

Destiny of a Nation Denied: Commentary on the failed asylum of Turkish Kurds in Japan

(日本におけるトルコ系クルド人の庇護不認定処分に対する批判的検討)

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Introduction

Since Japan started to accept asylum applications in the 1980s, their total number has surpassed 40,000, and only two nationals – Myanmar and Turkey – made up more than half of asylum appeals in Japan, except for the recent unreasonable inflation of asylum applications until 2010. Concerning these top 2 countries of origin, Myanmar refugees constitutes large parts of those who were officially recognised as refugees in Japan but, in contrast, no asylum-seeker from Turkey has ever been granted the official refugee status. This fact naturally causes a question: Why have Turkish asylum-seekers been never recognized as a refugee in Japan, while their asylum applications have constituted a large part of the state's accepting asylum appeals?

Indeed, most of Turkish asylum-seekers in Japan are considered to have the ethnicity of Kurds, not Turks. In a similar vein of the other ethnic minorities, the Kurds have often experienced a lack of political representation, poor economic development, reduced social services, or sometimes denial of their ethnicity and cultural identity in their home countries.¹ The ongoing bloody conflicts are also a root cause of their diaspora.² In particular, labour migration, political turmoil, and conflicts in Turkey have resulted in many Kurds dispersing throughout Europe and beyond.³ It is since around the 1990s, in particular, that Japan has been another popular destination for the Turkish Kurds. Many of the Kurds came with their Turkish passports and applied for the refugee status in Japan, though nobody among them has been granted the decent refugee status. This is a significant contrast to the facts that many countries of the West have ever accepted so many Kurdish people as refugees, who had similar backgrounds to those who are in Japan.

Though there seems to be no prospect for Turkish Kurds to be granted the official status of refugees, their appeals for asylum have recently inflated and now more than 2,000 Kurds are estimated to settle in Japan. Consequently, Kurdish migration to Japan has been increasingly illegal in nature, and most of the Turkish Kurds do never have any legal ground for their long-stay in Japan.⁴ Compared to the accumulation of criticisms from the refugee-supportive activists, the issue of Turkish Kurd asylum situations in Japan is still an under-researched topic, and scholarly has not sufficiently touched upon it.

Objectives

The main objectives of this study are to better understand the entire structure of Kurdish migration and asylum situations in Japan, and to explore why they cannot be recognised as official refugees in Japan with a theoretical tool in the study of international relations (IR) – Analytical Liberalism. Despite the political and international nature of forced migration, there has surprisingly been little work on

refugees and forced migration within the realm of IR.⁵ As a corollary, the issues surrounding the forced migration or refugee movement are often marginalized from the mainstream of IR, and thus existing literature on those issues has mostly been drawn on the other disciplines such as sociology, economics or law studies. Unfortunately, however, these studies tend to lack the “macro-level” viewpoints towards both of the domestic and international society.⁶ Pioneering work bridging this divide between IR and forced migration has taken place recently,⁷ and this study attempts to become a testimony that conceptual and theoretical work in IR can be applicable to explaining a real-world matter, by explaining the structural causes behind the Kurdish migration to Japan through the theoretical lens provided by Analytical Liberalism. By doing so, this study will contribute to making up a part of the deficits of previous studies.

Methodology

This study is an empirical-analytical research, dependent on the case study of the Kurdish migration and their asylum appeals in Japan. According to the study objectives, the following key research question is set out:

Research Question:

Why has Japan never granted any official refugee status to the Kurdish asylum-seekers from Turkey?

As the theoretical framework, this study adopts a theory stemming from the liberalism traditions in IR - Analytical Liberalism, which argues that the relationships of the states to the domestic and transnational social context in which they are embedded have a fundamental impact on the states' behaviours.⁸ Through this theoretical framework, the hypothesis (*vis-à-vis* the above research question) is set out as follows:

Hypothesis:

The strategic calculations of the state's preferences, which stem from the state-society relations depending on the context of domestic and international politics, result in the curious consequence of Japan's never hosting any Turkish Kurd asylum-seeker as an official refugee so far.

This study, which largely relies on the empirical case study focusing on the Kurdish migration and asylum seeking in Japan, uses the multi-methods to collect data and/or evidence for the sound hypothesis testing. Based on the enriched literature surveys, and the process tracings of the Kurdish migration and their asylum appeals in Japan, several fieldwork activities are undertaken. Information collected through the interviews with several stakeholders who are engaged into the practice of refugee governance highly contributes to the analyses in this study.

Thesis Structure

Following the introductory chapter (Chapter 1), the thesis first provides the background information about the Turkish Kurd problems and their migration to Japan (Chapter 2). The next chapter shifts the explanation for the theoretical framework in this study – Analytical Liberalism (Chapter 3). This chapter locates the theory amongst wide genre of theories in IR study, and explain why this theory best fits the aims and objectives of this study. The fourth chapter focuses on the analyses at the international level (Chapter 4), and the fifth chapter explores the important factors at the domestic level (Chapter 5). The sixth chapter combines the key findings in the previous chapters and places them in the historical context of refugee governance in Japan (Chapter 6). The seventh chapter is devoted to the discussions over the relevant topics, and tries to explore the shifting and non-shifting policy outcomes in the process of a set of key events to consider the asylum situations of Turkish Kurds in Japan (Chapter 7). The final chapter concludes this thesis, and also attempts to extrapolate wider lessons about how the policies and practices of states can inhibit (or contribute) to the management of global refugee problems, and then makes several suggestions for reformation of the current problems (Chapter 8).

Findings

The international refugee regime is currently structured within the context of modern world system consisting of sovereign states, despite its original laudable aim to protect all of those who need asylum. Under the current structure of international refugee regime, each state can discretionary set out its own refugee regime, and the discrepancies in implementation and application of international refugee laws exist from state to state. Every state holds its ultimate decision on immigration and border control; consequently, states' responses to refugees always tend to remain ad hoc.

Under the current fragmented structure of international refugee regime, Japan has set out its own refugee regime whose legal basement is the state's immigration control law. According to the international and national legal documents, the Immigration Bureau of the Ministry of Justice is legally permitted to have the authority to discretionarily make judgments concerning the refugee status determination in the country. Though it can be assumed that the ultimate wills of the government are strongly and directly reflected on the outcomes of refugee status determination, in reality, other actors such as the Opposition parties or politicians, public opinion, media and civil society groups can have some indirect effects on the decision of the government and administrative agency.

Even though the official stance of the Japanese government towards the Turkish Kurd asylum-seekers has never changed, a slight but significant policy shift of the state refugee governance from a set of remarkable events in the context of asylum situations of Turkish Kurds between around before and after the deportation of two Turkish Kurds in 2005.

Discussions

After asylum rejections, multiple refusals, family divides, detentions and deportations of Turkish Kurds, the uncertainties provoked large debates controversies inside of Japan. An increasing number of people have gotten

interested in the Turkish Kurd problems, and the stringent and veiled attitude of the Japanese government has been continuously targeted by criticisms and doubts from the public, media, academics, humanitarian activists, and political elites. Until this stage, the state preferences can be considered to have shifted, and thus the Japanese government seems to have chosen to opening the pathway for some portions of Turkish Kurd asylum-seekers to the special residency permits for the humanitarian reasons, not the proper refugee status. This slight shift vis-à-vis mounting critiques can result from the strategic interaction between interior and exterior factors based on the shifting state preferences, which can correspond with the explanatory model proposed by the Analytical Liberalism.

Conclusions

The refugee governance in Japan has slowly but steadily developed for over the last three decades; moreover, these modifications are largely produced by the influences of both international and domestic politics, which has resulted in the unexpected emergence of legal limbo of Turkish Kurd in Japan. Strategically counting the pros and cons of the respective scenarios to address the conditions of Turkish Kurd asylum-seekers in Japan, the government has resolved to provide the special treatments – humanitarian residency permit – or to grant the virtual tacit permission – provisional release – for them. As such, the outcome of Japan's never hosting any Kurdish asylum-seeker as an official refugee results from the strategic calculations of the state's preferences, stemming from the state-society relations depending on the context of domestic and international politics. In contrast to the lofty aim of international refugee regime of protecting all of the world's refugees beyond the limits of world politics and state sovereignty, the opposite results have been reproduced, and thus the emergence of legal limbo of Turkish Kurds in Japan can be a textbook case to represent the structural failure of international refugee regime, and also sheds light on the existing deficits of international, domestic and local governance for people seeking asylum.

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