

# Crisis of Human Rights of Refugees and Asylum Seekers in Japan

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*The year 2022 marks the 40<sup>th</sup> anniversary of the start of Japan's refugee recognition system. Despite being a prosperous democracy and a staunch supporter of the international system, Japan has consistently admitted only a small number of refugees. According to the Immigration Services Agency of Japan, the number of people recognised as refugees in 2022 reached a record high of 202, while those not recognised exceeded 10,000. Furthermore, the legislative bill to revise the Immigration Control Law, passed by the House of Councillors Judicial Committee on June 8, 2023, limits applications for refugee recognition to twice in principle. From the third application onwards, there is a possibility for forced deportation to the applicants' home countries. This legislative bill can be seen as violating the human rights of refugees and asylum-seekers, contravening international human rights law, and the 1951 Convention Relating to the Status of Refugees. Therefore, this article specifically explores Japan's stronger stance on control over protection, whether its low recognition rate indicates non-compliance with international refugee protection criteria, and the reasons behind this. These aspects will be methodically examined, employing rationalist, normative, and domestic institutional theories of international conformity. Finally, the article will suggest measures to improve Japan's refugee recognition rate and enhance the protection of the human rights of refugees and asylum seekers.*

**Keywords:** Japan's refugee policy, human rights, international obligations, asylum seekers, legislative reforms, non-refoulement

## Introduction

In 2022, Japan commemorated the 40<sup>th</sup> anniversary of its refugee recognition system, a milestone that prompts reflection on the nation's role and responsibilities within the global refugee crisis. As a prosperous democracy, Japan holds a unique position on the international stage, priding itself as a staunch supporter of the international order and human rights. However, this image contrasts starkly with its record on the admission and recognition of

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refugees and asylum seekers. According to the Immigration Services Agency of Japan, the year 2022 saw a record high of 202 individuals recognised as refugees, while the number of those not recognised exceeded 10,000.<sup>2</sup> This discrepancy raises critical questions about the effectiveness and fairness of Japan's refugee recognition system.

The issue of refugee recognition in Japan is further complicated by legislative changes that seem to tighten the already stringent controls over asylum seekers. In June 2023, a legislative bill to revise the Immigration Control Law was passed by the House of Councillors Judicial Committee. A notable provision within this bill limits applications for refugee recognition to twice in principle, introducing the possibility of forced deportation from the third application onwards.<sup>3</sup> This legislative move has sparked controversy and concern among human rights advocates, as it appears to contravene international human rights law and the principles set forth in the 1951 Convention Relating to the Status of Refugees.<sup>4</sup> These developments underscore a growing crisis in the human rights of refugees and asylum seekers within Japan, signalling a shift towards stronger control over protection.

This article aims to explore the complexities and contradictions of Japan's refugee policy, examining the reasons behind its low refugee recognition rate and the implications of recent legislative changes. The analysis is structured around several key questions: Does Japan's stringent stance on refugee recognition indicate a failure to comply with international refugee protection standards? What are the underlying reasons for Japan's approach to refugee and asylum seeker rights? And critically, how can Japan reconcile its international image as a defender of human rights with its domestic policies on refugees and asylum seekers? To address these questions, this article will dissect the legal, social, and political factors influencing Japan's refugee policy, highlighting the tension between control and protection in the management of asylum seekers and refugees.

The significance of this exploration extends beyond academic interest. At stake are the lives and rights of individuals seeking refuge from persecution, conflict, and human rights abuses. Japan's policies towards refugees and asylum seekers have profound implications for its international reputation, its compliance with international law, and its moral standing in the global community. Moreover, the issue touches on broader questions of global responsibility, solidarity, and the mechanisms of international protection for those most in need.

In structuring this discussion, the article is divided into several sections, each addressing different aspects of the crisis of human rights of refugees and asylum seekers in Japan. Following this introduction, the article will delve into the historical context and current state of Japan's refugee policy, examining the evolution of its refugee

<sup>2</sup> Ministry of Justice (Japan) 2022.

<sup>3</sup> Ministry of Justice (Japan) 2023.

<sup>4</sup> The fundamental tenet of the 1951 Refugee Convention is that of non-refoulement, stipulating that refugees must not be sent back to a country where they are at serious risk of facing threats to their life or freedom. This principle is recognised as a standard of customary international law.

recognition system and the impact of recent legislative changes. Subsequent sections will analyse Japan's refugee policy in detail, explore the human rights implications of current practices, and compare Japan's approach with those of other countries. The article will also identify the challenges and barriers to reforming Japan's refugee policy, offering solutions and recommendations for improving the recognition rate and enhancing the protection of refugee and asylum seeker rights.

In conclusion, this article seeks to shed light on a pressing issue at the intersection of international law, human rights, and domestic policy in Japan. By critically examining Japan's approach to refugees and asylum seekers, it aims to contribute to the ongoing dialogue on how to best protect the rights and dignity of some of the world's most vulnerable populations.

## **Historical context and current state**

This section aims to delve into the historical context and evolution of Japan's refugee policy, examining the interplay between Japan's international commitments and its domestic policy imperatives. Through an exploration of legislative developments, recognition rates, and the broader geopolitical considerations, this section will shed light on the complexities and challenges that have shaped Japan's stance on refugee protection and human rights, setting the stage for a critical examination of its current policies and the implications for international refugee law.

### ***Brief history of Japan's refugee policy***

Japan's journey within the international refugee protection framework commenced in earnest in 1981, upon its accession to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol.<sup>5</sup> This landmark decision marked Japan's formal commitment to international refugee law, setting the stage for the development of its domestic refugee policy. Initially, Japan's approach was characterised by a conservative stance, mirroring its broader immigration strategy focused on maintaining societal homogeneity and addressing concerns over national security and economic stability.

In the decades that followed, Japan introduced several legislative measures and policy shifts, albeit maintaining a cautious approach. The Immigration Control and Refugee Recognition Act (ICRRA), established shortly after acceding to the 1951 Refugee Convention, laid the groundwork for Japan's refugee assessment procedures.<sup>6</sup> However, the implementation of this Act revealed Japan's reticent posture towards accepting refugees, with recognition rates remaining significantly lower than those of other developed nations. The early 2000s witnessed modest reforms aimed at enhancing the transparency and fairness of the refugee recognition process. Despite

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5 Japan acceded to the 1951 Convention relating to the Status of Refugees in 1981 and its 1967 Protocol in 1982. Ministry of Foreign Affairs of Japan 2023.

6 Japan: Cabinet Order No. 319 1951.

these efforts, Japan's refugee policy continued to be marked by stringent criteria and a lengthy application process, reflecting an enduring emphasis on immigration control. The introduction of a resettlement programme in 2010, allowing a limited number of Myanmar refugees from Thai camps, represented a cautious step towards international cooperation in refugee protection.<sup>7</sup>

Throughout this period, Japan's legislative and policy landscape regarding refugees has been shaped by a complex interplay of international obligations, domestic concerns, and geopolitical considerations. Despite growing international calls for solidarity and burden-sharing in the face of global displacement crises, Japan's refugee policy has evolved cautiously, maintaining a balance between its international commitments and domestic priorities.

The recognition rates of refugees and asylum seekers in Japan have been notably low, underscoring a persistent trend that contrasts sharply with the country's global standing as a developed democracy. In 2022, a record high of 202 individuals were granted refugee status by the Immigration Services Agency of Japan, out of over 10,000 applicants. This figure, although a peak, underscores the stringency of Japan's refugee policy, with a recognition rate of approximately 2%, starkly low compared to global standards.

Over the past decade, Japan's annual recognition rates have seldom surpassed 1%, reflecting a cautious, if not restrictive, approach to asylum claims. In contrast, countries like Germany and Canada have exhibited significantly higher acceptance rates, often exceeding 40% in recent years, according to the United Nations High Commissioner for Refugees (UNHCR).<sup>8</sup> This discrepancy highlights the disparities in refugee recognition practices globally and places Japan's policies in a more restrictive light. Furthermore, the number of asylum seekers in Japan has seen a steady increase since the early 2010s, peaking in 2017 with over 19,000 applications.<sup>9</sup> Despite this, the acceptance rate has remained low, with the majority of applicants either denied or left in prolonged limbo. This situation points to a critical need for policy reassessment, especially in light of increasing international displacement crises and calls for shared global responsibility in refugee protection.

### *The legislative bill passed in June 2023 and international refugee protection standards*

In June, 2023, the Japanese government enacted a legislative bill imposing stringent restrictions on the refugee application process. This legislation caps the number of attempts for refugee status recognition at two, introducing the risk of forced deportation from the third attempt onward. This legislative shift has ignited a contentious debate, highlighting a divide between governmental intent and human

7 LEE 2018: 1219–1234.

8 UNHCR 2023. See also UNHCR 2022.

9 The Asahi Shimbun 2019.

rights advocacy.<sup>10</sup> Supporters of the bill argue that it is designed to streamline the refugee recognition process, deter fraudulent claims, and manage the country's immigration control more efficiently. They contend that these measures are necessary to maintain public order and ensure that the asylum system is reserved for those genuinely in need of protection.<sup>11</sup> Conversely, human rights organisations and refugee advocates vehemently oppose the bill, claiming it severely undermines the principle of non-refoulement. They argue that limiting asylum applications and the looming threat of deportation could endanger the lives of genuine asylum seekers, forcing them back to situations where they may face persecution, torture, or death.<sup>12</sup> This, they assert, contravenes not only Japan's international obligations under the 1951 Refugee Convention but also the fundamental human rights principles. The bill's enactment raises grave concerns about the future of asylum seekers in Japan, potentially exacerbating vulnerabilities for this already marginalised group and distancing Japan further from its international human rights commitments.

Japan's adherence to international refugee protection standards, particularly in light of its recent legislative amendments, has come under scrutiny. As a signatory to the 1951 Refugee Convention and its 1967 Protocol, Japan commits to upholding the rights of refugees, including the principle of non-refoulement, which forbids returning individuals to territories where they face serious threats to life or freedom.<sup>13</sup> Despite these commitments, Japan's actions, characterised by notably low recognition rates and stringent application procedures, have sparked criticism from international human rights organisations and refugee advocacy groups. Reports from entities such as the United Nations and Amnesty International have highlighted Japan's policies as being restrictive and not fully aligned with its international obligations.<sup>14</sup> These critiques often point to the procedural barriers within Japan's asylum system that contribute to the low acceptance rates and the lengthy, opaque decision-making process that leaves many asylum seekers in a state of uncertainty and vulnerability for years.

Japan defends its policies by emphasising the need for a balanced approach that protects the rights of asylum seekers while ensuring national security and public order. The government argues that its measures are necessary to prevent abuse of the asylum system and to maintain the integrity of its immigration control, asserting that these policies are in compliance with its international commitments.<sup>15</sup> This stance, however, continues to be a matter of debate among international legal scholars and human rights advocates, who urge Japan to reconsider its approach to ensure greater compliance with international refugee protection standards.

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10 ANDO 2023: 137–160.

11 ANDO 2023: 137–160.

12 KASAI 2023. See also TIAN 2023.

13 WOLMAN 2015: 409–431.

14 OHCHR 2023. See also, Amnesty International 2023.

15 OHCHR 2023.

## Analysis of Japan's refugee policy

This section delves into the complexities of Japan's refugee policy, examining the rigorous and often criticised refugee recognition process and its alignment with international obligations. It explores the stringent application and review procedures that hinder asylum seekers' access to protection. The section also discusses the challenges faced by asylum seekers, including lengthy delays, detention practices, and a narrow interpretation of persecution that diverges from international best practices. The analysis reveals a control versus protection paradigm within Japan's policy, emphasising the need for a balanced approach that fulfils international obligations while addressing national concerns.

### *Japan's refugee recognition process*

Japan's refugee recognition process is characterised by a rigorous and often criticised system that presents numerous hurdles for asylum seekers. This system, while designed to adhere to Japan's obligations under the 1951 Refugee Convention and its 1967 Protocol, is marked by stringent application and review procedures that significantly impact the recognition rates of refugees in the country.

The cornerstone of Japan's legal framework for refugee recognition is the ICRRA, which establishes the criteria and processes for determining refugee status. Under this act, individuals seeking asylum must demonstrate a well-founded fear of persecution based on race, religion, nationality, membership of a particular social group, or political opinion.<sup>16</sup> The process begins with the submission of an application to the Immigration Services Agency of Japan, followed by interviews and an assessment of the applicant's claims. Applicants face a multi-stage process that includes initial screening, a formal interview, and, if denied, an appeal process. Despite these provisions, the process is marred by lengthy delays, with some cases taking years before a final decision is made. Furthermore, the criteria for recognising refugees are applied in a manner that is often seen as excessively strict, leading to a low acceptance rate compared to other industrialised nations.<sup>17</sup>

One of the primary barriers faced by applicants is the high burden of proof required to establish a well-founded fear of persecution. Many asylum seekers struggle to provide the extensive documentation and evidence required, particularly those fleeing conflict zones or oppressive regimes where obtaining such documentation is impractical or dangerous.<sup>18</sup> Language barriers, limited access to legal representation, and a lack of information about the asylum process further complicate the application for many.<sup>19</sup> Additionally, the Japanese government's policy of detaining asylum seekers

16 BUSCHMANN 2021: 79–96.

17 BUSCHMANN 2021: 79–96.

18 KITAMURA 2022: 59–91.

19 TARUMOTO 2019: 7–24.

during the review process has been a point of significant international criticism, as it can exacerbate the vulnerabilities of individuals fleeing persecution.<sup>20</sup>

The criteria used by Japan to determine refugee status have been criticised for not fully aligning with international best practices. Reports from international bodies, including the UNHCR, highlight a discrepancy between Japan's legal obligations and its implementation practices. For instance, the UNHCR has pointed out that Japan's interpretation of what constitutes a "well-founded fear of persecution" is often narrower than that recommended in international guidelines.<sup>21</sup> Official statistics underscore the challenges within the system. According to the Immigration Services Agency of Japan, the recognition rate for refugees has remained markedly low, with only a small fraction of applicants granted refugee status annually. This is in stark contrast to the global average acceptance rate reported by the UNHCR, indicating a significant divergence in Japan's application of refugee protection criteria compared to other countries.

Japan's refugee recognition process, while structured to provide a pathway to asylum, is fraught with barriers that limit access to protection. The stringent application of criteria, combined with procedural and administrative hurdles, places Japan's system at odds with the more accommodating practices recommended by international human rights and refugee protection standards.

### *Control versus protection paradigm*

Japan's refugee policy is emblematically caught at the crossroads of a control vs. protection paradigm, illustrating a profound tension between stringent immigration control and the humanitarian obligation to protect refugees. This dichotomy is deeply rooted in Japan's national policy frameworks and reflects broader socio-political concerns, including national security, demographic stability, and social integration.

Japan's emphasis on immigration control is often justified through national security concerns. The government argues that rigorous screening processes are essential to prevent potential threats under the guise of asylum claims.<sup>22</sup> This stance is indicative of a broader global trend where states prioritise border security, sometimes at the expense of international protection obligations. However, such an approach disproportionately impacts genuine refugees, subjecting them to lengthy and uncertain application processes that can exacerbate their vulnerability. Moreover, demographic considerations also play a crucial role in shaping Japan's refugee policy. With a rapidly aging population and declining birthrate, Japan faces significant demographic challenges. While increased immigration could theoretically mitigate these issues, there is a prevailing concern within policy circles and the broader public about the impact of immigration on social cohesion and the maintenance of cultural

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20 SLATER-BARBARAN 2020: 1–17.

21 UNHCR 2004.

22 WOLMAN 2015: 409–431.

identity.<sup>23</sup> As a result, refugee and asylum policies are crafted within a framework that limits entry, reflecting a cautious approach to demographic change. Social integration challenges further complicate the protection paradigm. Japan's historical emphasis on homogeneity has influenced its approach to integration, with policies that often leave refugees and asylum seekers on the margins of society.<sup>24</sup> Limited access to social services, employment, and language training impedes the ability of refugees to integrate effectively, raising questions about Japan's commitment to providing meaningful sanctuary.

The control vs. protection paradigm within Japan's refugee policy framework reveals a complex interplay of national security, demographic concerns, and social integration challenges. This paradigm significantly impacts the treatment of asylum seekers, reflecting a cautious, sometimes restrictive approach to offering sanctuary. A re-evaluation of this balance, considering the perspectives of all stakeholders, is essential for Japan to fulfil its international obligations while addressing its national concerns.

### *Japan's compliance with international refugee protection criteria*

The legislative changes in Japan's refugee policy, notably the 2023 bill limiting asylum applications and introducing the potential for forced deportation, have profound implications for the rights of refugees and asylum seekers. This policy shift not only signifies a tightening grip on immigration control but also marks a critical departure from the humanitarian principles enshrined in the 1951 Refugee Convention and its 1967 Protocol, to which Japan is a signatory. By restricting the number of asylum applications to two, the Japanese government narrows the window of opportunity for individuals fleeing persecution to secure protection. This cap, ostensibly aimed at streamlining the asylum process and deterring fraudulent claims, inadvertently heightens the risk for genuine refugees. The possibility of forced deportation after the third application exacerbates this risk, directly contravening the principle of non-refoulement, which prohibits returning individuals to territories where they face threats to life or freedom. Article 33 of the 1951 Refugee Convention states as follows:

1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.
2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judge-

<sup>23</sup> HORIUCHI-ONO 2023: 459–473.

<sup>24</sup> HORIUCHI-ONO 2023: 459–473.



ment of a particularly serious crime, constitutes a danger to the community of that country.<sup>25</sup>

These legislative changes undermine the essence of asylum as a right, transforming it into a privilege narrowly granted. Such policies not only impact the legal status of asylum seekers and refugees in Japan but also their psychological well-being, as they face increased uncertainty and the looming fear of deportation to potentially dangerous situations.<sup>26</sup> Critically, this approach reflects a prioritisation of control over protection, raising significant concerns about Japan's commitment to its international human rights obligations. The impact of these legislative changes on refugees and asylum seekers in Japan is a stark reminder of the delicate balance between sovereign rights to regulate borders and the imperative to protect the rights and dignity of all individuals, regardless of their legal status.

Japan's obligations under international human rights law and the 1951 Refugee Convention are foundational to its role in the global community, especially regarding the treatment of refugees and asylum seekers. As a signatory to the 1951 Convention and its 1967 Protocol, Japan commits to upholding the rights of individuals fleeing persecution. Additionally, Japan is bound by various international human rights treaties that advocate for the rights and dignity of all individuals, including those seeking asylum such as the 1966 International Covenant on Civil and Political Rights (ICCPR) and the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR). However, Japan's interpretation of the principle of non-refoulement and the right to seek asylum has been cautious and, at times, restrictive.

The Japanese government rationalises its refugee policies by emphasising the need to balance humanitarian obligations with national security and social cohesion. It argues that strict controls are necessary to prevent abuse of the asylum system and to ensure that refugee status is granted to those genuinely in need.<sup>27</sup> This stance reflects a broader tension between international commitments and domestic policy priorities. However, by narrowing the pathway for refugee recognition and increasing the risk of deportation for individuals whose applications are not accepted on the first two attempts, Japan risks violating the core tenet of non-refoulement.

Critically assessing Japan's policy within the context of its international commitments reveals a dissonance between its legal obligations and its domestic practices. Additionally, Japan has been commended for its financial contributions to international refugee assistance programmes and its involvement in resettlement initiatives, albeit on a small scale.<sup>28</sup> These efforts demonstrate Japan's willingness to support the international refugee protection regime, albeit more comfortably from a distance than within its own borders. While national security and immigration

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25 Article 33 of the 1951 Refugee Convention.

26 ICHIKAWA et al. 2006: 341–346.

27 WOLMAN 2015: 409–431.

28 PHILLIMORE et al. 2021: 17–35.

control are legitimate governmental concerns, they must not override the fundamental rights and protections that are enshrined in international law. Japan's current stance, therefore, necessitates a thorough re-evaluation to ensure that its refugee policy aligns with its international obligations, safeguarding the rights of refugees and asylum seekers within its jurisdiction.

### *Experiences of refugees and asylum seekers in Japan*

Japan Association for Refugees (JAR), a Japanese nonprofit founded in 1999 which have been dedicating to supporting refugees in Japan, has consistently criticised Japan for its failure to align with international standards.<sup>29</sup> JAR provides a range of services aimed at protecting and empowering refugees, including legal assistance, social integration support, language education, and advocacy for refugees' rights. The organisation works to promote a more inclusive society for refugees in Japan and to enhance the understanding of refugee issues among the Japanese public. It argues that the "individual recognition theory" is a uniquely Japanese interpretation that says a person is not a refugee unless he or she is personally monitored and targeted by the government, and it extremely narrows the scope of people who should be recognised.

For example, consider the case of a Syrian man who arrived in Japan in 2012 and sought refugee status. He had participated in demonstrations against the Assad regime after witnessing the murder of innocent children. Japan denied his refugee status, arguing that the risks he faced, such as potential attacks during protests, were not unique to him but were general risks faced by anyone involved in such demonstrations. Consequently, Japan's evaluation posited that refugee status is reserved for individuals facing specific dangers, and since all Syrian protestors were deemed at risk, they did not qualify as refugees.<sup>30</sup>

Moreover, consider the case of a woman from Africa who arrived in Japan in 2009 and was finally recognised as a refugee in the fall of 2016 after a legal battle. Initially, her application was rejected because she was not in a leadership position within her political party. Despite being attacked alongside her fellow opposition members and suffering a miscarriage as a result – a fact she supported with a medical certificate from a hospital – her evidence was initially dismissed. However, the Nagoya High Court ultimately ruled that being at risk upon return to her home country qualified her as a refugee, regardless of her leadership status. The court recognised that the human rights situation in her country of origin posed a danger to ordinary party members, who were also subject to arrest and assault. This landmark decision marked an unprecedented success in recognising the broader implications of individual risks in refugee status determinations.<sup>31</sup>

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29 See: <https://www.refugee.or.jp/en/org/>

30 JAR 2023b

31 JAR 2023b

Furthermore, JAR highlights that Japan's interpretation of persecution is narrowly defined, contrasting with broader definitions used in the United States, Canada, European countries, and others.<sup>32</sup> These nations understand persecution to encompass not only threats to life and bodily freedom but also serious human rights violations, which may include physical restraint, forced labour, denial of religious freedom, and the deprivation of educational and employment opportunities. In Japan, the concept of persecution is often strictly limited to threats against life and physical freedom. Even instances where an individual's physical freedom is compromised might not qualify as persecution under this narrow interpretation.<sup>33</sup> For example, the Rohingya, an ethnic minority fleeing persecution in Myanmar (Burma), experienced forced labour and physical restraint over extended periods. Yet, because their immediate survival was not perceived as being threatened, they were not recognised as refugees in Japan.<sup>34</sup> This case underscores Japan's restrictive approach to defining persecution, differing significantly from international counterparts that acknowledge a wider range of human rights violations as grounds for refugee status.

### **Lessons from countries with higher refugee recognition rates**

The refugee recognition rate in Japan pales in comparison to the rates in Germany and Canada. For instance, Germany, during the Syrian refugee crisis, admitted over a million refugees, demonstrating a commitment to offering sanctuary to those fleeing conflict and persecution.<sup>35</sup> Canada has consistently maintained a high refugee acceptance rate through both governmental and private sponsorship programmes, showcasing a flexible and humane application process.<sup>36</sup> The difference in recognition rates can largely be attributed to the legislative frameworks and administrative practices that govern the asylum process. Japan's system, characterised by a rigorous and often protracted application process, contrasts sharply with the more streamlined and transparent procedures in Germany and Canada, which are designed to fairly and efficiently assess refugee claims.

Beyond the application process, Germany and Canada have implemented comprehensive integration programmes and support systems for refugees. These programmes include language training, employment services, and access to healthcare and education, facilitating a smoother transition for refugees into society. Germany's "*Willkommenskultur*" (welcome culture) and Canada's community sponsorship model exemplify their commitment to integrating refugees as valued members of society.<sup>37</sup> In contrast, Japan's support for refugees' post-recognition is limited, with

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32 JAR 2023b

33 JAR 2023b

34 Burmese Refugee Application Lawyers in Japan 2010.

35 MOMIN 2017: 55–79.

36 POHLMANN–SCHWIERTZ 2020.

37 POHLMANN–SCHWIERTZ 2020; See also HERRMANN 2020: 201–219.

few structured integration programmes or social supports. This not only hampers refugees' ability to contribute to their host country but also impacts their long-term well-being and self-sufficiency.

Countries with higher refugee recognition rates offer crucial insights into effective refugee support and integration, presenting lessons Japan could learn from. These nations underscore the importance of extensive support systems that cater to the multifaceted needs of refugees, ranging from legal assistance during the application process to comprehensive integration programmes. Legal assistance is pivotal, as it equips asylum seekers with the knowledge and resources needed to navigate the complex asylum system, significantly enhancing their chances of recognition.<sup>38</sup> Moreover, the adoption of flexible and transparent application processes is instrumental in these countries' success, ensuring that refugees are treated with dignity and fairness.<sup>39</sup> Such processes not only expedite the recognition of genuine refugees but also reinforce the legal system's integrity, building trust among asylum seekers.

Moreover, community engagement and public awareness campaigns play a transformative role in shaping public perception and fostering a welcoming environment for refugees. By educating the public about the challenges faced by refugees and the positive contributions they can make to society, these campaigns cultivate a culture of inclusivity and support.<sup>40</sup> For Japan, adopting these practices could help dismantle barriers to refugee recognition and integration, aligning its policies with international humanitarian standards and enhancing its global standing as a protector of human rights.

Furthermore, non-governmental organisations (NGOs) play a pivotal role in support capacity building in refugee protection, providing technical assistance, training, and resources. This support aims to bolster Japan's legal and administrative frameworks, ensuring better alignment with international standards. In addition, global initiatives like the Global Compact on Refugees seek to enhance international cooperation and responsibility-sharing for refugees. The Global Compact on Refugees establishes a system aimed at distributing responsibilities more fairly and predictably, acknowledging that resolving refugee issues requires global collaboration. This framework serves as a guide for governments, international entities, and various participants to guarantee support for host communities and to empower refugees to have meaningful, productive lives. It presents an unprecedented chance to revolutionise the global approach to refugee crises, providing advantages for both the refugees and the communities that accommodate them.<sup>41</sup> Japan's participation in such agreements reflects its acknowledgment of the importance of international standards, though its compliance and commitment to the Compact's objectives

38 PHILLIMORE et al. 2021: 17–35.

39 AKASHI 2021: 249–270.

40 MCGARITY-PALMER et al. 2023: 117–132.

41 TRIGGS-WALL 2020: 283–339. See also United Nations General Assembly 2018.

are areas where further engagement and implementation are needed. These efforts underscore the significant influence of international organisations and NGOs in shaping refugee policies towards more humane and effective systems.

## Challenges and barriers

Japan's legislative approach to immigration and asylum is emblematic of a broader conservatism that pervades its political institutions, emphasising control and security over humanitarian considerations. This stance is deeply ingrained in Japan's political culture, where the imperatives of maintaining public order and national security often outweigh the demands of international humanitarian obligations. The reluctance of political leaders to enact significant reforms in refugee policy can be partly attributed to fear of political backlash from a public wary of liberalising immigration policies, as well as concerns over the potential implications for national security.<sup>42</sup> Such caution reflects a prioritisation of internal stability and cohesion, which, while understandable, has led to a refugee policy framework that is markedly restrictive when compared to international standards.

This conservatism within Japan's political landscape creates a stark contrast between its international image as a humanitarian supporter and its domestic agenda. Japan is a significant contributor to international aid, often positioned as a staunch advocate for human rights on the global stage. However, this international persona belies a domestic reality characterised by a stringent asylum process and low refugee acceptance rates. The tension between Japan's global obligations and its internal political dynamics underscores a complex balancing act: striving to maintain a humanitarian façade internationally while navigating domestic political constraints. This dissonance between outward humanitarian commitments and inward-looking refugee policies highlights the challenges inherent in aligning Japan's refugee protection efforts with its international commitments.

In this context, domestic social factors play a critical role in shaping Japan's approach to refugees and asylum seekers, deeply influencing public perception and the integration process. Central to these factors are concerns about social cohesion and the prevailing myth of homogeneity, which foster apprehension towards individuals perceived as "outsiders".<sup>43</sup> This apprehension is often compounded by cultural barriers, making integration a daunting task for refugees.<sup>44</sup> Language proficiency emerges as a significant hurdle, limiting access to employment opportunities and broader societal engagement. The challenge is not only linguistic but also cultural, as refugees navigate the complexities of Japanese social norms and practices, striving for acceptance within a society that values conformity and homogeneity.<sup>45</sup>

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42 WOLMAN 2015: 409–431.

43 HORIUCHI–ONO 2023: 459–473.

44 HORIUCHI–ONO 2023: 459–473.

45 PHILLIMORE et al. 2021: 17–35.

In addition, the role of media in shaping public opinion on refugees cannot be understated. Media representations often frame refugees within narratives of security risk or economic burden, which can reinforce stereotypes and exacerbate societal apprehensions.<sup>46</sup> However, civil society organisations in Japan are actively working to counteract these narratives, advocating for more inclusive policies and greater public awareness. These organisations endeavour to highlight the positive contributions that refugees can make to Japanese society, challenging the myth of homogeneity by promoting a more diverse and inclusive national identity. Efforts by civil society, coupled with examples from countries with more progressive refugee policies, underscore the potential for Japan to reform its approach. Learning from these international examples, Japan could adopt policies that not only facilitate the integration of refugees through language support and employment opportunities but also leverage media and public campaigns to foster a more accepting and inclusive society. These measures would not only aid in the integration of refugees but also enrich Japanese society as a whole, bridging the gap between Japan's international humanitarian image and its domestic practices.

In light of economic factors, they significantly impact the integration and well-being of refugees in Japan, presenting substantial challenges to accessing the labour market and achieving economic independence.<sup>47</sup> Legal restrictions on work eligibility for asylum seekers during the prolonged application process exacerbate financial vulnerabilities, forcing many into a precarious existence without stable income. Even recognised refugees often face hurdles in having their professional qualifications acknowledged, limiting their employment opportunities to lower-skilled jobs that do not match their expertise or education level.<sup>48</sup> This underutilisation of skills not only affects the refugees' potential to contribute to the economy but also impedes their socio-economic integration and sense of self-worth.

The economic implications of maintaining a restrictive asylum process are profound, affecting not just the asylum seekers but also placing a financial burden on the government. Resources allocated to detention and deportation could be redirected towards integration programmes that enhance refugees' employability and self-reliance, benefiting both the individuals and the broader economy. By examining countries with more progressive refugee policies, Japan can identify strategies for legal reform and support systems that facilitate smoother economic integration of refugees, such as credential recognition programmes and targeted job placement services, ultimately enriching Japan's labour market and society.

Barriers to policy change within Japan's refugee recognition system are deeply entrenched, reflecting broader challenges in reconciling domestic priorities with international obligations. The rigidity of Japan's bureaucratic institutions is a significant impediment, with administrative structures and procedures proving

46 HOSOKAWA 2021: 277–291.

47 PHILLIMORE et al. 2021: 17–35.

48 PHILLIMORE et al. 2021: 17–35.

slow to adapt to the evolving needs of refugees and asylum seekers. This inflexibility is compounded by a lack of political will; despite mounting international criticism and calls for reform, political leaders remain hesitant to undertake substantial changes that would liberalise the refugee policy framework. Such reluctance is often rooted in concerns over national security, social cohesion, and the potential economic impact of increased refugee admissions.<sup>49</sup>

Furthermore, Japan's prioritisation of its domestic agenda over international refugee protection criteria creates a policy environment where international obligations are viewed through the lens of domestic political and social imperatives. This approach not only hinders the implementation of necessary reforms but also places Japan at odds with its commitments under the 1951 Refugee Convention and related international human rights instruments. The challenge, therefore, lies in fostering a political climate that is receptive to change and aligned with global standards, ensuring that Japan's refugee policies are both humane and responsive to the needs of those seeking refuge within its borders.<sup>50</sup>

## **Recommendations**

This section presents a comprehensive set of recommendations aimed at reforming Japan's refugee recognition system and enhancing the protection of refugees and asylum seekers' human rights. It outlines a multi-faceted approach and highlights the importance of international cooperation and the role of societal changes in fostering a more inclusive environment for refugees and asylum seekers in Japan. By adopting these measures, Japan can align its policies with international human rights standards, improve the well-being of refugees and asylum seekers, and fulfil its obligations under the 1951 Refugee Convention and its 1967 Protocol.

### ***Improving Japan's refugee recognition rate***

To address the critical issues within Japan's refugee recognition system, comprehensive reforms are necessary to ensure the process is fair, efficient, and aligned with international human rights standards. First, simplifying the application process for refugee status is paramount. This entails reducing bureaucratic hurdles that currently make the system inaccessible for many asylum seekers and ensuring that decisions on applications are made in a timely and transparent manner. Such streamlining would help eliminate the backlog of cases and reduce the psychological burden on applicants awaiting decisions on their status. Second, providing greater legal assistance to asylum seekers is crucial. Government-funded programmes or partnerships with NGOs could offer the necessary legal support, ensuring that applicants fully understand their

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49 AKASHI 2021: 249–270.

50 HATCHER–MURAKAMI 2020: 60–77.

rights and the application process. This assistance would empower asylum seekers to navigate the system more effectively and increase their chances of a fair assessment.

### *Enhancing the protection of refugees and asylum seekers' human rights*

To enhance the human rights protections within its refugee policy, Japan must implement several critical reforms that align with international standards and compassionate practices. Ending the detention of asylum seekers, particularly vulnerable groups such as victims of trauma, is a crucial first step. Alternative measures, such as community-based accommodations and regular reporting requirements, can ensure compliance without compromising the dignity and freedom of individuals seeking refuge. Such approaches have been successfully implemented in other countries, demonstrating their feasibility and effectiveness in protecting asylum seekers' rights while their claims are processed. Moreover, firmly committing to the principle of non-refoulement is essential. Japan should establish robust mechanisms to thoroughly review each case, ensuring that no individual is deported to a country where they face the risk of persecution, torture, or death. This commitment requires transparent procedures and the opportunity for asylum seekers to appeal their cases with access to legal representation, ensuring decisions are made with due consideration of international law and the individual's human rights. Furthermore, Japan must recognise that access to healthcare, education, and social services for refugees and asylum seekers is not merely a matter of policy but a fundamental human right. Providing these services not only aids in the integration of refugees into society but also ensures their well-being and dignity.

### *Role of international cooperation and pressure in reforming Japan's refugee policies*

To foster integration and social inclusion within its refugee policy, Japan should prioritise initiatives that facilitate the economic and social integration of refugees and asylum seekers. Implementing comprehensive language and vocational training programmes is critical to enable these individuals to actively participate in the workforce and society. Such programmes should be designed to meet the specific needs of refugees and asylum seekers, providing them with the necessary skills and language proficiency to navigate daily life and access employment opportunities in Japan. Additionally, developing initiatives to promote cultural exchange and understanding between refugees, asylum seekers, and Japanese citizens is essential to fostering a more inclusive society. These initiatives could include community events, cultural workshops, and educational programmes that encourage interaction and mutual understanding between local communities and newly arrived individuals. By promoting a culture of inclusivity and respect, Japan can mitigate social barriers and foster a welcoming environment for all residents. Creating pathways to employment



for refugees and asylum seekers is another vital step. This includes the recognition of foreign qualifications and the development of skills matching programmes that connect refugees and asylum seekers with local businesses in need of their talents. By facilitating access to employment, Japan can not only improve the livelihoods of these individuals but also benefit from their contributions to the economy and society.

### *Suggestions for policy, legislative, and societal changes*

To enhance its refugee policy and align with international human rights standards, Japan should leverage international cooperation and be receptive to global pressures and recommendations. Actively engaging with UNHCR is essential. Japan can benefit from adopting best practices in refugee protection and integration, drawing on the expertise and recommendations of international organisations to refine its asylum procedures, improve its refugee recognition rates, and ensure the rights of refugees and asylum seekers are upheld. Being receptive to international pressure and recommendations from human rights bodies can serve as a crucial impetus for reform. Constructive criticism from international entities, including human rights organisations and foreign governments, should be viewed not as censure but as an opportunity to enhance Japan's legal and institutional frameworks. This openness to global insights and standards can catalyse the necessary legislative and policy adjustments, fostering a more humane and effective refugee policy.

Participating in global refugee resettlement and support initiatives offers Japan a pathway to share responsibility and benefit from the collective wisdom of the international community. By joining efforts in resettlement programmes and support networks, Japan can not only alleviate the pressures on countries with large refugee populations but also enrich its societal fabric through the integration of refugees. Learning from the experiences of other nations that have successfully balanced security concerns with humanitarian obligations can guide Japan in crafting policies that reflect both its national interests and international commitments. Embracing this global perspective underscores Japan's role as a proactive member of the international system, committed to upholding the principles of human rights and refugee protection.

To address the crisis of human rights of refugees and asylum seekers in Japan, comprehensive reforms across policy, legislative, and societal dimensions are essential. Firstly, amending the Immigration Control Law and other relevant legislation is crucial to adopt a more humane and rights-based approach to asylum and refugee protection. This involves ensuring that the principles of non-refoulement and the right to seek asylum are unequivocally upheld, reducing the risk of forced deportations and providing multiple avenues for asylum applications beyond the current restrictive cap. Enhancing transparency in the decision-making process for refugee recognition is also vital. This includes establishing clear, accessible procedures and criteria for asylum applications, and holding authorities accountable for their adherence to both

domestic and international legal standards. Such measures would foster trust in the asylum system and ensure that decisions are made fairly, based on the merits of each case and in line with Japan's obligations under the 1951 Refugee Convention and its 1967 Protocol.

Finally, implementing public awareness campaigns is crucial to shift societal attitudes towards refugees and asylum seekers. Educating the Japanese populace about the plight of these individuals, the benefits of a diverse and inclusive society, and Japan's international obligations can foster a more welcoming environment. Such campaigns should highlight the contributions that refugees and asylum seekers can make to the community, dispelling myths and fostering a culture of acceptance and support.

## Conclusion

The crisis of human rights for refugees and asylum seekers in Japan presents a compelling challenge at the intersection of domestic policy and international obligations. As Japan marks the 40<sup>th</sup> anniversary of its refugee recognition system, the time is ripe for introspection and reform. The country's starkly low refugee acceptance rates and the recent legislative changes, which potentially exacerbate the vulnerabilities of those seeking refuge, underscore a critical departure from the humanitarian ideals Japan purports to uphold on the international stage.

Japan's current stance on refugee recognition and asylum – a cautious approach characterised by stringent control over compassionate protection – raises significant human rights concerns. The legislative limitations on asylum applications and the spectre of forced deportations not only contravene international human rights law but also betray a fundamental misunderstanding of the global refugee crisis. These policies not only fail to recognise the legitimate fears and rights of individuals fleeing persecution but also undermine Japan's reputation as a defender of human rights and international law.

The recommendations outlined in this article – ranging from legislative reforms and enhanced procedural transparency to societal changes aimed at fostering a more inclusive attitude towards refugees and asylum seekers – are not merely aspirational. They are practical, actionable steps that Japan can and should take to reconcile its domestic policies with its international image. By amending restrictive laws, engaging more constructively with international bodies, and embracing a more inclusive societal approach towards refugees and asylum seekers, Japan can significantly improve its refugee recognition rate and enhance the protection of human rights within its borders.

This process of reform is not without its challenges. It requires a shift in both policy and perception, demanding political will, societal engagement, and a recommitment to the principles of international cooperation and human rights. However, the benefits of such reforms extend far beyond the immediate improvement of refugees' and asylum seekers' lives. They contribute to a more just, compassionate, and inclusive

society that values the dignity and rights of all individuals, irrespective of their nationality or status. Moreover, Japan's leadership in addressing the refugee crisis can set a precedent for other nations, demonstrating that it is possible to balance national security concerns with humanitarian obligations. In doing so, Japan would not only be fulfilling its international obligations but also enhancing its standing as a moral and ethical leader on the global stage.

In conclusion, the crisis of human rights of refugees and asylum seekers in Japan is a complex issue that requires a multifaceted response. By implementing the recommended policy, legislative, and societal changes, Japan has the opportunity to transform its refugee recognition system into a model of compassion, efficiency, and adherence to international human rights standards. Such a transformation would not only better the lives of countless individuals seeking refuge but also reaffirm Japan's commitment to the values of humanity, justice, and international solidarity. The time for such reform is now, as the world watches and waits for Japan to take its rightful place as a staunch defender of human rights and a beacon of hope for refugees and asylum seekers worldwide.

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