



*Changing Contours of  
Japan's Refugee Policy*

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# Changing Contours of Japan's Refugee Policy

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Saheli Chatterjee

## Abstract

*Japan faces criticism for its half-hearted response to the refugee crisis in the contemporary world. On the one hand, it provides financial aid for the sustenance of refugees outside its borders but is, at the same time, unwilling to welcome them in their own country. There are sizeable numbers of people moving both outward and inward across its borders- there is a large body of foreigners that it deals with, such as ethnic Koreans from China, Brazilians, Vietnamese, Filipinos, Nepalis and displaced persons from the Koreas. It is important to note that Japan is not often treated as a destination point, rather, it is a transit stopover from where further options can be explored. However, what is common to all stories of migration is the problems of adjustment that the refugees and assimilated foreigners face. In the lack of a comprehensive policy of regulating refugees and their subsequent rehabilitation, the effective governance of the same by Japan has been questioned and criticised. The purpose of this paper is to study various aspects of Japan's refugee policy, identify its laxities and analyze Japan's stance towards new-age multiculturalism.*

*Keywords: refugees, immigration, multiculturalism, demography, repatriates.*

## Japan's Refugee Policy

Historically, Japan had experienced self-imposed isolation, or *sakoku*, dictated by the Tokugawa Shogunate. Foreigners were seen as a threat to the social stability in Japanese society and lineages based on blood lay at the core of such a belief. There were increased interactions with the "outsiders" from the Meiji era, but the ruling elites continued to emphasise the fear of *gaijins* or foreigners.

Japan's decisive defeat in the Second World War and its subsequent economic restructuring has created an interesting new perception- all things/people Western, particularly American, were glorified, while anything, or anybody else, that/who was non-Japanese was seen as unwanted. With such a model in mind, Japan entered as a signatory to the Refugee Convention. Japan dealt with the influx of refugees head on, for the first time, when the refugees in Indo China sought a permanent settlement in Japan, and this happened for a variety of reasons. The Asian character of Japanese society was attractive hence believed to be easier to forge personal relationships, and an overriding perception is that Japan was a civilised country. Significantly, the migration trends in Japan indicate the complicated colonial history of Asia - i.e. those countries which did not experience the colonial influences of Britain often seek to enter Japan. The outflow of Koreans and Chinese suggests Japanese colonialism (repressive measures and hegemonic control): not only as a colonial power but also as an East Asian economic giant. Colonialism entails a sort of forced structuring of diversity, and through these patterns, we see it's remnants through the passage of time. There were others who treated Japan as a mere access point hoping to settle elsewhere because of the restrictions on immigration and some other discriminatory measures. The Japanese government donated millions of dollars (how much and

when?) to the international effort to rescue homeless Laos, Cambodians and Vietnamese but unfortunately was not willing to allow them more than a short-term stay. Japan exercised several external and internal restrictions. Japan's Ministry of Justice feared that other nationals, such as Filipinos, Taiwanese and Koreans would demand long-term immigration status if Japan showed flexibility with post-War refugees. The Ministry of Health and Welfare was worried because the Office of the United Nations High Commission for Refugees (UNHCR) was pressurizing Japan to grant permanent residence status to people from Indochina along with such benefits as insurance, public housing, pension and loans, even though other residents who were foreigners did not, at that point of time, enjoy these rights. The fear of illegal migration was a matter of state security. However, this fear is not exclusive to Japan. Contemporary authoritarian regimes of the United States and France are in favour of constructing walls to protect the rights of original inhabitants. However, the difference lies in the Western and Japanese concepts of providing security to foreigners. It is possible to say that Japan has adapted to the Western idea of using security as a shield and a weapon. The West's priority of securitising her territories from the terrorist attacks in the aftermath of the Cold War led to an inevitable backlash against Muslim terrorist leaders and racial discrimination of Muslims. Japan's negative perception of a Muslim immigrant using Japan as a transit zone for transnational acts of terrorism has often influenced social and political situations. For example, in Japan, the Brazilians faced fewer problems as immigrants in Japan compared to the Iranians. Japan professes the idea of Asian order as world order but is reliant on the West for development. The Foreign Ministry in Japan, sensitive to international criticisms, dispatched medical and scientific research teams to refugee camps in Thailand and sent consular officials to shelters in Hong Kong and Southeast Asia to explain the regulations for entry to Japan. Both the Foreign and the Finance Ministries were aware of the adverse effects of the exclusion of refugees on Japan's exports and opted for a compromise solution instead of an out and out closed-door approach towards refugees.

The intertwined aspects of international censorship and domestic criticism about social responsibility and Asian values bring into view important aspects of Japan's Refugee Policy. Japan realised the contradictions of world politics. The strained relations between Japan and China and North Korea and the possibility of a united front with the United States are the new determinants in the trajectory of Japan's refugee policy.

“The current Japanese multi-billion US dollar commitment to assist both refugees and host countries on a global basis has been Japanese flagship for the preservation of global peace and stability.” (Siddikoglu) In 2015, Japan committed approximately one billion pound sterling to counter the Middle East refugee crisis, including the increased challenges relating to refugees in both the Middle East and Europe (The Telegraph, 2015). The funds provided for assisting the Iraqi and Syrian refugees, peacebuilding, assistance to the host country Lebanon and for providing transit stopovers to refugees at Serbia and Macedonia. Thus, as long as assistance does not translate into playing as host of the refugees, Japan finds itself in a comfortable position. This highlights the fact that, while Japan exhibits a multicultural approach in its foreign policy by being prepared to address global issues concerning refugees, its domestic policies remains mono-cultural.

At this juncture, the nature of the Japanese Nationality Law clarifies Japan's understanding of people outside its gamut. The law is based on “the right of blood” (*jus sanguinis*), that is, determined with regard to descent and whether the individual was born on Japan's soil. This indicates that equal freedom would be accorded to all those who were adequately Japanese. Even if an assimilated foreigner, perhaps residing in Japan over two generations, but without

dominant cultural affiliations, would not be considered as a Japanese national and face the risk of discrimination.

Central to the exclusive character of Japan's Nationality Law is the idea of *Nihonjinron*. The discourse about *Nihonjinron* revolves around the need to ascertain the reasons for Japan's characteristics of culture, behaviour and national character. It is the ideological basis of Japan's nationalism and highlights roots that collectively bind the Japanese people. However, the socialisation skills of the Japanese, especially towards "outsiders," clearly points to the contrary. In the contemporary context, *Nihonjinron* has relevance, and it is important to analyse the possible future trends. Japanese intellectuals have deliberated on the idea of *Nihonjinron* in the pre-War period, and even today there are adherents to this ideology.

*Nihonjinron*, according to Rotem Kowner, justifies Japanese culture as "unique and unparalleled product of racial, historical and climatic elements that underlie the essence of current social phenomena." The first premise of the ideology is that the Japanese are a homogenous group of people- representing a homogenous state. The people share common notions of language, religion, and lifestyle and belong to the same race. The second premise is perhaps most important to our discussion. It asserts a strong correlation between the land of Japan, the people, and their culture. The peculiar nature of Japan, according to the theory, can only be inherited and understood by Japanese people. These people are bound by ties of blood- i.e. belonging to the same race. Foreigners can never truly understand the culture, can never attempt to emulate wholly, and therefore can never become "real" Japanese. This ethnocentric character of *Nihonjinron* is evident, given Japan's obsession of comparing itself to other cultures--- be it the West or Asia. *Nihonjinron* is viewed as a mode of reaffirming Japanese identity and therefore by reserving a sphere exclusive to "real" Japanese only, implicitly implies a sense of superiority.

A lot of debate has been generated regarding the close connections between Japanese nationalism and *Nihonjinron*. Adherents to *Nihonjinron* are expected to have developed the emotional aspects of nationalism and thereby it is possible these sentiments will consolidate over time. In the absence of any other dominant intellectual cultural reasoning in Japan, it is safe to establish that *Nihonjinron* currently guides and directs the political establishment and economic elite in Japan. However, age and occupation are important factors in identifying the adherents to this cultural ideology. Those who are older, or are less educated, and don't have foreign associations are believed to be supportive of the tenets of *Nihonjinron*---and this is a trend that is typically seen in the case of the Japanese bureaucracy. The older generation is attracted to this ideology as it serves to fill a certain gap in the face of rapid transition in a global scenario. The "war generation group" pride themselves on Japan's successful restructuring programs after the Second World War, and at the brink of facing urban alienation, destruction of the old family system, they have the greatest needs to reaffirm their traditional values. Needless to say, such a cultural, emotive reasoning, does permeate into policy-making. The survival or weakening of *Nihonjinron* will depend on its consumers' continuous affluence, stability and successful involvement of Japan in global affairs. International competition and economic depression risk reverting to older traditional views and the Japanese bureaucracy and ruling parties seem to be bound in such insecurities.

## Statelessness in Japan

Japan grapples with the triad of statelessness, existence of foreigners and refugee influx.

A stateless person can be described as an individual who is not recognised as a member of any country. Stateless people are often described as “forgotten people” (Chen, 2010) or “excluded people” (UNHCR, 2007). Fundamentally, there are two types of statelessness. One is de jure statelessness, which means that the person is stateless “by law,” and the other is de facto statelessness. Being de jure stateless means that the given person is not considered a national by any state under the operation of state laws. The status of refugee and of being stateless may be linked in some cases, but there is no automatic connection between the two. Normally when a person is a refugee, he or she does not necessarily lose his or her nationality, even if he or she may not be able to seek the protection of his or her state. Thus the person is a refugee but is not stateless. Nationality, in turn, is based on lineage and/or place of birth. The biggest reason why people become de jure stateless is the breakup of states. De jure statelessness can also occur when citizens are deprived of their nationality. Renunciation of nationality, and the right to change one’s nationality through naturalisation is also an issue. The problem occurs when a person renounces their nationality but does not attain a new one.

A case in point while discussing the grounds on which Japan accepts, or does not accept foreigners, is Japan’s existing demography of a foreign minority. The Koreans and Brazilians represent the more dominant group in this category, and we shall delve into their lived experiences in Japan to understand the perception of Japanese to the notion of the “outsider.” The large presence of Koreans can be traced back to the colonial takeover of Korea by Japan, whence migrant searched economic opportunities in Japan and thereafter, prisoners of war from Korea were also brought to Japan, supplying cheap labour, during and after the Second World War. Koreans were stripped off of Japanese citizenship in 1952 when the nationality laws were racialised and thereupon based on blood/lineage. So currently, the second generation of Koreans living in Japan, who do not identify with anything “Korean” and all things Japanese, will still be accorded the negatively connoted term “gaijin.” Soo-im Lee analyses that currently in Japan, “joho” or information seems to be replacing the trends of internationalisation or “kokusaika.” It leaves us at an important juncture, where the Japanese ruling elites seem to be prioritising accountability and transparency in areas of business and other spheres of society than focusing on the intricacies and requirements of multiculturalism. Hence, the question of the existence of minorities and their everyday struggles is eclipsed in mainstream Japanese understanding. During the 1930s-40s, there was an effervescence of ethnocentric forces through the production of mass literature (Ex. Tetsuji Kada’s *Race, Ethnicity and War*, published in 1938.) the writings justified the superiority of certain ethnic identities in a race and the Japanese represented purity of blood and lineage. Koreans were termed as “burakumin” or formerly outcasted Japanese, who were inferior to this pure ethnicity. This highlights a lack of intercultural understanding among the Japanese intelligentsia. Simultaneously there is the self-fulling development of Korean insecurity, whereby the discrimination and prejudice that the assimilated Koreans face cause them to forcibly ascribe to Japanese cultural values-adopting Japanese names and denying Korean practices. However, the Japanese government, owing to the trends of acquiring more information, has started encouraging individuality, originality, creativity, critical thinking and self-expression. The Ministry of Education has initiated courses on cultural understanding in schools. However, the approach to cultural understanding does not involve analysing the nuances of multiculturalism- but achieving homogenization through the standard learning of English language, organising exchange programs and through the internet. According to Soo-im Lee, “economic emulation could lead to more positive feelings for the nation.” Thus, the problems lie in Japan’s way of teaching historical facts which impedes the process of naturalisation for foreign elements who have received entry and permitted residence in Japan.

Now, as far as the *Nikkei-Burajirujin* or Japanese Brazilians are concerned, their social positioning depends on historical reasoning methods of the Japanese. This group represents a thin line of distinction between Japaneseness and foreignness. They are viewed as the “ethnic Japanese anomaly”- they are the foreign nationals of Japanese ancestry who are thereby eligible for long-term residence and employment in unskilled labour, which was a policy change in the Immigration Control Law and Refugee Recognition Law done in 1990. The children of the Brazilians are described as “quasi-kikokushijo,” or Japanese returnees who have long been abroad because of their parents’ business. However, the prejudice and discrimination against these physically different Japanese nationals has subsided. This occurrence can be attributed to the role of media in representing who they think are, or are not, legal migrants. Illegality is attributed more often to the Iranians, given the general trend of associating violence with Islam. Secondly, Japanese media is extremely pro-West--- influenced especially by the American culture. African-Americans are perceived as “cool”, and the resemblance to the Nikkei Brazilians offers a certain degree of acceptance on the part of ethnic Japanese people. And finally, upon the enactment of the new Immigration Policy, people belonging to the Japanese blood lineage were assumed to be “culturally” as well as “physically” related to Japanese nationals. However, Japanese anomalies are not treated equally. It is interesting to note the difference in response of Japanese nationals to foreigners- there seems to be a hierarchical approach towards nationalities. So an American tourist would be the recipient of polite and welcoming behaviour; however, a Nikkei Brazilian, who has probably been a resident of Japan for over 50 years will still be discriminated against.

Thus, the conventional view of Japaneseness no longer seems to be accommodating all Japanese people and is ripe for serious challenge.

Migration in Japan is closely related to its population change as well. Demographic analysis highlights that the population overall is ageing and the low fertility rates is not helping the situation at all. This means there is a lack of able-bodied men to act as the workforce for the country. Migration is believed to be a way to stabilise the population and the workforce size. If the arriving migrants are young, skilled-semi-skilled and attract a large body of children, it could account for the lapse that Japan is currently facing. However, this requires exactly the kind of social acceptance and educational opportunities that Japan currently lacks. The immigrants could be involved in care-work, and similar reciprocal advantages can effectively help the situation on the domestic front.

## Shortcomings of Governmental Organs and Civil Society

Despite the increased activities of non-governmental organizations and the presence of the UN High Commissioner for Refugees in Japan, social learning about refugees has failed. The presence of these organizations is important but so is the exercise of their authority. In Japan, non-state actors find it extremely difficult to bring about any change. NGOs socialise states by teaching them what issues they should care about and providing the framework through which to interpret these issues. Even NGOs in “Reluctant states,” that is, states that are reluctant to comply with international norms- can shape state interests by activating transnational networks to initiate international pressure. However, International norm compliance depends on how successfully it is linked to serving state interests. The UNHCR’s failure to socialise the Japanese state to view refugee protection as serving the state’s interests is a major issue and demands rectification.

Japan has always preferred and advocated “voluntary repatriation.” JAR recognises this and marks a significant change, working on individual cases, policy advocacy and public relations. The importance of individual cases and the possibility of the extremity of human rights violations and immediate consideration of global governance is highlighted by them. JAR currently partners with the UNHCR to gain legitimacy. They want to overturn the belief that non-state actors only level criticisms against the government and emphasize outreach and awareness programs. The Zennanren is also asking for similar reforms ever since the Shenyang incident.

There exists a lack of transparency in the Ministry of Justice as was evident in the Kazankiran case. Thus, Japan fails to ensure the integrity of asylum procedures in order to build a strong and effective international refugee regime. Applications for permanent visas are rejected on the grounds of lack of relevant documents such as bank statements, a letter from the bank manager, employment history evidence and identity cards. However, not all migrants are necessarily economic migrants, and the cases of forced migration are completely overlooked where such documents could have been voluntarily destroyed. In Japan, being recognised as a refugee does not necessarily give one a legal status. The “60-day rule applies,” if within that time a legal status is not acquired, families can be estranged, and individual people can be forcibly deported, back to the country of origin that exudes humanitarian violations. Thus, without legal status, even recognised refugees cannot legally work and have no other legal standing, not even a residency permit.

There are domestic limitations as well- Japan has no comprehensive policy to deal with the treatment and resettlement of refugees. Japan’s Technical Intern Training Program (TITP) facilitates several human rights violations. On the face front, it is supposedly training people from less developed countries to learn skills in manufacturing, construction, agriculture and healthcare up to five years- skills that will best integrate them. But there are several complications that go unnoticed. There are cases of forced labour conditions where passports are confiscated, there are arbitrary salary reductions, and the refugees are confined to particular accommodations and travel is highly restricted, only on the regulation of the Ministry of Justice. Thus, even though the possibility to change from a trainee to an asylum seeker status exists, it is extremely difficult to manage so. Japan, on the whole, accepts large numbers of migrants to come and work in spheres which residents don’t voluntarily choose, but the recognition stops there. The attempt to incorporate independent appeal, on account of forcible deportation, is only an illusion- the eventual decision rests with the ministry of justice that assigns the decision to deport in the first place. Refugees find themselves caught in a vicious cycle, losing valuable time. The lesson learnt is but obvious- significant reforms in the domestic governance schemes of the Ministry of Foreign Affairs and Justice is required and imperative to global governance’s concern.

“In the political environment of post-2002 Japan, issues related to the abductees and to North Korean refugees have come to be seen as part of the agenda of the “right”, and more liberal or left-leaning social movements have become reluctant to engage with them. It further increases the vulnerability of those with few legal rights to be placed in a position of reliance on the humanitarianism of groups with strongly nationalist agendas. For this reason, it is particularly important for a wide range of civil society groups with diverse approaches and perspectives to become engaged with this issue, offering their expertise, skills and financial support to programs to support North Korean refugees in Japan.



From the late 1990s onwards, the Mamorukai has become increasingly active in supporting returnee refugees. Together with other groups such as the Sukuukai and Chosakai, it lobbied the government to include support for refugees (as well as investigation of suspected abduction cases and tough sanctions against the DPRK) in the 2006 North Korea Abduction and Human Rights Law. The existence of civil society groups delving into the nuanced problems of stateless people, such as the Stateless Network in Japan, is making exceeding headway into understanding the possibilities of multiculturalism in Japan.

## Japan and North Korea

Japan's relationship with North Korea stands at a pivotal juncture- human rights violation conducted under Kim Jong-un's regime is undeniable, America forms the "cornerstone" of Japan's "proactive contribution to peace," China's headway in the international community, and there is the possibility of unification of the two Koreas. In our discussion, we shall be observing how the influx of making critical decisions that is going to ensure significant respectability in the international global community.

Prime Minister Shinzo Abe, in his policy speech to the Diet on 24 January 2014, repeated the call for "North Korea to take concrete actions toward the comprehensive resolution of various issues including abduction, nuclear and missiles." Regarding the abductions issue, Abe emphasised, "My mission will not be complete until the day comes that the families of all abductees are able to embrace their families with their own hands. Under the policy of 'dialogue and pressure' with North Korea, I will do my utmost to achieve the three points of ensuring the safety and the immediate return to Japan of all abductees, obtaining a full accounting concerning the abductions, and realising the handover of the perpetrators of the abductions." With this, the North Korea Human Rights Law was passed in the Diet focusing on the rights of Japanese abductees. These abductions can be traced back to the 1970s and 80s when 13 Japanese citizens were abducted by North Korean agents. It is interesting to note how popular representation through channels of media (Sankei newspaper) and literature (for example, a study conducted by Araki Kazuhiro, a professor at Takushoku University who also heads the Investigation Commission on Missing Japanese Probably Connected to North Korea) went a long way into forming present-day Japanese convictions about the arrival of North Korean boat people to its coastlines. Popular opinion in Japan suggests scepticism and suspicion when it comes to accepting boat people- their motives are questioned, at the most they are taken into consideration for earning the status of "economic migrants," and several rightist media channels continue to portray them as "secret agents." Japan has also been accepting of repatriates from North Korea- these migrants had travelled to North Korea during the Cold-War era and given the present day depreciation in general welfare of people in North Korea- they seek to return home and assimilate themselves. Several of such repatriates were able to arrange for diplomatic missions that would take them out of North Korea and resettle them in Japan- they travelled by air and through registered channels. Ironically, the existence and arrival of these "returnees" went unheralded by the media. Japan's idea of cohesion based on blood ties yet again takes precedence and the role of popular media as far as representation is concerned demands contestation.

However, one cannot deny the recurrence of abductions and the risk of further human rights violations on the part of Japanese citizens. Perhaps, therefore, their fear is justified to an extent. But it is important to note the contexts in which North Koreans, whether they are ethnic Japanese or not, are seeking entry into Japan. The unsustainable conditions of a militaristic regime have drastic effects on the population- and the longer such a regime tries to keep itself

intact, repercussions of the same on the part of the people is all the more drastic. The lack of immigration policy in Japan puts Japan in a vulnerable position- however, boat people painstakingly take immense efforts and risk lives of not only their own but their loved ones', just for the sake of a viable alternative. This is the drive for several North Korean boat people. Hence, as long as Japan's neighbour continually represses its people and perpetrates human rights violations - undeniably, there will be an influx of North Koreans - perhaps in greater numbers. What Japan needs, therefore, is to look beyond isolated examples of abductions carried out in a period when the North Korean people were not actively seeking an opt-out from their country. It is important to understand that the people deciding to take these dangerous expeditions to flee is only because they are discontent trying to be habituated to a repressive, militaristic regime. What Japan needs is a careful consideration of what is portrayed through the media that shape popular narratives surrounding "foreigners." But indeed, a thorough background check of the incoming boat people is extremely important to avoid deviant, anti-social elements seeking to take advantage of the Japanese people. A background check is also important to gain knowledge about the experience of North Korean refugees who indeed are victims of forced migration- popularisation of such narratives will further add to the various dimensions of the refugee problem- going beyond a Euro-centric understanding of the same. It is extremely important not to discriminate the "returnee- repatriates" vis-a-vis the North Korean boat people. Japan's commitment should include "provision of permanent residence rights to those who do not have Japanese citizenship, as well as measures to ensure that repatriate refugees have access to government-supported welfare, language classes, skill-training and counselling services. All other North Korean refugees who arrive on Japan's shores should have their claims for asylum assessed under the rules of the Geneva Convention." Additionally, to ensure such problematic prioritizations (returnees over boat people/ returnees over abductees/ nuclear capabilities over the refugee influx) do not take place, what Japan requires is a more flexible negotiating strategy.

The conflicting tendencies between having to maintain a reputable international image, such as through acceptance of the Refugee Convention, and maintenance of a national character is only too apparent. There are indeed immense philosophical ramifications of Japan's decision concerning acceptance and appropriate treatment of its Refugees. Closely emulating protectionist policies of the United States, glorifying the American culture and ascribing a comparatively higher status to *Nikkei* Americans perhaps exposes where Japan's loyalties lie. In the larger international context, historic summits between Trump and Kim Jong-un and their newly established comradeship perhaps entails a revitalised image of the North Koreans and their assimilation in the event of an influx in Japanese territories. With uncertainties rising, and the idea of security that certain states can provide over the other, whether it is economic or simply humanistic in nature, the transmigration of individuals to Japan has and will be a phenomenon to observe and analyse.

## Conclusion

The myth of a homogenous nation needs to be targeted and the possibility of multiculturalism considered. It is ironic that multicultural values exist in Japan, but multiculturalism itself is viewed as a threat to national security. Japan particularly becomes an interesting target because of the nature of her involvement in the current refugee crisis. Her solutions are embedded in historical narratives, objective representation on media, on international partnership and the *Nihonjinron* ideologies trump practicability. The civil society needs to cultivate more pressing concerns such as determining the true essence of *Nihonjinron*, or what it means to be Japanese.

It can no longer entail interacting more and more with the outside world but emulating lesser-but rather, invigorate the latter as much, and as soon as possible.

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