JAPAN’S REFUGEE POLICY: SHARING THE BURDEN OF HUMAN SECURITY

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Lily McFeeters, B.A.

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Lily McFeeters, B.A.

Thesis Advisor: Victor Cha, Ph.D.

ABSTRACT

This thesis asks: why does Japan accept a low number of refugees despite its responsibility to contribute to global peace as a member of G7, its willingness to participate in other forms of humanitarian assistance, and its labor shortage stemming from an aging population with a negative birth rate? To answer this question, raw data on the number of refugee applicants, their countries of origin, and their occupations are examined in addition to a qualitative analysis of existing arguments as to why Japan rejects most refugee applicants. The Ministry of Justice claims the majority of refugee applicants are giso nanmin or “fake refugees” that are seeking refugee status for economic gain, and as such, not eligible for refugee status according to Japan’s interpretation of the United Nations Convention Relating to the Status of Refugees. This paper concludes that in its quest to prevent economic migrants from obtaining refugee status, the Ministry of Justice ultimately restricts the application process for legitimate refugees fleeing persecution, resulting in one of the lowest number of refugees in a developed country.
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INTRODUCTION

In recent years, Japan has been taking strides to change its immigration laws to allow for specifically high-skilled foreign workers to come to Japan for longer periods of time, such as the “Points-based System for Highly Skilled Foreign Professionals” issued by the Ministry of Justice (MOJ) in 2012.\(^1\) Japan is now seeing an annual increase in the number of foreign residents to 2.38 million at the end of 2016, the highest number recorded since MOJ began documenting the number of foreigners in 1959.\(^2\) However, the number of refugees within that 2.38 million has remained staggeringly low, with only 28 individuals granted refugee status in 2016, which is the highest number accepted in the past five years.\(^3\) As an economically developed country with a mounting labor shortage, Japan is well-positioned to accept more refugees because its declining workforce needs unskilled labor, and refugees offer an ample supply of unskilled labor. By delving into the economic, security, and societal factors this paper seeks to answer why Japan rejects 99 percent of its refugee applicants despite its responsibility to contribute to global peace as a member of G7, its willingness to participate in other forms of humanitarian assistance, and its labor shortage stemming from an aging population with a negative birth rate. MOJ’s desire to prevent economic migrants from entering Japan outweighs all the reasons listed above to accept refugees and impacts Japan’s overall refugee policy by restricting the application process for legitimate refugees fleeing persecution.

DEFINITIONS

Distinguishing terms like refugees, asylum-seekers, IDPs, stateless persons, resettlement, skilled labor, and unskilled labor is important to clarify the nuances that may seem small but are far from insignificant. The international definition of a refugee that Japan follows is the most significant term to define because it is distinct from multiple commonly-held definitions of a refugee. The formal definition of a refugee according to the Convention Relating to the Status of Refugees is an individual “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.” Simply put, a refugee is someone who has fled his or her country due to fears of persecution because of his or her race, religion, or political views. Of note, a refugee is not someone who faces persecution due to economic reasons or endures persecution from the military according to Japan’s interpretation of the Convention Relating to the Status of Refugees. Contrary to a refugee, an internally displaced person or IDP is a target of persecution but has not fled his or her country. Instead, IDPs remain within their own country while they are forced to flee their homes. Japan also recognizes the UNHCR definition of an IDP. A stateless person is someone who does not have citizenship of any country. This issue can occur in Japan when someone has fled their home country to Japan as a refugee applicant and does not have any documentation to verify citizenship in their home country. Japan currently does not have any

5 UNHCR, “What is a refugee?” http://www.unrefugees.org/what-is-a-refugee/.
laws to protect refugee applicants from becoming stateless persons because it has not signed the 1954 United Nations Convention Relating to the Status of Stateless Persons.\(^6\) An asylum seeker is another term for an individual who is applying for the right to be recognized as a refugee. According to UNHCR, resettlement is “the transfer of refugees from an asylum country to another State that has agreed to admit them and ultimately grant them permanent settlement.”\(^7\) For the purpose of this paper, labor skill correlates with educational attainment to pinpoint a metric that can measure the level of labor skill across countries. While educational attainment is certainly not the only factor that determines labor capabilities, it is standard criterion that can be applied across occupations and across borders. Thus, highly skilled labor indicates an advanced level of educational attainment, such as higher education, whereas unskilled labor refers to a low level of educational attainment, such as elementary school and below. Now that the intricacies of these terms have been defined, the following section focuses on the counterintuitive nature of Japan’s approach to refugees.

**THE ISSUE AT HAND**

Japan’s statements on refugees and its actions have vastly differed, demonstrating that Japan recognizes its responsibility to contribute to global peace but has yet to carry out reforms that would fulfill this global responsibility. For example, in the “Proactive Contribution to Peace” declaration in the 2015 Cabinet Decision on the Development Charter, the Japan agreed to focus its development cooperation on vulnerable individuals, including refugees, to address human security.\(^8\) This statement indicates that Japan is willing to contribute the means necessary

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to provide stability during times of global conflict, such as increases in the number of refugees within its borders. The essence of the Japan’s intent to contribute to human security, however, stems from the introduction of this cabinet decision, which labeled Japan as a “proactive contributor to peace,” demonstrating Japan’s willingness to engage in leading efforts to assist refugees in whatever capacity is most conducive to humanitarian efforts. However, Japan has continued a strict policy that rejects refugee applications whenever possible rather than expanding opportunities to contribute to global human security. Thus, the statements such as this cabinet decision do not reflect the reality of Japan’s actions toward accepting refugees.

Japan also demonstrated its readiness to assist with refugee crises by signing the G7 Ise-Shima Leaders’ Declaration in 2016. The most important aspects of this document clearly lay out a vision for G7 responsibility regarding refugees. First, the documents reads, “The G7 encourages the temporary admission of refugees and the establishment of resettlement schemes, to alleviate pressure on countries hosting the largest numbers of refugees,” which explicitly raises the expectation for all G7 countries to accept an increased number of refugees. The second indicator within this joint statement is that G7 encourages the implementation of the Convention Relating to the Status of Refugees and its Protocol to protect refugees from persecution. While a signatory of this convention, Japan uses the convention’s definition to deny asylum-seekers based on a lack of evidence to support their persecution, especially persecution on economic or military grounds. In addition, the declaration also supports expanding resettlement opportunities, while Japan has continued to limit resettlement opportunities with Japan as the country of destination. It appears international pressure was not sufficient to

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9 “G7 Ise-Shima Leaders’ Declaration G7 Ise-Shima Summit, 26-27 May 2016.”
persuade Japan to accept more refugees in 2016, even though the G7 Summit was held in Japan while the Syrian refugee crisis was at its peak.

Although Japan has not fulfilled its stated intentions to increase its contribution to global human security by accepting refugees according to the G7 summit declaration, Japan has been quite active in other humanitarian efforts. Japan contributed $882 million to humanitarian assistance in 2014, $88 million to UN peacekeeping in 2013, totaling $9.8 billion in global assistance. These numbers indicate that Japan does have a stake in supporting human security as shown by its financial investment. Since 1987, Japan has also played a role in humanitarian assistance through the dispatch of the Japan Disaster Relief Team, which demonstrates that Japan’s contributions to humanitarian efforts have not been solely financial in nature. Accepting refugees within its borders falls in line with the stated objectives in all of Japan’s past humanitarian efforts. Furthermore, Prime Minister Abe has been gradually more successful in dispatching the Japan Self-Defense Forces to participate in peacekeeping around the world, including war-torn countries like South Sudan. While Japan is still limited to the five principles of participation for peacekeeping troops, the explicit goal of joining these peacekeeping missions is to take a “more proactive role in fostering international peace.” Japan’s increasing willingness to expand the boundaries of its approach to humanitarian assistance raise the question why it has not taken an active role in accepting refugees during a time of global instability.

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Despite international pressure to contribute to global human security by accepting more refugees, there are domestic reasons for Japan to increase the number of admitted refugees. As of 2016, Japan experienced its sixth straight year of population decline according to a government survey by the Ministry of Internal Affairs.\textsuperscript{13} Decreasing by 300,000 for Japanese nationals, the pace of decline accelerated compared to previous years.\textsuperscript{14} Within the next 50 years, the Health Ministry estimates that Japan’s population will decrease by approximately one third from 127 million in 2015 to 88 million in 2065.\textsuperscript{15} This figure indicates that Japan will experience a negative growth rate in coming years without a shift in the direction of population development. Compounding on these daunting figures, Japan’s population is also becoming proportionally older while the average lifespan increases. The major economic hurdle Japan faces is that one-third of the population is older than 60 years and the labor force has decreased by 9.7 million people since 1997.\textsuperscript{16} These numbers have dramatic adverse implications for Japan’s economy, security, and long-term prosperity because the country will not be able to sustain its current global economic standing with a shrinking workforce, leading to vulnerabilities in its national security as its international influence declines.

Japan has already begun to feel the shocks of a shrinking population with labor shortages in various sectors, particularly in low-skilled areas, of the economy because there simply are not enough people to sustain every sector. According a Tankan survey by the Bank of Japan, the largest areas of insufficient employment are in the service sector, such as in hotels and

restaurants, and in elderly care and other services, such as hair salons.\textsuperscript{17} All of these sectors fall under the low or unskilled work category, but Japan has one of the highest proportion of adults with a higher education degree at just under 52 percent, which is second only to Canada.\textsuperscript{18} A labor force that is dominated by skilled workers with university degrees indicates that most Japanese adults are overqualified to work in areas like the service sector, leaving these industries that require unskilled labor depleted in an already declining population. Thus, Japan currently possesses a huge demand for unskilled labor to fill the labor shortages, and refugees consist of a large supply of mostly unskilled labor, according to the average educational attainment of the top ten countries of origin for refugee applicants in Japan.

Out of 10,901 refugee applicants in 2016, Japan granted refugee status to only 28 individuals, proportionally the lowest number out of all the OECD countries.\textsuperscript{19} With an over 99 percent rejection rate, there must be an explanation for why Japan decides to reject so many applicants. MOJ did not provide a complete of the countries of origin for the 28 accepted refugees but instead listed the main countries of origin as seven from Afghanistan, four from Ethiopia, three from Eritrea, and two from Bangladesh. Of note, two of the 28 accepted refugees gained their status by appealing in court. The refugee applicants came from 79 countries of origin, but the four main countries of origin for accepted refugees do not reflect the top ten countries of origin for refugee applicants. The largest number of refugee applicants came from Indonesia, Nepal, the Philippines, Turkey, Vietnam, Sri Lanka, Myanmar, India, Cambodia, and Pakistan. In addition, more than half of the applicants came from specifically Southeast Asia.


\textsuperscript{19} Ministry of Justice, "Heisei 28-nen ni okeru nanmin ninteishasū-tō ni tsuite (sokuhō-chi) [The results of the survey on refugees in 2016]. http://www.moj.go.jp/nyuukokukanri/kouhou/nyuukokukanri03_00666.html
Indonesians represented by far the largest pool of applicants at a total of 1829, but no
Indonesians were granted refugee status in 2016. This disparity in countries of origin for refugee
applicants and refugees accepted begs the question why individuals from certain countries
receive refugee status and why others do not.

It is possible that the figures on the number of refugee applicants and accepted refugees
for specifically 2016 present a unique case for Japan, so it is important to examine the statistics
from the year before. Japan experienced an upsurge in asylum seekers by 3,315 applicants from
2015 to 2016.\textsuperscript{20} Of those refugee applicants, 8,193 applicants were processed in Japan’s
immigration system in 2016 while 4,295 were processed in 2015, a 44 percent increase. 2015
also recorded the highest number of refugee applicants coming from Indonesia at 969
individuals. However, like 2016, Japan did not accept any refugees from Indonesia. The highest
number of accepted refugees came from Myanmar 12 individuals. A final figure from 2015
shows that the number of refugees accepted was 27, meaning the number of refugees accepted in
2016 was only one applicant larger than the previous year. Lastly, it is not clear whether Japan
accepted any refugees from Syria in 2016 due to the incomplete list of countries of origin
released by MOJ, but Syria was definitively not one on the main countries of origin for admitted
refugees (no more than one individual) despite 4.8 million Syrians refugees and 8.7 million
people displaced within Syria.\textsuperscript{21} 224,694 refugees were resettled globally outside the countries
surrounding Syria, yet Japan has accepted only six Syrian refugees in the past five years.\textsuperscript{22}  This

\begin{footnotesize}
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\item[\textsuperscript{20}] Ministry of Justice, “Heisei 28-nen ni okeru nanmin ninteishasū-tō ni tsuite (sokuhō-chi) [The results of the
\item[\textsuperscript{22}] Japan Association for Refugees, “2015 Report,” September 1, 2015.
https://www.refugee.or.jp/jar/report/2015/09/01-0000.shtml
\end{itemize}
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small number shows that Japan has yet to share the burden of human security despite its statements on contributing to global peace.

As the issue of refugees increasingly becomes a controversial subject as leaders use the word refugee to fuel nationalism and spawn isolationism, Japan presents a contradictory case in which the labor shortage demands unskilled labor while the refugees offer an ample supply of unskilled labor, which begs the question of why Japan accepts proportionally so few refugees? This is an important question for the international community to consider because Japan is in the unique position to accept more refugees as an economically stable country with a labor shortage in sectors requiring unskilled labor. The reason for this limited number of refugees is due to Japan’s strict yet vague evidence requirement to prove one’s claim is “well-founded.” In addition to this provision, Japan also demonstrates a preference for granting permanent residency to highly skilled workers over low skilled workers as indicated by its recent changes to immigration laws.

**HISTORICAL BACKGROUND**

Japan’s historical approach to refugees sheds light on how Japan formulated its first postwar immigration policy in 1951 during the Allied occupation of Japan. A cabinet order called the Immigration Control Order excluded any provisions for refugees despite the creation of the UN Convention Relating to the Status of Refugees that same year. Japan legally recognized refugee status on October 3, 1981 by joining the UN Convention Relating to the Status of Refugees, which was in response the influx of Indochinese refugees that started in 1975 and peaked in 1979. Japan also signed and ratified the Protocol Relating to the Status of Refugees.

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Refugees in 1982, fully joining the international community in its recognition of the status of refugees. Unlike its current rejection of refugees from Southeast Asia, Japan saw the need to actively contribute to the Indo-Chinese refugee crisis in the 1980s and participated in the Comprehensive Plan of Action (CPA) adopted at the International Conference on Indo-Chinese refugees in 1989, which included resettlement of those recognized as refugees, even within Japan. The CPA effectively resettled Indo-Chinese refugees in Japan and other countries, but there were still refugees that had not been processed, leading the Conference to end the CPA in 1995, which returned the processing of refugees to domestic laws and international agreements. Japan accepted 11,319 refugees from 1978 to 2006 both through the CPA and through domestic law, averaging 420 refugees per year, which is well above the less than 30 refugees accepted in the last several years. Japan’s reaction to the Indo-Chinese refugee influx shows its willingness to participate in the burden-sharing of refugees and debunks the argument that its borders have always remained closed to refugees due to its homogenous society and island geography.

The Indo-Chinese refugee inflow was one example of how Japan took an accommodating approach to refugees from Southeast Asia by accepting a larger sum of refugees than it currently receives. However, the experience of Rohingya refugees in Japan has been less than welcoming for the most part. The case of Zaw Min Htut serves as an example of the increasing distrust of government officials toward Southeast Asia as the number of applicants for refugee status has steadily increased over the years. Zaw Min Htut arrived in Japan in 1998 after he was persecuted in Burma as part of the Rohingya Muslim minority and considered an illegal immigrant by the

Burmese government. Upon arriving to Narita airport, Zaw Min Htut was immediately detained and kept at the airport for two months then at a detention center in Ibaraki Prefecture for another nine months, even after he asked to apply for refugee status. He accumulated a debt of $800 for the food provided while he was detained. Even after he was released, he was not able to work for the first six months after he submitted his application for refugee status and had no way to survive. Zaw Min Htut was the first Rohingya to achieve refugee status in Japan after this horrible ordeal, demonstrating that Japan did not initially consider claims of persecution by the Rohingya to be legitimate evidence for granting refugee status. In recent years, Japan has somewhat acknowledged claims of persecution by the Rohingya asylum-seekers in Japan because it accepted 12 refugees from Burma in 2015, but Japan has not consistently recognized the persecution of the Rohingya minority in Burma because Japan continues to accept a very small percentage of the Burmese refugee applicants, if any, despite the estimated 25,000 Rohingya Muslims that fled Burma in 2015, twice the number in 2014. Using Japan’s treatment of Rohingya refugees as a case study shows that Japan has not reacted to increases in refugees in Asia by accepting more refugees, but instead Japan has actually decreased the amount of refugees from countries where the number of people fleeing persecution rose.

FEAR OF GISO NANMIN OR “FAKE REFUGEES”

Japan accepts less than 0.3% of refugee applicants because of MOJ’s narrow interpretation of the UN Convention Relating to the Status of Refugees due to its desire to keep out economic migrants or “fake refugees” also known as giso nanmin. In the Immigration

Control and Refugee Recognition Act of 2009, MOJ requires applicants to provide sufficient evidence of the existence of “well-founded fear of persecution.” Determining the precise reason why MOJ rejects over 99 percent of refugee applications is near impossible due to the lack of transparency regarding specific cases of applications denied. However, based on the available information, it is logical to conclude MOJ rejects the majority of refugee applications because it deems the evidence of persecution unsatisfactory. Legitimate asylum-seekers are often unable to secure documentation of their persecution due to the precariousness of their situation. MOJ states, “To the extent possible, you should provide all documentation to support your application. Identity cards, military service papers, school or university certificates, political party membership card/certificate, certificates of birth, documents of release from detention, etc., may be useful evidence.”28 For example, military persecution is not sufficient evidence for receiving refugee status. A 47-year old asylum-seeker from Burma has been living in Japan for 25 years but has yet to receive refugee status and remains on a humanitarian stay visa, which must be renewed every year. Her children are also applying for refugee status because they do not hold either Burmese or Japanese passports and are essentially stateless. Loopholes such as this indicate that MOJ is more intent on finding grounds to deny applications rather than accept them.29

The goal of MOJ is not to provide a legal opportunity for individuals from other countries to escape persecution but instead to ensure that economic refugees do not enter Japan. The idea of giso nanmin or “fake refugees” has become widespread among MOJ as those seeking

economic opportunities can abuse the system by claiming to be refugees.\textsuperscript{30} Up until 2010, asylum-seekers in Japan were not allowed to work while waiting for their applications to be processed. The average wait time for MOJ to process applications is two and a half years, but applicants were forced to wait with no ability to earn money.\textsuperscript{31} Due to this vulnerable situation, many refugee applicants began illegally working on public work projects as construction workers, essentially building Japan’s infrastructure through the black market.\textsuperscript{32} However, the Japanese government recognized this precarious situation for refugees and changed the working limitations for asylum-seekers in 2010 so that refugee applicants can apply for a work permit six months after submitting their application to become a refugee. As a result, some individuals are now taking advantage of this opportunity to work in Japan six months after submitting a refugee application. For example, immigration authorities found that four Nepalese men had submitted falsified refugee applications to procure employment in Japan.\textsuperscript{33} These four men pretended to be Tibetan Buddhist lama monks, but their applications listed primarily economic reasons for wanting to live in Japan. This case shows a clear example of \textit{giso nanmin}, contributing to the MOJ belief that most asylum-seekers in Japan are seeking better economic opportunities. \textit{Giso nanmin}, such as these men, make it more difficult for legitimate refugees to obtain refugee status in Japan because they flood the application pool and propagate the view that most refugee applicants are seeking economic gains rather than escaping persecution.

Revising the refugee law in 2010 to allow applicants to obtain work permits six months after application submission created a loophole for unskilled workers to find a way to work in Japan, but this increase in economic refugees begs the question why unskilled workers try to apply for refugee status to obtain employment in Japan rather than obtain employment through other legal means. The reality is that there are few opportunities for unskilled workers to legally seek a work visa in Japan, which means most unskilled workers opt to enter Japan through “internships” such as the Technical Internship Training Program (TITP). However, beneath the façade of an educating foreign workers in technical skills, TITP resulted in an opportunity to exploit unskilled workers because labor standards do not protect trainees.  

These trainees usually receive an allowance that is below the minimum wage in Japan, meaning companies seek out this unskilled foreign labor because it is cheaper than Japanese domestic labor. Thus, the reality for unskilled foreign workers seeking employment in Japan is a bleak one, indicating that some may choose to file false a claim of refugee status rather than seeking legal avenues such as TITP.

Japan continues to enforce a strict definition of refugee status despite its labor shortage and declining population. Japan’s immigration policy regarding skilled versus unskilled workers sheds light on this conundrum because Japan clearly encourages an inflow of skilled workers as opposed to unskilled workers, especially those from Southeast Asia. The largest number of refugee applicants in 2016 came from Indonesia where the workforce is mostly unskilled in comparison with Japan. According to the OECD, only about half of the workforce in Indonesia had obtained primary school education in 2013. Only 8.29 percent of the working age

population in Indonesia had received tertiary education in comparison to 49.5 percent in Japan.\textsuperscript{37} According to the World Bank, 16 percent of Nepalese had obtained a higher education degree in 2014.\textsuperscript{38} Similarly, in the Philippines, the country providing the third largest number of refugee applicants, 36.6 percent of people aged 17 to 24 years had obtained post-secondary and college education in 2010, indicating that the percentage of highly skilled workers in the Philippines is lower than in Japan.\textsuperscript{39} Together these numbers show that the average worker in the top countries of origin for refugee applicants has a lower level of educational attainment, meaning .

While Japan is slowly beginning to provide more legal ways for more unskilled workers to enter the country, the intent is for unskilled workers to be temporary residents rather than permanent ones. In 2016, Abe announced plans for a guest-worker program that would give five-year visas to foreigners working in sectors of the economy that are suffering from the largest labor shortages.\textsuperscript{40} Temporary work programs in Japan already exist in some capacity, such as the entertainer visa option, which is mainly used by Filipina women. In this case, the women apply to work in Japan for three to six months as “entertainers” in hostess clubs, citing the ability to sing or dance as their respective skills on their visa applications.\textsuperscript{41} In her 2010 research, Parrenas examines the migration trends of entertainer workers from the Philippines, concluding that these women do not seek permanent residence status in Japan because of their isolation from the general population due to the undesirable nature of their work. Their experience as a

\textsuperscript{38} World Bank, “Gross Enrollment Ratio, Tertiary, Both Sexes.” http://data.worldbank.org/indicator/SE.TER.ENRR
marginalized group in Japan fuels their desire to go back the Philippines almost as soon as they arrive in Japan, as Sassen documents during her time living with some Filipina entertainers while conducting her research. This short-term pattern of migration is another example of how Japan does not want unskilled migrants to stay in Japan permanently.

The individuals that Japan grants refugee status, even unskilled laborers, would essentially obtain permanent residency status because of the principle of non-refoulement. The principle of non-refoulement came into existence in 1977 in Article 33(1) of the Refugee Convention stating, “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.”42 According to this principle, once Japan admits refugees, it must allow them to stay in Japan permanently or arrange for them to be processed in a another country as a refugee. Thus, accepting more refugees contrasts with the current immigration practice of accepting unskilled laborers on a solely temporary basis due to the principle of non-refoulement.

Moving beyond the borders of Japan’s labor market to examine how unskilled workers from Southeast Asia fit into the international labor market shows that Japan’s immigration laws are based on the global hierarchy of highly-skilled workers over unskilled workers. For example, Sassen uses the theoretical framework of cross-border circuits to explain Japan’s preference for highly skilled foreign workers over unskilled foreign workers because she argues that the Filipina women that work as entertainers and arrive in Japan as mail-order brides are part of the counter-geographies of globalization that operate outside of international norms. It is precisely

because these unskilled workers are part of these counter-geographies that Japan does not provide more opportunities for unskilled workers to migrate to Japan. Asylum-seekers, too, are part of the counter-geographies of globalization that Japan does not accept as part of the global community. Existing outside of international norms, asylum-seekers are part of the international division of migrant labor that dictates preference for highly skilled foreign workers over unskilled foreign workers. Thus, regardless of where the demand lies in the Japanese labor market for unskilled or skilled workers, the government chooses to prioritize migration of highly skilled workers because the international division of migrant labor prescribes partiality for highly skilled workers in the global economy over unskilled workers.43

In addition to the labor hierarchy, another explanation for the worldwide discrimination against unskilled laborers in the form of visa difficulties is the international division of race. Some argue that Japan’s labor market consists of a racial hierarchy that elucidates Japan’s preference for high-skilled labor over unskilled labor. For example, Shipper claims that those specifically from Thailand, the Philippines, and Indonesia are discriminated against in Japan because of this racial stratification, manifested in difficulty in finding housing and constant suspicion from society, including the government. If this argument holds, then it is reasonable to assume that Southeast Asians applying for refugee status will automatically face difficulty in their refuge claim due to suspicion from Japanese officials that they are giso nanmin. An example of this scrutiny is that those in a lower tier of the racial hierarchy will likely be asked by Japanese officials to show their immigration documents in random encounters with the possibility of being detained. An increased level of distrust due to this racial hierarchy would

certainly lower one’s chances of obtaining refugee status, leading to zero refugees from Southeast Asia accepted in 2016. Thus, the racial hierarchy regarding the political construction of foreign workers in Japan can also be applied to my argument that MOJ due to recent fear of giso nanmin.44

Japan’s strict interpretation of the definition of a refugee allows it to reject the majority of applications based on a strict definition of evidence required to validate one’s claim of their fear of persecution. However, without access to individual case files, determining how exactly Japan rejects applications based on a lack of evidence is impossible to conclude. Despite this lack of transparency, Japan clearly does not want to accept refugees from Southeast Asia because no applicants from Southeast Asia were accepted in 2016 despite more than half of the refugee applicants originating in Southeast Asia. There are several reasons why Japan does not accept refugees from Southeast Asia, including the fact that it prefers highly skilled workers over unskilled workers due to the racial hierarchy of the labor market. Suspicion regarding the intent of applicants from Southeast Asia in applying for refugee status does not seem to be offset by the real persecution that certain individuals face in their home countries. Therefore, the reason why Japan enforces a narrow definition of evidence regarding the fear of persecution is to deny unskilled foreign workers, particularly from Southeast Asia.

**ALTERNATIVE EXPLANATIONS**

Noting that the increase in the number of refugee applicants jumped 44 percent from 2015 to 2016 raises questions about the cause of this sudden influx. The Japanese government argues that the awareness of the provision to legally work six months after applying for refugee status has led to an increase in refugee applicants seeking economic gain rather than fleeing

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legitimate persecution. MOJ claim that the low number of accepted refugees is justified because the majority of applicants are economic migrants.45 While this assertion may be true for some of the refugee applicants, the reality in the top three countries of origin for refugee applicants is that there are large numbers of IDPs that are fleeing conflict. In 2015, the International Displacement Monitoring Centre (IDMC) estimated that 6,100 persons were displaced within Indonesia, which shows that the 1,829 asylum-seekers in Japan in 2016 is not an unimaginable number.46 Furthermore, the borders of Nepal contained a staggering 50,000 displaced persons due to conflict in 2015.47 Finally, out of the top three countries of origin for refugee applicants in Japan, IDMC estimates the largest number of displaced persons in the Philippines at 62,000.48 These numbers do not include persons displaced due to natural disasters, known as climate refugees, which Japan does not recognize as a legitimate reason to apply for refugee status because it does not fall under fear of persecution. Climate refugees are not officially recognized under international law, but they continue to make up the largest number of IDPs in Southeast Asia.49 In 2015 alone, natural disasters resulted in over 200,000 IDPs in Indonesia and over two million IDPs in the Philippines. Japan also experienced climate refugees as the result of the 2011 Tohoku earthquake/tsunami, indicating climate refugees will continue to be a global issue in years to come, regardless of global economic standing and the quality of infrastructure.

Case studies of the conflicts occurring within Southeast Asia show that there are legitimate reasons for certain groups of individuals to apply for refugee status, despite claims by MOJ that the majority of the applicants do not face persecution. An example of the political conflict that displaces individuals is religious persecution in various parts of Indonesia including Lombok, West Java and Sampang, and East Java.\textsuperscript{50} This religious persecution is coupled with small-scale armed conflict in Papua and West Papua, leading to conditions in which individuals become refugees. In the Philippines, attacks in Zamboanga in 2013 by separatist groups caused the displacement of about 120,000 people.\textsuperscript{51} Violence between local communities caused the displacement of over 80,000 persons in Mindanao in 2016.\textsuperscript{52} Together these examples show that the political conflict is causing fear of persecution among certain groups individuals in Southeast Asia. These individuals experience very real threats to their well-being that leads to legitimate cases of refugees. Ignoring the political and religious persecution that occurs in Southeast Asia further backs the previous explanations for why Japan accepts so few refugees from Southeast Asia – due to its dislike of temporary unskilled foreign workers and the racial hierarchy that exists in the labor market.

One could argue that external constraints such as geographic isolation, language and cultural barriers, and a comparatively low number of applicants could be the main factor affecting the number of accepted refugees in Japan. The claim is that Japan is so far away from the epicenter of refugee crises that it is not worthwhile for refugees to make the journey to Japan.

Once the refugee finally arrives after a long trek across the globe, he or she is faced with an ethnically, culturally, and linguistically homogenous society that does not tolerate diversity. During the process of refugee application, asylum-seekers do not have access to linguistic support and any type of orientation into this strange new land. Chances are, the refugee is fleeing from a country where the language is nothing like that of Japanese, compiled with the fact that there are three types of written language one must learn as a novice of the Japanese language. Japanese culture is well-known for abiding by strict societal rules that lead to a harmonious, polite nation that avoids conflict. For example, there are a multitude of rules on is supposed to follow while riding public transportation in Japan, such as refraining from eating on local transport and putting on makeup in the public eye. As for the level of noise, many outside Japan might find the deafening silence inside trains and buses unbearable where it can be rude to utter anything louder than a whisper. Furthermore, compared to a mere 10,000 refugee applicants in Japan, Germany received 745,545 applicants in 2016 while granting 256,136 refugee status.53

A closer examination of this explanation quickly shows the holes in this logic. First, while it is true that Germany is much closer to the epicenter of the Syrian refugee crisis than Japan, both Canada and the United States also received large numbers of Syrian refugees despite their geographic distance. Canada received 40,000 Syrian refugees in 2016, a quarter of the number in Germany despite the long journey between Syria and Canada.54 The United States received 10,000 Syrian refugees in 2016.55 Furthermore, the distance between Syria and Japan at

5,298 mi\textsuperscript{56} is about the same as the distance between Syria and Canada at 5,832 mi\textsuperscript{57} and less than the distance between Syria and the United States at 6,681 mi.\textsuperscript{58} Thus, distance is not a factor as to why Japan accepts fewer refugees than other countries.

The argument that Japan does not accept large numbers of refugees for fear they will not assimilate into Japanese could be an intervening variable as to why Japan rejects almost all refugee applications because it correlates with the racial hierarchy argument as an intervening variable. Whether Japan rejects applicants because of homogeneity or racial attitudes, either reason can be considered discrimination on the basis of ethnic or racial grounds. However, homogeneity alone cannot explain why Japan currently accepts a small number of refugees because it has accepted higher numbers in the past. Finally, although Germany received exponentially more refugee applications in 2016 than Japan, Germany accepted a proportionally higher number of refugees at 34 percent acceptance compared to Japan’s less than one percent acceptance. After examining some of the potential external constraints for why Japan accepts so few refugees, one can see that none of these factors alone can explain the low number of accepted refugees in Japan.

Rather than focusing on the way that Japan interprets the Convention and Protocol relations to the Status of Refugees, one could argue that Japan lacks a mechanism of support for refugees to work within Japan’s existing immigration laws. One example of this source of support could be offered through an extensive civil society network that would advocate for the rights of refugees. For example, Petrice Flowers in her 2008 research and Meryll Dean and Miki Nagashima in their 2007 research discuss what Japan lacks: nongovernmental organizations

\textsuperscript{56} “Distance Calculator: Syria to Japan,” http://www.entfernungsrechner.net/en/distance/country/sy/country/jp
\textsuperscript{57} “Distance Calculator: Syria to Canada,” http://www.entfernungsrechner.net/en/distance/country/sy/country/ca
\textsuperscript{58} “Distance: United States to Syria,” http://www.entfernungsrechner.net/en/distance/country/us/country/sy
(NGOs). Flowers acknowledges that the number of NGOs has increased in Japan in recent years, but points out that NGOs and international organizations in Japan lack the power to effectively influence policy in Japan due to structural constraints. NGOs and international organizations are subject to the limitations MOJ imposes on NGOs, which actually block access to resources that refugee applicants need in order to achieve refugee status. Rather than encouraging an increase in NGOs in number, Flowers argues for an increase in coordination between MOJ, UNHCR, and NGOs. She also notes the culture of MOJ focuses on protecting Japan’s border from illegal immigrants rather than protecting the human rights of refugees according to the Refugee Convention, which is consistent with my argument that MOJ rejects refugee applicants to prevent giso nanmin. According to Flowers, for MOJ to change its interpretation of compliance with international norms on refugees, Japan must first change its approach to the inherent purpose of immigration laws from protecting Japanese citizens from migrants to ensuring the rights of migrants.59

Dean and Nagashima’s article also centers on NGOs and examines how the burden of protecting and advocating for refugees in Japan has shifted to NGOs rather than MOJ. Unlike Flowers’s article that focuses on the interactions between NGOs and MOJ, Dean and Nagashima encourage NGOs to be at the forefront of revising policy without acknowledging the constraints that Flowers mentions as inhibiting the further development of NGOs. The researchers urge Japan to no longer solely contribute to international peace through checkbook diplomacy but instead through the principle of burden-sharing to disperse the impact of refugee inflows among the international community. Dean and Nagashima conclude that international pressure will be sufficient to motivate Japan to increase the number of refugees as the international community

becomes increasingly aware of Japan’s current refugee policy and its motto of burden-shifting rather than burden-sharing.  

These alternative explanations are worth considering, and the articles by Flowers and Dean and Nagashima provide valuable contributions to the existing scholarship on the intricacies of refugee law in Japan for several reasons. First, Flowers gives a comprehensive overview of the distinct roles and purposes of the increasing number of NGOs in Japan. Dean and Nagashima offer a thorough examination of the evolution of refugee law by showing that laws have changed regarding certain types of refugees, appeals, and other rules. However, one flaw in both articles is that they assume an increase in the strength of NGOs correlates with better protections for refugees and changes in refugee law. To make this assertion, it is first necessary to review the role of NGOs in countries where there is a high number of refugees and assess the process for achieving refugee status based on the strength of NGOs. A cross-country study such as this will validate the claims of these authors, but until these studies include further evidence of the impact that NGOs have in the formation of refugee law, it is impossible to conclude that a lack of coordination between NGOs and MOJ is the reason why the number of accepted refugees is so low. Additionally, Dean and Nagashima deduce that international pressure will cause Japan to increase its burden share of refugees, but the evidence for this claim proves that the opposite is true. Despite international pressure from multiple countries, such as those at the G7 summit, Japan has not shown any progress toward relaxing its strict interpretation of the definition of a refugee to allow for an increase in legitimate refugees for fear of giso nanmin.

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LOOKING FORWARD

When refugee applicants have less than a one percent chance of being granted refugee status while Japan is seeing increases in the number of applicants in recent years, there is little doubt that the persecuted individuals who go through the arduous procedure of the refugee application process in Japan are desperate to gain access to better lives than the one they previously knew. Navigating this complex system of laws becomes nearly impossible for these marginalized individuals because of rigid requirements for evidence needed to prove one is actually at risk of persecution in his or her home country. The reason for this strict law stems from the fact that Japan wants to prevent giso nanmin from entering Japan at the cost of preventing from legitimate refugees from gaining access to safety. In addition, Japan does not want unskilled workers, including refugees, to become permanent residents, as evidenced by efforts to address laws regarding highly skilled workers but not unskilled workers. On the other hand, Japan does not have many pathways for unskilled workers to enter Japan, despite the huge gaps in the unskilled sectors of its labor force, which has caused the increase in giso nanmin.

The 2010 changes to refugee law in Japan allowing refugee applicants to work six months after submitting their refugee application appeared to be an indicator that Japan was beginning to recognize the fragile situation of refugees. However, the result of the 2010 legislative change was that some migrants began to take advantage of this provision for economic gain rather than legitimate persecution. This exploitation of the law, meant to increase the protection of a vulnerable population, fed into the suspicion among ministry officials that the majority of refugee applicants from Southeast Asia were in fact economic migrants rather than refugees and has resulted in a consistently low number of accepted refugees in Japan. These
tensions play into the racial hierarchy in the international division of labor in Japan because the divisions among skilled versus unskilled workers fall along the lines of racial divisions.

Prime Minister Abe announced at the United Nations Leader’s Summit on Refugees in September 2016 that “Japan will accept refugees,” indicating a stark change in previous Japanese statements about vague humanitarian assistance rather than actual commitments to accepting refugees in any manner.\textsuperscript{61} However, the issue with Abe’s statements is that he listed the number as 150 Syrian students over the course of the next five years. These figures mean that Japan is only committing to accepting 30 Syrian refugees per year, and while this number is more than zero Syrian refugees, it does not vastly differ from the current number of 28 accepted refugees. While this declaration is a step in the right direction, it does not vastly increase the proportion of refugees accepted into Japan, indicating that more must be done in the future to address the issue of giso nanmin in order to effect real change in Japan’s refugee policy.

\textsuperscript{61} Prime Minister of Japan and His Cabinet, “Statement by Prime Minister Shinzo Abe at the Leader’s Summit on Refugees,” September 20, 2016. http://japan.kantei.go.jp/97_abe/statement/201609/1219204_11015.html
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