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Japan's Refugee Policy: Issues and Outlook*

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Introduction

In 2015, 65 million people were “forcibly displaced” worldwide. Of these, 21 million left their country of origin, and most of these refugees live uncertain refugee lives for many years in urban areas and refugee camps. During the same year 1.4 million refugees and migrants moved into European countries resulting in social, economic, and political unrest, and sparking US President Donald Trump's policies to restrict the entrance of refugees to the US. While becoming a refugee threatens the “human security” of each individual, the simultaneous influx of large numbers of refugees threatens the “state security”. In our world today, a problem is arising whereby neither the human rights of refugees nor the interests of their host countries are being protected.

In Japan, although the number of individuals admitted by recognition as refugees remains at just 20~30 per year, the number of applicants for asylum has suddenly increased to 19,628 in 2017. Japan's “refugee problems” are the admission of a number of refugees that is too few by international standards and, domestically, the response to the sudden increase in applications for asylum (applications for recognition of refugee status). This paper presents an overview of the trends in the international refugee relief system, followed by an examination of the present conditions and issues in Japanese refugee policy, and its future. The main questions are (1) why does Japan accept so few refugees, (2) why is there a sudden increase in applications for asylum in Japan, and (3) what type of refugee policy can Japan adopt in the future.

1. The International Refugee Relief System and its Limits

Relief of refugees who cannot enjoy protection in their own countries has the humanitarian value of protecting the life and safety of refugees as well as the political value of preventing the chaos accompanying the cross-border movements of refugees, and these are both “international public goods” which are desirable for all people and all nations. The international community has established the international refugee relief system (hereafter, the “1951 System”), which primarily comprises the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees (hereafter collectively referred to as the “Refugee Convention”), the Office of the United Nations High Commissioner for Refugees (UNHCR), and the participation of several hundred non-governmental organizations (NGOs), with

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responsibility for asylum by each country and international burden sharing. The 1951 System is based on several basic concepts and assumptions, and it is no longer suitable for the present conditions, which have been called the greatest humanitarian crisis since World War II. Let us consider the conditions related to Japan's "refugee problems."

First, the 1951 System aims at providing relief to individuals escaping "persecution" and seeking asylum in foreign countries. Under the Refugee Convention, "persecution" fundamentally refers to a government's violation of its own citizens' lives and freedoms. During the Cold War era, those receiving protection were defectors escaping from persecution by the Communist countries of the East to the free countries of the West, so-called "political exiles." The main causes of the emergence of refugees today, however, are threats to life and safety resulting from domestic conflicts, and these differ from "persecution" in which a government targets specific individuals or groups. Such persons were not envisioned under the 1951 System, and the Refugee Convention does not explicitly list "conflict conditions" as grounds for persecution. Therefore, individuals are not recognized as refugees for the sole reason that they have escaped from conflict conditions.¹

Second, the 1951 System is based on the concept of "territorial asylum" assuming the reciprocity between nation states. Territorial asylum means that by being accepted into a country's territory, the refugee cuts off pursuit by the government of the country of origin and is protected by the shield of the host country's sovereignty. Consequently, to receive asylum, the refugee must arrive at the destination country by his or her own means. Conversely, no country has the obligation to protect refugees who have not arrived in their territory. As a result, "asylum" has no meaning for (nothing to do with) the 40 million internally displaced persons (IDPs), and under the Refugee Convention no country is obliged to provide relief to persons who risk their lives trying to cross the Mediterranean unless and until they arrive in that country's territory. The general understanding is that "It's really unfortunate, but we can't provide any help because you have not arrived in our country." This is a fundamental limit of the present system based on "territorial asylum."

Third, there is the issue of individuals who attempt to use the refugee system to enter industrialized countries seeking economic and other opportunities, that is, the so-called "mixed migration" problem. Economic stagnation in the countries of sub-Saharan Africa where populations are rapidly growing have resulted in high unemployment and destitution among youth and generated millions of international migrants seeking opportunities in the industrialized countries of the North ever since the 1980s. Many of these migrants claim they are refugees and seek asylum since there are no legal immigration routes for them whilst the industrialized countries have no intention of accepting them. Because the persecution and conflict that are the cause of conflict refugees and the extreme poverty and unemployment that are the cause of economic migrants are mutually intertwined and exist simultaneously, it is not easy to distinguish between refugees and migrants, making recognition of refugee status and asylum difficult. What is more, recently, although the numbers are few, there have been cases of terrorists trying to immigrate posing as refugees, making the mixed migration problem even more complex.

Fourth, there is the problem of "free riding." Refugee relief is an international public good, but all public goods that can be used without the payment of costs entail the problem of free riding. While the use of the refugee system by economic migrants is use at the individual level, the free riding problem at the level of the state is also serious. The Refugee Convention calls for sharing of the responsibilities and burdens of refugee relief through international cooperation, but the specific means of allocating responsibilities and costs are not prescribed. Because acceptance of refugees by one country means they do not have to be accepted by another, free riders who expect other countries to accept refugees and do not accept refugees themselves may easily emerge.² President Trump's "America First" movement undermines

the supply of international public goods through international cooperation, and is an expression of international free riding by states.

2. From Asylum to Protection

As outlined above, there are several deficiencies with the refugee relief system based on spontaneous arrival and subsequent provision of territorial asylum. It is the UNHCR that is expected to support this system through “supervision” of the implementation of obligations under the Refugee Convention by the contracting states, but as an “agent” of the contracting states which are the “principals”, the UNHCR cannot act against their will. The UNHCR’s budget depends on the voluntary contributions of the industrialized nations, and this makes its position even weaker. Amid a large influx of refugees and migrants and the various problems that arise with this, the UNHCR cannot prevent European countries from becoming restrictive toward territorial asylum. Traditional solutions to the refugee problem, that is, voluntary repatriation to the country of origin, settlement in the first country of asylum, and settlement in a third country (resettlement) are all not functioning.

Amid efforts to find some new approach to break through this deadlock, the UN General Assembly held the Summit for Refugees and Migrants in September 2016 and issued the New York Declaration for Refugees and Migrants. While affirming the 1951 Refugee Convention, the contracting states agreed to overcome the present crisis through settlement in third countries, financial cooperation in the spirit of international solidarity, and to draft a new Comprehensive Refugee Response Framework by 2018.³ This gives the impression of being a collection of the diverse policies that have been tried so far, but several proposals for radical revision of the system have been made by researchers. The refugee law expert James Hathaway has proposed recognizing refugees’ right to seek asylum but not the right to choose their host country, granting the UNHCR the authority to allocate refugees, and concentrating financial aid for protection in neighboring host countries under the concept of “common but differentiated responsibility.”⁴ Alexander Betts and Paul Collier of the University of Oxford have proposed radically reforming the international refugee protection system, which has reached an impasse, including the idea of establishing special economic zones (SEZs) in neighboring host countries to promote the employment and economic independence of refugees while also contributing to the development of the host countries. The government of Jordan is implementing a pilot SEZ project in cooperation with the European Union (EU) and has already committed ¥15 billion.⁵ While the idea of using Official Development Assistance (ODA) funds for refugee relief is not particularly new, the EU—which is struggling with a large influx of refugees—has reacted to this and is advancing a pilot project in Ethiopia as well. These projects introduce an economics-type solution to the present system, which is based on legal territorial asylum principle. We may be observing a global shift in the direction of refugee policy from “asylum” which is the cornerstone of the 1951 System to “protection” comprising a more broadly defined political and economic measures.⁶

3. Reasons why Japan Admits Few Refugees

Japan admits only a handful of refugees through the refugee status recognition system. In 2017, 19,628 persons applied for asylum, but only 20 had their refugee status recognized, mostly individuals from the Middle East and Africa, and the number recognized over the past 10 years has been limited to between 10 and 50 persons per year. From 1982 when Japan joined the Refugee Convention until the end of 2017, just 708 persons were recognized as Convention refugees. Leaving aside the European countries and the US, which have been accepting tens of thousands of refugees, South Korea, which enacted its own Refugee Act in 2013, recognized the refugee status of 588 persons from 1994 through 2015, including 105 in 2015.⁷ It is also notable that among the 81 Syrians who applied for asylum in Japan by 2017, only 12 were

granted refugee status (the rest were granted humanitarian status). Consequently, Japan is subject to on-going criticism that it is not sufficiently fulfilling its international obligations to protect refugees. This “Japan bashing” means that Japan is free-riding on the acceptance of refugees by other countries, but why is the number of refugees accepted by Japan so small?

First, when refugees choose a host country, they consider geographical conditions, historical ties, and the existence of communities of people from their home country, language, and the host country’s image. From such aspects, the conditions in Japan are not favorable, and few refugees select Japan as their host country. To begin with, Japan is located far away from the conflict countries and failed states of the Middle East and Africa that generate many refugees. It can only be reached by airplane, but the plane tickets are expensive, and it is not easy to obtain a visa. For the refugees, Japan has high “geographical barriers.” Japan also has an established image as a “harsh country for refugees” with a refugee status recognition rate of 0.2%. This explains why the number of asylum applications from neighboring China is only about 150 per year, and there are no applications from North Korea or Russia. This may be termed “refugee Japan passing.”

The second reason is the inadequacy of Japan’s social infrastructure for receiving refugees. That begins with the difficulty of the Japanese language. While English is taught in many of the refugees’ home countries, Japanese takes a long time to learn and it is only used in Japan. Japan has few refugee communities, and mutual aid networks are rare. The refugees who have been settled in Japan include Indochinese refugees from the 1980s, Convention refugees (refugees defined by the Refugee Convention), and refugees from Myanmar accepted under the third country resettlement programs launched from 2010. Their social integration support system is weak. Many of the refugees work at unstable, low-wage jobs, and belong to the lower class socially and economically. While refugees are given priority under the permanent residence and citizenship acquisition systems, in practice the acquisition is not easy and takes years. In the absence of a stable legal status, many live with anxiety about their future including pensions. It takes decades until the 2nd and 3rd generation receive the benefits of Japan’s educational system and can prosper in society. Mostly because of the language barrier, the first-generation refugees suffer from limited employment opportunities and discrimination, and some regret having come to Japan. For these reasons, the popularity of Japan among refugees is low.⁸

The third reason is that even if a refugee applies for asylum in Japan, the likelihood of having refugee status recognized by the Ministry of Justice is extremely low. The definition of refugees under the 1951 Refugee Convention is centered on “fear of persecution,” but the definition of “persecution” and the setting of recognition standards are left up to the contracting states. There are no “international standards” that must be complied with by all countries. For that reason, even when asylum seekers come from the same country of origin, the likelihood of recognition of refugee status varies by host country, and may also vary within the same host country as political, social, and other conditions change. One example is how the criteria for recognition of refugee status are being made increasingly harsh in Germany and other European countries that have experienced a sudden increase in applications for asylum. In Japan, the interpretation of the definition of “persecution” under the Ministry of Justice administrative policies for recognition of refugee status and legal judgments by courts is restrictive compared with that in the West, and the standards for judgment of “fear” [of persecution] are strict. “Persecution,” in general, means to cause “harm.” Compiling various information and court precedents, it seems the criteria for the Ministry of Justice to recognize “fear of persecution” are as follows, based on documents published on its Internet site each March as well as other sources.⁹

- (1) The reasons for harm are those prescribed by the Refugee Convention: race, religion, nationality, political beliefs, or membership in a particular social group.

- (2) The agent causing harm is a government organ or equivalent organ with governing power (in addition to directly causing harm, cases of tolerating or assisting harm by a third party are included).
- (3) A particular individual or group is singled out and targeted as the object of harm.
- (4) The government authorities intentionally do not take effective measures to prevent harm within the country, or lack the governing ability to do so.
- (5) The extent of harm is extreme to the extent that “it cannot be endured by normal people,” entailing grave and severe violation of life or physical freedom of person.
- (6) A logical cause-effect relationship is recognized between harm and the fear of being harmed.

All six of these conditions must be met to receive recognition of “persecution.” Condition (3) “A particular individual or group is singled out and targeted as the object of harm” provides grounds to deny recognition of refugee status to average citizens who have escaped from indiscriminate attacks and generalized violence such as the civil war in Syria. Such conditions are not considered by the Ministry of Justice to constitute “fear of persecution.” Regarding “fear of persecution,” the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status does not provide such restrictive guidance¹⁰. Also, Condition (5) that the extent of harm must be so harsh that it “cannot be endured by normal people” is supposed to be based on the provisions of Article 33 Paragraph 1 of the Refugee Convention (“life or freedom would be threatened”), however the Handbook is silent on the severity of harm. Condition (1) uses the language under the Refugee Convention just as it is, but Condition (2) through Condition (6) may be deemed very restrictive interpretations unique to Japan, established by the accumulation of administrative litigation case precedents. These criteria all depend on the subjective judgment of refugee inquiry officers. In other words, they leave a great deal of room for discretion by the officers.

There are cases where the Ministry of Justice grants “residence permission to stay as an evacuation opportunity” for applicants who have come from conflict zones, even in cases that do not fully meet the six criteria above. In 2017, 45 individuals received residence permission in this manner, so the total number of persons granted protection was 65 including 20 whose refugee status was recognized. All the asylum applicants from Syria aside from those granted refugee status received residence permits as “an evacuation opportunity.” Those given “an evacuation opportunity,” which has to be renewed time and again, will eventually come to be treated in practice as no different from refugees, who are given five-year residence permits to start with. It may be said that Japan’s “refugee recognition” is made not in a “digital format” decided at the time of asylum application, but rather in an “analog format” that generates “piecemeal permission” in several years considering both the conditions in the country of origin and the level of assimilation of the asylum seeker in Japan. This practice is applied not only to refugees, but also to all foreigners seeking employment or family unification in Japan.

The Ministry of Justice adopts a narrow and restrictive definition of refugees, while leaving room for granting residence permits on humanitarian grounds as needed. In fact, this way of thinking of the Ministry of Justice regarding recognition of refugee status and persecution has continued ever since Japan ratified the Refugee Convention in 1981. At that time, the number of asylum seekers in the industrialized nations was already rising, and many of these were regarded as “conflict refugees” or economic migrants making use of the asylum system. On the other hand, the development and spread of human rights norms demanded the protection and support of individuals who are not strictly speaking refugees as prescribed by the Refugee Convention but are under conditions equivalent to those of refugees. The industrialized nations have responded by introducing measures such as “temporary protection” and “residence permission on humanitarian grounds” incorporating humanitarian demands and political con-

siderations, repatriation to “safe country of origin” or “safe third country,” and “subsidiary protection” (protection of persons who are not Convention refugees but require similar treatment).¹¹ The policy of the Ministry of Justice to adopt a narrow definition of refugees while leaving wide room for discretionary humanitarian residency permits followed the example of the Western industrialized nations at that time.

As a result, in the 1990s the number of refugees recognized by the Japanese government was in the single digits. Consequently, some criticize that while the Japanese government became a party to the Refugee Convention, Japan has protected its mono-ethnicity and sovereignty by rejecting refugees in practice through application of the Immigration Control and Refugee Recognition Act, and in fact reinforced the power of the bureaucracy which has discretionary power.¹² Others claim that while Japan adopted international norms by becoming a party to the Convention, it is neglecting the implementation of the international norms over concerns they will conflict with the domestic norm of rejecting foreigners.¹³ The Ministry of Justice has been managing the conflict between the international norm pertaining to asylum and the domestic norm, which opposes the former through “administrative interpretations and practices.”

4. Lack of Migrant Acceptance Policy

The fourth reason for, or background to, the small number of refugees accepted into Japan is the lack of any policy to accept migrants. Prime Minister Shinzo Abe has repeatedly stated, “Japan will not adopt a migrant policy.” However, the definition of “migrant” used here is “persons granted permanent residence at the time of entry,” differs greatly from the definition commonly used by international organizations, such as IOM, referring to “persons residing overseas for more than one year” (244 million people worldwide as of 2015).¹⁴ Given the fact that there are 2.4 million foreigners with mid-term or long-term residence status in Japan, the government’s definition is a fiction forged in desperation. With the fiction/assumption there are no migrants with fixed or permanent residence in Japan, there is no need to provide infrastructure to support their social integration such as Japanese language education, employment assistance, and policies for coexistence with the local community. For that reason, Japan has become a country where it is very difficult for foreigners, especially refugees with no social capital, to live, leading to “Japan passing” by refugees.

On the other hand, as Japan’s labor shortage becomes increasingly severe, reception of “foreign technical interns,” who are used in practice as unskilled laborers, has exceeded 250,000 persons, and the government is eager to accept foreign workers for a period of three to five years in the fields of construction, agriculture, and nursing. The government of Japan maintains its official position that it does not accept unskilled laborers, but in fact approximately 250,000 foreign students and 250,000 foreign technical interns are employed in Japan as unskilled laborers, and the number of such foreign workers rose 19% from 910,000 in 2015 to 1.08 million in 2016. In 2017, the number rose to 1.28 million.¹⁵ While this is clearly contradictory, the government’s basic position is that “while Japan will make every effort to prevent long-term or permanent residence in Japan by foreigners, it will accept useful foreigners for a limited period of time as an exception.” Construction workers, for example, are “useful” for Japan, so they are accepted as an exception, but refugees will be a “burden” on Japan, so they are prevented from entering as much as possible. Officials share the fear that easing the receipt of refugees would lead to a large influx of refugees into Japan that might disrupt public order. This may also be the after-effect of the “disguised refugees” case where 2,804 Chinese entered Japan in 1989 pretending to be Vietnamese refugees.¹⁶ Seen in this way, there is no contradiction among the government’s policies of not accepting permanent migrants, accepting workers in specific fields, and not accepting refugees.

The government of Japan handles the refugee acceptance issue more as an “internal political issue”

than as an issue of sharing its international responsibility (burden) sharing as a Refugee Convention member state.¹⁷ The refugee issue, which is an issue of international human rights, is framed as an internal problem of minimizing adverse socioeconomic impacts including the maintenance of public order. Domestic interests are given priority over international norms. Under this type of policy stance, it is difficult for the Ministry of Justice to turn positive on the acceptance of refugees.¹⁸

The fifth reason is Japanese society's negative attitude toward refugees. In a poll of readers conducted by the liberal Asahi Shimbun newspaper in December 2015, just 24% of the respondents were in favor of accepting more refugees and migrants, while 65% were opposed. In Japan, which places a very strong emphasis on public order, and on safety and security, there is a vague anxiety among citizens based on the misunderstanding that if refugees arrive, public order will deteriorate, and such anxiety has been exacerbated by the confusions triggered by the influx of migrants and refugees in Europe. There is also a tendency in Japan to blame the refugee's country of origin for causing the outflow of refugees as well as the "self-responsibility" of the refugee who came to be persecuted by his or her own government. In Japan, where there is no experience of government persecution of citizens or of (armed) citizen resistance against the government, ordinary people are unconcerned about, or do not have much understanding of, refugee issues. According to an opinion poll on the refugee issue conducted by the global opinion survey company Gallup in 2016, Japan has remarkably low awareness of refugees and the UNHCR among the 17 Asian countries surveyed.¹⁹ Such firmly established social attitudes lie in the background of Japan as a "country closed to refugees".

Sixth, "sensing the mood" in such a society, Japanese politicians remain silent about refugees. In 2011 both houses of the Japanese Diet adopted "the world's first" resolution regarding protection of refugees in commemoration of the 30th anniversary of Japan becoming a party to the Refugee Convention,²⁰ but this neither had any impact on increasing acceptance of refugees, nor had any influence on the actions of Diet members. The main roles of the Diet members are to ask questions in Diet committees in response to demands from NGOs, etc., and acquire and disclose statistical information regarding granting refugee status.

Summarizing the six reasons above, they have a layered relationship as shown in Figure 4. The recognition of refugee status by the Ministry of Justice is constrained by the political environment emphasizing safety and security, which reflects a social awareness that is unsympathetic toward refugees. That attitude was fostered under the geographical conditions of Japan as an island nation. Japan is a "country closed to refugees" because of multi-layered, structural barriers that cannot be broken down easily. Attributing the small number of recognitions of refugee status to the policies of the Ministry of Justice Immigration Bureau alone is missing the forest for the trees.

5. Reasons for the Sudden Increase in the Number of Asylum Applicants in Japan

In the Western industrialized nations, most of the asylum seekers whose numbers are suddenly increasing are believed to be economic migrants from developing countries, particularly those in sub-Saharan Africa, with dire poverty and high youth unemployment rates. In Japan as well, there has been a sharp increase in individuals trying to make use of the refugee status recognition system to enter and reside in Japan, primarily from economic motives. In 2017, 19,628 persons applied for asylum in Japan, which is 16 times the number in 2010. This was sparked by the introduction of a practice by the Ministry of Justice in 2010 to allow all legal residents who have applied for asylum to work in Japan after six months. From that time, the number of asylum seekers from Southeast Asia and South Asia suddenly increased to account for about 85% of the total. Granting permission to work was intended to ease the economic

hardship of asylum seekers, but this led to the unexpected and unintended result of “free riding” by economic migrants, who some media called “disguised refugees”. (see Table 1)

Table 1: 2017 Asylum Applications to Japan Top 10 Countries

Rank	Country	No. of Persons
1	Philippines	4,895
2	Vietnam	3,116
3	Sri Lanka	2,226
4	Indonesia	2,038
5	Nepal	1,451
6	Turkey	1,195
7	Myanmar	962
8	Cambodia	772
9	India	601
10	Pakistan	469
Total		17,725

Source: Ministry of Justice

Looking at the applications for asylum that were rejected, many of these present reasons that are unrelated to the grounds listed in the Refugee Convention such as debts and inheritance problems (38%), trouble with community residents (21%), and trouble with members of opposing political parties (18%).²¹ After their applications are rejected, approximately 20% of the applicants apply once again citing the same reasons. There are also many “deportation evasion applications” whereby individuals who have been served with deportation orders attempt to avert repatriation by submitting asylum applications just before they are sent back to their home countries.

There are structural factors for the sudden increase in the number of applicants. On the one hand, there is the “pull factor” of the labor shortage in Japan that increases the labor demand for foreign workers. As the aging of society with a declining birthrate advances, Japan is facing a serious labor shortage which cannot be covered by the employment of women and the elderly alone, so there is an ever-increasing demand for foreign manual laborers. The estimated 25,000 asylum applicants with work permits constitute an important labor supply for Japan’s small and medium enterprises. On the other hand, the countries of Southeast and South Asia whose economies continue to develop still have widespread poverty and high youth unemployment rates. There are large income gaps between those countries and Japan. In 2014, the per capita income in Japan was about 50 times that in Nepal, 18 times that in Vietnam, and 11 times that in Indonesia.²² This income gap functions as a “push factor” providing incentive for migration to Japan. The relaxation of visa requirements for citizens of Indonesia and the Philippines under Japan’s “Tourism-Based Country” initiative is also a factor. These are the types of factors behind the sudden increase in applications for asylum. As a result the time required to rule on applications for recognition of refugee status has increased from six months in 2011 to about 10 months in 2017.

6.A Dysfunctional Refugee Status Recognition System

The trends of a rapidly increasing number of asylum applications and a small number of recognitions of refugee status are mutually intensifying, leading to dysfunction of the refugee status recognition system. The sudden increase in the number of applications results in longer examination periods, and because applicants can work during that time, the number of applicants increases even more. While strict stand-

ards for recognition of refugee status invite “Japan passing” by refugees, they also prolong inquiry periods and that “rewards” individuals who come to Japan seeking work. The Ministry of Justice processed applications from, 11,361 asylum seekers in 2017, but the number pending reached some 18,000, and while the ministry is taking measures such as giving negative decisions on cases that clearly do not correspond to refugees at the Regional Immigration Bureau level,²³ the increasing trend in the number of applications continues in 2017. There is a possibility that refugees who truly need protection give up making asylum applications and instead seek only humanitarian permits to stay. Japan’s refugee status recognition system is stuck in a dysfunctional trap due to the “adverse selection” phenomenon in economics whereby there are countless “free rider” applicants, while “true” refugees disappear almost entirely from the system (see Figure 5).

7. Japan’s Future Refugee Policy

What can Japan do in the future amid the “refugee crisis” worldwide and in Japan? The first thing is the reform of Japan’s refugee status recognition system. Considering the present global refugee crisis, the current practice of granting asylum to 20 to 30 persons per year is like a drop in the ocean, which not only renders Japan’s asylum system meaningless, but also entails a high diplomatic cost as Japan, which positions human security as a pillar of its foreign policy, is seen as a country that refuses to accept refugees. Given the small number of (true) refugees seeking asylum in Japan, what Japan can do is to show a clear stance toward increasing the number of refugees accepted, and setting numerical goals. An international public policy without numerical targets is useless. Increasing the number of refugee status recognitions can be achieved through more flexible recognition of the refugee status of applicants, even if they do not completely fulfill all of the six criteria referred to earlier.²⁴ By formally adopting the “subsidiary protection” category adopted by some European countries, Japan can increase the number of protected persons by giving them what is substantially the same legal status as refugees.

The current global system of passively waiting for refugees to arrive and submit applications for asylum has shown its limits, and the international society is moving toward actively providing “protection” in the neighboring countries. Given the trend, Japan’s refugee policy should also move in the direction of third country settlement and more generous financial aid to the host countries. Japan’s third country settlement system began from 2010 for Myanmar refugees, and a total of 152 persons from 39 families were accepted through 2017. The annual quota is only 30, yet the quotas were never filled. Also the need for this program for Myanmar refugees is declining as their voluntary repatriations to Myanmar continue. Conversely, there is a great demand for the resettlement of 1.4 million Syrian refugees presently staying in Lebanon and other surrounding countries, and the UNHCR has been calling for expansion of resettlement. At the same time, Japan’s annual budget for resettlement of its quota of 30 persons is ¥130 million (approximately USD1.3 million), which is over ¥4 million per person. Considering that ¥4 million could provide support to 20 to 30 refugees in a developing country, merely expanding the scale of this program is questionable from a cost/benefit viewpoint.

There are other options of accepting refugees in practice, other than formal resettlement, such as international students. The Japanese government has decided to accept 150 young Syrians as international students over five years from 2017. A NGO, the Japan Association for Refugees (JAR) began receiving Syrian refugees at Japanese language schools from April 2017. Providing refugees with an alternative legal pathway as students is suited to Japan, because international students are generally welcomed by Japanese society, while refugees are not. Furthermore, they can be employed in Japan after graduation as “foreign workers,” and when peace returns, they could return to their home country as “peace-building personnel.”

Amid Japan's worsening labor shortage, there is also the idea of providing legal pathway by receiving refugees as "foreign skilled workers" instead of rejecting them as "a burden." The apparel maker Uniqlo has announced plans to employ 100 refugees inside and outside Japan, and about 50 have already begun working. Also considering the reality that an estimated 25,000 asylum seekers are already employed at small and medium enterprises and contributing to Japanese economy, the time may have come for bilateral agreements with sending countries providing a legal route to accept foreign workers, like the "Employment Permit System" for hiring foreign workers in South Korea.²⁵ This may help reduce pressure on the refugee status recognition system. The present system of accepting foreign unskilled workers, whose numbers are increasing by over 100,000 each year, under the guise of "trainees" and "international students" will eventually fail. A fundamental resolution to the issue of "disguised refugees" can only be achieved through resolving the foreign worker problem.

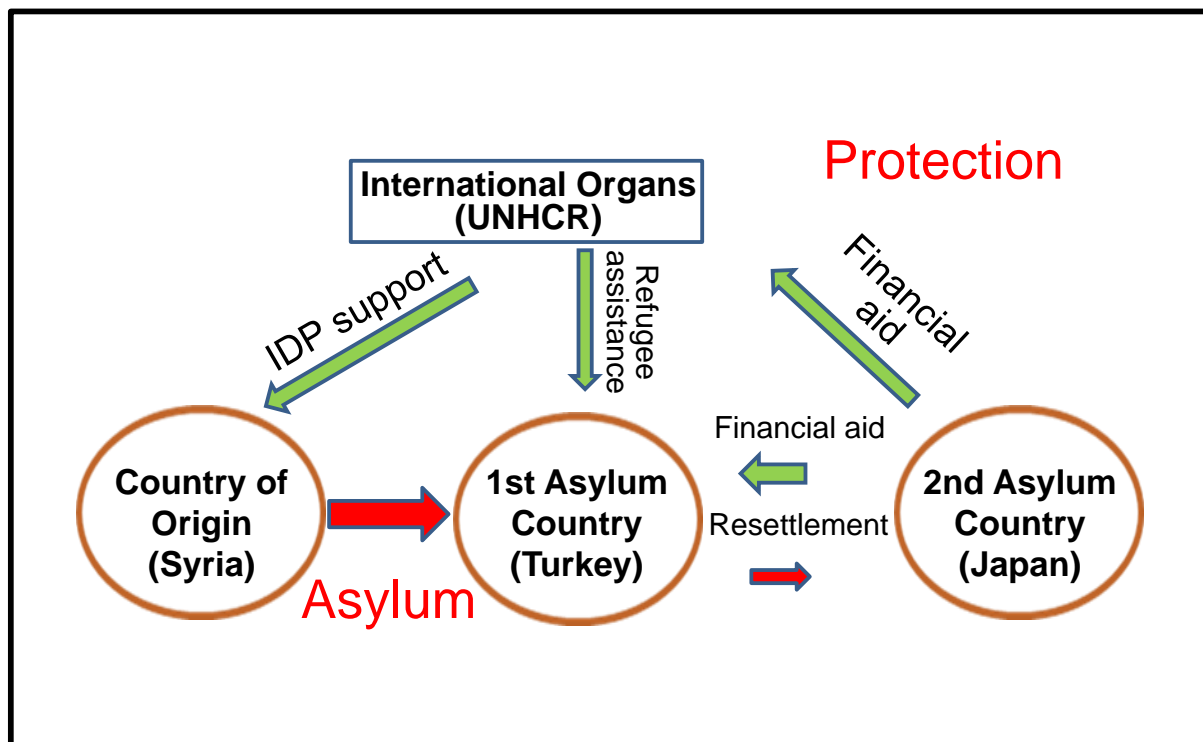
Japan's greatest contribution to the international refugee protection system is through financial cooperation. Despite facing fiscal difficulties, the Japanese government contributes around ¥20 billion to the UNHCR each year, giving relief to millions of conflict refugees and internally displaced persons. At the 2016 Ise-shima Summit, Prime Minister Abe pledged about \$6 billion (approx. ¥690 billion) over the three years from 2016 through 2018 to resolve problems in the Middle East region including the refugee problem and work toward regional stability.²⁶ Japanese citizens show little opposition to financial cooperation for humanitarian aid, which has traditionally been Japan's strong suit, and which is what the international community expects of Japan. As a specific example of assistance, Japan could allocate ODA funds to the "refugee special economic zones (SEZ)" project in neighboring countries accepting refugees, as mentioned earlier. For example, if the Japan International Cooperation Agency (JICA) could participate in the SEZ project in Jordan, which has friendly relations with Japan, for which the EU is already providing funds, that would underpin the success of this project. The impact would become even greater if private-sector investment were made. Participating in this project, which has great potential in terms of both humanitarian assistance and development, would be an appropriate refugee policy for Japan to initiate.

In providing financial assistance, there is a great potential for contributions from enterprises, NGOs, individuals, and other parts of civil society. The Japan for UNHCR, which is an accredited, private, non-profit organization (NPO), collected ¥3.2 billion (approximately USD32 million) from approximately 120,000 donors in 2017 and sent the funds to the UNHCR. This shows the great potential of Japanese society in terms of financial assistance to protect refugees.

Conclusion

Following an overview of trends in the international refugee relief system, this paper has examined why Japan accepts so few refugees, analyzed why the number of applicants for asylum in Japan is rapidly increasing, and discussed Japan's future refugee policy. As a conclusion, given Japan's "structural barriers" to accepting refugees, the future focus of Japan's refugee policy as an international public policy should be (1) humanitarian financial aid and (2) development aid to the host countries, including SEZs, to stabilize the region. This approach would have great significance in supplying relief to millions of refugees, and it meets the expectations of the international community toward Japan. It is also consistent with Japan's foreign policy, with its pillars of human security and "proactive pacifism". At the same time, acceptance of larger number of refugees, even in numbers of hundreds, would improve Japan's international image at this time when other countries are closing their gates to refugees. It would also be an opportunity to increase Japanese citizens' awareness of international issues in general. In that sense, accepting refugees is a policy that is in Japan's enlightened national interest.

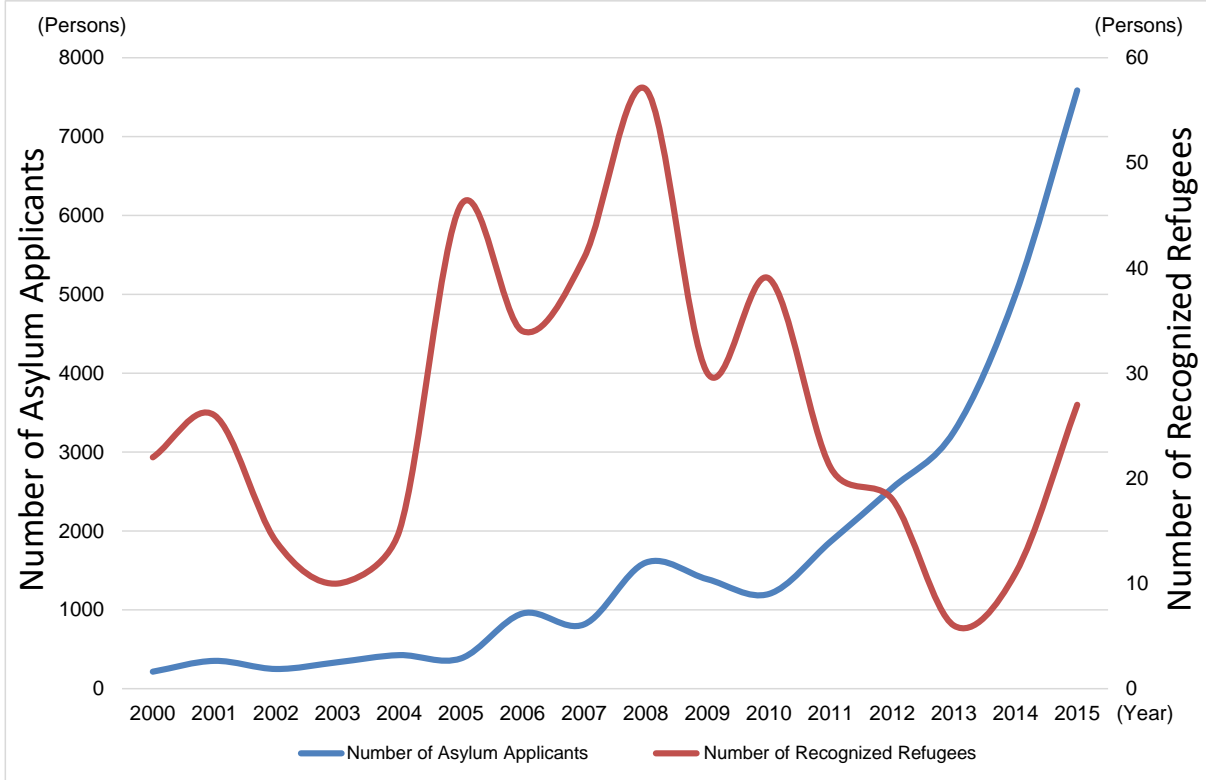
Figure 1: The 1951 Refugee Protection System



Note: Refugees migrate internationally using many different routes (land, sea, air, multiple countries).

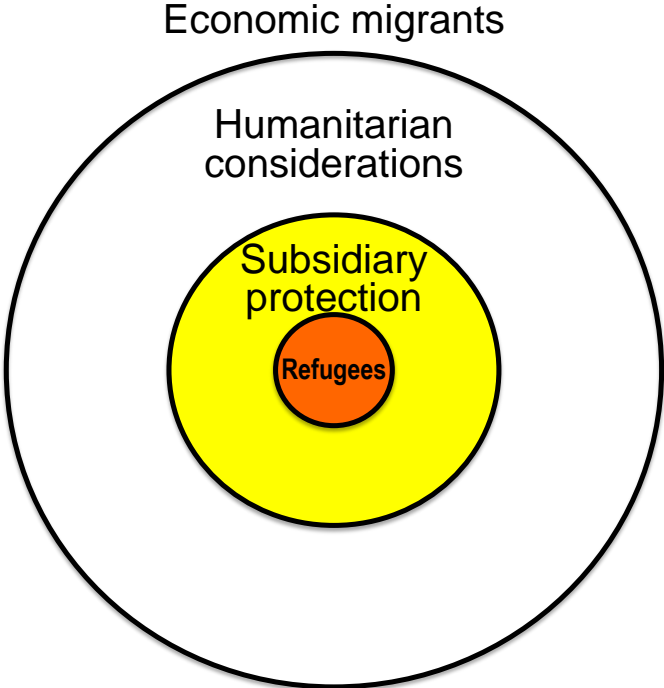
Source: Compiled by the author

Figure 2: Acceptance in Japan by Recognition of Refugee Status



Note: In 2016, there were 10,901 asylum applicants, of which 28 had their refugee status recognized.
 Source: Compiled by the author based on Ministry of Justice Immigration Bureau statistics

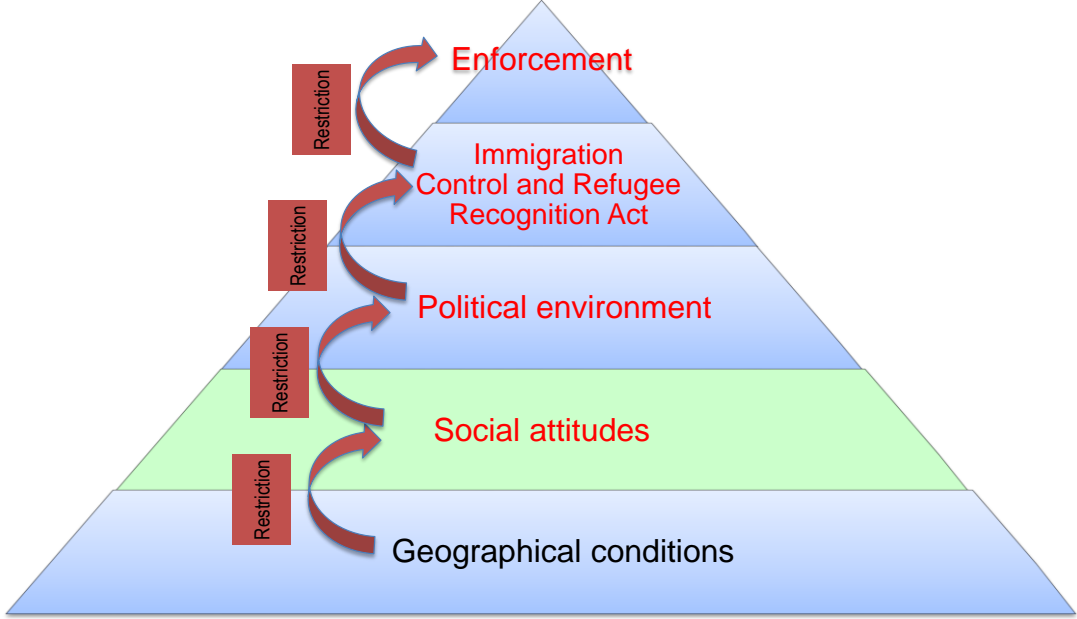
Figure 3: Refugees, Subsidiary Protection, Humanitarian Considerations, Economic Migrants



Note: Conflict refugees can receive subsidiary protection, but economic migrants are not subject to protection.

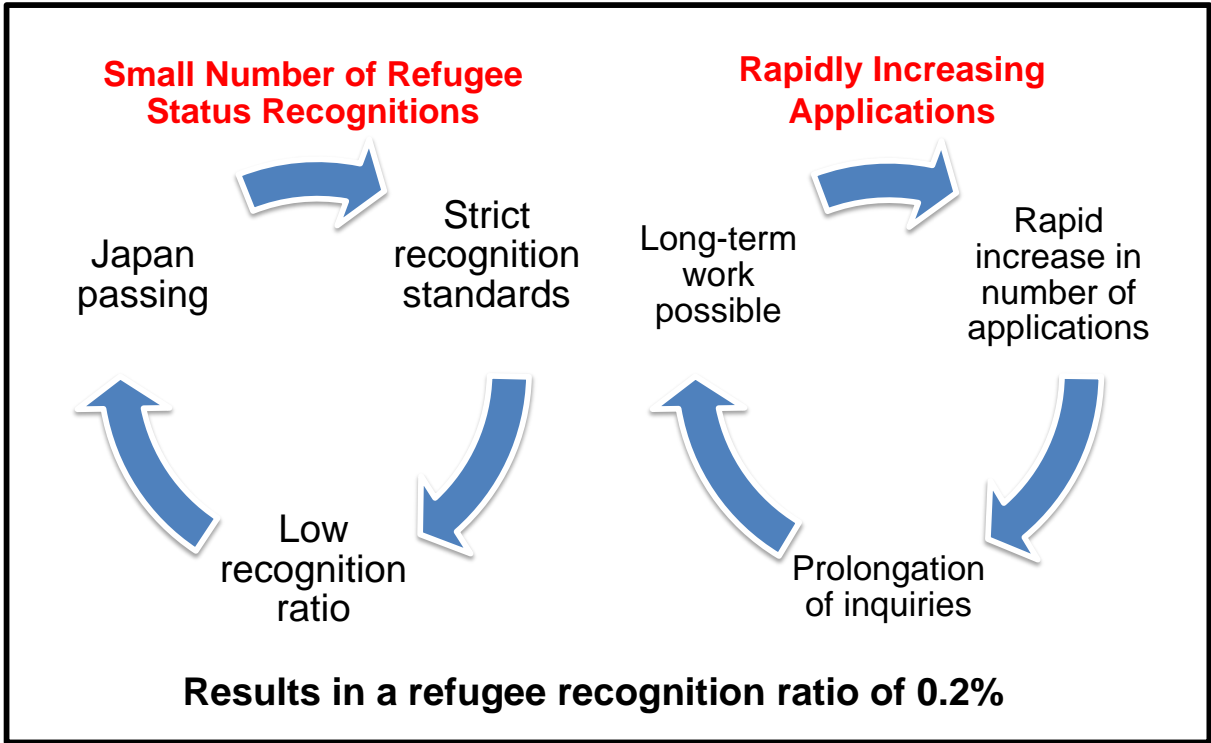
Source: Compiled by the author

Figure 4: Multi-layered Barriers to Receiving Refugees (Migrants)



Source: Compiled by the author

Figure 5: Correlation between Japan’s Refugee Status Recognition System and Policies for Foreigners



Source: Compiled by the author

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1. UNHCR Japan, *Nanmin nintei kijun handobukku: Nanmin no chii no nintei no kijun oyobi tetsuzuki ni kansuru tebiki (kaitei ban)* [Handbook on criteria for determining refugee status: Handbook and guidelines on procedures and criteria for determining refugee status (revised edition)] (2008), sec. 164.
2. Saburo Takizawa, “Nanmin to kokunai hinanmin o meguru dainamizumu: Kokusai kokyozai no kanten kara” [The dynamism surrounding refugees and internally displaced persons: From the perspective of global public goods], *Imin seisaku kenkyu* [Migration policy review] 8 (2016).
3. For the UN New York Declaration for Refugees and Migrants, see http://www.un.org/ga/search/view_doc.asp?symbol=A/71/L.1.
4. James Hathaway, “A global solution to a global refugee crisis,” openDemocracy, 29 February 2016, <https://www.opendemocracy.net/openglobalrights/james-c-hathaway/global-solution-to-global-refugee-crisis>.
5. Alexander Betts and Paul Collier, *Refuge: Transforming a Broken Refugee System*, Allen Lane, 2017. Also, regarding the pilot project in Jordan, see Alexander Betts and Paul Collier, “Help Refugees Help Themselves: Let Displaced Syrians Join the Labor Market,” *Foreign Affairs*, November/December 2015, <https://www.foreignaffairs.com/articles/levant/2015-10-20/help-refugees-help-themselves>.
6. Saburo Takizawa, “Nihon no nanmin seisaku o tou: Hogo kara higo e” [Questioning Japan’s refugee policy: From protection to asylum], *Gendaishi kenkyu* [Research on contemporary history] (Toyo Eiwa University Institute of Contemporary History) 13 (March 2017).
7. *Asahi Shimbun Digital*, August 16, 2016, <http://digital.asahi.com/articles/ASJ8G2SSTJ8GUHBI005.html>; and Andrew Wolman, “Korea’s record on refugees,” *The Korea Times*, http://www.koreatimes.co.kr/www/news/opinion/2016/06/162_207906.html.
8. Regarding the current conditions of Indochinese refugees and resettlement refugees from Myanmar, see Saburo Takizawa and Mitsuru Yamada, eds., *Nanmin o shiru tame no kiso chishiki: Seiji to jinken no katto o koete* [Basic knowledge to know refugees: Beyond the conflict of politics and human rights] (Akashi Shoten, 2017), chaps. 28–31.
9. The Ministry of Justice site presents the points of judgement for cases recognized and not recognized in detail. Also, as a reference for decisions based on the viewpoint of the Immigration Bureau, see Hiroshi Kimizuka, “Nihon ni okeru nanmin ukeire no yuen ni tsuite” [Regarding reasons for accepting refugees in Japan], *Gendaishi kenkyu* (see note vi) 13. Hiroshi Kimizuka is a director of the adjudication division of the Immigration Bureau of the Ministry of Justice.
10. UNHCR Japan, *Nanmin hogo ni kansuru kokusai kijun: Joyaku to shishin* [International standards concerning refugee protection: Convention and guidelines] (2015).
11. Susumu Yamagami, *Gekihen no jidai: Waga kuni to nanmin mondai; Kino, kyo, ashita* [Era of radical change: Our country’s refugee problem: Yesterday, today, and tomorrow] (Nihon Kajo Shuppan, 2007).
12. Ryuji Mukae, *Japan’s Refugee Policy: To Be of the World*; European Press Academic Publishing, 2001.
13. Petrice R. Flowers, *Refugees, Women, and Weapons: International Norm Adoption and Compliance in Japan*, Stanford University Press, 2009.
14. Special Mission Committee on Securing of Labor Force, Policy Research Council, Liberal Democratic Party, “*Kyosei no jidai ni muketa gaikokujin rodosha ukeire no kihonteki kangae kata* [Basic stance for accepting foreign workers toward the “coexistence era”], May 24, 2016, http://jimin.ncss.nifty.com/pdf/news/policy/132325_1.pdf.
15. “Gaikoku jinzai to hiraku (5): ‘Imin’ seisaku wa toranai; Seiko rei kasane ‘na yori jitsu” [Pioneer with foreign human resources (5): Not taking a “migrant policy”; Accumulated success examples of “substance over appearance”], *Nikkei*, March 24, 2017, <http://www.nikkei.com/article/DGXMZO14403870T20C17A3SHA000/>.
16. *Heisei ni nen ban keisatsu hakusho* [Police white paper for 1990], <https://www.npa.go.jp/hakusyo/h02/h02index.html>.
17. For example, when President Trump stopped the acceptance of Syrian refugees in January 2017, Prime Minister Abe repeatedly said that “migration and refugee issues are internal political issues.”
18. Saburo Takizawa, “Sekai no nanmin no genjo to wagakuni no nanmin mondai” [Current conditions of global refugees and our country’s refugee problem], *Horitsu no hiroba* [Law forum] 69, no. 6 (June 2016).
19. Internal documents for the strategy meeting of the UNHCR Asia Pacific Bureau (January 23 and 24, 2017).
20. House of Representatives, *Nanmin no hogo to nanmin mondai no kaiketsusaku e no keizoku teki na torikumi ni kansuru ketsugi* [Resolution on continuous efforts for refugee protection and solving the refugee crisis], 179th Diet, resolution 2, http://www.shugiin.go.jp/internet/itdb_annai.nsf/html/statics/topics/ketugi111117-1.html.

21. Ministry of Justice, *Heisei niju hachi nen ni okeru nanmin ninteishasu to ni tsuite* [Regarding the number of refugee status recognitions in 2016], http://www.moj.go.jp/nyuukokukanri/kouhou/nyuukokukanri03_00122.html. Similar observations are made in Akihiro Asakawa, *Nanmin mondai o kangaeru shiten: Sukunai ninteishasu no shinjitsu* [Perspectives on the refugee problem: Realities of the small number of refugee status recognitions] (2016), Amazon e-book. Akihiro Asakawa is a refugee examination counselor of the Immigration Bureau of the Ministry of Justice.
22. World Bank, <http://data.worldbank.org/indicator/>.
23. *Yomiuri Shimbun*, February 1, 2017.
24. Saburo Takizawa, “Nanmin ni do mukiau (ge): Shiria kiki ‘kaikoku’ no koki ni” [How to face refugees (2nd half): Turning the Syria crisis into an opportunity to “open up” the country], *Keizai kyoshitsu* [Economics classroom], *Nikkei*, October 30, 2015.
25. Japan Institute for Labour Policy and Training, *Donyu kara junen me o mukaeta koyo kyoka sei no kinkyo* [Current status of the Employment Permit System upon its 10th year since introduction], http://www.jil.go.jp/foreign/jihou/2014_10/korea_02.html.
26. Data from the Humanitarian Assistance and Emergency Relief Division of the International Cooperation Bureau of the Ministry of Foreign Affairs.