent towards the Japanese government and society. A minority of refugees regret having come to Japan at all.¹³ This is a case that demonstrates that territorial protection does not necessarily offer human security for refugees.

One can observe three problems in terms of integration support in Japan. First, Japan's system of refugee reception and integration support is highly centralized. The initial orientation and training is done in Tokyo and only by the government-controlled RHQ without the involvement of local governments where the refugees may eventually settle. Most of the industrialized countries have a refugee dispersion policy whereby the central government provides funding to local municipalities and NGOs that provides integration support in several parts in the country. Japan's centralized system contributes to the notion that refugee assistance is a matter of the central government, and not that of local governments or local civil society.

Except for the cities and towns near the Settlement Promotion Centres established for the Indochinese refugees (like Yamato city), most of the local governments did not have direct contact with the refugees and they have not gained experience on how to handle refugees who have different integration needs compared to foreign workers (economic migrants) whose number in Japan has increased sharply in the last two decades to reach one million.

Second, there are only a few NGOs that have provided assistance to refugees residing in Japan and the resources available to those NGOs have been meagre. The Indo-Chinese refugee crisis led to the creation and growth of dozens of Japanese volunteer groups and NGOs, many of which later expanded their activities to address a range of global issues. NGOs have contributed to promoting a deeper understanding of refugee issues using advocacy, and through their considerable dedication and personal efforts. However, operationally, most of their activities have been refugee programs abroad and not inside Japan. The Ministry of Foreign Affairs (MOFA) started providing funds for refugee assistance NGOs that operate in developing countries in mid-1990, but no fund is provided to NGOs that offer assistance within Japan. As for UNHCR, it provides only some \$200,000 to such NGOs from up to \$140 million it annually receives from MOFA. The NGO community in Japan assisting refugees in Japan is very small and money available to them is meagre.

Third, refugee communities that would offer assistance to fellow refugees and asylum seekers are too small and fragmented on ethnic or political lines. Some refugees attend church services and other recreation events, but many refugees have no time to join as they have to work even

during the weekend, while others prefer to remain anonymous for fear of discrimination. Political backgrounds that led refugees to flee from their home countries affect the way refugee communities organize themselves in Japan. In the absence of a strong refugee community, asylum seekers will be reluctant to choose Japan as a country of asylum, since assistance from the same ethnic groups sharing the same language and culture, can provide strong psychological, emotional and social support, which cannot be provided by other support groups. However, if asylum seekers do not choose to come to Japan, then the refugee communities would remain small and weak. There is a vicious circle of a small refugee community, inability to provide assistance, small number of asylum seekers and refugees, ending up with a small refugee community.

3.3 Recent changes: start of the pilot third-country resettlement program

Fortunately, the situation is beginning to move in the right direction. The number of asylum seekers in Japan has been on the rise. It reached 1,600 in 2008, of which 57 were recognized as refugees. An additional 350 asylum seekers were granted special permits to stay in Japan temporarily (humanitarian status), although their refugee claims were rejected. In 2009 the number of asylum seekers was 1,388, of which 30 were recognized as refugees, while 531 were granted humanitarian permits to stay. Respective numbers for 2010 were 1,202, 39 and 363.¹⁴ All in all, 400 to 500 asylum seekers have been granted some form of protection in Japan in recent years. Since around 1000 individuals seek asylum in Japan every year, the “protection rate” is now around 50%, which is much higher than previously when few humanitarian statuses were granted.

The reasons for the increase include, among others: the amendment to the Immigration and Refugee Recognition Act in 2005 that improved the refugee status recognition process; and the surge in national sympathy toward Myanmar asylum seekers following the deliberate killing of a Japanese journalist in Yangon in 2007. Myanmar asylum seekers, often undocumented and hiding in anonymity, have come out, some joined anti-Yangon demonstrations, and sought asylum in Japan, claiming that their life would be in danger if forcibly returned (refouled) to Myanmar. Most of the recent asylum seekers and refugees granted refugee status are from Myanmar. This is problematic by itself, nonetheless, if one recalls that a decade ago only a dozen asylum seekers came to Japan and only a few were recognized as refugees each year, this is a significant improvement.

The most remarkable policy change is the start of a pilot third-country resettlement program. In December 2008, the Japanese government announced that it would start a pilot refugee resettlement program from 2010 for a period of three years. Each year, 30 Myanmar refugees living camps in western Thailand will be resettled in Japan. While this is a pilot program and the number is very small, there is an expectation that this program will expand in the future. This policy decision was a pleasant surprise to the humanitarian community both in Japan and abroad. The decision was hailed worldwide not only as a turning point in Japanese hitherto exclusionary refugee policy, but also as an indication that the Asian region itself is changing from a region that produces as many refugees as Africa but does not accept those refugees.¹⁵ The policy change was surprising to many because, unlike the acceptance of the Indochinese refugees during the 1970s and 1980s that have

been “imposed” on Japan,¹⁶ this time the Japanese government took the decision without foreign pressure. This is contrary to the image of Japan that changes its foreign policy only under foreign pressure (Gai-atsu).

The decision making process leading to the Cabinet decision on 18 December 2009 is characterized by secretive bureaucratic consensus making, personal leadership and strong media interest. The author was indirectly involved in the decision making process as the then UNHCR Representative in Japan and was in a position to observe part of the process. The following observations reflect the author’s experience.

For years UNHCR tried to persuade the Japanese government to start a resettlement program but in vain. Taking the advantage of having the first Japanese Representative who used to work in the Immigration Bureau of the Ministry of Justice, UNHCR Tokyo Office started a two-front approach, one public advocacy for the a resettlement program and another a “quiet diplomacy” through informal meetings with officials of the Ministry of Justice (MOJ). UNHCR changed its hitherto confrontational approach, whereby it criticized publicly the legalistic and inflexible stance of the MOJ. Instead, UNHCR acknowledged certain positive developments in the last several years and encouraged the MOJ to accelerate the change, because that would, among others, improve the image of the MOJ. The MOJ officials were pleased with the new approach of UNHCR and mutual confidence between UNHCR and the officials started building up.

While reminding MOJ officials of the strong criticism made by Ms Sadako Ogata, the former UN High Commissioner for Refugees, that “Japan

(meaning MOJ officials) lacks humanity” in dealing with refuge,¹⁷ UNHCR “sold” the “benefits” of the resettlement program from the point of view of the MOJ. One of the MOJ’s obsessions was the possible security implications of accepting larger number of refugees. UNHCR pointed out that Japan does not need to be concerned about the possible security risks because candidates for resettlement to Japan will be background checked and selected by UNHCR. MOJ then can choose those refugees who Japan deems better fit for resettlement to Japan. In addition, the MOJ does not need to go through the complex and lengthy refugee status determination process under the Refugee Convention, which could take up to two years, hence per capita administrative costs of the resettlement program is much lower than the normal refugee status determination process. UNHCR also suggested that the pilot program could be fairly a small one, possibly a few families, because what is important is not the size but the quality of integration support after refugees have been received. Accepting only a small number of refugees initially would also prevent possible opposition to the resettlement initiative. Thus, a resettlement program meets the interests of the refugees, the MOJ and UNHCR. The MOJ took into account these advantages in recommending the start of a resettlement program to the Cabinet.

The then Director of the Immigration Bureau, Mr. Inami, played a significant role in the decision making process. He recalls that although the government had never considered the issue of the resettlement program previously, he had been feeling that it was time for the government to consider the subject. The appeal by the new UNHCR Representative to start a resettlement program was therefore a turning point.¹⁸ After 6

months of quiet dialogue with UNHCR, in the summer of 2007, he established a “study group (*benkyo-kai*)” to understand what is a refugee resettlement program. Members were the middle-level managers of the MOJ, MOFA and the Cabinet Office. The group collected information about the policies, practices and procedures of other resettlement countries with assistance and advice from UNHCR. Their activities were kept in strict secrecy to avoid stirring political opposition. Media inquiry started to intensify but even the existence of the group was denied by the MOJ and MOFA officials. The group completed its work by the fall of 2007 and proposed to establish a “consultation group (*kento-kai*)” to find out how it could be implemented in Japan and its implications. Inami mobilized political support among politicians and the then Minister of Justice Hatoyama (whose wife is an Australian), who approved it. In the Japanese bureaucracy, establishing a “consultation group” implies that a new policy is in principle endorsed. In November 2007., the start of the consultation process was conveyed to the UN High Commissioner for Refugees Antonio Guterres who was visiting Japan, and for the first time the plan was made public at his press interview.

The issue of third-country resettlement was first time taken up at the House of Representative Budget Committee in December 2007. Minister of Justice, Hatoyama remarked that he considered that a resettlement program would be Japan’s contribution to the international community.

Hatoyama, who is known for his outspoken stance and for going beyond what bureaucrats wish him to say, made personal commitments that he and his staff at the MOJ would seriously study the introduction of a new policy and lead

the process.¹⁹ In the first half of 2008, extensive research and discussion took place in the inter-Ministerial meetings and by the summer 2008, when the budget for 2009 was prepared, a basic plan and budget was made within the MOFA that is responsible for the initial 6 months orientation and training program. By that time the idea to start a 3-year pilot program was endorsed at the top level of the government. The decision came as a surprise, even to a very high ranking official of MOFA. With a consensus within the government and endorsement from major politicians, the formal decision to start a pilot program finally arrived in the form of a Cabinet Understanding at the bi-weekly Cabinet meeting on 18 December 2008 and the decision was formally conveyed to Gueteres who was again visiting Japan by then Prime Minister Aso. The detail of the plan was made public on the Cabinet Office homepage.²⁰ Throughout this process intensive media coverage, mostly supportive, continued, reflecting strong national interest in Japan. Advocates’ tactics to sell the benefits of the resettlement program and to build up intra-governmental and political support for resettlement by secretive lobbying, informal consultation (*nemawashi*) as well as public advocacy campaign through media worked.

3.4 Constructivist interpretation

The sudden and surprising decision by the Japanese Government to start a third-country resettlement program could be explained by the “social constructivism” approach in international relations.

The “constructivism” approach, according to Alexander Wendt, entails basically two notions; that the structures of human association are determined primarily by shared ideas, and that

the identities and interests of purposive actors are constructed by these shared ideas rather than given by nature.²¹ It postulates that the “social structure” comprising of mutually shared ideas, norms, identities, rules and expectations constrains and shapes interests of individuals and States. The changed interests influence their behaviors. However, individuals and groups are not only shaped by the “social structure” but can also make free choices and change it as “agents” who can set into motion new normative, social or political practices that alter conventional thinking and procedures. Social structure and agents are mutually constitutive.²² An actor, or a group of actors, can use speech acts to “socialize” certain norms and values among decision makers. Socially constructed rules, principles, norms of behavior, and shared beliefs may provide States, individuals, and other actors with understanding of what is important, valuable and appropriate and what are effective and/or legitimate means of obtaining those valued goods. In other words, structures may supply States with both preferences and strategies for pursuing those preferences. Some constructivists emphasize the importance of roles played by international organizations in generating new international norms, and spreading them by “teaching” decision makers of States new norms, new values and new priorities, which change the States’ behaviors. International organizations are not only created by States but they influence States’ interests and behaviors.²³ States accept new international norms and internalize them in domestic institutions when they are “socialized” to perceive such norms as legitimate. Accepting refugee protection norms for reasons of self-interest may well change State behavior.²⁴

In the last 60 years, one can observe changing norms, identities, interests, power and agency

with respect to refugee protection in the world and in Japan. In 1951 the Refugee Convention was signed but Japan was not a signatory – Japan was not even a member of the United Nations. In 1981, during the Indochinese refugee crisis, Japan reluctantly joined the 1951 Refugee Convention under strong pressure from the international community, particularly from the United States. But Japan assumed nominal responsibility to abide by the norms of refugee protection contained in the Convention, as evidenced by the extremely small number of refugees admitted to Japan until the late 1990s. Japan has not really accepted the refugee protection norms prevailing at the international level until recently.

In 1994 the United Nations Development Program (UNDP) published the 1994 Human Development Report, in which the notion of Human Security was presented for the first time. In 2000, the UN General Assembly established the Commission of Human Security that issued its final report; *Human Security Now* in 2003. The report contains 10 points, one of which is to support the security of refugees and internally displaced persons. In the same year, Japan adopted the new ODA charter that contains Human Security as one of the guiding principles and since then, promotion of Human Security has been at the core of Japan’s foreign aid policy. One can say that the United Nations developed and “taught” Japan the value of Human Security for vulnerable people including refugees.

Since the mid-1990s, UNHCR has been promoting the third-country resettlement program in the face of an increasing number of protracted refugee situations. In 1995, a Working Group on Resettlement was established, involving the par-

ticipation of the ten traditional resettlement countries to discuss their annual refugee resettlement quota. In 2001, a handbook on resettlement was published and UNHCR encouraged States and the NGO community to promote international protection and international responsibility sharing through resettlement programs.²⁵ The number of States implementing third-country resettlement program has since increased to 18, not including Japan which has just started a pilot program. UNHCR estimates the global resettlement needs at about 800,000 persons over a period of several years and is stepping up its effort to sell the value of the third-country resettlement program worldwide, in particular for Japan.

While promoting refugee resettlement as a form of sustainable solution, UNHCR has tried for years to persuade Japan to be a resettlement country. The former High Commissioner Ogata, who had/has strong influence in the Japanese government, has tried it but could not convince the Government. The present High Commissioner Guterres has sold the idea to the government each time he visited Tokyo since 2006. Hatoyama admitted that he had been strongly urged by Guterres to start a resettlement program. UNHCR Office in Tokyo started its strong campaign for resettlement in February 2007 and continued formal and informal lobbying to promote resettlement. Japanese bureaucracy started moving, by participating for the first time in the Resettlement Working Group meeting in Geneva in summer 2007.

One can see the impact of UNHCR's advocacy and "education" in the fact that Japan started appreciating the norms in general and specific values of a resettlement program for Japan. Through discourse (although limited to a small

group of actors) on refugee acceptance, shared view has emerged that by resettling only a few dozens of refugees to Japan, Japan can gain a lot with less costs. It is in Japan's "national interest" to dissipate the negative image of a country closed to refugees or a country that lacks humanity and a resettlement program would eliminate such a poor reputation. MOJ and MOFA officials have repeatedly stated that the resettlement program is a form of Japan's international contribution. That is to share the view that the provision of an international public good in the form of refugee protection in Japan, thereby changing the perception of Japan as a "free rider", is in Japan's interest. It is also to agree that it is difficult to maintain Japan's identity as a promoter of Human Security while closing its door to refugees fleeing persecution. Both Japan's national interest and identity were reassessed in the discourse preceding the start of refugee resettlement in Japan. The agreed view was that the program would be in line with Japan's identity as humanitarian power and would enhance Japan's reputation and its national interest in international society.

However, reaching such a "shared view" was neither straightforward nor easy. Within the government, there have been divergent interests and views among the 11 Ministries involved in the decision making process. The Cabinet Office, MOFA and particularly MOJ have been promoting the resettlement plan, being aware of the reputational value of such a plan, while Ministries like the Ministry of the General Affairs and the National Police Agency have been reluctant, if not opposed, to the new policy, because for the latter the more pressing concern is to protect vulnerable Japanese citizens who have lost jobs and not refugees. However, the argument that it is time and appropriate for Japan to

accept more refugees in the form of resettlement as part of international responsibility/burden sharing eventually prevailed. Japan has come a long way to get rid of the perception of a “free rider” in the international Refugee Regime, and to prove that it seriously intends to provide human security to the victims of forced displacement, although in a very limited and symbolic manner. In terms of change agents to bring about the shift in Japan’s refugee policy, the catalytic roles played by UNHCR, an international organization, were significant.

As for the roles of agents in the national level and within the government, reform minded individuals, like Inami and his staff, played active roles in challenging the established notion that Japan cannot accept refugees for a variety of reasons and convinced top level policy makers to change the existing policy, against high odds.²⁵ Their careful advocacy worked. Senior parliamentarians including former Prime Minister Mori and Cabinet Secretary Machimura, and MP Aisawa of the LDP joined the group of supporters. Komeito, a political party affiliated with a powerful religious organization Soka Gakkai, established a project team on the refugee issues and actively promoted the resettlement plan, apparently sensing the positive media reports. A few members of the Democratic Party also supported the plan.

The MOJ’s image has improved as the media reports on the unexpected positive developments in refugee policy, and the relations between the MOJ and UNHCR have notably improved. They communicate frequently and the advice of UNHCR is taken seriously by MOJ. These were not seen in the past and the new alliance of change agents between the MOJ and UNHCR will further advance the refugee dis-

course in Japan, in a way, to widen the asylum space in Japan.

The supportive mode of the bureaucrats and parliamentarians was influenced by another agency, the national media reporting positively on the resettlement issue. As mentioned earlier, government officials kept the deliberations on the resettlement policy secret, fearful of possible oppositions from the parliamentarians and the general public. But their apprehension was not justified. National media started reporting on the study group as early as mid-2007, and reports and editorials of the national dailies as well as TV news programs have been supportive and encouraging of the new direction of the government policy, with a proviso that the government has to provide resettled refugees with sufficient language training and skills training as well as long term integration support, so that the refugees can become members of the Japanese society as soon as possible.²⁶ This has not only silenced possible oppositions and public concerns but positively influenced the perceptions of the parliamentarians and bureaucrats who consider media reports and editorials of national dailies would reflect popular thinking. Inami also admitted the very important role the Japanese media played in forging positive public opinions and thereby encouraging the departure from the past policy.²⁷ On 28 September 2010 when the first group of 28 Karen refugees arrived at Narita airport, a horde of media reporters surrounded the refugees who were obviously astonished by the attention paid to them. There have been a large number of TV reports and newspaper articles, most of them welcomed refugees but cautioned the government to strengthen the integration support measures. The media are aware of the difficulties the Indochinese refugees faced in Japan.

Finally, the start of the resettlement program has certainly been prompted by the national discourse on immigration. Given the prospect of a rapidly shrinking and aging population in Japan, some opinion leaders started a campaign to open Japan for immigration. The then ruling LDP, under the chair of PM Nakagawa, formulated a policy paper urging Japan to accept up to 10 million immigrants in the next 50 years. UNHCR intervened asserting that accepting millions of migrants while closing the door to refugees is inappropriate and would intensify “Japan bashing”. Refugee protection is an international obligation while accepting (or not) economic migrants is a national policy issue. The former should be accorded priority. The final policy paper urges the government initially to accept 1,000 refugees every year.²⁸ While Japan is still divided on the issue of immigration, a shared view has emerged that it is high time for Japan to open its doors more widely to refugees. Similar view is reflected in the recent report on immigration submitted to the Prime Minister by a powerful conservative body of opinion maker, the Japan Forum on International Relations. The Forum welcomed the start of the resettlement program in Japan.²⁹ One could observe a new “structure” of socially shared views on refugees is emerging and Japan’s refugee policy would be guided and constrained by the new “structure” in the coming years.

4 Japan’s Refugee Policy – Its Future

4.1 A start of a new era?

After many decades of exclusionary refugee policy, Japan seems to be opening its doors to refugees at last. There is a perception that Japan is set on a course to become a more open society to refugees. Such common perception

will in turn lead to an increase in the number of asylum seekers and, in consequence, in the number of recognized refugees. In retrospect, 2008 was a turning point, when Japan abandoned the “vicious cycle” of keeping the door tightly shut, thus discouraging asylum seekers, in favor of a “virtuous cycle” of enhancing refugee protection including the start of the resettlement plan, and encouraging asylum seekers.

Behind the shift in the government’s refugee policy is a shift in the shared norms, views and interests held by policy makers and public opinions which were caused by advocacy initiatives taken by UNHCR and reform-minded officials. They created a new “structure” of new norms and ideas which takes on a life of its own and it will in turn shape the government’s subsequent actions.³⁰ But whether Japan as a nation has really abandoned its closed door policy in an irreversible manner and if more refugees will come to Japan thus reversing the “Japan passing” trend is still uncertain. Asylum seekers have penetrating eyes and they will critically assess if Japan has become a trustworthy country of asylum that offers as much human security for them, particularly empowerment measures, as that offered by other countries.

In order to “attract” more refugees, new arrangements and practices are needed in such a way to make Japan’s refugee protection “owned” by all stakeholders throughout the country. First, the government has to stop hitherto secretive and paternalistic refugee settlement policy and should seek support of the local governments, NGOs and private companies for building a national integration support system. The government’s role should be limited to the decision of quota, namely decisions as to how many refugees

should be resettled to Japan and from which country. The government should also establish a long term integration plan. A situation where most of the resettled refugees will settle in Tokyo area and engage in jobs like dishwashing and cleaning should be avoided. Concentration of refugees in Tokyo area will not only lead to a refugee colony and create social integration problems, but also deprive local cities and towns of valuable opportunities to join in international cooperation and humanitarian assistance. Refugees should be given several options regarding the place of settlement including local cities and towns away from Tokyo. It is encouraging that the government has recently decided to settle the first group of Karen refugees in two cities in Aichi prefecture and Chiba prefecture.³¹

Second, the government should transfer budgets to assist resettled refugees in Japan (some \$2 million in 2011) to local governments, implementing NGOs including the existing refugee communities asking the latter to provide direct integration assistance. The practice of integration support only by the government, only in Tokyo and only for 6 months is not sustainable. No resettlement country resettles (by default or by intention) refugees in its capital. By a refugee (and budget) dispersion policy, local governments could build up their capacities to become partners to assist and empower refugees. Human security for refugees as international public goods cannot be provided only in Tokyo or only by the government. They are “national products” to be produced by all parties concerned, including local governments, local NGOs and importantly refugee communities. In this respect, it is encouraging that the First Retailing, the world’s fourth-largest specialty apparel retailer, has recently agreed with UNHCR to start an internship program for refugees in

Japan to work at UNIQLO stores so as to help them gain professional experience and encourage integration into Japanese society.³²

4.3 Research Questions

There are several research questions. First is the detailed analysis of the discourse and decision making process leading to the start of the resettlement program, as outlined in previous paragraphs. The introduction of the resettlement program will have long-lasting and significant impact on Japan’s refugee policies and examining the process is by itself useful, particularly in Japan when policy making is done via consensus building. The constructivist approach seems best fit for the analysis. The hypothesis presented here is that socially constructed rules, principles, norms of behavior and shared beliefs on refugee resettlement advocated by UNHCR have provided the Japanese government and policy makers with new understanding and realization that resettlement is a valuable and effective means of providing refugees with human security and that is also in Japan’s national interest. The research should identify both shifts in norms at the international level caused by UNHCR and shifts within Japan at the government and policy making level caused by UNHCR in Japan. The analysis of the national discourse and the impact of media in formulating the supportive public opinion will be an important part of the research.

Second is the design of an effective national integration support mechanism for the resettled refugees, taking into account that many of the resettled Myanmar refugees will encounter “civilization” for the first time. Some of them have limited education and would face enormous challenges in social and economic integration in Japan. How will they adapt to life in Japan?

What are their needs? Who should help them and in what way in such a manner to make resettled refugees satisfied and content in living in Japan? An anthropological perspective will be useful here.

The third question is the reasons as to why most of asylum seekers, particularly Chinese, engage in “Japan passing.” As for Chinese asylum seekers, the commonly held view is that the government does not recognize Chinese refugees for fear of offending the Chinese government or for fear of facing thousands of Chinese asylum seekers. This assumption has to be challenged, as it is possible that Chinese asylum seekers do not believe that Japan will offer them with better chance of enjoying “freedom from fear and want” than in other countries, particularly in the United States, where some 5,000 Chinese asylum seekers are granted refugee status every year and refugees can expect to obtain citizenship in five years time. A hypothesis is that it is not so much Japan does not accept Chinese refugees as Chinese asylum seekers prefer other countries of asylum. Given the proximity of China, the small size of asylum seekers, presence of big Chinese migrant communities in Japan, and the historical background between the two countries, the research could generate very interesting findings and observations for the betterment of Japan’s refugee policy as well as its migration policy.

4.4 Concluding Remarks

This Research Note reviewed the causes of flight of refugees and considered that refugees lack human security. It argued that provision of human security through territorial protection is an international public good which tends to be undersupplied because of “free riding”. While “Japan bashing” has been going on for decades,

most of the world’s refugees are “passing by” Japan, as they feel human security would not be provided to them in Japan. It is not so much that Japan is closed as refugees are not coming to Japan. The real barrier lies in the inability of Japan to provide refugees with human security inside the country after they have been accepted. The lack of empowerment measures is a core problem.

Fortunately, there has been notable improvement in Japan’s refugee policy. The decision by the Japanese government to start a pilot resettlement program is an example. The decision can be explained using a lens of constructivism in international relations discipline, and from that perspective, what is important for Japan is a concerted advocacy by international and domestic change agents to present new set of norms, values and interests concerning refugees, in a manner to make policy and opinion makers wish to effect changes and reforms.

By doing so, Japan can provide more and better human security to much larger number of victims of forced displacement and can meet the aspiration stated in the Preface of the Constitution: “We desire to occupy an honored place in an international society striving for the preservation of peace, and the banishment of tyranny and slavery, oppression and intolerance for all time from the earth. We recognize that all peoples of the world have the right to live in the peace, free from fear and want.” Japan’s new refugee policy suggests that Japan is moving towards the right direction to meet the national aspiration.

¹ United Nations, *1951 United Nations Convention*

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- ² *Relating to the Status Refugees* (189 UNTS 137)
UNHCR, *2009 Global Trends Refugees, Asylum-seekers, Returnees, Internally Displaced and Stateless Persons*, UNHCR, 2010
- ³ UNHCR, *The State of World's Refugees - fifty years of humanitarian action*, Oxford University Press, 2000, pp161-162. *The State of World's Refugees ~ Human displacement in the new millennium*, Oxford University Press, 2006, pp52-53.
- ⁴ Commission on Human Security, *Human Security Now*, 2003 available at <http://www.humansecurity-chs.org/finalreport/English/FinalReport.pdf>.
- ⁵ Article 33. 1 of the 1951 Refugee Convention provides that "No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality membership of a particular social group or political opinion".
- ⁶ The Ministry of Foreign Affairs, *Japan's Official Development Assistance Charter*, August 2003, available at <http://www.mofa.go.jp/policy/oda/reform/revision0308.pdf>.
- ⁷ Yoshio Hatano, former Japanese Ambassador to the UN Organizations in Geneva, *Ouyuu Kaihou*, No. 97, December 2010, p. 7.
- ⁸ Merryl Dean and Miki Nagashima, "Sharing the Burden: The Role of Government and NGOs in Protecting and Providing for Asylum Seekers and Refugees in Japan" in *Journal of Refugee Studies*, Vol. 20, No. 3. Oxford University Press, 2007.
- ⁹ UNHCR, *2009 Global Trends*, <http://www.unhcr.org/pages/49c3646c4d6.html>
- ¹⁰ Eric Neumayer argues that asylum seekers choose the destination country based on their evaluation of economic attractiveness, generosity of welfare provisions, deterrent policy measures, hostility towards foreigners and asylum seekers, existing asylum communities, colonial and language links as well as geographical proximity. *Asylum Destination Choice: What Makes some West European Countries More Attractive Than Others?* European Union Politics, 2004 No.5, Sage Publications, 2004, pp155-180.
- ¹¹ UNHCR, *A Report on the Local Integration of Indo-Chinese Refugees and Displaced Persons in Japan*, Tokyo, December 2009.
- ¹² Hiroshi Yamada (ed) *Nihon No Nannmin Ukeire: Kako, Genzai, Mirai*, Tokyo Zaidan, 2007.
- ¹³ *ibid.* With regard to 163 Vietnamese refugees 12 of the respondents replied that they regret coming to Japan.
- ¹⁴ Ministry of Justice press release, February 25, 2011, available on http://www.moj.go.jp/nyu-ukokukanri/kouhou/nyuukokukanri03_00077.html
- ¹⁵ Nehginpao Kipgen, *Japan's Action Changes Asia's Image*, The Korea Times, 29 December 2008.
- ¹⁶ Ryuuji Mukae, *To Be of the World - Japan's Refugee Policy*, European Press Academic Publishing, 2001, pp. 241-243. Ryuji Mukae argues that joining the 191 Convention was a tactical concession by Japanese bureaucrats to ensure that Japan could still retain its fundamental isolationism by maintaining sovereign control over refugee status determination and its domestic refugee policy.
- ¹⁷ Jeff Kingston, *Diplomat rues Tokyo's 'lack of humanity' to asylum-seekers*, The Japan Times, 8 July 2007.
- ¹⁸ Interview with Mr. Inami by mail on 20 March 2010.
- ¹⁹ Minister of Justice Hatoyama's reply at the 168th meeting of the House of Councilors Judicial Committee, 11 December 2007. His reply at the 169th meeting of the House of Representatives Budget Committee, 13 February 2008.
- ²⁰ For detail (in Japanese), see <http://www.cas.go.jp/jp/seisaku/nanmin/081216ryoukai.html>
- ²¹ Alexander Wendt, *Social Theory of International Politics*, Cambridge University Press, 1999, p.1.
- ²² Audie Klotz and Cecelia Lynch, *Strategies for research in constructivist international relations*, M.E. Sharpe, 2007, p.3.
- ²³ Martha Finnemore *National Interests in International Society*, Cornell Paperbacks, Cornell University Press, 1996, p.15.
- ²⁴ Emma Haddad, *The Refugees in International Society: Between Sovereigns*, Cambridge University Press, 2008, p. 16.
- ²⁵ Jeff Kingston, *Japan Charts a New Course on*

Refugees, The Japan Times, 8 February 2009.

²⁶ For instance, a conservative Nihon Keizai Shinbun (Japan Economic Journal) has urged the government to open the gate widely to refugees and provide warm support to them in its Editorials of 10 August 2008 and 3 October 2010.

²⁷ Inami, *ibid.*

²⁸ Liberal Democratic Party, Gaikoku Jinzai Kouryu Suishin Rennmei, *Jinzai Kaikoku: Nihongata Iminn Seisaku no Teigen (Proposal for a Japanese style immigration policy)*, 12 June 2008.

²⁹ The Japan Forum on International Relations, *Prospects and Challenges for the Acceptance of Foreign Migrants to Japan*, November 2010, p.3.

³⁰ Martha, P. 30

³¹ Ministry of Foreign Affairs, press release of 25 February 2011, available at http://www.mofa.go.jp/mofaj/press/release/23/2/0225_09.html

³² <http://www.fastretailing.com/eng/csr/news/1102231700.html>