

FOCUS

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Editorial

New Boat People

Asia witnessed the “boat people” phenomenon forty years ago. Photos of haggard women, children and old people crowding small, rickety boats while crossing the South China Sea sent a wave of sympathy from many countries that eventually recognized them as refugees.

Four decades later, Rohingya women, children and men also fled on boats and crossed the Bay of Bengal and the Andaman Sea to seek safety. This time there were human traffickers and smugglers involved, there were governments that pushed their boats (abandoned by traffickers and smugglers) out to the sea instead of allowing them to land, and some ended up as slaves and died in slave camps. These people escaped conflict and violence only to end in worst situation.

The traffickers and smugglers must be held responsible for their crime.

Similar to the boat people of the 1970s, these fleeing Rohingyas deserve safety in other countries pursuant to international humanitarian law, as well as protection of their human rights.

The future may have such boat people again, but will the past and present experiences teach lessons on avoiding suffering for people seeking safety?

New Boat People: The Rohingyas

HURIGHTS OSAKA

More than ninety thousand Rohingyas and Bangladeshis are believed to have left the Bay of Bengal and Andaman Sea on boats operated by smugglers since 2014. As of August 2015, more than a thousand of them are deemed to have died.

The United Nations High Commission for Refugees (UNHCR) has reported that¹

the most commonly-described route has boat passengers disembarking in the Ranong area of southern Thailand, followed by a day-long road trip to smugglers' camps towards the border with Malaysia.

Conditions in the smugglers camp are horrific. People are held and abused until their relatives pay for their release. More than half the survivors interviewed by UNHCR since October reported that someone died in the smuggler's camp where they were held. Beatings are common and there are reports of rapes. Those who try to escape, risk being shot.

But some smugglers

since last October [2014], [...] have abandoned onshore camps in Thailand in favour of holding passengers for ransom at sea. Once payment is made, people are taken by fishing or speed

boats directly to Malaysia. According to [one] NGO [non-governmental organization], The Arakan Project, currently several thousand people could be held – and dozens could have already died – in these 'offshore camps'."

There were reports of Rohingyas and Bangladeshis not receiving help from governments in countries where they were brought or where their boats landed, and even towing their boats [abandoned by smugglers] out to the sea.² But subsequent reports in the latter part of 2015 show many of the Rohingyas and Bangladeshis being allowed to land in southern Thailand, Malaysia and Indonesia (Aceh and North Sumatra provinces) with help being provided. There were Bangladeshis found in boats in the waters of Myanmar who were repatriated to Bangladesh by the Myanmar government.

Among the Rohingyas who have been trafficked or smuggled by boat, there were children (some unaccompanied), women and men.

Intergovernmental Response

The discovery of mass graves in smugglers' camps in the Thai-Malaysian border in May 2015 prompted inter-governmental response. The Thai government

organized the Special Meeting on Irregular Migration in the Indian Ocean on 29 May 2015 in Bangkok to address the issue. The affected countries agreed on the immediate measures to take such as³

1. Intensification of the "search and rescue operations to ensure safety of the irregular migrants at sea;" and
2. Exploration of "further means for identifying predictable disembarkation options and proper and harmonized reception arrangements for those rescued."

They also agreed to

1. Identify "those with protection needs through effective screening processes, paying particular attention to the protection of the vulnerable groups, including women, children, and unaccompanied minors, who are often most affected;"
2. Strengthen "information and intelligence sharing mechanism to provide accurate data on whereabouts of migrants and vessels stranded at sea, and ensure timely response in terms of search and rescue operations;"
3. Establish a "mechanism or joint task force to administer and ensure

necessary support, including resources as well as resettlement and repatriation options from the international community to countries that provide humanitarian assistance to the irregular migrants."

The situation has improved to some extent since the meeting was held, with less boats being seen at sea with the Rohingyas and Bangladeshis, but the problem has remained and "more needs to be done to solve [it] effectively and permanently."⁴ This was how the Thai government saw the situation that led it to invite key countries and international agencies for a second meeting.

The Thai government organized the International Conference on Irregular Migration in the Indian Ocean on 4 December 2015 in Bangkok with the expectation to discuss, among other issues,

the protection of migrants on-board, the establishment of an informal mechanism on law enforcement to address the problem of irregular migration and to dismantle smuggling and trafficking networks, the implementation of a joint information campaign along the migration path to convey real risks of irregular migration and to deter smuggling and trafficking syndicates with the seriousness of countries in the region to combat and eradicate this horrific crime. Also, measures to address the root causes of migration, including socio-economic

development of at-risk communities..."⁵

Representatives of the five affected countries, namely, Bangladesh, Indonesia, Malaysia, Myanmar and Thailand met a day before the conference. Due to lack of information, there is no clarity on whether or not they discussed the root causes of the problem.⁶

New Wave of Boat People: Causes

While the affected countries and their partner countries and institutions agreed on a number of measures to address the "irregular migration" of the Rohingyas and Bangladeshis, they have no agreement on the root causes of this issue.

The United Nations agencies saw the boat people phenomenon in Southeast Asia as similar to the problems faced by vulnerable people all over the world:⁷

Grave events in the Bay of Bengal and Andaman Sea in recent days involving migrants and refugees – Rohingya and others – from Bangladesh and Myanmar confirm that vulnerable people around the world are moving in search of safety and dignity, fleeing persecution, abject poverty, deprivation, discrimination, and abuse.

The UNHCR "has long advocated for and stands ready to support concerted efforts to stabilize the situation [in Southeast Asia] through reconciliation, the realization of

rights for all, socio-economic equality and addressing issues related to citizenship."⁸

The Association of Southeast Asian Nations (ASEAN) acted also on the problem but focused on its link to transnational crime, which is an important component of the problem. The Emergency ASEAN Ministerial Meeting on Transnational Crime (EAMMTC) concerning Irregular Movement of Persons in Southeast Asia, held less two months after the Bangkok meeting agreed to⁹

[C]onduct analysis and studies on the irregular movement of persons in the Southeast Asia and its connection with trafficking in persons and people smuggling as well as other forms of transnational crime with a view to assist ASEAN Member States in their efforts to address the long-term impact of this issue.

This stance was reiterated in the Joint Communique of the 48th ASEAN Foreign Ministers Meeting in Kuala Lumpur on 4 August 2015.¹⁰

The Thai government correctly stated that "[A]ffected countries in the region and relevant partners must work together to address the root causes as well as all the contributing factors along the way, in the spirit of international solidarity and shared responsibility."¹¹ The participating countries and institutions could agree on the more general issues of poverty but did not seem ready to discuss the very concrete issue of legal status of the Rohingyas in Myanmar and the existing

conflict between them and the Buddhist residents of Rakhine state.

The UNHCR states that there are 138,000 internally displaced people (IDPs) in Rakhine state as of August 2015. The IDPs in Rakhine state include those who are “also people without citizenship.”¹²

Return or Resettle?

The International Office for Migration (IOM) has started an Assisted Voluntary Return Programme for Bangladeshi migrants. It has helped the return to Bangladesh of more than six hundred Bangladeshi migrants under this program. It estimates almost a thousand Bangladeshi migrants in Indonesia, Malaysia, Myanmar and Thailand who may be eligible for assisted voluntary return (AVR) support.¹³

IOM also supported the resettlement of approximately a hundred Rohingyas to the United States since 2013 through health assessments prior to travel and referral of particularly vulnerable cases.

New Boat People

The Rohingyas constitute the new boat people because they are fleeing from violence and conflict. This situation is forcing their women and children to leave Myanmar despite risks of death in riding the boats of the traffickers and human smugglers.

The affected countries’ recognition of protection needs of “vulnerable groups, including women, children, and unaccompanied minors”¹⁴

should lead to a recognition of what the fleeing Rohingyas want to do to gain safety and security.

Finally, the fleeing Rohingyas need countries that are willing to accept them as refugees who seek security, shelter, and possibly permanent resettlement.

For further information, please contact HURIGHTS OSAKA.

Endnotes

1 “Some 25,000 risk sea crossings in Bay of Bengal over first quarter, almost double from year earlier,” News Stories, UNHCR, 8 May 2015, www.unhcr.org/554c9fae9.html.

2 See “Timeline of Events, South-East Asia Mixed Maritime Movements, April - June 2015 - Highlights,” UNHCR Regional Office for South-East Asia, www.unhcr.org/554c6a746.html. See also “A comprehensive people-oriented approach to the irregular movement of migrants and refugees in South East Asia” - Joint Statement by UNHCR, OHCHR, IOM and SRSG for Migration and Development: Search and rescue at sea, disembarkation, and protection of the human rights of refugees and migrants now imperative to save lives in the Bay of Bengal and Andaman Sea. (Press Releases, 19 May 2015), available at www.unhcr.org/555aee739.html.

3 “Press Releases: Summary - Special Meeting on Irregular Migration in the Indian

Ocean 29 May 2015, Bangkok, Thailand,” Ministry of Foreign Affairs of the Kingdom of Thailand, www.mfa.go.th/main/en/media-center/14/56880-Summary-Special-Meeting-on-Irregular-Migration-in.html.

4 “Press Releases: Thailand to host the Second Meeting on Irregular Migration in the Indian Ocean,” Ministry of Foreign Affairs of the Kingdom of Thailand, www.mfa.go.th/main/en/media-center/14/62560-Thailand-to-host-the-Second-Meeting-on-Irregular-M.html.

5 Ibid.

6 “Result of the 2nd Special Meeting on Irregular Migration in the Indian Ocean,” Ministry of Foreign Affairs of the Kingdom of Thailand, www.mfa.go.th/main/en/media-center/28/62757-Result-of-the-2nd-Special-Meeting-on-Irregular-Mig.html.

7 See Joint Statement by UNHCR, OHCHR, IOM and SRSG for Migration and Development, op. cit.

8 News Stories, UNHCR, 8 May 2015, op. cit.

9 Chairman’s Statement, *Emergency ASEAN Ministerial Meeting On Transnational Crime Concerning Irregular Movement Of Persons In Southeast Asia*, Kuala Lumpur, Malaysia, 2 July 2015, www.asean.org/images/2015/July/chairman_statement/ADOPTED%20Chairmans%20Statement%20of%20EAMMTC%20Concerning%20Irregular%20Movement%20of%20Persons%20in%20the

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Vietnamese Boat People: 40 Years Later

HURIGHTS OSAKA

The arrival of the so-called “boat people” in the late 1970s in Japan was a historic episode in the country’s refugee policy. It was the first time that Japan accepted a significant number of refugees either to allow them to resettle in the country or to have them processed for resettlement in a third country. The accommodation of the “boat people” in late 1970s has been so far the only time that Japan opened its doors wide open for refugees.

The First Camp¹

86-year old Fr. Harry Quadvliet of the Congregatio Immaculati Cordis Mariae/ Congregation of the Immaculate Heart of Mary (CICM) recalled that in 1979 the first refugee camp in Japan was established by CARITAS Japan in an old church in Himeiji, Hyogo prefecture. Thirty-four Vietnamese from Akita prefecture came to this camp. This started the Center for Promoting Permanent Residence for Refugees to help those fleeing Vietnam. The camp was subsequently transferred to Nibuno district in Himeiji where the CICM had built its house and where the St. Mary Hospital run by the Hospital Sisters of St. Francis was located. He also said that officials of the Japanese Ministries of Justice and Foreign Affairs came to the place for the

establishment of a refugee center. Since then, Fr. Harry has been involved with the Vietnamese refugees. He has been known as the “father of Vietnamese refugees” for his lifelong service to them.² Those who wanted to be resettled went to different countries such as US, Canada, France, Belgium, Australia and Norway. The Center closed in 1996.

Fr. Harry cited the case of about thirty people who travelled on a boat for more than forty days. Only a little over twenty people survived and were rescued; they were brought to Fukushima prefecture. Most of them decided to stay in Japan.

He noted that about four thousand Vietnamese refugees stayed in Hyogo prefecture (two thousand in Himeiji and another two thousand in Kobe). Some of the refugees in Nibuno district were Christians (Catholics) who went to the nearby church, while

others were Buddhists who went to a Buddhist temple in the area. The Buddhist temple had a Vietnamese monk who administered to the refugees. The temple offered a religious program for the children of the refugees. While the children of the Catholic refugees availed of the programs in the church’s *Koryu Sentaa* (Cultural Exchange Center).

He noted that many of the Vietnamese refugees were not able to integrate into the Japanese society. Many of them were men who married fellow Vietnamese; a few married Japanese women. Later on, some were able to return to Vietnam to visit relatives, do business and also to find spouses to marry (for the Vietnamese men).

Their children knew of their refugee background but they did not understand what it meant. They could not tell



Memorial marker on the former site of the Vietnamese refugee camp (Nibuno district, Himeiji city, Hyogo prefecture)

whether they were Japanese or Vietnamese. They only understood the Vietnamese language and did not speak it; they spoke the Japanese language. They also did not know the Vietnam War, or the communism in the country. They were educated in Japan and some of them had Japanese spouse. Some became Japanese citizens and assumed Japanese names. While many refugee parents could not integrate into the Japanese society, their children were able to do so. At present, three generations of Catholic Vietnamese in Nibuno attend mass in the church together, and served by a Vietnamese priest and two Vietnamese Sisters.

Some of the refugees transferred from Nibuno district to Yao city in Osaka prefecture and Kobe city due to availability of work. They come together to celebrate every August 15th (Moon Festival) and December 31st (Lunar New Year) of each year.

Higashi Elementary School in Himeiji³

Ms. Kayuki Kanagawa is a teacher in the Higashi Elementary School in Himeiji. She has been doing work since mid-1990s with Vietnamese children, whose grandparents were refugees in the late 1970s.

As of November 2015, twenty-one foreign students study in the school, including Vietnamese, Chinese and Japanese-Filipino children. Ms. Kanagawa teaches these students in a room devoted to activities for these children.

Ms. Kanagawa started this special class for Vietnamese-descent children in 1995. But she became even more motivated to continue with the special class after learning about the suicide of a former Vietnamese student who could not adjust to school life and started working without finishing his schooling to support his family. The school principal dubbed Ms. Kanagawa as the “mother of Vietnamese children.”

The Vietnamese parents want their children to use Japanese names in school instead of their real Vietnamese names. These parents believe that using Japanese names would: 1) prevent their children from suffering the discrimination they experienced during their childhood; and 2) help their children in becoming naturalized Japanese citizens later on.

Ms. Kanagawa tells the Vietnamese parents that there is no discrimination in the school against foreign children. She asks them to allow their children to use their real Vietnamese names. With their real names, Ms. Kanagawa believes that the children learn to value their identity as Vietnamese.

In the special room in the school (called World Room), foreign students learn their own language. For the Vietnamese



Paper lion for Vietnamese students' cultural festival

children, they learn the Vietnamese language and culture. They make traditional Vietnamese crafts used in Vietnamese festivals such as lanterns, and do traditional dance (such as the lion dance). They are also provided tutoring inside the room regarding their regular school subjects.

In another school, Joto Elementary School, Vietnamese girls wear *ao dai* for the graduation ceremony.

However, after graduating from primary school, some Vietnamese-descent students use Japanese names. They seem to think that it is more convenient to hide their identity and use Japanese names when they grow up. There are also companies they work for that ask them to use Japanese names for convenience.

Some Reflections

Ms. Kanagawa sees the need for the Vietnamese students to get more support to enable them to be on equal footing with their fellow students. She thinks that

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Pilot Refugee Resettlement Program: Japan Experience

Saburo Takizawa

In the summer of 2009, the Japanese government requested the United Nations High Commissioner for Refugees (UNHCR) to recommend ninety Karen refugees in Mae Lae camp in Thailand for resettlement in Japan. The government asked UNHCR to take into account the Japanese selection criteria: Karen refugee families (parents and dependent children, or nuclear families) in Mae La camp with capacity to adapt to the Japanese society and to get employed. The Mae La camp was chosen because it was the largest refugee camp in Thailand. The Karens constituted the majority of the residents in Mae La camp whose livelihood depended on agriculture. The Japanese government thought they would be able to adapt to the Japanese culture and customs without much difficulty. The family criterion was applied because, compared to single people, families were assumed to have less difficulty in adapting to Japanese society.

Three-year Pilot Program

This was the start of a three-year pilot program on the resettlement of refugees from the refugee camps in Thailand. It set an initial quota of ninety refugees; thirty refugees were

planned to be brought to Japan each year, for three years.

However, when the resettlement program was announced in Mae La camp, there was not much interest from the refugees and the planned thirty refugees for the first batch was not met after a round of interview of refugees. After a second round of interview was held, five families (consisting of twenty-seven adults and children) were eventually selected as the first group that would be resettled in Japan. The first group arrived in Japan on 28 September 2010.

The resettlement of the second group of refugees started in 2011. There was similar weak interest on the part of the refugees to resettle in Japan. They also heard about the difficulties in Japan faced by the first group of refugees. After two rounds of interview, six families were selected. But after being informed that the high cost of living in Japan required both husband and wife to work, two families decided not to join the second group just before departing for Japan in September 2011. Two women, one had a baby while another was pregnant, became uneasy about resettling in Japan. Only four families, consisting of eighteen people, arrived at Narita airport and were met by a smaller number of reporters

and non-governmental organization (NGO) workers than in 2010. Despite knowledge of their arrival, none from the Burmese ethnic community was present to welcome the second group. This suggested the existence of difference of opinion on the program among the Burmese ethnic community in Japan.

The final group of refugees to be resettled in Japan was meant to arrive in 2012. Families (consisting of sixteen people) from two other refugee camps were selected but eventually withdrew. As a result, no refugees were resettled in Japan in 2012. The pilot resettlement program ended with only forty-five refugees involved as against the planned ninety refugees.

Support for the Refugee Resettlement Program

The government officials knew the value of a resettlement program in improving Japan's image and identity. It was meant to be a concrete form of international responsibility/burden sharing and in line with the notion of human security, a major principle of the Japanese official development assistance (ODA). The program could dispel the long-held image of Japan as having an excessively restrictive refugee policy caused by stringent refugee status

determination (RSD) procedures. Under the resettlement program, the government (through the Ministry of Justice or MOJ) could choose the refugees who were deemed better fit for resettlement in Japan and thus increase the number of refugees in the country without going through the complex and lengthy RSD process, including litigation. As for MOJ's concern for security risks, the UNHCR would recommend for resettlement only those who have no security risks. Thus the MOJ would have nothing to lose by starting a resettlement program. The Ministry of Internal Affairs and Communications (MIC), which is responsible for economic and social activities including local administration and related tax systems, was opposed to the idea. The National Police Agency (NPA) was also not supportive as it was concerned about criminal activities by foreigners. There was, however, no hard proof that foreigners, including refugees, commit more crimes than Japanese nationals in relative terms. It was likely that the NPA stance reflected the government's policy of reducing the number of foreigners without regular residence status.¹ The Cabinet Secretariat, which chaired the Inter-Ministerial Working Group on Refugees Issues (IMWG), eventually managed the divergent views and interests, and succeeded in bringing a compromise agreement to start a small three-year pilot resettlement program.

Also, a shared view and consensus emerged among key decision-makers (political party

leaders) and opinion leaders that it was high time for Japan to accept more refugees than before.

The editorials and reports in the mainstream media were very supportive of the resettlement idea with the proviso that the government had to provide resettled refugees with sufficient skills and language training as well as social integration support so that they could become members of the Japanese society as soon as possible, avoiding the repetition of the difficulties experienced by Indochinese refugees. Such urging encouraged government officials and parliamentarians, who considered media reports and editorials as reflective of popular thinking, to support the resettlement idea.

Causes of Program Problems

The primary concern of improving the image and identity of Japan in the international society through the refugee resettlement program led to the failure to take into serious account the refugees' motivation for resettlement, and the inadequate assessment of their needs and capacities. The historical and political relations between Japan and Burma have also negatively affected the refugees' selection of Japan as country of resettlement. Remembrance of the World War II experiences and Japan's official development aid to the Burmese government that has oppressed them lessened the enthusiasm of the refugees on the program.

The refugees saw the criteria set by Japan as too restrictive and inflexible. The criteria were questionable compared to international standards. The criteria included the capacity to adapt to Japanese society and capacity to get employed to earn a living. These are not in line with the UNHCR policy that resettlement should not be determined on the basis of "integration potential" or other non-protection criteria. The UNHCR promotes resettlement for humanitarian reasons for those who need special protection when no other solutions are available. The criteria's stress on cultural adaptability reflects the Japanese government's wish to minimize social costs through rapid assimilation rather than integration. The employability criterion reflects the government's wish to minimize cost.

The other criterion on nuclear families has problems. It ignored the reality that refugees have extended families in the refugee camps. The criterion also restricts family reunification for those left behind in the refugee camps. And the resettlement of nuclear families does not necessarily mean less expensive than resettlement of individuals as it excludes young, single, ambitious and talented refugees who could adapt to Japan faster. Most of the families selected for the program have young children who would not be able to earn income until after five or ten years. The additional cost of supporting for them has to be provided instead by NGOs, local governments and the local communities.

The program does not have a mid- and long-term integration perspective. The six-month intensive orientation and settlement assistance program in Tokyo, for example, cannot address the refugees' concern for stable employment, medical insurance, education of children, old age pension and permanent residency or naturalization that are necessary to make a life plan. The previous integration program with the Indochinese refugees in the 1970s was repeated without much improvement; and thus was used without considering the problems it brought to the Indochinese who resettled in Japan.

To minimize the integration problem, the government should listen to the voices of the refugees, both in the camps and in Japan, to understand their interests, expectations and concerns and social norms and should encourage them to participate in designing the integration support system.

On the whole, the Japanese program was biased towards material assistance (jobs, housing, cash assistance, etc.) while the psychological dimension was ignored until the problems started to emerge.

Finally, the government failed to provide support to the local governments that hosted the refugees especially for long-term integration program that cost them (local governments) significantly. Most local governments could not afford to provide additional services to refugees when their own citizens were suffering from economic difficulties.

Conclusion

The Japanese government's decision to start a pilot resettlement program was a surprise to the humanitarian community. It was made by a small number of policy elites who realized that by responding to a call from the UNHCR, the criticism that Japan is a free-rider on the Global Refugee Regime could be addressed and its national interest in terms of reputational value would be promoted. However, domestic implementation of the program was much more difficult than many expected. Territorial protection of refugees in the form of resettlement does not necessarily offer human security for refugees unless a robust domestic integration support system is established. Such a system is a "national public product" to be co-produced by the government, local municipalities, civil society and the general public. Unfortunately, such a system does not yet exist in Japan as shown by the problems that form structural barriers. Due to the poor communication and information strategy adopted by the government, there are no shared interests among the supporters and the public at the local level. Rather than focusing on the technical "fixes" like selection criteria, the government should look at the big picture and address the problems.

The refusal by the three refugee families to come to Japan, or "Japan passing," was a shock and a turning point for the pilot program that forced all concerned parties to reconsider the past approaches and re-

examine hitherto untested assumptions and mindsets. However, there are also signs of hope. No doubt there are many individuals who have goodwill to help displaced refugees. Refugees and civil society are becoming more active than before. The Japanese government has also changed its approach and increased transparency and communications with the civil society. If these genuine efforts continue, the pilot program has a chance to overcome the "birth pain" and one can even hope that the resettlement program will become one of the keys to "open the doors of Japan to the global society," as Minister Nakagawa proudly mentioned on World Refugee Day, 20 June 2012.

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Endnote

- 1 The Ministry of Justice, National Police Agency and the city of Tokyo have been conducting a joint campaign to reduce the number of irregular stayers, which reduced their number from some 300,000 in 1993 to 78,000 in early 2012. In the course of the campaign, a large number of asylum

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Nishiyodogawa: Community Struggle on Right to Health

AOZORA Foundation

By mid-1930s, Nishiyodogawa ward had seven hundred factories, sixty thousand employees, and four hundred sixty of these factories had ten or more employees. This made Nishiyodogawa ward the heart of Osaka's industrial area.¹

In the 1930s, Osaka city was named the "City of Factories"² but also as "Smoke Capital" of Japan due to its industrialization history dating back to the 1870s. In a school textbook, Osaka city's industrial development was symbolized by smokes coming from numerous factory smokestacks.

The strong demand of foreign trade as well as the military industry in the 1930s caused the fast industrial development of Nishiyodogawa ward; it resumed after World War II. In the 1960s, residents experienced brown-colored haze that enveloped the area all day. Residents believed that all types of chemical pollution existed in Nishiyodogawa ward, particularly sulfur oxides. Cars and trains had their lights turned on during the day due to poor visibility.

The Nishiyodogawa ward situation reflected the impact on people of increased heavy pollution due to rapid economic growth from the 1950s in the major industrial zones of Japan (linked under the Pacific Industrial Belt plan) and

in other parts of the country. People in these areas began to suffer from respiratory ailments such as bronchitis, emphysema, and asthmatic bronchitis.

Protests (including law suits) against widespread pollution in the country led to the enactment of the Basic Law for Environmental Pollution Control in 1967, the Law on Special Measures Concerning Redress for Pollution-related Health Damage in 1969, and the Absolute Liability Law in 1972 and the Pollution-related Health Damage Compensation Law in 1973. The 1969 law designated parts of several cities including Yokkaichi, Osaka (including Nishiyodogawa ward) and Kawasaki cities as polluted areas. Under this law, people who were certified as suffering from pollution-induced health problems were qualified to receive medical care benefits. Under the 1972 Absolute Liability Law, lack of intent to pollute does not exempt companies from escaping their responsibility for the pollution caused.

Nishiyodogawa Residents' Protest³

Residents of Nishiyodogawa ward started to complain in the 1970s about the health problems suffered. The residents' protest was supported by the work of Mr. Kimio Moriwaki in early 1970s. He

started calling on pollution victims to come out to avail of the law on pollution.⁴ While the organizing work was very difficult, four hundred victims and other residents came to a meeting in a school auditorium and formed the Nishiyodogawa Association for Pollution Patients and Their Families.

The Nishiyodogawa Medical Association established the Medical Care Center for Pollution-Caused Illnesses in a hospital (*Semboku Byoin*) to care for pollution patients' health. Many of the residents with respiratory problems were old people and children because they hardly left their homes. Mr. Moriwaki worked as a receptionist in the Center that allowed him to invite them to join the Nishiyodogawa Association for Pollution Patients and Their Families.⁵

In mid-1970s, the Nishiyodogawa Association for Pollution Patients and Their Families contacted lawyer-members of the Osaka Bar Association to study the Nishiyodogawa problem. The difficulty of finding the sources of air pollution led the lawyers to do a three-year study on what legal action to take. In April 1978, the patients filed a case before the District Court in Osaka against ten companies believed to be sources of air pollution.⁶ More than twenty lawyers were involved in the

filing of the complaint in court, but lawyers from different parts of Japan later joined the legal team that increased the number of lawyers to one hundred and fifty.

The tort liability complaint asked the court, among several demands, to stop the operations of the companies and to order the companies to pay compensation to the pollution victims. The lawyers of the Nishiyodogawa residents were young and idealistic who volunteered their time and effort in pursuing the complaint. They faced experienced lawyers of the companies. The young lawyers learned a lot during the long period of litigation on this complaint. They received support from scientists from the academe (Kyoto University) regarding the technical issues of the complaint.

The Nishiyodogawa residents received a lot of support from the general public in pursuing the complaint.

While proving which companies were the sources of specific types and amounts of pollutants was technically difficult, proving the unusually high rate of health problems (compared to the national average) among the Nishiyodogawa residents, especially the young and old, was not. And the court considered the health issue data in favor of the complainants.

After seventeen years of litigation, the companies sought to settle the complaint. Both sides subsequently agreed on a four billion Yen compensation package. The District Court accepted the settlement

agreement in a decision issued in March 1995.⁷

The increased amount of compensation was meant to support the welfare of the pollution victims and the Nishiyodogawa ward on a long term basis. Part of the compensation money under the settlement agreement was meant for the establishment of a foundation that would assist the Nishiyodogawa residents in improving their community.

Public Campaigns

To support the judicial recourse, the Nishiyodogawa residents organized persistent public campaigns under the slogan "A Blue Sky for Our Children." These campaigns received broad cooperation from groups of pollution victims in other parts of the country who also filed their own complaints in court both against companies and the government. They campaigned for support for medical costs and also for losses sustained in terms of lost income, livelihood and property.

Years before the lawsuit, medical professionals in different parts of the country organized support groups to help pollution victims. These support groups held study sessions and seminars on the mechanisms that produced pollution and the legal and social institutions that could support the pollution victims. They also held informal meetings with local governments and submitted written petitions to them. In 1973, groups of pollution victims and the support groups

formed the National Liaison Council for Pollution Victims Organizations. This network of pollution victims' organizations facilitated the circulation of relevant information and made joint requests to government agencies on issues that member organizations could not solve locally.⁸

Aozora Foundation

The Nishiyodogawa pollution victims established in 1996 the Center for the Redevelopment of Pollution-damaged Areas in Japan (Aozora Foundation). The Aozora Foundation was established as a nonprofit organization (NPO) working for the redevelopment of pollution-damaged areas using part of the settlement package given by the companies under the 1995 court settlement agreement.

Before the District Court decision came out, the Nishiyodogawa Association for Pollution Patients and Their Families released in March 1991 the "Nishiyodogawa Redevelopment Plan" aimed at having a pollution-free community development in Nishiyodogawa ward. The plan gained prominence as an unprecedented community development proposal by pollution victims, and has found audience in venues such as the Organization for Economic Cooperation and Development (OECD) meeting and hearings of the Central Council for Environment Pollution Control. The Association brought forth a series of proposals, including one directed at defendant companies and on reconstruction after earthquakes.⁹

Aozora Foundation adopted a logo with three blue lines at the top to represent the blue sky supported by three elements: partnership of citizens, government administration, and business. There is a green horizontal line at the bottom to represent the green-enshrouded land.

It organizes studies and practical activities that are creatively carried out from the standpoint of pollution victims and community members, and aimed at rejuvenating local areas and environments.

It also holds public lectures, symposiums and other events with the participation of the residents, gathers documents and source materials, provides information, hosts observation tours and trainees, lends support for school classes, conducts international exchanges, and more.

Redeveloping polluted areas does not merely involve rejuvenating, recreating, and preserving the natural environment. In the Aozora Foundation way of thinking such redevelopment depends on recovering and improving the health of local citizens; recovering and fostering community functions lost on account of economics-first development; rebuilding relationships of trust and cooperation among government, business, and citizens; and other such efforts. This necessitates basing initiatives on the idea of "participation" as proposed in the Basic Environment Plan¹⁰ and, from a citizens' standpoint, obtaining the cooperation of

local authorities, businesses, and all other social entities.¹¹

In view of the serious pollution problems in Asia and around the world, Aozora Foundation aims to provide information on Japan's pollution experience and the lessons learned from it. It aims to provide information, beyond technical matters, on the practical actions consisting of the struggles and labors of citizens and pollution victims, as well as industry and the variety of other social entities, in implementing measures to achieve redevelopment. In this way, it hopes to arrest the pollution around the world by providing information on Japan's pollution experience, and by building an international cooperation network of grassroots initiatives on redeveloping pollution-debilitated areas.¹²

For further information, please contact: Aozora Foundation, 4F, Aozora Building, 1-1-1 Chibune, Nishiyodogawa-ku, Osaka, 555-0013; ph (816) 6475-885; fax (816) 6478-5885; e-mail: webmaster@aozora.or.jp; www.aozora.or.jp.

Endnotes

- 1 "A City of Factories Appears," *Osaka Asahi Shimbun*, 16 November 1936, an English version of the article is found in <http://aozora.or.jp/lang/english/nishiyodogawa-field-museum/citizens-struggle>.
- 2 *Japan's Air Pollution from the Perspective of Pollution Victims*, Center for the Redevelopment of Pollution-damaged Areas in Japan (The Aozora Foundation), page 9.

- 3 Part of the discussion in this and other sections is based on the interview of Mr. Kimio Moriwaki, Mr. Toshiyuki Ueda, Mr. Yanqing Wang, and Ms. Tomoko Kurimoto by HURIGHTS OSAKA staff (Jefferson R. Plantilla and Emika Tokunaga) on 15 September 2015, and from Kimio Moriwaki, "The Experience of Organizing Pollution Victims in Nishiyodogawa," The Aozora Foundation, <http://aozora.or.jp/lang/english/papers-from-overseas-workshops/the-experience-of-organizing-pollution-victims-in-nishiyodogawa>.
- 4 "About 7,000 pollution patients were certified under the law in Nishiyodogawa Ward," see Yoriko Yariyama, "The Pollution Experience Can Be the Engine of Community Renewal-The Aozora Foundation's Environmental Education Initiative," www.aozora.or.jp/pdf/071025_ws_eng.pdf
- 5 Moriwaki, op. cit.
- 6 Three more complaints were subsequently filed by the patients in court including those filed against the government about the air pollution (nitrogen oxides) from vehicle exhaust from public roads.
- 7 Along with the other cases filed in court, the Nishiyodogawa cases ended after twenty years lapsed from 1978.
- 8 See *Japan's Air Pollution from the Perspective of Pollution Victims*, op. cit.
- 9 See website of Aozora Foundation, <http://aozora.or.jp/lang/english/nishiyodogawa-field-museum/regeneration-begins>.
- 10 See Basic Environment Law and Basic Environment Plan, www.env.go.jp/en/aboutus/pamph/html/00pan250.html for basic information on the Plan.
- 11 "Our mission," The Aozora Foundation, <http://aozora.or.jp/lang/english/our-mission>.
- 12 Ibid.

Human Rights Education in Japan: Overview

Mariko Akuzawa

Japan responded well to the United Nations Decade for Human Rights Education (1995-2004) [UN Decade]. It adopted a national plan of action for the UN Decade in 1997, while more than five hundred prefectures and municipalities adopted local action plans.

The local enthusiasm for the UN Decade stemmed from the need for a new law that would continue government support for human rights education. The history of human rights education in Japan dates back to the beginning of anti-discrimination education (known as DOWA education) in the post-war period. Special laws and policies on fiscal measures for anti-discrimination (DOWA) projects since the late 1960s helped support the growth of DOWA education. With the ending of the special fiscal measures law in March 2002, the UN Decade became a new vehicle to continue and further promote human rights education in Japan.

Human Rights Education Law

The enactment of the Law on the Promotion of Human Rights Education and Human Rights Awareness-Raising (LPHREA) in 2000 ironically led to less reference by both national and local governments to the international framework on human rights education

specifically the UN initiatives. Unlike the UN Decade, the adoption by the UN of the World Programme for Human Rights Education (WPHRE) in 2005 did not lead to adoption of national and local plans of action in support of the new UN initiative.

Nevertheless, the enactment of LPHREA was progress. In implementing this law, the Japanese government adopted a National Basic Plan in 2002 and started issuing the annual *White Paper on Human Rights Education and Awareness-Raising* from the same year.

Many local governments again followed the national initiative. A 2012 survey of the Ministry of Education, Culture, Sports, Science and Technology (MEXT) revealed that forty-two prefectures (approximately 89 percent of all the prefectures) and 841 municipalities (approximately 47 percent of all municipalities) had already adopted local plans based on LPHREA.

It is noteworthy that many local governments regularly revised their plans to meet the changing needs of local communities. In revising the plans, many local governments conducted surveys to know the extent of the citizens' human rights awareness, as well as to evaluate the impact of their

human rights education programs.

People's Attitude

Recently, unexpected changes in the citizens' attitude have been observed based on the results of these local government surveys. For instance, in two separate surveys conducted in Himeji city (2011) and Tanba city (2012), both in Hyogo prefecture in the western part of Japan, the majority of respondents did not believe that institutional measures, such as laws or administrative systems, were effective in solving social problems. Instead, they believed that individual effort was more important. In the free answer column, some respondents even expressed anxiety that institutional measures made people too dependent on the government and spoiled individual effort. Respondents seem to trust personal solutions more rather than the democratic mechanisms of society.

Do these survey results reflect neo-liberal policy adaptation in Japanese society? Considering that human rights education facilitates participation in democratic decision-making processes, the results were discouraging if not alarming for human rights educators.

School System

Regarding human rights education in the school system, MEXT, as provided for in the National Basic Plan, undertook research and information gathering activities on effective teaching practices and materials in order to improve human rights teaching in schools.

MEXT organized a Panel of Experts for the Research on Approaches to Human Rights Education in 2003, and in cooperation with the Panel, conducted surveys in 2008 and 2012 to find out how local boards of education and schools implemented human rights education. The 2012 MEXT survey discussed earlier also showed that about 75 percent of the schools had human rights education plan. Based on the discussions of the Panel of Experts, MEXT issued a third report in 2008 entitled *Approaches to Teaching Human Rights Education*, which promoted the integration of knowledge, skills, attitudes and values in teaching human rights in order to capacitate children to take action to protect their own rights as well as those of others.

However, the future of human rights education does not warrant optimism. The change in the ruling party (Liberal Democratic Party) at the end of 2012 led to less serious government support for human rights education. In March 2015, MEXT revised the course of study to introduce moral education as an official subject at primary school level in 2018 and at the lower secondary school level in 2019. For

instance, the revised course of study for 1st and 2nd year primary students would be learning nineteen keywords such as honesty and sincerity, moderation, hope and courage, kindness, gratitude, politeness, friendship and trust, observance of rules, public-mindedness, fairness and justice, respect for culture and tradition, love for one's home and country, and so on. Stronger emphasis on values rather than rights, and on personal attitude formation rather than democratic participation may change the very basis of human rights education in Japan.

Moral education has been taught only as an informal subject in Japanese schools in the post-war period due to the criticism that it instilled the patriotism and militarism that led Japan to war. Consequently, moral education, given its wide latitude as an informal subject, became a good vehicle to integrate DOWA and human rights education. Many local boards of education issued unique supplementary textbooks for DOWA and human rights education that introduced the history of local human rights movements, and stories and voices of minorities. However, upgrading moral education to a formal subject requires the use of authorized textbooks and grading. As a consequence, the space for teaching human rights based on the rich local resources will be strictly limited.

In this context, the relationship between moral education and human rights education needs serious discussion. And there is a need to remind the Japanese

government that it has the "primary responsibility to promote and ensure human rights education and training, developed and implemented in a spirit of participation, inclusion and responsibility (Article 7.1, UN Declaration on Human Rights Education and Training [2011]).

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New Boat People: The Rohingyas

(Continued from page 4)

%20Southeast%20Asia
%20Region%20as%20of
%202%20July%202015.pdf.

10 Paragraph 36 under the "Non-Traditional Security Issues" heading of the Joint Communiqué, 48th ASEAN Foreign Ministers Meeting, Kuala Lumpur, Malaysia, 4th August 2015, page 6. Full document available at

www.asean.org/images/2015/August/48th_amm/JOINT%20COMMUNIQUE%20OF%20THE%2048TH%20AMM-FINAL.pdf.

11 "Press Releases: Thailand to host the Second Meeting on Irregular Migration in the Indian Ocean," op. cit.

12 "Myanmar Factsheet," UNHCR, August 2015, www.unhcr.org/cgi-bin/texis/vtx/home/opendocPDFViewer.html?docid=50001cf99&query=Rakhine%202015.

13 *Bay of Bengal and Andaman Sea*, IOM Humanitarian Compendium, <http://humanitariancompendium.iom.int/bangladesh-indonesia-malaysia-myanmar-thailand/2015>.

14 "Press Releases: Summary - Special Meeting on Irregular Migration in the Indian Ocean 29 May 2015, Bangkok, Thailand," op. cit.

Vietnamese Boat People: 40 Years Later

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the past educational policy of Japan was wrong in not recognizing the contribution of foreign children in the education of all children. She, however, cites some changes being made. The Hyogo prefectural government is adopting from 2016 school year a special admission quota for foreign students who came to Japan in the past three years. But this policy would not cover the foreign students of Ms. Kanagawa.

She hopes to have a good Vietnamese role model and a good Vietnamese community. She plays a role in the

Vietnamese community despite her inability to speak Vietnamese. But she hopes that the Vietnamese community would develop its own system of supporting its members.

She learned a lot in helping Vietnamese children during the past twenty years. She remains their strong supporter. She realizes that a country where children cannot laugh is a broken society.

For further information, please contact HURIGHTS OSAKA.

Endnotes

- 1 Unless indicated otherwise, the discussion in this section is based on interview of Fr. Harry Quaadvliet held on 29 October 2015 in the CICM house in Nibuno district, Himeji, Hyogo prefecture by Jefferson R. Plantilla, Emika Tokunaga and Chika Kajita.
- 2 "More than 25 years on, the 'father of Vietnamese refugees,'" *Asia News*, www.asianews.it/news-en/More-than-25-years-on,-the-father-of-Vietnamese-refugees-recalls-the-difficult-integration-7848.html.
- 3 The discussion in this section is based on interview of Ms. Kanagawa in Higashi Elementary School on 29 October 2015 by Jefferson R. Plantilla, Emika Tokunaga and Chika Kajita.

Pilot Refugee Resettlement Program: Japan Experience

(Continued from page 9)

seekers (possibly refugees) who did not have regular visa

status were arrested. This is one of the reasons for the recent surge in the number of asylum claims in Japan. On crimes by foreigners see Okada, K. *Gaikokujin to Hanzai* [Foreigners and

Crime], Reference, National Diet Library, 2007.

HURIGHTS OSAKA Calendar

HURIGHTS OSAKA is finalizing the Northeast Asia contextualized training manual on business and human rights. Printing is expected in the first quarter of 2016.



PRINTED MATTER

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May be opened for inspection by the postal service.

HURIGHTS OSAKA, inspired by the Charter of the United Nations and the Universal Declaration of Human Rights, formally opened in December 1994. It has the following goals: 1) to promote human rights in the Asia-Pacific region; 2) to convey Asia-Pacific perspectives on human rights to the international community; 3) to ensure inclusion of human rights principles in Japanese international cooperative activities; and 4) to raise human rights awareness among the people in Japan in meeting its growing internationalization. In order to achieve these goals, HURIGHTS OSAKA has activities such as Information Handling, Research and Study, Education and Training, Publications, and Consultancy Services.

FOCUS Asia-Pacific is designed to highlight significant issues and activities relating to human rights in the Asia-Pacific. Relevant information and articles can be sent to HURIGHTS OSAKA for inclusion in the next editions of the newsletter.

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