

## REFUGEES

# No country for refugees? Japan and South Korea's tough asylum policies

While Australia faces growing criticism over its asylum policy, DW examines the situation in some of Asia's wealthiest states where strict policies have led to a declining number of asylum seekers gaining refugee status.



In late September, Canberra signed a 35 million USD deal with Phnom Penh that will see refugees who sought asylum in Australia resettled in Cambodia instead; a move designed to deter asylum seekers from reaching the country. But while PM Tony Abbott's conservative government faces growing international criticism over its policy of turning back boats carrying potential refugees, there has been little coverage as to how wealthy East Asian countries such as Japan or South Korea are dealing with the issue within their own borders.

While Australia was the eighth largest recipient of new asylum-seekers in 2013 - with 24,300 claims - Japan registered close to 3,300 new applications in the same period. South Korea recorded only some 1,600 claims. Although it is the highest level on record in both East Asian countries, the numbers continue to be modest in comparison with other industrialized countries such as Germany, which registered 109,600 new asylum applications in 2013, according to the UN Refugee Agency UNHCR.

## 0.1 percent approval rate

East Asian countries tend to have restrictionist immigration and refugee policies and restrictionist interpretations of the 1951 UN Convention on Refugees; as a result, the definition of refugee becomes narrow. They also set the bar high to prove that someone is truly an asylum seeker, which, in turn, leads to lower than average recognition rates. For instance, ever since South Korea first started taking asylum claims in 1994, the country has had a 12.4 percent average recognition rate of refugees (North

Koreans excluded), compared to the global average of more than 30 percent, according to UNHCR.



PM Tony Abbott's government faces growing international criticism over its policy of turning back boats carrying potential refugees

appeals with little to no hope of refugee status awaiting them at the end of the process.

### Geography is not everything

One of the key factors leading to this development is certainly geography, as people fleeing political persecution typically move to neighboring countries over land. According to UN and World Bank data, this trend is a global one, with nine of 10 refugees being hosted by neighboring countries or in the immediate region. As a result, developing countries hosted 86 percent of the world's refugees in 2013.

But as migration expert John Skrentny points out, the experience of Australia is also instructive as it puts the issue into perspective. "Japan, South Korea and Taiwan are certainly closer to many conflict zones than Australia - which is isolated from every state except New Zealand - and yet asylees make their way there," said Skrentny, who is also Professor of Sociology at the University of California, San Diego.

#### DW RECOMMENDS

### AI: Australia-Cambodia refugee deal 'in violation of international law'

Despite human rights concerns, a deal has been signed that will see refugees who sought asylum in Australia resettled in Cambodia instead; a move regarded by AI's Rupert Abbott as violating human rights obligations. (26.09.2014)

### HRW: Thailand locking up thousands of migrant children

### Refugee Council calls on Canberra to release 'all children from detention'

### Pakistan army offensive 'causing humanitarian crisis'

South Korea's neighbor, Japan, has the overall lowest recognition rate among developed countries. In 2013, Japan's Ministry of Justice (MOJ) approved only six asylum seekers' applications for refugee status out of 3,777 cases (0.1 percent approval rate), the lowest number in 16 years. Instead of refugee status, 151 people were granted special permission by the Immigration Bureau to stay for humanitarian reasons. There have also been complaints about thousands of asylum-seekers spending years going through administrative and judicial

Moreover, the analyst argues that the lack of land borders seems to play only a limited role in this context, especially if one considers the United Kingdom, which also lacks land borders with conflict zones, but still attracts many asylees. Moreover, 2013 data collected by the MOJ shows that the largest number of asylum seekers in Japan came from as far away as Turkey (658), followed by Nepal (544), and Myanmar (380). In South Korea, the largest number of asylum seekers came from Pakistan, followed by Sri Lanka and Nepal.

### Unwanted populations?

For this reason many migration experts, including Kristin Surak, point to history as one of the main reasons for this development. "These countries keep their doors largely closed because they didn't respond to the after-effects of World War II and genocide in the same way as their European counterparts when they were drafting the 1951 UN Refugee Convention."

East Asian countries signed the Refugee Convention rather late, if at all. For instance, Japan only signed the treaty in 1981; South Korea in 1992. Surak is of the view that these countries have simply exerted a sovereign right to strictly control their borders because the human rights imperative has gained less traction.



"They don't want to deal with foreigners fleeing prosecution - what they see as costly, unwanted populations - and they employ the legal mechanisms available to avoid dealing with them," said

Surak, who is also Senior Lecturer in Japanese Politics at SOAS, University of London.

## 'Economic' value

This view is shared by Skrentny, who emphasizes that East Asian governments have long privileged economic growth over human rights in the name of national interest and the protection of the domestic labor market. This, in turn, has led to a certain rationality, he argues: "Policy actions that can create economic growth are rational, and those that work against growth are not."

The migration expert told DW that, as a result, Japan and South Korea have minimized the settlement of low-skilled migrant workers, the family reunification of low-skilled migrant workers and the settlement of refugees and asylees. "These governments do not see great value in any of these groups. On the contrary, they promise to add costs. So there is no reason to admit them. And so they do not."

Unlike in Europe, there is no regional body in Asia designed to push these nations to develop, upgrade and implement humanitarian policies. Katharine Moon, Chair of Korea Studies and Senior Fellow at the Center for East Asia Policy Studies at the Brookings Institution, told DW that "the tendency is to look inward, preserve domestic stability and improve domestic welfare, especially given that many Asian nations, including South Korea, still have weak welfare systems compared to the West - even though they are wealthy and highly developed."

Moon also stressed that Seoul's immigration policies must also be seen in connection with the North Korean issue. The expert points out that the fact that Koreans in North Korea remain a large pool of potential defectors, asylum seekers, refugees and migrants makes it difficult for Seoul to have an open-door policy for refugees in general. "This would be financially and logistically impossible to manage should there be a migration crisis across the 38th parallel and/or unification."

## Strict laws and bureaucracy

Analysts indicate that while none of these countries officially have policies aimed at limiting the number of refugees, the manner in which existing laws are implemented ultimately has this effect. For instance, Japan's Immigration Bureau in the Ministry of Justice will often reject applications on the grounds that there is insufficient evidence for prosecution; evidence which may be hard for refugees to obtain outside of their home country, especially if, for example, it is riven by civil war.

Analyst Moon, who is also Professor of Political Science at Wellesley College in the United States, says that the bureaucracy is so hard to navigate that it serves as a deterrent for asylum applicants seeking to pursue the legal and administrative process. It takes an average of three years for these countries to conduct a refugee status eligibility review, also known as RSD.

Some refugee applicants end up becoming homeless, not only because of the limited access to the safety net, but also due to the fact that applicants are usually not allowed to work while waiting for the results.

Eri Ishikawa, director of the Japan Association of Refugees (JAR), points out that in addition to this, both first instance and appeal decisions on the RSD take place in the MOJ's Immigration Bureau. "There is no independence, fairness or transparency in the process. The Immigration Bureau has a



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stronger mindset on immigration control rather than refugee protection," Ishikawa told DW.



Experts argue that refugees face discrimination and difficulties integrating into the larger community

undertaking manual labor which, in turn, reinforces the negative perception, for example in South Korea, that refugees are really illegal migrant workers, said Moon.

Other common problems faced by these groups include arbitrary detention, no access to healthcare or education, and limited livelihood options. Moon also emphasized the increased risk of sex and gender-based violence and vulnerability to human trafficking, due in part to a lack of effective protection of applicants.

In South Korea, psychological counseling provided to refugees revealed that discrimination and lack of social assistance are more serious causes of psychological vulnerability than the experience of persecutions in the country of origin. "Groups are largely isolated from Korean society and associated with the migrant worker class. But the migrant workers have their own issues and problems and they have separate legal standing and labor policies that govern their stay," said Moon.

### Changes and challenges

Nonetheless, international pressure has brought about some changes. For instance, South Korea created a refugee division within the Ministry of Justice in 2013 and enacted a comprehensive Refugee Law which grants asylum seekers the right to apply for refugee status at the point of entry, such as airports. Until recently, applicants had to enter the country first, with temporary landing permits, and then apply for refugee status.

The law also bans forced repatriation until applicants receive the final decision, and if the decision is not made within six months, asylum seekers are allowed to work in the country. The new legislation also states that refugees will be offered assistance for basic living, job training and social integration education. Furthermore, RSD capacity has been strengthened and is gradually being extended to provinces and municipalities outside Seoul, according to UNHCR.

In Japan, the recent large influx of refugee applicants has prompted internal discussion on refugee matters related to the establishment of a special committee. Moreover, as Professor Moon indicates, private sector groups such as Fast Retailing Co., operator of the UNIQLO clothing chain, are contributing to the livelihoods of refugees, providing internship programs.

Nonetheless, analysts agree that regardless of these progressive amendments much more needs to be done, as there is still a general reluctance in both countries to grant refugee status.

### Isolation and illegality

While there is very little evidence in public opinion polls to suggest that asylum seekers face racism or xenophobia, experts argue that they do face discrimination and difficulties integrating into the larger community.

As applicants are usually not allowed to work, they typically seek assistance from already stretched government offices or NGOs. When this does not suffice, they end up illegally



Analysts agree that regardless of progressive amendments much more needs to be done for refugees to feel welcome in these countries



